

From,

A. K. Tiwari
Chief Environmental Officer,
Circle-1, U.P. Pollution Control Board,
Lucknow.

To,

The Registrar ,
Hon'ble National Green Tribunal,
Copernicus Marg, New Delhi

Circle-1

Dated. 30-07-2019

Sub: Regarding submission of Compliance report in O.A.No.785/2018 in the matter of Arvind Mahipal Vs. The Owner Express Generator Set & Ors.

Sir,

In compliance of order dated 23-05-2019 passed by this Hon'ble Tribunal in OA no. 785 of 2018 in the matter of Arvind Mahipal Vs. The Owner Express Generator Set & Ors., the compliance Report on behalf of the U.P. Pollution Control Board, in respect of above mentioned matter is enclosed herewith along with annexures.

Yours faithfully

Encl: As above.


(A. K. Tiwari)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 785 OF 2018

IN THE MATTER OF:
ARVIND MAHIPAL

..... PETITIONER

VERSUS

THE OWNER EXPRESS GENERATOR
SET & ORS.

..... RESPONDENTS

COMPLIANCE REPORT PURSUANT TO ORDER DATED
23.05.2019

1. The premises of M/s. Express Engineering and Spares Pvt. Ltd. has been inspected by Joint Committee of CPCB, Nagar Nigam and UPPCB and it was found that the illegal repairing/servicing of the transformers are being made. The said unit was operating from Plot No. A-36, 37 and 38, Rampuri, Surya Nagar, Ghaziabad. The said unit has been closed down by the Board by issuing closure order dated 02.07.2019 and the electricity of the said unit has also been disconnected on 17.07.2019.
2. Besides the above action environmental compensation of Rs. 1,36,719/- has been imposed.
3. Regarding the action taken against the officers who have inspected the unit on 12.02.2019 and submitted the report to this Hon'ble Tribunal, the following facts are necessary:
 - (i) Complaint in the abovenoted matter has been filed before this Hon'ble Tribunal and on the basis of the said



this Hon'ble Tribunal has passed the order dated 25.10.2018 wherein it was mentioned that the Applicant will serve a copy of the order along with complete set of papers to U.P. Pollution Control Board. However, the Applicant has not served the copy of any paper or the order on U.P. Pollution Control Board.

- (ii) An email dated 12.02.2019 was received from this Hon'ble Tribunal at 10:23 a.m. True copy of the same is being enclosed herewith and marked as **Annexure-1**.
- (iii) The said email was immediately forwarded to the Regional Office at 1:27 p.m. on 12.02.2019 itself alongwith the copy of the order dated 25.10.2018 and the email dated 12.02.2019 sent by this Hon'ble Tribunal.
- (iv) As the complete set of papers as directed by this Hon'ble Tribunal was not served on the Pollution Control Board, hence the officers who have been directed to make inspection as the matter was directed to be listed on 14.02.2019, made the inspection on 12.02.2019 itself of the site mentioned in the order dated 25.10.2018 i.e. A-18, Rampuri Surya Nagar, Ghaziabad and a report was submitted to this Hon'ble Tribunal vide email dated 13.02.2019 that only godown is situated at the said address. In the report the photograph of the premises were also enclosed.
- (v) Thereafter the matter was again came up for considering before this Hon'ble Tribunal on 28.02.2019 when the Counsel for the Applicant has stated that the above reports needs further verification as the photograph filed by the Applicant do show activities of repairing etc. resulting in noise and air pollution. Hence this Hon'ble Tribunal constituted a Committee of



representative of CPCB, UPPCB and Ghaziabad Municipal Corporation to a further factual and action taken report.

- (vi) The team constituted by this Hon'ble Tribunal inspected the premises of said unit M/s. Express Engineering & Spare Pvt. Ltd., Plot Nos. A-36, 37 and 38, Rampuri, Surya Nagar, Ghaziabad and report was submitted before this Hon'ble Tribunal. It is further submitted that the representative of CPCB has copy of Original Application/complete set of papers.
- (vii) The said report was considered by this Hon'ble Tribunal on 23.05.2019 wherein this Hon'ble Tribunal has shown displeasure that the team of State PCB did not visit actual location of the workshop and the main works. Hence costs of Rs. 10,000/- was imposed and it was directed that the same may be recovered from the person responsible for giving misleading report and appropriate action be also taken against conduct of such person.
- (viii) In compliance of the order passed by this Hon'ble Tribunal notice dated 09.07.2019 was issued by U.P. Pollution Control Board to the Assistant Environmental Engineer as well as Junior Engineer who have inspected the site mentioned in the order dated 25.10.2018 i.e. A-18, Rampuri, Surya Nagar, Ghaziabad.
- (ix) Pursuant to the said notice, reply/explanation has been submitted by those officers explaining the entire facts. True copies of the reply to show cause notice issued by the Board by the said officers is being enclosed herewith and marked as Annexure-2 and 3 respectively.

(x) After considering the said explanation the Board has decided that it was a possible explanation, however warning has been given that in compliance of the order of this Hon'ble Tribunal after considering all the documents site inspection verifying from the complainant/local residents and taking guidance from the higher officers clear and detailed report be submitted with entire facts. Such kind of mistake should not reoccur in future.

4. In view of aforesaid facts and circumstances it is very humbly submitted that the costs of Rs. 10,000/- imposed by this Hon'ble Tribunal be waived in these facts and circumstances of the present case.

Dated 30.7.2018


(ASHOK KUMAR TIWARI)
Chief Environmental Officer
(Circle-1)
U.P. Pollution Control Board,
Lucknow.

MS ms <ms@uppcb.com> मईल शरि यरुद 12-1-19

2/12/2019 12:52

Fwd: Reminder Mail for Report in OA- NO 785/2018

To Clo <clo@uppcb.com>

----- Original Message -----

From: Consultant Judicial NGT <ngt.filing@gmail.com>

To: ms@uppcb.com

Date: February 12, 2019 at 10:23 AM

Subject: Reminder Mail for Report in OA- NO 785/2018

Reminder Mail

Vide order dated 25/10/18 passed in OA- NO 785/2018 Arvind Mahipla Vs. The Owner Express Generator Set & Ors. Hon'ble Tribunal directed the concerned authorities to file compliance report within a period of 1 month and the matter was directed to be listed on 14/02/2019. However, it has not been filed so far.

You are therefore, requested to file the report immediately in compliance of the aforesaid order. Please note that no further intimation in this regard will be given now. The matter is listed for hearing on 14.02.2019.

Regards

Consultant Judicial

MS ms <ms@uppcb.com>

mail 12/2/2019

12/2/2019 13:43

Fwd: Imp/Timebound: O.A. no. 785/2018 Arvind Mahipal, And Reminder

To Ceo1 <ceo1@uppcb.com> • Roghaziabad <roghaziabad@uppcb.com>

----- Original Message -----

From: clo clo <clo@uppcb.com>

To: PARAS NATH <roghaziabad@uppcb.com>, Ceo1 <ceo1@uppcb.com>, ms@uppcb.com

Date: February 12, 2019 at 1:27 PM

Subject: O.A. no. 785/2018 Arvind Mahipal, And Reminder

PFA,

- Arvind Mahipal 25-10-2018.pdf (225 KB)
- reminder.jpeg (1 MB)

BR
12-2-19

ND
RO Gzb on 12/2/19
12/02/19

niket 12/2/19

20/3/19

To,
Regional Officer,
U.P. Pollution Control Board,
Ghaziabad

Sub:- Explanation in reference to the directions issued on 23.05.2019 by the Hon'ble National Green Tribunal in O.A. No 785/2018 titled Arvind Mahipal versus The Owners Express Generator Set & Ors

Respected Sir,

In reference to the above subject please refer to your letter no2203/OA No. 785/18/19 dated 18.7.2019 through which explanation has been called from the undersigned regarding the adverse order passed on 23.05.2019 by Hon'ble National Green Tribunal in O.A. No 785/2018 titled Arvind Mahipal versus The Owners Express Generator Set & Ors.

The relevant extract of which is reproduced hereunder:

3. Above shows that earlier report submitted by the UPPCB is not a responsible one as the team of the State PCB did not visit the actual location of the workshops/ main works. For such misleading report, we impose cost of Rs. 10,000/- which may be deposited by the UPPCB with the CPCB within one month and recovered from the person responsible for giving misleading report. Appropriate action be also taken by the UPPCB against the conduct of such person, after identifying him.
4. We also find that no action has been taken in spite of finding illegal action amounting to an offence under the provisions of the Air (Prevention and Control of Pollution) Act, 1981.
5. Let the UPPCB take further appropriate action of prohibiting the illegal activity, prosecuting the offender and recovering the

date: 19/3/19

compensation from the polluters in accordance with law and furnish a report of compliance within one month by e-mail at ngt.filing@gmail.com....."

In reference to the above order passed by the Hon'ble National Green Tribunal, the undersigned respectfully seeks to submit the following facts:-

1. O.A. No. 785/2018 was listed before the Hon'ble National Green Tribunal on 25.10.2018, when the Hon'ble Tribunal was pleased to pass the following specific directions :-

".....1. Allegation in this application is that the Express Engineering and Spares Pvt Ltd is illegally running Genset business/workshop at A-18, Rampuri, Surya Nagar, Ghaziabad for repairing, maintaining and disposal of electronic equipment in violation of E- Waste Management Rues, 2016. The activities cause noise pollution and air pollution. The averments will need to be verified.

2. Accordingly, we direct the Uttar Pradesh Pollution Control Board to look into the matter and take such steps as may be found necessary in the light of the facts.

3. A report of the action taken be furnished within two months from the date of receipt of a copy of this order to this tribunal by e-mail at filing.ngt@gmail.com....."

2. Pursuant to the order passed by the Hon'ble Tribunal, the relevant documents pertaining to the case were never provided by the Applicant to the Regional Office, Ghaziabad.
3. An email from the Head Office, UPPCB, Lucknow was first sent to RO Ghaziabad on 12.02.2019 in respect of the matter. Only

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the order dated 25.10.2018 was provided with the email as attachment.

4. Regional Officer, UPPCB, Ghaziabad directed the undersigned and concerned J.E. of the area in question to immediately inspect the site in question and submit a report. That was the very first time when the undersigned became aware of the pendency of O.A. No. 785/2018 before the Hon'ble Tribunal and the directions passed by the Hon'ble Tribunal in the said matter.
5. It is relevant to point out that the area in question, where the inspection was to be carried out as per the instructions received from the Head Office, was not covered by the undersigned in the usual course of his work, but since the concerned AEE, who was dealing with the said area, was not present during on that day and the matter was extremely urgent, the Regional Officer directed the undersigned and the concerned JE to inspect the site in question. Because of the fact that the concerned area was not assigned to the undersigned, the undersigned was not properly aware of the topography of the area and was accompanied by the concerned JE for inspection.
6. It is to be noted that the undersigned was not aware of the background of the matter as the Original Application or any other related document had not been provided to him. The undersigned had only been instructed to ensure compliance of the order dated 25.10.2018 passed by the Hon'ble Tribunal and to conduct the inspection in terms of the order. It was specifically mentioned in the order dated 25.10.2018 passed by the Hon'ble Tribunal that the inspection was to be carried out at **A-18, Rampuri, Surya Nagar, Ghaziabad**, where some illegal activities were allegedly being undertaken. The site in question was inspected by the undersigned, along with the JE, on

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12.02.2019, the same day on which the email was received from the Head Office.

7. During the inspection, it was found that Plot No A-18, Rampuri, Surya Nagar, Ghaziabad is only being used as a godown for trading of spare parts/electronic devices i.e. controller of DG sets. A specific question was asked by the undersigned from the people present at the site as to whether any other workshop of Express Engineering and Spare Pvt. Ltd is located in Ghaziabad but no information in that regard was forthcoming. The whereabouts of the site, where maintenance/ production of DG sets is being done by the Company, was also inquired and it was informed that the maintenance/production work of DG sets is being carried out in Okhla, New Delhi. The inspection report, in respect of Plot No A-18, Rampuri, Surya Nagar, Ghaziabad, was submitted along with photographs to Regional Officer, UPPCB, Ghaziabad, which was then e-mailed to filing.ngt@gmail.com.
8. Thus, the order dated 25.10.2018 passed by the Hon'ble Tribunal, in which only the address A-18 Rampuri, Surya Nagar, Ghaziabad was mentioned, was duly complied with by the undersigned.
9. During the joint inspection of CPCB, UPPCB and Nagar Nigam, as per the order passed by the Hon'ble National Green Tribunal on 28.02.2019, it has been found by the joint team that the said Company is carrying out illegal activity of maintenance of DG sets on a site located at A-36/37/38 Rampuri, Surya Nagar, Ghaziabad.
10. The undersigned was not present during the said inspection and is hence not aware of the details regarding the said inspection. However, it is relevant to point out that the illegal activities have been found to be going on at a site other than the one mentioned in the order dated 25.10.2018.

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11. As has been mentioned earlier, the undersigned did not cover the area in question in the usual course of his work and only carried out the inspection on the said date as the matter was urgent and strict instructions were received from the Head Office to ensure compliance of the order passed by the Hon'ble Tribunal at the earliest. The undersigned ensured that the address mentioned in the order dated 25.10.2018 passed by the Hon'ble Tribunal was duly inspected and since no information was available with the undersigned, regarding any other workshop of the concerned Company being present in the area, and in fact specific information was provided by the people present at the site that the work of maintenance of DG Sets is carried out at Okhla, Delhi, the undersigned duly completed the inspection of the site mentioned in the order dated 25.10.2018 and submitted his report.
12. As far as the present status of the unit is concerned, as per office record, closure order has been issued by the Board against the unit. But as the concerned area is not allotted to the undersigned, the compliance of closure order, imposition and recovery of environmental compensation is not concerned with the undersigned.

In view of the above, it is clear that only the site located at A-18, Rampuri, Surya Nagar, Ghaziabad was inspected by the undersigned because it was specifically mentioned in the order dated 25.0.2018 passed by the Hon'ble NGT. No other documents/details, pertaining to the case, were provided to the Regional Office or to the undersigned and the undersigned was not aware of any other workshop/site of the concerned Company being present in the concerned area. Hence, there was no attempt on the part of the undersigned to mislead either the Head Office or the Hon'ble Tribunal and the inspection report submitted by the undersigned was with regard to the site located at A-

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18, Rampuri, Surya Nagar, Ghaziabad and is accurate in so far as that site is concerned.

The report is respectfully put up for perusal and necessary action.

Ankit Singh
(ANKIT SINGH)
A.EE.
UPPCB, GZB

20/7/19

To,
Regional Officer,
U.P. Pollution Control Board,
Ghaziabad

Sub: - Explanation in reference to the directions issued on 23.05.2019 by the Hon'ble National Green Tribunal in O.A. No 785/2018 titled Arvind Mahipal versus The Owners Express Generator Set & Ors

Respected Sir,

In reference to the above subject please refer to your letter no. 2203/OA No. 785/18/19 dated 18.7.2019 through which explanation has been called from the undersigned regarding the adverse order passed on 23.05.2019 by Hon'ble National Green Tribunal in O.A. No 785/2018 titled Arvind Mahipal versus The Owners Express Generator Set & Ors.

The relevant extract of which is reproduced hereunder:

- ".....3. Above shows that earlier report submitted by the UPPCB is not a responsible one as the team of the State PCB did not visit the actual location of the workshops/ main works. For such misleading report, we impose cost of Rs. 10,000/- which may be deposited by the UPPCB with the CPCB within one month and recovered from the person responsible for giving misleading report. Appropriate action be also taken by the UPPCB against the conduct of such person, after identifying him.
4. We also find that no action has been taken in spite of finding illegal action amounting to an offence under the provisions of the Air (Prevention and Control of Pollution) Act, 1981.
5. Let the UPPCB take further appropriate action of prohibiting the illegal activity, prosecuting the offender and recovering the compensation from the polluters in accordance with law and furnish a report of compliance within one month by e-mail at ngt.filing@gmail.com....."

Anshul

In reference to the above order passed by the Hon'ble National Green Tribunal, the undersigned respectfully seeks to submit the following facts:-

1. O.A. No. 785/2018 was listed before the Hon'ble National Green Tribunal on 25.10.2018, when the Hon'ble Tribunal was pleased to pass the following specific directions :-

".....1. Allegation in this application is that the Express Engineering and Spares Pvt Ltd is illegally running Genset business/workshop at A-18, Rampuri, Surya Nagar, Ghaziabad for repairing, maintaining and disposal of electronic equipment in violation of E- Waste Management Rues, 2016. The activities cause noise pollution and air pollution. The averments will need to be verified.

2. Accordingly, we direct the Uttar Pradesh Pollution Control Board to look into the matter and take such steps as may be found necessary in the light of the facts.

3. A report of the action taken be furnished within two months from the date of receipt of a copy of this order to this tribunal by e-mail at filing.ngt@gmail.com....."

2. Pursuant to the order passed by the Hon'ble Tribunal, the relevant documents pertaining to the case were never provided by the Applicant to the Regional Office, Ghaziabad.
3. An email from the Head Office, UPPCB, Lucknow was first sent to RO Ghaziabad on 12.02.2019 in respect of the matter. Only the order dated 25.10.2018 was provided with the email as attachment.
4. Regional Officer, UPPCB, Ghaziabad directed the undersigned to immediately inspect the site in question with Assistant



Environmental Engineer and submit a report. That was the very first time when the undersigned became aware of the pendency of O.A. No. 785/2018 before the Hon'ble Tribunal and the directions passed on dated 25-10-2018 by the Hon'ble Tribunal in the said matter.

5. It is pertinent to say that the area in question, where the inspection was to be carried out as per the instructions received from Head Office, falls under residential area of Nagar Nigam Ghaziabad, which is apart from industrial zone and not covered by the undersigned in the usual course of his work, so the undersigned was not properly aware of illegal activity in residential area of Rampuri, Ghaziabad. The matter was extremely urgent; the Regional Officer directed the undersigned to inspect the site in question with Assistant Environmental Engineer.
6. It is to be noted that the undersigned was not aware of the background of the matter as the Original Application or any other related document had not been provided to him. The undersigned had only been instructed to ensure compliance of the order dated 25.10.2018 passed by the Hon'ble Tribunal and to conduct the inspection in terms of the order. It was specifically mentioned in the order dated 25.10.2018 passed by the Hon'ble Tribunal that the inspection was to be carried out at **A-18, Rampuri, Surya Nagar, Ghaziabad**, where some illegal activities were allegedly being undertaken. The site in question was inspected by the undersigned with AEE, on 12.02.2019, the same day on which the email was received from the Head Office.
7. During the inspection, it was found that Plot No A-18, Rampuri, Surya Nagar, Ghaziabad is only being used as a godown for trading of spare parts/electronic devices i.e. controller of DG



sets. A specific question was asked by the undersigned from the people present at the site as to whether any other workshop of Express Engineering and Spare Pvt. Ltd is located in Ghaziabad but no information in that regard was forthcoming. The whereabouts of the site, where maintenance/ production of DG sets is being done by the Company, was also inquired and it was informed that the maintenance/production work of DG sets is being carried out in Okhla, New Delhi. The inspection report, in respect of Plot No A-18, Rampuri, Surya Nagar, Ghaziabad, was submitted along with photographs to Regional Officer, UPPCB, Ghaziabad, which was then e-mailed to filing.ngt@gmail.com.

8. Thus, the order dated 25.10.2018 passed by the Hon'ble Tribunal, in which only the address A-18 Rampuri, Surya Nagar, Ghaziabad was mentioned, was duly complied with by the undersigned.
9. During the joint inspection of CPCB, UPPCB and Nagar Nigam, as per the order passed by the Hon'ble National Green Tribunal on 28.02.2019 of which the undersigned was one of the member, it was found by the joint team that the said Company is carrying out illegal activity of maintenance of DG sets on a site located at A-36/37/38 Rampuri, Surya Nagar, Ghaziabad. The committee went to the said site as copy of petitioner's compliant and specific address was available with CPCB.
10. It is relevant to point out that the illegal activities have been found to be going on at a site other than the one mentioned in the order dated 25.10.2018.
11. There was no compliant received earlier against the said workshop in Regional Office, Ghaziabad, so the same could not be verified.

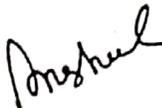


12. During inspection of dated 12-02-2019, the representative of M/s Express Engineers and Spares Pvt. Ltd., Mr. Naresh Kumar Gupta informed the undersigned that the maintenance /production work of DG set is being carried out in Okhla, New Delhi. The representative presented wrong information and misled the investigation.
13. It was also noted by joint team that no permission ever granted by UPPCB to the said unit, which clearly shows that no record was available regarding operation of this illegal unit.
14. As has been mentioned earlier, the undersigned ensured that the address mentioned in the order dated 25.10.2018 passed by the Hon'ble Tribunal was duly inspected and since no information was available with the undersigned, regarding any other workshop of the concerned Company being present in the area, and in fact specific information was provided by the people present at the site that the work of maintenance of DG Sets is carried out at Okhla, Delhi, the undersigned duly completed the inspection of the site mentioned in the order dated 25.10.2018 and submitted his report.
15. As far as the present status of the unit is concerned, as per office record, closure order dated 02-07-2019 has been issued by the state board against the unit with directions to deposit fine of Rs. 1,36,719/- within 15 days. For compliance of which, the undersigned co-ordinated with electricity department and ensure the closure of unit by disconnecting the electricity on dated 17-07-2019. A copy of closure order was also provided to unit representative at site but he refused to give receipt of the same.
16. Compliance report of closure order has been sent to HO by regional office, Ghaziabad vide letter dated 18-07-2019.

Anshul

In view of the above, it is clear that only the site located at A-18, Rampuri, Surya Nagar, Ghaziabad was inspected on dated 12-02-2019 by the undersigned because it was specifically mentioned in the order dated 25.10.2018 passed by the Hon'ble NGT. No other documents/details, pertaining to the case, were provided to the Regional Office or to the undersigned and the undersigned was not aware of any other workshop/site of the concerned Company being present in the concerned area. Hence, there was no attempt on the part of the undersigned to mislead either the Head Office or the Hon'ble Tribunal and the inspection report submitted by the undersigned was with regard to the site located at A-18, Rampuri, Surya Nagar, Ghaziabad and is accurate in so far as that site is concerned.

The report is respectfully put up for perusal and necessary action.

 20.07.2019
(ANSHUL SHARMA)
JE
UPPCB GHAZIABAD