

PBEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL, MADHYA PRADESH

Original Application No. 222/2024

In the matter of:

Bhagirath Meena

Applicant

Versus

State of Rajasthan and Ors.

Respondent(s)

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Date:

Place:



[COUNSEL FOR RESPONDENT NO. 6]

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PRELIMINARY OBJECTION ON BEHALF OF RESPONDENT NO. 6

MOST RESPECTFULLY SHOWETH:

1. That the following reliefs have been claimed in the Original Application

“In view of the foregoing facts and circumstances, the Hon'ble Tribunal may be pleased to grant the following reliefs to the Applicant as under:

- i) Respondent No. 6 be directed to close operation of stone crusher within 1500 meters of the residential area of village Joneta, Alwar;*
- ii) RSPCB letter cum order dated 24.07.2024 be quashed and set aside;*
- iii) Environment Compensation be imposed against the respondent no. 6 for illegal operation of stone crusher in violation of environmental laws and land conversion order;*
- iv) The respondent no. 6 may be directed to pay damages for the loss of livestock and crops to the applicant from year 2022;*
- v) Any other relief which the Hon'ble Tribunal deems fit may also be accorded in favour of the Applicant.*

2. That, it is pertinent to mention that the Original Application does not challenge the consent to operate of the Respondent No. 6. Therefore, any claim seeking to halt operations lacks merit in the absence of such a challenge. Allegations of illegal operations are unfounded in the absence of specific grounds impugning compliance with statutory requirements.
3. That the original application challenges the revocation order dated 24/07/2024 passed by the Rajasthan PCB whereby and whereunder the closure direction was revoked. It is pertinent here to mention that as per Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 and Section 28 of the Water (Prevention and Control of Pollution) Act, 1974, any person aggrieved by the order of the Pollution Control Board, may, within thirty days from the date on which the order is communicated to him, prefer an appeal to Appellate authority to the Pollution Control Board which will be constituted by the State Government. Any orders passed by this Appellate authority can be challenged before the Hon'ble NGT under Section 31-B of the Air (Prevention and Control of Pollution) Act, 1981 and Section 33-B of the Water (Prevention and Control of Pollution) Act, 1974.
4. That the Original Application is not maintainable before this Hon'ble Tribunal as the Applicant has an alternative and efficacious statutory remedy available under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.
5. That the Hon'ble National Green Tribunal has consistently held that where a specific statutory remedy is available, an aggrieved party

must exhaust such remedy before directly invoking the jurisdiction of the Tribunal. In the present case, the Applicant has bypassed the statutory appellate mechanism and has prematurely approached this Hon'ble Tribunal.

6. That it is further submitted that, the Consent to Operate of the answering respondent was suspended by the RPCB due to GRAPE 3 situation in NCR. Answering respondent challenged aforesaid order dated 25/11/2024 before Rajasthan High Court at Jaipur in a Civil Writ Petition which is still pending for adjudication. Therefore, aforesaid matter is pending before Rajasthan High Court also.
7. That the answering Respondent reserves its right to file a detailed reply on merits in the event this Hon'ble Tribunal decides to entertain the present Original Application.

PRAYER

In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Dismiss the Original Application as not maintainable on the ground that the Applicant has not exhausted the statutory remedy of appeal under Section 31 of the Air Act and Section 28 of the Water Act before approaching this Hon'ble Tribunal;
- b) Pass any other order(s) deemed just and proper in the facts and circumstances of the case.

Date:

Place:



[COUNSEL FOR RESPONDENT NO. 6]

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CENTRAL ZONE BENCH, BHOPAL, MADHYA PRADESH

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AFFIDAVIT

I, Bhupesh Maal, S/o Moti Lal Maal, aged 47 years, R/o Gudha Road, Moti Nagar, Ward - 25, Bandikul Jageer (Rural), Bandikul, Dausa, Rajasthan - 303313 do hereby solemnly affirm and declare as follows:

1. That I am duly authorised representative of Respondent No. 6 and am fully conversant with the facts and circumstances of the case.
2. That the contents of the accompanying reply from paragraphs 1 to end have been prepared under my directions and are true and correct to the best of my knowledge and belief.
3. That I hereby affirm that no material facts have been omitted or concealed in the aforementioned reply.
4. That this affidavit is being submitted in support of the accompanying reply.

Bhupesh Maal

DEPONENT



VERIFICATION

I, Bhupesh Maal, the above-named deponent, do hereby verify that paragraphs 1 to 4 of this Affidavit are true to the best of my knowledge and belief.

Signed and verified on this day of 16.. February, 2025, at

...BKE.....

ATTESTED

16/02/25

NOTARY

Bandikul, Dausa, Rajasthan

DEPONENT

Bhupesh Maal

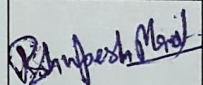


VAKALATNAMA**(Rule 4(1) of the Rules framed under the Advocate Act, 1961)****BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH AT
BHOPAL****Case Proceeding No. OA 222/2024**BHAGIRATH MEENA Plaintiff/Appellant/Claimant
/Petitioner/Applicant**Versus**STATE OF RAJASTHAN & OTHERS Defendant/Respondent
/Non-Applicant

I/we the Plaintiff/Appellant/Claimant/Petitioner/Appellant Or Defendant/Respondent/Non-applicant named below do hereby appoint, engage and authorize advocate (s) named below to appear, act and plead in aforesaid case/proceedings, which shall include applications for restoration, setting aside of ex-parte orders, corrections, modifications, review and recall of orders passed in these proceedings, in this Court or in any other Court in which the same may be tried/heard/proceeded with and also in the appellate revisional or executing Court in respect of proceedings arising from this case/proceedings as per agreed terms and conditions and authorize him/ them to sign and file pleadings, appeals, cross objections, petitions, applications, affidavits, or other document as may be deemed necessary or proper for the prosecution/ defence of the said case in all its stages and also agree to ratify and confirm acts done by him/ them as if done by me/us :

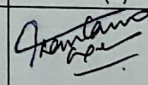
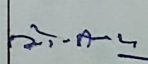
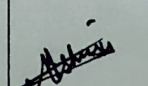
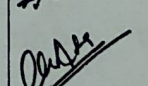
In witness whereof I/We do hereunto set my/ our hand to these presents, the contents of which have been duly understood by me/ us, this day of 2025.....AT Bhopal.

Particulars (in block letters) of each Party Executing Vakalatnama

Name & Father/s/ Husband/s name	Registered Address	E-mail Address (if any)	Telephone Number (if any)	Status in the case	Full Signature/ **Thumb Impression
(1)	(2)	(3)	(4)	(5)	(6)
Bhoopesh Maal M/s Laxmi Stone Crusher	Village Joneta, Teh. Rajgarh Dist. Alwar Rajasthan			Respondent t No. 06	

Accepted:

Particulars (in Block Letters) of each advocate accepting Vakalatnama.

Full name & Enrollment No. in State Bar Council	Address for Service	E-Mail Address (if any)	Telephone Number (if any)	Full Signature
(1)	(2)	(3)	(4)	(5)
Shantanoo Saxena MP/2679/2009	B-160, Shahpura, Bhopal, Madhya Pradesh	saxena.shan tanoo@gmail .com	9522222344	
Motilal Maal				
Ashwin Rastogi MP/1982/2017		Aashwin.rast ogi@gmail.co m	7415591679	
Amrita Mishra MP/3691/2021		advamritaxm @gmail.com	7224883571	
Abhishek Shrivastava MP/3660/2021				