

CENTRAL ZONAL BENCH, BHOPAL (M.P.)

EXECUTION APPLICATION NO. 6/2024

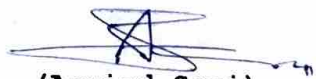
IN

ORIGINAL APPLICATION NO. 97/2022

Kamal Tiwari **Versus** Union of India & Ors.INDEX

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Counsel for the RSPCB


(Arvind Soni)

Advocate



24 SEP 2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

CENTRAL ZONAL BENCH, BHOPAL (M.P.)

EXECUTION APPLICATION NO. 6/2024

IN

ORIGINAL APPLICATION NO. 97/2022

Kamal Tiwari

...Applicant

Versus

Union of India & Ors.

...Respondents

REPLY TO EXECUTION APPLICATION ON BEHALF OF

RAJASTHAN STATE POLLUTION CONTROL BOARD I.E.

RESPONDENT NO. 4

It is most humbly submitted on behalf of Rajasthan State Pollution Control Board i.e. respondent no. 4 as under:

PRELIMINARY SUBMISSIONS

1. That the applicant filed this Execution Application to execute Order dated 01.11.2023 passed by the Hon'ble Tribunal and imposition of Environment Compensation and initiation of criminal proceedings against the respondents, who



ATTESTED

NOTARY PUBLIC
JAIPUR (RAJ)

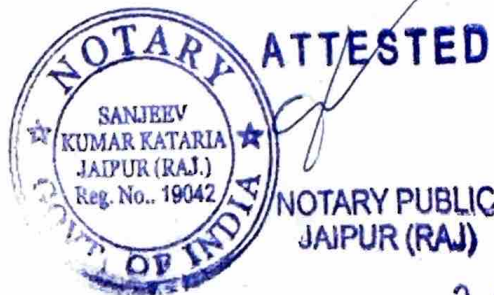
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are not complying the directions issued vide Order dated 01.11.2023. It is further submitted that vide Order dated 01.11.2023, Hon'ble Tribunal directed the respondents to impose environmental compensation upon violators by finalizing the same.

2. That in pursuance to Order dated 01.11.2023, your humble answering respondent submitted action taken report before this Hon'ble Tribunal in which it has been mentioned that answering respondent imposed environmental compensation to the tune of Rs. 6,54,02,000/- against RIICO after giving Notice and opportunity of being heard. Further, answering respondent also imposed environmental compensation of Rs. 35,28,575 /- against 15 units, out of which Rs. 27,67,300 /- has been deposited by the defaulter units whereas, environmental compensation of Rs. 6,54,02,000/- imposed on RIICO has not been deposited by the RIICO so far.

It is submitted that answering respondent has issued direction/order dated 08.01.2024 under Section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred as

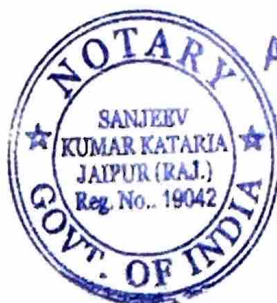


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'Air Act, 1981') and Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred as 'Water Act, 1974') imposing environmental compensation against RIICO whereas, an Information Letter dated 29.02.2024 submitted by RIICO that they have filed Appeal against Order dated 08.01.2024 issued by Member Secretary, RSPCB before the Appellate Authority at Yojana Bhawan, Jaipur under Section 31 of the Air Act, 1981 which is pending before the Appellate Authority. As per the Department of Environment and Climate Change, GoR letter dated 17/05/2024, RIICO has also made an appeal before Appellate Authority, for reading Air Act, 1981 with the Water Act, 1974, in which RIICO has pointed out that due to typographical error, the captioned Appeal has been filled under section 31 of the Air Act, 1981.

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It is worthwhile to mention here that as per Section 16(c) of National Green Tribunal Act, 2010, Appeal against direction issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under Section 33A of Water



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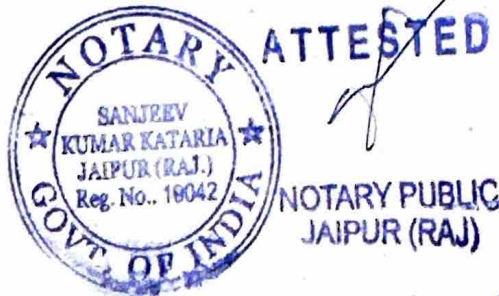
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Act, 1974, Appeal lies before the Hon'ble National Green Tribunal.

It is further submitted that being aggrieved with the interim Order dated 01.11.2023 passed by Hon'ble Tribunal, RIICO has filed Civil Appeal (Arising out of Diary No. 27041 of 2024) titled as 'Managing Director, RIICO Vs Kamal Tiwari & Ors.' before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India has been pleased to dismiss aforesaid Appeal vide Order dated 23.08.2024. In view of aforesaid facts and circumstances, RIICO is duty bound to deposit environmental compensation of Rs. 6,54,02,000/- to the answering respondent but till this date, RIICO failed to deposit the same.

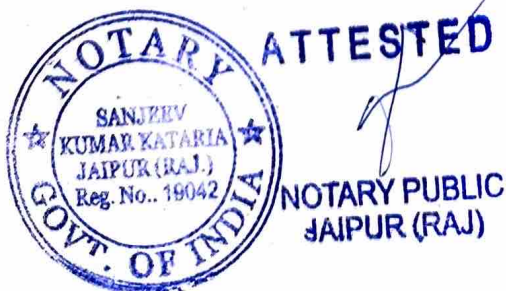
PARAWISE REPLY

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1. That the contents of Para 1 of the Execution Application need no Reply by the answering respondent.
 2. That the contents of Para 2 of the Execution Application need no Reply by the answering respondent.



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3. That the contents of Para 3 of the Execution Application need no Reply by the answering respondent.
4. That the contents of Para 4 of the Execution Application are admitted to the extent that the answering respondent issued Letter dated 14.05.2007 and apprised the concerned authorities about applicability of provisions of the Water Act, 1974 and Air Act, 1981 upon developer of Industrial Area such that RIICO.
5. That the contents of Para 5 of the Execution Application are admitted to the extent that the then learned Advocate General vide Letter dated 01.05.2012 apprised and advised the RIICO regarding applicability of provisions of Water Act, 1974 and Air Act, 1981.
6. That the contents of Para 6 of the Execution Application are admitted to the extent that answering respondent vide Letter dated 23.01.2024 had made a request to Chairman, RIICO to get requisite permission under the provisions of Water Act, 1974 and Air Act, 1981.



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7. That the contents of Para 7 of the Execution Application are admitted to the extent that RIICO requires to obtain Consent to Establish and Consent to Operate under the provisions of the Water Act, 1974 & the Air Act, 1981 and I.A. No. 141/2023 was dismissed by the Hon'ble NGT in the order dated 20.12.2023.
8. That the contents of Para 8 of the Execution Application are admitted to the extent that RIICO has preferred Appeal before the Appellate Authority against the directions under Section 31(A) of the Air Act, 1981 and 33(A) of the Water Act, 1974 passed by the State Board vide Letter dated 08.01.2024 has not been stayed by the Appellate Authority. It is worthwhile to mention here that as per Section 16(c) of National Green Tribunal Act, 2010, Appeal against direction issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under Section 33A of Water Act, 1974, Appeal lies before the Hon'ble National Green Tribunal. As such RIICO is liable to pay the Environmental Compensation of Rs. 6,54,02,000/-.

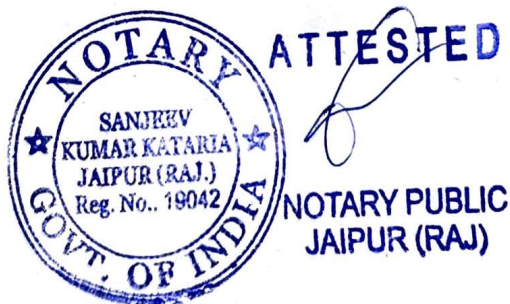


ATTESTED

NOTARY PUBLIC
JAIPUR (RAJ)

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9. That the contents of Para 9 of the Execution Application are admitted to the extent that the Chairman RIICO vide letter dated 13.03.2024 apprised the Chairman RSPCB about the opinion of Advocate General dated 05.03.2024 and requested to direct the concerned Regional Officers of RSPCB to withdraw notices given to respective RIICO unit officers for not obtaining CTE/CTO.
- and*
10. That the contents of Para 10 of the Execution Application need no Reply by the answering respondent.



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PRAYER

In view of the above, it is submitted that the Reply to the Execution Application may kindly be taken on record and issue necessary order or direction which Hon'ble Tribunal deems proper in favour of answering respondent.

Arvind

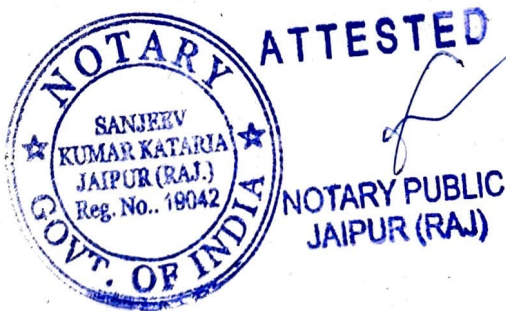
Date: 25.9.24

Counsel for the RSPCB



(Arvind Soni)

Advocate



24 SEP 2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
CENTRAL ZONAL BENCH, BHOPAL (M.P.)

EXECUTION APPLICATION NO. 6/2024
IN
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Kamal Tiwari **Versus** Union of India & Ors.

AFFIDAVIT IN SUPPORT OF REPLY TO THE E.A.

I, Vijay Sharma S/o Late Shri Krishna Kumar Sharma, aged about 52 years, presently working as Regional Officer, Rajasthan State Pollution Control Board, Jaipur North, Jaipur, do hereby take oath and state as under:-

1. That I am the Officer-In-Charge of the answering respondent in the above noted case and hence, am fully conversant with the facts of the present case.
2. That the annexed Reply to the Original Application has been drafted by the counsel on my instructions on the basis of material and information furnished by me to the counsel. I have gone through the Reply and have fully understood the contents thereof.
3. That the facts stated in Reply are true and correct to my knowledge, which I believe to be true and correct.

am

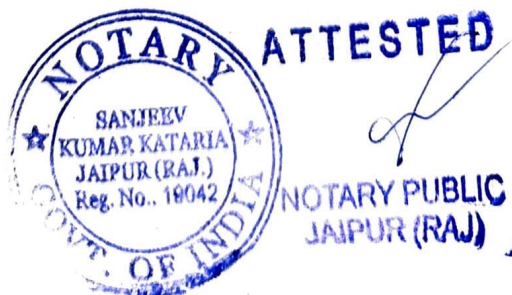
DEPONENT

VERIFICATION

I, the above named deponent do hereby and verify that the content of Para 1 to 3 of the above affidavit are true and correct and nothing material has been concealed thereof. So, help me God.

am

DEPONENT



24 SEP 2024



VAKALATNAMA

In the Before Hon'ble NGT at Bhopal
Case Enforcement Application No. 6/2024 200
Original Application No. 97/22
Kamal Tiwari

VERSUS

U.O.E. 2022

KNOW ALL MEN by these presents that I/we the undersigned Vijay Sharma do Late Shri Krishna
Ku. Sharma Aged 52 yrs & presently working as Regional officer
RSPCB, North Jaipur.

in the above case do hereby make, constitute and appoint

Shri ARVIND SONI Advocate
E-mail:- arvindsoni_lawyer@yahoo.com

my/our true and lawful attorneys, for me/us in my/our name, and on my/our behalf to appear plead and act in the said case, and more particularly to draw, make, present, withdraw, amend, represent and verify petition, plaints or written statements and to make, present applications or petitions in the court, to present, withdraw and receive documents and any money from the Court or from the opposite party either in execution of the decree or otherwise, and on receipt of payment thereof to sign and deliver for me/ us proper receipts and discharges for the same, to compromise or to refer the case to arbitration, to seek execution of the decree or any orders in the case, to draw, make present, withdraw, amend and represent any memorandum of appeal or cross objections in any appeal arising or to seek reviews or revision of any Judgement, decree or order in the case, to appear, conduct and plead in all such writ / appeals / revisions and reviews, and to do all other lawful acts and things as effectually as I/we could do the same whether being personally present or otherwise. My/our said counsel is/are also hereby authorised and empowered to instruct, engage or appoint any other counsel or counsels to appear, plead and act with or for him/them in his/their absence or otherwise as my/our said counsel may think proper to do so, all acts of such counsel or counsels shall be equally and similarly binding on me/us as if done be my/our said counsel and as if done by me/us personally.

I / we hereby agree that if any part of the said counsel's fee remains unpaid before the first hearing of the case, or if any hearing of the case be fixed on tour or at any other place except the usual court premises, then my / our said counsel will not be bound to appear before the court. The counsel's fee now settled and agreed to is in respect of this Court and for the pending proceedings only. Any fresh action hereafter taken will entitle the counsel to fresh fees. I / We also agree that if the case be dismissed in default or if it be proceeded ex-parte under any circumstances whatsoever the said counsel shall not be held responsible for the same and all whatsoever my/our said counsel shall do in connection with the said case, I / we do hereby agree to ratify and confirm. Any costs awarded in the case at any time in my/our favour shall form part of the counsel's claim and shall be payable to him/them in addition to his/their fees in the case.

IN WITNESS WHEREOF I/we have hereto set my/our hand (s) at _____

this 25/9/24 days of _____ and delivered to the said counsel (s)

Accepted

ARVIND SONI
Advocate
R/664/99
M.No. 9460070283

- [Signature]
- केन्द्रीय अधिकारी
- राज्य प्रदूषण नियंत्रण मण्डल
जयपुर (राज.)
- _____

E-mail:- arvindsoni_lawyer@yahoo.com