

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**ORIGINAL APPLICATION NO. 424 OF 2023**

**IN THE MATTER OF:**

Sunil Kumar Ramhet

...Applicant

**VERSUS**

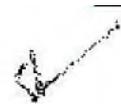
State of U.P. & Ors.

...Respondents

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**FILED BY**



**Mr. Samaksh Goyal**



**Ms. Ranu Purohit**

Advocates for the Respondent No. 4

S-74, LGF, Greater Kailash-I

New Delhi-110049

Email: adv.ranupurohit@gmail.com

DATE: 23.04.2024

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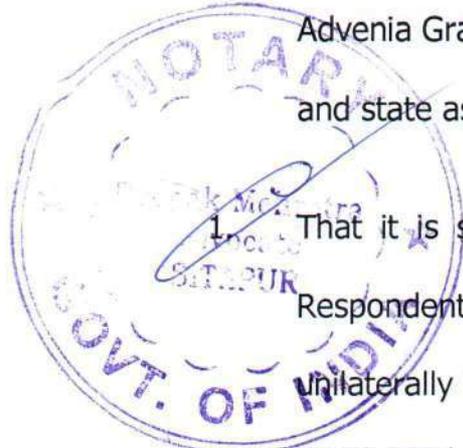
...Respondents

**ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENT NO. 4**

I, Suresh Kumar Agarwal, S/o Late Sh. Vishwanath Agarwal, Aged about 61 years, , Authorised Representative of Respondent No. 4 (J.B. Dharuka Papers Ltd.), having office AT A-1, Industrial Area, Shahjahanpur Road, Advenia Grant Sitapur, Uttar Pradesh 261001, do hereby solemnly affirm and state as under:-

1. That it is submitted that the to the utmost shock of the answering Respondent, during the pendency of the present matter, the UPPCB Unilaterally imposed environmental compensation for an amount of Rs, 24,90,000/- on the answering Respondent without any basis vide notice dated 10.03.2024.

2. It is submitted that the imposition of the said amount was also without providing any opportunity to the answering Respondent to present its

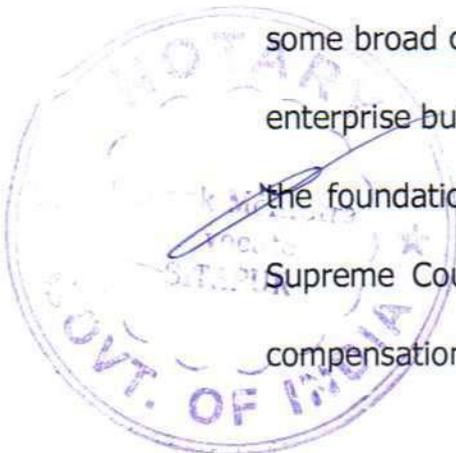


case. It is further submitted that the compensation imposed also does not lay down how the same has been assessed and arrived at.

3. That it is submitted that in addition to the above, during the pendency of the present matter, such compensation ought not to have been imposed by the UPPCB without first letting this Hon'ble Tribunal adjudicate upon the issue of whether any environmental damage has been caused by the answering Respondent.

4. It is further submitted that in *Deepak Nitrite v. State of Gujarat* (2004) 6 SCC 402 the Hon'ble Supreme Court categorically held that there needs to be a finding of damage and "compensation to be awarded must have some broad correlation not only with the magnitude and capacity of the enterprise but also with the harm caused by it". This judgment laid down the foundation of Polluter Pays Principle by clarifying that the Hon'ble Supreme Court was not inclined to hold an industry accountable for compensation unless there was a clear finding of environmental harm.

5. It is settled principle that exemplary compensation is to be seldom imposed in case of deliberate and willful negligence. It is submitted that the present case is not a fit case wherein the UPPCB ought to have unilaterally proposed or impose any environmental compensation upon the answering Respondent.



6. Accordingly, the answering Respondent was constrained to sent letter dated 10.03.2024 to the UPPCB to bring to the attention of the UPPCB that during the pendency of the present matter, no coercive steps be taken against the answering Respondent. True copy of the letter dated 10.03.2024 is annexed herewith and marked as **Annexure- AA-1**.

*Surekumar*

**DEPONENT**

**VERIFICATION**

Verified at Sitapur, on this 22 day of April, 2024 that the contents of the above Affidavit are correct and true to the best of my knowledet and belief nothing material has been concealed therefrom.

*Surekumar*

**DEPONENT**

**FILED BY:**

मै सपब्यलर्ष को जानता व पहचानता हूँ  
इन्होंने मेरे सामने हस्ताक्षर, निम्नलिखित  
बनाया है:

22-4-24

*Ranu Purohit*

**MR. SAMAKSH GOYAL  
MS. RANU PUROHIT**

**ADVOCATES FOR THE RESPONDENT NO.**

A-405, 1st Floor, Defence Colony, New Delhi – 110024

Email: office.ssgoyal@gmail.com,

adv.ranupurohit@gmail.com

(M): +91-9560028080, 95604579977



# JB DARUKA PAPERS LIMITED

Registered Office & Works: A-1 Industrial Area, Advenia Grant, Shahjahanpur Road, Sitapur - 261001, (U.P.) India

WITHOUT PREJUDICE  
By Hand / Speed Post

Dated: 10.03.2024

**Kind Attention:**

Chief Environment Officer (Circle-5)  
Uttar Pradesh Pollution Control Board,  
T.C.12-V, Vibhuti, Khand Gomti Nagar,  
Lucknow-226010

Sub: Reply to your letter dated 28.02.2024 bearing reference number H07646/C-5/Jal/37/2024.

Dear Sir,

In reference to the captioned letter dated 28.02.2024 received by us, I wish to state as follows:

1. That the undersigned's absolute shock, you have vide your letter dated 28.02.2024 received on 04.03.2024 arbitrarily imposed the environmental compensation for an amount of Rs. 24,90,000/- (Twenty Four Lakhs Ninety Thousand) upon the undersigned applicant unit. In this regard, it is stated that in absence of actual environmental degradation reports as well as relevant reports proving harmful to the public health, crops and soil findings which have not provided to the applicant unit before imposition of said environmental Compensation, the directions at your end to deposit the same environmental compensation amount are not in the true spirit of justice and therefore, it is itself clear that the UPPCB has not explained on what basis the amount has been calculated and how the final amount arrived at. Further, It is therefore, requested that your goodself may kindly be pleased to furnish the relevant details alongwith the documents on which basis the Environmental Compensation has been imposed upon the undersigned unit.



Cont. - 02



2. That the undersigned applicant underscores that his unit is a law abiding and compliant unit, and thus, imposition of such huge amount of environmental compensation without providing any opportunity of hearing by providing details of any alleged violation by the undersigned applicant unit, is wholly unjustified and untenable and hence the UPPCB may kindly provide an opportunity of hearing to the undersigned applicant unit in compliance with the principles of natural justice prior to issuing any direction to deposit the said amount and after such opportunity of hearing any conclusion be arrived at and so no environmental compensation or interest should be charged in furtherance of your direction vide letter dated 28.02.2024.
3. That it is needless to state that the imposition of environmental compensation upon the undersigned applicant unit is misconceived in light of the fact that the case titled "*Sunil Kumar Ramhet vs State of UP & Ors*", Original Application No. 424/2023 is pending before the Hon'ble National Green Tribunal, Principal Bench, New Delhi wherein, *inter alia*, the question of whether the undersigned is a compliant unit or not, is squarely sub-judice before the Hon'ble Tribunal. As such, your action of imposing environmental compensation against the applicant unit vide letter dated 28.02.2024 on an assumption of the applicant unit polluting and/or a non-compliant unit prior to decision in this O.A. pending before Hon'ble Tribunal and because of non-compliance of Consent to Operate conditions have ever been communicated, is misconceived and in the teeth of the pending proceedings.

In the light of the above submission, the undersigned applicant requests you to kindly withdraw your letter dated 28.02.2024 till the final disposal of the aforementioned case pending before the Hon'ble NGT and not to take any coercive steps against the applicant unit in furtherance of the letter dated 28.02.2024.

Thanking you. Regards,

Yours faithfully,

J.B.Daruka Papers Limited

*Sunil Kumar*

Authorised Signatory



15-3-24

Copies for information please ;

- 1 District Magistrate
- 2 Regional Officer Uttar Pradesh Pollution Control Board, Lucknow

उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड  
 प्राप्ति रसीद  
 प्राप्ति दिनांक... 15.3.24  
 प्राप्तकर्ता के हस्ताक्षर...  
 उद्देश्य प्रदूषण नियंत्रण बोर्ड, लखनऊ

*Sunil Kumar*

TC



6

Ranu Purohit &lt;office.ranupurohit@gmail.com&gt;

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**FOR SERVICE: Sunil Kumar Ramhet vs. State of U.P. & Ors. // OA. No. 424 of 2023**

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1 message

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**Ranu Purohit** <office.ranupurohit@gmail.com>

Tue, Apr 23, 2024 at 12:06 PM

To: info@uppcb.in

Dear Sir/Madam,

Please find the attached Additional Affidavit on behalf of Respondent No. 4 in the subject matter.

Please acknowledge the receipt of this mail.

--

Kind regards,

**Ranu Purohit**

Advocate-on-Record

Office: S-74, LGF  
Greater Kailash-1  
New Delhi- 110048  
(M) +91-9560457997**Please spare a thought for the environment. Print this mail only if necessary.****CONFIDENTIALITY NOTE**

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