

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
OA NO. 248 OF 2025**

**IN THE MATTER OF:**

**AMIT MADDHESHIYA**

**...APPLICANT**

**VS**

**UTTAR PRADESH POLLUTION  
CONTROL BOARD & Ors.**

**...RESPONDENTS**

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**FILED THROUGH**

*Shashank Rai*

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**Place: New Delhi**

**Dated: 01.07.2026**

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**ADDITIONAL REJOINDER TO COUNTER AFFIDAVIT FILED  
ON BEHALF NO. 1, UTTAR PRADESH POLLUTION CONTROL  
BOARD IN 248/2026**

**TO,**

THE HON'BLE CHAIRMAN AND HIS COMPANION MEMBERS OF  
THE HON'BLE TRIBUNAL

**MOST RESPECTFULLY SHOWETH:**

I. I. Amit Maddheshiya S/o Sh. Kailash Maddheshiya, aged 30 years, R/o Ward No. 2, Punjab Mill Road, Ramkola, Kushinagar, UP-274305, presently at Delhi, do hereby on solenin affirmation state as under:-

1. That I am the Applicant in the above captioned matter and am well conversant with the facts and details of the same, hence am competent to swear this affidavit.
2. That I have gone through the replies/affidavits filed on behalf of Respondent No. 1 (Uttar Pradesh Central Pollution Control Board), and I by way of this Rejoinder Affidavit, and here by humbly submit that the affidavit of UPPCB, instead of demonstrating robust statutory action, inadvertently confirms long-standing regulatory failure and inadequate imposition of environmental compensation, thereby necessitating detailed corrective directions by this Hon'ble Tribunal
3. That save and except what is expressly admitted herein, all submissions, in the Reply Affidavit of the Respondents are specifically and unequivocally denied as false, self-serving and contrary to the factual matrix emerging from the material placed on record by the Applicant. I humbly request this Hon'ble Court to kindly take on record this Additional Rejoinder in addition to the Rejoinder already placed on record in response to the Counter Affidavit filed by CPCB and the District Magistrate (Respondent No 6 and 1 respectively).

**PRELIMINARY SUBMISSIONS**

4. That at the outset, the Applicant submits that the present Original Application raises issues of continuous and ongoing environmental harm arising from the illegal operation of brick kilns without mandatory statutory consents and in violation of binding siting norms and closure orders. The matter is not confined to a past or isolated breach, but concerns a sustained pattern of illegality that directly impacts public health, agricultural productivity and local ecology.
5. The Applicant further submits that the burden of establishing effective closure and compliance and ensuring adequate environmental compensation is imposed on entities operating illegally squarely lies on the Respondent authorities and the brick kiln operators more importantly when it is unequivocally admitted or evidenced that: the units have been operating in the past; and the statutory

consents (CTE/CTO, EC, groundwater permissions) are either absent or have been violated.

6. That the OA, supported by multiple RTI replies, has already brought on record that Respondent brick kilns (Respondent Nos. 8-16) have been operating without any Consent to Establish (CTE) or Consent to Operate (CTO) under Section 25 of the Water Act, 1974 and Section 21 of the Air Act, 1981. Further the UPPCB's own status table in its affidavit now reiterates that the "Status of CTE" and "Status of CTO" for all nine brick kilns is "No", thereby conclusively establishing that none of these units ever possessed valid consent, either for establishment or operation.
7. That despite this clear and continuing illegality, UPPCB failed for years to initiate effective enforcement measures such as prosecution under Sections 37-40 of the Air Act and Sections 41-44 of the Water Act, imposition of environmental compensation, and actual physical closure of these units. That such inaction, despite knowledge of violations, amounts to a gross failure to exercise statutory

powers under the Air Act, Water Act and Environment (Protection) Act, 1986 and is fully in line with the "administrative negligence and potential corruption" pleaded in the OA.

8. That UPPCB relies on various closure orders (Annexures 1, 4, 7, 10, 13, 16, 19, 22, 25 of the Counter Affidavit) issued between 15.07.2021 and 24.11.2025, attempting to show action taken. However, UPPCB's own affidavit (para 6-7) unequivocally states that when inspections were carried out on 09.03.2026 and 10.03.2026, seven out of nine kilns were found operational, and their operations had to be "forced to stop with the help of the fire department in the presence of the district administration and police administration".
9. That this admission proves that closure orders remained only on paper and were not implemented on ground; UPPCB allowed violators to continue operations even after formal closure directions, thereby enabling prolonged illegal operation and pollution.

10. That in the case of Ms Janta Ent Nirmata, closure order dated 15.07.2021 is on record, yet the kiln was found operational on 09.03.2026, showing at least four brick-kiln seasons of continued operation post-closure, which UPPCB has neither accounted for nor compensated.
11. That similar patterns emerge for other kilns, wherein closure orders of July/September/November 2025 co-exist with operational status in March 2026, confirming a systemic failure in enforcement.
12. That the OA narrates in detail how three RTI applications dated 08.12.2024 and subsequent RTIs dated 09.12.2024 and 10.12.2024 sought specific information regarding consent status and action taken against Respondents 8–13, including EC and closure orders. The UPPCB, in its replies, only stated that no NOCs or consents had been issued, while failing to disclose any concrete enforcement measures such as prosecution or EC imposition, thereby evading accountability and further evidencing regulatory inertia.

13. That complaints addressed to UPPCB and its Regional Office against illegal operation of brick kilns in Kushinagar were also not followed up with effective action, as even after these complaints the kilns continued their operations.
14. That the Applicant was constrained to approach this Hon'ble Tribunal only because his RTIs and complaints did not result in meaningful corrective measures, which is itself a strong indicator of UPPCB's dereliction of duty
15. That as per Section 21 of the Air Act, no person shall, without previous consent of the State Board, establish or operate any industrial plant in an air pollution control area; similarly, Section 25 of the Water Act prohibits establishment or operation of any outlet without prior consent. In light of this fact, it is pertinent to note that UPPCB's status matrix shows that for each of the nine kilns, both CTE and CTO are "No", which means that the initial construction, commencement of production and subsequent operation of these kilns were all without statutory consent.

16. That in such a situation, it is humbly submitted that the entire operation is illegal ab initio, and every day of functioning from the date of first operation until actual dismantling or closure is a non-complying day attracting liability, irrespective of whether a closure order was eventually issued.
17. That UPPCB's attempt, in calculating compensation, to treat 01.10.2025 as the "Date of Production Starts" for certain kilns is inconsistent with the record and taxation/inspection references, which indicate earlier operation and long-standing illegal activity. However despite being served the Notice the Respondent No 5 (Office of the Commissioner State Tax U.P.) have failed to take note of the present proceedings or provide any records of the same in order to establish a conclusive estimation of environmental loss.
18. That the Uttar Pradesh Brick Kiln Site Criteria for Establishment Rules, 2012 and Environment Protection Rules, 2022 impose strict siting norms and operational

restrictions, particularly regarding proximity to schools, hospitals, religious places, sensitive areas and fertile agricultural land. The OA, supported by GPS photographs and coordinates, demonstrates that Respondent kilns have been sited near agricultural fields, plantations, village settlements and public institutions from the outset, violating these norms and thereby magnifying the illegality. Further none of the kilns have adopted zig-zag technology, or adequate emission control measures, and many have resorted to hazardous fuels such as plastic, rubber, pet coke and sugarcane waste, which constitutes recurring substantive violations across seasons, not limited to the 160-day period presently chosen by UPPCB.

19. That UPPCB's affidavit shows multiple kilns with closure orders in 2021 and 2025, yet found operational in March 2026, which amounts to defiance of specific statutory directions in addition to baseline illegality without consent. Consequently the environmental compensation must be higher for such aggravated violations, covering all

operational seasons prior to closure orders, and all days of illegal operation after closure orders but before effective physical stoppage and dismantling.

20. That any kiln which may argue that it has subsequently complied with some norms, or that it is non-operational at the time of inspection, is still liable for EC for all periods where it operated without consent, violated siting rules, used prohibited fuels, extracted groundwater without consent or breached closure orders.

21. That Annexure-28 records, for example, that Ms Janta Ent Nirmata and Ms Anil Kumar Singh HUF have "Date of Production Starts" as 01.10.2025, inspection date as 09.03.2026, and non-complying days as 160, leading to EC of Rs. 10,00,000 using  $PI \times N \times R \times S \times LF$ . It is respectfully submitted that this approach arbitrarily restricts illegality to 160 days between October 2025 and March 2026, ignoring the earlier years of operation, including prior seasons before closure orders; and evidence of operations continuing after closure orders dated 15.07.2021 and 16.07.2025;

22. That by artificially limiting N (number of days) to one season, UPPCB drastically understates liability and fails to apply the Polluter Pays Principle in its full sense.
23. That brick-kiln operations in Uttar Pradesh generally follow seasonal patterns, with kilns remaining inactive in monsoon/off-season; a fact that has been reiterated numerous times before the Hon'ble Tribunal and the Applicant consequently seeks that compensation be computed for all operational seasons from inception, but counting only months when the kiln was actually functional.
24. That UPPCB's Annexure-28 neither identifies individual seasons per year nor counts operational months across earlier seasons; it simply uses a blanket 160 days for the year 2025-26, thereby ignoring previous seasons where illegal operation admittedly took place.
25. That for kilns with closure orders in 2021 and 2025, there are at least two to four brick-kiln seasons of illegal operation that have not been factored into EC calculations, which makes the present figures grossly inadequate.

26. That the OA clearly highlights how illegal brick kilns cause aggravated PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub> and VOC levels in Kushinagar, leading to a spike in respiratory diseases, asthma, COPD, TB, skin ailments and cardiovascular issues among local residents. It is respectfully submitted that unchecked extraction of fertile topsoil has eroded agricultural productivity, degraded land and affected groundwater recharge, directly undermining the livelihood of farmers and rural communities.
27. That this Hon'ble Tribunal and the Hon'ble Supreme Court have consistently held that the Right to a clean and healthy environment is part of Article 21; permitting nominal or truncated EC in the face of prolonged illegal operation amounts to tolerating violation of fundamental rights of common citizens.
28. That if UPPCB's current EC computation is accepted without enhancement, ordinary taxpayers will effectively subsidise the environmental and health costs of illegal

private enterprise, contrary to the Polluter Pays Principle and basic notions of justice and equity.

29. That in Ram Bharose Tomar v. State of UP (OA No. 309/2022), this Hon'ble Tribunal has already directed imposition of EC for past illegal operations of thousands of brick kilns; a weaker approach in the present matter will create an arbitrary and unjust distinction, prejudicing the people of Kushinagar.

30. That it is also respectfully submitted that, given the nature of the violation and the precautionary principle and polluter pays principle embedded in environmental jurisprudence, the standard of scrutiny must be strict. Where there is credible material showing illegal operation and environmental harm, any ambiguity or doubt arising from incomplete or poorly timed inspections must operate against the violators and the defaulting authorities, not against the affected public or the environment.

31. That the brick kilns are blatantly violating environmental requirements on multiple, simultaneous counts. They had

been operating without any groundwater NOC for exploitation, had no high boundary walls enclosing the premises, lacked mandatory signboards, and did not maintain the statutory air-quality monitoring registers. Basic foundational records such as the date of establishment, date of commencement, contemporaneous inspection reports, and renewal-fee details are neither available nor furnished despite repeated demands, indicating deliberate non-maintenance.

32. The Applicant seeks liberty to produce additional documents/averments after the other parties file their reply.

**PARAWISE RESPONSE TO THE REPLY AFFIDAVIT OF THE RESPONDENT NO. 1 (UTTAR PRADESH POLLUTION CONTROL BOARD)**

33. The contents of the para 1 regarding the Respondent's designation and competence are a matter of record and warrant no reply from the Applicant

34. That content of Para 2 is admitted to the extent it records that nine brick kilns in Kushinagar have been operating without CTE/CTO and using prohibited fuels. This constitutes clear admission that kilns have operated illegally ab initio and supports the Applicant's case of long-standing non-compliance and pollution.
35. That with respect to the content of Para 3, the Constitution of the Joint Committee pursuant to order dated 21.05.2025 is a matter of record and is not disputed. However, mere constitution of a committee does not cure UPPCB's prolonged failure to prevent and penalise illegal operations prior to and even after that order.
36. That the contents of para 5 are matter of record.
37. That in para 6-7 UPPCB admits that on 09.03.2026 and 10.03.2026 seven kilns were found operational despite closure orders, while only two were closed. This is a crucial self-admission that closure orders remained on paper and that illegal operation continued for months/years after such orders.

38. That the status table in para 8 is accepted to the limited extent that it records "No" for CTE and CTO for all nine brick kilns and lists closure orders issued in 2021 and 2025. This confirms that (i) all kilns were illegal since establishment, and (ii) several continued to operate even after closure orders, warranting enhanced EC over all years of operation, not only 2025-26.

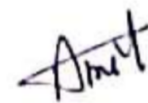
### **PRAYER**

In view of the aforesaid facts and circumstances, it is humbly prayed that Honourable Tribunal may graciously be pleased to:

- a. Direct UPPCB to discard the truncated and grossly inadequate 160-day Environmental Compensation calculation in Annexure-28 and to recalculate EC for each kiln on a season-wise, year-wise basis, counting each year of illegal or non-compliant operation, with appropriate aggravation for post-closure operation, hazardous fuel use and siting violations.
- b. Direct Respondent No. 5 and 7 to produce records about Registration AND/OR Filing AND/OR Payment of tax by each of the Respondent brick kilns including their previous names,

in order to ensure their correct date of inception and consequently ascertain adequate environmental compensation.

- c. Consider fixing personal responsibility of the concerned officers of the UPPCB, District Administration, and other departments found responsible, including by directing suitable departmental action and, where warranted, prosecution;
- d. Direct strict and continuous monitoring, sealing and dismantling of illegal kilns, and time-bound recovery of recalculated Environmental Compensation, to prevent further prejudice to common citizens and to uphold Article 21 rights; and
- e. Pass any other order(s) as this Hon'ble Tribunal may deem fit in the interest of justice, public health, and environmental protection.

A handwritten signature in black ink, appearing to read 'Amey', is written over a faint red circular stamp.

**APPLICANT**

**FILED THROUGH***Shashank Rai*

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ANUSHI AGRAWAL, RAVI AGGARWAL

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**AFFIDAVIT**

I. Amit Maddheshiya S/o Sh. Kailash Maddheshiya, aged 30 years, R/o Ward No. 2, Punjab Mill Road, Ramkola, Kushinagar, UP-274305, do hereby on solemn affirmation state as under:-

1. That I am the Applicant in the instant Original Application and thus conversant with the facts and circumstances of this case and competent to swear this Affidavit.

2. That I have read the contents of the accompanying Rejoinder including the submissions advanced and the Prayers sought.



