

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

**O.A NO.606 OF 2022
and
APPEAL NO. 33 & 34 OF 2023**

IN THE MATTER OF:

PUBLIC ACTION COMMITTEE & ORS.

...APPLICANTS

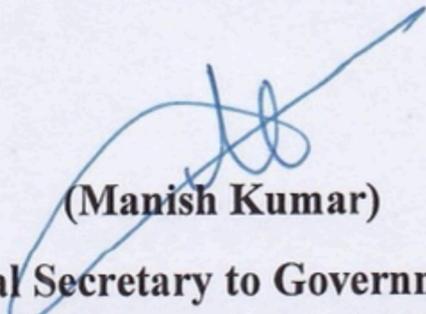
VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENTS

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(Manish Kumar)

**Special Secretary to Government of
Punjab, Department of science,
Technology and Environment**

(On behalf of State of Punjab)

Date: 02.11.2025

Place: Chandigarh

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

**O.A NO.606 OF 2022
and
APPEAL NO. 33 & 34 OF 2023**

IN THE MATTER OF:

PUBLIC ACTION COMMITTEE & ORS.

...PETITIONERS

VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENTS

AFFIDAVIT ON BEHALF OF THE STATE OF PUNJAB AS PER ORDER

DATED 09.09.2025

I, Manish Kumar son of Shri Krishan, aged about 45 years, currently posted as Special Secretary, Science, Technology and Environment in the Government of Punjab, do hereby solemnly affirm and state as under:

1. That I am the Special Secretary to Government of Punjab, Department of Science, Technology and Environment and as such, I am fully conversant with the facts and circumstances of the present case based on official records.
2. That, this Hon'ble Tribunal *vide* its order dated 09.09.2025 had observed:

"2. During the course of hearing, the issue of permitting the Respondent – Project Proponent to continue with the production of ethanol with another plant has come up.



3. *Shri Misra, learned Senior Counsel appearing for the Respondent – Project Proponent has submitted that the Respondent - Project Proponent be permitted only to continue with the ethanol production in another plant of 180 KLD located in the same premises. Learned Senior Counsel further submitted that the distillery plant will be completely shut-down and dismantle and only the ethanol plant will be run in the premises*

4. *Learned Counsel for the Original Applicant as also the State of Punjab have sought two weeks' time to obtain instructions in this regard and place on record the stand on this aspect in writing. The prayer is allowed."*

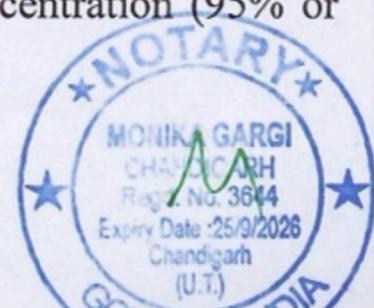
3. That in this respect, the stance of the State of Punjab is as under:

Stance of State of Punjab:

4. That the State of Punjab is not agreeable to the suggestion of the Project Proponent. The State of Punjab respectfully submits that this is a fit case for permanent closure of the Project Proponent and it should not be permitted to use the unit or a plant within the same unit/premises for production of ethanol of otherwise. The reasons for the same as are apparent from the record of the case (not detailed here for the sake of brevity) are:

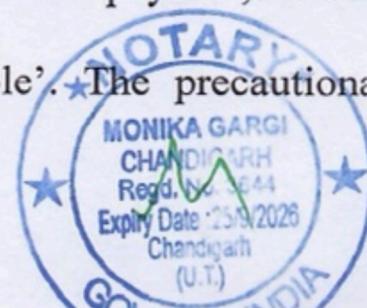


1. The Appellant/proponent has a documented history of violating environmental norms and evasion , as has been urged by the PPCB as well as the Applicant in O.A.
2. Proponent has to be held accountable for past wrongs would be contrary to law and public policy. The record of this case reveals that:
 - (a) the Proponent industry has a history of flouting environmental norms over extended periods including hoodwinking the consultation or enforcement mechanisms;
 - (b) Causing serious pollution affecting air, water, soil, and public health;
 - (c) For the present, no other remedial measure is available or effective;
 - (d) The continuation of the unit has the serious risk of contamination of drinking water, or air pollution affecting communities
 - (e) Project Proponent's industrial operations violate the fundamental right to life and healthy environment
3. The final product of a traditional distillery (alcoholic beverages like whisky, vodka, etc.) is primarily ethanol, which is also known as ethyl alcohol. It is submitted that the final Product of a Distillery is high-purity ethanol (the 'heart' of the distillate) mixed with water, and sometimes residual compounds (like congeners and esters). The fuel/Industrial Ethanol or the one used for blending with petrol is also high-purity ethanol, though it is often purified to a higher concentration (95% or



anhydrous 99+%) and is then denatured. In other words, the final product of distillery unit and ethanol unit are chemically sister compounds, and the operational risks of an ethanol plant are substantively similar to those of the distillery. Both alcohol distilleries and ethanol plants follow identical chemical steps: fermentation of sugars using yeast to produce ethanol and carbon dioxide, followed by distillation to separate ethanol from water and other byproducts.

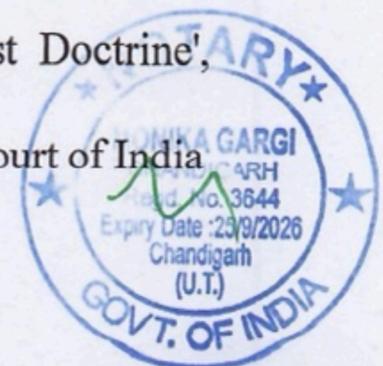
4. The industrial process and chemical reactions, including pollutant release (spent wash, CO₂, volatile organics), are the same for both, regardless of whether the final product is used for beverages or fuel. Therefore, for the Project Proponent to project as if the ethanol as product is a different or any less polluting is incorrect.
5. That making ethanol does not change the fundamental nature or pollution profile of the industry being proposed.
6. That the instant matter presents peculiar facts concerning a Project Proponent with an established history of environmental non-compliance, which necessitates the taking of stringent steps of closure. In the facts of his case, this extreme remedy, is the only remedy.
7. That the right to engage in lawful business /commercial activities is not absolute. It is unequivocally subject to all applicable laws, environmental legislation and principles such as 'polluter pays', sustainable development and the 'precautionary principle'. The precautionary



principle requires that *“Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”* Given their past conduct, there is significant uncertainty about their capacity or genuine willingness to comply with environmental norms for the new ethanol plant and therefore, such an approach is not acceptable.

8. That such an approach, especially in the context of sub-soil pollution by the Proponent in the nearby areas, prevents chemicals from seeping into food and agricultural products. This is consistent with the consideration of international equity as it protects the environment for future generations, arguing that the present generation should not cause irretrievable damage.
9. That the Proponent cannot escape the consequences of its action by proposing something as a “greener” option, when virtually the product is the same.

5. That State of Punjab is deeply committed to the principle of 'Sustainable Development', which necessitates a harmonious balance between economic activity and environmental protection. It is submitted that this constitutional goal is achieved through the robust application of the 'Polluter Pays' Principle, the 'Precautionary Principle', and the 'Public Trust Doctrine', which have been repeatedly affirmed by the Hon'ble Supreme Court of India



as the law of the land. (*Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715; *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388).

6. That the Govt. of Punjab stands resolute in its mission to protect the state's environment. The State of Punjab is absolutely committed to preventing rogue industries from initiating or resuming operations that pose any threat of environmental harm. This is in line with the "precautionary principle". There is zero tolerance for those who prioritize profit over the health of our air, water, and soil. In the present case, there is ample evidence of the harm caused by the Project Proponent. The Proponent's established environmental antecedents cannot be ignored.
7. In this case, given the volume of evidence and material, there is a direct and necessary application of the 'Polluter Pays' Principle, which requires not only the assessment but also the effective recovery of costs for environmental restoration and remediation.
8. It is further submitted that in light of the Proponent's past conduct, which led to the closure of its unit, this Hon'ble Tribunal may not permit the Proponent. The resources of the Proponent are now to be spent for restitution.
9. That further in *Delhi Pollution Control Committee v. Lodhi Property Co. Ltd.*, 2025 SCC OnLine SC 1601 the Honourable Apex Court has held that it is competent for State Pollution Control Boards to determine and levy environmental compensation assessed for even potential environmental



damage, after compliance with principles of natural justice. The Hon'ble Court observed as under:

"28. Having considered the principles that govern our environmental laws and on interpretation of Sections 33A and 31A of the Water and Air Acts, we are of the opinion that that the Division Bench of the High Court was not correct in restrictively reading powers of the Boards. We are of the opinion that these regulators in exercise of these powers can impose and collect, as restitutionary or compensatory damages fixed sum of monies or require furnishing bank guarantees as an ex-ante measure towards potential or actual environmental damage."

10. It is further submitted that past violations cannot be ignored or forgiven when considering future projects of the same proponent and the same are to be determined. This is because as per the 'Precautionary Principle', the burden of proof lies on the industrialist to show that their action is environmentally benign and when in doubt, the rule is err on the side of caution. (*Vellore Citizens' Welfare Forum vs. Union of India and Ors. [1996 (5) SCC 647] at p.658; A.P. Pollution Control Board v. Prof. M.V. Nayudu, AIR 1999 SC 812*).

DEPONENT

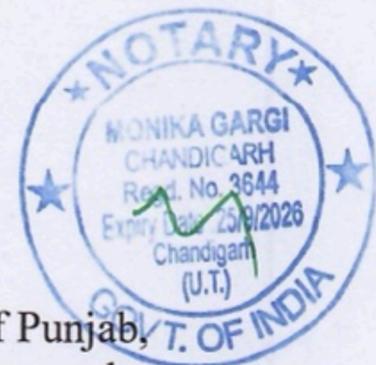
(Manish Kumar)

Date: 02.11.2025

Place: Chandigarh

Special Secretary to Government of Punjab,
Department of Science, Technology and
Environment

(On behalf of State of Punjab)



VERIFICATION

Verified at Chandigarh on this 02nd day of November 2025, that the contents of the above affidavit are true and correct to my knowledge and belief based on official records and nothing material has been concealed therefrom.

DEPONENT

(Manish Kumar)

Special Secretary to Government of Punjab,
Department of Science, Technology and
Environment

(On behalf of State of Punjab)

Date: 02.11.2025

Place: Chandigarh



Attested As Identified

MONIKA GARGI
Notary, Chandigarh (U.T.)

The contents of this Affidavit/Document has been explained to the deponent/executants. He/She has admitted the same to be correct. The deponent/executant has signed Register at Sr. No. 1850 P. No. 53 Date 2/11/2025

- 2 NOV 2025

Identified the deponent/executant
Signature marked in the presence

Thakur Singh