

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. OF 285 OF 2025

IN THE MATTER OF:

Shiv Kumar Dubey

....Applicant

VERSUS

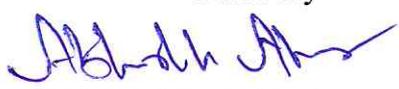
Union of India & Ors.

... Respondents

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New Delhi
Dated: 03.07.2025

Filed By

(DR. ABHISHEK ATREY)
Counsel For the Respondent No.6
D-202, Additional Building Complex
Supreme Court of India, New Delhi
Mob.9810047556
Email:abhishekatrey@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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IN THE MATTER OF:

Shiv Kumar Dubey

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... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.6
COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION & ADJOINING AREAS

I, Ritesh Prasad Gurung aged about 45 Years, S/o Shri Dhruba Gurung, working as Scientist "E" in the Commission for Air Quality Management in National Capital Region and Adjoining Areas, New Delhi (hereinafter referred to as 'Commission') having office at 17th Floor, Jawahar Vyapar Bhawan, STC Building, Tolstoy Marg, New Delhi – 110001, do hereby, in my official capacity, solemnly affirm and state as under:

1. That I, in the capacity of Scientist "E" of the Commission for Air Quality Management in National Capital Region and Adjoining Areas, am fully conversant with the facts of the case and competent to swear this affidavit on behalf of respondent no. 6.

2. That in the present application under section 14 and 15 of the Hon'ble National Green Tribunal Act, 2010 alleged that Respondent No.8 and 9 have illegally constructed and leased out multiple commercial



R.P. Gurung

राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु प्रदूषण नियंत्रण आयोग
Commission for Air Quality Management in NCR & Adjoining Areas
भारत सरकार / Government of India
17वीं मंजिल, जवाहर व्यापार भवन (एच.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग,
17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg,
नई दिल्ली-110001 / New Delhi-110001

provides a mechanism for appellate jurisdiction against the direction/orders issued by Commission for Air Quality Management in National Capital Region & Adjoining Areas (hereinafter referred to as "Commission").

7. It is most respectfully submitted that the instant Original Application is not maintainable before this Hon'ble Tribunal to the extent it relates to alleged non-compliance with the provisions of the CAQM Act, 2021 and Directions issued thereunder. A plain reading of Sub-clause (1) of Section 14 of the National Green Tribunal Act, 2010 establishes that the jurisdiction of the Hon'ble Tribunal extends to all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I of the NGT Act, 2010. However, CAQM Act, 2021 is not listed under Schedule I of the NGT Act, 2010. Consequently, any dispute or grievance pertaining to the provisions of the CAQM Act, 2021 or to directions issued under it, would not fall within the Original Jurisdiction of the Hon'ble NGT as envisaged under Section 14 of the NGT Act.

8. Further, it is humbly submitted that the complainant has earlier made various complaints to the Commission regarding air and noise pollution in DLF city near Hamilton Court, Galleria Market Road Sector 27 Gurugram, Haryana from Rajdarbar Iconic ventures Pvt. Ltd., also before the dates which has been highlighted at Annexure 9 of the Application. The complaint was received to the Commission through email dated 29.06.2024 which was taken up with the HSPCB on 05.08.2024 for conducting inspection and submitting the report to the



Commission, since the complaint was related with the violations of various statutes for which HSPCB was competent to take action in accordance with the law. A reminder email to this effect was again sent to the HSPCB on 18.11.2024. It is most humbly submitted that response from HSPCB is still awaited. True copy of Commission's email dated 05.08.2024 and 18.11.2024 is annexed at ANNEXURE-I.

- 9. That in view of aforesaid facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the present OA especially qua the replying respondent and pass such appropriate order(s) as it deems fit and necessary.

R. P. Khurana
DEPONENT

राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
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17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg,
नई दिल्ली-110001 / New Delhi-110001

VERIFICATION

Verified at New Delhi on this 03 JUL 2025 day of July, 2025 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from.



ATTESTED
NOTARY PUBLIC
GOVT. OF INDIA

03 JUL 2025

R. P. Khurana
DEPONENT

राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
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17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg,
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IDENTIFIED BY

राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
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17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg,
नई दिल्ली-110001 / New Delhi-110001

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Reminder: Inspection of Polluting business.

ME Me <caqm-ncr@gov.in>
Mon, 18 Nov 2024 5:26:17 PM +0530
To "hspcbms" <hspcbms@gmail.com>
Cc "RAJESH KUMAR" <rajesh.k64@gov.in>, "Amit Kumar" <amitkumar.fci@gov.in>

Reminder

Sir,

Please refer to trailing mail dated 05.08.2024. The inspection report is still awaited. It is once again requested to direct the concerned to inspect the unit and submit the report to the commission at the earliest.

With regards,
Amit Kumar
Under Secretary, CAQM,
New Delhi

---- On Mon, 05 Aug 2024 15:34:32 +0530 **CAQM NCR** <caqm-ncr@gov.in> wrote ---

...

Sir,

The commission is in receipt of a complaint regarding C&D related pollution near Galleria Market road, sector 27- Gurugram. The complainant has cited below mention details in its complaint.

"... This is in reference to subject matter, we would like to bring into your kind notice that the local trader(s) who are doing narrated business from this site are creating Air/ Noise pollution by loading and unloading of building material (Jamna sand, Badarpur, bricks etc.) nearby the Hamilton court residential society, Galleria market road, sector-27, Gurugram. They are not only doing the business of building material also handing construction and demolition waste further running workshop(s), lathe machine unit(s), car service center(s) and using diesel generator set and kabaddi wala who regularly burning garbage wastage at this site."

Therefore, it is requested to direct the concerned to conduct inspection in this regard and submit findings to the Commission at the earliest.

With regards,

Amit Kumar
Under Secretary, CAQM,
New Delhi

Inspection of Polluting business.

From : CAQM NCR <caqm-ncr@gov.in>

Mon, Aug 05, 2024 03:34 PM

Subject : Inspection of Polluting business.**To :** hspcbms <hspcbms@gmail.com>**Cc :** RAJESH KUMAR <rajesh.k64@gov.in>, Amit Kumar <amitkumar.fci@gov.in>

Sir,

The commission is in receipt of a complaint regarding C&D related pollution near Galleria Market road, sector 27- Gurugram. The complainant has cited below mention details in its complaint.

"...This is in reference to subject matter, we would like to bring into your kind notice that the local trader(s) who are doing narrated business from this site are creating Air/ Noise pollution by loading and unloading of building material (Jamna sand, Badarpur, bricks etc.) nearby the Hamilton court residential society, Galleria market road, sector-27, Gurugram. They are not only doing the business of building material also handing construction and demolition waste further running workshop(s), lathe machine unit(s), car service center(s) and using diesel generator set and kabaddi wala who regularly burning garbage wastage at this site."

Therefore, it is requested to direct the concerned to conduct inspection in this regard and submit findings to the Commission at the earliest.

With regards,

Amit Kumar
Under Secretary, CAQM,
New Delhi

Rupal Rani <rupalrani.caqm@gmail.com>

Fwd: Request for direction against the person, creating Air/ Noise pollution

1 message

Amit Kumar <amitkumar@fci.gov.in>
To: rupalrani.caqm <rupalrani.caqm@gmail.com>

Tue, Jul 2, 2024 at 3:10 PM

From: "CAQM NCR" <caqm.ncr@delhi.gov.in>
To: "Amit Kumar" <amitkumar@fci.gov.in>, "Raman Khanna" <raman.khanna@delhi.gov.in>
Cc: "vaibhav kandpal" <vaibhav.kandpal@delhi.gov.in>
Sent: Monday, July 1, 2024 10:01:03 AM
Subject: Fwd: Request for direction against the person, creating Air/ Noise pollution

With regards,

O/o CAQM,
New Delhi

From: Rupal Rani <rupalrani.caqm@gmail.com>
To: "CAQM NCR" <caqm.ncr@delhi.gov.in>
Sent: Saturday, June 29, 2024 8:48:08 AM
Subject: Fwd: Request for direction against the person, creating Air/ Noise pollution

Get Outlook for Rupal Rani

From: Rajesh Agarwal <rajesh.agarwal@delhi.gov.in>
Sent: Friday, June 28, 2024 6:30:27 PM
To: Dharendra Singh <dharendra.singh@delhi.gov.in>
Subject: Request for direction against the person, creating Air/ Noise pollution

Email id:- dharendra.singh@delhi.gov.in

2 attachments

 Letter head Rajdarbar Iconic (NGT Under Secy. 28.06.24).docx
20K

 Letter to NGT (DG) (06.11.21).docx
19K

RAJDARBAR ICONIC VENTURE PRIVATE LIMITED

CIN NO.- U45201DL1991PTC046087

Regd. Off. - 10, CENTRAL AVENUE, 2ND FLOOR MAHARANI BAGH NEW DELHI SOUTH DELHI
DI. 110065 IN

Dated: June 28, 2024

To
The Under Secretary,
Commission for Air Quality Management,
National Capital Region,
New Delhi.

Subject:- Creating pollution in the habited colony in DLF City, Near Hamilton Court, Galleria market road, Sec 27 , Gurugram, Haryana.

Respected Sir

This is in reference to subject matter, we would like to brought into your kind notice that the local trader(s) who are doing narrated business from this site are creating Air/ Noise pollution by loading and unloading of building material (Jamna sand, Badarpur, bricks etc.) nearby the Hamilton court residential society, Galleria market road, sector-27, Gurugram.

They are not only doing the business of building material also handing construction and demolition waste further running workshop(s), lathe machine unit(s), car service center(s) and using diesel generator set and kabaddi wala who regularly burning garbage wastage at this site.

We was submitted our request at NGT in the month of November 2021 (copy enclosed) for your perusal.

Considering all above, the local resident(s) are facing problem and breathing problem is in the vicinity is prime issue. One side your goodself regularly issuing direction and controlling these type of activity whereas the local staff from the Govt. bodies helping them for their personal interest.

Your good self is requested to issue necessary direction immediately in the interest of nation, as per guideline under the Act and seized these unit(s) as well Diesel Generator set, running from this site and punish the concerned person as per law.

With Respects & regards.

**For Rajdarbar Iconic Venture Pvt. Ltd.,
(earlier known as Krisam Properties Pvt. Ltd.)**

Dhirendra Singh,
(Director)
Phone No. 98711-94800