

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH
AT NEW DELHI

ORIGINAL APPLICATION NO. 691 OF 2022

(Under Sections 14 & 15 of National Green Tribunal Act, 2010)

IN THE MATTER OF:

Rama Shanker AwasthiApplicant

VERSUS

State of Uttar Pradesh and Ors.Respondents

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Filed By

Place : New Delhi



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(Under Sections 14 & 15 of National Green Tribunal Act, 2010)

IN THE MATTER OF:

RAMA SHANKER AWASTHI

....APPLICANT

VERSUS

STATE OF UTTAR PRADESH AND ORS.

....RESPONDENTS

**REPLY/OBJECTION TO THE JOINT COMMITTEE REPORTS
DATED 04.01.2023 AND 10.02.2023 FILED ON BEHALF OF THE
APPLICANT**

1. That this Hon'ble Tribunal vide its order dated 21.12.2023 has allowed the Applicant to file objections to the Joint Committee Reports dated 04.01.2023 and 10.02.2023, so that the original application filed by the Applicant can be decided on merits.
2. That the joint committee has inspected the Khambhar Khera, Lakhimpur Kheri, U.P. unit of the Respondent no. 6 and Respondent no. 7 on 21/22.12.2022 and submitted its report before this Hon'ble Tribunal on 04.01.2023. The joint committee has stated in its report that both the Respondent no. 6 & 7 have obtained NOC from SEIAA and valid consent from the UPPCB with respect to Air, Water and handling of hazardous waste.
3. That the Applicant gone through the said report and found serious discrepancies in the action taken report prepared by the joint committee. It was stated in the report by the joint committee that during inspection the said units of the Respondent no. 7 were non-operational, due to non-requirement of power from the UPPCL.

Therefore, the Applicant prays before this Tribunal that the said illegal extraction of ground water and other parameters could be judged only in an operational plant. As now the UPPCL has started purchasing power from the Respondent no. 7, therefore, fresh report of an operational plant should be prepared by the joint committee.

4. That the joint committee has submitted certificates of NOCs/Renewal issued by the Ground Water Department, Uttar Pradesh to the Respondent no. 6 & 7, with regard to three borewells, analysis of which is reproduced herein below:

**RESPONDENT - 6, KHAMBAR KHERA UNIT,
ANNXURE 05 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	Not mentioned	Not mentioned	Not mentioned
Dt. of Const. of Well / Date of Energization	Not mentioned/ 06.07.2006	Not mentioned/ 06.07.2006	Not mentioned/ 06.07.2006
Dt. of Submission	07.05.2021	07.05.2021	07.05.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	23.06.2021 to 21.06.2026	23.06.2021 to 21.06.2026	23.06.2021 to 21.06.2026
Remarks	Ground water extracted illegally without	Ground water extracted illegally without	Ground water extracted illegally without

	NOC for more than 15 years.	NOC for more than 15 years	NOC for more than 15 years.
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**RESPONDENT - 7, KHAMBARKHERA UNIT,
ANNEXURE 19 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Renewal / 8(E)	Renewal / 8(E)	Fresh NOC / 8(E)
NOC No.	REG045173	REG012934	NOC020026
Dt. of Const. of Well	15.12.2011	15.02.2011	15.04.2020
Dt. of Submission	12.06.2021	17.06.2021	23.06.2021
Khasra / Plot No.	1068, 1069	1068, 1069	1068, 1069
Validity of NOC	25.07.2021 to 24.07.2026	25.07.2021 to 24.07.2026	25.07.2021 to 24.07.2026
Remarks	No information regarding issuance of NOC is provided.	No information regarding issuance of NOC is provided.	Illegal Extraction of Ground Water as Well was constructed before applying for NOC

5. That the CGWA had issued NOCs to the Khambarkhera unit of the Respondent no. 6 in 2010 for its existing co-generation plants with a permission that the firm may extract 6984m³/day of ground water, through proposed two borewells (1 working & 1 standby). As per the

joint committee report Respondent no. 6 is operating and constructed three borewells in its Khambarkhera unit in 2006, but did not have any valid consent from the CGWA. The CGWA has never gave any permission for extraction of ground water for production of electricity through thermal power plants. The Respondent no. 7 is extracting ground water illegally while the Respondent no. 6 have sunk 3 borewells instead of two without any NOC. It is further pertinent to note here that for the aforesaid wells fresh NOCs were obtained from the Ground Water Department by the Respondent no. 6 in year 2021 only before which for a period of around 15 years Respondent no. 6 has extracted ground water illegally.

6. That the UPSEIAA has granted EC to Respondent no. 6 on 09.07.2010 (Annexure 13 Joint Committee Report dated 04.01.2023) with regard to operation of 90 MW at Khambar Khera unit currently operated by Respondent no. 7, but no information of renewal of EC after a period of five years was provided by the Joint Committee in its report. Therefore, the concerned unit is illegally operating its plant without valid NOC from past 10 years.
7. That the Respondent no. 6 has operated its Kharmbar Khera unit without any valid consent from the UPPCB till 26.04.2019 for handling of Hazardous Waste. The consent from the UPPCB under the Hazardous & Other Wastes (Management and Trans Boundary Movement) Rules, 2016 has been obtained by the Respondent no. 7 on 27.04.2019 and application for the same has been applied by the Respondent no. 7 only on 14.03.2019 (part of Annexure 04 Joint Committee Report dated 04.01.2023).

8. That the Respondent no. 7 has operated its Khambar Khera unit without any valid consent from the UPPCB till 27.02.2021 for handling of Hazardous Waste. The consent from the UPPCB under the Hazardous & Other Wastes (Management and Trans Boundary Movement) Rules, 2016 has been obtained by the Respondent no. 7 on 28.02.2021 and application for the same has been applied by the Respondent no. 7 only on 18.01.2021(Annexure 18 Joint Committee Report dated 04.01.2023).
9. That the joint committee has inspected the Barkhera, Kundarkhi, Itaimaida and Maqsoodapur units of the Respondent no. 6 and Respondent no. 7 between 27.01.2023 to 31.01.2023 and submitted its report before this Hon'ble Tribunal on 10.02.2023. The joint committee has stated in its report that both the Respondent no. 6 & 7 have obtained valid consent and permissions from the respective authorities.
10. That after going through the report dated 10.02.2023 the Applicant found serious discrepancies and shortcomings in the action taken report prepared by the joint committee. The joint committee has submitted certificates of NOCs/Renewal issued by the Ground Water Department, Uttar Pradesh to the Respondent no. 6 & 7, with regard to various borewells, analysis of which is reproduced herein below:

RESPONDENT - 6, BARKHERA UNIT,

ANNXURE - IX (JC REPORT)

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)

NOC No.	NOC033625	NOC026674	NOC039665
Dt. of Const. of Well / Date of Energization	01.04.2006/ 01.04.2006	01.04.2006/ 01.04.2006	01.04.2006/ 01.04.2006
Dt. of Submission	05.05.2021	05.05.2021	05.05.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026
Remarks	Ground water extracted illegally without NOC for a period of 15 years.	Ground water extracted illegally without NOC for a period of 15 years.	Ground water extracted illegally without NOC for a period of 15 years.

**RESPONDENT - 7, BARKHERA UNIT,
ANNXURE (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	NOC039812	NOC017141	NOC022872
Dt. of Const. of Well / Date of Energization	06.06.2021/ 01.01.2021	01.10.2010/ 01.11.2010	01.10.2010/ 01.11.2010
Dt. of Submission	05.06.2021	05.06.2021	05.06.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	23.06.2021	23.06.2021	23.06.2021

	to 22.06.2026	to 22.06.2026	to 22.06.2026
Remarks	Pump set has been installed six months prior to construction of borewell.	Ground water extracted illegally without NOC for a period of 10 years.	Ground water extracted illegally without NOC for a period of 10 years.

**RESPONDENT - 6, KUNDARKHI UNIT,
ANNXURE - 7, (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	NOC047600	NOC020211	NOC026057
Dt. of Const. of Well / Date of Energization	01.09.2007/ 01.09.2007	01.09.2007/ 01.09.2007	01.09.2007/ 01.09.2007
Dt. of Submission	08.05.2021	08.05.2021	08.05.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026
Remarks	Ground water extracted illegally without NOC for a period of 14 years.	Ground water extracted illegally without NOC for a period of 14 years.	Ground water extracted illegally without NOC for a period of 14 years.

**RESPONDENT - 7, KUNDARKHI UNIT,
ANNXURE (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	NOC033164	NOC027710	NOC020081
Dt. of Const. of Well / Date of Energization	10.01.2012/ 10.01.2012	10.01.2012/ 10.01.2012	03.03.2011/ 03.03.2011
Dt. of Submission	04.06.2021	04.06.2021	07.01.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026	18.06.2021 to 17.06.2026
Remarks	Ground water extracted illegally without NOC for a period of 9 years.	Ground water extracted illegally without NOC for a period of 9 years.	Ground water extracted illegally without NOC for a period of 10 years.

**RESPONDENT - 6, ETAI MAIDA UNIT,
ANNXURE - 6 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	NOC045903	NOC022896	NOC040290

Dt. of Const. of Well / Date of Energization	01.06.2010/ 01.06.2010	01.06.2010/ 01.06.2010	01.06.2010/ 01.06.2010
Dt. of Submission	12.07.2021	12.07.2021	12.07.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned	Not Mentioned
Validity of NOC	18.10.2021 to 17.10.2026	18.10.2021 to 17.10.2026	18.10.2021 to 17.10.2026
Remarks	Ground water extracted illegally without NOC for a period of 11 years.	Ground water extracted illegally without NOC for a period of 11 years.	Ground water extracted illegally without NOC for a period of 11 years.

**RESPONDENT - 7, ETAI MAIDA UNIT,
ANNXURE - 7 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
Status / Form No.	Renewal / 8(E)	Renewal / 8(E)	Fresh NOC / 8(C)
NOC No.	REG024839	REG029714	NOC029570
Dt. of Const. of Well / Date of Energization	01.10.2011/ 01.11.2011	01.10.2011/ 01.11.2011	15.04.2020/ 15.04.2020
Dt. of Submission	11.08.2021	05.08.2021	12.08.2021
Khasra / Plot No.	228M	Not Mentioned	Not Mentioned
Validity of NOC	06.09.2021 to 05.09.2026	06.09.2021 to 05.09.2026	18.10.2021 to 17.10.2026

Remarks	Ground water extracted illegally without NOC for a period of 10 years.	Ground water extracted illegally without NOC for a period of 10 years.	Ground water extracted illegally without NOC for a period of around 1 year and 5 months.
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**RESPONDENT - 6, MAQSOODAPUR UNIT,
ANNXURE - 7/8 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2
Status / Form No.	Fresh NOC / 8(C)	Fresh NOC / 8(C)
NOC No.	NOC025218	NOC037091
Dt. of Const. of Well / Date of Energization	06.07.2007/ 06.07.2007	06.07.2007/ 06.07.2007
Dt. of Submission	13.05.2021	13.05.2021
Khasra / Plot No.	Not Mentioned	Not Mentioned
Validity of NOC	Valid upto 16.06.2026	Valid upto 16.06.2026
Remarks	Ground water extracted illegally without NOC for a period of 14 years.	Ground water extracted illegally without NOC for a period of 14 years.

**RESPONDENT - 7, MAQSOODAPUR UNIT,
ANNXURE - 4 (JC REPORT)**

Particulars	Borewell - 1	Borewell - 2	Borewell - 3
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Status / Form No.	Renewal / 8(E)	Renewal / 8(E)	Fresh NOC / 8(C)
NOC No.	REG016303	REG014526	NOC024099
Dt. of Const. of Well / Date of Energization	28.10.2011/ 28.10.2011	28.10.2011/ 28.10.2011	16.03.2020/ 16.03.2020
Dt. of Submission	21.06.2021	21.06.2021	22.06.2021
Khasra / Plot No.	43,42, 5	43,42, 5	43,42, 5
Validity of NOC	21.08.2021 to 20.08.2026	21.08.2021 to 20.08.2026	21.08.2021 to 20.08.2026
Remarks	Ground water extracted illegally without NOC for a period of 10 years.	Ground water extracted illegally without NOC for a period of 10 years.	Ground water extracted illegally without NOC for a period of around 1year and 3 months.

11. That as per the RTI reply provided by the Ground Water Department NOC for borewells was not issued for Barkhera unit to the Respondent no. 7 till 22.01.2022, however, the concerned department has issued the NOCs for borewells constructed in year 2010 with a validity period from 23.06.2021 itself. In case of Maqsoodapur unit also the Ground Water Department has not issued NOC to the Respondent no. 7 till 31.01.2022, however, the concerned department has issued NOC with validity period from 21.08.2021. It is very pertinent to note here that the aforesaid fact clearly establishes that

the Project Proponents does not possess required valid NOCs before filing of the RTIs by the Applicant and the concerned departments are acting in hand and glove with the Project Proponents to justify their wrongdoings.

12. That as per the joint committee report Respondent no. 6 is operating its units and constructed various borewells between the period from 2006 to 2021 without any valid consent from the CGWA. The CGWA had issued NOCs to various units of the Respondent no. 6 in 2010 for operation of two borewells only but the Project Proponents have sunk three borewells within their units without any NOC. CGWA has never issued any NOC to the Respondent no. 7 for extracting ground water for operation of thermal power plants as the same is not permissible under any provisions of law. It is also pertinent to note here that the so-called NOCs renewed by the CGWA were also expired on 28.08.2021 and no fresh renewal was issued thereafter.
13. That on 09.07.2010 the UPSEIAA has granted EC to Respondent no. 6 for operation of 90 MW units which are currently operated by Respondent no. 7, but no information of renewal of EC after a period of five years was provided by the Joint Committee in its report. Therefore, the Respondent no. 7 is illegally operating its plants without any valid NOC from past 10 years.
14. That the Respondent no. 7 has operated its units without possession of any valid consent from the UPPCB required for handling of Hazardous Waste under the Hazardous & Other Wastes (Management and Trans Boundary Movement) Rules, 2016 for a

very long time, as the consent from UPPCB was obtained by its units in :

RESPONDENT NO. 7

Unit	Date of Application	Date of NOC
Barkhera	11.06.2019	30.04.2020
Kundarkhi	21.01.2021	12.02.2021
Itai Maida	23.03.2021	24.06.2021
Maqsoodapur	16.01.2021	29.01.2021

RESPONDENT NO. 6

Unit	Date of Application	Date of NOC
Barkhera	26.02.2022	09.06.2022
Kundarkhi	09.07.2019	20.09.2019
Itai Maida	03.11.2020	04.12.2020
Maqsoodapur	26.02.2022	14.06.2022

15. That in the conditions enumerated with the NOC certificate issued by the Ground Water Department, Uttar Pradesh it was clearly mentioned that without prior permission from the Competent Authority, the Project Proponent will not make change in the location, design, rate of withdrawal and pumping device in respect of proposed well as specified at Sl. No. 2 and 3 of the Certificate, but in the present case in majority of certificates the location of the well has not even been specified in the certificate which raises a clear suspicion that in the past 15 years the project proponent has sunk well at various locations without informing the concerned department.

16. That even before filing of the present case on various occasions directions and notices have been issued u/ 5 of the Environment Protection Act, 1986 to the Respondent no. 6 & 7 by the CPCB and other authorities for operating their units without statutory permissions and non-compliance of the mandatory provisions given under the Act. One such example is show-cause notice dated 06.04.2018 issued by the CPCB to the Itai Maida unit of the Respondent no. 7 copy of which is already annexed as Annexure A-8 with the present OA.
17. That serious non-compliance of the mandatory statutory provisions by the aforesaid units of the Respondent no. 6 & 7 can be easily seen from the report prepared by the Joint Committee itself. It is pertinent to note here that inspite of numerous violations of various environmental norms done by the Project Proponents from a very long time the joint committee failed to point out even a single statutory non-compliance in its report which itself raises serious doubt about the authenticity of the said report.

Date : 13.02.2024

Place : Delhi

Drawn & Filed By



SANJEET PALIWAL

(Counsel for Applicant)



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Advance Service of Objection to Joint Committee Report in OA no. 691 /2022

Sanjeet Paliwal <sanjeetcs89@gmail.com>

Wed, Feb 14, 2024 at 3:59 PM

To: psecforest-up@nic.in, grievance@uppcb.com, chairman.seiaa.up@gmail.com, upgwd.in@gmail.com, mcgwa-cgwb@nic.in, pradeepmisra@yahoo.com, legalvibes.lawfirm@gmail.com

Sir,
With this email I am sending you a copy of the objection/reply filed on behalf of the Applicant of the joint committee reports dated 04.01.2023 and 10.02.2023 in OA NO. 691/2022 titled as Rama Shanker Awasthi Vs. State of U.P. and Ors.

Regards/-

Sanjeet Paliwal
Counsel for Applicant
7011748170

 **Reply to JC Report.pdf**
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