

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

[ORIGINAL JURISDICTION]

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023

IN THE MATTER OF:-

OM PRAKASH GUPTA ... ORIGINAL APPLICANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS

**OBJECTIONS ON BEHALF OF THE RESPONDENT NO.
7 (I.E. OMKAR KUMAR KUSHWAHA) TO THE REPORT
OF THE LD. DISTRICT MAGISTRATE, GORAKHPUR
DATED 21.06.2024 SUBMITTED IN THE ORIGINAL
APPLICATION NO. 613 OF 2023.**

PAPERBOOK

(For Index Please See Inside)

ADVOCATE FOR RESPONDENT NO. 7 : A3T LEGAL LLP

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

[ORIGINAL JURISDICTION]

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023

IN THE MATTER OF:-

OM PRAKASH GUPTA ... ORIGINAL APPLICANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS

INDEX

S. NO.	PARTICULARS	PAGE NO(S).
1.	Objections on behalf of the Respondent No. 7 (i.e. Omkar Kumar Kushwaha) to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted in the Original Application No. 613 of	1 – 124

	2023 and in compliance of the judgment/order dated 26.05.2025 passed by this Hon'ble Tribunal in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 alongwith supporting Affidavit.	
2.	<u>ANNEXURE OJ-1:</u> A true copy of the judgment/order dated 11.10.2023 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in Original Application No. 613 of 2023 (titled ' <i>Om Prakash Gupta v. Gorakhpur Development Authority & Ors.</i> ').	125 – 126
3.	<u>ANNEXURE OJ-2:</u> A true copy of the Letter of Intent bearing Reference No. GKP/LOI/NRO/Adv18/2203/300029007, dated 27.02.2019, issued by Bharat Petroleum Corporation Limited in favour of the Applicant herein.	127 – 129
4.	<u>ANNEXURE OJ-3:</u> A true copy of the Letter bearing Reference No. NOC/NRO HANSUPUR, dated 27.02.2019, issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur.	130
5.	<u>ANNEXURE OJ-4:</u> A true copy of the Letter dated 02.03.2019 issued by the Ld. District Excise Officer, Gorakhpur to	131

	various municipal and civic authorities in Gorakhpur requiring their respective survey reports.	
6.	<u>ANNEXURE OJ-5:</u> A true copy of the No Objection Certificate, dated 26.07.2019, issued by the Ld. District Magistrate, Gorakhpur in favour of the Applicant herein.	132
7.	<u>ANNEXURE OJ-6:</u> A true copy of the Layout/Composition Plan dated NIL prepared by Bharat Petroleum Corporation Limited for the proposed construction of the Retail Outlet at the property in question.	133
8.	<u>ANNEXURE OJ-7:</u> A true copy of the Letter dated 19.10.2022 issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur.	134
9.	<u>ANNEXURE OJ-8:</u> A true copy of the Letter dated 01.11.2022 issued by the Ld. Additional District Magistrate (City), Gorakhpur.	135
10.	<u>ANNEXURE OJ-9:</u> A true copy of the No Objection Certificate, dated 01.12.2022, issued by the Ld. District Magistrate, Gorakhpur in favour of the Applicant herein.	136

11.	<u>ANNEXURE OJ-10:</u> A true copy of the Show Cause Notice dated 25.07.2023 sent by the Gorakhpur Development Authority to the Applicant herein.	137
12.	<u>ANNEXURE OJ-11:</u> A true copy of the Letter dated 07.11.2023 issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur.	138
13.	<u>ANNEXURE OJ-12:</u> A true copy of the order dated 09.11.2023 (wrongly mentioned as 09.11.2027) passed by the Gorakhpur Development Authority.	139 – 140
14.	<u>ANNEXURE OJ-13:</u> A true copy of the Application dated 14.11.2023 submitted by the Applicant herein before the Gorakhpur Development Authority.	141
15.	<u>ANNEXURE OJ-14:</u> A true copy of the Challan dated 18.11.2023 issued by the Gorakhpur Development Authority to the Applicant herein.	142
16.	<u>ANNEXURE OJ-15:</u> A true copy of the Letter dated 18.11.2023 submitted by the Applicant herein before the Gorakhpur Development Authority alongwith a	143 – 144

	true typed copy.	
17.	<u>ANNEXURE OJ-16:</u> A true copy of the reminder Letter dated 26.02.2024 submitted by the Applicant herein before the Gorakhpur Development Authority.	145
18.	<u>ANNEXURE OJ-17:</u> A true copy of the order dated 22.03.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 8668 of 2024.	146
19.	<u>ANNEXURE OJ-18:</u> A true copy of the Letter dated 04.04.2024 sent by Bharat Petroleum Corporation Limited to the Gorakhpur Development Authority.	147
20.	<u>ANNEXURE OJ-19 (COLLY):</u> A true copy of the Application dated 18.04.2024 submitted by the Applicant herein before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith a true copy of the Composition Plan.	148 – 149
21.	<u>ANNEXURE OJ-20 (COLLY):</u> A true copy of the Action Taken/Compliance Report dated 21.06.2024 submitted by the Ld. District Magistrate, Gorakhpur before the Hon'ble Registrar General of this Hon'ble Tribunal	150 – 156

	including its enclosures (as downloaded from the official website of the Hon'ble National Green Tribunal) alongwith a true translated copy of the relevant portion of the same.	
22.	<u>ANNEXURE OJ-21:</u> A true copy of the Office Letter No. 25/EA/GDA/2021-22 dated 10.02.2022 issued by the Gorakhpur Development Authority alongwith a true translated copy of the same.	157 – 160
23.	<u>ANNEXURE OJ-22:</u> A true copy of the reminder Letter dated 08.08.2024 submitted by the Applicant herein before the Gorakhpur Development Authority.	161
24.	<u>ANNEXURE OJ-23:</u> A true copy of the order dated 13.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Contempt Application (Civil) No. 6024 of 2024.	162
25.	<u>ANNEXURE OJ-24:</u> A true copy of the order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024.	163 – 164
26.	<u>ANNEXURE OJ-25:</u> A true copy of the Government Order dated	165 – 169

	04.09.2020 issued by the Ld. Secretary, Government of Uttar Pradesh.	
27.	<u>ANNEXURE OJ-26 (COLLY):</u> A true copy of three Reply Letters dated 07.03.2024 issued by the Gorakhpur Development Authority.	170 – 172
28.	<u>ANNEXURE OJ-27:</u> A true copy of the Reply Letter dated 18.12.2024 issued by the Gorakhpur Development Authority.	173
29.	<u>ANNEXURE OJ-28:</u> A true copy of the Gorakhpur Master Plan 2021.	174
30.	<u>ANNEXURE OJ-29:</u> A true copy of the Gorakhpur Master Plan 2031 (Revised).	175
31.	<u>ANNEXURE OJ-30 (COLLY):</u> A true copy of the Letter dated 27.05.2020 submitted by Shri Vijay Kumar to the Gorakhpur Development Authority alongwith a true copy of the Reply Letter issued by the Gorakhpur Development Authority and a true copy of the Site Plan approved by the Gorakhpur Development Authority.	176 – 179
32.	<u>ANNEXURE OJ-31:</u> A true copy of the Location Plan dated NIL of the	180

	proposed 'Maa Bhagyavani Filling Station (Petrol Pump)'.	
33.	<u>ANNEXURE OJ-32:</u> A true copy of the Site Situation Analysis Map dated 12.12.2024 prepared Ar. Manish Mishra of Dialogic Architects.	181
34.	<u>ANNEXURE OJ-33:</u> A true copy of the Wetlands (Conservation and Management) Rules, 2010 notified by the Ministry of Environment and Forests <i>vide</i> Notification No. G.S.R. 951(E) dated 04.12.2010 published in the official Gazette of India.	182 – 190
35.	<u>ANNEXURE OJ-34:</u> A true copy of the judgment/order dated 08.02.2017 passed by the Hon'ble Supreme Court of India in Writ Petition (C) No. 230 of 2001 (titled ' <i>M.K. Balakrishnan & Others v. Union of India & Others</i> ') reported in (2017) 7 Supreme Court Cases 805.	191 – 200
36.	<u>ANNEXURE OJ-35:</u> A true copy of the Wetlands (Conservation and Management) Rules, 2017 notified by the Ministry of Environment, Forest and Climate Change <i>vide</i> Notification No. G.S.R. 1203(E) dated 26.09.2017	201 – 209

	published in the official Gazette of India.	
37.	<u>ANNEXURE OJ-36:</u> A true copy of the relevant portion of the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017 published by the Ministry of Environment, Forest and Climate Change, Government of India in the year 2020.	210 – 212
38.	<u>ANNEXURE OJ-37:</u> A true copy of the relevant portion of the Updated Report dated 11.12.2020 submitted by the Ld. Oversight Committee before this Hon’ble Tribunal in Original Application No. 116 of 2014 (titled ‘ <i>Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.</i> ’) (as downloaded from the official website of the Hon’ble National Green Tribunal).	213 – 215
39.	<u>ANNEXURE OJ-38:</u> A true copy of the judgment/order dated 05.07.2023 passed by the Hon’ble Supreme Court of India in Civil Appeal No. 3856 of 2022 (titled ‘ <i>Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Others</i> ’) reported in (2023) 8 Supreme Court Cases 35.	216 – 230
40.	<u>ANNEXURE OJ-39:</u>	231 – 234

	A true copy of the judgment/order dated 27.11.2024 passed by the Hon'ble Supreme Court of India in Civil Appeal Nos. 1711-1712 of 2021 (titled ' <i>Grasim Industries Limited v. State of Madhya Pradesh & Another</i> ') reported in 2024 SCC OnLine SC 3585.	
41.	<u>ANNEXURE OJ-40:</u> A true copy of the Office Memorandum dated 07.01.2020 issued by the Ld. Central Pollution Control Board.	235 – 240
42.	<u>ANNEXURE OJ-41:</u> A true copy of the Office Memorandum dated 29.01.2021 issued by the Ld. Central Pollution Control Board.	241
43.	<u>ANNEXURE OJ-42:</u> A true copy of the Office Memorandum dated 16.08.2021 issued by the Ld. Central Pollution Control Board.	242 – 246
44.	<u>ANNEXURE OJ-43:</u> A true copy of the order dated 21.02.2025 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled ' <i>Om Prakash Gupta v. Gorakhpur Development</i>	247 – 249

	<i>Authority & Ors.’).</i>	
45.	<u>ANNEXURE OJ-44:</u> A true copy of the Objection Letter dated 21.05.2025 issued by the Ld. Office of Gorakhpur Development Authority, Gorakhpur alongwith a true translated copy of the same.	250 – 253
46.	<u>ANNEXURE OJ-45:</u> A true copy of the judgment/order dated 26.05.2025 passed by the Hon’ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled ‘ <i>Om Prakash Gupta v. Gorakhpur Development Authority & Ors.’</i>).	254 – 257
47.	<u>ANNEXURE OJ-46:</u> A true copy of the Appeal No. C202005000001750 of 2025 dated 08.07.2025 filed by the Respondent No. 7 before the Ld. Chairman of the Gorakhpur Development Authority.	258 – 263
48.	Vakalatnama executed by the Respondent No. 7 herein.	264 – 269
49.	Proof of Service by email upon the Original Applicant as well as upon the Respondents/Non-Applicants.	270 – 272

THROUGH COUNSELS

FOR A3T LEGAL LLP:



AVI TANDON / MEGHNA TANDON / AMI TANDON

ADVOCATES FOR THE RESPONDENT NO. 7.

Address: 59, Supreme Enclave, Mayur Vihar Phase – 1, Delhi – 110091.

Mobile(s): +91 – 8586866448; +91 – 9453018787; +91 – 8004792768.

Email(s): avi@avitandon.in; meghna@avitandon.in; ami@avitandon.in

DRAWN ON : 03.08.2025.

FILED ON : 13.08.2025.

FILED AT : NEW DELHI.

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,

PRINCIPAL BENCH AT NEW DELHI.

[ORIGINAL JURISDICTION]

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023

IN THE MATTER OF:-

OM PRAKASH GUPTA ... ORIGINAL APPLICANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS

OBJECTIONS ON BEHALF OF THE RESPONDENT NO. 7

(I.E. OMKAR KUMAR KUSHWAHA) TO THE REPORT

OF THE LD. DISTRICT MAGISTRATE, GORAKHPUR

DATED 21.06.2024 SUBMITTED IN THE ORIGINAL

APPLICATION NO. 613 OF 2023 AND IN COMPLIANCE

OF THE JUDGMENT/ORDER DATED 26.05.2025 PASSED

**BY THIS HON'BLE TRIBUNAL IN M.A. NO. 27 OF 2025 IN
ORIGINAL APPLICATION NO. 613 OF 2023.**

To,

The Hon'ble the Chairperson and his companion Hon'ble
Members of the Hon'ble National Green Tribunal, Principal
Bench at New Delhi.

The humble Objections on behalf of the
Respondent No. 7 herein above-named:

MOST RESPECTFULLY SHOWETH:

1. That, the Respondent No. 7 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is Omkar Kumar Kushwaha, S/o Shri Brij Kumar Kushwaha, aged about 34 years, Resident of Hasunpur, Ward No. 45, Gorakhpur, District Gorakhpur, Uttar Pradesh – 273005, India.

2. That, the Original Applicant in the Original Application No. 613 of 2023 is Om Prakash Gupta, S/o Shri Ram Bilas Gupta, Resident of House No. 261, Basantpur Khas Narkatiya, Gorakhpur, District Gorakhpur, Uttar Pradesh – 273001, India.

3. That, the Respondent No. 1 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Gorakhpur Development Authority through its Vice Chairman. Notably, the State Government of Uttar Pradesh in the year 1973, had enacted the Uttar Pradesh Urban Planning and Development Act, 1973 in order to tackle the problems of town planning and urban development resolutely. Hence, Gorakhpur Development Authority (GDA) has been constituted under Section 4 of the Uttar Pradesh Urban Planning and Development Act, 1973 for the purposes of systematic construction and development of infrastructure in its ‘Development Area’ as notified by the State Government of Uttar Pradesh under the 1973 Act.

4. That, the Respondent No. 2 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Ld. District Magistrate of the District Gorakhpur in the State of Uttar Pradesh.
5. That, the Respondent No. 3 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Uttar Pradesh Police through the Senior Superintendent of Police, State of Uttar Pradesh.
6. That, the Respondent No. 4 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Ld. Commissioner, Gorakhpur Region in the State of Uttar Pradesh.
7. That, the Respondent No. 5 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Uttar Pradesh Pollution Control Board (UPPCB) through its Member Secretary.

8. That, the Respondent No. 6 in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 is the Bharat Petroleum Corporation Limited through its Regional Manager, Gorakhpur Retail Territory.
9. That, the full details/particulars of all the Respondents/Non-Applicants and the Original Applicant in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 are the same as those that are mentioned in the case title/Memo of Parties in Original Application No. 613 of 2023 filed by Shri Om Prakash Gupta before this Hon'ble Tribunal.
10. That, the Respondent No. 7 herein (i.e. Omkar Kumar Kushwaha) is filing the present Objections to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted in the Original Application No. 613 of 2023 and in full compliance of the judgment/order dated 26.05.2025 passed by this Hon'ble Tribunal in M.A. No. 27 of 2025 in Original Application No. 613 of 2023.

11. That, a Miscellaneous Application dated 04.02.2025, numbered as M.A. No. 27 of 2025 in Original Application No. 613 of 2023, was filed by the Respondent No. 7 herein for seeking further directions in Original Application No. 613 of 2023, under Section 19(4)(k) of the National Green Tribunal Act, 2010 read with Rule 24 of the National Green Tribunal (Practices and Procedure) Rules, 2011 read with Section 151 of the Code of Civil Procedure, 1908, on behalf of the Respondent No. 7 (i.e. Omkar Kumar Kushwaha) in compliance of the judgment/order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 and in terms of paragraph 3 of the judgment/order dated 11.10.2023 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi [hereinafter referred to as the “**Hon'ble Tribunal**”] in Original Application No. 613 of 2023 (titled ‘*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*’).

A true copy of the judgment/order dated 11.10.2023 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in Original Application No. 613 of 2023 (titled

‘Om Prakash Gupta v. Gorakhpur Development Authority & Ors.’) is annexed herewith and marked as ANNEXURE OJ-1.

12. That, the father of the Respondent No. 7 herein, namely Shri Brij Kumar Kushwaha, alongwith his brothers are the absolute owners and tenure holders of the property in question located at Plot No. 178 (admeasuring an area of 0.062 hectares), Plot No. 179 (admeasuring an area of 0.103 hectares) and Plot No. 180 (admeasuring an area of 0.083 hectares) situated at Village Hansupur, Tehsil Sadar on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur in the State of Uttar Pradesh. Also, Shri Brij Kumar Kushwaha alongwith his brothers are in complete possession of the aforesaid property in question, who are also recorded as ‘Bhumidhars’ in the relevant revenue records maintained by the State Government of Uttar Pradesh, having absolute transferable rights in respect of the said property in question as co-shareholders and joint tenure holders.

13. That, the actual share of the father of the Respondent No. 7 herein alongwith his brothers is half in the aforesaid property in question and the said plots are being occupied as one large contiguous Plot for setting up of a Filling/Petrol Pump Station in the area.
14. That, Bharat Petroleum Corporation Limited/Respondent No. 6 herein [hereinafter referred to as “**BPCL**”] by way of an advertisement dated 25.11.2018 invited bids for the allotment of MS/HSD Retail Outlet [hereinafter referred to as “**Retail Outlet**”] under the open category in the city of Gorakhpur in Uttar Pradesh. In furtherance of the aforesaid advertisement issued by BPCL, the Respondent No. 7 herein accordingly applied/submitted his bid, *vide* his Application No. 15447794079167, for the award of the said Retail Outlet to be situated at the property in question. Therefore, after considering all the applications/bids submitted before it, BPCL decided to award the aforesaid Retail Outlet of the Filling Station/Petrol Pump in favour of the Respondent No. 7 herein.

15. That, accordingly, BPCL (i.e. Respondent No. 6 herein) issued a Letter of Intent (L.O.I.) in favour of the Respondent No. 7 herein, bearing Reference No. GKP/LOI/NRO/Adv18/2203/300029007, dated 27.02.20219, on certain terms and conditions mentioned therein alongwith other necessary formalities which were required to be completed by the Respondent No. 7 herein for starting the operations and business of the Retail Outlet dealership at the property in question.

A true copy of the Letter of Intent bearing Reference No. GKP/LOI/NRO/Adv18/2203/300029007, dated 27.02.2019, issued by Bharat Petroleum Corporation Limited in favour of the Respondent No. 7 herein is annexed herewith and marked as **ANNEXURE OJ-2**.

16. That, on the very same day, BPCL issued another Letter bearing Reference No. NOC/NRO HANSUPUR, dated 27.02.2019, to the Respondent No. 2 herein (i.e. Ld. District Magistrate, Gorakhpur) for granting a No Objection Certificate for setting up of the new Retail Outlet at the

property in question. With the aforesaid letter BPCL also enclosed therewith 7 sets of drawings which demarcated and demonstrated the exact structure and building which would be constructed for setting up of the proposed Retail Outlet/ Petrol Pump at the property in question.

A true copy of the Letter bearing Reference No. NOC/NRO HANSUPUR, dated 27.02.2019, issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur is annexed herewith and marked as ANNEXURE OJ-3.

17. That, upon receipt of the aforesaid letter/documents from BPCL by the Office of the Ld. District Magistrate, Gorakhpur, Ld. District Excise Officer, Gorakhpur (acting on behalf of Ld. District Magistrate, Gorakhpur) issued a Letter dated 02.03.2019 addressed to various municipal and civic authorities to carry out inspection on the property in question and to submit their respective survey reports highlighting the fact whether a No Objection Certificate could be granted in favour of the Respondent No. 7 herein for setting up of the

Retail Outlet/Petrol Pump at the aforesaid property in question. This Letter issued by the Ld. District Excise Officer, Gorakhpur also enclosed therewith a copy of the Site Plan for the construction of the Retail Outlet/Petrol Pump at the aforesaid plots.

A true copy of the Letter dated 02.03.2019 issued by the Ld. District Excise Officer, Gorakhpur to various municipal and civic authorities in Gorakhpur requiring their respective survey reports is annexed herewith and marked as **ANNEXURE OJ-4**.

18. That, accordingly, all the relevant municipal and civic authorities in Gorakhpur submitted their respective survey reports in the Office of Ld. District Magistrate, Gorakhpur on various dates in the months of March, 2019 to June, 2019. Thereafter, after considering and upon perusal of the said survey reports submitted by various municipal and civic authorities in Gorakhpur, the Ld. District Magistrate, Gorakhpur granted a No Objection Certificate in favour of the Respondent No. 7 herein for setting up of the Retail

Outlet/Petrol Pump at the property in question.

19. That, thus, the Ld. District Magistrate, Gorakhpur issued in favour of the Respondent No. 7 herein a No Objection Certificate, dated 26.07.2019, which clearly stated, *inter-alia*, that the Respondent No. 7 herein was bound to comply with the provisions of the Petroleum Act, 1934, the Petroleum Rules, 2002 & O.I.S.D. 225 (Oil Industry Safety Directorate) and that the Respondent No. 7 herein was required to obtain a Final Permanent No Objection Certificate post the final construction and completion of the Retail Outlet.

A true copy of the No Objection Certificate, dated 26.07.2019, issued by the Ld. District Magistrate, Gorakhpur in favour of the Respondent No. 7 herein is annexed herewith and marked as ANNEXURE OJ-5.

20. That, when the construction activities were just about to begin after the grant of the No Objection Certificate dated 26.07.2019 by the Ld. District Magistrate, Gorakhpur in favour of the Respondent No. 7 herein, BPCL prepared a

Layout/Composition Plan for the proposed construction of the Retail Outlet of the Filling Station over the property in question belonging to the Respondent No. 7 herein and his father, for which the Letter of Intent dated 27.02.2019 was already issued by BPCL.

A true copy of the Layout/Composition Plan dated NIL prepared by Bharat Petroleum Corporation Limited for the proposed construction of the Retail Outlet at the property in question is annexed herewith and marked as ANNEXURE OJ-6.

21. That, while all other necessary formalities were being completed by the Respondent No. 7 herein for setting up of the new Retail Outlet/Petrol Pump, the entire construction process came to be suddenly stalled and hampered due to the onset of the global pandemic of COVID-19 in the month of March, 2020 and the consequent nation-wide lockdown imposed by the Government of India, because of which the construction of the new Retail Outlet/Petrol Pump could not be completed within the prescribed time period of 2 years for

which the Ld. District Magistrate, Gorakhpur had granted the No Objection Certificate in favour of the Respondent No. 7 herein.

22. That, accordingly, BPCL issued another Letter dated 19.10.2022 addressed to the Ld. District Magistrate, Gorakhpur seeking renewal of the No Objection Certificate which was earlier granted by the Ld. District Magistrate, Gorakhpur in favour of the Respondent No. 7 herein on 26.07.2019, since the earlier No Objection Certificate was valid for a period of 2 years only.

A true copy of the Letter dated 19.10.2022 issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur is annexed herewith and marked as ANNEXURE OJ-7.

23. That, upon receipt of the aforesaid letter dated 19.10.2022 of BPCL, the Ld. Additional District Magistrate (City), Gorakhpur acting on behalf of Ld. District Magistrate, Gorakhpur issued a Letter dated 01.11.2022 to the Ld. Senior

Superintendent of Police, Gorakhpur, the Ld. Municipal Commissioner, Nagar Nigam, Gorakhpur and the Ld. Sub Divisional Magistrate, Sadar, Gorakhpur seeking a report from the said authorities, to carry out inspection of the proposed site, to highlight whether there has been any change in the construction and structure of the proposed Retail Outlet at the said location and whether the No Objection Certificate dated 26.07.2019 could be further renewed in favour of the Respondent No. 7 herein.

A true copy of the Letter dated 01.11.2022 issued by the Ld. Additional District Magistrate (City), Gorakhpur is annexed herewith and marked as **ANNEXURE OJ-8**.

24. That, the concerned governmental authorities submitted their respective survey reports in the month of November 2022 itself. Thereafter, after considering and upon perusal of the said survey reports submitted by the governmental authorities in Gorakhpur, the Ld. District Magistrate, Gorakhpur renewed the No Objection Certificate in favour of the Respondent No. 7 herein for setting up of the Retail Outlet/

Petrol Pump at the property in question.

25. That, thus, the Ld. District Magistrate, Gorakhpur issued in favour of the Respondent No. 7 herein a No Objection Certificate dated 01.12.2022, renewing the validity of the No Objection Certificate dated 26.07.2019 granted earlier in favour of the Respondent No. 7 herein for a further period of 2 years from 01.12.2022.

A true copy of the No Objection Certificate, dated 01.12.2022, issued by the Ld. District Magistrate, Gorakhpur in favour of the Respondent No. 7 herein is annexed herewith and marked as ANNEXURE OJ-9.

26. That, while the construction of the proposed new Retail Outlet/Petrol Pump was undergoing on full scale at a rapid pace and the Respondent No. 7 herein was hopeful that the said construction would be completed in the then near future (i.e. latest by August 2023) so that the Filling Station/Petrol Pump could commence its business and operations at the earliest, the Respondent No. 7 herein was utterly shocked and

dismayed to receive a vague Show Cause Notice dated 25.07.2023 from the Respondent No. 1 herein (i.e. Gorakhpur Development Authority) stating therein that the aforesaid construction of the Filling Station/Petrol Pump was being done by the Respondent No. 7 without obtaining proper permissions from the concerned officers of the Gorakhpur Development Authority, as is required under Sections 14 and 15 of the Uttar Pradesh Urban Planning and Development Act, 1973 [hereinafter referred to as the “**UP Development Act**”].

27. That, the aforesaid Show Cause Notice issued by the Gorakhpur Development Authority called upon the Respondent No. 7 herein to show cause as to why the aforesaid development/construction of the Filling Station/Petrol Pump may not be sealed or demolished in exercise of the powers under Sections 27(1), 28(1) or 28(2) of the UP Development Act. The said Show Cause Notice also called upon the Respondent No. 7 herein to furnish a reply within 3 days otherwise the Gorakhpur Development

Authority would pass an order of sealing the Filling Station/Petrol Pump under Section 28(1) of the UP Development Act, in the absence of reply of the Respondent No. 7.

A true copy of the Show Cause Notice dated 25.07.2023 sent by the Gorakhpur Development Authority to the Respondent No. 7 herein is annexed herewith and marked as **ANNEXURE OJ-10.**

28. That, Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*') was filed by the Original Applicant herein (i.e. Om Prakash Gupta) before this Hon'ble Tribunal on 14.09.2023. Original Application No. 613 of 2023 was taken up for hearing by this Hon'ble Tribunal for the very first time on 11.10.2023. *Vide* judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023, this Hon'ble Tribunal was pleased to direct the following:

“2. ... we deem it proper to constitute a joint

Committee comprising of the representative of the Member Secretary of Uttar Pradesh State Pollution Control Board, the representative of Secretary of Jal Shakti and District Magistrate, Gorakhpur. The District Magistrate, Gorakhpur will act as nodal agency. The joint Committee will carry out the spot inspection and prepare a report. In case if any violation of norms in the setting up of the petrol pump by respondent no. 7 is found, then the copy of the report will be sent to respondent no. 6, Bharat Petroleum Corporation Limited, who on receipt of the report will take an appropriate decision in accordance with law by following the principles of 'Natural Justice'.

3. A copy of the report will also be submitted by the Committee before the Registrar General of the Tribunal and if found necessary, the matter will be listed for consideration before the Court.

4. The application is accordingly disposed of. ...”.

29. That, accordingly, the Original Application No. 613 of 2023 filed by the Original Applicant herein (i.e. Om Prakash Gupta) was disposed of by this Hon'ble Tribunal by way of the aforesaid judgment/order dated 11.10.2023. A true copy of the judgment/order dated 11.10.2023 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*') has already been annexed by the Respondent No. 7 herein as Annexure OJ-1 to the present Objections.
30. That, when the construction of the proposed Retail Outlet/ Petrol Pump was nearing completion, BPCL also sent another Letter dated 07.11.2023 addressed to the Ld. District Magistrate, Gorakhpur for granting the Final Permanent No Objection Certificate in favour of the Respondent No. 7 herein so that the Filling Station/Petrol Pump could commence its business and operations of the Filling Station at the earliest and could start catering to the needs and requirements of the general public in that area.

A true copy of the Letter dated 07.11.2023 issued by Bharat Petroleum Corporation Limited to the Ld. District Magistrate, Gorakhpur is annexed herewith and marked as ANNEXURE OJ-11.

31. That, since no objections/actions were raised/taken by the Gorakhpur Development Authority within a period of 3 days, as was proposed in the Show Cause Notice dated 25.07.2023, with respect to the construction works of the Filling Station/Petrol Pump, the Respondent No. 7 herein was continuing with the on-going construction work of the Retail Outlet/Petrol Pump under the assumption that, if a Final Permanent No Objection Certificate would be issued by the Ld. District Magistrate, Gorakhpur, the Respondent No. 7 herein would not be required to obtain any other approval from the Gorakhpur Development Authority.
32. That, however, the Respondent No. 7 herein was completely shocked and utterly disheartened to receive an order dated 09.11.2023 (wrongly mentioned as 09.11.2027) passed under

Section 28(1) of the UP Development Act by the Gorakhpur Development Authority directing the sealing of the premises of the proposed Retail Outlet/Petrol Pump of the Respondent No. 7 herein at the property in question.

A true copy of the order dated 09.11.2023 (wrongly mentioned as 09.11.2027) passed by the Gorakhpur Development Authority is annexed herewith and marked as **ANNEXURE OJ-12.**

33. That, being aggrieved by the aforesaid order passed by the Gorakhpur Development Authority, the Respondent No. 7 herein immediately submitted an Application on 14.11.2023 before the Gorakhpur Development Authority requesting it to re-open the seal of the proposed Retail Outlet/Petrol Pump and to sanction the layout map of the property in question. The Respondent No. 7 herein, as per the instructions of the Ld. Secretary of the Gorakhpur Development Authority also immediately deposited INR 2,00,000/- (Indian Rupees Two Lakhs only) with the Gorakhpur Development Authority on 18.11.2023 as compounding fee for approval and sanction of

the layout map in respect of the premises of the Filling Station/Petrol Pump.

A true copy of the Application dated 14.11.2023 submitted by the Respondent No. 7 herein before the Gorakhpur Development Authority is annexed herewith and marked as **ANNEXURE OJ-13.**

A true copy of the Challan dated 18.11.2023 issued by the Gorakhpur Development Authority to the Respondent No. 7 herein is annexed herewith and marked as **ANNEXURE OJ-14.**

A true copy of the Letter dated 18.11.2023 submitted by the Respondent No. 7 herein before the Gorakhpur Development Authority alongwith a true typed copy of the same is annexed herewith and marked as **ANNEXURE OJ-15.**

34. That, the Gorakhpur Development Authority paid no heed to the request of the Respondent No. 7 herein but immediately pocketed the amount paid by the Respondent No. 7 herein for grant of sanction of the layout map of the property in question.

35. That, therefore, the Respondent No. 7 herein was forced to submit a reminder Letter dated 26.02.2024 before the Gorakhpur Development Authority requesting the Gorakhpur Development Authority to re-open the seal of the property in question and to grant approval to the layout plan submitted by the Respondent No. 7 herein in accordance with the applicable building bye-laws and regulations.

A true copy of the reminder Letter dated 26.02.2024 submitted by the Respondent No. 7 herein before the Gorakhpur Development Authority is annexed herewith and marked as ANNEXURE OJ-16.

36. That, since the Gorakhpur Development Authority took no further action with respect to the re-opening of the already constructed Filling Station/Petrol Pump on the property in question and the Gorakhpur Development Authority sat completely tight lipped over the entire matter, the Respondent No. 7 herein had no other option but to approach the Hon'ble High Court of Judicature at Allahabad [hereinafter referred to as the "**Hon'ble High Court**"] by

means of a writ petition, being **Writ – C No. 8668 of 2024**, under Article 226 of the constitution of India seeking the following reliefs before the Hon’ble High Court:-

“PRAYERS

(i) Issue a writ, order or direction in the nature of Mandamus directing the Vice – Chairman, Gorakhpur Development Authority (Respondent No. 2) to open the seal of the Retail Outlet of Petrol at location Hansapur, Tehsil – Sadar on road connecting Amrud Mandi to Nehru Park, District Gorakhpur which dealership was given by Bharat Petroleum Corporation Ltd. in favour of the Petitioner.

(ii) Issue a writ, order or direction in the nature of Mandamus directing the Vice – Chairman, Gorakhpur Development Authority (Respondent No. 2) to decide the representation / application of the Petitioner dated 26.02.2024.

(iii) Issue any order or direction which this Hon’ble Court may deem fit and proper under the

facts and circumstances of the case.

(iv) Award the cost of the writ petition in favour of the Petitioner.”.

37. That, the aforesaid writ petition filed by the Respondent No. 7 herein came to be registered as Writ – C No. 8668 of 2024 (titled ‘*Omkar Kumar Kushwaha v. State of U.P. and Another*’) and the same was taken up for hearing by the Hon’ble High Court on 22.03.2024. *Vide* its order dated 22.03.2024, the Hon’ble High Court directed the Respondent No. 7 herein to submit a composition plan in accordance with the applicable building bye-laws and regulations before the Ld. Vice Chairman of the Gorakhpur Development Authority, who in turn was directed to decide the composition plan of the Respondent No. 7 herein on its own merits and in accordance with law.

A true copy of the order dated 22.03.2024 passed by the Hon’ble High Court of Judicature at Allahabad in Writ – C No. 8668 of 2024 is annexed herewith and marked as

ANNEXURE OJ-17.

38. That, on 04.04.2024 BPCL also sent a letter to the Gorakhpur Development Authority requesting them to approve the Site Map of the property in question so that further action can be ensured with regard to the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein. A true copy of the Letter dated 04.04.2024 sent by Bharat Petroleum Corporation Limited to the Gorakhpur Development Authority is annexed herewith and marked as **ANNEXURE OJ-18**.
39. That, in compliance of the aforesaid order dated 22.03.2024 passed by the Hon'ble High Court, the Respondent No. 7 herein submitted an Application alongwith the Composition Plan on 18.04.2024, before the Ld. Vice Chairman of the Gorakhpur Development Authority, under Section 15 of the UP Development Act, along with all the relevant annexures/enclosures mentioned therein. A copy of the above-mentioned documents were also sent by the Respondent No. 7 herein by way of Registered Post to the Ld. Vice Chairman of the Gorakhpur Development Authority, seeking approval

of the Composition Plan submitted by the Respondent No. 7 herein under Section 15 of the UP Development Act in respect of the property in question and requesting him to re-open the seal of the premises, so that the Filling Station/Petrol Pump could commence its business and operations so as to cater to the needs and requirements of the general public at large in the area.

A true copy of the Application dated 18.04.2024 submitted by the Respondent No. 7 herein before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith a true copy of the Composition Plan are collectively annexed herewith and marked as **ANNEXURE OJ-19 (COLLY)**.

40. That, the aforesaid Application dated 18.04.2024 submitted by the Respondent No. 7 herein also mentioned the fact that the Respondent No. 7 herein was ready and willing to pay the remaining balance amount, whatsoever that may be found, applicable upon him in accordance with law. The aforesaid Application of the Respondent No. 7 herein also enclosed

with it all the relevant annexures/enclosures/documents, layout plans and orders to substantiate the claim of the Respondent No. 7 herein.

41. That, in compliance of the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023, an Action Taken/Compliance Report dated 21.06.2024 was submitted by the Ld. District Magistrate, Gorakhpur (i.e. Respondent No. 2 herein) before the Hon'ble Registrar General of this Hon'ble Tribunal.

A true copy of the Action Taken/Compliance Report dated 21.06.2024 submitted by the Ld. District Magistrate, Gorakhpur before the Hon'ble Registrar General of this Hon'ble Tribunal including its enclosures (as downloaded from the official website of the Hon'ble National Green Tribunal) alongwith a true translated copy of the relevant portion of the same are collectively annexed herewith and marked as **ANNEXURE OJ-20 (COLLY)**.

42. That, it is unequivocally and categorically submitted by the

Respondent No. 7 herein that a copy of the aforesaid Action Taken/Compliance Report dated 21.06.2024 was never even served by the Ld. District Magistrate, Gorakhpur (i.e. Respondent No. 2 herein) upon the Respondent No. 7 herein before submitting the same to the Hon'ble Registrar General of this Hon'ble Tribunal. Further, a copy of the aforesaid Action Taken/Compliance Report dated 21.06.2024 submitted by the Ld. District Magistrate, Gorakhpur (i.e. Respondent No. 2 herein) before the Hon'ble Registrar General of this Hon'ble Tribunal has not been served by the Ld. District Magistrate, Gorakhpur upon the Respondent No. 7 herein till date. In fact, this Action Taken/Compliance Report dated 21.06.2024 submitted by the Ld. District Magistrate, Gorakhpur before the Hon'ble Registrar General of this Hon'ble Tribunal has been downloaded/obtained by the Counsel for the Respondent No. 7 herein as is available on the official website of the Hon'ble National Green Tribunal.

43. That, it has been erroneously stated in the aforesaid Report

dated 21.06.2024 that as per Office Letter No. 25/EA/GDA/2021-22 dated 10.02.2022 issued by the Gorakhpur Development Authority, site of the Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is allegedly shown as flood affected area in the Master Plan 2021 and thus, is under the submergence area. The construction work already done on the site of the Retail Outlet of the Filling Station/Petrol Pump by the Respondent No. 7 herein was erroneously sealed on 16.03.2024 by the Gorakhpur Development Authority.

A true copy of the Office Letter No. 25/EA/GDA/2021-22 dated 10.02.2022 issued by the Gorakhpur Development Authority alongwith a true translated copy of the same are collectively annexed herewith and marked as **ANNEXURE OJ-21**.

44. That, the Respondent No. 7 herein submitted before the Gorakhpur Development Authority another reminder Letter dated 08.08.2024, enclosing therein a certified copy of the order dated 22.03.2024 passed by the Hon'ble High Court in

Writ – C No. 8668 of 2024 as well as all the relevant annexures/enclosures including the Composition Plan of the proposed Retail Outlet of the Filling Station/Petrol Pump on the property in question and the other approvals/No Objection Certificates granted in favour of the Respondent No. 7 herein for seeking necessary approvals.

A true copy of the reminder Letter dated 08.08.2024 submitted by the Respondent No. 7 herein before the Gorakhpur Development Authority is annexed herewith and marked as ANNEXURE OJ-22.

45. That, since, no decision at all was being taken by the Ld. Vice Chairman of the Gorakhpur Development Authority on the Application/Composition Plan submitted on 18.04.2024 by the Respondent No. 7 herein under Section 15 of the UP Development Act, before the Ld. Vice Chairman of the Gorakhpur Development Authority, the Respondent No. 7 herein once again approached the Hon'ble High Court of Judicature at Allahabad on 09.09.2024 by filing a civil contempt application, being **Contempt Application (Civil)**

No. 6024 of 2024, seeking due compliance of the order dated 22.03.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 8668 of 2024. In the aforesaid civil contempt application the primary contention on behalf of the Respondent No. 7 herein was that the governmental authorities were failing to discharge their obligations imposed under the UP Development Act as well as the direction issued by the Hon'ble High Court *vide* order dated 22.03.2024, which was to consider and decide the application of the Respondent No. 7 herein in accordance with law once the Composition Application was submitted by the Respondent No. 7 herein before the Ld. Vice Chairman of the Gorakhpur Development Authority. The complete inaction of the part of the officers of the Gorakhpur Development Authority was contemptuous and in blatant disregard to the direction passed by the Hon'ble High Court and therefore, they were liable to be punished for contempt.

46. That, the aforesaid contempt application filed by the Respondent No. 7 herein came to be registered as Contempt

Application (Civil) No. 6024 of 2024 (titled ‘*Omkar Kumar Kushwaha v. Anand Vardhan and Another*’) and the same was taken up for hearing by the Hon’ble High Court on 13.09.2024. *Vide* its order dated 13.09.2024, the Hon’ble High Court held the following:

“... A reading of the order dated 22.3.2024 shows that no direction to decide within a particular time period has been issued to the opposite parties.

The absence of any direction in the order passed by the Writ Court dissuades this Court from issuing any notice in contempt to the opposite parties.

The applicant may exercise any other remedy available to him in law. ...”.

A true copy of the order dated 13.09.2024 passed by the Hon’ble High Court of Judicature at Allahabad in Contempt Application (Civil) No. 6024 of 2024 is annexed herewith and marked as **ANNEXURE OJ-23**.

47. That, in view of the aforesaid order dated 13.09.2024 passed by the Hon'ble High Court, the Respondent No. 7 herein approached the Hon'ble High Court of Judicature at Allahabad by means of a writ petition, being **Writ – C No. 32309 of 2024**, under Article 226 of the constitution of India seeking the following reliefs before the Hon'ble High Court:-

“PRAYERS

(i) *Issue an appropriate writ, direction or order in the nature of **MANDAMUS** or any other appropriate writ for commanding/directing the Respondent No. 3 to grant approval and sanction to the Composition Application/Layout Plan submitted by the Petitioner under Section 15 of the Uttar Pradesh Urban Planning and Development Act, 1973 on 18.04.2024 before the Respondent No. 3 in respect of the layout of M/s. Maa Bhagyavani Filling Station and to permit the Petitioner to commence the operations and business of the same at the concerned location i.e. Plot Nos. 178, 179 and 180, Village Hansupur,*

Tehsil Sadar on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur, State Uttar Pradesh within a period of 1 month from the date of production of the certified copy of the orders of this Hon'ble Court.

*(ii) Issue an appropriate writ, direction or order in the nature of **MANDAMUS** or any other appropriate writ for commanding/directing the Respondent No. 3 to decide and consider the Composition Application/Layout Plan submitted by the Petitioner under Section 15 of the Uttar Pradesh Urban Planning and Development Act, 1973 on 18.04.2024 before the Respondent No. 3 in respect of the layout of M/s. Maa Bhagyavani Filling Station at the concerned location i.e. Plot Nos. 178, 179 and 180, Village Hansapur, Tehsil Sadar on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur, State Uttar Pradesh within a period of 3 weeks from the date of production of the certified copy of the orders of*

this Hon'ble Court.

(iii) Issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

(iv) Award the costs of this writ petition to the Petitioners herein.”.

48. That, the aforesaid writ petition filed by the Respondent No. 7 herein came to be registered as Writ – C No. 32309 of 2024 (titled ‘*Omkar Kumar Kushwaha v. State of U.P. and 3 Others*’) and the same was taken up for hearing by the Hon'ble High Court on 30.09.2024. *Vide* its order dated 30.09.2024, the Hon'ble High Court held the following:

“... 3. Sri K.R. Singh, learned counsel for G.D.A. placed order dated 11.10.2023 passed in Original Application No.613 of 2023 (Om Prakash Gupta vs. Gorakhpur Development Authority and others) by the National Green Tribunal, Principal Bench, New Delhi (in short, 'N.G.T.'). He apprised that

the disputed site is situated in the flood plain area of Rapti river. A complaint was made before the N.G.T. regarding illegal construction over the disputed site as the same is situated in flood plain area of Rapti river and is extremely sensitive in nature and such an illegal construction would encourage other illegal activity in the area and will have adverse effect on the environment and on the integrity of the rivers. It is also apprised that later on a three member Committee was constituted and a fact finding report dated 10.04.2024 was also submitted before the N.G.T. Learned counsel for G.D.A., in this backdrop, states that as the matter is seized before the N.G.T. and admittedly the disputed site is situated in the flood plain area of Rapti river, in such a situation, G.D.A. has taken decision not to accord any such permission for sanction of map under the provisions of U.P. Urban Planning and Development Act, 1973. He further states that in

case the petitioner is aggrieved, he may approach N.G.T. for redressal of his grievances.

4. Considering the objection so raised by learned counsel for G.D.A., we are not inclined to entertain the instant writ petition. Needless to say that it is open to the petitioner to press the relief before the N.G.T. ...”.

A true copy of the order dated 30.09.2024 passed by the Hon’ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 is annexed herewith and marked as **ANNEXURE OJ-24.**

49. That, thus, the Respondent No. 7 herein filed a Miscellaneous Application dated 04.02.2025, numbered as M.A. No. 27 of 2025 in Original Application No. 613 of 2023, before this Hon’ble Tribunal for seeking further directions in Original Application No. 613 of 2023 in compliance of the judgment/order dated 30.09.2024 passed by the Hon’ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 and in terms of paragraph 3 of the

judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023.

50. That, at this juncture it is pertinent to place on record the Government Order dated 04.09.2020 issued by the Ld. Secretary, Government of Uttar Pradesh regarding declaration of flood plain zone in the implementation of the report presented by Central Water Commission before this Hon'ble Tribunal in compliance with the order dated 13.07.2017 passed by this Hon'ble Tribunal in Original Application No. 200 of 2014 (titled '*M.C. Mehta v. Union of India & Ors.*'). *Vide* the said order dated 13.07.2017 this Hon'ble Tribunal was pleased to hold that:-

“... Till the demarcation of the flood plains and identification of permissible and non-permissible activities by the state government of this judgment, we direct that 100 meters from the edge of the river would be treated as no development/ construction zone in segment-B of Phase-I (Haridwar to Unnao, Kanpur). ...”.

A true copy of the Government Order dated 04.09.2020 issued by the Ld. Secretary, Government of Uttar Pradesh is annexed herewith and marked as ANNEXURE OJ-25.

51. That, thus, this Hon'ble Tribunal itself *vide* order dated 13.07.2017 passed in Original Application No. 200 of 2014 had directed to create a no development/no construction zone only up to 100 meters from the edge of the river, which direction is being uniformly followed all over in the State of Uttar Pradesh.

52. That, even though the land use of the property in question (i.e. Plot No. 178, Plot No. 179 and Plot No. 180 situated at Village Hansupur, Tehsil Sadar, District Gorakhpur, Uttar Pradesh) were earlier shown/depicted as flood affected area in the Gorakhpur Master Plan 2021, now the land use of the property in question has been changed/converted into crematorium/graveyard in the Gorakhpur Master Plan 2031 (Revised). The aforesaid facts have been disclosed by the Gorakhpur Development Authority in response/reply to

questions raised under the provisions of the Right to Information Act, 2005.

A true copy of three Reply Letters dated 07.03.2024 issued by the Gorakhpur Development Authority are collectively annexed herewith and marked as ANNEXURE OJ-26 (COLLY).

A true copy of the Reply Letter dated 18.12.2024 issued by the Gorakhpur Development Authority is annexed herewith and marked as ANNEXURE OJ-27.

A true copy of the Gorakhpur Master Plan 2021 is annexed herewith and marked as ANNEXURE OJ-28.

A true copy of the Gorakhpur Master Plan 2031 (Revised) is annexed herewith and marked as ANNEXURE OJ-29.

53. That, the Gorakhpur Development Authority has already granted approval/permission to another Filling Station/ Petrol Pump, being operated by one Shri Vinod Kumar Agrahari (under the name and style of M/s. Parvati Filling Station) on the same stretch of road where the property in question of the Respondent No. 7 herein is situated. The aforesaid facts have

been disclosed by the Gorakhpur Development Authority in response/reply to questions raised under the provisions of the Right to Information Act, 2005.

A true copy of the Letter dated 27.05.2020 submitted by Shri Vijay Kumar to the Gorakhpur Development Authority alongwith a true copy of the Reply Letter issued by the Gorakhpur Development Authority and a true copy of the Site Plan approved by the Gorakhpur Development Authority are collectively annexed herewith and marked as **ANNEXURE OJ-30 (COLLY)**.

54. That, the aforesaid Filling Station/Petrol Pump, being operated by Shri Vinod Kumar Agrahari (under the name and style of M/s. Parvati Filling Station), is operating/running within a distance of merely 1500 meters from the property in question. The aforesaid is clearly evident from the Location Plan dated NIL of the proposed 'Maa Bhagyavani Filling Station (Petrol Pump)' which is situated on the property in question belonging to the Respondent No. 7 herein.

A true copy of the Location Plan dated NIL of the proposed

‘Maa Bhagyavani Filling Station (Petrol Pump)’ is annexed herewith and marked as ANNEXURE OJ-31.

55. That, it is most humbly and respectfully submitted that the concerned officers of the Gorakhpur Development Authority are unduly holding back the permission/approval of the proposed Filling Station/Petrol Pump situated on the property in question in order to provide undue financial advantage/benefit to Shri Vinod Kumar Agrahari who is already running a Filling Station/Petrol Pump under the name and style of M/s. Parvati Filling Station, which is located in the close vicinity/proximity of the property in question belonging to the Respondent No. 7 herein. Therefore, in order to illegally maintain a monopoly in the said region, Shri Vinod Kumar Agrahari is using all his might and force so that the Respondent No. 7 does not obtain permission/approval for his proposed Filling Station/Petrol Pump, which would be situated on the property in question.
56. That, the property in question is actually situated at a

distance of 579.20 meters from the edge of the river Rapti in Gorakhpur. The aforesaid is clear from a Site Situation Analysis Map dated 12.12.2024 drawn/prepared by a competent architect in Gorakhpur, namely Ar. Manish Mishra of Dialogic Architects. In fact, there are various other governmental and private buildings constructed/ situated on the same stretch of road in close proximity to the property in question, which are even closer to the edge of river Rapti in Gorakhpur, which buildings have not been sealed by the Gorakhpur Development Authority and continue to operate till date.

A true copy of the Site Situation Analysis Map dated 12.12.2024 prepared Ar. Manish Mishra of Dialogic Architects is annexed herewith and marked as **ANNEXURE OJ-32**.

57. That, the Wetlands (Conservation and Management) Rules, 2010 were made by the Central Government in exercise of the powers conferred under the provisions of the Environment (Protection) Act, 1986 and notified by the

Ministry of Environment and Forests *vide* Notification No. G.S.R. 951(E) dated 04.12.2010 published in the official Gazette of India. Even as per Rule 4(1)(vi) of the Wetlands (Conservation and Management) Rules, 2010, any construction of permanent nature is prohibited only within 50 meters from the mean high flood level observed in the past ten years. There is absolutely no legal prohibition on construction of a permanent nature at a distance beyond 50 meters as prescribed in the Wetlands (Conservation and Management) Rules, 2010.

A true copy of the Wetlands (Conservation and Management) Rules, 2010 notified by the Ministry of Environment and Forests *vide* Notification No. G.S.R. 951(E) dated 04.12.2010 published in the official Gazette of India is annexed herewith and marked as **ANNEXURE OJ-33**.

58. That, *vide* judgment/order dated 08.02.2017 passed by the Hon'ble Supreme Court of India in Writ Petition (C) No. 230 of 2001 (titled '*M.K. Balakrishnan & Others v. Union of*

India & Others’) reported in (2017) 7 Supreme Court Cases 805 at paragraph 23, the Hon’ble Supreme Court of India also directed the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to the 2,01,503 wetlands therein that had been mapped by the Union of India.

A true copy of the judgment/order dated 08.02.2017 passed by the Hon’ble Supreme Court of India in Writ Petition (C) No. 230 of 2001 (titled ‘*M.K. Balakrishnan & Others v. Union of India & Others*’) reported in (2017) 7 Supreme Court Cases 805 is annexed herewith and marked as **ANNEXURE OJ-34**.

59. That, in supersession of the Wetlands (Conservation and Management) Rules, 2010 the Central Government made the Wetlands (Conservation and Management) Rules, 2017 in exercise of the powers conferred under the provisions of the Environment (Protection) Act, 1986 and notified by the Ministry of Environment, Forest and Climate Change *vide* Notification No. G.S.R. 1203(E) dated 26.09.2017 published

in the official Gazette of India. As per Rule 4(2)(vi) of the Wetlands (Conservation and Management) Rules, 2017, any construction of permanent nature is prohibited only within 50 meters from the mean high flood level observed in the past ten years. Till date there is absolutely no legal prohibition on construction of a permanent nature at a distance beyond 50 meters as prescribed in the Wetlands (Conservation and Management) Rules, 2017.

A true copy of the Wetlands (Conservation and Management) Rules, 2017 notified by the Ministry of Environment, Forest and Climate Change *vide* Notification No. G.S.R. 1203(E) dated 26.09.2017 published in the official Gazette of India is annexed herewith and marked as **ANNEXURE OJ-35**.

60. That, for the purposes of implementing the Wetlands (Conservation and Management) Rules, 2017 and in order to support the State Governments/Union Territory (UT) Administrations in the implementation of the said Rules by providing guidance, in the year 2020 the Ministry of

Environment, Forest and Climate Change, Government of India promulgated the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017. In fact, as late as in the year 2020, even in the said Guidelines issued by the Ministry of Environment, Forest and Climate Change, Government of India, the same prohibition of only upto 50 meters has been provided, as has been already laid down in the Wetlands (Conservation and Management) Rules, 2017.

A true copy of the relevant portion of the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017 published by the Ministry of Environment, Forest and Climate Change, Government of India in the year 2020 is annexed herewith and marked as **ANNEXURE OJ-36**.

61. That, in so far as the Gorakhpur Development Authority (i.e. Respondent No. 1 herein) is concerned, the consistent stand of the Gorakhpur Development Authority before the Ld. Oversight Committee constituted by this Hon'ble Tribunal in Original Application No. 116 of 2014 (titled '*Meera Shukla*

v. *Municipal Corporation, Gorakhpur & Ors.*’) has been that the ban on permanent construction is only upto 50 meters from the mean high water flood level. The aforesaid stand of the Gorakhpur Development Authority is categorically clear from the Updated Report dated 11.12.2020 submitted by the Ld. Oversight Committee before this Hon’ble Tribunal in Original Application No. 116 of 2014 (titled ‘*Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.*’). The said Updated Report dated 11.12.2020 submitted by the Ld. Oversight Committee before this Hon’ble Tribunal in Original Application No. 116 of 2014 has been downloaded/obtained by the Counsel for the Respondent No. 7 herein as is available on the official website of the Hon’ble National Green Tribunal.

A true copy of the relevant portion of the Updated Report dated 11.12.2020 submitted by the Ld. Oversight Committee before this Hon’ble Tribunal in Original Application No. 116 of 2014 (titled ‘*Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.*’) (as downloaded from the official website of the Hon’ble National Green Tribunal) is annexed

herewith and marked as ANNEXURE OJ-37

62. That, *vide* judgment/order dated 05.07.2023 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 3856 of 2022 (titled '*Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Others*') reported in (2023) 8 Supreme Court Cases 35 at paragraphs 16 to 25, the Hon'ble Supreme Court of India held that this Hon'ble Tribunal cannot adjudicate solely on the basis of the Report of the Ld. Expert Committee without giving the parties a chance to rebut the same.

A true copy of the judgment/order dated 05.07.2023 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 3856 of 2022 (titled '*Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Others*') reported in (2023) 8 Supreme Court Cases 35 is annexed herewith and marked as ANNEXURE OJ-38.

63. That, *vide* judgment/order dated 27.11.2024 passed by the Hon'ble Supreme Court of India in Civil Appeal Nos. 1711-

1712 of 2021 (titled '*Grasim Industries Limited v. State of Madhya Pradesh & Another*') reported in 2024 SCC OnLine SC 3585 at paragraphs 9 to 10, the Hon'ble Supreme Court of India also held that this Hon'ble Tribunal cannot outsource an opinion and base its decision on such an opinion.

A true copy of the judgment/order dated 27.11.2024 passed by the Hon'ble Supreme Court of India in Civil Appeal Nos. 1711-1712 of 2021 (titled '*Grasim Industries Limited v. State of Madhya Pradesh & Another*') reported in 2024 SCC OnLine SC 3585 is annexed herewith and marked as **ANNEXURE OJ-39.**

64. That, an Office Memorandum dated 07.01.2020 was issued by the Ld. Central Pollution Control Board laying down the Guidelines for setting up of new petrol pumps in compliance of the order dated 18.01.2019 passed by this Hon'ble Tribunal in Original Application No. 86 of 2019 (titled '*Gyanprakashh @ Pappu Singh v. Government of India & Ors.*'). Thereafter, another Office Memorandum dated 29.01.2021 was issued by the Ld. Central Pollution Control

Board laying down certain clarifications with regard to the cut-off date for the applicability of the aforesaid Guidelines dated 07.01.2020. Further, *vide* Office Memorandum dated 16.08.2021, the Ld. Central Pollution Control Board issued an addendum to the aforesaid Guidelines dated 07.01.2020 for setting up of new petrol pumps. It is most humbly and respectfully submitted by the Respondent No. 7 before this Hon'ble Tribunal, that the Respondent No. 7 herein has set up his new Retail Outlet/Petrol Pump in full compliance (of letter as well as spirit) with the aforesaid Guidelines laid down by the Ld. Central Pollution Control Board. However, despite the same, the new Retail Outlet/Petrol Pump of the Respondent No. 7 herein was erroneously sealed on 16.03.2024 by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein).

A true copy of the Office Memorandum dated 07.01.2020 issued by the Ld. Central Pollution Control Board is annexed herewith and marked as ANNEXURE OJ-40.

A true copy of the Office Memorandum dated 29.01.2021 issued by the Ld. Central Pollution Control Board is annexed

herewith and marked as ANNEXURE OJ-41.

A true copy of the Office Memorandum dated 16.08.2021 issued by the Ld. Central Pollution Control Board is annexed herewith and marked as ANNEXURE OJ-42.

65. That, in view of the above-mentioned facts and circumstances, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, the Ld. Joint Committee constituted by this Hon'ble Tribunal in its site inspection report has erroneously/wrongly recorded that the property in question is 466 meters from Rapti river. In fact, the property in question is actually situated at a distance of 579.20 meters from the edge of the river Rapti in Gorakhpur.
66. That, further, the Ld. Joint Committee in its site inspection report has erroneously relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein), wherein it has been wrongly/erroneously recorded that the Retail Outlet/Petrol

Pump of the Respondent No. 7 herein on the property in question is situated in the flood affected area of Gorakhpur, for which no construction can be permitted. In fact, the property in question is not even situated in the flood affected area of Gorakhpur, which is clearly evident from the Gorakhpur Master Plan 2031 (Revised) as well as the RTI Reply issued by Ld. Gorakhpur Development Authority itself. Moreover, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, the Ld. Joint Committee in its site inspection report has blindly relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein) without even factually verifying the actual ground situation on its own and without any application of its judicious mind by the Ld. Joint Committee.

67. That, the site inspection report has been prepared by the Ld. Joint Committee (constituted by this Hon'ble Tribunal) in utter disregard and in direct violation of the principles of

natural justice, as no notice or opportunity of hearing was ever provided by the Ld. Joint Committee to the Respondent No. 7 herein to submit his objections against the findings in the said report. This has resulted into grave prejudice and serious loss being caused to the Respondent No. 7 herein as the Respondent No. 7 would have shown before the Ld. Joint Committee that the property in question is actually situated at a distance of 579.20 meters from the edge of the river Rapti in Gorakhpur and that the property in question does not fall within the flood affected area in Gorakhpur.

- 68.** That, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, no independent application of judicious mind has been undertaken by the Ld. Joint Committee in its site inspection report and the Ld. Joint Committee has merely reproduced the fact that an Office Letter dated 10.02.2022 was issued by the Ld. Gorakhpur Development Authority. Therefore, the procedure adopted by the Ld. Joint Committee is directly contrary to the settled principles of law and clearly in

violation of several judgments passed by the Hon'ble Supreme Court of India.

69. That, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, the Ld. Joint Committee constituted by this Hon'ble Tribunal *vide* its order dated 11.10.2023 did not have any expert/technical members (such as a recognized architect or a qualified engineer), who could factually verify the actual distance between the property in question and the edge of river Rapti. Moreover, no factual enquiry was ever undertaken by the Ld. Joint Committee to ascertain as to if and how the property in question falls within the flood affected area of Gorakhpur. Therefore, the constitution of the Ld. Joint Committee by this Hon'ble Tribunal was itself defective, and it is most humbly and respectfully prayed before this Hon'ble Tribunal by the Respondent No. 7 herein that, appropriate/suitable further directions may be passed by this Hon'ble Tribunal in the present Misc. Application No. 84 of 2025 in Original Application No. 613 of 2023 setting

aside the Report dated 21.06.2024 of the Ld. District Magistrate, Gorakhpur.

70. That, the aforesaid judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 was passed *ex-parte* on the very first day of hearing of the Original Application No. 613 of 2023 before this Hon'ble Tribunal, without even issuing any notice to the Respondent No. 7 herein and without even granting an opportunity of hearing to the Respondent No. 7 herein. Therefore, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, the *ex-parte* judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 is in utter disregard and in direct violation of the principles of natural justice, as no notice or opportunity of hearing was ever provided by this Hon'ble Tribunal to the Respondent No. 7 herein to submit his objections/reply against the Original Application No. 613 of 2023 filed by the Original Applicant (i.e. Shri Om Prakash Gupta).

71. That, the Original Application No. 613 of 2023 filed by the Original Applicant (i.e. Shri Om Prakash Gupta) before this Hon'ble Tribunal was not maintainable in the eyes of law, as it is a completely frivolous and motivated application by the Original Applicant at the behest of a private competitor/ player (i.e. Shri Vinod Kumar Agrahari), who runs another petrol pump in the same area as the property in question. Therefore, the Original Application No. 613 of 2023 has been filed by the Original Applicant (i.e. Shri Om Prakash Gupta) before this Hon'ble Tribunal only in order to provide unjust and unlawful gains to Shri Vinod Kumar Agrahari at the expense of the Respondent No. 7 herein, by entangling the Respondent No. 7 in a web/series of litigation with respect to the property in question.

72. That, in fact, in the close proximity/vicinity of the property in question there is a Government Hospital being constructed by the State Government of Uttar Pradesh, which is in the same area as well as about the same distance from the edge of the river Rapti as is the Respondent No. 7's Petrol Pump

situated on the property in question. The Respondent No. 7 herein has collected/captured videographic evidence of the fact that a Government Hospital is being constructed in the same area as the property in question. Moreover, several government as well as many private buildings have already been constructed close to the property in question, which are situated at the same distance from the edge of river Rapti. Therefore, the Respondent No. 7 herein seeks permission and requests liberty of this Hon'ble Tribunal to produce the aforesaid videographic evidence collected/captured by the Respondent No. 7, if and when directed by this Hon'ble Commission, at a later stage of the proceedings before this Hon'ble Tribunal.

73. That, the Ld. Gorakhpur Development Authority was unjustly and unfairly indulging in a pick and choose policy by intentionally sitting over the Application and Composition Plan for the proposed Petrol Pump on the property in question as submitted by the Respondent No. 7 herein, whereas several other infrastructure projects in that area

(including the Petrol Pump of Shri Vinod Kumar Agrahari) have already been granted sanction/approval by the Gorakhpur Development Authority.

74. That, the Gorakhpur Development Authority had failed in its statutory duties as well as legal responsibilities by deliberately not deciding expeditiously the Application and Composition Plan for the proposed Petrol Pump on the property in question as submitted by the Respondent No. 7 herein.
75. That, there was absolutely no reason or justification whatsoever on the part of the Gorakhpur Development Authority for not deciding expeditiously the Application and Composition Plan for the proposed Petrol Pump on the property in question as submitted by the Respondent No. 7 herein, even though Ld. Gorakhpur Development Authority was already enjoying the sum of INR 2,00,000/- (Indian Rupees Two Lakhs only) which was deposited by the Respondent No. 7 herein with the Ld. Gorakhpur

Development Authority.

76. That, the aforesaid inaction on the part of the Gorakhpur Development Authority was also directly in contravention of the order dated 22.03.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 8668 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and Another*').
77. That, *vide* paragraph 4 of the judgment/order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and 3 Others*'), the Hon'ble High Court itself granted liberty to the Respondent No. 7 herein to press for relief before this Hon'ble Tribunal. Therefore, a Miscellaneous Application dated 04.02.2025, numbered as M.A. No. 27 of 2025 in Original Application No. 613 of 2023, was filed by the Respondent No. 7 herein before this Hon'ble Tribunal in full compliance and in terms of paragraph 4 of the judgment/

order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and 3 Others*'), which was passed in the case of the Respondent No. 7 himself.

78. That, *vide* paragraph 3 of the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*'), this Hon'ble Tribunal itself held that "... *and if found necessary, the matter will be listed for consideration before the Court. ...*". Therefore, a Miscellaneous Application dated 04.02.2025, numbered as M.A. No. 27 of 2025 in Original Application No. 613 of 2023, was filed by the Respondent No. 7 herein before this Hon'ble Tribunal in full compliance and in terms of paragraph 3 of the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*'), which was passed in the

case of the Respondent No. 7 himself.

79. That, the aforesaid M.A. No. 27 of 2025 in Original Application No. 613 of 2023 filed by the Respondent No. 7 herein was listed before this Hon'ble Tribunal for the very first time on 21.02.2025. *Vide* order dated 21.02.2025 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*'), this Hon'ble Tribunal was pleased to issue notice to the Respondents therein to file their response by way of an Affidavit.

A true copy of the order dated 21.02.2025 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*') is annexed herewith and marked as ANNEXURE OJ-43.

80. That, after notice was issued by this Hon'ble Tribunal in

M.A. No. 27 of 2025 in Original Application No. 613 of 2023, the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein) sent an Objection Letter dated 21.05.2025 to the Respondent No. 7 herein erroneously rejecting the Application dated 18.04.2024 submitted by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith a Composition Plan, under Section 15 of the UP Development Act. In the aforesaid Objection Letter, it was categorically admitted/ accepted by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein) that the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is not situated in the flood affected area of District Gorakhpur. Further, it was also stated in the said Objection Letter that the site of the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is allegedly shown as flood affected area in the Master Plan 2021 but not in Master Plan 2031 (Revised) of District Gorakhpur. However, despite the above-mentioned categorical admission, the aforesaid Application submitted

by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith the Composition Plan was erroneously rejected/dismissed by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein).

A true copy of the Objection Letter dated 21.05.2025 issued by the Ld. Office of Gorakhpur Development Authority, Gorakhpur alongwith a true translated copy of the same are collectively annexed herewith and marked as ANNEXURE OJ-44.

81. That, in view of the aforesaid fact that the Application submitted by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith the Composition Plan already stood decided and upon instructions of Respondent No. 7 herein, on the next date of hearing (i.e. on 26.05.2025) the Counsel for the Respondent No. 7 herein did not further press M.A. No. 27 of 2025 filed by Respondent No. 7 with the specific liberty from this Hon'ble Tribunal to file objections against the Report

dated 21.06.2024 of the Ld. District Magistrate, Gorakhpur. Therefore, the only specific issue/dispute for adjudication before this Hon'ble Tribunal remained with respect to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024, as to whether or not the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is situated in the flood affected area in District Gorakhpur. *Vide* judgment/order dated 26.05.2025 passed by the Hon'ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*'), this Hon'ble Tribunal held the following in favour of the Respondent No. 7 herein:

"... 6. In view of the above, Learned Counsel for the applicant submits that he is not pressing misc. application but liberty be granted to file objection to the report of the District Magistrate, Gorakhpur.

7. Misc. application-27/2025 is accordingly dismissed as not pressed.

8. Office is directed to register the report of District Magistrate, Gorakhpur dated 21.06.2024 as separate misc. application and list the same on 20.08.2025.

9. Parties present today will have an opportunity to file objection to the report of the District Magistrate, Gorakhpur in that misc. application.

...”.

A true copy of the judgment/order dated 26.05.2025 passed by the Hon’ble National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled ‘*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*’) is annexed herewith and marked as **ANNEXURE OJ-45**.

- 82.** That, thus, the Respondent No. 7 herein is filing the present Objections against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024, in full compliance with the judgment/order dated 26.05.2025 passed by the Hon’ble National Green Tribunal, Principal Bench at New Delhi in

M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*').

83. That, moreover, an Appeal No. C202005000001750 of 2025 dated 08.07.2025, under Section 15(5) of the Uttar Pradesh Urban Planning and Development Act, 1973, has already been filed by the Respondent No. 7 herein before the Ld. Chairman of the Gorakhpur Development Authority against the aforesaid Objection Letter dated 21.05.2025 passed by the Ld. Office of Gorakhpur Development Authority, Gorakhpur, erroneously rejecting the Application alongwith Composition Plan submitted by the Respondent No. 7 herein, which appeal is still pending for consideration of the Ld. Chairman of the Gorakhpur Development Authority.

A true copy of the Appeal No. C202005000001750 of 2025 dated 08.07.2025 filed by the Respondent No. 7 before the Ld. Chairman of the Gorakhpur Development Authority is annexed herewith and marked as ANNEXURE OJ-46.

84. That, therefore, now the only specific issue/dispute for adjudication before this Hon'ble Tribunal remains with respect to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024, as to whether or not the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is situated in the flood affected area in District Gorakhpur.
85. That, it is a settled principle of law that all statutory authorities/government functionaries must speak in one voice and that they must not act arbitrarily in order to single out one person, as otherwise it would tantamount to violation of Articles 14, 19, 21 and 300A of the Constitution of India.
86. That, the Ld. Gorakhpur Development Authority neither sought any report from any of the civic or the municipal authorities in Gorakhpur nor undertook any enquiry or conducted any inspection/survey/other proceedings for denying the requisite approvals/permissions to the Respondent No. 7 herein regarding the proposed construction

of the Filling Station/Petrol Pump of Respondent No. 7 over the property in question.

- 87.** That, there is no legal reason whatsoever as to why the Composition Plan submitted by the Respondent No. 7 herein of the proposed Filling Station/Petrol Pump was not sanctioned by the Ld. Gorakhpur Development Authority, as many other constructions have already been granted approval by the Gorakhpur Development Authority in the neighboring area including that of a Filling Station/Petrol Pump on the same road, almost at a distance of 1.5kms from the proposed Filling Station/Petrol Pump of the Respondent No. 7 herein.
- 88.** That, in totality of the facts and circumstances mentioned hereinabove, the Respondent No. 7 herein has made out a clear case that the Ld. Joint Committee in its site inspection report has erroneously relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority, wherein it has been wrongly recorded that the proposed Filing Station/Petrol Pump of the Respondent No. 7

on the property in question is situated in the flood affected area of District Gorakhpur, for which no construction can be permitted. In fact, the property in question is not even situated in the flood affected area of District Gorakhpur, which is clearly evident from the Gorakhpur Master Plan 2031 (Revised) as well as the RTI Reply and the aforesaid Objection Letter issued by the Ld. Gorakhpur Development Authority itself. Moreover, it is most humbly and respectfully submitted before this Hon'ble Tribunal by the Respondent No. 7 herein that, the Ld. Joint Committee in its site inspection report has blindly relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority without even factually verifying the actual ground situation on its own and without any application of its judicious mind by the Ld. Joint Committee.

- 89.** That, the Respondent No. 7 herein has made out a clear case as to why the Ld. Gorakhpur Development Authority should have sanctioned the Composition Plan submitted by the Respondent No. 7 herein and granted approval for the

commencement of the business and operations of the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein on the property in question.

90. That, the Action Taken/Compliance Report as well as the Site Inspection Report are directly contrary to the applicable provisions of law and in contradiction of the judicial precedents laid down by the Hon'ble Supreme Court of India as well as by this Hon'ble Tribunal.

91. That, the Action Taken/Compliance Report as well as the Site Inspection Report visit the Respondent No. 7 herein with evil consequences and therefore, they could not have been submitted before this Hon'ble Tribunal without issuing any notice of the proceedings and/or without affording any opportunity of hearing and thus, they are in gross violation/breach of principles of natural justice.

92. That, the Fundamental Rights of the Respondent No. 7 herein, enshrined under Articles 14, 19, 21 and 300A of the

Constitution of India, will be violated if the prayer(s) as sought/prayed for by the Respondent No. 7 herein are not granted by this Hon'ble Tribunal in the present matter.

93. That, in view of all the above-mentioned facts and circumstances of the present case, the Respondent No. 7 herein has clearly made out the case that the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 has erroneously relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority, wherein it has been wrongly/erroneously recorded that the proposed Filing Station/Petrol Pump of the Respondent No. 7 on the property in question is situated in the flood affected area of District Gorakhpur, for which no construction can be permitted.

94. That, therefore, from the above-stated facts it is abundantly clear and amply evident that the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of

2023 is clearly erroneous and factually incorrect. In that view, the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is wholly unreasonable, incorrect, legally invalid and completely *non-est* in the eyes of law.

95. That, thus, the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is liable to be set-aside by this Hon'ble Tribunal in the facts and circumstances of the present matter.

96. That, the present Objections on behalf of the Respondent No. 7 herein against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 have been made *bonafide* and in the interests of equity & justice.

97. That, the Respondent No. 7 herein has a good *prima-facie*

case in his favor and the Respondent No. 7 herein has very good chances of succeeding in the present matter before this Hon'ble Tribunal.

- 98.** That, the Respondent No. 7 herein will suffer grave prejudice, irreparable harm, sever loss and serious injury if the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is not set-aside by this Hon'ble Tribunal in the present matter.
- 99.** That, the balance of convenience also lies in favour of the Respondent No. 7 herein.
- 100.** That, grave prejudice and irreparable harm would be caused to the Respondent No. 7 herein if the Prayer(s) sought/prayed for by the Respondent No. 7 herein are not granted by this Hon'ble Tribunal in the present matter.
- 101.** That, it is in the interest of equity & justice that this Hon'ble

Tribunal may be pleased to allow the present Objections on behalf of the Respondent No. 7 herein against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 and grant the Prayer(s) as prayed for by the Respondent No. 7 herein in the present matter before this Hon'ble Tribunal.

102. That, there is every likelihood that the Respondent No. 7 herein would succeed before this Hon'ble Tribunal in the facts and circumstances of the present case.

103. GROUND:

In the above-mentioned facts and circumstances of the present case, the Respondent No. 7 herein is approaching this Hon'ble Tribunal on the following amongst other Grounds which are without prejudice to one another and in the alternative to each other:

A. Because the Respondent No. 7 herein (i.e. Omkar Kumar

Kushwaha) is filing the present Objections to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted in the Original Application No. 613 of 2023 and in full compliance of the judgment/order dated 26.05.2025 passed by this Hon'ble Tribunal in M.A. No. 27 of 2025 in Original Application No. 613 of 2023

- B.** Because after carrying out inspection of the property in question in 2019, all the relevant municipal and civic authorities in District Gorakhpur submitted their respective survey reports in the Office of Ld. District Magistrate, Gorakhpur, who after considering and upon perusal of the said survey reports submitted by various municipal and civic authorities granted a No Objection Certificate in favour of the Respondent No. 7 herein for setting up of the proposed Retail Outlet/ Petrol Pump at the property in question.
- C.** Because while all other necessary formalities were being completed by the Respondent No. 7 herein for setting up of the new Retail Outlet/Petrol Pump, the entire construction

process came to be suddenly stalled and hampered due to the onset of the global pandemic of COVID-19 in the month of March, 2020 and the consequent nation-wide lockdown imposed by the Government of India, because of which the construction of the new Retail Outlet/Petrol Pump could not be completed within the prescribed time period of 2 years for which the Ld. District Magistrate, Gorakhpur had granted the No Objection Certificate in favour of the Respondent No. 7 herein.

- D.** Because again in the year 2022, the concerned governmental authorities surveyed the property in question and submitted their respective survey reports in the month of November 2022 itself. Thereafter, after considering and upon perusal of the said survey reports submitted by the governmental authorities in Gorakhpur, the Ld. District Magistrate, Gorakhpur renewed the No Objection Certificate in favour of the Respondent No. 7 herein for setting up of the proposed Retail Outlet/Petrol Pump at the property in question.

- E.** Because when the construction of the proposed Retail Outlet/ Petrol Pump was nearing completion, BPCL also sent another Letter dated 07.11.2023 addressed to the Ld. District Magistrate, Gorakhpur for granting the Final Permanent No Objection Certificate in favour of the Respondent No. 7 herein so that the Filling Station/Petrol Pump could commence its business and operations.
- F.** Because the Respondent No. 7 herein immediately submitted an Application on 14.11.2023 before the Ld. Gorakhpur Development Authority requesting it to re-open the seal of the proposed Retail Outlet/Petrol Pump and to sanction the layout map of the property in question. As per the instructions of the Ld. Secretary of the Gorakhpur Development Authority, the Respondent No. 7 also immediately deposited INR 2,00,000/- (Indian Rupees Two Lakhs only) with the Ld. Gorakhpur Development Authority on 18.11.2023 as compounding fee for approval and sanction of the layout map in respect of the premises of the proposed Filling Station/Petrol Pump on the property in question.

- G.** Because the Ld. Gorakhpur Development Authority paid no heed to the request of the Respondent No. 7 herein but immediately pocketed the amount paid by the Respondent No. 7 herein for grant of sanction of the layout map of the property in question.
- H.** Because as per the order dated 22.03.2024 in Writ – C No. 8668 of 2024, the Hon’ble High Court directed the Respondent No. 7 herein to submit a composition plan in accordance with the applicable building bye-laws and regulations before the Ld. Vice Chairman of the Gorakhpur Development Authority, who in turn was directed to decide the composition plan of the Respondent No. 7 herein on its own merits and in accordance with law.
- I.** Because on 04.04.2024 BPCL also sent a letter to the Ld. Gorakhpur Development Authority requesting them to approve the Site Map of the property in question so that further action can be ensured with regard to the proposed Retail Outlet of the Filling Station/Petrol Pump of the

Respondent No. 7 herein.

- J.** Because in compliance of the aforesaid order dated 22.03.2024 passed by the Hon'ble High Court, the Respondent No. 7 herein submitted an Application alongwith the Composition Plan on 18.04.2024, before the Ld. Vice Chairman of the Gorakhpur Development Authority, under Section 15 of the UP Development Act, along with all the relevant annexures/enclosures mentioned therein, so that the proposed Filling Station/Petrol Pump could commence its business and operations so as to cater to the needs and requirements of the general public at large in the area.
- K.** Because the aforesaid Application dated 18.04.2024 submitted by the Respondent No. 7 herein also mentioned the fact that the Respondent No. 7 herein was ready and willing to pay the remaining balance amount, whatsoever that may be found, applicable upon him in accordance with law.
- L.** Because the Ld. Vice Chairman of the Gorakhpur

Development Authority has not even expeditiously decided the aforesaid Application of the Respondent No. 7 herein, as was directed in the aforesaid order dated 22.03.2024 passed by the Hon'ble High Court and have only caused undue delay in the matter of commencement and operations of the proposed Retail Outlet of the Filling Station/Petrol Pump at the property in question, which has ultimately resulted in substantial financial harm and irreparable loss to the Respondent No. 7 herein.

M. Because it is unequivocally and categorically submitted by the Respondent No. 7 herein that a copy of the Action Taken/ Compliance Report dated 21.06.2024 was never even served by the Ld. District Magistrate, Gorakhpur (i.e. Respondent No. 2 herein) upon the Respondent No. 7 herein before submitting the same to the Hon'ble Registrar General of this Hon'ble Tribunal.

N. Because it has been erroneously stated in the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 that as

per Office Letter No. 25/EA/GDA/ 2021-22 dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority, site of the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is allegedly shown as flood affected area in the Master Plan 2021 and thus, is under the submergence area.

- O.** Because the Respondent No. 7 herein had filed the Misc. Application No. 27 of 2025 in Original Application No. 613 of 2023 in compliance of the judgment/order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 and in terms of paragraph 3 of the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal and for seeking modification/recalling the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023.
- P.** Because this Hon'ble Tribunal itself *vide* order dated 13.07.2017 passed in Original Application No. 200 of 2014 had directed to create a no development/no construction zone

only up to 100 meters from the edge of the river, which direction is being uniformly followed all over in the State of Uttar Pradesh.

- Q.** Because even though the land use of the property in question (i.e. Plot No. 178, Plot No. 179 and Plot No. 180 situated at Village Hansupur, Tehsil Sadar, District Gorakhpur, Uttar Pradesh) were earlier shown/depicted as flood affected area in the Gorakhpur Master Plan 2021, now the land use of the property in question has been changed/converted into crematorium/graveyard in the Gorakhpur Master Plan 2031 (Revised). The aforesaid facts have been disclosed by the Ld. Gorakhpur Development Authority in response/reply to questions raised under the provisions of the Right to Information Act, 2005 as well as in their Objection Letter.
- R.** Because the Ld. Gorakhpur Development Authority has already granted approval/permission to another Filling Station/Petrol Pump, being operated by one Shri Vinod Kumar Agrahari (under the name and style of M/s. Parvati

Filling Station) on the same stretch of road where the property in question of the Respondent No. 7 herein is situated. The aforesaid facts have been disclosed by the Gorakhpur Development Authority in response/reply to questions raised under the provisions of the Right to Information Act, 2005.

- S.** Because the aforesaid Filling Station/Petrol Pump, being operated by Shri Vinod Kumar Agrahari (under the name and style of M/s. Parvati Filling Station), is operating/running within a distance of merely 1500 meters from the property in question. The aforesaid is clearly evident from the Location Plan dated NIL of the proposed 'Maa Bhagyavani Filling Station (Petrol Pump)' which is situated on the property in question belonging to the Respondent No. 7 herein.
- T.** Because it is most humbly and respectfully submitted that the concerned officers of the Ld. Gorakhpur Development Authority are unduly holding back the permission/approval of the proposed Filling Station/Petrol Pump situated on the

property in question in order to provide undue financial advantage/benefit to Shri Vinod Kumar Agrahari who is already running a Filling Station/Petrol Pump under the name and style of M/s. Parvati Filling Station, which is located in the close vicinity/proximity of the property in question belonging to the Respondent No. 7 herein.

- U. Because, in order to illegally maintain a monopoly in the said region, Shri Vinod Kumar Agrahari is using all his might and force so that the Respondent No. 7 herein does not obtain permission/approval for his proposed Filling Station/Petrol Pump, which would be situated on the property in question.

- V. Because the property in question is actually situated at a distance of 579.20 meters from the edge of the river Rapti in Gorakhpur. The aforesaid is clear from a Site Situation Analysis Map dated 12.12.2024 drawn/prepared by a competent architect in Gorakhpur, namely Ar. Manish Mishra of Dialogic Architects. In fact, there are various other governmental and private buildings constructed/situated on

the same stretch of road in close proximity to the property in question, which are even closer to the edge of river Rapti in Gorakhpur, which buildings have not been sealed by the Ld. Gorakhpur Development Authority and continue to operate till date.

W. Because in view of the above-mentioned facts and circumstances of the present case, it is most humbly and respectfully submitted by the Respondent No. 7 herein before this Hon'ble Tribunal that, the Ld. Joint Committee constituted by this Hon'ble Tribunal in its site inspection report has erroneously/wrongly recorded that the property in question is 466 meters from Rapti river. In fact, the property in question is actually situated at a distance of 579.20 meters from the edge of the river Rapti in Gorakhpur.

X. Because the Ld. Joint Committee in its site inspection report has erroneously relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority, wherein it has been wrongly recorded that the

proposed Petrol Pump of the Respondent No. 7 herein on the property in question is situated in the flood affected area of Gorakhpur, for which no construction can be permitted.

- Y.** Because the property in question is not even situated in the flood affected area of Gorakhpur, which is clearly evident from the Gorakhpur Master Plan 2031 (Revised) as well as the RTI Reply issued by Ld. Gorakhpur Development Authority itself and the Objection Letter dated 21.05.2025.
- Z.** Because the Ld. Joint Committee in its site inspection report has blindly relied upon the Office Letter dated 10.02.2022 issued by the Ld. Gorakhpur Development Authority without even factually verifying the actual ground situation on its own and without any application of its judicious mind by the Ld. Joint Committee.
- AA.** Because the site inspection report has been prepared by the Ld. Joint Committee (constituted by this Hon'ble Tribunal) in utter disregard and in direct violation of the principles of

natural justice, as no notice or opportunity of hearing was ever provided by the Ld. Joint Committee to the Respondent No. 7 herein to submit his objections against the findings in the said Report dated 21.06.2024.

BB. Because this has resulted into grave prejudice and serious loss being caused to the Respondent No. 7 herein as the Respondent No. 7 herein would have shown before the Ld. Joint Committee that the property in question is actually situated at a distance of 579.20 meters from the edge of the river Rapti in Gorakhpur and that the property in question does not fall within the flood affected area in Gorakhpur.

CC. Because no independent application of judicious mind has been undertaken by the Ld. Joint Committee in its site inspection report and the Ld. Joint Committee has merely reproduced the fact that an Office Letter dated 10.02.2022 was issued by the Ld. Gorakhpur Development Authority. Therefore, the procedure adopted by the Ld. Joint Committee is directly contrary to the settled principles of law and clearly

in violation of several judgments passed by the Hon'ble Supreme Court of India.

DD. Because the Ld. Joint Committee constituted by this Hon'ble Tribunal *vide* its order dated 11.10.2023 did not have any expert/technical members (such as a recognized architect or a qualified engineer), who could factually verify the actual distance between the property in question and the edge of river Rapti in District Gorakhpur.

EE. Because no factual enquiry was ever undertaken by the Ld. Joint Committee to ascertain as to if and how the property in question falls within the flood affected area of District Gorakhpur. Therefore, the constitution of the Ld. Joint Committee by this Hon'ble Tribunal was itself erroneous, and it is most humbly and respectfully prayed before this Hon'ble Tribunal by the Respondent No. 7 herein that, this Hon'ble Tribunal may be pleased to pass appropriate/suitable further directions in Original Application No. 613 of 2023 setting aside the Respondent of the Ld. District Magistrate,

Gorakhpur dated 21.06.2024.

FF. Because the aforesaid judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 was passed *ex-parte* on the very first day of hearing of the Original Application No. 613 of 2023 before this Hon'ble Tribunal, without even issuing any notice to the Respondent No. 7 herein and without even granting an opportunity of hearing to the Respondent No. 7 herein.

GG. Because the Original Application No. 613 of 2023 filed by the Original Applicant (i.e. Shri Om Prakash Gupta) before this Hon'ble Tribunal is not maintainable in the eyes of law, as it is a completely frivolous and motivated application by the Original Applicant at the behest of a private competitor/player (i.e. Shri Vinod Kumar Agrahari), who runs another petrol pump in the same area as the property in question. In fact, the Original Applicant (i.e. Shri Om Prakash Gupta) is retained/works as a Manager at the Filling Station/Petrol Pump operated by the said Shri Vinod Kumar Agrahari, who

is a direct competitor of the Respondent No. 7 herein in the said area of District Gorakhpur.

- HH.** Because the Original Application No. 613 of 2023 had been filed by the Original Applicant (i.e. Shri Om Prakash Gupta) before this Hon'ble Tribunal only in order to provide unjust and unlawful gains to Shri Vinod Kumar Agrahari at the expense of the Respondent No. 7 herein, by entangling the Respondent No. 7 in a web/series of litigation with respect to the property in question.
- II.** Because in the close proximity/vicinity of the property in question there is a Government Hospital being constructed by the State Government of Uttar Pradesh, which is in the same area as well as about the same distance from the edge of the river Rapti as is the Respondent No. 7's Petrol Pump situated on the property in question.
- JJ.** Because the Respondent No. 7 herein has collected/captured videographic evidence of the fact that a Government Hospital

is being constructed in the same area as the property in question. Moreover, several government as well as many private buildings have already been constructed close to the property in question, which are situated at the same distance from the edge of river Rapti.

KK. Because the Ld. Gorakhpur Development Authority was unjustly and unfairly indulging in a pick and choose policy by intentionally sitting over the Application and Composition Plan for the proposed Petrol Pump on the property in question as was submitted by the Respondent No. 7 herein, whereas several other infrastructure projects in that area (including the Petrol Pump of Shri Vinod Kumar Agrahari) had already been granted sanction/approval by the same Ld. Gorakhpur Development Authority.

LL. Because the Ld. Gorakhpur Development Authority failed in its statutory duties as well as legal responsibilities by deliberately not deciding expeditiously the Application and Composition Plan for the proposed Petrol Pump on the

property in question as was submitted by the Respondent No. 7 herein.

MM. Because there was absolutely no reason or justification whatsoever on the part of the Ld. Gorakhpur Development Authority for not deciding expeditiously the Application and Composition Plan for the proposed Petrol Pump on the property in question as submitted by the Respondent No. 7 herein, even though Ld. Gorakhpur Development Authority is already enjoying the sum of INR 2,00,000/- (Indian Rupees Two Lakhs only) which had already been deposited by the Respondent No. 7 herein with the Ld. Gorakhpur Development Authority.

NN. Because the aforesaid inaction(s) on the part of the Ld. Gorakhpur Development Authority is also directly in contravention of the order dated 22.03.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 8668 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and Another*').

- OO.** Because *vide* paragraph 4 of the judgment/order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and 3 Others*'), the Hon'ble High Court itself granted liberty to the Respondent No. 7 herein to press for appropriate relief before this Hon'ble Tribunal.
- PP.** Because M.A. No. 27 of 2025 in Original Application No. 613 of 2023, was filed by the Respondent No. 7 herein before this Hon'ble Tribunal in full compliance and in terms of paragraph 4 of the judgment/ order dated 30.09.2024 passed by the Hon'ble High Court of Judicature at Allahabad in Writ – C No. 32309 of 2024 (titled '*Omkar Kumar Kushwaha v. State of Uttar Pradesh and 3 Others*'), which was passed in the case of the Respondent No. 7 himself
- QQ.** Because *vide* paragraph 3 of the judgment/order dated 11.10.2023 passed by this Hon'ble Tribunal in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v.*

Gorakhpur Development Authority & Ors.'), this Hon'ble Tribunal itself held that "... and if found necessary, the matter will be listed for consideration before the Court. ...".

RR. Because the Wetlands (Conservation and Management) Rules, 2010 were made by the Central Government in exercise of the powers conferred under the provisions of the Environment (Protection) Act, 1986 and notified by the Ministry of Environment and Forests *vide* Notification No. G.S.R. 951(E) dated 04.12.2010 published in the official Gazette of India. Even as per Rule 4(1)(vi) of the Wetlands (Conservation and Management) Rules, 2010, any construction of permanent nature is prohibited only within 50 meters from the mean high flood level observed in the past ten years. There is absolutely no legal prohibition on construction of a permanent nature at a distance beyond 50 meters as prescribed in the Wetlands (Conservation and Management) Rules, 2010.

SS. Because *vide* judgment/order dated 08.02.2017 passed by the

Hon'ble Supreme Court of India in Writ Petition (C) No. 230 of 2001 (titled '*M.K. Balakrishnan & Others v. Union of India & Others*') reported in (2017) 7 Supreme Court Cases 805 at paragraph 23, the Hon'ble Supreme Court of India directed the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to the wetlands therein that had been mapped by Union of India.

TT. Because in supersession of the Wetlands (Conservation and Management) Rules, 2010 the Central Government made the Wetlands (Conservation and Management) Rules, 2017 in exercise of the powers conferred under the provisions of the Environment (Protection) Act, 1986 and notified by the Ministry of Environment, Forest and Climate Change *vide* Notification No. G.S.R. 1203(E) dated 26.09.2017 published in the official Gazette of India. As per Rule 4(2)(vi) of the Wetlands (Conservation and Management) Rules, 2017, any construction of permanent nature is prohibited only within 50 meters from the mean high flood level observed in the past ten years. Till date there is absolutely no legal prohibition on

construction of a permanent nature at a distance beyond 50 meters as prescribed in the Wetlands (Conservation and Management) Rules, 2017.

UU. Because for the purposes of implementing the Wetlands (Conservation and Management) Rules, 2017 and in order to support the State Governments/Union Territory (UT) Administrations in the implementation of the said Rules by providing guidance, in the year 2020 the Ministry of Environment, Forest and Climate Change, Government of India promulgated the Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017. In fact, as late as in the year 2020, even in the said Guidelines issued by the Ministry of Environment, Forest and Climate Change, Government of India, the same prohibition of only upto 50 meters has been provided, as has been already laid down in the Wetlands (Conservation and Management) Rules, 2017.

VV. Because in so far as the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein) is concerned, the

consistent stand of the Ld. Gorakhpur Development Authority before the Ld. Oversight Committee constituted by this Hon'ble Tribunal in Original Application No. 116 of 2014 (titled '*Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.*') has been that the ban on permanent construction is only upto 50 meters from the mean high water flood level. The aforesaid stand of the Ld. Gorakhpur Development Authority is categorically clear from the Updated Report dated 11.12.2020 submitted by the Ld. Oversight Committee before this Hon'ble Tribunal in Original Application No. 116 of 2014 (titled '*Meera Shukla v. Municipal Corporation, Gorakhpur & Ors.*').

WW. Because Ld. Gorakhpur Development Authority cannot be permitted to approbate and reprobate at the same time by indulging in a pick and choose policy solely in order to single out the Respondent No. 7 herein by banning/sealing the construction of the proposed Petrol Pump on the property in question belonging to the Respondent No. 7 herein.

- XX.** Because it is a settled principle of law that all statutory authorities/government functionaries must speak in one voice and that they must not act arbitrarily in order to single out one person, as otherwise it would tantamount to violation of Articles 14, 19, 21 and 300A of the Constitution of India.
- YY.** Because inspite of the clear direction issued by the Hon'ble High Court in its order dated 22.03.2024, the Ld. Vice Chairman of the Gorakhpur Development Authority has only tried to cause delay in the matter of commencement and operations of the proposed Retail Outlet Filling Station/Petrol Pump at the property in question, which has actually caused great financial harm and substantial loss to the Respondent No. 7 herein.
- ZZ.** Because till date, the Ld. Gorakhpur Development Authority has neither sought any report from any of the civic or the municipal authorities in District Gorakhpur nor undertaken any enquiry or conducted any inspection/survey/other proceedings for granting the requisite approvals/permissions

in favour of the Respondent No. 7 herein regarding the proposed construction of the Petrol Pump over the property in question. This categorically highlights the fact that the Ld. Vice Chairman of the Gorakhpur Development Authority was not taking any expeditious action whatsoever in respect of the claim of the Respondent No. 7 herein.

AAA. Because the Ld. Vice Chairman of the Gorakhpur Development Authority is under the statutory duty and obligation as per Section 15(3) of the Uttar Pradesh Urban Planning and Development Act, 1973 to conduct an enquiry as considered necessary in relation to any matter specified in Clause (d) of Sub-section (2) of Section 9 or in relation to any other matter, and thereafter the Ld. Vice Chairman shall by order in writing either grant the permission, subject to such conditions, if any as may be specified in the order or refuse to grant such permission.

BBB. Because Ld. Gorakhpur Development Authority had never earlier highlighted or pointed out any defect or inconsistency

or short-coming in the proposed construction of the Retail Outlet/Petrol Pump that was to be set up by the Respondent No. 7 herein at the property in question.

CCC. Because the Respondent No. 7 herein had also made multiple attempts to find out the cause as to why the Application/Composition Plan submitted by him had not been approved by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein), but all such attempts by the Respondent No. 7 herein ended only in vain.

DDD. Because there is no reason why the Composition Plan submitted by the Respondent No. 7 herein of the proposed Filling Station/Petrol Pump could not be sanctioned on the sole ground that many other constructions have already been granted approval by the Ld. Gorakhpur Development Authority in the neighboring area including that of a Filling Station/Petrol Pump on the same road, almost at a distance of 1.5 kilometers from the proposed Filling Station/Petrol Pump of the Respondent No. 7 herein.

EEE. Because in totality of the facts and circumstances mentioned hereinabove, the Respondent No. 7 herein has made out a clear and strong case for the sanction of the Composition Plan submitted by the Respondent No. 7 herein and for the immediate grant of approval for the commencement of the business and operations of the proposed Filling Station/Petrol Pump on the property in question of the Respondent No. 7.

FFF. Because the Ld. Vice Chairman of the Gorakhpur Development Authority had not undertaken any effort to consider and expeditiously decide the claim of the Respondent No. 7 herein and he had failed to discharge his legal duties and not complied with the directions issued to him by the Hon'ble High Court in its order.

GGG. Because the concerned officers of the Ld. Gorakhpur Development Authority were only dilly dallying the proceedings in the present matter so that the Respondent No. 7 herein is forced to resort to palm greasing measures/tactics, so that they may be able to take advantage of the precarious

position that the Respondent No. 7 has been coerced into.

HHH. Because the Respondent No. 7 herein has made out a clear case as to why the Ld. Gorakhpur Development Authority should have sanctioned the Composition Plan submitted by the Respondent No. 7 herein and immediately granted approval for the commencement of the business and operations of the proposed Retail Outlet of the Filling Station/Petrol Pump on the property in question.

III. Because in the view of the above-mentioned facts and circumstances of the present matter, the Respondent No. 7 herein was constrained to approach this Hon'ble Tribunal by filing M.A. No. 27 of 2025 in Original Application No. 613 of 2023, under Section 19(4)(f) & Section 19(4)(k) of the National Green Tribunal Act, 2010 read with Rule 22 & Rule 24 of the National Green Tribunal (Practices and Procedure) Rules, 2011 read with Section 151 of the Code of Civil Procedure, 1908.

- JJJ.** Because the Respondent No. 7 herein is entitled to and has made out a clear case for the grant of relief(s)/prayer(s) as prayed for by the Respondent No. 7 herein in the present Objections.
- KKK.** Because the Respondent No. 7 herein was left with no other equally, efficacious, effective and/or speedy alternative remedy except to approach this Hon'ble Tribunal by filing M.A. No. 27 of 2025 in Original Application No. 613 of 2023, under Section 19(4)(f) & Section 19(4)(k) of the National Green Tribunal Act, 2010 read with Rule 22 & Rule 24 of the National Green Tribunal (Practices and Procedure) Rules, 2011 read with Section 151 of the Code of Civil Procedure, 1908.
- LLL.** Because the letter dated 18.04.2024 also mentioned that the Respondent No. 7 herein was willing to pay the remaining balance amount whatsoever that may be found applicable upon him in accordance with law. The said letter was also enclosed with all the relevant annexures, layout plans and

orders to substantiate the claim of the Respondent No. 7.

MMM. Because *vide* judgment/order dated 05.07.2023 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 3856 of 2022 (titled '*Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Others*') reported in (2023) 8 Supreme Court Cases 35 at paragraphs 16 to 25, the Hon'ble Supreme Court of India held that this Hon'ble Tribunal cannot adjudicate solely on the basis of the Report of the Ld. Expert Committee without giving the parties a chance to rebut the same.

NNN. Because *vide* judgment/order dated 27.11.2024 passed by the Hon'ble Supreme Court of India in Civil Appeal Nos. 1711-1712 of 2021 (titled '*Grasim Industries Limited v. State of Madhya Pradesh & Another*') reported in 2024 SCC OnLine SC 3585 at paragraphs 9 to 10, the Hon'ble Supreme Court of India also held that this Hon'ble Tribunal cannot outsource an opinion and base its decision on such an opinion.

OOO. Because the Respondent No. 7 herein has set up his new Retail Outlet/Petrol Pump in full compliance (of letter as well as spirit) with the Guidelines laid down by the Ld. Central Pollution Control Board. However, despite the same, the new Retail Outlet/Petrol Pump of the Respondent No. 7 herein was erroneously sealed on 16.03.2024 by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein).

PPP. Because after notice was issued by this Hon'ble Tribunal in M.A. No. 27 of 2025 in Original Application No. 613 of 2023, the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein) sent an Objection Letter dated 21.05.2025 to the Respondent No. 7 herein erroneously rejecting the Application dated 18.04.2024 submitted by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith a Composition Plan, under Section 15 of the UP Development Act.

QQQ. Because in the aforesaid Objection Letter, it was categorically admitted/accepted by the Ld. Gorakhpur

Development Authority (i.e. Respondent No. 1 herein) that the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is not situated in the flood affected area of District Gorakhpur. Further, it was also stated in the said Objection Letter that the site of the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is allegedly shown as flood affected area in the Master Plan 2021 but not in Master Plan 2031 (Revised) of District Gorakhpur.

RRR. Because despite the above-mentioned categorical admission, the aforesaid Application submitted by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority alongwith the Composition Plan was erroneously rejected/dismissed by the Ld. Gorakhpur Development Authority (i.e. Respondent No. 1 herein).

SSS. Because in view of the aforesaid fact that the Application submitted by the Respondent No. 7 before the Ld. Vice Chairman of the Gorakhpur Development Authority

alongwith the Composition Plan already stood decided and upon instructions of Respondent No. 7 herein, on the next date of hearing (i.e. on 26.05.2025) the Counsel for the Respondent No. 7 herein did not further press M.A. No. 27 of 2025 filed by Respondent No. 7 with the specific liberty from this Hon'ble Tribunal to file objections against the Report dated 21.06.2024 of the Ld. District Magistrate, Gorakhpur.

TTT. Because the only specific issue/dispute for adjudication before this Hon'ble Tribunal remained with respect to the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024, as to whether or not the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is situated in the flood affected area in District Gorakhpur.

UUU. Because the Respondent No. 7 herein is filing the present Objections against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024, in full compliance with the judgment/order dated 26.05.2025 passed by the Hon'ble

National Green Tribunal, Principal Bench at New Delhi in M.A. No. 27 of 2025 in Original Application No. 613 of 2023 (titled '*Om Prakash Gupta v. Gorakhpur Development Authority & Ors.*').

VVV. Because an Appeal No. C202005000001750 of 2025 dated 08.07.2025, under Section 15(5) of the Uttar Pradesh Urban Planning and Development Act, 1973, has already been filed by the Respondent No. 7 herein before the Ld. Chairman of the Gorakhpur Development Authority against the aforesaid Objection Letter dated 21.05.2025 passed by the Ld. Office of Gorakhpur Development Authority, Gorakhpur, erroneously rejecting the Application alongwith Composition Plan submitted by the Respondent No. 7 herein, which appeal is still pending for consideration of the Ld. Chairman of the Gorakhpur Development Authority.

WWW. Because now the only specific issue/dispute for adjudication before this Hon'ble Tribunal remains with respect to the Report of the Ld. District Magistrate, Gorakhpur dated

21.06.2024, as to whether or not the proposed Retail Outlet of the Filling Station/Petrol Pump of the Respondent No. 7 herein is situated in the flood affected area in District Gorakhpur.

XXX. Because there is no legal reason whatsoever as to why the Composition Plan submitted by the Respondent No. 7 herein of the proposed Filling Station/Petrol Pump was not sanctioned by the Ld. Gorakhpur Development Authority.

YYY. Because from the above-stated facts it is abundantly clear and amply evident that the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is clearly erroneous and factually incorrect. In that view, the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is wholly unreasonable, incorrect, legally invalid and completely *non-est* in the eyes of law.

- ZZZ.** Because the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is liable to be set-aside by this Hon'ble Tribunal in the facts and circumstances of the present matter.
- AAAA.** Because the present Objections on behalf of the Respondent No. 7 herein against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 have been made *bonafide* and in the interests of equity & justice.
- BBBB.** Because the actions/inactions on the part of the Respondent governmental authorities are *ex-facie* illegal, completely unjust, unconstitutional and wholly arbitrary.
- CCCC.** Because Respondent No. 7 herein has given the correct facts in the present Objection before this Hon'ble Tribunal.
- DDDD.** Because severe prejudice and grave injustice will be caused

to the Respondent No. 7 herein if the present Objections are not allowed by this Hon'ble Tribunal.

EEEE. Because the Respondent No. 7 herein has a good *prima-facie* case in his favor and the Respondent No. 7 herein has very good chances of succeeding in the present matter before this Hon'ble Tribunal.

FFFF. Because the Respondent No. 7 herein will suffer grave prejudice, irreparable harm, sever loss and serious injury if the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 is not set-aside by this Hon'ble Tribunal in the present matter.

GGGG. Because the balance of convenience also lies in favour of the Respondent No. 7 herein.

HHHH. Because grave prejudice and irreparable harm would be caused to the Respondent No. 7 herein if the Prayer(s)

sought/prayed for by the Respondent No. 7 herein are not granted by this Hon'ble Tribunal in the present matter.

III. Because it is in the interest of equity & justice that this Hon'ble Tribunal may be pleased to allow the present Objections on behalf of the Respondent No. 7 herein against the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023 and grant the Prayer(s) as prayed for by the Respondent No. 7 herein in the present matter before this Hon'ble Tribunal.

JJJJ. Because there is every likelihood that the Respondent No. 7 herein would succeed before this Hon'ble Tribunal in the facts and circumstances of the present case

KKKK. Because the Action Taken/Compliance Report dated 21.06.2024 submitted by the Ld. District Magistrate, Gorakhpur before the Hon'ble Registrar General of this Hon'ble Tribunal as well as the Site Inspection Report

prepared by the Ld. Joint Committee constituted by this Hon'ble Tribunal proceed on an incorrect appreciation of the facts as well as applicable law and thus, deserve to be set aside by this Hon'ble Tribunal.

LLLL. Because the aforesaid Action Taken/Compliance Report as well as the Site Inspection Report are *ex-facie* erroneous, unreasonable, wholly irrational and thus, deserve to be set aside by this Hon'ble Tribunal in the present matter.

MMMM. Because the aforesaid Action Taken/Compliance Report as well as the Site Inspection Report are not sustainable in the eyes of law and are liable to be set-aside by this Hon'ble Tribunal in the interest of equity & justice.

NNNN. Because the aforesaid Action Taken/Compliance Report as well as the Site Inspection Report are directly in contravention of the Fundamental Rights of the Respondent No. 7 herein enshrined under Articles 14, 19, 21 and 300A of the Constitution of India.

OOOO. Because the aforesaid Action Taken/Compliance Report as well as the Site Inspection Report are directly contrary to the applicable provisions of law and in contradiction of the judicial precedents laid down by the Hon'ble Supreme Court of India as well as by this Hon'ble Tribunal.

PPPP. Because the aforesaid Action Taken/Compliance Report as well as the Site Inspection Report visit the Respondent No. 7 herein with evil consequences and therefore, they could not have been submitted before this Hon'ble Tribunal without issuing any notice of the proceedings and/or without affording any opportunity of hearing and thus, they are in gross violation/breach of principles of natural justice.

QQQQ. Because the Fundamental Rights of the Respondent No. 7 herein, enshrined under Articles 14, 19, 21 and 300A of the Constitution of India, will be violated if the prayer(s) as sought/prayed for by the Respondent No. 7 herein are not granted by this Hon'ble Tribunal in the present matter.

104. LIST OF DOCUMENTS:

A detailed Index with the Annexures/documents relied upon by the Respondent No. 7 herein has been filed with the present Objections.

105. PRAYER(S):

That, therefore, in view of the above-mentioned facts, Grounds, reasons and/or circumstances, it is most humbly and respectfully prayed before this Hon'ble Tribunal by the Respondent No. 7 herein, that this Hon'ble Tribunal may graciously be pleased to:

- (a) allow the present Objections filed by the Respondent No. 7 herein before this Hon'ble Tribunal; and/or
- (b) set-aside the Report of the Ld. District Magistrate, Gorakhpur dated 21.06.2024 submitted before this Hon'ble Tribunal in Original Application No. 613 of 2023; and/or
- (c) hold/direct that the proposed Filing Station/Petrol Pump of the Respondent No. 7 herein on the property in question is

not situated in the flood affected area of District Gorakhpur;

and/or

- (d) pass such other and/or further order(s) in favour of the Respondent No. 7 herein that this Hon'ble Tribunal may deem fit and proper in facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE HUMBLE RESPONDENT NO. 7 HEREIN AS IN DUTY BOUND SHALL EVER PRAY.

THROUGH COUNSELS

FOR A3T LEGAL LLP:

AVI TANDON / MEGHNA TANDON / AMI TANDON

ADVOCATES FOR THE RESPONDENT NO. 7.

Address : 59, Supreme Enclave, Mayur Vihar Phase – 1, Delhi – 110091.

Mobile(s) : +91 – 8586866448; +91 – 9453018787; +91 – 9415014689.

Email(s) : avi@a3tlegal.com; avi@avitandon.in; meghna@avitandon.in

DRAWN ON : 03.08.2025.

FILED ON : 13.08.2025.

FILED AT : NEW DELHI.



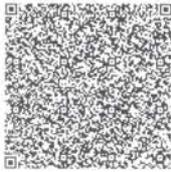
INDIA NON JUDICIAL
Government of Uttar Pradesh



IN-UP73223798391250X
e-MOHIT JAISWAL
ACC Code-UP14842604
ACC Address-Civil Court, Gorakhpur
Licence No.-198, Mob.-9115624598
Tehsil & District-Sadar, Gorakhpur
Signature: Mohit

e-Stamp

Certificate No.	: IN-UP73223798391250X
Certificate Issued Date	: 04-Aug-2025 12:36 PM
Account Reference	: NEWIMPACC (SV)/ up14842604/ GORAKHPUR SADAR/ UP-GRK
Unique Doc. Reference	: SUBIN-UPUP1484260444056910580404X
Purchased by	: OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
Description of Document	: Article 4 Affidavit
Property Description	: Not Applicable
Consideration Price (Rs.)	:
First Party	: OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
Second Party	: Not Applicable
Stamp Duty Paid By	: OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
Stamp Duty Amount(Rs.)	: 10 (Ten only)



KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur

Omkar Kumar Kushwaha

KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur

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

[ORIGINAL JURISDICTION]

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023



IN THE MATTER OF:-

OM PRAKASH GUPTA

... ORIGINAL APPLICANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS

AFFIDAVIT:

I, Omkar Kumar Kushwaha, S/o Shri Brij Kumar Kushwaha, aged about 34 years, Resident of Hasunpur, Ward No. 45, Gorakhpur, District Gorakhpur, Uttar Pradesh – 273005, India; presently at Gorakhpur (Uttar Pradesh), do hereby solemnly affirm and declare on oath as hereunder:

1. That, I am the Respondent No. 7 (i.e. Omkar Kumar Kushwaha) in the above-mentioned Miscellaneous Application as well as Respondent No. 7 (i.e. Omkar Kumar Kushwaha) in the Original Application No. 613 of 2023 and I am well conversant with the facts and circumstances of the

✓ Omkar Kumar Kushwaha

Kripa Shanker Tripathi
KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur

present case. As such, I am fully competent and duly capable to swear this Affidavit herein.

- 2. That, the averments/submissions made by me in the accompanying **OBJECTION(S)** from PAGES 1 TO 120, are drafted by my Counsel upon my instructions and the contents thereof are true and correct to best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.
- 3. That, the contents of the present Affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.
- 4. That, the Annexures/documents filed herewith are true/typed/translated copies of their respective originals.



Omkar Kumar Kulkarni

DEPONENT

VERIFICATION:-

Verified at Gorakhpur (Uttar Pradesh) on this the 4th day of August, 2025 that the contents of the aforesaid Affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Kripa Shanker Tripathi
KRIPA SHANKER TRIPATHI
NOTARY
 Commissioner, Gorakhpur

Omkar Kumar Kulkarni

DEPONENT

Omkar Kumar Kushwaha

Identified The Signature of Omkar Kumar Kushwaha
Swar Bhanu Dey
Swar Bhanu Dey
Advocate Add
Regd No.U.P. 167/85 418125



Sr No. 571 Date 4-8-25
Attested the Signature/Thumb Impression of
Sri/Smt./Km. Omkar Kumar Kushwaha
Who Signed Put his/her Signature/Thumb Impression
before me and who has admitted the due execution of
his Affidavit Bond/Declaration/Agreement/Deed His
Her Signature/Thumb Impression Identified by
Advocate Shri. Swar. Bhanu Dey.
Kripa Shanker Tripathi
Commissioner, Gorakhpur

621
ANNEXURE OJ-1

125

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 613/2023

Om Prakash Gupta

Versus

Applicant

Gorakhpur Development Authority & Ors.

Respondent(s)

Date of hearing: 11.10.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Himanshu Gupta & Mr. Aman Banka, Advs.

ORDER

1. In this Original Application, the grievance raised by the applicant is in respect of construction of petrol pump by respondent no. 7 in flood line area near Rapti river in Rajghat, Gorakhpur, Uttar Pradesh. The stand of the applicant is that the area on which petrol pump is constructed is adjacent to the Rapti river and during the major flood, the area in question comes in submergence. The submission of learned Counsel for the applicant is that setting up of a petrol pump is in contravention of the guidelines issued by the Central Pollution Control Board contained in the memorandum dated 07.01.2020. It is further the stand of the applicant that the flood plain area of river Rapti is extremely sensitive in nature and such an illegal construction would encourage other illegal activity in the area and will have adverse effect on the environment and on the integrity of the rivers.

2. Having regard to the issue raised in the application, we deem it proper to constitute a joint Committee comprising of the representative of the Member Secretary of Uttar Pradesh State Pollution Control Board, the representative of Secretary of Jal Shakti and District Magistrate,

1


(TRUE COPY)

Gorakhpur. The District Magistrate, Gorakhpur will act as nodal agency. The joint Committee will carry out the spot inspection and prepare a report. In case if any violation of norms in the setting up of the petrol pump by respondent no. 7 is found, then the copy of the report will be sent to respondent no. 6, Bharat Petroleum Corporation Limited, who on receipt of the report will take an appropriate decision in accordance with law by following the principles of 'Natural Justice'.

3. A copy of the report will also be submitted by the Committee before the Registrar General of the Tribunal and if found necessary, the matter will be listed for consideration before the Court.

4. The application is accordingly disposed of.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

October 11, 2023
Original Application No. 613/2023
SN

ANNEXURE OJ-2

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड

(भारत सरकार का उपक्रम)

गोरखपुर प्रादेशिक कार्यालय

Ref: GKP/LCI/NRO/Adv18/2203/300029007



BHARAT PETROLEUM CORPORATION LTD.

(A Govt. of India Enterprise)

Gorakhpur Retail Territory

Date 27 02 2019

To
Shri Omkar Kumar Kushwaha
Atta Chakki, Hansapur chowk,
Post - Gera press, Gorakhpur
District: Gorakhpur
U.P. - 273005

Dear Sir/Madam,

Omkar

Sub: Proposed MS/HSD Retail Outlet Dealership at Location: Village Hansapur, Tehsil Sadar on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur, State Uttar Pradesh. Category: SC CFS (Regular)

We refer to our advertisement dated 25.11.2018 and your application form No. 15447794079167 for the award of MS/HSD Retail Outlet dealership at the above location.

Please be informed that by this Letter of Intent, we propose to offer you a Retail outlet dealership of Bharat Petroleum Corporation Limited at the above location on the following terms & conditions:-

1. You have offered a suitable piece of land admeasuring 30.0 meters approx.(frontage) X 30.0mtrs (depth) at survey no. 178, 179 & 180, Village: Hansapur as indicated by you in the application for the development of the subject Retail Outlet. You have to make available this land within 2 months from the date of this letter failing which this offer is liable to be withdrawn. (For Group 1).
2. As and when advised by the Corporation, the site offered by you would be duly developed up to the road level by cutting/filling (as applicabic), with good earth/murrum, layer-wise compacted as per standard engineering practices. You shall also construct necessary retaining wall and compound wall of 1.5 meters height, designed as per site conditions as per approval of Corporation as committed under Clause-12 (e)/11(e) of affidavit submitted, by you along with application. Subsequently, the land would be required to be transferred on lease for a minimum period of 19 years & 11 months with renewable option at rentals mutually agreed upon / sold to Bharat Petroleum Corporation Limited, Kindly note that in case the site as offered by you for leasing/sale to BPCL for putting up the Retail Outlet is not made available for lease/purchase as per the advice of the Corporation, this Letter Of Intent will be withdrawn without any further notice. However, there is no commitment from BPCL for taking the said land from you.
3. BPCL will develop the retail outlet at the above location at Village: Hansapur on the said site to be taken on lease/purchase by BPCL with appropriate structures, storage tanks and pumps.
Additional facilities (site specific) may also be developed by BPCL on its sole discretion such as Canopy, Service Station or any other facility as may be decided by BPCL from time to time.
4. For the facilities that may be provided by the Corporation as aforesaid, we will recover from you license fee as may be decided by the Corporation and applicable to you from time to time. At present, the license fee (incl. GST) recoverable is Rs. 472.77 /KL for MS and Rs. 393.97 /KL for HSD.
5. The corporation will not be held liable for any loss or damage on account of delay that maybe caused in providing you the facilities mentioned above, whatever may be the cause of the failure or delay.

Omkar Kumar Kushwaha

Off. Baitalpur, Gorakhpur

Bharat Petroleum Corporation Limited

(TRUE COPY)

Omkar Kumar Kushwaha

Omkar Kumar Kushwaha

6. You will provide at the retail outlet other mandatory facilities like Generator, Compressor with electric gauge for air filling, clean drinking water, Maintenance of Neat & Clean Toilet, Telephone, etc.
7. For enabling you to operate the dealership, Working capital, as may be determined by the Corporation at its sole discretion to be utilized only for the purpose of taking delivery of MS/HSD/Lubes from the Corporation to maintain supply.

The above working capital will carry interest as per the policy of the Corporation.

The aforesaid working capital along with the interest, will be repayable by you in 100 equal monthly instalments commencing from the 13th month of commissioning of the dealership.

8. You shall not induct any partner(s) in case of individual (s) nor make any changes in the constitution of the partners as existing at the time of application without the approval of the Company, except your spouse as per terms and conditions of the BPCL.
9. It will always be a basic condition for the award of MS / HSD retail outlet dealership that you shall be paying attention towards day to day working of the dealership by personally managing the affairs of the dealership. You will give us a written undertaking to this effect and shall not assign or part with the same to any other person (s).

You will not be eligible for taking up any employment. If you are already employed you will have to resign from the employment and produce the letter of acceptance of resignation by the employer before the issuance of Letter of Appointment by the Oil Company.

10. As agreed, you will be initiating necessary action towards enabling registration of site where the Retail Outlet is planned. You will also assist us in getting the requisite NOC from appropriate Authorities.
11. You will deposit with us a Demand Draft for Rs 3.0 Lakhs drawn on any scheduled bank in favour of Bharat Petroleum Corporation Limited payable at Deoria towards security Deposit (after setting of the Initial Security Deposit amount) at the time of issuance of appointment letter after compliance of all the requirements of LOI. Kindly note that the Security deposit will not carry any interest and is refundable at the time of expiry of agreement between you and the Corporation. However, if such expiry of agreement is consequent to proven adulteration/malpractice at the dealership, this amount will be forfeited. Moreover, this Corporation reserves its right to adjust this amount towards any dues to it.
12. You will be notified by the corporation, in writing, after the facilities mentioned above are made available and are ready for commissioning the dealership. Immediately on receipt of the above notice from the corporation, you shall obtain each and every license necessary for operating your dealership as may be required under any central / state govt. / municipal or local authorities for the time being in force.
13. If we find that the progress made by you towards the above is not to our satisfaction, this offer is liable to be withdrawn.
14. Please note that you are required to fulfil the conditions with regard to inducting Spouse as Co-owner in the dealership before issuance of Letter of Appointment.
15. This letter of intent will stand automatically withdrawn and cancelled on the happening of any of the following events:-
 - a) In case you or your close relatives like spouse, unmarried son(s) and unmarried daughter(s) receive anytime or have received a letter of intent for any other dealership or distributorship from our company or any other oil company either in your individual capacity or in partnership with any other individual(s).

(TRUE COPY)

Amberia Hem...

- b) If it is found that you have suppressed and / or misrepresented any material facts in your application,
 c) In case you are found to be convicted for any criminal / economic offence involving moral turpitude.
 d) In the event of death if you are an individual/partner
16. In case you are not able to provide the developed land within the specified time or fail to fulfil of terms & conditions of LOI or withdraw for any reason, then LOI can be withdrawn and selection cancelled. In such situations Initial Security Deposit (ISD) would be forfeited.
17. This letter is merely a letter of intent and is not to be construed as a 'firm offer' of dealership to you. The dealership will be allotted to you on your complying with the terms and conditions spelt out herein above by issuance of appointment letter along with signing of our standard dealership agreement between you and us.

Should you require any further details / guidelines, please get in touch with our office at the address mentioned below:

Territory Manager (Retail),
 Bharat Petroleum Corporation Limited
 Baitalpur Depot, Deoria,
 U.P- 274201

Note : You have one time option to offer alternate land meeting all specifications in the advertised location/stretch within 90 days of this LOI provided you have not availed such opportunity of providing alternate land after FVC.

Please acknowledge receipt of this letter.

Thanking you,

Yours faithfully
 For Bharat Petroleum Corporation Limited


 (Vikas Shrivastava)
 Territory Manager (Retail)
 Gorakhpur

ACKNOWLEDGEMENT

I hereby accept this Letter of Intent with all the terms and conditions stipulated therein.

I do hereby confirm that I am eligible for allotment of Retail Outlet dealership as per applicability of Multiple Dealership Norm defined under Clause "Disqualification" in the "Brochure for Selection of Dealers for Regular & Rural Retail Outlets" and I am not disqualified for allotment of Retail Outlet dealership under other conditions mentioned therein.

Place: Baitalpur

Signature: Omkar Kumar Kushwaha

Date: 27-2-2019

Name: OMKAR KUMAR KUSHWAHA


 (TRUE COPY)

Omkar Kumar Kushwaha

ANNEXURE OJ-3

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
(भारत सरकार का उपक्रम)
गोरखपुर प्रादेशिक कार्यालय



BHARAT PETROLEUM CORPORATION LTD.
(A Govt of India Enterprise)
Gorakhpur Retail Territory

Ref. NOC/NRO HANSUPUR

DATE: 27.02.2019

To,
The District Magistrate,
Gorakhpur, (U.P.)

Sub: No Objection certificate for New Retail Outlet at Village:
Hansupur, Tehsil : Sadar, District: Gorakhpur (U.P.)

Sir/Madam,

We propose to construct and commission New Retail Outlet at Khasra No./Plot No. 178, 179 & 180, Village: Hansupur, Pargana: Havoli, Tehsil: Sadar, Distt: Gorakhpur, (U.P.)

We are enclosing 7 set of drawings alongwith this letter.

You are requested to grant No Objection Certificate for setting up of New Retail Outlet at the subject location and return us one copy of the drawing duly approved at your end.

Thanking You,

For Bharat Petroleum Corporation Limited,

Vikas Shrivastava
Territory Manager (Retail), Gorakhpur

Encls : a/a

CIN : L23220 MH 1952 GO1908931. E-mail info@bharatpetroleum.in. Web : www.bharatpetroleum.in
ऑफिस- बैतालपुर डिपो, देवरिया पिन कोड-274201 (यूपीओ) फ़ैक्स (05568)-285026 फ़ोन (05568) 293138, 285225, 285267
रजिस्टर्ड ऑफिस- भारत भवन, 4 एवं 6 करीमबाग रोड, बलाई इस्टेट, मुम्बई-400 001 फ़ैक्स (022) 2713874 दूरभाष (022) 2713000, 27140

Off. Baitalpur Depot, Deoria Pin-274201 (U.P.) Fax : (05568) 285026 Phone (05568) 293138, 285225, 285267
Off. Baitalpur Depot, Deoria Pin-274201 (U.P.) Fax : (05568) 285026 Phone (05568) 293138, 285225, 285267
Off. Baitalpur Depot, Deoria Pin-274201 (U.P.) Fax : (05568) 285026 Phone (05568) 293138, 285225, 285267

(TRUE COPY)

ANNEXURE OJ-4

5.3.19
10/3/19

5/3/19

899
44
23/03/19

कार्यालय संख्या 268
फाइल नम्बर 11 लेखा
दिनांक 6-3-2019

कार्यालय जिलाधिकारी गोरखपुर।

सं०- 545(2) आ०लि०- 19

दिनांक 2-3-2019

विषय- भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड, गोरखपुर प्रादेशिक कार्यालय द्वारा श्री ओमकार कुमार कुशावाहा पुत्र श्री बृज कुमार कुशावाहा नि०-हॉसुपुर, तहसील-सदर, गोरखपुर के नाम (अमरुद मण्डी से नेहरू पार्क रोड पर) गाटा संख्या-178,179 व 180 में न्यू रिटेल आउटलेट हेतु अनापत्ति प्रमाण पत्र जारी किये जाने के संबंध में।

- 1- दरिष्ठ पुलिस अधीक्षक, गोरखपुर (भवन)
- 2- अधिशासी अभियंता, निर्माण खण्ड, लो०नि०वि०, गोरखपुर।
- 3- मुख्य अग्निशमन अधिकारी, गोरखपुर।
- 4- उप जिलाधिकारी सदर, गोरखपुर।
- 5- जिलापूर्ति अधिकारी, गोरखपुर।
- 6- प्रभागीय वनाधिकारी, वन प्रभाग, गोरखपुर।
- 7- अधिशासी अभि० वि०वि०खण्ड, नगर, गोरखपुर।
- 8- आवकारी निरीक्षक तहसील-सदर, गोरखपुर।

प्रति,
उपर्युक्त विषय के संबंध में भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड, गोरखपुर प्रादेशिक कार्यालय द्वारा श्री ओमकार कुमार कुशावाहा पुत्र श्री बृज कुमार कुशावाहा नि०-हॉसुपुर, तहसील-सदर, गोरखपुर के नाम (अमरुद मण्डी से नेहरू पार्क रोड पर) गाटा संख्या-178,179 व 180 में न्यू रिटेल आउटलेट हेतु अनापत्ति प्रमाण पत्र जारी किये जाने का अनुरोध किया गया है।

उक्त प्लान का साइट प्लान का मानचित्र संलग्न करते हुए आपसे अपेक्षा की जाती है कि कृपया नियमानुसार स्थलीय जांच कराकर अपनी सुस्पष्ट आख्या प्रेषित करने का कष्ट करें, साथ ही यह भी अवगत कराये कि क्या अनापत्ति प्रमाण-पत्र जारी किये जाने में कोई आपत्ति तो नहीं है। साथ में संलग्न मानचित्र को भी प्रमाणित करने का कष्ट करें।

संलग्नक- यथोक्त।

श्री 500 रोड गुरुदास
एन.ए. का बिस्तर
प्रत्यक्ष को।
कै. 5.3.19
कै. 5.3.19
कै. 5.3.19

AEZ

जिला आवकारी अधिकारी
गोरखपुर।
दिनांक 03/03/19
आवकारी अधिकारी
गोरखपुर।

अधिकासी अभियंता
निर्माण खण्ड (सकरी) लो० नि० वि०
गोरखपुर।

Omkar Kumar Kushawaha
Omkar Kumar Kushawaha

(TRUE COPY)

ANNEXURE OJ-5**कार्यालय जिलाधिकारी गोरखपुर**

पत्रांक-575/आबोलि0-अना0प्र0प0/19

दिनांक-26.2.2019

अनापत्ति प्रमाण-पत्र

कृपया भारत पेट्रोलियम कारपोरेशन लिमिटेड, गोरखपुर प्रादेशिक कार्यालय के पत्र दिनांक 27.02.2019 का संघर्ष ग्रहण करने का कष्ट करें, जिसके द्वारा श्री ओमकार कुमार कुशावाहा पुत्र बृज कुमार कुशावाहा नि0-हॉसूपुर, तहसील-सदर, गोरखपुर के नाम(अमरुद मण्डी से नेहरू पार्क रोड पर) गाटा सं0-178.179 व 180 में न्यू रिटेल आउटलेट हेतु अनापत्ति प्रमाण पत्र जारी किये जान हेतु अनुरोध किया गया है।

उक्त के कम में सम्बन्धित विभागों से आख्या/संस्तुति प्राप्त की गयी, जो निम्नानुसार है-

1. वरिष्ठ पुलिस अधीक्षक, गोरखपुर के पत्र संख्या-व-419/2019 दिनांक 29.05.2019
2. अधिशासी अभियन्ता, निर्माण खण्ड-3 लो0नि0वि0 गोरखपुर के पत्र संख्या-858/1सी दिनांक 15.06.2019
3. मुख्य अग्निशमन अधिकारी गोरखपुर के पत्र संख्या-सी0एफ0ओ0-निरीक्षण (डीजल/पेट्रोल पम्प)/2019 दिनांक 12.03.2019
4. उप जिलाधिकारी सदर के पत्र संख्या-1732/आशुलि0-सदर दिनांक 10.05.2019
5. जिला पूर्ति अधिकारी, गोरखपुर के पत्र संख्या-6294/जि0पू0अ0-पेट्रोलियम/2019 दिनांक 04.05.2019
6. प्रभागीय वनाधिकारी, गोरखपुर के पत्र संख्या-4381/2-6 दिनांक 02.04.2019
7. अधिशासी अभियन्ता, पूर्वांचल विद्युत वितरण निगम लिमिटेड, विद्युत वितरण खण्ड-प्रथम, गोरखपुर के पत्र संख्या-1473/वि0वि0खं0प्र0(गो0) दिनांक 20.04.2019
8. आबकारी निरीक्षक सेक्टर-2 गोरखपुर की आख्या दिनांक 27.03.2019

उक्त अधिकारियों की आख्या/संस्तुति(छाया प्रति संलग्न) में दिये गये शर्तों के अनुपालन एवं प्रतिबन्धों के अधीन पेट्रोलियम ऐक्ट 1934 व पेट्रोलियम नियम 2002 एवं O.I.S.D.225 में उल्लिखित नियमों का कड़ाई से पालन किए जाने की शर्त के अनुसार अनापत्ति प्रमाण पत्र प्रदान किया जाता है, जो दो वर्ष तक वैध होगा। निर्माण हो जाने के उपरान्त उपयोग से पहले पुनः निरीक्षण कर अन्तिम स्थाई अनापत्ति प्रमाण-पत्र प्रदान किया जायेगा अन्यथा प्राविजनल अनापत्ति प्रमाण पत्र स्वतः निरस्त समझा जायेगा।

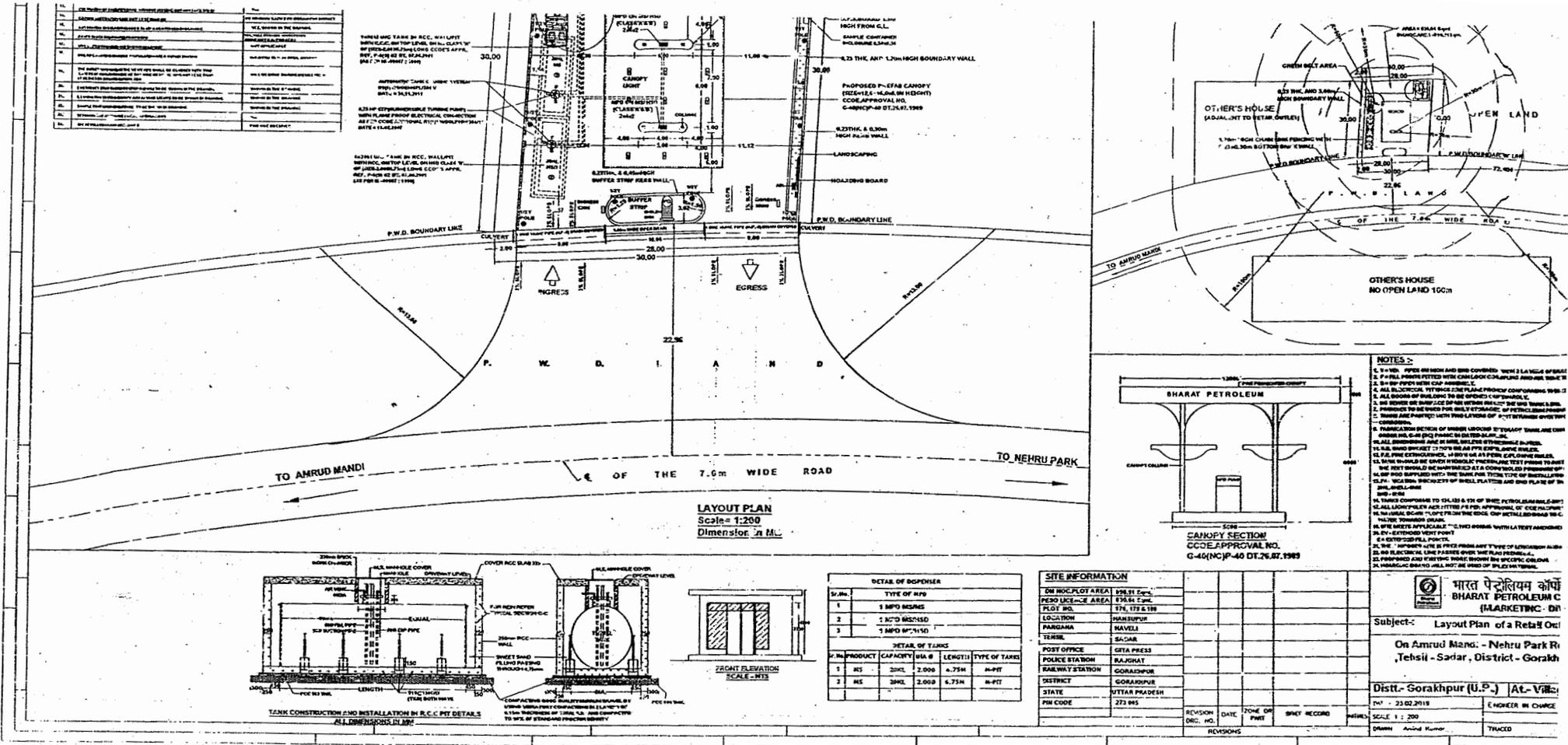
संलग्नक- यथोक्त।

(के0विजयेन्द्र पाण्डेयन)



(TRUE COPY)

Omkar Kumar Mishra



Digitally signed by Anand Kumar Singh
 Date: 2019.09.03 13:50:46 +05'30'

Digitally signed by Amit Naskar
 Date: 2019.09.03 14:47:33 +05'30'

Anand Kumar Singh

Digitally signed by Anand Kumar Singh
 Date: 2019.09.03 13:50:46 +05'30'

(TRUE COPY)

630
ANNEXURE OJ-7

134

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
भारत पेट्रोलियम का प्राधिकृत
कोलकाता क्षेत्र (रिटेल)



BHARAT PETROLEUM CORPORATION LTD.
A Govt. of India Enterprise
Kolkata Territory (Retail)

गोरखपुर / प्रादेशिक कार्यालय /NOC/हरगुपुर
अक्टूबर 19, 2022

29/10/22
22-10-22
ADM (city)

सेवा में,
जिलाधिकारी
कार्यालय जिलाधिकारी, गोरखपुर

जिलाधिकारी
गोरखपुर
19/10/22

विषय : ग्राम रांछपुरमुस्तकिल, परगना हवेली, तहसील सदर, जिला - गोरखपुर में खसरा संख्या 178,179 तथा 180 की अनापत्ति प्रमाण पत्र 575/आब0 लि0 -अना0प्र0प0/19 दिनांक 26.07.2019 की पुनः बेधत्ता के संबंध में

महोदय,

कृपया हमारे पूर्व में प्रेषित पत्रदिनांक 22, मार्च 2022 का संदर्भ ग्रहण करें।

आपके कार्यालय द्वारा उक्त स्थल पर भारत पेट्रोलियम के पक्ष में पेट्रोल पम्प स्थापित करने हेतु अनापत्ति प्रमाण पत्रदिनांक 26.07.2019 को जारी किया गया था। अनापत्ति प्रमाण पत्रकीबेददता 2 वर्ष अंकित की गई थी। कोरोना व अन्य अपरिहार्य कारणों से उक्त समायावधि में कम्पनी द्वारा पेट्रोल पम्प की स्थापना नहीं की जा सकी जिसकी पुनः बेधत्ता के संबंध में पूर्व में भी कंपनी द्वारा आवेदन किया गया था। परन्तु अभी तक हमें उक्त लोकेशन की विस्तारित NOC नहीं प्राप्त हुई है।

अतः आपसे निवेदन है कि बिषयांतर्गत लोकेशन कि पूर्व में जारी NOC को एक बार बिस्तारितकर यथाशीघ्र जारी करने कि कृपा करें, जिससे आगे कि कार्यवाही सुनिश्चित कि जा सके।

भवदीय

कृते भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड

श्री. राजकुमार शर्मा / सहायक जिलाधिकारी

प्रादेशिक प्रबंधक (रिटेल) गोरखपुर

1799

अपर जिलाधिकारी (नगर)
गोरखपुर
A.D.M. (C)

संलग्न : कॉपी ऑफ PEO अनुमोदन

22/10/22

(TRUE COPY)

Signature

ANNEXURE OJ-82084
2-11-22

(1) कार्यालय जिलाधिकारी, गोरखपुर।
 पत्रांक-45 / वी0आई0पी0-2022 दिनांक: नवम्बर-01, अक्टूबर, 2022
 विषय- ग्राम-हॉसपुर मुस्किल, परगना हवेली, तहसील-सदर, जिला-गोरखपुर में खसरा संख्या-178, 179 तथा 180 की अनापत्ति प्रमाण-पत्र सं0-575/आब0लि0/19 दिनांक 26-07-2019 की पुनः वैधता के सम्बन्ध में।

- 1- वरिष्ठ पुलिस अधीक्षक, गोरखपुर।
 2- नगर आयुक्त, नगर निगम, गोरखपुर।
 3- उप जिलाधिकारी, सदर, गोरखपुर।

कृपया उपर्युक्त विषय के सम्बन्ध में प्रेषित प्रादेशिक प्रबन्धक (रिटेल), गोरखपुर के पत्र दिनांक अक्टूबर 19, 2022 जो जिलाधिकारी महोदय के पृष्ठांकन संख्या-297 दिनांक 22-10-2022 द्वारा प्राप्त हुआ है तथा ग्राम-हॉसपुर मुस्किल, परगना हवेली, तहसील-सदर, जिला-गोरखपुर में खसरा संख्या-178, 179 तथा 180 की अनापत्ति प्रमाण पत्रसं0-575/आब0लि0/19 दिनांक 26-07-2019 की पुनः वैधता के सम्बन्ध में उक्त लोकेशन की विस्तारित एन0ओ0सी0 जारी किये जाने हेतु अनुरोध किया गया है।

अतः प्रादेशिक प्रबन्धक (रिटेल), गोरखपुर के पत्र दिनांक अक्टूबर 19, 2022 पत्र में उल्लिखित बिन्दुओं पर नियमों के परिप्रेक्ष्य में स्थलीय एवं अभिलेखीय जाँच करके यह स्पष्ट आख्या एवं संस्तुति प्रेषित करने का कष्ट करें कि प्रस्तावित भूमि की पूर्व की स्थिति में कोई परिवर्तन तो नहीं है। साथ ही आप अपने विभाग अपने से सम्बन्धित बिन्दुओं पर नियमों के परिप्रेक्ष्य में जाँच करके अनापत्ति प्रमाण-पत्र सं0-575/आब0लि0/19 दिनांक 26-07-2019 की वैधता की अवधि बढ़ाये जाने हेतु अपनी स्पष्ट संस्तुति सहित आख्या बिलम्बतम एक सप्ताह में अनिवार्य रूप से उपलब्ध कराने का कष्ट करें।
संलग्नक-यथोक्त।

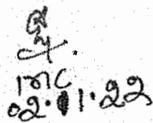
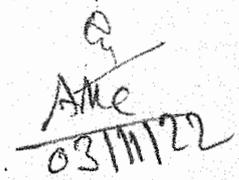


(विनीत कुमार सिंह)

अपर जिलाधिकारी (नगर)
गोरखपुर।

AMC(I)

N.TC(2022)

(TRUE COPY)

ANNEXURE OJ-9**कार्यालय जिलाधिकारी, गोरखपुर।**

पत्रांक- 47 / वी0आई0पी0-2022(अनापत्ति)

दिनांक: दिसम्बर 1, 2022

अनापत्ति प्रमाण पत्र

भारत पेट्रोलियम कारपोरेशन लिमिटेड, प्रादेशिक कार्यालय गोरखपुर के द्वारा प्रस्तुत पत्र दिनांक 27.02.2019 के संदर्भ में और पेट्रोलियम एक्ट 1934 व पेट्रोलियम नियम 2002 एवं ओ0आई0एस0डी0. 225 में उल्लिखित नियमों का कड़ाई से पालन किये जाने की शर्त पर श्री ओमकार कुमार कुशवाहा पुत्र बृज कुमार कुशवाहा, निवासी-हॉसूपुर, तहसीलदार-सदर, गोरखपुर के नाम (अमरूद मण्डी से नेहरू पार्क रोड पर) गाटा सं0-178, 179 व 180 में न्यू रिटेल आऊटलेट हेतु इस कार्यालय द्वारा निर्गत अनापत्ति प्रमाण पत्र पत्रांक-575/आब0लि0-अना0प्र0प0/19 दिनांक 26-07-2019 की अवधि बढ़ाये जाने हेतु भारत पेट्रोलियम कारपोरेशन लि0, गोरखपुर के प्रादेशिक प्रबन्धक (रिटेल), गोरखपुर के कार्यालय पत्रांक-गोरखपुर/प्रादेशिक कार्यालय/एन0ओ0सी0/हॉसूपुर अक्टूबर 19, 2022 द्वारा किये गये अनुरोध पर वरिष्ठ पुलिस अधीक्षक, गोरखपुर के कार्यालय पत्रसं0-ब-553/22 दिनांक 25-11-2022, अपर नगर आयुक्त, नगर निगम, गोरखपुर कार्यालय के पत्रांक-142/अ0न0आ0/रेन्ट/न0नि0गो0/ 2022-23 दिनांक 10-11-2022 एवं उप जिलाधिकारी सदर, गोरखपुर के कार्यालय पत्रसंख्या-1309/आशलि0 (सदर)-22 दिनांक 22 नवम्बर, 2022 द्वारा प्रेषित आख्या एवं संस्तुति के आधार पर निर्गत अनापत्ति प्रमाण पत्र पत्रांक-575/आब0लि0-अना0प्र0प0/19 दिनांक 26-07-2019 की अवधि इस कार्यालय द्वारा निर्गत तिथि से दो वर्ष तक वैध होगा। पेट्रोल पम्प निर्माण होने के उपरान्त उपयोग से पहले पुनः निरीक्षण कराकर अन्तिम स्थायी अनापत्ति प्रमाण-पत्र प्रदान किया जायेगा अन्यथा प्राविजनल अनापत्ति प्रमाण-पत्र स्वतः निरस्त समझा जायेगा।

(कृष्णा करुणेश)
जिलाधिकारी
गोरखपुर।

जिलाधिकारी
गोरखपुर

Signature
(TRUE COPY)

ANNEXURE OJ-10

गोरखपुर, विकास प्राधिकरण, गोरखपुर।

पत्रांक 47 / याद अनु० / भो० वि० प्रा० / अ० नि० / जोय-३(ख) प्र.खण्ड दिनांक 25/07/2023
 उत्तर प्रदेश नगर योजना एवं विकास अधिनियम-1973/यथा संशोधित-1987/की
 धारा 20 क (1) के अन्तर्गत निर्माण सील किये जाने से पूर्व कारण बताओं नोटिस।

सेवा में,

श्री बृज कुमार कौरह
 मुहल्ला-हासपुर हावर्ट बंधा
 थाना-राजघाट
 गोरखपुर।

आप के द्वारा भू-खण्ड संख्या-.....X..... दिनांक-12.05.2020 गोरखपुर में
 क्षेत्रीय अवर अभियन्ता द्वारा स्थल निरीक्षण के दौरान पाया गया कि मुहल्ला-हासपुर हावर्ट बंधा,
 गोरखपुर में उत्तर प्रदेश नगर नियोजन एवं विकास अधिनियम-1973 की धारा-14 व 15 के
 अन्तर्गत गोरखपुर विकास प्राधिकरण से बिना अनुज्ञा प्राप्त किये निर्माण कार्य किया जा रहा है।

आप द्वारा स्थल पर विकास कार्य (मिट्टी भरकर)। इस सम्बन्ध में अधिनियम की
 धारा-27(1), 28(1) व 28 (2) के अन्तर्गत प्राधिकरण द्वारा पूर्व में आपको वाद संख्या-19/
 2020 दिनांक-11.06.2023 को नोटिस भेजा गया था एवं आपसे यह अपेक्षा की गयी थी कि
 आप उक्त अवैध निर्माण को रोक दें, परन्तु इसके उपरान्त भी स्थल पर उपरोक्त अनाधिकृत
 निर्माण रोक नहीं गया है।

अतः उपरोक्त कारणों के दृष्टिगत आपके उक्त अनाधिकृत निर्माण को 30 प्र० नग
 नियोजन एवं विकास अधिनियम 1973 की धारा 28 क (1) के अन्तर्गत प्रदत्त अधिकारों व
 प्रयोग करते हुए सक्षम अधिकारी द्वारा सीलबन्द के आदेश प्रदान किया गया है। इस सम्बन्ध
 पत्र प्राप्ति के 3 दिन के अन्दर अधोहस्ताक्षरी को अवगत कराये कि क्यों न उक्त अवैध निर्म
 के परिसर को सीलबन्द कर दिया जाए। यदि आपका संतोषजनक उत्तर प्राप्त नहीं होता है
 निर्माण को बिना किसी भेदभाव के नियमानुसार सील कर दिया जाएगा।

सक्षम अधिकारी,
 गोरखपुर विकास प्राधिकरण
 गोरखपुर।

सत्य प्रतिलिपि

02/07/23

गोरखपुर विकास प्राधिकरण
 गोरखपुर

(TRUE COPY)

Omkar Kumar Kishore

ANNEXURE OJ-11

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
(भारत सरकार का उपक्रम)
गोरखपुर प्रादेशिक कार्यालय



BHARAT PETROLEUM CORPORATION LTD.
(A Govt. of India Enterprise)
Gorakhpur Retail Territory

संदर्भ: गोरखपुर/प्रादेशिक कार्यालय/एनओसी हांसूपुर

दिनांक: 07.11.2023

सेवा में,

जिलाधिकारी

कार्यालय जिलाधिकारी

गोरखपुर,

जिला. गोरखपुर (उ०प्र०)

विषय : अनापत्ति प्रमाण-पत्र के सम्बन्ध में।

महोदय,

कृपया अपने पत्रांक संख्या वी०आई०पी०-2022(अनापत्ति) दिनांक 01.12.2022 का संदर्भ ग्रहण करें।

आपके द्वारा दिए गए निर्देशानुसार भारत पेट्रोलियम के द्वारा प्रस्तावित स्थान हांसूपुर जिला गोरखपुर का पेट्रोल पंप निर्माण लगभग पूरा हो चुका है।

अतः आपसे निवेदन है उक्त स्थान की अंतिम स्थाई अनापत्ति प्रमाण पत्र जारी करने की कृपा करें ताकि पेट्रोलपंप से बिक्री प्रारम्भ की जा सके।

धन्यवाद!

भवदीय,

कृते : भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड

Siddhant

प्रादेशिक प्रबन्धक (रिटेल) गोरखपुर।

CIN : L26220 MH 1952 GO 1008931, E-mail : info@bharatpetroleum.in, Web : www.bharatpetroleum.in

ऑफिस- बैतालपुर डिपो, देवरिया पिन कोड-274201 (यू०पी०) फ़ैक्स (05568)-285026 फ़ोन (05568) 293138, 285225, 285267
रजिस्टर्ड ऑफिस- भारत भवन, 4 एवं 6 करीनमौय रोड, बलार्ड एस्टेट, मुम्बई-400 001 फ़ैक्स (022) 2713874 दूरभाष (022) 2713000, 2714000

Off. Baitalpur Depot, Deoria Pin-274201 (U.P.) Fax : (05568) 285026 Phone (05568) 293138, 285225, 285267
Registered Office : Bharat Bhawan 4 & 6 Curribhoy Road Ballard Estate Mumbai- 400 001 Fax (022) 2713874 Ph. (022) 2713000, 2714000

(TRUE COPY)

Siddhant

Siddhant Kumar Kushu

ANNEXURE OJ-12**गोरखपुर विकास प्राधिकरण।**

अनाधिकृत विकास को सीलबन्द करने की नियमावली (यथा संशोधित-1097) के अन्तर्गत सीलबन्द करने की कार्यवाही

- अनाधिकृत विकास/निर्माण करने वाले व्यक्ति का नाम एवं पता:- श्री बृज कुमार वर्मा
- द्वारा -28 के अन्तर्गत संस्थित वाद सं0- 19/2020
- अनाधिकृत विकास/निर्माण की चौकदी-
 पूरब - राजा गोरखपुर
 पश्चिम - जाली जमान
 उत्तर - बाउन्सीवाल
 दक्षिण - ममान
- अनाधिकृत विकास/निर्माण का प्रकार-
 स्वतः पट विकास कार्य (मिट्टीभरत)
- अनाधिकृत विकास/निर्माण की माप-
 (स्केच प्लान के साथ)
 हरतावर दिनांक सहित
 शो0 अवर अभियन्ता का नाम
- सीलबन्द करने की तिथि 09/11/2023
- सील का विवरण-
- भू-स्वामी या उनका अनुपस्थित में पर्यवेक्षण कार्य में लगे व्यक्ति का दोनों की अनुपस्थित/अनिच्छा की स्थिति में दो साक्षियों का पूरा नाम व पता

- नाम व पता Amar Nath हस्ताक्षर दिनांक 9-11-23
- नाम व पता 212 हस्ताक्षर दिनांक 9/11/23
- सील बन्द विकास/निर्माण की अभिरक्षा हेतु दिये गये व्यक्ति का नाम व पता
- समीक्षा अधिकारी की समीक्षात्मक टिप्पणी :-

अवर अभियन्ता का नाम
 हस्ताक्षर व दिनांक सहित

राजेश्वर

प्रतिलिपि-थानाध्यक्ष- गोरखपुर को आवश्यक कार्यवाही हेतु प्रेषित।

समीक्षा अधिकारी/सहायक अभियन्ता

समीक्षा अधिकारी/सहायक अभियन्ता

SI श्री राजेश्वर सिंह

जैन नगर अफिसर हैं।

18/11/2023

(TRUE COPY)

Amar Nath

कार्यालय: गोरखपुर विकास प्राधिकरण, गोरखपुर।

पत्रांक...10.ने.9...../बाद अगु0/बाग स्वण्डल जोन-03 (ख) /दिनांक...11.06.2023
 उत्तर प्रदेश नगर योजना एवं विकास अधिनियम-1973(यथा संशोधित-1997) की धारा 28 क(1) के अन्तर्गत निर्माण रील किए जाने के आदेश।

सेवा में,

श्री बृज कुमार वगैरह,
 मुहल्ला-हासूपुर हार्वट बंधा,
 थाना-राजघाट,
 गोरखपुर।

आप द्वारा मुहल्ला-हासूपुर हार्वट बंधा, गोरखपुर में आप द्वारा स्थल पर विकास कार्य (मिट्टी भरकर)।

इस सम्बन्ध में उ0प्र0 नगर नियोजन एवं विकास अधिनियम 1973 की धारा-27/28 के अन्तर्गत प्राधिकरण द्वारा पूर्व में आपको बाद संख्या-19/2010 दिनांक-11.06.2023 भेजा गया था एवं आपसे अपेक्षा की गयी थी कि आप उक्त अवैध निर्माण को रोक दें। उक्त निर्माण के उपरान्त भी स्थल पर उपरोक्त अनाधिकृत निर्माण रोक नहीं गया है और न ही स्वयं हटायों गया है। उक्त अधिनियम की धारा-27 व 28 के प्रावधानों के प्रतिकूल पाये जाने के कारण एवं आप द्वारा उपरोक्तानुसार उल्लंघन किये जाने के कारण आपको दिनांक-25.07.2023 को एक नोटिस भेजकर यह कारण बताने की अपेक्षा की गई थी कि क्यों न उक्त निर्माण को सील कर दिया जायेगा, किन्तु आपसे इस नोटिस का भी कोई सन्तोषजनक उत्तर प्राप्त नहीं हुआ है। अतः मुहल्ला-हासूपुर हार्वट बंधा, गोरखपुर में निर्माणाधीन उक्त अवैध निर्माण को अधिनियम की धारा 28 क(1) के अन्तर्गत प्रदत्त अधिकारों का प्रयोग करते हुए सील बन्द किये जाने के आदेश पारित किये जाते हैं। पर्याप्त पुलिस बल साथ लेकर क्षेत्रीय सहायक अभियन्ता द्वारा अपनी उपस्थिति में उक्त निर्माण को स्थल पर सील कराया जाए। उपरिवर्णित व्यक्तियों की अनुपस्थिति या अनिच्छा की स्थिति में उन्हें दो व्यक्तियों द्वारा साक्षित कराया जाये। इस आदेश के उपरान्त भवन में किसी भी प्रकार का प्रवेश व निर्माण पूर्णतया वर्जित है। यदि उपरोक्त आदेश का किसी भी प्रकार उल्लंघन किया जाता है, तो उस स्थिति में वैधानिक कार्यवाही की जाएगी।

सक्षम अधिकारी कृते उपाध्यक्ष,
 गोरखपुर विकास प्राधिकरण,
 गोरखपुर।

(TRUE COPY)

Omkar Kumar (Kushesh)

ANNEXURE OJ-13

सेवा में,

श्रीमान् उपाध्यक्ष महोदय
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

विषय: मु0 हासूपुर तहसील-सदर, गोरखपुर (अमरूद मण्डी से नेहरू पार्क रोड़ पर) गाटा सं0- 178/ 17. व 180 पर भारत पेट्रोलियम कार्पोरेशन लि0, गोरखपुर द्वारा स्थापित किये जा रहे न्यू रिटेल आऊटलेट को किये गये सील को खोलने के सम्बन्ध में।

महोदय,

निवेदन के साथ सादर अवगत कराना है कि जिलाधिकारी, गोरखपुर के कार्यालय का पत्रांक- 47/वी0आई0पी0-2022 (अनापत्ति) दिनांक 01.12.2022 (प्रति संलग्न) द्वारा न्यू रिटेल आऊटलेट स्थापना हेतु अनापत्ति प्रमाण पत्र प्राप्त करने के उपरान्त प्रार्थी द्वारा मु0 हासूपुर तहसील सदर गोरखपुर (अमरूद मण्डी से नेहरू पार्क रोड़ पर) गाटा सं0 178/179 व 180 पर भारत पेट्रोलियम कार्पोरेशन लि0 से प्राप्त ले-आऊट के अनुसार न्यू रिटेल आऊटलेट स्थापना का कार्य कराया जा रहा था दिनांक 09.11.2023 को महोदय के कार्यालय के द्वारा न्यू रिटेल आऊटलेट स्थापना के कार्य को सील कर दिया गया है।

अतः न्यू रिटेल आऊटलेट स्थापना हेतु जिलाधिकारी महोदय, गोरखपुर द्वारा प्रदान किये गये अनापत्ति प्रमाण पत्र भारत पेट्रोलियम कार्पोरेशन लि0 द्वारा दिये गये ले-आऊट की प्रति संलग्न कर सादर अनुरोध है कि ले-आऊट को स्वीकृत करने की कृपा करें तथा प्रार्थी के सील किये गये स्थल को खोलने की कृपा करें, जिससे लिये प्रार्थी आजीवन आभारी रहेगा।

संलग्नक:- यथोपारे।

प्रतिलिपि: सचिव, गोरखपुर विकास प्राधिकरण, गोरखपुर।

प्रार्थी

Omkar Kumar

ओमकार कुमार कुशवाहा
पुत्र श्री बृज कुमार कुशवाहा
पता-मु0 हासूपुर, थाना-राजघाट,
जनपद- गोरखपुर।
मो0नं0- 9026821144

A. E. 012

RE. Nepal.

14/11/23
sec

Ji Tandon
(TRUE COPY)

Omkar Kumar Kushwaha

638
ANNEXURE OJ-14

चतुर्थ प्रति (आवेदक) **13040** चालान संख्या
गोरखपुर विकास प्राधिकरण, गोरखपुर

मानचित्र संख्या

दिनांक...18-11-2023

नाम श्रीमती लता देवी शर्मा, 9/10 बंगला, बंगला, बंगलामोहल्ला हार्दय

निर्माण.....(आवासीय/व्यवसायिक/शैक्षिक/धार्मिक/अन्य)

जमा शुल्क का विवरण

विवरण	रु० धनराशि पै०
मानचित्र शुल्क	
विकास शुल्क	
वाह्य विकास शुल्क	
उप विभाजन शुल्क	
शमन शुल्क	200000
अम्बार शुल्क	
पर्यवेक्षण/निरीक्षण शुल्क	
सुदृढीकरण शुल्क	
जल/मलबंदी शुल्क	
इम्पैक्ट शुल्क	
प्रार्थनापत्र शुल्क/सवाल जवाब/भू-प्रयोग शुल्क	
ठीकेदार पंजीकरण/नवीनीकरण शुल्क	
टेन्डर शुल्क	
इन्जीनियर पंजीकरण/नवीनीकरण शुल्क	
डाफ्ट मैन पंजीकरण	
नवीनीकरण शुल्क	
प्लम्बिंग शुल्क	
अन्य शुल्क	200000

जमा राशि शब्दों में दो लाख 20000
शुद्ध
रु०

नकद/चेक/डाफ्ट संख्या.....

बैंक का नाम.....

जमा करने की तिथि.....

जमाकर्ता के हस्ताक्षर.....

NEFT/RTGS/UTR No./Date

यूनियन बैंक ऑफ इण्डिया/UNION BANK OF INDIA
शेखा-तारामण्डल 2 गोरखपुर/Br.Taramandal

18 NOV 2023

केवल बैंक के प्रयोगार्थ
CASH RECEIVED नकद प्राप्त किया

उपर्युक्त धनराशि प्राप्त करके प्राधिकरण के खाते में जमा किया।

दिनांक.....

(Signature)
(TRUE COPY)

639
ANNEXURE OJ-15

सेवा मे

सचिव महोदय
जोरखपुर विकास प्राधिकरण
जोरखपुर

दि-18/11/23

महोदय

सावित्र्य निवेदन करता हू कि पूर्ण
ओमप्रकाश कुमार कुशवाहा 5/0 वृष कुशवाहा
गुठ हाटपुर 2 हाट जोरखपुर नैशेला पम्प का
मिशन किया गया था जिस ले हाट लीकृत
नदी है। जिसके मद मे इन्जिन सम्म शुल्क 20000
रु जात कर दिया गया है। जिसका -पाला 13040 -
पुनिका के क शाखा जोरखपुर मे जात
कर दिया गया है। जब ले हाट लीकृत है
जाये तो हमस समापन कर दिया जाय।
कत आप नी मत ले से निवेदन है कि पूर्ण का सफल
परिसर सील खोलते की सपा कर पूर्ण
आपका प्रबन्धना-भाग करता रहेगा।

संलग्नक
-पाला 13040
वीरशीदि
दोमखुवा
200000/-

AE वास
18/11/23
see

पूर्ण
ओमप्रकाश कुमार कुशवाहा
5/0 वृष कुशवाहा -
गुठ हाटपुर (वेब गीठ)

(TRUE COPY) *Signature*

TRUE TYPED COPY OF ANNEXURE OJ-15

सेवा में,

दिनांक 18.11.23

सचिव महोदय

गोरखपुर विकास प्राधिकरण

महोदय,

सविनय निवेदन करता हूँ कि प्रार्थी ओमकार कुमार कुशवाहा पुत्र बृज कुशवाहा मु० हासुपुर शहर गोरखपुर पेट्रोल पम्प का निर्माण किया गया था जिसे ले आउट स्वीकृत नहीं है। जिसके मद में अग्रिम सम्मन शुल्क दो लाख रू० जमा कर दिया गया है। जिसका चालान सं० 13040 यूनियन बैंक शाखा गो०वि०प्रा० गोरखपुर में जमा कर दिया गया है। जब ले हाउट स्वीकृत हो जाये तो हमारा समायोजन कर दिया जाय।

अतः आप श्रीमान जी से निवेदन है कि प्रार्थी का स्थल/परिसर सोल खोलने की कृपा करे प्रार्थी आपका जीवन भर आभार करता रहेगा।

संलग्नक— चालान सं० 13040 की
रशीद दो लाख जमा 200000/-

प्रार्थी

आमकार कुशवाहा
पुत्र बृज कुशवाहा
मु० हरसुपुर चौक गो०
मो० 9026821144

।।सत्यप्रतिलिपि।।

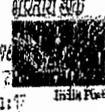
(TRUE TYPED COPY)

Omkar Kumar Kushwaaha

Omkar Kumar Kushwaaha

641
ANNEXURE OJ-16

145



ANNO 59413991N INR: 820500992
3. REFERENCE NUMBER NO. 3
Country: Nov. 23, 2024, 11:17
For CASH/POSTAL MONEY ORDER
PIN: 273001, Gurekhour HO
From: INR 60000.00 INR 60000.00
INR 20000.00 INR 17.0
INR 20.00 (Cash) INR 15.00
Trace on www.indiaonet.gov.in

संवा में,
श्रीमान् उपाध्यक्ष महोदय
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

दिषय: मु0 हासुपुर तहसील-सदर, गोरखपुर (अमरुद मण्डी से नेहरू पार्क रोड़ पर) गाटा सं0- 178, 179 व 180 पर भारत पेट्रोलियम कार्पोरेशन लि0, गोरखपुर द्वारा स्थापित किये जा रहे न्यू रिटेल आऊटलेट को किये गये सील को खोलने के सम्बन्ध में।

महोदय,

निवेदन के साथ सादर अवगत कराना है कि जिलाधिकारी, महोदय गोरखपुर के कार्यालय के पत्रांक- 47/वी0आई0पी0-2022 (अनापत्ति) दिनांक-01.12.2022 (प्रति संलग्न) द्वारा न्यू रिटेल आऊटलेट स्थापना हेतु अनापत्ति प्रमाण पत्र प्राप्त करने के उपरान्त भारत पेट्रोलियम कार्पोरेशन लि0, गोरखपुर द्वारा प्रार्थी के मु0 हासुपुर तहसील सदर गोरखपुर (अमरुद मण्डी से नेहरू पार्क रोड़ पर) गाटा सं0 178, 179 व 180 पर प्रार्थी के नाम आवंटित पेट्रोल पम्प स्थापना का कार्य दिनांक-07.11.2023 तक लगभग पूर्ण कर लिया गया था। प्रादेशिक प्रबन्धक रिटेल गोरखपुर ने अपने पत्रांक गोरखपुर/प्रादेशित कार्यालय, गोरखपुर हासुपुर दिनांक 07.11.2023 (प्रति संलग्न) द्वारा जिलाधिकारी महोदय, गोरखपुर को अवगत कराया गया था कि आप द्वारा दिये गये निर्देशानुसार भारत पेट्रोलियम के द्वारा प्रस्तावित स्थान हासुपुर जिला गोरखपुर में प्रार्थी के नाम आवंटित पेट्रोल पम्प स्थापना का कार्य लगभग पूरा हो चुका है तथा अन्तिम स्थायी अनापत्ति प्रमाण पत्र जारी करने का अनुरोध किया गया था जिससे पेट्रोल पम्प से पेट्रोल की बिक्री प्रारम्भ किया जा सकें।

गोरखपुर विकास प्राधिकरण गोरखपुर द्वारा प्रार्थी के मु0 हासुपुर तहसील सदर गोरखपुर (अमरुद मण्डी से नेहरू पार्क रोड़ पर) गाटा सं0 178, 179 व 180 पर भारत पेट्रोलियम कार्पोरेशन लि0, गोरखपुर द्वारा स्थापित हो चुके पेट्रोल पम्प को बिना किसी पूर्व सूचना के दिनांक-09.11.2023 को सील कर दिया गया। प्रार्थी द्वारा महोदय को आवेदन देकर एवं कई बार व्यक्तिगत रूप से मिलकर उपरोक्त सील किये गये पेट्रोल पम्प को खुलवाने का अनुरोध किया गया। लेकिन 3 माह से अधिक का समय व्यतीत हो जाने के बाद भी अभी तक गोरखपुर विकास प्राधिकरण गोरखपुर द्वारा सील किये गये पेट्रोल पम्प को खोला नहीं गया है।

अतः उपरोक्त के परिप्रेक्ष्य में पुनः सादर अनुरोध है कि गोरखपुर विकास प्राधिकरण, गोरखपुर द्वारा उपरोक्त सील किये गये पेट्रोल पम्प खोलने की कृपा करें, जिससे जिलाधिकारी महोदय, गोरखपुर से अन्तिम स्थायी अनापत्ति प्रमाण पत्र प्राप्त कर पेट्रोल पम्प से पेट्रोल की बिक्री प्रारम्भ किया जा सकें, जिसके लिए प्रार्थी आपका आजीवन आभारी रहेगा।

संलग्नक:- यथोपरि।

प्रार्थी

Omkar Kumar Kushwaha

ओमकार कुमार कुशवाहा
पुत्र श्री बृज कुमार कुशवाहा
पता-मु0 हासुपुर, थाना-राजघाट,
जनपद- गोरखपुर।
मो0 नं0- 9026821144

26-2-2024
गोरखपुर विकास प्राधिकरण
गोरखपुर

26-2-2024

Jitendra
(TRUE COPY)

Omkar Kumar Kushwaha

Omkar Kumar Kushwaha

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2024:AHC:52158-DB

Court No. - 40

Case :- WRIT - C No. - 8668 of 2024

Petitioner :- Omkar Kumar Kushwaha

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Akhilesh Chandra Mishra, Narendra Kumar Chaturvedi

Counsel for Respondent :- C.S.C., Narendra Pratap Singh

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard learned counsel for the parties.
2. Petitioner has prayed for a direction to the Vice Chairman of the Gorakhpur Development Authority, Gorakhpur to open the seal of Retail outlet of petitioner at Hansapur, Tehsil Sadar, District Gorakhpur. It is alleged that certain representations have been made by the petitioner and that Vice Chairman can accord consideration to it.
3. Sri N.P. Singh, learned counsel for the development authority points out that petitioner is running a commercial establishment without getting any sanctioned plan. It is submitted that orders for sealing the premises have rightly been passed and no mandamus ought to be issued in such circumstances, in favour of the petitioner.
4. Learned counsel for the petitioner states that the petitioner intends to submit a composition plan.
5. In that view of the matter, it would be appropriate to provide that in the event the petitioner submits a composition plan in accordance with the applicable building bye-laws, the claim of petitioner in that regard can always be examined by the Vice Chairman in accordance with law. As of now, we do not find any occasion to interfere in the writ petition or to direct the Vice Chairman to re-open the seal.
6. Leaving it open for the petitioner to approach the Vice Chairman with the composition plan which would be considered on its own merits and in accordance with law, this petition is consigned to records.

Order Date :- 22.3.2024

Arif

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad


(TRUE COPY)

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
(भारत सरकार का उपक्रम)
गोरखपुर प्रादेशिक कार्यालय



BHARAT PETROLEUM CORPORATION LTD.
(A Govt. of India Enterprise)
Gorakhpur Retail Territory

संदर्भ : गोरखपुर/रिटेल आउटलेट/एनआरओ हाँसूपुर 04.04.2024

सेवा में,
उपाध्यक्ष
गोरखपुर विकास प्राधिकरण
गोरखपुर,
जिला : गोरखपुर (उ०प्र०)।
महोदय,

भारत पेट्रोलियम के प्रस्तावित नये रिटेल आउटलेट ग्राम : हाँसूपुर, परगना : हवेली, तहसील : सदर, जिला : गोरखपुर में खसरा संख्या 178, 179 तथा 180 पर पम्प का संचालन होना है। जिलाधिकारी द्वारा अनापत्ति प्रमाण-पत्र भी प्राप्त है।

अतः आपसे निवेदन है कि इस पत्र के साथ संलग्न नक्शे को अनुमोदन प्रदान करने की कृपा करें ताकि आगे की कार्यवाही सुनिश्चित की जा सके।

धन्यवाद!

भवदीय,

कृते : भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड

प्रादेशिक प्रबन्धक (रिटेल) गोरखपुर।

CIN : L23220 MH 1952 GO1008931, E-mail : info@bharatpetroleum.in, Web : www.bharatpetroleum.in
ऑफिस- बैतालपुर डिपो, देवरिया पिन कोड-274201 (यू०पी०) फैक्स (05568)-285026 फोन (05568) 293138, 285225, 285267
रजिस्टर्ड ऑफिस- भारत भवन, 4 एवं 6 करीमभाँय रोड, बलार्ड इस्टेट, मुम्बई-400 001 फैक्स (022) 2713874 दूरभाष (022) 2713000, 2714000

Off. Baitalpur Depot, Deoria Pin-274201 (U.P.) Fax : (05568) 285026 Phone (05568) 293138, 285225, 285267
Registered Office : Bharat Eshwan 4 & 6 Currioboy Road Ballard Estate Mumbai- 400 001 Fax (022) 2713874 Ph. (022) 2713000, 2714000

(TRUE COPY)

[Handwritten Signature]

ANNEXURE OJ-19 (COLLY)

सेवा में,

श्रीमान् उपाध्यक्ष महोदय
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

विषय: मे0 गौं भाग्यवानी फिलिंग स्टेशन स्थित मु0 हॉसपुर मुस्तकील शहर गोरखपुर के कम्पोजिशन प्लान की स्वीकृति के सम्बन्ध में।

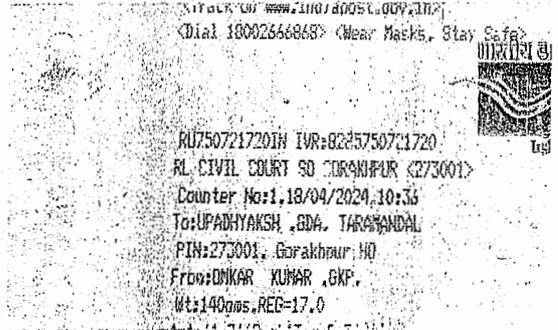
महोदय,

निवेदन है कि उक्त विषयक पेट्रोल पम्प का सीजर गोरखपुर विकास प्राधिकरण गोरखपुर द्वारा दिनांक- 09.11.2023 को कर दिया गया था जिसके सम्बन्ध में प्रार्थी द्वारा माननीय उच्च न्यायालय इलाहाबाद में एक रिट याचिका सं0- 8668/24 ओमकार कुमार कुशवाहा बनाम स्टेट ऑफ यू0पी0 आदि दाखिल किया था, जिसमें माननीय उच्च न्यायालय, इलाहाबाद ने दिनांक-22.03.2024 को आदेश पारित करते हुए प्रार्थी को आदेशित किया गया है कि वह सम्बन्धित पेट्रोल पम्प का कम्पोजिशन प्लान दाखिल करें और उस दाखिल प्लान के सम्बन्ध में श्रीमान जी निर्णय पारित करें। मा0 उच्च न्यायालय के उक्त आदेश के क्रम में प्रार्थी द्वारा प्रार्थना पत्र के साथ कम्पोजिशन प्लान संलग्न कर प्रस्तुत कर रहा है। यदि कम्पोजिशन प्लान का कोई निर्धारित शुल्क हो तो प्रार्थी द्वारा पूर्व में सचिव, गोरखपुर विकास प्राधिकरण, गोरखपुर के आदेश के क्रम में चलान संख्या-13040 दिनांक- 18.11.2023 के माध्यम से रू0 200000.00 (रू0 दो लाख मात्र) की धनराशि गोरखपुर विकास प्राधिकरण, गोरखपुर में जमा किया जा चुका है, उसका समायोजन आवश्यकता पड़ने पर कम्पोजिशन प्लान के लिए किया जाना न्याय संगत है। यदि उक्त धनराशि के अतिरिक्त कम्पोजिशन प्लान के निमित्त और भी कोई शुल्क देय होगी तो प्रार्थी उसे देने के लिए तैयार है।

अतः प्रार्थना है कि प्रार्थी के पत्र के साथ संलग्न कम्पोजिशन प्लान को स्वीकृत करते हुए पूर्व में गोरखपुर विकास प्राधिकरण, गोरखपुर द्वारा दिनांक-09.11.2023 को सम्बन्धित पेट्रोल पम्प के किये गये सीजर को भी खोलने हेतु आदेश देने की कृपा करें।

संलग्नक:-

- 1- मा0 उच्च न्यायालय द्वारा प्राप्त आदेश की मूलप्रति।
- 2- प्रादेशिक प्रबन्धक (रिटेल) भारत पेट्रोलियम, कॉर्पोरेशन लि0 गोरखपुर द्वारा उपलब्ध कराये गये कम्पोजिशन प्लान एवं आवेदन पत्र।
- 3- जिलाधिकारी महोदय, गोरखपुर द्वारा प्राप्त अनापत्ति प्रमाण पत्र की छायाप्रति।
- 4- न्यायालय उप जिलाधिकारी सदर गोरखपुर द्वारा धारा-80 के अन्तर्गत अकृषिक भूमि घोषित किये जाने के सम्बन्धी आदेश की छायाप्रति।
- 5- खतौनी की प्रमाणित छायाप्रति।
- 6- गोरखपुर विकास प्राधिकरण गोरखपुर में चलान संख्या 13040 दिनांक 18.11.2023 द्वारा जमा की गयी अग्रिम शमन शुल्क रू0 200000.00 की जमा रसीद की छायाप्रति।
- 7- प्रादेशिक प्रबन्धक (रिटेल) भारत पेट्रोलियम, कॉर्पोरेशन लि0 गोरखपुर का पत्र दिनांक-07.11.2023

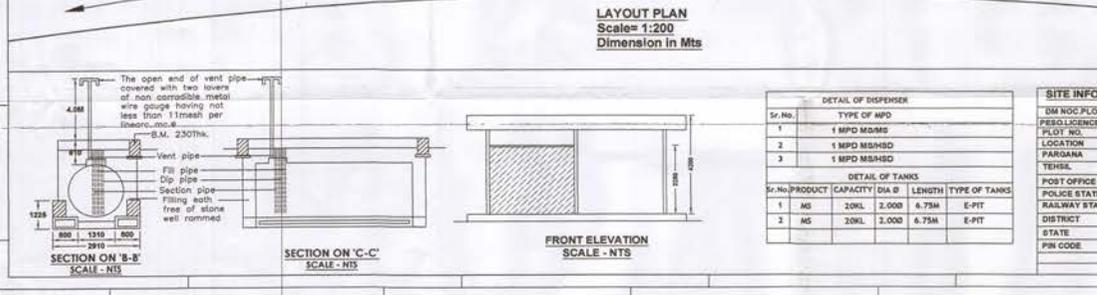
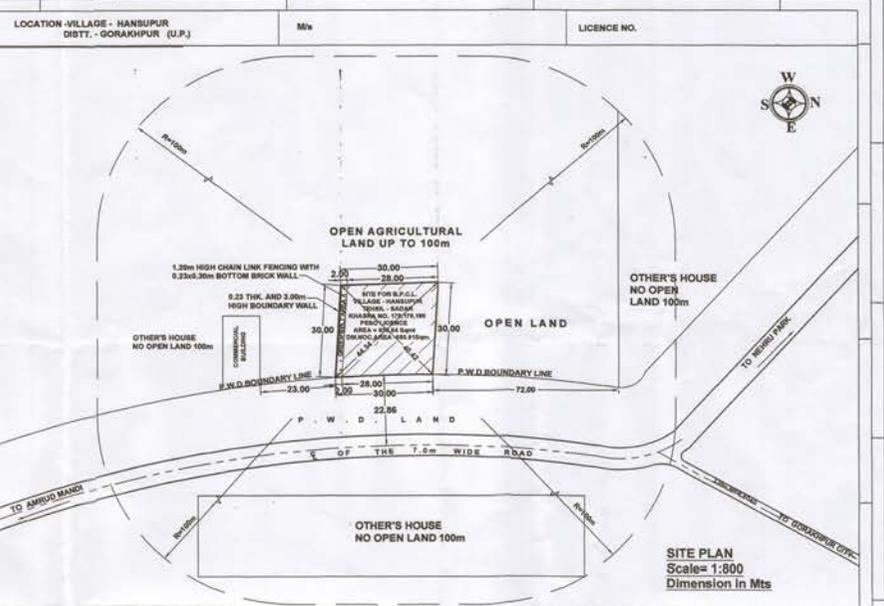
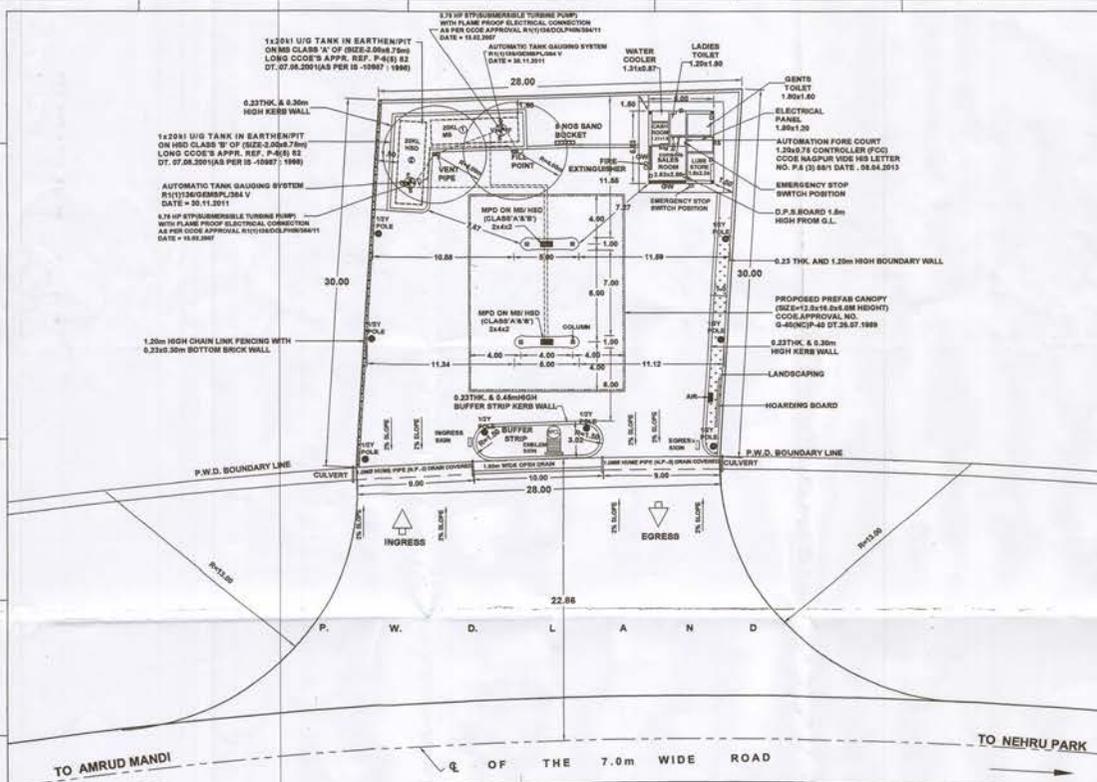


प्रार्थी

Omkar Kumar Kushwaha
ओमकार कुमार कुशवाहा
पुत्र श्री बृज कुमार कुशवाहा
पता-मु0 हॉसपुर, थाना-राजघाट,
जनपद- गोरखपुर।
मो0नं0- 9026821144

*Omkar Kumar Kushwaha***(TRUE COPY)**

COMPOSITION PLAN



DETAIL OF DISPENSER			
Sr. No.	TYPE OF MPD	QTY	REMARKS
1	1 MPD M20MS	1	
2	1 MPD M20MS	1	
3	1 MPD M20MS	1	

DETAIL OF TANKS				
Sr.No	PRODUCT	CAPACITY (DIA B)	LENGTH	TYPE OF TANKS
1	MS	200KL	2.000	6.75M E-PTT
2	MS	200KL	3.000	6.75M E-PTT

SITE INFORMATION	
DM NO. PLOT AREA	898.21 SQ.M.
PERMISSIBLE AREA	830.84 SQ.M.
PLOT NO.	T/1, T/2 & T/3
LOCATION	HANSUPUR
PARDANA	HAVELI
SADAR	TEHSIL
POST OFFICE	GITA PRESS
POLICE STATION	RAJSHYAM
RAILWAY STATION	GORAKHPUR
DISTRICT	GORAKHPUR
STATE	UTTAR PRADESH
PIN CODE	273 005

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
BHARAT PETROLEUM CORPORATION LTD.
 (MARKETING - DIVISION)

Subject:- Layout Plan of a Retail Outlet

On Amrud Mandi - Nehru Park Road ,At -VIII. Hansupur ,Tehsil - Sadar , District - Gorakhpur (U.P.) City Site

Distt. - Gorakhpur (U.P.) At. - Village -Hansupur

DATE - 23.02.2019 ENGINEER IN CHARGE TERRITORY MANAGER
 SCALE 1 : 200 DRAWING NO. BPCL/G01/2019
 DRAWN: Anand Kumar TRACED

REVISIONS: [Table with columns for No., Date, Part, Description, Initials]

Checked: Abhinav K. Tarkay, Sr. Manager (Area), Bharat Petroleum Corp. Ltd.

(TRUE COPY) *[Signature]*

ANNEXURE OJ-20 (COLLY)

संदर्भ सं० 337/सा० 347/2024

दिनांक-21/6/24

To,

The Registrar General,
Hon'ble, National Green Tribunal,
Principal Bench,
Faridkot House, Copernicus Marg,
New Delhi- 110001 .

Sub: Regarding submission of Action Taken/Compliance Report on behalf of District Magistrate, Gorakhpur in compliance to the order dated 11.10.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi in the matter of Original Application No. 613/2023, Om Prakash Gupta Versus Gorakhpur Development Authority & Ors.

Sir,

Kindly refer to the subject mentioned above. In compliance of the order passed by Hon'ble National Green Tribunal, Principal Bench, New Delhi in above matters vide its order dated 11.10.2023. The action taken report is enclosed herewith for your kind perusal and further necessary action.

Enclosures: As above

Sincerely Yours,

(Krishna Karunesh)
District Magistrate,
Gorakhpur

Copy to: Following for information and further necessary action.

1. Member Secretary, U.P.P.C.B., Lucknow.
2. Shri Pradeep Misra Advocate, Supreme Court, B-235, Sector-XIX, Noida, District-GB Nagar, 201301.
3. CEO-6, U.P.P.C.B., Lucknow.
4. CLO, U.P.P.C.B., Lucknow.

District Magistrate
Gorakhpur

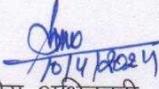
(TRUE COPY)

माननीय एन0जी0टी0 नई दिल्ली, में योजित ओ0ए0 नं0- 613/2023 में पारित आदेश दिनांक 11.10.2023 के अनुपालन में जिलाधिकारी महोदय, जनपद- गोरखपुर के पत्र दिनांक 10.11.2023 के माध्यम से गठित संयुक्त समिति द्वारा ग्राम- हासुपुर, तहसील- सदर, जनपद-गोरखपुर में प्रस्तावित डीजल/पेट्रोल पम्प के सम्बन्ध में स्थलीय निरीक्षण आख्या।

माननीय एन0जी0टी0 नई दिल्ली, में योजित ओ0ए0 नं0- 613/2023 में पारित आदेश दिनांक 11.10.2023 के अनुपालन हेतु सदस्य सचिव महोदय, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, लखनऊ के पत्र दिनांक 25.10.2023 के माध्यम से राज्य प्रदूषण नियंत्रण बोर्ड के श्री अनिल कुमार शर्मा, क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गोरखपुर सदस्य नामित किया गया है। (छायाप्रति संलग्न) जिलाधिकारी महोदय जनपद- गोरखपुर द्वारा उल्लिखित प्रकरण के जांच हेतु अपर जिलाधिकारी (नगर) को नामित किया गया है तथा सचिव, गोरखपुर विकास प्राधिकरण, गोरखपुर के पत्र दिनांक 04.01.2023 के माध्यम से प्राधिकरण की ओर से श्री किशन सिंह, प्रभारी मुख्य अभियन्ता को निर्माणाधीन पेट्रोल पम्प की जांच हेतु नामित किया गया है। उल्लिखित गठित संयुक्त समिति द्वारा उल्लिखित स्थल का निरीक्षण दिनांक 13.12.2023 को किया गया। विस्तृत निरीक्षण आख्या निम्नवत् है:-

1. उल्लिखित प्रस्तावित पेट्रोल पम्प ग्राम- हासुपुर, तहसील- सदर, जनपद-गोरखपुर के 26.738103⁰ अक्षांश एवं 83.352078⁰ देशान्तर पर स्थापित किया जा रहा है। निरीक्षण के समय उल्लिखित स्थल पर पेट्रोल पम्प स्थापित कर लिया गया है, परन्तु संचालन का कार्य नहीं किया जा रहा है।
2. उल्लिखित स्थल के उत्तर दिशा में लगभग 104 मीटर की दूरी पर मेसर्स शैलेश किराना स्टोर तथा अन्य आवासीय मकान स्थित है।
3. उल्लिखित स्थल के दक्षिण दिशा में सटे हुए मेसर्स शारदा ट्रेडिंग कम्पनी एवं अन्य आवासीय मकान स्थित है।
4. उल्लिखित स्थल के पूरब दिशा में सटे बसंतपुर - हासुपुर मार्ग तत्पश्चात आवासीय एवं व्यवसायिक भवन स्थित है।
5. उल्लिखित स्थल के पश्चिम दिशा में सटे हुए कृषि योग्य भूमि तथा लगभग 466 मीटर की दूरी पर राप्ती नदी स्थित है।
6. उल्लिखित स्थल केन्द्रीय प्रदूषण नियंत्रण बोर्ड, के निर्धारित गाईडलाइन दिनांक 07.01.2020 के अनुरूप है।
7. उल्लिखित स्थल द्वारा उल्लिखित गाटा का भू-स्वामित्व प्रमाण पत्र दिया गया है, परन्तु भू-प्रयोग प्रमाण पत्र नहीं दिया गया है।
8. उल्लिखित स्थल पर पम्प डिस्पेन्सर स्थल से 50 मीटर की दूरी पर सी0पी0सी0बी0 द्वारा निर्धारित गाईडलाइन के अनुसार अस्पताल, स्कूल, आवासीय क्षेत्र एवं हाईटेनशन इलेक्ट्रिक लाईन स्थित नहीं है।
9. गोरखपुर विकास प्राधिकरण, गोरखपुर के कार्यालय पत्रसंख्या-25/नियो0अनु0/गो0वि0प्र0/2021-22 दिनांक 10-02-2022 के द्वारा स्थलीय नियम के अनुसार राप्ती नदी के पूरब स्थित हार्बट बन्धे के पश्चिम स्थित है, जो महायोजना 2021 में बाढ़ प्रभावित क्षेत्र के रूप में प्रदर्शित है। उल्लिखित पेट्रोल पम्प का स्थल डूब क्षेत्र के अन्तर्गत है। डूब क्षेत्र में निर्माण कार्य अनुमन्य नहीं है, जिसके दृष्टिगत स्थल पर किए गए निर्माण कार्य को जी0डी0ए0 द्वारा दिनांक 16-03-2024 से सील कर दिया गया है।

अतः उपरोक्त से स्पष्ट है कि उल्लिखित प्रस्तावित पेट्रोल पम्प का स्थल डूब क्षेत्र में होने के दृष्टिगत स्थापना हेतु/निर्माण कार्य हेतु अनुमन्य नहीं है। उपरोक्त संयुक्त आख्या इकाई के प्रकरण पर अग्रिम आवश्यक कार्यवाही हेतु सादर प्रस्तुत है।

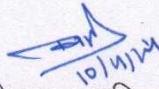

10/11/24

क्षेत्रीय अधिकारी

उ0प्र0 प्रदूषण नियंत्रण बोर्ड,

गोरखपुर

Executive Engineer
Bridging Div., Gorakhpur


10/11/24

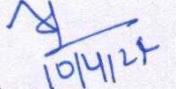
प्रभारी मुख्य अभियन्ता

गोरखपुर विकास प्राधिकरण

गोरखपुर

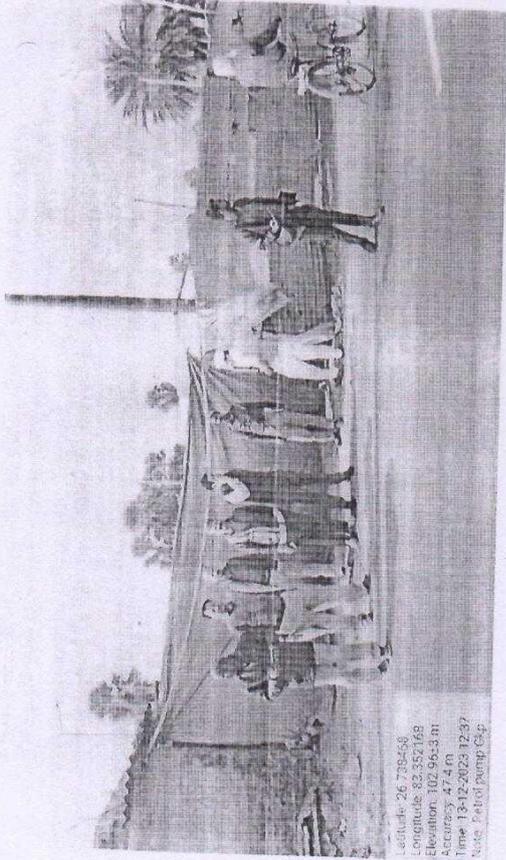
अपर जिलाधिकारी (नगर)

गोरखपुर

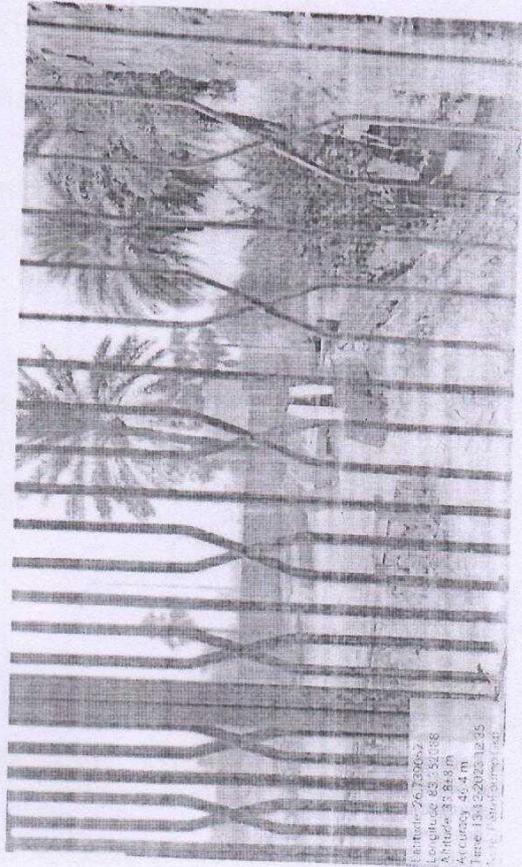

10/11/24



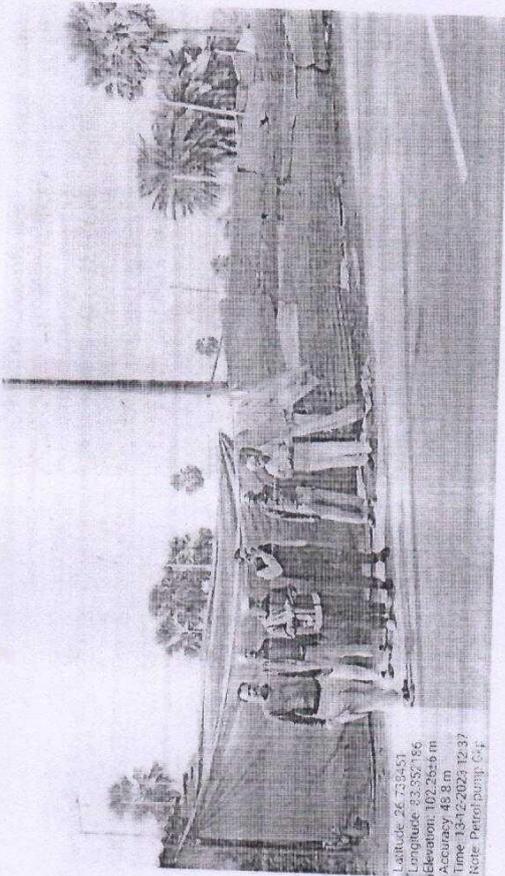
(TRUE COPY)



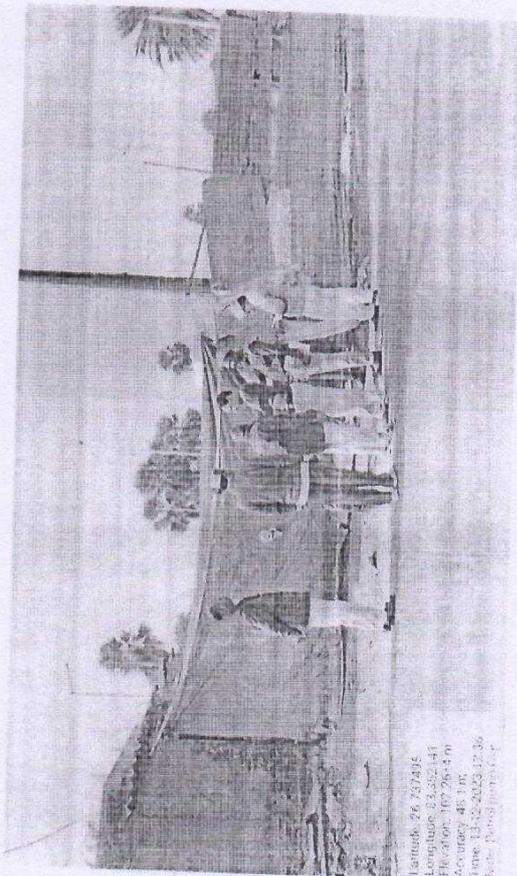
Latitude: 26.730458
 Longitude: 83.357163
 Elevation: 102.9659 m
 Accuracy: 47.4 m
 Time: 13-12-2023 12:37
 Note: Petrol pump/G.P.



Latitude: 26.730657
 Longitude: 83.357078
 Elevation: 8.8 m
 Accuracy: 46.4 m
 Time: 13-12-2023 12:35
 Note: Petrol pump/G.P.



Latitude: 26.733451
 Longitude: 83.357186
 Elevation: 102.2656 m
 Accuracy: 45.8 m
 Time: 13-12-2023 12:37
 Note: Petrol pump/G.P.



Latitude: 26.837495
 Longitude: 83.357141
 Elevation: 107.2657 m
 Accuracy: 45.1 m
 Time: 13-12-2023 12:36
 Note: Petrol pump/G.P.

P. S. London

(TRUE COPY)

कार्यालय आदेश

एतद्वारा मा० एन०जी०टी०, नई दिल्ली में योजित ओ०ए० नं० 613/2023 ओम प्रकाश गुप्ता बनाम गोरखपुर विकास प्राधिकरण एवं अन्य में पारित आदेश दिनांक 11.10.2023 के अनुपालन में संयुक्त निरीक्षण हेतु निम्नानुसार अन्तर विभागीय अधिकारियों की संयुक्त समिति गठित की जाती है:-

1. अंजनी कुमार सिंह, अपर जिलाधिकारी (नगर), गोरखपुर।
2. अनिल कुमार शर्मा, क्षेत्रीय अधिकारी, उ०प्र० प्रदूषण नियंत्रण बोर्ड, गोरखपुर।
3. अधिशासी अभिन्ता, सिचाई विभाग, गोरखपुर।
4. किशन सिंह, प्रभारी मुख्य अभियन्ता, गोरखपुर विकास प्राधिकरण, गोरखपुर।

उपरोक्त गठित समिति प्रश्नगत प्रकरण में माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा पारित आदेश दिनांक 11.10.2023 के अनुपालन में संयुक्त रूप से जाँच कर निर्धारित अवधि में अपनी आख्या प्रस्तुत करेगी, जिससे ससमय अनुपालन की स्थिति से माननीय न्यायालय को अवगत कराया जा सके।

(कृष्णा करुणेश)

जिलाधिकारी, गोरखपुर

कार्यालय जिलाधिकारी, गोरखपुर

पत्रांक 748/क्ष०अ०उ०प्र०प्र०नि०बो०गो०/एन०जी०टी०-2023

दिनांक 10-11-2023

प्रतिलिपि- निम्नलिखित को आवश्यक कार्यवाही हेतु सूचनार्थ प्रेषित।

1. सदस्य सचिव महोदय, उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
2. अध्यक्ष, गोरखपुर विकास प्राधिकरण, गोरखपुर।
3. अंजनी कुमार सिंह, अपर जिलाधिकारी (नगर), गोरखपुर।
4. अनिल कुमार शर्मा, क्षेत्रीय अधिकारी, उ०प्र० प्रदूषण नियंत्रण बोर्ड, गोरखपुर।
5. किशन सिंह, प्रभारी मुख्य अभियन्ता, गोरखपुर विकास प्राधिकरण, गोरखपुर।

जिलाधिकारी,

गोरखपुर।

(TRUE COPY)

TRUE TRANSLATED COPY OF THE RELEVANT
PORTION OF ANNEXURE OJ-20 (COLLY)

In compliance with the order dated 11.10.2023 passed in OA No- 613/2023 filed in Hon'ble NGT New Delhi, site inspection report regarding proposed diesel / petrol pump in village- Hasupur, Tehsil- Sadar, District- Gorakhpur by the joint committee constituted through letter dated 10.11.2023 of District Magistrate, District- Gorakhpur.

In compliance with the order dated 11.10.2023 passed in OA No- 613/2023 filed in Hon'ble NGT New Delhi, through letter dated 25. 10.2023 of Member Secretary, UP Pollution Control Board, Lucknow, Mr. Anil Kumar Sharma, Regional Officer, UP Pollution Control Board, Gorakhpur of State Pollution Control Board has been nominated as member. (Photocopy attached). The District Magistrate, District- Gorakhpur has nominated the Additional District Magistrate (City) to investigate the mentioned case and through the letter dated 04.01.2023 of the Secretary, Gorakhpur Development Authority, Gorakhpur, on behalf of the Authority, Shri Kishan Singh, Chief Engineer-in-Charge has been nominated to investigate the petrol pump under construction. The mentioned site was inspected on dated 13.12.2023 by the mentioned constituted joint committee. The detailed inspection report is as follows:-

1. The mentioned proposed petrol pump is being set up at



(TRUE TRANSLATED COPY)

26.738103 ° latitude and 83.352078 ° longitude of village-Hasupur, Tehsil- Sadar, District- Gorakhpur. At the time of inspection, the petrol pump has been set up at the mentioned site, but the operation is not being done.

2. M/s Shailesh Kirana Store and other residential houses are located at a distance of approximately 104 meters to the north of the mentioned site.
3. M/s Sharda Trading Company and other residential houses are located adjacent to the south of the mentioned site.
4. Basantpur Hasupur road is located adjacent to the east of the mentioned site and thereafter residential and commercial buildings are located.
5. Agricultural land is adjacent to the west of the mentioned site and Rapti river is located at a distance of approximately 466 meters.
6. The mentioned site is in accordance with the prescribed guidelines of the Central Pollution Control Board dated 07.01.2020.
7. The land ownership certificate of the mentioned plot has been given by the mentioned site, but the land use certificate has not been given.
8. As per the guidelines prescribed by CPCB, at a distance of 50 meters from the pump dispenser site at the mentioned site, there is no hospital, school, residential area and high-tension electric line.
9. As per the land rule, as per Gorakhpur Development Authority,



(TRUE TRANSLATED COPY)

Gorakhpur's office letter no. 25 / Planning Reminder / GDA / 2021-22 dated 10-02-2022, it is situated to the west of Herbert Bundha situated to the east of Rapti River, which is shown as a flood affected area in the Master Plan 2021. The site of the mentioned petrol pump is under the submergence area. Construction work is not permissible in the submergence area, in view of which the construction work done at the site has been sealed by GDA from 16-03-2024.

Therefore, it is clear from the above that the site of the mentioned proposed petrol pump is not permissible for establishment / construction work in view of being in the submergence area. The above joint report is respectfully submitted for further necessary action on the matter of the unit.

Regional Officer UP Pollution Control Board, Gorakhpur Date 10/4/22	Chief Engineer in Charge Gorakhpur Development Authority Gorakhpur Date 10/4/22	Additional District Magistrate (City) Gorakhpur Date 10/4/22
---	--	---



(TRUE TRANSLATED COPY)

653
ANNEXURE OJ-21

157

पत्रांक: २९ / नियो0अनु0 / गो0वि0प्रा0 / 2021-22

प्रेषक,

सचिव,
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

सेवा मे,

जिला पूर्ति अधिकारी,
गोरखपुर।

दिनांक: १७ / 02 / 2022

विषय: पेट्रोल पम्प की स्थापना हेतु अनापत्ति/आपत्ति दिये जाने के सम्बन्ध में।
महोदय,

कृपया उक्त विषय के संदर्भ में अपने पत्रांक: 10257/जि0पू0अ0/पेट्रोलियम/2022, दिनांक: 27.01.2022 का संदर्भ ग्रहण करने का कष्ट करे, जिसमें जिला पूर्ति अधिकारी गोरखपुर के पत्र संख्या-9554/जि0पू0अ0/पेट्रो/2021, दिनांक: 23.07.2021 के द्वारा प्रेषित श्री ओम प्रकाश गुप्ता पुत्र स्व0 राम बिलास गुप्ता, निवासी मोहल्ला-बसन्तपुर खास पोस्ट-गीता प्रेस, जनपद-गोरखपुर द्वारा शिकायती पत्र के क्रम में आराजी संख्या-178, 179 एवं 180 मोहल्ला-हाँसूपुर, तहसील-सदर जनपद-गोरखपुर पर डीजल/पेट्रोल पम्प की स्थापना हेतु गोरखपुर विकास प्राधिकरण को कोई आपत्ति नहीं है के सम्बन्ध में सुस्पष्ट आख्या प्रेषित किये जाने का अनुरोध किया गया है।

पत्र के साथ उप सचिव, माननीय मुख्यमंत्री उत्तर प्रदेश शासन के पत्र दिनांक: 14.06.2021, मा0 मुख्यमंत्री महोदय को सम्बोधित श्री ओम प्रकाश गुप्ता के प्रार्थना दिनांक: 04.06.2021, मौजा-हाँसूपुर मुस्तकिल खाता संख्या-00021 की प्रति, पारिवारिक सजरा, श्री राजकुमार कुशवाहा, श्री राहुत कुशवाहा, सोनु कुशवाहा, श्री संजय कुमार कुशवा, श्री जगदीश कुशवाहा के आधार कार्ड की छायाप्रति, भू-प्रयोग की आख्या, प्राधिकरण के पत्र दिनांक: 14.05.2020 व 27.05.2020 की छायाप्रति एवं सामाचार पत्र के कटिंग की छायाप्रति संलग्न है। पत्र के माध्यम से शिकायती पत्र में लगाये गये आरोपो के सम्बन्ध में तथ्यात्मक विवरण प्रस्तुत किये जाने के निर्देश दिये गये हैं।

पत्र के साथ संलग्न प्राधिकरण कार्यालय के पत्रांक: 869 दिनांक: 0६.06.2020 द्वारा मौजा-हाँसूपुर मुस्तकिल के अन्तर्गत आराजी संख्या-178 व 180 का भू-प्रयोग महायोजना-2021 के अनुसार 45.00 मीटर चौड़ा महायोजना मार्ग, एवं बाढ़ प्रभावित क्षेत्र है तथा आराजी संख्या-179 का भू-प्रयोग बाढ़ प्रभावित क्षेत्र है, जारी किया गया है।

उल्लेखनीय है कि प्रश्नगत स्थल, जैसाकि भू-उपयोग की आख्या एवं श्री ओम प्रकाश गुप्ता के प्रार्थना पत्र के अनुसार राप्ती नदी के पूरब स्थित, हार्बट बन्धे के पश्चिम स्थित है, जो महायोजना-2021 में बाढ़ प्रभावित क्षेत्र के रूप में प्रदर्शित है। बाढ़ प्रभावित क्षेत्र में किसी भी प्रकार की निर्माण की अनुमति दिया जाना समीचीन नहीं है।

अतः सादर सूचनार्थ प्रेषित है।

भवदीय,


(यू0पी0 सिंह)
सचिव

पत्रांक एवं दिनांक: तदैव।

प्रतिलिपि: सादर सूचनार्थ प्रेषित।

1. जिलाधिकारी महोदय, गोरखपुर को।
2. उपाध्यक्ष महोदय, गो0वि0प्रा0 को।


(यू0पी0 सिंह)
सचिव


(TRUE COPY)

TRUE TRANSLATED COPY OF ANNEXURE OJ-21

Letter No.: 25/EA/GDA/2021-22

By,
Secretary,
Gorakhpur Development Authority,
Gorakhpur.

To,
District Supply Officer,
Gorakhpur.

Date: 10/02/2022

Subject: Regarding giving no objection/objection for the installation of petrol pump.

Sir,

Please refer to your letter no. 10257/ DSO / Petroleum / 2022, dated 27/01/2022 in reference to the above subject, in which the letter of District Supply Officer Gorakhpur No-9554/DSO / Petro/2021, dated 23/07/2021 in continuation of the complaint letter sent by Shri Om Prakash Gupta S/o Late Ram Bilas Gupta, R/o Mohalla-Basantpur Khas Post-Geeta Press, District-Gorakhpur, in which it has been requested to send a clear report in this regard that Gorakhpur Development Authority has no objection to the establishment of diesel/petrol pump at Plot



(TRUE TRANSLATED COPY)

Nos. 178, 179 and 180 Mohalla Hasupur, Tehsil Sadar, District Gorakhpur.

A photocopy of the letter of the Deputy Secretary, Honorable Chief Minister, Government of Uttar Pradesh, dated: 14/06/2021 Application of Shri Om Prakash Gupta addressed to the Hon'ble Chief Minister, dated: 04/06/2021, Mauza- Hasupur Mustkil Copy of Khata No-00021, Family tree, photocopy of Aadhar card of Shri Rajkumar Kushwaha, Shri Rahul Kushwaha, Sonu Kushwaha, Shri Sanjay Kumar Kushwaha, Shri Jagdish Kushwaha, Land Use Report, Authority letter dated: 14/05/2020 And photocopy of 27/05/2020 and cuttings of newspaper is enclosed with the letter. Instructions have been given to submit factual details regarding the allegations made in the complaint letter through the letter.

As per the Land Use Master Plan 2021 of land No. 178 and 180 under Mauja- Hanspur Mustakil, as per Authority Office letter no. 869 dated 05/06/2020 attached with the letter, there is a 45.00 meter wide master plan road and flood affected area and the land use of Arazi No. 179 is flood affected area, has been issued.

It is noteworthy that the site in question, as per the land use report and the application of Shri Om Prakash Gupta, is situated to the west of Herbert Bund situated to the east of Rapti River.



(TRUE TRANSLATED COPY)

Which is shown as a flood affected area in Master Plan-2021. It is not appropriate to allow any kind of construction in the flood affected area.

Therefore, it is respectfully sent for information.

Sincerely,

Signature in English illegible

(U.P. Singh)

Secretary

Letter number and date: accordingly

Copy: Sent for your kind information.

1. To the District Magistrate, Gorakhpur.
2. To the Vice President, GDA.

Signature in English illegible

(U.P. Singh)

Secretary



(TRUE TRANSLATED COPY)

ANNEXURE OJ-22

सेवा में,

श्रीमान् उपाध्यक्ष महोदय
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

विषय: मे0 माँ भाग्यवानी फिलिंग स्टेशन स्थित मु0 हॉसूपुर मुस्तकील शहर गोरखपुर के कम्पोजिशन प्लान की स्वीकृति के सम्बन्ध में।

संदर्भ: प्रार्थी का प्रार्थना पत्र दिनांक-18.04.2024
महोदय,

उपरोक्त विषयक के सम्बन्ध में प्रार्थी ने अपने संदर्भित प्रार्थना पत्र (प्रति संलग्न) द्वारा महोदय को सादर अवगत कराया गया है कि विषयांकित पेट्रोल पम्प का सीजर गोरखपुर विकास प्राधिकरण, गोरखपुर द्वारा दिनांक- 09.11.2023 को कर दिया गया था, जिसके सम्बन्ध में प्रार्थी द्वारा माननीय उच्च न्यायालय इलाहाबाद में एक रिट याचिका सं0- 8668/24 ओमकार कुमार कुशवाहा बनाम स्टेट ऑफ यू0पी0 आदि दाखिल किया था, जिसमें माननीय उच्च न्यायालय, इलाहाबाद ने दिनांक-22.03.2024 को आदेश पारित करते हुए प्रार्थी को आदेशित किया गया है कि वह सम्बन्धित पेट्रोल पम्प का कम्पोजिशन प्लान दाखिल करें और उस दाखिल प्लान के सम्बन्ध में श्रीमान जी निर्णय पारित करें। मा0 उच्च न्यायालय के उक्त आदेश के क्रम में प्रार्थी द्वारा प्रार्थना पत्र के साथ कम्पोजिशन प्लान संलग्न कर प्रस्तुत करते हुए महोदय को अवगत कराया था कि यदि कम्पोजिशन प्लान का कोई निर्धारित शुल्क हो तो प्रार्थी द्वारा पूर्व में सचिव, गोरखपुर विकास प्राधिकरण, गोरखपुर के आदेश के क्रम में चालान संख्या-13040 दिनांक-18.11.2023 के माध्यम से रू0 200000.00 (रू0 दो लाख मात्र) की धनराशि गोरखपुर विकास प्राधिकरण, गोरखपुर में जमा किया जा चुका है, उसका समायोजन आवश्यकता पड़ने पर कम्पोजिशन प्लान के लिए किया जाना न्याय संगत है। यदि उक्त धनराशि के अतिरिक्त कम्पोजिशन प्लान के निमित्त और भी कोई शुल्क देय होगी तो प्रार्थी उसे देने के लिए तैयार है। प्रार्थी द्वारा यह अनुरोध किया गया था कि पत्र के साथ संलग्न कम्पोजिशन प्लान को स्वीकृत करते हुए पूर्व में गोरखपुर विकास प्राधिकरण, गोरखपुर द्वारा दिनांक-09.11.2023 को सम्बन्धित पेट्रोल पम्प के किये गये सीजर को भी खोलने हेतु आदेश देने की कृपा करें। किन्तु अभी तक महोदय द्वारा प्रार्थी के कम्पोजिशन प्लान को स्वीकृत करते हुए दिनांक- 09.11.2023 को विषयांकित पेट्रोल पम्प को किये गये सीजर को खोलने का आदेश नहीं दिया गया है।

अतः पुनः अनुरोध है कि प्रार्थी द्वारा किये गये आवेदन पत्र दिनांक-18.04.2024 के साथ संलग्न कम्पोजिशन प्लान को स्वीकृत करते हुए पूर्व में गोरखपुर विकास प्राधिकरण, गोरखपुर द्वारा दिनांक-09.11.2023 को सम्बन्धित पेट्रोल पम्प के किये गये सीजर को भी खोलने हेतु आदेश देने की कृपा करें, जिसके लिए प्रार्थी आजीवन आभारी रहेगा।

संलग्नक:-

- 1- मा0 उच्च न्यायालय द्वारा प्राप्त आदेश की मूलप्रति।
- 2- प्रादेशिक प्रबन्धक (रिटेल) भारत पेट्रोलियम, कॉर्पोरेशन लि0 गोरखपुर द्वारा उपलब्ध कराये गये कम्पोजिशन प्लान एवं आवेदन पत्र।
- 3- जिलाधिकारी महोदय, गोरखपुर द्वारा प्राप्त अनापत्ति प्रमाण पत्र की छायाप्रति।
- 4- न्यायालय उप जिलाधिकारी सदर गोरखपुर द्वारा धारा-80 के अन्तर्गत अकृषिक भूमि घोषित किये जाने के सम्बन्धी आदेश की छायाप्रति।
- 5- खतौनी की प्रमाणित छायाप्रति।
- 6- गोरखपुर विकास प्राधिकरण गोरखपुर में चालान संख्या 13040 दिनांक 18.11.2023 द्वारा जमा की गयी अग्रिम शमन शुल्क रू0 200000.00 की जमा रसीद की छायाप्रति।
- 7- प्रादेशिक प्रबन्धक (रिटेल) भारत पेट्रोलियम, कॉर्पोरेशन लि0 गोरखपुर का पत्र दिनांक-07.11.2023

प्रार्थी

Omkar Kumar Kushwaha

ओमकार कुमार कुशवाहा

पुत्र श्री बृज कुमार कुशवाहा

पता-मु0 हॉसूपुर, थाना-राजघाट,

जनपद- गोरखपुर।

मो0नं0- 9026821144

8/11/24
गोरखपुर विकास प्राधिकरण
गोरखपुर

Date -- 3-8-2024

(TRUE COPY)

Omkar Kumar Kushwaha

ANNEXURE OJ-23**HIGH COURT OF JUDICATURE AT ALLAHABAD**

Neutral Citation No. - 2024:AHC:149676

Court No. - 1

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6024 of 2024

Applicant :- Omkar Kumar Kushwaha

Opposite Party :- Anand Vardhan And Another

Counsel for Applicant :- Ami Tandon

Hon'ble Salil Kumar Rai,J.

Heard the counsel for the applicant.

The present contempt application has been filed pleading willful disobedience of the order dated 22.3.2024 passed by this Court in Writ - C No. 8668 of 2024.

It has been stated in the affidavit that representations along with the composition plan have been submitted by the applicant before the Gorakhpur Development Authority but no decision is being taken in the aforesaid matter by the opposite parties who are officers of the Gorakhpur Development Authority.

A reading of the order dated 22.3.2024 shows that no direction to decide within a particular time period has been issued to the opposite parties.

The absence of any direction in the order passed by the Writ Court dissuades this Court from issuing any notice in contempt to the opposite parties.

The applicant may exercise any other remedy available to him in law.

The application is ***dismissed***.

Order Date :- 13.9.2024

Satyam

Digitally signed by :-
SATYAM AGRAHARI
High Court of Judicature at Allahabad



(TRUE COPY)

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2024:AHC:159272-DB

Court No. - 29

Case :- WRIT - C No. - 32309 of 2024

Petitioner :- Omkar Kumar Kushwaha

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ami Tandon

Counsel for Respondent :- Ashok Kumar,C.S.C.,K.R.
Singh,Komal Mehrotra

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Ami Tandon, learned counsel for the petitioner, Sri Ambrish Shukla, learned Additional Chief Standing Counsel for State-respondent nos.1 and 2, Sri K.R. Singh, learned counsel for respondent no.3-Gorakhpur Development Authority (in short 'G.D.A.') and Sri Komal Mehrotra, learned counsel for respondent no.4.

2. The instant writ petition is preferred inter alia with the following reliefs :-

"(i) Issue an appropriate writ, direction or order in the nature of mandamus or any other appropriate writ for commanding/directing the respondent no.3 to grant approval and sanction to the Composition Application/Layout Plan submitted by the petitioner under Section 15 of the Uttar Pradesh Urban Planning and Development Act, 1973 on 18.04.2024 before the Respondent No.3 in respect of the layout of M/s. Maa Bhagyavani Filling Station and to permit the petitioner to commence the operations and business of the same at the concerned location i.e. Plot nos. 178, 179 and 180, village Hansupur, Tehsil Sadar on road connecting Amrud Mandi to Nehru Park, District-Gorakhpur, State Uttar Pradesh with a period of 1 month from the date of production of the certified copy of the orders of this Hon'ble Court.

(ii) Issue an appropriate writ, direction or order in the nature of mandamus or any other appropriate writ for commanding/directing the respondent no.3 to decide and consider the Composition Application/Layout Plan submitted by the petitioner under section 15 of the Uttar Pradesh Urban Planning and Development Act, 1973 on 18.04.2024 before the respondent no.3 in respect of the layout of M/s Maa Bhagyavani Filling Station at the concerned location i.e Plot nos. 178, 179 and 180 Village Hansupur, Tehsil Sadar on road connecting Amrud Mandi to Nehru Park, District-Gorakhpur, State


(TRUE COPY)

Uttar Pradesh within a period of 3 weeks from the date of production of the certified copy of the orders of this Hon'ble Court."

3. Sri K.R. Singh, learned counsel for G.D.A. placed order dated 11.10.2023 passed in Original Application No.613 of 2023 (Om Prakash Gupta vs. Gorakhpur Development Authority and others) by the National Green Tribunal, Principal Bench, New Delhi (in short, 'N.G.T.'). He apprised that the disputed site is situated in the flood plain area of Rapti river. A complaint was made before the N.G.T. regarding illegal construction over the disputed site as the same is situated in flood plain area of Rapti river and is extremely sensitive in nature and such an illegal construction would encourage other illegal activity in the area and will have adverse effect on the environment and on the integrity of the rivers. It is also apprised that later on a three member Committee was constituted and a fact finding report dated 10.04.2024 was also submitted before the N.G.T. Learned counsel for G.D.A., in this backdrop, states that as the matter is seized before the N.G.T. and admittedly the disputed site is situated in the flood plain area of Rapti river, in such a situation, G.D.A. has taken decision not to accord any such permission for sanction of map under the provisions of U.P. Urban Planning and Development Act, 1973. He further states that in case the petitioner is aggrieved, he may approach N.G.T. for redressal of his grievances.

4. Considering the objection so raised by learned counsel for G.D.A., we are not inclined to entertain the instant writ petition. Needless to say that it is open to the petitioner to press the relief before the N.G.T.

5. With the aforesaid leave, the writ petition stands **disposed of**.

Order Date :- 30.9.2024

Manish Himwan

Digitally signed by :-
MANISH HIMWAN
High Court of Judicature at Allahabad


(TRUE COPY)

ANNEXURE OJ-25

महत्वपूर्ण

संख्या-164 /2020 /2031/20-27-सिं0-4-07(एन0जी0टी0) /16टी0सी0

प्रेषक,

अनिल गर्ग,
सचिव,
उत्तर प्रदेश शासन।

सेवा में,

- | | |
|--|--|
| 1. अपर मुख्य सचिव/प्रमुख सचिव, नगर विकास विभाग, उ0प्र0 शासन। | 2. अपर मुख्य सचिव/प्रमुख सचिव, आवास एवं शहरी नियोजन विभाग, उ0प्र0, शासन। |
| 3. अपर मुख्य सचिव/प्रमुख सचिव, राजस्व विभाग, उ0प्र0 शासन। | 4. प्रमुख अभियन्ता एवं विभागाध्यक्ष, सिंचाई एवं जल संसाधन विभाग, उ0प्र0, लखनऊ। |

सिंचाई एवं जल संसाधन अनुभाग-4

लखनऊ: दिनांक: 04 सितम्बर, 2020

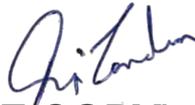
विषय: मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 सं0-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया व अन्य में पारित आदेश दिनांक 13.07.2017 के अनुपालन में केन्द्रीय जल आयोग द्वारा मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली के समक्ष प्रस्तुत रिपोर्ट के क्रियान्वयन के क्रम में फ्लड प्लेन जोन घोषित किये जाने के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक में मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 संख्या-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया व अन्य में पारित आदेश दिनांक 13.07.2017 एवं सिंचाई एवं जल संसाधन अनुभाग-3 उ0प्र0 शासन लखनऊ के पत्रांक-1149/18-27-सिं0-3-52एल/18, दिनांक 17 अक्टूबर 2018 का सन्दर्भ ग्रहण करने की कृपा करें, जिसके द्वारा मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 सं0-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया एवं अन्य में दिनांक 13.07.2017 को पारित आदेश में दिये गये निर्देशों के अनुपालन में प्रदेश के सीमान्तगत जनपद बिजनौर से उन्नाव, कानपुर तक गंगा नदी के दोनों किनारों से 100 मी0 तक किसी भी प्रकार के निर्माण, अतिक्रमण, व्यवसायिक गतिविधि, पट्टे, नीलामी, प्रदूषण करने वाली गतिविधियां एवं सभी गतिविधियों को रोके जाने हेतु उक्त क्षेत्र को “नो डेवलपमेंट/नो कंस्ट्रक्शन जोन” अधिसूचित किया गया था।

2. उक्त विषयक प्रमुख अभियन्ता एवं विभागाध्यक्ष सिंचाई एवं जल संसाधन विभाग, उ0प्र0 के पत्र संख्या-232/प्र0अ0/मु0अ0ज0सं0, दिनांक 06 अगस्त, 2020 द्वारा, मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 सं0-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया व अन्य में पारित आदेश दिनांक 13.07.2017 के अनुपालन में केन्द्रीय जल आयोग द्वारा मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली के समक्ष प्रस्तुत रिपोर्ट के क्रियान्वयन के क्रम में फ्लड प्लेन जोन घोषित किये जाने के सम्बन्ध में प्रदेश के 16 जनपदों को नो डेवलपमेंट जोन/रेग्युलेटरी जोन के लांगीट्यूड/लैटिट्यूड एवं नो डेवलपमेंट जोन/रेग्युलेटरी जोन अधिसूचित किये जाने का प्रस्ताव उपलब्ध कराया गया है।

3. इस सम्बन्ध में मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 सं0-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया व अन्य में पारित आदेश दिनांक 13.07.2017 एवं सिंचाई एवं जल संसाधन अनुभाग-3 उत्तर प्रदेश शासन लखनऊ के पत्रांक-1149/18-27-सिं0-3-52एल/18, दिनांक 17 अक्टूबर 2018 का सन्दर्भ ग्रहण करें, जिसके द्वारा मा0 राष्ट्रीय हरित अधिकरण नई दिल्ली में विचाराधीन ओ0ए0 सं0-200/2014 एम0सी0 मेहता बनाम यूनियन आफ इण्डिया एवं अन्य में दिनांक 13.07.2017 को पारित आदेश में दिये गये निर्देशों के अनुपालन में प्रदेश के सीमान्तगत जनपद बिजनौर से उन्नाव, कानपुर तक गंगा नदी के दोनों किनारों से 100 मी0 तक किसी भी प्रकार के निर्माण, अतिक्रमण, व्यवसायिक गतिविधि, पट्टे, नीलामी, प्रदूषण करने वाली गतिविधियां एवं सभी गतिविधियों को रोके जाने हेतु उक्त क्षेत्र को “नो डेवलपमेंट/नो कंस्ट्रक्शन जोन” अधिसूचित किया गया है।


(TRUE COPY)

गंगा नदी के किनारों में हो रहे अवैध निर्माण/अतिक्रमण को रोकने में सम्बन्धित विभागों का प्रभावी नियंत्रण न होने पर मा० राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा विचाराधीन ओ०ए० सं०-200/2014 एम०सी० मेहता बनाम यूनियन आफ इण्डिया एवं अन्य में दिनांक 13.07.2017 को पारित आदेश में निम्न निर्देश दिये गये हैं:-

"Till the demarcation of the flood plains and identification of permissible and non-permissible activities by the state government of this judgment, we direct that 100 meters from the edge of the river would be treated as no development/construction zone in segment-B of Phase-I (Haridwar to Unnao, Kanpur)"

मा० राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा उक्त आदेश में सेगमेंट बी फेज-1 (हरिद्वार से उन्नाव, कानपुर) तक गंगा नदी के किनारों से 100 मी० तक नो डेवलपमेंट/नो कंस्ट्रक्शन जोन बनाये जाने हेतु निर्देशित करते हुए सिंचाई विभाग, उ०प्र० एवं नगर विकास विभाग को उपरोक्त कार्य के लिए नोडल एजेंसी बनाया गया है।

4. केन्द्रीय जल आयोग द्वारा मा० राष्ट्रीय हरित अधिकरण नई दिल्ली द्वारा विचाराधीन ओ०ए० सं०-200/2014 एम०सी० मेहता बनाम यूनियन आफ इण्डिया एवं अन्य में फ्लड प्लेन जोन के चिन्हांकन के सम्बन्ध में अन्तिम रिपोर्ट प्रस्तुत की गयी, जिसमें प्रदेश के सीमान्तगत जनपद बिजनौर, अमरोहा, मुजफ्फरनगर, मेरठ, हापुड, बुलंदशहर, अलीगढ़, काशीराम नगर, फर्रुखाबाद, कन्नौज, सम्भल, बदायूँ, शाहजहांपुर, हरदोई, उन्नाव एवं कानपुर में गंगा नदी के दोनों किनारों पर नो डेवलपमेंट जोन एवं रेग्युलेटरी जोन के लांगीट्यूड एवं लैटिट्यूड उपलब्ध कराये गये हैं।

5. प्रदेश के सीमान्तगत निम्नलिखित जनपदों में केन्द्रीय जल आयोग द्वारा उपलब्ध कराये गये लांगीट्यूड एवं लैटिट्यूड के आधार पर नो डेवलपमेंट एवं रेग्युलेटरी जोन अधिसूचित किया जाना प्रस्तावित किया जाता है:-

क्रमांक	जनपद	लांगीट्यूड एवं लैटिट्यूड
1.	बिजनौर	संलग्नक-1 (क) एवं 1 (ख)
2.	अमरोहा	संलग्नक-2 (क) एवं 2 (ख)
3.	मुजफ्फरनगर	संलग्नक-3 (क) एवं 3 (ख)
4.	मेरठ	संलग्नक-4 (क) एवं 4 (ख)
5.	हापुड	संलग्नक-5 (क) एवं 5 (ख)
6.	बुलंदशहर	संलग्नक-6 (क) एवं 6 (ख)
7.	अलीगढ़	संलग्नक-7 (क) एवं 7 (ख)
8.	काशीराम नगर	संलग्नक-8 (क) एवं 8 (ख)
9.	फर्रुखाबाद	संलग्नक-9 (क) एवं 9 (ख)
10.	कन्नौज	संलग्नक-10 (क) एवं 10 (ख)
11.	सम्भल	संलग्नक-11 (क) एवं 11 (ख)
12.	बदायूँ	संलग्नक-12 (क) एवं 12 (ख)
13.	शाहजहांपुर	संलग्नक-13 (क) एवं 13 (ख)
14.	हरदोई	संलग्नक-14 (क) एवं 14 (ख)
15.	उन्नाव	संलग्नक-15 (क) एवं 15 (ख)
16.	कानपुर	संलग्नक-16 (क) एवं 16 (ख)

उपर्युक्त (क) में जनपद के नो डेवलपमेंट जोन के लांगीट्यूड एवं लैटिट्यूड दर्शाये गये हैं तथा (ख) में जनपद के रेग्युलेटरी जोन के लांगीट्यूड एवं लैटिट्यूड दर्शाये गये हैं।

6. जनपद के सिंचाई विभाग उ०प्र० के सम्बन्धित अधिशासी अभियन्ता (बाढ़ खण्ड) एवं जिन जनपदों में अधिशासी अभियन्ता (बाढ़ खण्ड) पदस्थापित नहीं हैं, वहां पर अधिशासी अभियन्ता (नोडल) के द्वारा नो डेवलपमेंट जोन एवं रेग्युलेटरी जोन नक्शे पर एवं कार्यस्थल पर चिन्हित कराया जायेगा।


(TRUE COPY)

7. केन्द्रीय जल आयोग द्वारा मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में प्रेषित अन्तिम रिपोर्ट के आधार पर नो डेवलपमेंटजोन में निम्न प्रकार की गतिविधियां ही अनुमन्य होंगी:-

- (i) अस्थाई निर्माण- राष्ट्रीय स्वच्छ गंगा मिशन की पूर्व अनुमति के उपरान्त दैविक/प्राकृतिक आपदा या धार्मिक/सांस्कृतिक आयोजनों हेतु अस्थाई निर्माण कार्य।
- (ii) एम0ओ0इ0एफ0 एण्ड सी0सी0 की गाइड लाइन्स के तहत नियंत्रित बालू/पत्थर/बजरी/ रिवर बेड मैटेरियल का खनन।
- (iii) जिला प्रशासन की पूर्व अनुमति के उपरान्त संरक्षित स्मारक, मन्दिर, बोटिंग जेटीज, पार्क, घाट एवं शमशानघाट का अनुरक्षण एवं पुनरोद्धार।
- (iv) जैविक खेती।
- (v) स्थानीय पेड़ों/पौधों का व्यवसायिक गतिविधियों हेतु पौधारोपण।
- (vi) बाढ़ कटाव एवं नियंत्रण, रिवर वाटर वे की डिसिल्टिंग।
- (vii) क्षतिग्रस्त बंधों की मरम्मत एवं पुनरोद्धार/अनुरक्षण।
- (viii) नदी के किनारे सांस्कृतिक/धार्मिक व अन्य सामान्य प्रयोजनों हेतु कच्चे रास्तों का निर्माण।
- (ix) जल परिवहन, जल क्रीड़ा एवं नैविगेशन से सम्बन्धित गतिविधियां।
- (x) नदी जल के भण्डारण, डायवर्जन एवं अन्य प्रयोजनों हेतु हाइड्रोलिक अभियांत्रिक संरचनायें।
- (xi) सभी मौजूदा स्थायी/अस्थायी आवासीय व्यवसायिक/औद्योगिक व अन्य प्रयोजनों हेतु पूर्व निर्मित संरचनायें, जिनको राष्ट्रीय स्वच्छ गंगा मिशन के द्वारा स्थलीय निरीक्षण के उपरान्त नदी के प्रवाह में अवरोध एवं प्रदूषण के प्राविधानों पैरा-6 (3) जल संसाधन मंत्रालय नदी विकास एवं गंगा जीर्णोद्धार के अधिसूचना सं0-एस0ओ0-3187 (इ), दिनांक 7 अक्टूबर 2016 (समय-समय पर संशोधित) के आधार पर अनुमन्य संरचनायें।

उक्त जोन को फ्लड प्लेन जोन के रूप में ही संरक्षित किया जायेगा एवं अन्य सभी गतिविधियों को तत्काल प्रभाव से बन्द या विस्थापित किया जायेगा।

8. केन्द्रीय जल आयोग द्वारा मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में प्रेषित अन्तिम रिपोर्ट के आधार पर रेग्युलेटरी जोन में निम्न गतिविधियां अनुमन्य होंगी।

- (i) केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा चिन्हित रेड श्रेणी के उद्योग प्रतिबन्धित रहेंगे।
- (ii) उत्तर प्रदेश आवास विकास/शहरी विकास/नगर पालिका/ग्रामीण विकास परिषद द्वारा अनुमन्य आवासीय/व्यवसायिक/संस्थागत/स्कूल/उपचार केन्द्र का निर्माण, जिनका प्लिथ लेवल फ्लड लाइन के ऊपर हो एवं छत अथवा प्रथम तल का लेवल 100 वर्ष के बाढ़ के लेवल से ऊपर हो तथा छत अथवा प्रथम तल पर जाने हेतु सीढ़ियों का रास्ता हो, का निर्माण कार्य।
- (iii) नदी जल के भण्डारण, डायवर्जन एवं अन्य प्रयोजनों हेतु हाइड्रोलिक अभियांत्रिक संरचनायें।
- (iv) प्रदूषण मुक्त घरेलू उद्योग।
- (v) पुलों, सड़कों व अन्य सामान्य सुविधाओं का निर्माण/विस्तार/आधुनिकीकरण।
- (vi) जल मार्ग सुविधा के कार्य।
- (vii) केन्द्रीय प्रदूषण नियंत्रण बोर्ड के द्वारा अनुमन्य ग्रीन एवं ओरेंज श्रेणी के उद्योग।
- (viii) जल क्रीड़ा एवं जल परिवहन से सम्बन्धित गतिविधियां।
- (ix) स्टोन क्रसिंग प्लांट।

उक्त जोन को रेग्युलेटरी जोन के रूप में ही संरक्षित किया जायेगा एवं अन्य सभी गतिविधियों को तत्काल प्रभाव से बन्द या विस्थापित किया जायेगा।

9. ग्रामीण क्षेत्रों में पूर्व में चल रही गतिविधियों/नई गतिविधियों या अतिक्रमण की स्थिति में सम्बन्धित अधिशासी अभियन्ता जनपद के जिलाधिकारी के माध्यम से शासनादेशों में निहित प्राविधानों के तहत प्रभावी कार्यवाही सुनिश्चित करेंगे। शहरी क्षेत्रों में अतिक्रमण की स्थिति में सम्बन्धित नगर पालिका/नगर विकास विभाग/नगर निगम/विकास प्राधिकरण द्वारा प्रभावी कार्यवाही की जायेगी।


(TRUE COPY)

10. जिलाधिकारी स्तर पर नो डेवलपमेंट/रेग्युलेटरी जोन की निगरानी के लिए प्रत्येक माह बैठक आहूत की जायेगी। विभागाध्यक्ष स्तर पर भी प्रत्येक माह इस सम्बन्ध में बैठक आहूत कर उक्त बिन्दुओं पर चर्चा/परिचर्चा करते हुए सुसंगत आख्या शासन को उपलब्ध करायेगे तथा किसी भी प्रकार के अतिक्रमण को रोकने/हटवाने के लिए सम्बन्धित जिले के जिलाधिकारी प्रभावी कार्यवाही सुनिश्चित करेंगे।
11. आर0बी0ओ0 एक्ट, यू0पी0 अर्बन प्लानिंग एण्ड डेवलपमेंट एक्ट-1973 तथा इंडस्ट्रियल डेवलपमेंट एक्ट-1976 के अन्तर्गत नो डेवलपमेंट/रेग्युलेटरी जोन में किसी भी प्रकार के निर्माण कार्य हेतु कोई अनापत्ति प्रमाण-पत्र नहीं दिया जायेगा, और न ही भू-मानचित्र स्वीकृत किया जायेगा। उक्त प्रकार के अवैध निर्माण को रोकने हेतु उक्त अधिनियमों के प्राविधानों के अन्तर्गत प्रभावी कार्यवाही की जायेगी।
12. ऐसे क्षेत्र जो बिन्दु सं0-(6), (7) एवं (10) से अच्छादित नहीं हैं, उसमें औचित्य पाये जाने पर नार्दन इण्डिया कैनाल एवं ड्रेनेज एक्ट-1873 की धारा-55 के अन्तर्गत क्षेत्रों को अधिसूचित करते हुए जिलाधिकारी के माध्यम से बिन्दु सं0-08 में उल्लिखित एजेंसियों द्वारा अपने-अपने कार्य क्षेत्र में अवैध निर्माण को हटाने के लिए प्रभावी कार्यवाही की जायेगी साथ ही सी0आर0पी0सी0 की धाराओं में भी समानान्तर कार्यवाही की जाये।
13. जिलाधिकारी द्वारा यू0पी0 फ्लड इमरजेंसी पावर (एक्रीजीशन एवं रिक्रीजीशन) एक्ट 1991 का प्रभावी प्रयोग किया जाये।
14. सम्बन्धित एजेंसियों द्वारा नदियों के नो डेवलपमेंट/रेग्युलेटरी जोन में अवैध निर्माणकर्ताओं को सचेत किया जाये कि वह अपने अवैध निर्माण को तुरन्त हटा लें। यह भी स्पष्ट कर दिया जाये कि अवैध निर्माण के कारण बाढ़ से होने वाली क्षति की कोई प्रतिपूर्ति शासन द्वारा नहीं की जायेगी तथा बाढ़ सुरक्षा कार्य नहीं कराये जायेंगे, साथ ही अवैध निर्माण से होने वाली क्षति की वसूली अवैध निर्माणकर्ताओं से की जायेगी। अवैध निर्माण/अतिक्रमण को स्वेच्छा से हटाने का प्रयास किया जाये। यदि स्वेच्छा से न हटाया जाये तो उपरोक्त प्रस्तर (10) तथा (11) की विधिक व्यवस्थाओं के अधीन कार्यवाही की जाये। सम्बन्धित विकास प्राधिकरणों/औद्योगिक विकास प्राधिकरणों एवं नगर पालिका परिषदों द्वारा अधिनियम में वर्णित प्राविधानों के अन्तर्गत अवैध निर्माणकारियों के विरुद्ध प्रभावी कार्यवाही की जाये।
15. सम्बन्धित जनपद के वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक द्वारा सम्बन्धित थानाध्यक्षों के माध्यम से नो डेवलपमेंट/रेग्युलेटरी जोन में अवैध निर्माण/अतिक्रमण को नियंत्रित करने के लिए प्रभावी कार्यवाही सुनिश्चित की जाये।
16. सिंचाई विभाग की भूमि पर अवैध अतिक्रमण की स्थिति उत्पन्न होते ही पुलिस एवं जिला प्रशासन के द्वारा बलपूर्वक हटाये जाने की व्यवस्था नो डेवलपमेंट/रेग्युलेटरी जोन में भी कड़ाई से अनुपालन कराया जाये।
17. नो डेवलपमेंट/रेग्युलेटरी जोन में अतिक्रमण/अवैध निर्माण हटाये जाने हेतु अपेक्षित कार्यवाही न करने पर सम्बन्धित विभागों के अधिकारियों/कर्मचारियों के विरुद्ध कठोर दण्डात्मक कार्यवाही की जाये।
18. अतिक्रमणकारियों/अवैध निर्माणकर्ता को राशन कार्ड, बिजली कनेक्शन, पानी कनेक्शन आदि राजकीय सुविधायें उपलब्ध न कराई जायें।
19. प्रकरण में विभागाध्यक्ष, सिंचाई विभाग, उ0प्र0 के दिनांक 06.08.2020 के उपरोक्त प्रस्तावानुसार मा0 एन0जी0 टी0 के आदेशों के अनुपालन में उ0प्र0 की सीमान्तर्गत जनपद बिजनौर से उन्नाव, कानपुर तक गंगा नदी के दोनों किनारों से अंकित लांगीट्यूड एवं लैटिट्यूड तक नो डेवलपमेंट/नो कन्स्ट्रक्शन जोन अधिसूचित किये जाने की अधिसूचना निर्गत करते हुए अधिसूचित जोन में किसी भी प्रकार के निर्माण/अतिक्रमण को रोकने हेतु उपर्युक्त उल्लिखित सम्बन्धित एजेंसियों द्वारा यथापेक्षित कार्यवाही की जायेगी।
20. उक्त शासनादेश पूर्व में सिंचाई एवं जल संसाधन अनुभाग-3 द्वारा शासनादेश संख्या-1149/18-27-सिं0-3-52एल/18, दिनांक 17 अक्टूबर, 2018 को अतिक्रमित करते हुए तदनुसार कार्यवाही किये जाने हेतु निर्गत किया जा रहा है।
21. उक्त निर्देशों का कड़ाई से अनुपालन सुनिश्चित किया जाये।

भवदीय,

अनिल गर्ग
सचिवा


(TRUE COPY)

संख्या-164/2020/2031(1)/20-27-सिं0-4 तद्दिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. मुख्य सचिव, उ0प्र0 शासना।
2. अध्यक्ष राजस्व परिषद, प्रयागराज।
3. अपर मुख्य सचिव/प्रमुख सचिव, वन एवं पर्यावरण एवं जलवायु परिवर्तन विभाग, उ0प्र0 शासना।
4. अपर मुख्य सचिव/प्रमुख सचिव, भूतत्व एवं खनिकर्म विभाग, उ0प्र0 शासना।
5. अपर मुख्य सचिव/प्रमुख सचिव, औद्योगिक विकास विभाग, उ0प्र0 शासना।
6. अपर मुख्य सचिव/प्रमुख सचिव, कृषि विभाग, उ0प्र0 शासना।
7. सदस्य सचिव, प्रदूषण नियंत्रण बोर्ड लखनऊ।
8. आवास आयुक्त, उ0प्र0 आवास विकास परिषद, लखनऊ।
9. प्रमुख अभियन्ता (परियोजना), सिंचाई एवं जल संसाधन विभाग, उ0प्र0, प्रमुख अभियन्ता (परिकल्प एवं नियोजन) सिंचाई एवं जल संसाधन विभाग, उ0प्र0 एवं प्रमुख अभियन्ता (यांत्रिक), सिंचाई एवं जल संसाधन विभाग, उ0प्र0 लखनऊ।
10. संबंधित जनपद के जिलाधिकारी/वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, उ0प्र0।
11. संबंधित जनपद के मुख्य कार्यकारी अधिकारी, औद्योगिक विकास प्राधिकरण, उ0प्र0।
12. संबंधित जनपद के विकास प्राधिकरण के उपाध्यक्ष, उ0प्र0।
13. संबंधित जनपद के प्रशासक/मुख्य नगर अधिकारी, नगर निगम/नगर पालिका, उ0प्र0।
14. संबंधित क्षेत्र के नगर पालिका परिषद/नगर पंचायत के अध्यक्ष, उ0प्र0।
15. समस्त विनियमित क्षेत्रों के नियत प्राधिकारी, उ0प्र0।
16. संबंधित क्षेत्र के अध्यक्ष, विशेष क्षेत्र विकास प्राधिकरण, उ0प्र0।
17. निदेशक, सूचना एवं जनसम्पर्क विभाग को इस आशय से प्रेषित की उक्त सूचना प्रदेश के व्यापक प्रचार-प्रसार वाले दैनिक समाचार पत्रों में प्रकाशित कराते हुए स्थानीय दूरदर्शन पर समाचार के माध्यम से प्रसारित कराने का कष्ट करें।
18. सिंचाई एवं जल संसाधन अनुभाग-2 को उपर्युक्त प्रस्तर-9 के अनुसार कार्यवाही सुनिश्चित किये जाने हेतु।
19. सिंचाई एवं जल संसाधन विभाग के समस्त अनुभाग।
20. गार्ड फाईल।

आज्ञा से,

मुश्ताक अहमद
विशेष सचिव।


(TRUE COPY)

666
ANNEXURE OJ-26 (COLLY)

170

चगोरखपुर विकास प्राधिकरण, गोरखपुर।
भू-प्रयोग हेतु सूचना प्राप्त करने का आवेदन पत्र

सेवा में,

नगर नियोजक

गोरखपुर विकास प्राधिकरण

गोरखपुर।

पत्रांक: 7757/नियोजन/गो.वि.प्रा./२०२३-२४,

Rs.-50.00

Cn.-34236

Date-23.02.2024

दिनांक: 7/03/२०२४

प्रश्न	उत्तर
<p>कृपया यह बताने का कष्ट करें कि मौजा- <u>दोंडपुर</u> <u>मुहल्ले का 178</u>, तप्पा- <u>कलना</u> परगना <u>हवेली</u>, तहसील <u>सदर</u> जिला <u>गोरखपुर</u> की आराजी संख्या- <u>178</u> का भू-प्रयोग महायोजना-2021 के अनुसार क्या है?</p>	<p>इस कार्यालय में उपलब्ध सजरा मानचित्र के अनुसार मौजा- <u>दोंडपुर</u> के अन्तर्गत आराजी संख्या- 178 का भू-प्रयोग महायोजना-2021 के अनुसार 45:00 मीटर चौड़ा बन्धा मार्ग तथा बाढ़ प्रभावित क्षेत्र है।</p> <p>तालाब ब-जलाशय की स्थिति में यथावत रहेगा, भू-प्रयोग की आख्या महायोजना के सजरा स्थानान्तरण एवं जोनिंग रेगुलेशन से प्रतिबन्धित है। उक्त आख्या बैंको से भवन निर्माण के ऋण हेतु मान्य नहीं है।</p> <p style="text-align: right;">मुदित कुमार वर्मा गोरखपुर विकास प्राधिकरण गोरखपुर</p>

दिनांक:- 26/02/२०२४

आवेदनकर्ता का नाम श.वि.प्रा......

पता दोंडपुर.....

मो० 8299464899.....


(TRUE COPY)

गोरखपुर विकास प्राधिकरण, गोरखपुर।
भू-प्रयोग हेतु सूचना प्राप्त करने का आवेदन पत्र

सेवा में,

नगर नियोजक

गोरखपुर विकास प्राधिकरण

गोरखपुर।

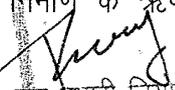
पत्रांक: 7758 /नियोजन /गो.वि.प्रा./२०२३-२४,

Rs.-50.00

Cn.-34244

Date-26.02.2024

दिनांक: 7 /0३/२०२४

प्रश्न	उत्तर
<p>कृपया यह बताने का कष्ट करें कि मौजा- <u>हॉसपुर</u> <u>हॉसपुर</u>, तप्पा- <u>हॉसपुर</u> परगना तहसील <u>हॉसपुर</u> जिला <u>हॉसपुर</u> की आराजी संख्या- <u>179</u> का भू-प्रयोग महायोजना-2021 के अनुसार क्या है?</p>	<p>इस कार्यालय में उपलब्ध सजरा मानचित्र के अनुसार मौजा- हॉसपुर मुस्तकिल के अन्तर्गत आराजी संख्या- 179 का भू-प्रयोग महायोजना-2021 के अनुसार 45.00 मीटर चौड़ा बन्धा मार्ग तथा बाढ़ प्रभावित क्षेत्र है। तालाब व जलाशय की स्थिति में यथावत रहेगा, भू-प्रयोग की आख्या महायोजना के सजरा स्थानान्तरण एवं जोनिंग रेगुलेशन से प्रतिबन्धित है। उक्त आख्या-बैंको से भवन निर्माण के ऋण हेतु मान्य नहीं है।</p> <p align="right">  उप प्रभारी नियोजन गोरखपुर विकास प्राधिकरण गोरखपुर </p>
<p>दिनांक:- /0३/२०२४</p> <p>आवेदनकर्ता का नाम <u>गो. वि. प्रा. / २०२३-२४</u></p> <p>पता <u>हॉसपुर</u></p> <p>मो०</p>	

G. D. Singh
(TRUE COPY)

चगोरखपुर विकास प्राधिकरण, गोरखपुर।
भू-प्रयोग हेतु सूचना प्राप्त करने का आवेदन पत्र

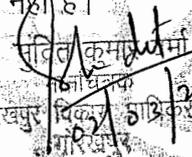
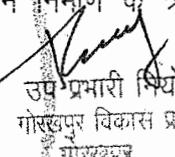
सेवा में,

नगर नियोजक
गोरखपुर विकास प्राधिकरण
गोरखपुर।

पत्रांक: 7795/नियोजन/गो.वि.प्रा./२०२३-२४,

Rs.-50.00
Cn.-34245
Date-26.02.2024

दिनांक: ०७/०२/२०२४

प्रश्न	उत्तर
<p>कृपया यह बताने का कष्ट करें कि मौजा- <u>हॉसपुर</u> ...<u>मुक्त किल्ला</u> 180, तप्पा- <u>कोल्वा</u> परगना <u>खैली</u>, तहसील <u>खैली</u> जिला <u>गोरखपुर</u> की आराजी संख्या- <u>180</u> का भू-प्रयोग महायोजना-2021 के अनुसार क्या है?</p>	<p>इस कार्यालय में उपलब्ध सजरा मानचित्र के अनुसार मौजा- हॉसपुर मुक्तकिल के अन्तर्गत आराजी संख्या- 180 का भू-प्रयोग महायोजना-2021 के अनुसार 45.00 मीटर चौड़ा बन्धा मार्ग तथा बाढ़ प्रभावित क्षेत्र है। तालाब व जलाशय की स्थिति में यथावत रहेगा, भू-प्रयोग की आख्या महायोजना के सजरा स्थानान्तरण एवं जोनिंग रेगुलेशन से प्रतिबन्धित है। उक्त आख्या बैंको से भवन निर्माण के ऋण हेतु मान्य नहीं है।</p> <p align="right">  संचालक गोरखपुर विकास प्राधिकरण गोरखपुर </p> <p align="right">  उप-प्रभारी नियोजन गोरखपुर विकास प्राधिकरण गोरखपुर </p>

दिनांक:- १६/०२/२०२४

आवेदनकर्ता का नाम राम कुमार

पता हॉसपुर

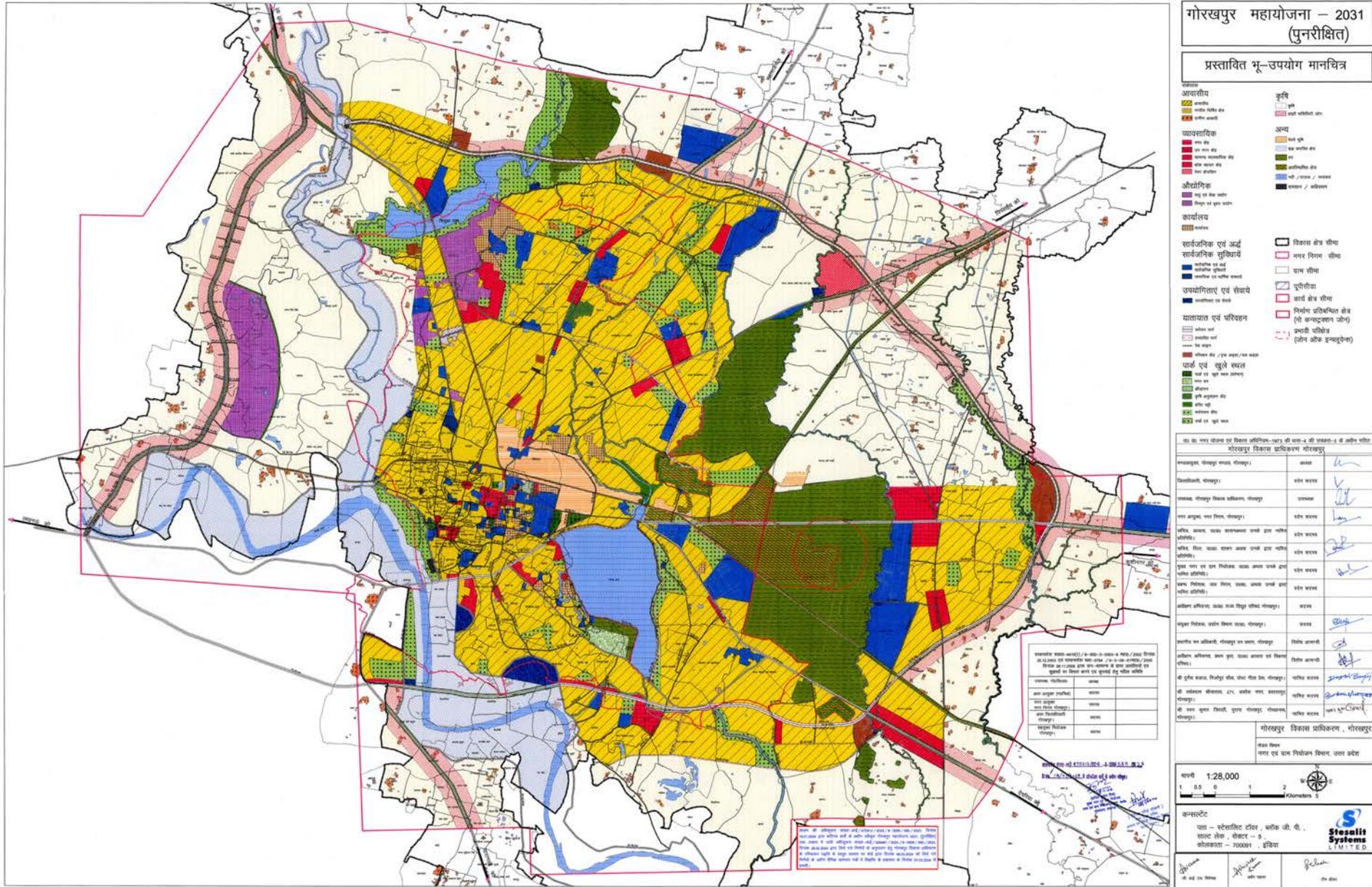
मो० ९९३५९५९५९७


(TRUE COPY)

ANNEXURE OJ-27

गोरखपुर विकास प्राधिकरण, गोरखपुर।	
भू-उपयोग की जानकारी हेतु सूचना प्राप्त करने का आवेदन पत्र	
सेवा में,	
नगर नियोजक गोरखपुर विकास प्राधिकरण गोरखपुर।	Rs.-150.00 Cn.-49557 Date-06.12.2024
पत्रांक: 5919 /नियोजन /गो.वि.प्रा./२०२४-२५,	दिनांक: 18/१२/२०२४
प्रश्न	उत्तर
<p>कृपया यह बताने का कष्ट करें कि मौजा-<u>हॉसपुर मुस्ताकिल</u> ...178, 179, 180... तप्पा-<u>कस्बा</u> परगना <u>हवेली</u>, तहसील <u>सदर</u> जिला <u>गोरखपुर</u> की आराजी संख्या- <u>178, 179, 180</u> का भू-प्रयोग गोरखपुर महायोजना-2031 (पुनरीक्षित) के अनुसार क्या है ?</p> <p style="text-align: right;">हस्ताक्षर</p>	<p>आवेदनकर्ता द्वारा प्रस्तुत अभिलेखों/ दस्तावेजों के आधार पर, कार्यालय में उपलब्ध सजरा मानचित्र/अभिलेखों के अनुसार मौजा-हॉसपुर मुस्ताकिल, तप्पा-कस्बा, परगना-हवेली, तहसील-सदर, जनपद-गोरखपुर के अन्तर्गत स्थित आराजी संख्या-178, 179 व 180 का भू-प्रयोग महायोजना-2031 (पुनरीक्षित) के प्राविधानानुसार 45.00 मीटर चौड़ा बन्धा मार्ग तथा शमशान/कब्रिस्तान है।</p> <p>तालाब व जलाशय की स्थिति में यथावत रहेगा, भू-प्रयोग की आख्या महायोजना के सजरा स्थानान्तरण एवं जोनिंग रेगुलेशन से प्रतिबन्धित है। उक्त आख्या बैंको से भवन निर्माण के ऋण हेतु तथा भवन मानचित्र स्वीकृति हेतु मान्य नहीं है।</p> <p style="text-align: center;"> <u>आशीष कुमार</u> उप प्रभारी नियोजन <u>मानचित्रकर्ता</u> गोरखपुर विकास प्राधिकरण <u>गो.वि.प्रा.</u> गोरखपुर </p>
दिनांक:- 6/१२/२०२४	
आवेदनकर्ता का पुरा नाम .. <u>श्री.कु.माल.कुशवाहा</u>	
निवास स्थान का पता <u>हॉसपुर मुस्ताकिल</u>	
मो० <u>9026.821144</u>	
शपथ पत्र दिनांक:..... <u>06-12-2024</u>	

(Handwritten Signature)
(TRUE COPY)



(TRUE COPY) *[Handwritten Signature]*

सेवा में,

जन सूचना अधिकारी,
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

From: 91361 81999, 987
Mts: 2008
Mts: 22.00 (Cash)
Fax: 0522-2641840, 2641841

विषय : जन सूचना अधिकार अधिनियम 2005 के अन्तर्गत सूचना उपलब्ध कराये जाने के सम्बन्ध में।
महोदय,

प्रार्थी को जन सूचना अधिकार अधिनियम-2005 के अन्तर्गत निम्नलिखित बिन्दुओं पर सूचना उपलब्ध कराने का कष्ट करें :-

1. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर द्वारा अपने फिलिंग स्टेशन का मानचित्र गोरखपुर विकास प्राधिकरण, गोरखपुर से स्वीकृत कराया गया है ? अथवा नहीं। यदि मानचित्र स्वीकृत है, तो मानचित्र की छाया प्रति एवं उनके द्वारा जमा शुल्क के रसीद की प्रति उपलब्ध कराने का कष्ट करें।
2. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र किस व्यक्ति के नाम से तथा किस वर्ष में स्वीकृत हुआ है।
3. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र आवासीय रूप में स्वीकृत है या अनावासीय रूप में स्वीकृत है।
4. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर के स्वीकृत मानचित्र अगर गोरखपुर विकास प्राधिकरण द्वारा स्वीकृत किया गया है तो क्या उसमें बाढ़ खण्ड / सिंचाई विभाग के मानक के अनुरूप बीच सड़क से 75 फीट छोड़कर फिलिंग स्टेशन का निर्माण किया गया है ? अथवा नहीं।
5. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का फिलिंग स्टेशन बाढ़ ग्रस्त क्षेत्र में स्थित है ? अथवा नहीं।
6. मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का फिलिंग स्टेशन, गोरखपुर विकास प्राधिकरण द्वारा स्वीकृत मानचित्र के अनुसार सड़क के पूरब दिशा में निर्मित है अथवा पश्चिम दिशा में निर्मित है।

कृपया उपरोक्त सूचना उपलब्ध कराने का कष्ट करें।

लेखक- जोहल कार्ड
CA 45 F BOW 89

प्रार्थी
विजय कुमार
(विजय कुमार)

पुत्र स्व0 बरसू राम
मोहल्ला-हॉसूपुर, परशुराम मन्दिर
के पीछे, गोरखपुर
मो0नं0-9651540591

27.5.20

सेवा में,

श्री विजय कुमार
 पुत्र-स्व0 बरसू राम
 मोहल्ला-हासूपुर परशुराम
 मन्दिर के पीछे
 गोरखपुर।
 मोबाईल न0-9651540591

महोदय,

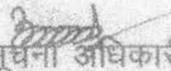
कृपया आप द्वारा जन सूचना अधिकारी अधिनियम 2005 के अन्तर्गत दिनांक 27.05.2020 को दिए गये प्रार्थना पत्र के क्रम में मांगी जा रही सूचना निम्नवत है:-

क्र0 सं0	मांगी गई सूचना	दी जा रही सूचना
01	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर द्वारा अपने फिलिंग स्टेशन का मानचित्र गोरखपुर विकास प्राधिकरण, गोरखपुर से स्वीकृत कराया गया है? अथवा नहीं। यदि मानचित्र स्वीकृत है, तो मानचित्र की छाया प्रति एवं उनके द्वारा जमा शुल्क के रसीद की प्रति उपलब्ध कराने का कष्ट करें।	इस सम्बन्ध में अवगत कराना है कि मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर विकास प्राधिकरण गोरखपुर से मानचित्र स्वीकृत कराया गया है। मानचित्र की छाया प्रति एवं उनके द्वारा जमा शुल्क की रसीद की प्रति कार्यालय से निर्धारित शुल्क जमा कर प्राप्त किया जा सकता है।
02	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र किस व्यक्ति के नाम से तथा किस वर्ष में स्वीकृत हुआ है।	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र श्री विनोद कुमार अग्रहरी के नाम से वर्ष 2013 में स्वीकृत हुआ है।
03	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र आवासीय रूप में स्वीकृत है या अनावासीय रूप में स्वीकृत है।	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का मानचित्र व्यवसायिक स्वीकृत है।
04	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर के स्वीकृत मानचित्र अगर गोरखपुर विकास प्राधिकरण द्वारा स्वीकृत किया गया है तो	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर के स्वीकृत मानचित्र बाढ़ खण्ड/सिचाई विभाग के मानक के

Signature

(TRUE COPY)

	क्या उसमें झड़ खण्ड/सिंचाई विभाग के मानक के अनुरूप बीच सड़क से 75 फीट छोड़कर फिलिंग स्टेशन का निर्माण किया गया है? अथवा नहीं।	अनुरूप बीच सड़क से 75 फीट छोड़कर फिलिंग स्टेशन का निर्माण किया गया है।
05	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का फिलिंग स्टेशन बाढ़ ग्रस्त क्षेत्र में स्थित है? अथवा नहीं।	कृपया सूचना सिंचाई विभाग से अच्छादित है।
06	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का फिलिंग स्टेशन गोरखपुर विकास प्राधिकरण द्वारा स्वीकृत मानचित्र के अनुसार सड़क के पूरब दिशा में निर्मित है अथवा पश्चिम दिशा में निर्मित है।	मे0 पार्वती फिलिंग स्टेशन, मुण्डेरी चक, लालडिग्गी, (हावर्ट बन्धा) गोरखपुर का फिलिंग स्टेशन गोरखपुर विकास प्राधिकरण द्वारा स्वीकृत मानचित्र के अनुसार सड़क के पश्चिम दिशा में निर्मित है।


जनसूचना अधिकारी,
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

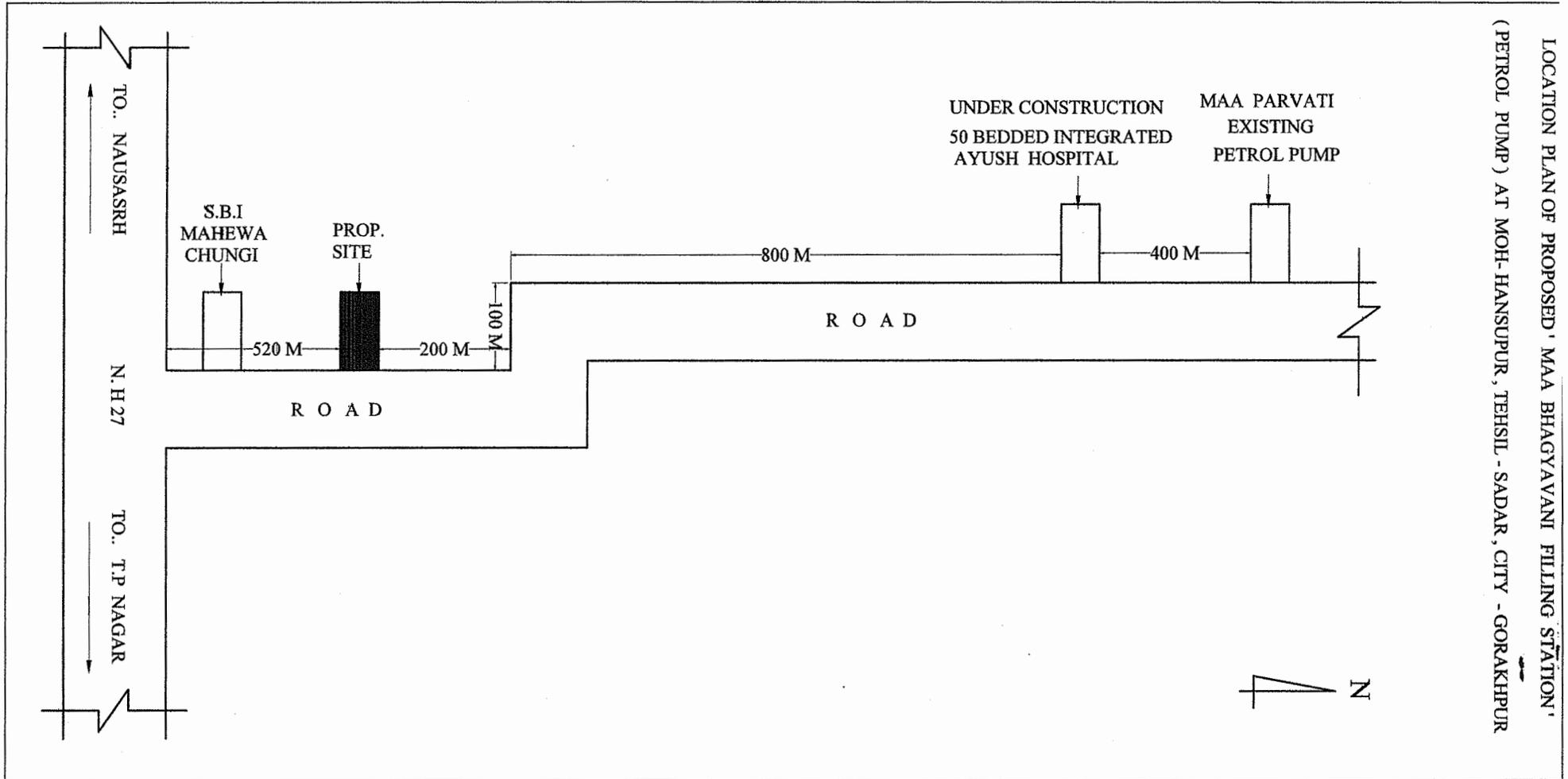
पत्रांक दिनांक एवं तदैव।

प्रतिलिपि:- उ0 प्र0 सूचना आयोग 7/7/ए, RTI क्वेन विभूति खण्ड गोमती नगर लखनऊ के नोटिस सं0-7595/2022 नोटिस प्रारूप-1 दिनांक 06.10.2022 अपील संख्या-एस-4-1536/ए/2022 पंजीकरण संख्या-ए-20673 के क्रम में सूचनार्थ प्रेषित।


जनसूचना अधिकारी,
गोरखपुर विकास प्राधिकरण,
गोरखपुर।


(TRUE COPY)

ANNEXURE OJ-31



Jitendra
(TRUE COPY)



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 657]

नई दिल्ली, शनिवार, दिसम्बर 4, 2010/अग्रहायण 13, 1932

No. 657]

NEW DELHI, SATURDAY, DECEMBER 4, 2010/AGRAHAYANA 13, 1932

पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 4 दिसम्बर, 2010

सा.का.नि. 951(अ).—आर्द्रभूमि जलीय चक्र का अत्यावश्यक भाग है, उच्च उत्पादकता, बृहत जैविक विविधता के अपवाद स्वरूप का समर्थन करता है और परिस्थितिक तंत्र सेवाएं की एक बहुत बड़ी श्रेणी को जैसे अपशिष्ट स्वांगीकरण, जल स्वच्छीकरण, बाढ़ अल्पीकरण, अपरदन नियंत्रण, भूजल का पुनःभरण, सूक्ष्म जलवायु का विनियमन, दृश्यभूमि का सौन्दर्य बौध को बढ़ाने जब बहुत सारे अर्थवान मनोरंजनात्मक, सामाजिक और सांस्कृतिक क्रियाकलापों के अलावा सांस्कृतिक विरासत के भाग को साथ-साथ उपलब्ध कराने से है;

और बहुत सारी आर्द्रभूमियों, अपवहन और मरणस्थान, प्रदूषण (घरेलू और औद्योगिक कचरों का छोड़ा जाना, ठोस अपशिष्ट का निपटान), जलीय परिवर्तन (जल अपनयन और अंतर्वाह परिवर्तन) के माध्यम से भूमि उद्धार द्वारा चिंताजनक संकट की स्थिति में हैं और उनके प्राकृतिक संसाधनों का बहुत ज्यादा उपयोग के परिणाम स्वरूप जैव विविधता और आर्द्रभूमि द्वारा उपलब्ध सेवाएं और पदार्थों में विघटन की हानि हुई है ;

और आर्द्रभूमि के संरक्षण और व्यापक उपयोग के लिए भारत, रामसर अभिसमय का हस्ताक्षरकर्ता है, जिसमें इसके वासों की व्यापक प्रकारों की परिधि जैसे नदियों और झीलों, तटीय लैगूनों, गरानों, पीट भूमियों, प्रवाल भित्तियों, और बहुत से मनुष्य निर्मित आर्द्रभूमियों जैसे कि - ताल, ताल खेत, सिंचाईयुक्त कृषि भूमि, पावन उपवन, नमक दूढ़पटल, जलाशय, बजरी गड्ढे, वहित मल फार्म और नहर भी हैं;

और केन्द्रीय सरकार ने इसके संरक्षण कार्यक्रम के अधीन संरक्षण और प्रबंधन के लिए कतिपय आर्द्रभूमि की पहचान की है और विभिन्न संरक्षण क्रियाकलापों प्रबंधन कार्य योजना के अनुमोदन के माध्यम से राज्य सरकारों और संघ राज्य क्षेत्र प्रशासन को तकनीकी सहायक उपलब्ध कराएगी ।

और राष्ट्रीय पर्यावरण नीति, 2006 ने आर्द्रभूमि द्वारा परिस्थितिकी सेवाएं उपलब्ध कराने को मान्यता प्रदान करने और विनियामक क्रियाविधि को स्थापित करने की आवश्यकता पर बल दिया है जिसमें रामसर अभिसमय में पहचान किए गए आर्द्रभूमि के परिस्थितिकी लक्षण और ऐसे आर्द्रभूमि की राष्ट्रीय खोज के विकास के रखरखाव भी सम्मिलित हैं;

अतः अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खण्ड (v) और उप-धारा (3) के साथ पठित धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आर्द्रभूमि के संरक्षण और प्रबंधन के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

13.	पोंग डेम झील	हिमाचल प्रदेश
14.	रोपड़	पंजाब
15.	सांभर झील	राजस्थान
16.	सटमकोट्टा झील	केरल
17.	सोमोरीरी	जम्मू-कश्मीर
18.	वेम्बनाड़-कोल आर्द्रभूमि	केरल
19.	वूलर झील	जम्मू-कश्मीर
20.	चन्द्राताल	हिमाचल प्रदेश
21.	रेणुका	हिमाचल प्रदेश
22.	रूद्रसागर	त्रिपुरा
23.	ऊपरी गंगा	उत्तर प्रदेश
24.	होकरसर (होकेरा)	जम्मू-कश्मीर
25.	सुरीनसर और मनसर (परिसर)	जम्मू-कश्मीर

[फा. सं. जे-22012/31/05-सीएस(डब्ल्यू)]

आर. मेहता, सलाहकार

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 4th December, 2010

G.S.R. 951(E).—WHEREAS the wetlands, vital parts of the hydrological cycle, are highly productive, support exceptionally large biological diversity and provide a wide range of ecosystem services, such as waste assimilation, water purification, flood mitigation, erosion control, ground water recharge, microclimate regulation, aesthetic enhancement of the landscape while simultaneously supporting many significant recreational, social and cultural activities, besides being a part of the cultural heritage;

AND WHEREAS many wetlands are seriously threatened by reclamation through drainage and landfill, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alterations (water withdrawal and inflow changes) and over-exploitation of their natural resources resulting in loss of biodiversity and disruption in goods and services provided by wetlands;

AND WHEREAS India is a signatory to the Ramsar Convention for the conservation and wise use of wetlands, which includes in its ambit a wide variety of habitats, such as rivers and lakes, coastal lagoons, mangroves, peatlands, coral reefs, and numerous man-made wetlands, such as ponds, farm ponds, irrigated agricultural lands, sacred groves, salt pans, reservoirs, gravel pits, sewage farms, and canals;

AND WHEREAS the Central Government has identified certain wetlands for conservation and management under its conservation programme and provides financial and technical assistance to the State Governments and Union territory Administrations for various conservation activities through approval of the Management Action Plans;

(TRUE COPY)

AND WHEREAS the National Environment Policy, 2006 recognises the ecological services provided by wetlands and emphasizes the need to set up a regulatory mechanism consistent with the Ramsar Convention to maintain the ecological character of the identified wetlands and develop a national inventory of such wetlands;

NOW, THEREFORE, in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules for conservation and management of wetlands, namely:-

1. Short title and commencement:-

- (1) These rules may be called the Wetlands (Conservation and Management) Rules, 2010.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

- (1) In these rules, unless the context otherwise requires:
 - (a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);
 - (b) "Authority" means the Central Wetlands Regulatory Authority constituted under rule 5;
 - (c) "dredging" means an excavation activity or operation usually carried out at least partly underwater, in shallow sea or fresh water areas with the purpose of gathering up bottom sediments and disposing them off at a different location;
 - (d) "National Park" means an area declared, as National Park under section 35 or section 38, or deemed to be declared as a National Park under sub-section (3) of section 66, of the Wild Life (Protection) Act, 1972 (35 of 1972);
 - (e) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;
 - (f) "UNESCO" means the United Nations Educational, Scientific and Cultural Organisation;
 - (g) "wetland" means an area or of marsh, fen, peatland or water; natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six meters and includes all inland waters such as lakes, reservoir, tanks, backwaters, lagoon, creeks, estuaries and manmade wetland and the zone of direct influence on wetlands that is to say the drainage area or catchment region of the wetlands as determined by the authority but does not include main river channels, paddy fields and the coastal wetland covered under the notification of the Government of India in the Ministry of Environment and Forest, S.O. number 114 (E) dated the 19th February, 1991 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) of dated the 20th February, 1991;

(h) "wildlife sanctuary" means an area declared as a wildlife sanctuary under the provisions of Chapter IV of the Wildlife (Protection) Act, 1972 (35 of 1972) and shall include an area deemed to be sanctuary under sub section (4) of section 66, of the said Act.

(2) The word and expressions used in these rules and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Protected wetlands:-

Based on the significance of the functions performed by the wetlands for overall well being of the people and for determining the extent and level of regulation, the following wetlands shall be regulated under these rules, namely:-

- (i) wetlands categorised as Ramsar Wetlands of International Importance under the Ramsar Convention as specified in the Schedule.
- (ii) wetlands in areas that are ecologically sensitive and important, such as, national parks, marine parks, sanctuaries, reserved forests, wildlife habitats, mangroves, corals, coral reefs, areas of outstanding natural beauty or historical or heritage areas and the areas rich in genetic diversity;
- (iii) wetlands recognised as or lying within a UNESCO World Heritage Site;
- (iv) high altitude wetlands or high altitude wetland complexes at or above an elevation of two thousand five hundred metres with an area equal to or greater than five hectares;
- (v) wetlands or wetland complexes below an elevation of two thousand five hundred metres with an area equal to or greater than five hundred hectares.
- (vi) any other wetland as so identified by the Authority and thereafter notified by the Central Government under the provisions of the Act for the purposes of these rules.

4. Restrictions on activities within wetlands:-

(1) The following activities within the wetlands shall be prohibited, namely:-

- (i) reclamation of wetlands;
- (ii) setting up of new industries and expansion of existing industries;
- (iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. number 966 (I) dated the 27th November, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically engineered organisms or cells notified vide GSR number 1037 (E) dated the 5th December, 1989 or the Hazardous Wastes(Management, Handling and Transboundry Movement) Rules, 2008 notified vide S.O. number 2265 (I), dated the 24th September,2008;


(TRUE COPY)

- (iv) solid waste dumping: provided that the existing practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding six months from the date of commencement of these rules;
- (v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: provided that the practices, if any, existed before the commencement of these rules shall be phased out within a period not exceeding one year from the date of commencement of these rules;
- (vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules.
- (vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules.
- (2) The following activities shall not be undertaken without the prior approval of the State Government within the wetlands, namely:-
- (i) withdrawal of water or the impoundment, diversion or interruption of water sources within the local catchment area of the wetland ecosystem;
- (ii) harvesting of living and non-living resources;
- (iii) grazing to the level that the basic nature and character of the biotic community is not adversely affected;
- (iv) treated effluent discharges from industries, cities or towns, human settlements and agricultural fields falling within the limits laid down by the Central Pollution Control Board or the State Pollution Control Committee, as the case may be;
- (v) plying of motorized boat, if it is not detrimental to the nature and character of the biotic community;
- (vi) dredging, only if the wetland is impacted by siltation;
- (vii) construction of boat jetties;
- (viii) activities within the zone of influence, as per the definition of wetlands, that may directly affect the ecological character of the wetland;
- (ix) facilities required for temporary use, such as pontoon bridges, that do not affect the ecological character of the wetland;
- (x) aquaculture, agriculture and horticulture activities within the wetland;
- (xi) repair of existing buildings or infrastructure including reconstruction activities.
- (xii) any other activity to be identified by the Authority.


(TRUE COPY)

- (3) Notwithstanding anything in sub-rule (1) or sub-rule(2), the Central Government may permit any of the prohibited activities or non-wetland use in the protected wetland on the recommendation of the Authority.
- (4) The State Government shall ensure that a detailed Environment Impact Assessment is carried out in accordance with the procedures specified in the notification of the Government of India in the Minister of Environment and Forests S.O. number 1533 (E) dated the September 14th, 2006 as amended from time to time.
- (5) No wetland shall be converted to non-wetland use unless the Central Government is satisfied on the recommendation of the Authority that it is expedient in the public interest and reasons justifying the decision are recorded.

5. **Constitution of Central Wetlands Regulatory Authority:-**

- (1) The Central Government, in exercise of the powers conferred by sub-section(3) of section 3 of the Environment (Protection) Act,1986 (29 of 1986), hereby constitutes Central Wetlands Regulatory Authority consisting of the following Chairpersons and members for the purpose of these rules, namely:-
- (a) Secretary, Ministry of Environment and Forests, Government of India – Chairperson;
- (b) a representative (not below the rank of Joint Secretary) from Ministry of Tourism, Government of India – Member ex-officio;
- (c) a representative (not below the rank of Joint Secretary) from Ministry of Water Resources, Government of India – Member ex-officio;
- (d) a representative (not below the rank of Joint Secretary) from Ministry of Agriculture, Government of India – Member ex-officio;
- (e) a representative (not below the rank of Joint Secretary) from Ministry of Social Justice, Government of India – Member ex-officio;
- (f) Chairman or his nominee, the Central Pollution Control Board.– Member ex-officio;
- (g) Joint Secretary or Adviser, dealing with the wetland in the Ministry of Environment and Forests, Government of India, - member ex-officio;
- (h) Dr. Asad R. Rahmani, Director ,Bombay Natural History Society, Hornbill House, Dr. Salim Ali Chowk, Shaheed Bhagat Singh Road , Mumbai – 400 023; **Expert** Ornithology – member.
- (i) Dr. M. R.D. Kunadangar, Darul Aloom Qasmia Lane, Botshah Mohalla, Lal Bazar, Srinagar, Kashmir ; **Expert** Limnology- member
- (j) Dr. C.K. Varshney, 88 Vaishali, Pitampura, New Delhi-110034; **Expert** Ecology- member
- (k) Dr E. J. James , Director, Water Institute, Karunya University, Coimbatore, Tamil Nadu ; **Expert** Hydrology- member;


(TRUE COPY)

- (1) Director or Additional Director or Joint Director dealing with the Wetland in the Ministry of Environment and Forests-Member Secretary.
- (2) The term of the Authority shall be three years effected from the date of publication of the notification referred to in sub-rule(1).
- (3) The Authority shall exercise the following powers and perform the following functions, namely:-
 - (i) appraise proposals for identification of new wetlands, projects or activities in consultations with the concerned local authorities;
 - (ii) identify and interface with the concerned local authorities to enforce the provisions contained under these rules and other laws for the time being in force;
 - (iii) grant clearances or identify in consultation with the local state government, the areas for the grant of clearance for regulated activities in the wetlands within their respective jurisdictions;
 - (iv) determine, in consultation with concerned local authority, the zone of direct influence of the wetlands;
 - (v) issue whatever directions, necessary for the conservation, preservation and wise use of wetlands to the State Governments.
- (4) The Authority shall periodically review the list of wetlands and the details of prohibited and regulated activities under the rules.
- (5) The Authority shall specify the threshold levels for activities to be regulated and the mode and methodology for undertaking activities in wetland.

6. Process for identification of wetlands under different categories:-

- (1) Wetlands covered under item (i) of rule 3 specified under Schedule shall be the wetland to be regulated under these rules.
- (2) The States Government shall prepare, within a period of one year from the commencement of these rules, 'Brief Document' identifying and classifying the wetlands within their respective territories in accordance with the criteria specified under Rule 3 and submit the same to Authority.
- (3) The 'Brief Document' of each wetland for identification shall comprise of following information, namely:-
 - i) broad geographic delineation of the wetland;
 - ii) its zone of influence along with a map (accurate and to scale);
 - iii) the size of the wetland;
 - iv) account of pre-existing rights and privileges, consistent or not consistent with the ecological health of the wetland.
- (4) The Authority, shall on receipt of the 'Brief document' under sub-rule(2), if consider it necessary refer in consultation with the State Government to a research institute or university having relevant multi-disciplinary expertise related to wetlands, to conduct a comprehensive survey of the wetland within a period of thirty days: provided that the institute or university to which the matter has been referred under sub-rule(4) shall submit a report within next ninety days from the date of such reference to Authority, which shall contain information with respect to the criteria specified under rule 3.


(TRUE COPY)

- (5) The Authority shall, thereafter, arrive at a decision in consultation with the State Government, on the proposal, within a period of ninety days from the date of receipt of the report under sub-rule(4)
- (6) The Central Government shall on the receipt of the recommendation of the Authority notify the area of wetlands as recommended by the Authority for public information inviting objections and suggestions from the general public likely to be affected to make representation to the Central Government within a period of sixty days;
- (7) The Authority shall consider all the representations which the Central Government may receive under sub-rule(6) and submit its recommendation on the such representations to Central Government within a period of sixty days for final notification;
- (8) The Central Government shall on receipt of the recommendations of the Authority under sub-rule(7) issue a final notification notifying therein the area of the wetland its category or classification to be regulated under these rules and display the said notification in public places in English and vernacular languages.
- (9) The Authority may, *suo moto* or on application made to it, review any decision under these rules or issue direction for inclusion of wetland under these rule.

7. Overlapping provisions:-

- (1) The wetlands within the protected areas of the National Parks and Wildlife Sanctuaries shall be regulated by the provisions of Wildlife (Protection) Act, 1972(35 of 1972).
- (2) The wetlands within the protected or notified forest areas shall be regulated by the provisions of the Indian Forest Act, 1927(16 of 1972); the Forest (Conservation) Act, 1980(69 of 1980); and the Environment (Protection) Act, 1986(29 of 1986).
- (3) The gaps in the regulation of wetlands within the protected and notified forest areas, if any, under the provisions of the Indian Forest Act, 1927; Wildlife (Protection) Act, 1972; and Forest (Conservation) Act, 1980; shall be plugged by invoking provisions of the Environment (Protection) Act, 1986.
- (4) The wetlands situated outside the protected or notified forest areas referred to in sub rule(2) shall be regulated by the relevant provisions of the Environment (Protection) Act, 1986(29 of 1986)

8. Enforcement of regulated activities:-

- (1) The identified activities for management and wise use of wetlands situated within the protected or notified forest areas referred to in sub rule (2) of rule 7 shall be regulated by the Forest Department of the State concerned.
- (2) The identified activities for management and wise use of wetlands situated outside the protected or notified forest areas shall be regulated by the nodal Department or the relevant local state agencies to be designated by the State Government within a period of six months from the date of commencement of these rules.


(TRUE COPY)

9. Appeals against the decisions of Authority:-

Any person aggrieved by the decision of the Authority may prefer an appeal to the National Green Tribunal constituted under the National Green Tribunal Act, 2010(19 of 2010) with in a period of sixty days from the date of such decision: Provided the National Green Tribunal may entertain any appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

THE SCHEDULE

[sec-rule 3(i)]

List of wetlands in India identified as Ramsar sites under Ramsar Convention on Wetland

Serial Number	Name of Wetland	State
(1)	(2)	(3)
1	Ashtamudi Wetland	Kerala
2	Bhitarkanika Mangroves	Orissa
3	Bhoj Wetland	Madhya Pradesh
4	Chilika Lake	Orissa
5	Deepor Beel	Assam
6	East Calcutta Wetlands	West Bengal
7	Harike Lake	Punjab
8	Kanjli	Punjab
9	Keoladeo National Park	Rajasthan
10	Kolleru Lake	Andhra Pradesh
11	Loktak Lake	Manipur
12	Point Calimere Wildlife and Bird Sanctuary	Tamil Nadu
13	Pong Dam Lake	Himachal Pradesh
14	Ropar	Punjab
15	Sambhar Lake	Rajasthan
16	Sasthamkotta Lake	Kerala
17	Tsomoriri	Jammu and Kashmir
18	Vembanad-Kol Wetland	Kerala
19	Wular Lake	Jammu and Kashmir
20	Chandratal	Himachal Pradesh
21	Renuka	Himachal Pradesh
22	Rudrasagar	Tripura
23	Uppar Ganga	Uttar Pradesh
24	Hokarsar (Hokera)	Jammu and Kashmir
25	Surinsar and Mansar (complex)	Jammu and Kashmir

[F. No. J-22012/31/05-CS(W)]

R. MEHTA, Adviser



M.K. BALAKRISHNAN v. UNION OF INDIA

805

(2017) 7 Supreme Court Cases 805

(Record of Proceedings)

a

(BEFORE R.M. LODHA, C.J. AND KURIAN

JOSEPH AND ROHINTON FALI NARIMAN, JJ.)§

Writ Petition (C) No. 230 of 2001, decided on September 10, 2014

M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

b

UNION OF INDIA AND OTHERS . . . Respondents.

With

(BEFORE DR T.S. THAKUR, C.J. AND DR D.Y. CHANDRACHUD, J.)§

Writ Petition (C) No. 230 of 2001, decided on December 1, 2016

c M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

UNION OF INDIA AND OTHERS . . . Respondents.

With

(BEFORE J.S. KHEHAR, C.J. AND DR D.Y. CHANDRACHUD, J.)§

Writ Petition (C) No. 230 of 2001, decided on January 17, 2017

d

M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

UNION OF INDIA AND OTHERS . . . Respondents.

With

e

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)§

Writ Petition (C) No. 230 of 2001, decided on January 31, 2017

M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

f

UNION OF INDIA AND OTHERS . . . Respondents.

With

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)§

Writ Petition (C) No. 230 of 2001, decided on February 8, 2017

M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

g

UNION OF INDIA AND OTHERS . . . Respondents.

§ **Ed.:** Given the nature of these orders, they have been published in SCC, together, in chronological order, by the date of the order, as one combined report with the citation: (2017) 7 SCC 805. This is to facilitate a holistic view of the matters decided in such orders. Furthermore, to make it possible to search for a particular order by date as well, in SCC Online, each order has been reported separately with an independent citation with reference to the page on which it falls in SCC, in the combined report of all the orders i.e. (2017) 7 SCC 808; (2017) 7 SCC 809(1); (2017) 7 SCC 809(2); (2017) 7 SCC 810(1); (2017) 7 SCC 810(2) and (2017) 7 SCC 813.

h

(TRUE COPY)

806 SUPREME COURT CASES (2017) 7 SCC

With

(BEFORE MADAN B. LOKUR AND DEEPAK GUPTA, JJ.)[§]

Writ Petition (C) No. 230 of 2001, decided on April 3, 2017 a
 M.K. BALAKRISHNAN AND OTHERS . . . Petitioners;

Versus

UNION OF INDIA AND OTHERS . . . Respondents.

Writ Petition (C) No. 230 of 2001, decided on September 10, 2014

With b

Writ Petition (C) No. 230 of 2001, decided on December 1, 2016

With

Writ Petition (C) No. 230 of 2001, decided on January 17, 2017

With

Writ Petition (C) No. 230 of 2001, decided on January 31, 2017 c

With

Writ Petition (C) No. 230 of 2001, decided on February 8, 2017

With

Writ Petition (C) No. 230 of 2001, decided on April 3, 2017

A. Environment Law — Water/River/Coastal Pollution — Wetlands d
(Conservation and Management) Rules, 2010 — Rr. 4, 5 and 6 —
Implementation and compliance with — Directions issued with respect to:

- (i) Constitution of Central Wetlands Regulatory Authority;
- (ii) National Wetland Inventory and Assessment Project;
- (iii) Draft Wetlands (Conservation and Management) Rules, 2016; e

— (iv) Statement of expenditure filed by UoI on identification/conservation of wetlands

— Norms to which 2,01,503 identified wetlands are subject under R. 4 of Wetlands Rules, 2010, explained

B. Environment Law — Water/River/Coastal Pollution — Convention on f
Wetlands (Ramsar, Iran) 1971 — Management of Ramsar Convention sites
in India — Interim directions issued — Since Ramsar Convention sites are
matters of international heritage, High Courts concerned directed to monitor
management of these sites at least till there is some visible improvement

— Registry of Supreme Court to make photocopies of affidavit filed by UoI g
 by Scientist F and Member-Secretary, Central Wetlands Regulatory Authority
 and send it to 15 High Courts of Telangana and A.P., Gauhati, Gujarat,
 Himachal Pradesh, J&K, Kerala, M.P., Manipur, Orissa, Punjab and Haryana,
 Rajasthan, Madras, Tripura, Allahabad and Calcutta within two weeks — A
 copy of all orders passed by Supreme Court from 10-9-2014 till date also to be
 sent to High Courts concerned along with affidavit — Chief Justices of High h
 Courts concerned to treat affidavit as a suo motu PIL and if necessary, appoint


 (TRUE COPY)

an Amicus Curiae to assist Court to ensure that Ramsar Convention sites within their jurisdiction are properly maintained — Wetlands (Conservation and Management) Rules, 2010, Rr. 4, 5 and 6 (Paras 29 to 33)

a SB-D/58508/C

Advocates who appeared in this case :

b Jugal Kishore Gilda, Advocate General, Manjit Singh, S.S. Shamshery, Sanchar Anand, Surya Narain Singh, D.K. Thakur, Purushendra Kaurav, Additional Advocate General, A.K. Panda, Ajit Kr. Sinha, A.K. Sanghi, Jayant Bhushan, J.S. Attri and A.K. Sinha, Senior Advocates [Gopal Sankaranarayanan, Vikramaditya, Naresh Kumar, S. Wasim A. Qadri, Ms Sunita Sharma, D.S. Mahra, B.V. Balaram Das, Abhijit Sengupta, Abhishek Chaudhary, Anil Shrivastav, Rituraj Biswas, Anip Sachthey, Mohit Paul, Anuvrat Sharma, Avijit Bhattacharjee, B. Balaji, Rakesh Sharma, S. Anand, Ms R. Shase, Ms K. Enatoli Sema, Amit Kr. Singh, Balaji Srinivasan, Ms Asha Gopalan Nair, A.P. Mayee, B.S. Banthia, P. Venkat Reddy, Sumanth Nookala, Sapam Biswajit Meitei, Ashok Kr. Singh, Guntur Prabhakar, Ms Prerna Singh, Tapeshe Kr. Singh, Kumar Anurag Singh, Mohd. Waquas, Gopal Singh, Manish Kumar, Ms Shubhra Rai, Ms Nupur Choudhary, Ms Vivekta Singh, Kamal Mohan Gupta, Kh. Nobin Singh, c Kunal Verma, Amit Sharma, Sandeep Singh, Milind Kumar, Naresh K. Sharma, P.V. Dinesh, P.V. Yogeswaran, Ranjan Mukherjee, Subhro Sanyal, R. Ayyam Perumal, R.D. Upadhyay, R. Nedumaran, Sanjay R. Hegde, S. Chandra Shekhar, Shiv Sagar Tiwari, Sibho Sankar Mishra, Sunil Fernandes, V.G. Pragasam, S.J. Aristotle, S. Prabu Rama Subramanian, Mishra Saurabh, Ms Vanshaja Shukla, Ankit Kr. Lal, Ms Aruna Mathur, Yusuf Khan (for M/s Arputham Aruna & Co.), Ms Vartika Sahay (for d M/s Corporate Law Group), K.V. Jagdishvaran, Ms G. Indira, Ms Hemantika Wahi, Ms Jesal, Ms Preeti, Ms Kamini Jaiswal, Ms Liz Mathew, Ms Sumita Hazarika, Piyush Hans, Kuldeep Singh, Zeeshan Diwan, S. Wasim Qadri, G.S. Makker, G. Prakash, Jishnu M.L., Ms Priyanka Prakash, Ms Beena Prakash, Manu Srinath, Muthuvel Palani M., Arvind Athithan, Arpit Rai, V.N. Raghupathy, Parikshit P. Angadi, Ms Varsha Poddar, Advitiya Awasthi, Suryanarayana Singh, Ms Pragati Neekhra, Aditya P. Singh, e Shuvodeep Roy, Sayooj Mohandas, Ms B. Khushbansi, Ghanshyam, Ms Ashiswarya Bhati, Adarsh Kr. Tiwari, Raj Bahadur, Prateek Yadav, Ankit Raj, S. Udaya Kr. Sagar, Baskula Athik, Mrinal Kanti Mandal, Parijat Sinha, Ms Mithu Jain, Yusuf Khan, Avneesh Arputham, Ms Anuradha Arputham, M/s Arputham Aruna & Co., M/s Corporate Law Group, Dr Monika Gusain, Edward Belho, K. Luikang Michael, A. Selvin Raja, Sanjay Kr. Visen, Ms D. Bharathi Reddy, Anil Kr. Jha, A. Venayagam Balan, Ms Binu Tamta, Shalinder Saini, B.K. Prasad, W.A. Qadri, Raj Bahadur f Yadav, Rajesh Mishra, Varinder Kr. Sharma, A.R. Takkar, Ms V.S. Lakshmi, Joydeep Mazumdar, Debojyoti Bhattacharya, Rohit Dutta, Shikhar Garg, Ganesh Bapu, S.C. Ghosh, Mohd. Shahid Hussain, Umakant Mishra, Niranjan Sahu, Ashok Sahu, Arnav Vidyarthi, Lagnesh Mishra, Prakash Jadhav, Ms Anuradha Arputham, Amit Arora (for M/s Arputham Aruna & Co.), Bhupesh Narula, Ms Mamta Singh, Ms Puja Singh, Nishant R. Katneshwarkar, Pankaj Pandey, Karunesh K. Shukla, Naresh Kr. Gaur, M. Ghanshyam, Mrityunjai Singh, Naresh Kumar (Advocate-on-Record), g Wasim A. Qadri, M.K. Maroria, A.K. Kaul, Anil Shrivastav (Advocate-on-Record), Gopal Singh (Advocate-on-Record), Ms Jesal Wahi, Sanjay Kr. Visen (Advocate-on-Record), Shariq Ahmed, Sunil Fernandes (Advocate-on-Record), Aditya Pratap Singh, Sukant Vikram, V.N. Raghupathy (Advocate-on-Record), G. Prakash (Advocate-on-Record), Mishra Saurabh (Advocate-on-Record), Ranjan Mukherjee (Advocate-on-Record), K.V. Kharlyngdoh, Daniel Stone Lyngdoh, Ms K. Enatoli Sema (Advocate-on-Record), Z.H. Isaac Haiding, Anant K. Vatsya, S. Kumar, Rudra Dutta, Parijat h Sinham, V.G. Pragasam (Advocate-on-Record), Ms G. Indira (Advocate-on-Record), Abhijit Sengupta (Advocate-on-Record), Abhishek Chaudhary (Advocate-on-Record), Anil Kr. Jha (Advocate-on-Record), Anuvrat Sharma (Advocate-on-Record), A. Venayagam Balan (Advocate-on-Record), B.S. Banthia (Advocate-on-Record), Kh.

808

SUPREME COURT CASES

(2017) 7 SCC

Nobin Singh (Advocate-on-Record), Kunal Verma (Advocate-on-Record), Naresh K. Sharma (Advocate-on-Record), P.V. Dinesh (Advocate-on-Record), P.V. Yogeswaran (Advocate-on-Record), R. Ayyam Perumal (Advocate-on-Record), R.D. Upadhyay (Advocate-on-Record), R. Nedumaran (Advocate-on-Record), S. Chandra Shekhar (Advocate-on-Record), Ms D. Bharathi Reddy (Advocate-on-Record), Shiv Sagar Tiwari (Advocate-on-Record), Sibbo Sankar Mishra (M/s Corporate Law Group) (Not Present), Ms Kamini Jaiswal (Advocate-on-Record), Ms Sumita Hazarika (Advocate-on-Record), Dr Joginder Samal, Ravindra Kr. Singh, Vibhu Shanker Mishra, Abhinav Mukerji, Williams Vinod, Pragyan Sharma, Sibbo Sankar Mishra (Advocate-on-Record), Apoorv Singhal, Shiv Sagar Tiwari (M/s Corporate Law Group) (Not Present), Ms Minati Rani, Dr Jogendra Samal, S.A. Siddiqui, Satya Siddiqui, S.N. Terdal, Sayooj Mohandas M., M. Shoeb Alam, Ms Fauzia Shakil, Ujjwal Singh, Mojahid Karim Khan, Ms Anuradha Mishra, Mahaling Pandarge, M.N. Singh, Ms Elix Gangmei, Rajiv Singhal, Karunish Kr. Shukla, M/s Corporate Law Group (Not Present) and Ms A. Subhashini, Advocates] for the appearing parties.

(2017) 7 SCC 808

ORDER dated 10-9-2014

(BEFORE R.M. LODHA, C.J. AND KURIAN
JOSEPH AND ROHINTON FALI NARIMAN, JJ.)

Writ Petition (C) No. 230 of 2001

1. Under Rule 5 of the Wetlands (Conservation and Management) Rules, 2010 (for short “the 2010 Rules”), the Central Government, in exercise of the powers conferred by sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 constituted the Central Wetlands Regulatory Authority (for short “the Authority”) consisting of the Chairperson and Members as mentioned therein. Some of the Members are by name. Nothing is available on record as to whether the Authority under the 2010 Rules is functional as on date because under sub-rule (2) of Rule 5, the tenure of the Authority has been prescribed as of three years. Sub-rule (3) of Rule 5 confers upon such Authority powers and functions.

2. We are informed that National Wetland Inventory and Assessment Project sponsored by the Ministry of Environment & Forests, Government of India through Space Applications Centre, ISRO, Ahmedabad has undertaken the task in 2010 of making an inventory of all the wetlands in the country at scales of 1:50,000.

3. Mr Gopal Sankaranarayanan, learned counsel for the petitioner, submits that in view of the extensive and comprehensive inventory of the wetlands in the country having been prepared, it is not necessary to have the exercise for identification and classification of wetlands done under Rules 6(2) and (4) of the 2010 Rules.

4. We would like to know the views of the Central Government in this regard and also whether the Authority under Rule 5 stands presently functional and, if yes, details of its composition. Mr J.S. Attri, learned Senior Counsel for the Union of India, prays for time to seek instructions in this regard for informing the Court on the above aspects on the next date. List the matter after four weeks.



(TRUE COPY)

M.K. BALAKRISHNAN v. UNION OF INDIA

809

Interlocutory Application No. 16 of 2014

a 5. An application being Interlocutory Application No. 16 of 2014 has also been made by the petitioner praying for diverse reliefs, inter alia, for direction to the Union Government and the respondent States to bar any permission given for construction and infrastructure purposes in and around known wetland areas, replace the existing Committee with a Committee consisting of environmentalists, lawyers, experts and Petitioner 1 to be regularly nominated by the Court and direct the Committee to demarcate priority areas and wetlands.

b 6. Let notice be issued on the interlocutory application to the Union of India and the State Governments. Dasti, in addition to the ordinary process, is permitted. Notice may be served on the Standing Counsel for the Union of India and so also the Standing Counsel representing the various State Governments.

c 7. List the interlocutory application after four weeks with the main matter.

(2017) 7 SCC 809(1)

ORDER dated 1-12-2016

(BEFORE DR T.S. THAKUR, C.J. AND DR D.Y. CHANDRACHUD, J.)

Writ Petition (C) No. 230 of 2001

d 8. The learned counsel for the respondent Union of India was, by this Court's order dated 10-9-2014¹, directed to take instructions whether the authority under Rule 5 of the Wetlands (Conservation and Management) Rules, 2010 was functional and, if so, what was its composition. The learned counsel for the respondent has not done the needful in spite of repeated opportunities given.

e 9. The Central Government was also directed to place on record its views whether it was necessary to undertake an exercise for identification and clarification of wetlands in view of the fact that a comprehensive inventory of wetlands already said to have been prepared. The learned counsel for the Union of India has not done the needful in that regard also. Six weeks' time finally is granted to do the needful. Post after six weeks.

(2017) 7 SCC 809(2)

ORDER dated 17-1-2017

(BEFORE J.S. KHEHAR, C.J. AND DR D.Y. CHANDRACHUD, J.)

Writ Petition (C) No. 230 of 2001

g 10. The learned counsel for the petitioners seeks a week's time, so as to enable him to peruse the different orders passed by the National Green Tribunal, Principal Bench, New Delhi, and so as to determine whether the instant petition should also be considered by the National Green Tribunal with the other pending matters. List again on 24-1-2017.

h

1 Set out in paras 1 to 7, above.

810 SUPREME COURT CASES (2017) 7 SCC

(2017) 7 SCC 810(1)

ORDER dated 31-1-2017

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)

a

Writ Petition (C) No. 230 of 2001

11. On the request of the learned Senior Counsel appearing for the Union of India, list the matter on 7-2-2017.

12. In the meanwhile, we would like him to take definite instructions on whether the Draft Wetlands (Conservation and Management) Rules, 2016 which were said to have been circulated sometime in March 2016 have been finalised or not and, if not, reasons for the delay. We would also like to know specifically whether the Central Wetlands Regulatory Authority, whose term expires on or about 14-2-2017, has been reconstituted and, if not, reasons for the delay. We would also like the Union of India to tell us what specific steps have been taken to preserve the 26 wetlands covered by the Ramsar Convention, 1971.

b

c

13. We make it clear that the petition is required to be taken seriously by the Union of India.

(2017) 7 SCC 810(2)

ORDER dated 8-2-2017

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)

d

Writ Petition (C) No. 230 of 2001

14. We have, at length, heard the learned counsel for the parties including the learned counsel for the Union of India.

e

15. An affidavit dated 7-2-2017 filed by the Union of India has been shown to us. Annexed to the affidavit is an office memorandum issued on 6-1-2017 with reference to the Draft Wetlands (Conservation and Management) Rules, 2016. The Draft Rules were made available to the public for inviting objections/suggestions sometime in March 2016. As many as 175 comments were received. For the examination of these comments, a Committee has been constituted. The Committee was given 45 days to look into the suggestions and submit its report to the Union of India.

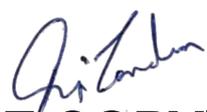
f

16. We are told orally by the learned counsel appearing for the Union of India that perhaps the term of the Committee may need to be extended. This is stated by him on the basis of information received pursuant to a meeting held yesterday i.e. 7-2-2017 by the said Committee.

g

17. Be that as it may, for the reasons given below, we are compelled to direct that the Wetlands (Conservation and Management) Rules, 2016 should be notified on or before 30-6-2017. We are compelled to issue this direction since the matter has been pending with the Union of India for the last almost a year and there has to be some finality to the publication of the Rules. The comments/suggestions have been given by all stakeholders such as the State Governments

h


(TRUE COPY)

a including its organisations, individuals and civil society organisations. That being the position, there is obviously a great deal of interest in the Rules being formulated and notified. Under these circumstances, there is no justification why the Union of India should not have taken prompt action and constituted the Committee much earlier for the purposes of finalising the Rules. Finally, the conservation of wetlands is of immense ecological importance.

b **18.** The learned counsel for the Union of India says that all efforts will be made to ensure compliance with this direction and to ensure that the Rules are notified on or before 30-6-2017. We are sure that both the Committee as well as the Union of India will take into consideration the comments and suggestions offered by the State Governments and its organisations, individuals and civil society organisations before taking a final decision.

c **19.** With regard to the Central Wetlands Regulatory Authority, we are told that its term is expiring on 14-2-2017. We have been informed by the learned counsel for the Union of India that the Central Wetlands Regulatory Authority will be notified on 13-2-2017. The Union of India is bound by the statement made by the learned counsel for the Union of India, which statement has been made on instructions received by him from an officer of the Ministry of Environment, Forest and Climate Change.

d **20.** In our order dated 31-1-2017², we had required the Union of India to tell us the steps taken to preserve the 26 wetlands covered by Ramsar Convention, 1971. The affidavit that has now been filed by the Union of India merely gives the disbursal of amount made by the Union of India from time to time. What specific steps have been taken including how the funds made available have been utilised and what is the impact of those steps have not been adverted to. We must have specific details. We direct the Union of India to file an affidavit e within four weeks positively giving required specific details.

f **21.** The learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9-9-2014. The additional affidavit contains an information brochure “National Wetland Inventory & Assessment”. This brochure indicates on p. 11 thereof that 2,01,503 wetlands have been mapped at 1:50,000 scale. All these wetlands have an area of more than 2.25 ha. As a first step, the “brief documents” with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these “brief documents” may take some time. We are inclined to grant adequate time for this purpose. The Union of India should follow this up with the State g Governments and inform us of the time-frame on the next date of hearing.

22. The apprehension expressed by the learned counsel for the petitioners is that with the passage of time there is a possibility that some of the wetlands may disappear. On a reading of the information brochure, this apprehension is not unfounded.

h

² Set out in paras 11 to 13, above.

23. Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

“4. (1)(i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated 27-11-1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically Engineered Organisms or Cells notified vide GSR No. 1037(E), dated 5-12-1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated 24-9-2008;

(iv) solid waste dumping:

Provided that the existing practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding six months from the date of commencement of these Rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements:

Provided that the practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding one year from the date of commencement of these Rules;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these Rules;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these Rules.”

24. The learned counsel for the Union of India has shown us a chart of proposals/brief documents that have already been received by the Union of India under Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. The total number of wetlands covered in this document are 1683. Many of these proposals/brief documents received by the Union of India contain deficiencies which have already been identified in the document handed over to us. The Central Wetland Regulatory Authority will take up the rectification of deficiencies with the State Governments with promptitude and ensure that all these deficiencies are removed and complete proposals/brief documents are furnished within the next about one month so that the Central Wetlands

M.K. BALAKRISHNAN v. UNION OF INDIA

813

Regulatory Authority is in a position to take a final decision with regard to these 1683 wetlands and their notification, if required, on or before 31-3-2017.

a 25. List the matter on 3-4-2017.

(2017) 7 SCC 813

ORDER dated 3-4-2017

(BEFORE MADAN B. LOKUR AND DEEPAK GUPTA, JJ.)

b Writ Petition (C) No. 230 of 2001

26. Pursuant to our last order dated 8-2-2017³, it has been brought to our notice by the learned counsel appearing for the Union of India that Central Wetlands Regulatory Authority (CWRA) has since been constituted on 14-2-2017. The Ministry of Tourism and the Ministry of Social Justice and Empowerment have not nominated an officer not below the rank of Joint Secretary to the Authority. We expect these two Ministries to make the nominations at the earliest so that the Central Wetlands Regulatory Authority can comprehensively carry on its mandate under the law.

c 27. We have also been shown a statement of expenditure that has been filed by the Union of India along with an affidavit dated 28-3-2017. While huge amounts appear to have been spent to the extent of Rs 945.95 crores, it appears from a reading of the affidavit that not much improvement seems to have been made at least on the ground. That apart, the activities or the steps undertaken and the expenditure incurred in respect of those activities are extremely general in nature. We are also not sure whether the accounts have been audited or not.

d 28. The learned counsel for the Union of India says that he will ascertain whether the accounts of the amounts that have been disbursed to the State Governments have been audited and file an affidavit in this regard.

e 29. We have put it to the learned counsel for the petitioner that insofar as the Ramsar Convention sites are concerned, since they are matters of international heritage, it might be more appropriate if the High Courts concerned monitor the management of these sites at least till there is some visible improvement.

f The learned counsel for the petitioner says that he has no objection to this.

30. Under the circumstances, we direct the Registry of this Court to make photocopies of the affidavit filed by the Union of India by Dr A. Duraisamy, Scientist 'F' and Member-Secretary, Central Wetlands Regulatory Authority and send it to the following High Courts:

g (1) High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh;

(2) Gauhati High Court,

(3) Gujarat High Court,

(4) Himachal Pradesh High Court,

(5) J&K High Court,

h

³ Set out in paras 14 to 25, above.

814

SUPREME COURT CASES

(2017) 7 SCC

(6) Kerala High Court,

(7) Madhya Pradesh High Court,

(8) Manipur High Court, a

(9) Orissa High Court,

(10) Punjab and Haryana High Court,

(11) Rajasthan High Court,

(12) Madras High Court,

(13) Tripura High Court, b

(14) Allahabad High Court; and

(15) High Court at Calcutta.

31. The affidavit be sent to the Registrar General of all the aforementioned High Courts within two weeks from today. A copy of all the orders passed by this Court from 10-9-2014¹ till today[†] shall also be sent to the High Courts concerned along with the affidavit. c

32. We request the Hon'ble the Chief Justices of the High Courts concerned to treat the affidavit as a suo motu public interest petition and, if necessary, appoint an Amicus Curiae to assist the Court so as to ensure that the Ramsar Convention sites within their jurisdiction are properly maintained.

33. The affidavit by the Union of India should be filed within six weeks. List the matter on 12-7-2017. d

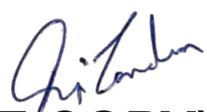
Court Master

—————
END OF THE VOLUME e

fg

¹ Set out in paras 1 to 7, above.

[†] **Ed.:** The reference is to *M.K. Balakrishnan v. Union of India*, WP (C) No. 230 of 2001, orders dated 1-12-2016, 17-1-2017, 31-1-2017 and 8-2-2017 (SC) h


(TRUE COPY)



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 802]

नई दिल्ली, मंगलवार, सितम्बर 26, 2017/आश्विन 4, 1939

No. 802]

NEW DELHI, TUESDAY, SEPTEMBER 26, 2017/ASVINA 4, 1939

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 26 सितम्बर, 2017

सा.का.नि. 1203(अ).—आर्द्रभूमि, जो जलीय चक्र का अत्यावश्यक भाग हैं, उच्चतर उत्पादक पारिस्थितिकी प्रणालियां हैं जो समृद्ध जैवविविधता का आधार हैं तथा हमारी समृद्ध सांस्कृतिक विरासत का भाग होने के कारण कई महत्वपूर्ण मनोरंजक, सामाजिक और सांस्कृतिक कार्यकलापों का समर्थन करते हुए जल भंडारण, जल शुद्धिकरण, बाढ़ अल्पीकरण, अपरदन नियंत्रण, भूजल का पुनःभरण, सूक्ष्म जलवायु का विनियमन, दृश्यभूमि के सौन्दर्य बौध को बढ़ाना जैसी पारिस्थितिकी प्रणाली सेवाओं की व्यापक रेंज प्रदान करता है।

और, अधिकतर आर्द्रभूमि, अपवहन और भरणस्थान, प्रदूषण (घरेलू और औद्योगिक बहिःस्राव का निस्सारण, ठोस अपशिष्टों का निपटान), जल विज्ञान संबंधी परिवर्तन (जल अपनयन और अंतर्वाह तथा बहिवाह परिवर्तन) के माध्यम से भूमि सुधार और अवक्रमण के कारण गंभीर रूप से संकटस्थ स्थिति में हैं और उनके प्राकृतिक संसाधनों के अत्यधिक दोहन के परिणामस्वरूप जैव विविधता की हानि और आर्द्रभूमि द्वारा उपलब्ध पारिस्थितिकी प्रणाली सेवाओं में विघटन हुआ है;

और, संविधान के अनुच्छेद 51क के खंड (छ) में यह बताया गया है कि भारत के प्रत्येक नागरिक का यह कर्तव्य होगा कि वह प्राकृतिक पर्यावरण की, जिसके अंतर्गत वन, झील, नदी और वन्यजीव हैं, रक्षा करे और उसका संवर्धन करे तथा प्राणिमात्र के प्रति दयाभाव रखे;

और पर्यावरण (संरक्षण) अधिनियम, 1986 पर्यावरण को संरक्षण प्रदान करने तथा उसमें सुधार लाने के लिए एक व्यापक विधान है, जिसमें अन्य बातों के साथ-साथ आर्द्रभूमि और उससे जुड़े मामले भी सम्मिलित हैं।

और, राष्ट्रीय पर्यावरण नीति, 2006 में आर्द्रभूमि द्वारा उपलब्ध पारिस्थितिकी सेवा को मान्यता दी गई है और सभी आर्द्रभूमि के लिए एक विनियामक तंत्र स्थापित करने की आवश्यकता पर बल दिया गया है, जिससे उनकी ऐसी पारिस्थितिकी स्थिति को बनाए रखा जा सके, जो अंततोगत्वा उनके एकीकृत प्रबंध में सहायक हो;

और, भारत, आर्द्रभूमि संबंधी रामसर अभिसमय का हस्ताक्षरकर्ता है, तथा अपने अधिकार क्षेत्र के भीतर सभी आर्द्रभूमियों के संरक्षण और बुद्धिमतापूर्ण उपयोग के लिए प्रतिबद्ध है।

5864 GI/2017

(1)

(TRUE COPY)

(4) समिति के गैर-सरकारी सदस्यों को कार्यकाल तीन वर्ष से अनधिक का नहीं होगा।

(5) समिति प्रत्येक छह मास में कम से कम एक बार बैठक करेगी।

7. **राज्य सरकारों और संघ राज्य क्षेत्र प्रशासनों को शक्तियों और कार्यों का प्रत्यायोजन.**—(1) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन का सम्बद्ध विभाग इन नियमों के प्रकाशन की तारीख से एक वर्ष की अवधि के भीतर अधिसूचित किये जाने हेतु अभिज्ञात प्रत्येक आर्द्रभूमि के लिए एक संक्षिप्त दस्तावेज तैयार करेगा, जिसमें निम्नलिखित का उपबंध होगा:—

(क) निर्देशांकों सहित यथार्थ डिजिटल मानचित्रों द्वारा समर्थित और जमीनी सत्यापन द्वारा विधिमान्य आर्द्रभूमि का सीमांकन;

(ख) इसके प्रभाव क्षेत्र का सीमांकन और डिजिटल मानचित्र में संकेतित उसका भूमि उपयोग और आच्छादित भूमि क्षेत्र;

(ग) पारिस्थितिक-स्वरूप का विवरण;

(घ) पूर्वतः विद्यमान अधिकारों तथा विशेषाधिकारों का लेखा;

(ङ.) आर्द्रभूमि तथा इसके प्रभाव क्षेत्र के भीतर अनुज्ञप्त स्थल-विशिष्ट क्रियाकलाप की सूची;

(च) आर्द्रभूमि और उसके प्रभाव क्षेत्र के भीतर विनियमित किये जाने वाले स्थल-विशिष्ट क्रियाकलापों की सूची; और

(छ) विनियमों के प्रवर्तन की रीति;

(2) प्राधिकरण, संक्षिप्त दस्तावेज के आधार पर, आर्द्रभूमियों को अधिसूचित किये जाने के लिए राज्य सरकार या संघ राज्यक्षेत्र प्रशासन को सिफारिश करेगा।

(3) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन संबंधित और प्रभावित व्यक्तियों से प्राप्त आक्षेपों, यदि कोई हों, पर विचार करने के पश्चात् प्राधिकरण द्वारा की गयी सिफारिश की तारीख से दो सौ चालीस दिन से अनधिक की अवधि के भीतर राजपत्र में आर्द्रभूमियों को अधिसूचित करेगी।

(4) (क) केन्द्रीय सरकार सीमा-पार आर्द्रभूमियों के मामले में, संक्षिप्त दस्तावेज, जिसमें उप-नियम (1) में यथा सूचीबद्ध सूचना दी गई हो, को तैयार करने में संबद्ध राज्य सरकार और संघ राज्यक्षेत्र प्रशासनों के साथ समन्वय करेगी।

(ख) संक्षिप्त दस्तावेज के आधार पर, राष्ट्रीय आर्द्रभूमि समिति आर्द्रभूमि को अधिसूचित किये जाने के लिए केन्द्रीय सरकार को सिफारिश करेगी।

(ग) केन्द्रीय सरकार संबद्ध और प्रभावित व्यक्तियों से प्राप्त आक्षेपों, यदि कोई हों, पर विचार करने के पश्चात् समिति द्वारा की गई सिफारिश की तारीख से दो सौ चालीस दिन से अनधिक की अवधि के भीतर आर्द्रभूमियों को राजपत्र में अधिसूचित करेगी।

(5) (क) केन्द्रीय सरकार आर्द्रभूमियों से संबंधित सूचना के लिए एक समर्पित वेब पोर्टल का सृजन करेगी।

(ख) केन्द्रीय सरकार, राज्य सरकार और संघ राज्य क्षेत्र प्रशासन अपनी अधिकारिता में की आर्द्रभूमियों के विषय में, सभी संबंधित सूचना अपलोड करेगी।

[फा. सं. जे-22012/78/2003-सीएस(डब्ल्यू) पार्ट.V]

डॉ. ए. दुरैसामी, वैज्ञानिक 'जी'

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 26th September, 2017

G.S.R. 1203(E).—Whereas the wetlands, vital parts of the hydrological cycle, are highly productive ecosystems which support rich biodiversity and provide a wide range of ecosystem services such as water storage, water purification, flood mitigation, erosion control, aquifer recharge, microclimate regulation, aesthetic enhancement of landscapes while simultaneously supporting many significant recreational, social and cultural activities, being part of our rich cultural heritage;

And whereas many wetlands are threatened by reclamation and degradation through drainage and landfill, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alteration (water withdrawal and changes in inflow and outflow), over-exploitation of their natural resources resulting in loss of biodiversity and disruption in ecosystem services provided by wetlands;

(TRUE COPY)

And whereas clause (g) of article 51A of the Constitution stipulates that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;

And whereas the Environment (Protection) Act, 1986 is a comprehensive legislation to provide protection and improvement of the environment, including *inter-alia*, wetlands, and for matters connected therewith;

And whereas the National Environment Policy, 2006 recognises the ecosystem services provided by wetlands and emphasizes the need to set up a regulatory mechanism for all wetlands so as to maintain their ecological character, and ultimately support their integrated management;

And whereas India is a signatory to the Ramsar Convention on Wetlands and is committed to conservation and wise use of all wetlands within its territory;

And whereas the Central Government has published the Wetlands (Conservation and Management) Rules, 2010, vide number G.S.R. 951(E), dated the 4th December, 2010;

And whereas conservation and wise use of wetlands can provide substantial direct and indirect economic benefits to state and national economy, and thereby the Central Government stands committed to mainstreaming full range of wetland biodiversity and ecosystem services in development planning and decision making for various sectors;

And whereas the State Governments and Union Territory Administrations need to take into account wetland ecosystem services and biodiversity values likewise within their developmental programming and economic well-being, also taking into cognizance that land and water, two major ecological constituents of wetland ecosystems, are enlisted as State subjects as per the Constitution;

And whereas the Central Government considered it necessary to supersede the Wetlands (Conservation and Management) Rules, 2010 for effective conservation and management of wetlands in the country;

And whereas the Central Government had, in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act, 1986, published the draft Wetlands (Conservation and Management) Rules, 2016, vide number G.S.R. 385 (E) dated 31st March, 2016 for information of the public likely to be affected thereby; and notice was given that the said draft rules would be taken into consideration by the Central Government after expiry of a period of sixty days from the date on which copies of the Gazette notification is made available to the public;

And whereas the Central Government has received the suggestions and objections from the State Governments, Union Territories and its organisations, individuals and civil society organisations on the draft Wetlands (Conservation and Management) Rules, 2016;

And whereas the suggestions and objections received in response to the above mentioned draft rules have been duly considered by the Central Government in consultation with State Governments and Union Territory Administrations.

Now, therefore, in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 and section 23 of the Environment (Protection) Act, 1986 and in supersession of the Wetlands (Conservation and Management) Rules, 2010, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules for conservation and management of wetlands, namely:—

1. Short title and commencement.—

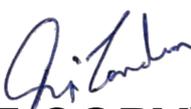
- (1) These rules may be called the Wetlands (Conservation and Management) Rules, 2017.
- (2) These shall come into force from the date of their publication in the Official Gazette.

2. Definitions.—

- (1) In these rules, unless the context otherwise requires,-
 - (a) "Act" means the Environment (Protection) Act, 1986;
 - (b) "Authority" means the State Wetlands Authority or Union Territory Wetlands Authority, as the case may be;


(TRUE COPY)

- (c) "Committee" means the National Wetlands Committee referred to in rule 6;
- (d) "ecological character" means the sum of ecosystem components, processes and services that characterise the wetlands;
- (e) "integrated management plan" means a document which describes strategies and actions for achieving wise use of the wetland and the plan shall include objectives of site management; management actions required to achieve the objectives; factors that affect, or may affect, the various site features; monitoring requirements for detecting changes in ecological character and for measuring the effectiveness of management; and resources for management implementation;
- (f) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;
- (g) "wetland" means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;
- (h) "wetlands complexes" means two or more ecologically and hydrologically contiguous wetlands and may include their connecting channels/ducts;
- (i) "wise use of wetlands" means maintenance of their ecological character, achieved through implementation of ecosystem approach within the context of sustainable development;
- (j) "zone of influence" means that part of the catchment area of the wetland or wetland complex, developmental activities in which induce adverse changes in ecosystem structure, and ecosystem services.
- (2) The words and expressions used in these rules and not defined, but defined in the Act, shall have the meanings assigned to them in the Act.
- 3. Applicability of rules.**—These rules shall apply to the following wetlands or wetlands complexes, namely:—
- (a) wetlands categorised as 'wetlands of international importance' under the Ramsar Convention;
- (b) wetlands as notified by the Central Government, State Government and Union Territory Administration:
- Provided that these rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.
- 4. Restrictions of activities in wetlands.**—(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.
- (2) The following activities shall be prohibited within the wetlands, namely,-
- (i) conversion for non-wetland uses including encroachment of any kind;
- (ii) setting up of any industry and expansion of existing industries;
- (iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
- (iv) solid waste dumping;
- (v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
- (vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,
- (vii) poaching.


(TRUE COPY)

Provided that the Central Government may consider proposals from the State Government or Union Territory Administration for omitting any of the activities on the recommendation of the Authority.

5. Wetlands Authorities.—(1) The Central Government hereby constitutes the State Wetlands Authority in each State with the following members, namely:—

- (i) Minister In-charge of the Department of Environment/Forests of the State Government or Minister In-charge of the Department handling wetlands - Chairperson;
 - (ii) Chief Secretary of the State or Additional Chief Secretary equivalent - Vice Chairperson;
 - (iii) Secretary in-charge of the Department of Environment - Member *ex-officio*;
 - (iv) Secretary in-charge of the Department of Forests - Member *ex-officio*;
 - (v) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
 - (vi) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
 - (vii) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
 - (viii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
 - (ix) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
 - (x) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
 - (xi) Secretary in-charge of the Department of Revenue - Member *ex-officio*;
 - (xii) Director, State Remote Sensing Centre - Member *ex-officio*;
 - (xiii) Chief Wildlife Warden - Member *ex-officio*;
 - (xiv) Member Secretary, State Biodiversity Board - Member *ex-officio*;
 - (xv) Member Secretary, State Pollution Control Board - Member *ex-officio*;
 - (xvi) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change - Member *ex-officio*;
 - (xvii) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socio-economics to be nominated by the State Government; and
 - (xviii) Additional Secretary/Joint Secretary/Director in the Department of Environment/Forests or Department handling wetlands - Member Secretary.
- (2) The Central Government hereby constitutes the Union Territory Wetlands Authority for each Union Territory with the following members, namely:—
- (i) Administrator or Chief Secretary of the Union Territory - Chairperson;
 - (ii) Secretary in-charge of the Department of Environment - Vice Chairperson;
 - (iii) Secretary in-charge of the Department of Forests - Member *ex-officio*;
 - (iv) Secretary in-charge of the Department of Urban Development - Member *ex-officio*;
 - (v) Secretary in-charge of the Department of Rural Development - Member *ex-officio*;
 - (vi) Secretary in-charge of the Department of Water Resources - Member *ex-officio*;
 - (vii) Secretary in-charge of the Department of Fisheries - Member *ex-officio*;
 - (viii) Secretary in-charge of the Department of Irrigation and Flood Control - Member *ex-officio*;
 - (ix) Secretary in-charge of the Department of Tourism - Member *ex-officio*;
 - (x) Secretary in-charge of the Departments of Revenue - Member *ex-officio*;
 - (xi) Director, Remote Sensing Centre - Member *ex-officio*;
 - (xii) Member Secretary, Union Territory Pollution Control Committee - Member *ex-officio*;



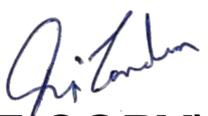
(TRUE COPY)

- (xiii) Member Secretary, Biodiversity Board of the UT - Member *ex-officio*;
- (xiv) Chief Wildlife Warden - Member *ex-officio*;
- (xv) Additional Principal Chief Conservator of Forests of the Regional Office of Ministry of Environment, Forest and Climate Change- Member *ex-officio*;
- (xvi) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning and socio-economics to be nominated by the Union Territory Administration; and
- (xvii) Additional Secretary/Joint Secretary/Director in the Department of Environment/Forests or Department handling wetlands - Member Secretary.
- (3) The State Wetlands Authority or Union Territory Wetlands Authority may co-opt other members, not exceeding three in number, if required.
- (4) The State Wetlands Authority or Union Territory Wetlands Authority shall exercise the following powers and perform the following functions, namely:-
- (a) prepare a list of all wetlands of the State or Union Territory within three months from the date of publication of these rules;
- (b) prepare a list of wetlands to be notified, within six months from the date of publication of these rules; taking into cognizance any existing list of wetlands prepared/notified under other relevant State Acts;
- (c) recommend identified wetlands, based on their Brief Documents, for regulation under these rules;
- (d) prepare a comprehensive digital inventory of all wetlands within a period of one year from the date of publication of these rules and upload the same on a dedicated web portal to be developed by the Central Government for the said purpose; the inventory to be updated every ten years;
- (e) develop a comprehensive list of activities to be regulated and permitted within the notified wetlands and their zone of influence;
- (f) recommend additions, if any, to the list of prohibited activities for specific wetlands;
- (g) define strategies for conservation and wise use of wetlands within their jurisdiction; wise use being a principle for managing these ecosystems which incorporates sustainable uses (such as capture fisheries at subsistence level or harvest of aquatic plants) as being compatible with conservation, if ecosystem functions (such as water storage, groundwater recharge, flood buffering) and values (such as recreation and cultural) are maintained or enhanced;
- (h) review integrated management plan for each of the notified wetlands (including trans-boundary wetlands in coordination with Central Government), and within these plans consider continuation and support to traditional uses of wetlands which are harmonized with ecological character;
- (i) in cases wherein lands within boundary of notified wetlands or wetlands complex have private tenancy rights, recommend mechanisms for maintenance of ecological character through promotional activities;
- (j) identify mechanisms for convergence of implementation of the management plan with the existing State/Union Territory level development plans and programmes;
- (k) ensure enforcement of these rules and other relevant Acts, rules and regulations and on half-yearly basis (June and December of each calendar year) inform the concerned State Government or Union Territory Administration or Central Government on the status of such notified wetlands through a reporting mechanism;
- (l) coordinate implementation of integrated management plans based on wise use principle through various line departments and other concerned agencies;
- (m) function as nodal authority for all wetland specific authorities within the State or Union Territory Administration;
- (n) issue necessary directions for conservation and sustainable management of wetlands to the respective implementing agencies;



(TRUE COPY)

- (o) undertake measures for enhancing awareness within stakeholders and local communities on values and functions of wetlands; and
- (p) Advise on any other matter *suo-motu*, or as referred by the State Government/Union Territory Administration.
- (5) The concerned Department of the State Government or Union Territory shall provide all necessary support and act as nodal Department and Secretariat to the Authority.
- (6) The Authority shall, within ninety days of publication of these rules, shall constitute,—
- (a) a technical committee to review brief documents, management plans and advise on any technical matter referred by the Wetland Authority; and
- (b) a grievance committee consisting of four members to provide a mechanism for hearing and forwarding the grievances raised by public to the Authority;
- (7) The Committees referred to in sub-rule (6) shall meet at least once in every quarter to perform their functions.
- (8) The Authority shall meet at least thrice in a year.
- (9) The term of non-official members of the Authority nominated by State Government or Union Territory Administration, shall be for a period not exceeding three years.
- 6. Constitution of National Wetlands Committee.—**(1) The Central Government, hereby constitutes the National Wetlands Committee with the following members, namely:—
- (i) Secretary, Ministry of Environment, Forest and Climate Change, Government of India - Chairperson;
- (ii) Special Secretary or Additional Secretary dealing with wetlands, Ministry of Environment, Forest and Climate Change, Government of India-Vice Chairperson;
- (iii) Additional Director General, Wildlife, Ministry of Environment, Forest and Climate Change, Government of India - Member *ex-officio*;
- (iv) Adviser or Joint Secretary dealing with wetlands, Ministry of Environment, Forest and Climate Change - Member *ex-officio*;
- (v) Joint Secretary, Ministry of Tourism, Government of India- Member *ex-officio*;
- (vi) Joint Secretary , Ministry of Water Resources, River Development and Ganga Rejuvenation, Government of India- Member *ex-officio*;
- (vii) Joint Secretary, Ministry of Agriculture and Farmers Welfare, Government of India- Member *ex-officio*;
- (viii) Joint Secretary, Ministry of Social Justice and Empowerment, Government of India- Member *ex-officio*;
- (ix) Joint Secretary, Ministry of Urban Development, Government of India- Member *ex-officio*;
- (x) Joint Secretary, Ministry of Rural Development, Government of India- Member *ex-officio*;
- (xi) The Chairman, Central Pollution Control Board - Member *ex-officio*;
- (xii) Director, Zoological Survey of India or Scientist F- Member *ex-officio*;
- (xiii) Director, Botanical Survey of India or Scientist F- Member *ex-officio*;
- (xiv) Director, Space Application Centre, Ahmedabad or Scientist F- Member *ex-officio*;
- (xv) Member, Central Water Commission - Member *ex-officio*;
- (xvi) Adviser, Niti Aayog - Member *ex-officio*;
- (xvii) Three representatives of State Government or Union Territory Administration on a rotational basis for a tenure of two years each;
- (xviii) One expert each in the fields of wetland ecology, hydrology, fisheries, landscape planning & socio-economics; and


(TRUE COPY)

- (xix) Director/Additional Director/Joint Director dealing with wetlands, Ministry of Environment, Forest and Climate Change - Member Secretary.
- (2) The National Wetlands Committee may co-opt other members, not exceeding three in number, if required.
- (3) The National Wetlands Committee shall perform the following functions, namely:-
- advise the Central Government on appropriate policies and action programmes for conservation and wise use of wetlands;
 - evolve norms and guidelines for integrated management of wetlands based on wise use principle;
 - monitor implementation of these rules by the Authority;
 - advise the Central Government on proposals received from State Governments or Union Territory Administrations for omission of the prohibited activities as referred in sub-rule (2) of rule 4;
 - recommend designation of wetlands of international importance under Ramsar Convention;
 - recommend trans-boundary wetlands for notification;
 - review progress of integrated management of Ramsar sites and transboundary wetlands;
 - advise on collaboration with international agencies on issues related to wetlands; and
 - advise on any other matter *suo-moto*, or as referred by the Central Government.
- (4) The tenure of non-official members of the Committee shall not exceed three years.
- (5) The Committee shall meet at least once in every six months.
- 7. Delegation of powers and functions to the State Governments and Union Territory Administrations.—**
- (1) The concerned Department of the State Government or Union Territory Administration shall, within a period of one year from the date of publication of these rules, prepare a Brief Document for each of the wetland identified for notification, providing:—
- demarcation of wetland boundary supported by accurate digital maps with coordinates and validated by ground truthing;
 - demarcation of its zone of influence and land use and land cover thereof indicated in a digital map;
 - ecological character description;
 - account of pre-existing rights and privileges;
 - list of site-specific activities to be permitted within the wetland and its zone of influence;
 - list of site specific activities to be regulated within the wetland and its zone of influence; and
 - modalities for enforcement of regulation;
- (2) Based on the Brief Document, the Authority shall make recommendations to the State Government or Union Territory Administration for notifying the wetlands.
- (3) The State Government or Union Territory Administration shall, after considering the objections, if any, from the concerned and affected persons, notify the wetlands in the Official Gazette, within a period not exceeding 240 days from the date of recommendation by the Authority.
- (4) (a) In case of trans-boundary wetlands, the Central Government shall coordinate with concerned State Governments and Union Territory Administrations to prepare the Brief Document containing information as listed in sub-rule (1).
- (b) Based on the Brief Document, the National Wetlands Committee shall make recommendations to the Central Government for notification of the wetland.
- (c) The Central Government shall, after considering the objections, if any, from the concerned and affected persons, notify the wetlands in the Official Gazette, within a period not exceeding 240 days from the date of recommendation by the Committee.



(TRUE COPY)

- (5) (a) The Central Government shall create a dedicated web portal for information relating to wetlands.
- (b) The Central Government, State Government and Union Territory Administration shall upload all relevant information and documents pertaining to wetlands in their jurisdiction.

[F. No. J-22012/78/2003-CS (W) Pt. V]

Dr. A. DURAISAMY, Scientist 'G'

ALOK
KUMAR

Digitally signed by
ALOK KUMAR
Date: 2017.09.26
22:25:31 +05'30'


(TRUE COPY)

ANNEXURE OJ-36

2020

**Guidelines for implementing
Wetlands (Conservation and Management) Rules, 2017**

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
GOVERNMENT OF INDIA


(TRUE COPY)

approach' is adopted to ensure that wetlands conservation is prioritized in the case of information uncertainty.

VIII. Prohibited activities in a notified wetland

45. The following activities are prohibited within notified wetlands:
- a. Conversion for non-wetland uses including encroachment of any kind;
 - b. Setting up of any industry and expansion of existing industries;
 - c. Manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
 - d. Solid waste dumping;
 - e. Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
 - f. Any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,
 - g. Poaching.
[Ref. Rule 4 (2) of Wetlands Rules]
46. State/UT Wetlands Authority, based on consideration of site-specific conditions, may consider expanding the list of prohibited activities for a notified wetland (or wetlands complex). This should be specified as such within the notification for specific wetland (or wetlands complex).
47. Permission for carrying out any activity included within the list of prohibited activities [as per Rule 4(2) of Wetlands Rules], within a notified wetland can only be given by the MoEF&CC. A specific request needs to be made by the State Government based on the recommendation of Wetlands Authority specifying:
- a) Activity for which permission is sought;
 - b) Justification thereof;
 - c) The premise on which the activity is not considered detrimental to the wetland's ecological character; &
 - d) Supporting evidence-base (such as an expert report, EIA, mitigating measures proposed to be undertaken etc.)

IX. Developing a list of activities, to be regulated in a notified wetland:

48. Activities within a notified wetland and its zone of influence, which when contained within a specific threshold or area, are not likely to induce an adverse change in wetlands ecological character may be placed under the 'regulated' category. Such activities should be notified within the notification for a specific wetland (wetlands complex).
49. Following activities, when regulated, are not likely to induce an adverse change in wetlands:
- a) Subsistence level biomass harvesting (including traditional practices);

[Insert list]

1.5 List of revenue villages / municipal areas falling fully or partly within the zone of influence is as under:

[Insert list]

Schedule II: List of activities prohibited within wetland/ wetlands complex boundary

- a) Conversion for non-wetland uses including encroachment of any kind;
- b) Setting up of any industry and expansion of existing industries;
- c) Manufacture or/and handling or/and storage or/and disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
- d) Solid waste dumping;
- e) Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
- f) Any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,
- g) Poaching.

[Other activities, likely to have an adverse impact on the ecosystem to be inserted from the Brief Document]

Schedule III: List of activities regulated within the boundary of wetlands / wetlands complex and its zone of influence and for which prior approval of [State Government/ UT Administration/MoEF&CC] is required to be obtained

Activity	Restrictions	
	Within the boundary of wetland / wetlands complex	Within the zone of influence
[Insert from brief document]	[Insert from Brief Document]	[Insert from Brief Document]

Schedule IV: List of activities permitted within the boundary of wetlands / wetlands complex and its zone of influence

Activity	Levels and types not requiring permission	
	Within the boundary of wetland / wetlands complex	Within the zone of influence
[Insert from brief document]	[Insert from Brief Document]	[Insert from Brief Document]

ANNEXURE OJ-37**UPDATED REPORT OF OVERSIGHT COMMITTEE IN COMPLIANCE OF ORDER OF HON'BLE NATIONAL GREEN TRIBUNAL PASSED IN O.A. NO. 116/2014 IN RE: MEERASHUKLA VERSUS MUNICIPAL CORPORATION, GORAKHPUR & ORS., WITH REGARD TO REMEDIAL ACTION FOR CONTAMINATION OF WATER BODIES AND GROUNDWATER**

I. INTRODUCTION

The Hon'ble National Green Tribunal dealing with the matter of O.A. NO. 116/2014 in Re: Meera Shukla Versus Municipal Corporation, Gorakhpur & Ors vide order dated 24.09.2019 considered the issue of remedial action for contamination of water bodies and groundwater, specially Ramgarh Lake, Ami River, Rapti River and Rohani River in and around District Gorakhpur, Uttar Pradesh.

II. MAJOR ORDERS PASSED BY HON'BLE NGT

1. The matter was considered vide order dated 23.08.2018. It was noted that Ramgarh Lake, Ami River, Rapti River and Rohani River in and around district Gorakhpur were severely polluted due to discharge of untreated sewage and industrial effluents. Steps required to prevent contamination of water bodies and groundwater were not being taken. The contamination of water bodies and groundwater was affecting the farmers and inhabitants, flora, fauna and ecology of the area and causing degradation of the environment. 103 water bodies were under threat. There was no proper management of solid waste and no designated scientific sanitary landfill.
2. The Tribunal also noted that there was encroachment of the Ramgarh Taal. CETP had not been set up. Industries were not complying with environmental norms. There was a high organic load in River Ami and Rapti and Sugar industries and Distillery units were causing pollution as a result 557 persons died in the year 2012 and about 50,000 persons died in the last 30 years. It was also noted that Ami, Rapti and Rohani River are the tributaries of Ghaghara which ultimately terminated into River Ganga.
3. For public health at Gorakhpur, clean water supply was necessary, apart from cleaning of water bodies and other steps for protection of environment.
4. In the above matter, the Hon'ble Tribunal directed constitution of a Monitoring Committee headed by former Judge of Allahabad High Court with representatives of the CPCB, UPPCB and State Jal Nigam to oversee compliance of directions of this Tribunal already issued on the subject of closing the sources of contaminated water

- No construction in wetland: At the time when the lake wetland issue was before the Committee, Ramgarh taal was notified as wetland.
- Notification of Ramgarh Taal: The Dept.of Van Evam Jal Vayu Parivartan (Anubhag-4) Govt. Gazette Notification no. 530/81-04-2020-06/2018, Lucknow dated 15 June, 2020 declaring Ramgarh lake wetland has been done. This notification indicates the boundary of lake, the borders and the plot numbers and coordinates of Ramgarhtal wetland and its zone of influence. This notification is in final stage pending assent from the final authority. GDA submitted that it would abide by all the rules and regulations regarding wetland. It will neither on its own or approve construction without proper clearances from the concerned departments.
- Increase in area of the lake: As per the Wetland notification the area of Ramgarh lake is 742.245 hectares which hasbeen bifurcated as following

-GDA (Taal)	= 529.169 hectares
-Gorakhpur DevtAuthority (Govt.property)=	177.325 hectares
-Private	= 35.751 hectares
TOTAL	= 742.245 hectares

The ATR furnished stated that Gorakhpur Development Authority has not done any landfilling whatsoever in the lake. Now, as notification would be passed, they shall not pass any map in wetland or zone of influence. Moreover, no construction of any kind will be allowed.
- Notification dated 14. 09.2006 which prohibits construction in Wetland /catchment area of water reservoirs of 500 m without environmental clearances: As per the ATR submitted by Gorakhpur Development Authority, it was stated that in the above notification there is no mention whatsoever of any restriction of construction within 500 meters. MoEF published a notification dated 26.09.2017 which made clear that ban on permanent construction was only on 50m from the mean high water flood level from the lake.
- Reports of Committee headed by Shri Ashish Tiwari, Member Secretary,

(ii) Justice DP Singh had also mentioned that there are gaps in sewage management in Lucknow. As against the total required capacity of sewage disposal of 748 mld, the available capacity is 598 mld. UP Government/Lucknow Nagar Nigam would do well to follow up expeditiously on the proposed projects to fill the gaps viz the 85 mldBharwara STP, the Bijnor 80 mld STP and Ghaila 22mld STP.

9. As far as encroachments within Gorakhpur Development Authority on ChiluaTaal and Mahesaralake are concerned, so far the compliance report has not been received from District Magistrate, Gorakhpur.

10. In the earlier report, the issue of pollution of river Saryu due to untapped drains was considered. A project for interception of 15 drains amounting to rupees 363.95 crore has been sent to NMCG. It may be followed up so that the approval is expedited and pollution of the river may be minimised.

11. The Oversight Committee is concerned that despite repeated directions, the progress on the ground in the last more than one year is very slow. Chief Secretary, UP may review the progress of these projects in his monthly meetings so that the progress of these projects is expedited.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the Hon'ble Tribunal with a copy to the Chief Secretary, Government of UP for necessary action. The report be uploaded on the website of the committee.

 Invalid signature

 Invalid signature

X Anup Chandra Pandey

X SVS Rathore

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

Dec 11, 2020

Annexures: As above

Please visit our website: osnigt.upsdc.gov.in for more information.



SCC Online Web Edition, © 2025 EBC Publishing Pvt. Ltd.
Page 1 Thursday, January 23, 2025
Printed For: Avi Tandon Meghna Tandon and Ami Tandon
SCC Online Web Edition: <https://www.sconline.com>
TruePrint™ source: Supreme Court Cases, © 2025 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

SINGRAULI SUPER THERMAL POWER STATION v.
ASHWANI KUMAR DUBEY

35

(2023) 8 Supreme Court Cases 35

a (BEFORE B.V. NAGARATHNA AND PRASHANT KUMAR MISHRA, JJ.)
SINGRAULI SUPER THERMAL POWER STATION . . . Appellant;
Versus
ASHWANI KUMAR DUBEY AND OTHERS . . . Respondents.
Civil Appeals No. 3856 of 2022[†] with Nos. 4525,
b 4529 and 4581 of 2022[†], decided on July 5, 2023

2J

A. Environment Law — National Green Tribunal Act, 2010 — Ss. 19, 14 and 15 — Adjudication of disputes — Proper mode of disposal and basis of decision of NGT — Compliance with principles of natural justice — Necessity of

c — **Report of Expert Committee as well as recommendations of it — Made the basis of the directions issued by NGT while taking decision in matter without notice of report to a party — Validity — Held, not disclosing such a report or any other relevant material that comes to knowledge of NGT in advance, to a party in dispute so as to give an opportunity for discussion and rebuttal, held, illegal**

d — S. 15 empowers NGT to award compensation to victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for restitution of environment — NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative Expert Committees — Expert Committees may be appointed to assist NGT in performance of its task and as an adjunct to its fact-finding role — But adjudication under statute is entrusted to NGT and cannot be delegated to administrative authorities — Adjudicatory functions assigned to courts and tribunals cannot be hived off to administrative committees

e — NGT is a judicial body and therefore exercises adjudicatory function — Very nature of an adjudicatory function would carry with it requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of cases before the tribunal concerned, such as NGT, or for that matter before courts in India — NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, discharge of its function must be in accordance with law which would also include compliance with principles of natural justice as envisaged in S. 19(1)

f — Factual information which comes to knowledge of NGT on basis of report of Committee constituted by it, if to be relied upon by the NGT, then, same must be disclosed to parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to Tribunal

g — Held, making report of Expert Committee as well as is recommendations, basis of directions by NGT was improper

h [†] Arising from the Judgment and Order in *Ashwani Kumar Dubey v. Union of India*, 2022 SCC OnLine NGT 120 (National Green Tribunal, Original Application No. 164 of 2018, dt. 18-1-2022) [Reversed]

(TRUE COPY)

36

SUPREME COURT CASES

(2023) 8 SCC

B. Practice and Procedure — Expert Evidence/Opinion/Expert Committee — Appointment of Expert Committees — Expert Committees set by courts/tribunals and those set up by Government in exercise of executive powers or under a particular statute — Distinction between — Opinions/Reports of such Committees howsoever appointed — Nature of — Principles clarified — Once these committees submit their final reports to court/tribunal, held, it is open to parties to object to them, which is then adjudicated upon — Role of these Expert Committees does not substitute adjudicatory role of court or tribunal, or relieve them of their duty to comply with principles of natural justice

— Government in exercise of executive powers or under a particular statute set up Expert Committee due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them — Courts should be circumspect in rejecting opinion of these committees, unless they find their decision to be manifestly arbitrary or mala fide — On other hand, courts/tribunals themselves set up Expert Committees on occasion — These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require committees to conduct field visits — These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to mandate

— Administrative Law — Judicial Review — Exclusion of Judicial Review — Expert Body — Constitution of India — Art. 32 — Constitution of India — Art. 226 — Constitution of India — Art. 136 — Court inquiry/Court Commission of Enquiry/Expert Committee — Evidence Act, 1872, S. 45

C. Administrative Law — Natural Justice — Audi Alteram Partem — Right to Hearing — Generally — Meaning, Nature, Scope and Applicability — “Official notice doctrine” — What is and Applicability of — Explained

— Said doctrine is a device used in administrative procedure — Although an authority can rely upon materials familiar to it in its expert capacity without need formally to introduce them in evidence, nevertheless, parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them — Data on which an authority is acting must be apprised to party against whom data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to facts upon which authority relies — Aforesaid doctrine applies with greater force to a judicial/adjudicatory body

— Courts, Tribunals and Judiciary — Judicial Process — Exercise of power — Natural Justice/Reasons/Application of mind — Natural Justice — Audi Alteram Partem — Right to Hearing — Generally — Meaning, Nature, Scope and Applicability — Practice and Procedure — Natural Justice — Courts, Tribunals and Special Courts — Tribunals — Doctrines and Maxims — Official Notice Doctrine



(TRUE COPY)

SINGRAULI SUPER THERMAL POWER STATION v.
 ASHWANI KUMAR DUBEY

37

Held :

- a* It is first important to differentiate Expert Committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them. Precedents of the Supreme Court unanimously note that courts should be circumspect in rejecting the opinion of these committees, unless they
- b* find their decision to be manifestly arbitrary or mala fide. On the other hand, courts/tribunals themselves set up Expert Committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees
- c* submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these Expert Committees does not substitute the adjudicatory role of the court or tribunal. (Para 19)
- Section 14 and Section 15 of the NGT Act entrust adjudicatory functions to the NGT. NGT is an expert adjudicatory body on the environment. (Para 19)
- Section 15 of the NGT Act empowers the NGT to award compensation to the victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for the restitution of the environment. NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative Expert Committees. Expert Committees may be appointed to assist the NGT in the performance of its task and as an adjunct to its fact-finding role. But adjudication under the statute is entrusted to the NGT and cannot be delegated to administrative authorities. Adjudicatory functions assigned to courts and tribunals
- d* cannot be hived off to administrative committees. (Para 19)
- NGT has in the present case abdicated its jurisdiction and entrusted judicial functions to an administrative Expert Committee. An Expert Committee may be able to assist the NGT, for instance, by carrying out a fact-finding exercise, but the adjudication has to be by the NGT. This is not a delegable function. Thus, the order impugned in the appeal cannot be sustained. (Para 19)
- e* NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in accordance with law which would also include compliance with the principles of
- f* natural justice as envisaged in Section 19(1) of the NGT Act. (Para 21)
- “Official notice” doctrine, is a device used in administrative procedure. Although an authority can rely upon materials familiar to it in its expert capacity without the need formally to introduce them in evidence, nevertheless, the parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them. The data on which an authority is acting must be apprised to the party
- g* against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to
- h*



(TRUE COPY)

38 SUPREME COURT CASES (2023) 8 SCC

the facts upon which the authority relies. Aforesaid doctrine applies with greater force to a judicial/adjudicatory body. (Para 22)

Therefore, if NGT intends to rely upon an Expert Committee report or any other relevant material that comes to its knowledge, it should disclose in advance to the party so as to give an opportunity for discussion and rebuttal. Thus, factual information which comes to the knowledge of NGT on the basis of the report of the Committee constituted by it, if to be relied upon by the NGT, then, the same must be disclosed to the parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to the Tribunal. (Para 23)

In present case report of the Expert Committee as well as the recommendations have been made the basis of the directions issued by the NGT and such an approach is improper. (Para 24)

Sanghar Zuber Ismail v. Union of India, (2021) 17 SCC 827 : 2021 SCC OnLine SC 669; *Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat*, (2023) 13 SCC 525 : 2022 SCC OnLine SC 120; *Madhyamam Broadcasting Ltd. v. Union of India*, (2023) 13 SCC 401 : 2023 SCC OnLine SC 366, followed

Hanuman Laxman Aroskar v. Union of India, (2019) 15 SCC 401, relied on

Ashwani Kumar Dubey v. Union of India, 2022 SCC OnLine NGT 120, reversed

M.C. Mehta v. Union of India (Shriram-Oleum Gas), (1987) 1 SCC 395 : 1987 SCC (L&S) 37; *Sterlite Industries (India) Ltd. v. Union of India*, (2013) 4 SCC 575; *Goel Ganga Developers India (P) Ltd. v. Union of India*, (2018) 18 SCC 257; *Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002; *MCD v. Uphaar Tragedy Victims Assn.*, (2011) 14 SCC 481 : (2013) 1 SCC (Civ) 897 : (2013) 2 SCC (Cri) 555 : (2013) 1 SCC (L&S) 305; *Shantanu Sharma v. Union of India*, 2020 SCC OnLine NGT 3014; *Ashwani Kumar Dubey v. Union of India*, 2020 SCC OnLine NGT 2627; *Basavaiah v. H.L. Ramesh*, (2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640; *State of Kerala v. RDS Project Ltd.*, (2020) 9 SCC 108, cited

Appeals allowed RM-D/70102/C

Advocates who appeared in this case :

Tushar Mehta, Solicitor General, Sanjay Jain, Senior Advocate [Adarsh Tripathi, Ajitesh Garg, Ms Alka Sinha, Anuvrat Sharma (Advocate-on-Record), Ashish Prasad, Ms Mukta Dutta, Mahfooz Ahsan Nazki (Advocate-on-Record), Pruthvi Dhinoja, Ashwani Kr. Dubey, Shailesh Madiyal (Advocate-on-Record) and Sudhanshu Prakash, Advocates], for the Appellant;

Ms Aishwarya Bhati, Additional Solicitor General [Gurmeet Singh Makker (Advocate-on-Record), Dr Arun Kr. Yadav, Ms Deepabali Dutta, Divyansh H. Rathi, Devashish Bharukha, Ms Rukhmini Bobde, Ms Manisha Chava, Ms Poornima Singh, Ms Sthavi Asthana, Ms Swarupama Chaturvedi (Advocate-on-Record) and Ms Saumya Kapoor, Advocates], for the Respondents.

Chronological list of cases cited on page(s)

1. (2023) 13 SCC 525 : 2022 SCC OnLine SC 120, *Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat* 43e, 47a
2. (2023) 13 SCC 401 : 2023 SCC OnLine SC 366, *Madhyamam Broadcasting Ltd. v. Union of India* 48f
3. 2022 SCC OnLine NGT 120, *Ashwani Kumar Dubey v. Union of India (reversed)* 39c, 39c-d, 42h, 43b-c, 44a, 49e, 49e-f, 49f
4. (2021) 17 SCC 827 : 2021 SCC OnLine SC 669, *Sanghar Zuber Ismail v. Union of India* 43d, 46d-e
5. (2020) 9 SCC 108, *State of Kerala v. RDS Project Ltd.* 47b-c
6. 2020 SCC OnLine NGT 3014, *Shantanu Sharma v. Union of India* 44c
7. 2020 SCC OnLine NGT 2627, *Ashwani Kumar Dubey v. Union of India* 44c
8. (2019) 15 SCC 401, *Hanuman Laxman Aroskar v. Union of India* 47f, 47f-g


 (TRUE COPY)

	SINGRAULI SUPER THERMAL POWER STATION v. ASHWANI KUMAR DUBEY (<i>Nagarathna, J.</i>)	39
	9. (2018) 18 SCC 257, <i>Goel Ganga Developers India (P) Ltd. v. Union of India</i>	41b-c
a	10. (2013) 4 SCC 575, <i>Sterlite Industries (India) Ltd. v. Union of India</i>	41b-c
	11. (2011) 14 SCC 481 : (2013) 1 SCC (Civ) 897 : (2013) 2 SCC (Cri) 555 : (2013) 1 SCC (L&S) 305, <i>MCD v. Uphaar Tragedy Victims Assn.</i>	41d-e
	12. (2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640, <i>Basavaiah v. H.L. Ramesh</i>	47b-c
	13. (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002, <i>Sarla Verma v. DTC</i>	41d-e
b	14. (1987) 1 SCC 395 : 1987 SCC (L&S) 37, <i>M.C. Mehta v. Union of India (Shriram-Oleum Gas)</i>	41b-c

The Judgment of the Court was delivered by

B.V. NAGARATHNA, J.— Since the grievances ventilated by the appellant(s) in these appeals are common, they have been clubbed and heard together and are disposed of by this common judgment.

- c 2. The appellants(s) herein are aggrieved by the order¹ passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as “NGT” for the sake of convenience) dated 18-1-2022¹. By the said order the following directions have been issued against the appellant(s) herein: (*Ashwani Kumar Dubey case*¹, SCC OnLine NGT paras 22-24)

d “Directions:

- e 22. In the light of above discussion, it is patent that remedial measures are required in terms of recommendations set out in para 15 above in respect of individual TPPs or other projects as well as general issues applicable to all the TPPs such as timely installation of air pollution control and monitoring devices, timely utilisation and disposal of fly ash, scientific designing of fly ash dykes and safety norms, addressing public health issues, steps for restoration of deteriorated environment by bringing down CEPI scores in the entire area, restoration of Rihand Reservoir and other damaged/degraded areas, providing arrangement for public health facilities, including water supply and by coordinated and concerted efforts and high level monitoring. The PP are to be accountable for past violations and are under obligation to remedy the violations and follow the norms for future. The regulators are to enforce the same and higher authorities are to oversee. Accordingly, following direction are issued:

- g (i) We direct constitution of a fly ash management and utilisation Mission to be jointly headed by the Secretaries, MoEF&&CC, Coal and Power, GoI and Chief Secretaries of U.P. and M.P. The Secretary, MoEF&&CC will be the nodal agency for coordination and compliance. The Mission will coordinate and monitor issues relating to handling and disposal of fly ash as well as all associated issues in the light of above discussion. It may hold its first meeting within one month to take stock of the situation and to prepare action plan in the light of recommendations of Joint Committees quoted earlier in para 15 above in respect of individual plants as well as road map generally. Thereafter,

h

¹ *Ashwani Kumar Dubey v. Union of India*, 2022 SCC OnLine NGT 120

it may meet at least once in a month for one year to review the progress. The resolutions of the Mission and quarterly progress may be placed on the website of MoEF&CC for information of the stake holders and inhabitants in the area. The Mission will be free to interact with the concerned Government Departments/Expert institutions/individuals/other stakeholders. The Mission may in its first meeting require voluntary financial contribution by all the projects in proportion of the financial capacity of the projects out of CSR funds or otherwise. The contribution, along with compensation which may be collected may be credited to a separate environment restoration account for restoration of environment and relief to the victims of damage to the environment in such manner as may be found necessary by the Mission. Any victim or aggrieved party will be free to approach the Mission for providing such relief. The Mission may also consider the safeguards laid down in the Notification dated 31-12-2021, particularly for safety audits of ash dykes which should be conducted particularly for structural stability, as far as possible within six months. Advisory issued by the Ministry of Power dated 22-9-2021 will not be enforced being against the spirit of Notification dated 31-12-2021 and obstructing much needed speedy utilisation/disposal of legacy fly ash. The Mission may evolve mechanism for interaction with stake holders, including associations of brick kiln owners. Guidelines be also issued for siting, design and engineering standards for the location, disposal, maintenance and regulation of Ash Ponds as breach of a fly ash pond result in great disaster. Public health and risk impact assessment in the areas of operation of TPPs and generators of fly ash may be got conducted. The Mission may also monitor scientific management and utilisation of fly ash by power projects outside Singrauli and Sonbhadra, in coordination with Chief Secretaries of States concerned and adopting safety measures for ash dykes, installing devices to control air pollution, (including FGDs, OCEMS) in a time-bound manner and restoration of environment and public health. The Mission may also consider use of beneficiated coal. It may in particular consider on-site and off-site crisis management plans with regard to fly ash ponds and dykes. As noted earlier, legacy fly ash is 1670.602 million tonnes as on. 31-12-2021 and data of ash generation and utilisation of legacy fly ash is as follows:

'Summary of Ash Generation and Utilisation during year 2020-2021

No. of Thermal Power Stations	191
Capacity (MW)	2,13,030 MW
Coal Consumed	672.130 million tonnes
Fly Ash Generation	222.789 million tonnes
Fly Ash Utilisation	205.098 million tonnes
Percentage Utilisation	92.06%
Legacy Fly ash	1670.602 million tonnes


(TRUE COPY)

SINGRAULI SUPER THERMAL POWER STATION v.
 ASHWANI KUMAR DUBEY (*Nagarathna, J.*)

41

a The Committee of Secretaries, in coordination with PPs and statutory regulators, may draw a roadmap for utilisation and disposal of entire legacy fly ash for Sonebhadra and Singrauli areas as well as for all the power plants located in clusters or standalone with tagging the sources to utilise fly ash on voluntary and compulsion mode for which required mechanism be laid down.

b (ii) With regard to past violations, the PPs remain liable and the Joint Committee of CPCB, State PCB and jurisdictional District Magistrates may determine compensation following due process, on the principles laid down inter alia in *M.C. Mehta*², *Sterlite*³ and *Goel Ganga*⁴, having regard to the period of violation and financial capacity of the unit. The PPs may take remedial measures as per recommendations of the Committee and as per law, failing with
 c coercive measures for continuing or future violations be taken by concerned authorities.

d (iii) Statutory regulators may take action in terms of need for compliances in the light of recommendations with regard to individual Plants as well as generally so as to require the PPs concerned to comply, failing which coercive measures be taken by the statutory regulators in accordance with law.

e (iv) In respect of incident dated 10-4-2020, compensation paid to heirs of the deceased at the rate of Rs 10 lakhs per death is increased to Rs 15 lakhs on principles laid down inter alia in *Sarla Verma*⁵ and *Uphaar Cinema*⁶. We direct the remaining amount to be paid within one month. This order will not debar the heirs of the victims to claim higher compensation by approaching appropriate forum. If the salaries to persons appointed as compensation to the victims are below minimum wages, the PP may ensure compliance of law on the subject which may be also looked into by the Labour Departments concerned of the State of U.P. and M.P. The statutory regulators may take further remedial action in terms of recommendations of the Committee in OA
 f No. 148 of 2020, quoted earlier for restoration of environment and preventing such incidents.

(v) With regard to breach of Rihand Reservoir also, further remedial measures be taken in terms of recommendations on the subject, quoted in para 15 above.

g 23. All the matters (including IAs) will stand disposed of accordingly. If any grievance survives, aggrieved parties are free to take remedies as per law.

h 2 *M.C. Mehta v. Union of India (Shriram-Oleum Gas)*, (1987) 1 SCC 395 : 1987 SCC (L&S) 37
 3 *Sterlite Industries (India) Ltd. v. Union of India*, (2013) 4 SCC 575
 4 *Goel Ganga Developers India (P) Ltd. v. Union of India*, (2018) 18 SCC 257
 5 *Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002
 6 *MCD v. Uphaar Tragedy Victims Assn.*, (2011) 14 SCC 481 : (2013) 1 SCC (Civ) 897 : (2013) 2 SCC (Cri) 555 : (2013) 1 SCC (L&S) 305

42

SUPREME COURT CASES

(2023) 8 SCC

24. A copy of this order be forwarded to the Secretaries, MoEF&CC, Coal and Power, GoI and Chief Secretaries of U.P. and M.P., CPCB, State PCBs, SEIAAs, PCCFs (HoFF) U.P. and M.P., District Magistrates, Singrauli and Sonebhadra, Labour Commissioners, U.P. and M.P., State Disaster Management Authorities of U.P. and M.P. and SSPs by e-mail for compliance. CPCB may also circulate the same by email to all TPPs or other concerned to facilitate compliance.

Adarsh Kumar Goel, CP
 Sudhir Agarwal, JM
 Brijesh Sethi, JM
 Prof. A. Senthil Vel, EM
 Dr Afroz Ahmad, EM

18-1-2022”

3. Being aggrieved by the directions issued by the NGT and the manner in which the original petition has been disposed of, the appellants have filed these appeals.

4. At this stage itself it may be noted that the first respondent, the original applicant before the NGT has been served in all the cases and has not appeared in these cases. In the circumstances, the appeals have been heard and decided, by taking into consideration, the submissions of the learned counsel appearing for the appellants herein.

5. The learned Solicitor General appearing for the appellants in CA No. 3856 of 2022 at the outset submitted that the proceedings of the NGT are judicial proceedings and compliance of principles of natural justice is a hallmark of all judicial proceedings. That in the instant case, while the NGT was well within its powers to constitute an Expert Committee and to seek a report with regard to the alleged violations complained of by the first respondent herein, on receipt of the said report, it was necessary that the alleged violators were given an opportunity to object to the said report and after consideration of the objections, the NGT ought to have passed a considered order and issued only those directions which were appropriate having regard to the facts of each industry that was made a respondent before the NGT.

6. He further submitted that Section 19(1) of the National Green Tribunal Act, 2010 (hereinafter referred to as “the Act” for the sake of convenience) categorically states that the Tribunal, though not bound by the procedure laid down by the Civil Procedure Code, 1908, shall nevertheless be guided by the principles of natural justice.

7. According to the learned Solicitor General in the instant case, there has been gross violation of the principles of national justice on two counts: *firstly*, the report of the Committee constituted by the NGT and the recommendations made by the said Committee could not be objected to by the appellant(s) herein as there was hardly any time given to the appellants to even peruse the same. In this regard, he drew our attention to the fact that the report and the recommendations of the Committee constituted by the NGT were put up on the website of the NGT on 15-1-2022 and three days thereafter i.e. on 18-1-2022 the impugned directions¹ have been issued. *Secondly*, he submitted that the fact

¹ Ashwani Kumar Dubey v. Union of India, 2022 SCC OnLine NGT 120

SINGRAULI SUPER THERMAL POWER STATION v.
 ASHWANI KUMAR DUBEY (*Nagarathna, J.*)

43

a that in such a short span of time the matters were considered and disposed of by the NGT, in the absence of there being objections filed by the appellants herein nor having heard the appellants herein, would also imply that there has been no consideration by the NGT of the *pros* and *cons* vis-à-vis the recommendations made by the Expert Committee and as to whether the directions issued were appropriate to the case of each of the appellant(s) herein or not.

b 8. It was submitted that had the appellants herein had an opportunity of filing their objections to the recommendations made by the Committee constituted by the NGT and had the appellants been heard in the matter, possibly appropriate directions could have been issued as against the appellant(s) herein.

c 9. In conclusion, the learned Solicitor General submitted that the impugned order¹ may be set aside and the matter may be remanded to the NGT for re-consideration of the entire case of the first respondent herein in compliance with the principles of natural justice, that is, *firstly* by giving an opportunity to the appellants herein to file their objections, if any, to the recommendations of the Committee constituted by the NGT and *secondly*, by giving a further opportunity of hearing to the appellants herein. In this regard, the learned Solicitor General relied upon a decision of this Court in *Sanghar Zuber Ismail v. Union of India*⁷.

d 10. The learned Senior Counsel Mr Sanjay Jain and Mr Nazki adopted the submissions of the learned Solicitor General and also contended that the manner in which the original petition has been disposed of by the NGT in these cases was in gross violation of the principles of natural justice. In this regard, reliance is also placed on another decision of this Court in *Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat*⁸.

e 11. The other learned counsel who have appeared, brought to our notice that in the instant case, there were two reports filed and therefore, it was all the more necessary that the said reports had to be considered in order to examine as to whether there were contradictions in them and were in accordance with law.

f 12. The learned ASG appearing for Respondent 2 as well as other the learned counsel for private respondents also supported the arguments of the learned Solicitor General.

13. We find substance in the submissions made by the learned Solicitor General, the learned Senior Counsel and the learned counsel for the respective parties.

14. As already noted, the first respondent is the contesting respondent herein who has been served and has failed to appear in these cases.

g 15. The directions issued by the NGT have been extracted above. The aforesaid directions are in light of the recommendations made by the Expert Committee vide two reports submitted to the NGT. It is noted that the NGT has extracted the report/s as well as the recommendations at paras 14 to 16 of

h ¹ *Ashwani Kumar Dubey v. Union of India*, 2022 SCC OnLine NGT 120
⁷ (2021) 17 SCC 827 : 2021 SCC OnLine SC 669
⁸ (2023) 13 SCC 525 : 2022 SCC OnLine SC 120

44

SUPREME COURT CASES

(2023) 8 SCC

the impugned order¹ and has observed as under: (*Ashwani Kumar Dubey case*¹, SCC OnLine NGT)

“14. Points for determination are remedial action against pollution due to failure to scientifically manage and utilise the fly ash, accountability for damage due to breach of Rihand reservoir and due to breach of ash pond, resulting in deaths and injuries and damage to the crops and environment. As already mentioned, legacy fly ash is 1670.602 million tonnes as on 31-12-2021 which has potential for serious damage to the environment as shown by incidents of dyke breaches contaminating sources of water and air pollution making industrial areas critically polluted. Air control devices are not installed in many TPPs. There are incidents of deaths, injuries and loss of flora and fauna. a

15. We have considered the data furnished in the reports furnished in pursuance of earlier orders of this Tribunal dated 4-11-2020 in *Shantanu Sharma v. Union of India*⁹, 14-7-2020 in *Ashwani Kumar Dubey v. Union of India*^{9a} and 29-6-2020 in OA No. 148 of 2020, including the recommendations for remedial action. The compliance status as projected in the reports of the Joint Committees/Oversight Committees shows huge gap in storing, handling, management and utilisation of fly ash and consequential continuing damage to the environment and public health. Such huge gaps are patent from the recommendations part in the reports. Deficiencies noted in respect of some individual TPPs appear to be of representative nature and may exist in almost all TPPs, unless shown otherwise on the ground and not in the form of self-serving denial. In the light of the said recommendations, further remedial action needs to be taken to enforce the principle of sustainable development under Section 20 of the NGT Act. The recommendations are reproduced below: b

M/s NTPC Limited Shakti Nagar Sonbhadra: c

Recommendations of the Committee

* * *

M/s NTPC Limited Rihand Super Thermal Power (power plant)

Recommendations of the Committee

* * *

M/s Anpara Thermal Power Plant (power plant)

Recommendations of the Committee

* * *

M/s Anpara 'C' Lanco Thermal Power Station

Recommendations of the Committee

* * *

M/s Renusagar Thermal Power Plant

Recommendations of the Committee

¹ *Ashwani Kumar Dubey v. Union of India*, 2022 SCC OnLine NGT 120 d

⁹ 2020 SCC OnLine NGT 3014

^{9a} 2020 SCC OnLine NGT 2627 e



(TRUE COPY)

	SINGRAULI SUPER THERMAL POWER STATION v. ASHWANI KUMAR DUBEY (<i>Nagarathna, J.</i>)	45
	* * *	
a	<i>M/s Obra Thermal Power Station (power plant)</i> <i>Recommendations of the Committee</i>	
	* * *	
	<i>Coal Mines of M/s Northern Coalfields Limited (“NCL”)</i>	
	<i>1. NCL Dudhichuwa Project, Sonbhadra</i>	
b	<i>Recommendations of the Committee</i>	
	* * *	
	<i>2. NCL Bina Project, Bina, Sonbhadra</i>	
	<i>Recommendations of the Committee</i>	
	* * *	
c	<i>3. NCL Krishna Shila Project</i> <i>Recommendations of the Committee</i>	
	* * *	
	<i>4. M/s NCL Kakri Project, Sonbhadra</i> <i>Recommendations of the Committee</i>	
	* * *	
d	<i>5. NCL Khadia Project Sonbhadra</i> <i>Recommendations of the Committee</i>	
	* * *	
	<i>Aluminium Smelter: M/s HINDALCO Industries Ltd., Renukoot, Sonbhadra</i>	
e	<i>Recommendations of the Committee</i>	
	* * *	
	<i>M/s Grasim Industries Limited Chemical Division, Renukoot, Sonbhadra</i>	
	<i>Recommendations of the Committee</i>	
f	* * *	
	<i>M/s Birla Carbon India Pvt. Ltd., Renukoot, Sonbhadra</i>	
	<i>Recommendations of the Committee</i>	
	* * *	
g	<i>Stone Crusher</i> <i>Recommendations of the Committee</i>	
	* * *	
	<i>A. Thermal Power Plants (“TPPs”) and Industries</i>	
	<i>B. Coal Mines of M/s Northern Coalfields Limited (“NCL”)</i>	
h	<i>C. Stone Crushers Recommendations’</i>	

Avi Tandon

(TRUE COPY)

46

SUPREME COURT CASES

(2023) 8 SCC

16. From the above, it is seen that there is a long way to go for protecting environment and public health. The failures of the TPPs are alarming. We find no reason not to accept all the recommendations and to direct remedial action. Thus, all recommendations are accepted and further remedial action is directed to be taken by the statutory regulators which also be overseen by the Joint Committees of CPCB, State PCB and the jurisdictional District Magistrates, with CPCB and State PCBs being nodal agencies. Quarterly reports may now be filed with the MoEF&CC to be considered by the Coordinating Committee being hereby constituted.”

16. In other words, the NGT has simply accepted the recommendations as remedial action suggested by the Committee but the same is in the absence of there being objections filed by the appellants herein who were the respondents before the NGT and without giving any hearing to them and against whom directions impugned in these cases have been passed by the NGT. We find that the procedure adopted by the NGT is an instance of violation of the principles of natural justice. Section 19(1) of the NGT Act, 2010 reads as under:

“19. *Procedure and powers of Tribunal.*—(1) The Tribunal shall not be bound by the procedure laid down by the Civil Procedure Code, 1908 (5 of 1908) but shall be guided by the principles of natural justice.”

17. At this stage, we may also observe that the recommendations made by an Expert Committee are not binding on the NGT, they are only by way of assistance to enable the NGT to arrive at a correct decision in the matter.

18. In this regard reliance may be placed on paras 6 and 7 of the judgment of this Court in *Sanghar Zuber Ismail*⁷ wherein it has been stated as under:

“6. Having regard to the nature of its appellate power, the NGT has to apply its mind to the substantive grounds of challenge. The NGT has merely based its conclusion on the statement which has been made by the project proponent and has not conducted an independent appraisal of the grounds of challenge.

7. ... the NGT has not dealt with the substantive grounds of challenge in the exercise of its appellate jurisdiction. Constitution of an expert committee does not absolve the NGT of its duty to adjudicate. The adjudicatory function of the NGT cannot be assigned to committees, even expert committees. The decision has to be that of the NGT. The NGT has been constituted as an expert adjudicatory authority under an Act of Parliament. The discharge of its functions cannot be obviated by tasking committees to carry out a function which vests in the tribunal.”

⁷ *Sanghar Zuber Ismail v. Union of India*, (2021) 17 SCC 827 : 2021 SCC OnLine SC 669



(TRUE COPY)

SINGRAULI SUPER THERMAL POWER STATION v.
 ASHWANI KUMAR DUBEY (*Nagarathna, J.*)

47

a 19. Furthermore, in *Kantha Vibhag*⁸, this Court had criticised the practice of delegation of core adjudication to the Joint Committee: (SCC paras 17-20 & 22)

b “17. It is first important to differentiate Expert Committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before the courts when decisions are taken solely based upon them. The precedents of this Court unanimously note that courts should be circumspect in rejecting the opinion of these committees, unless they find their decision to be manifestly arbitrary or mala fide^{8a}. On the other hand, courts/tribunals themselves set up Expert Committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these Expert Committees does not substitute the adjudicatory role of the court or tribunal. The role of an Expert Committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, which is also open to challenge by all parties concerned. Allowing for objections to be raised and considered makes the process fair and participatory for all stakeholders.

e 18. Section 14 and Section 15 entrust adjudicatory functions to the NGT. The NGT is a specialised body comprising of judicial and expert members. Judicial members bring to bear their experience in adjudicating cases. On the other hand, expert members bring into the decision-making process scientific knowledge on issues concerning the environment. In *Hanuman Laxman Aroskar v. Union of India*¹⁰, a two-Judge Bench of this Court noted that the NGT is an expert adjudicatory body on the environment.

f 19. The Court held: (*Hanuman Laxman Aroskar case*¹⁰, SCC pp. 458-59, paras 133-34)

g ‘133. The NGT Act provides for the constitution of a tribunal consisting both of judicial and expert members. The mix of judicial and technical members envisaged by the statute is for the reason

8 *Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat*, (2023) 13 SCC 525 : 2022 SCC OnLine SC 120

8a *Per Dr D.Y. Chandrachud, J.—Basavaiah v. H.L. Ramesh*, (2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640 (in relation to appointment in an academic institution); *State of Kerala v. RDS Project Ltd.*, (2020) 9 SCC 108 (in relation to safety of a flyover project)

10 (2019) 15 SCC 401



(TRUE COPY)

48

SUPREME COURT CASES

(2023) 8 SCC

that the Tribunal is called upon to consider questions which involve the application and assessment of science and its interface with the environment. ...

134. NGT is an expert adjudicatory body on the environment.’

The NGT does not have a dearth of “expertise” when it comes to the issues of environment.

20. Section 15 empowers the NGT to award compensation to the victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for the restitution of the environment. The NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative Expert Committees. Expert Committees may be appointed to assist the NGT in the performance of its task and as an adjunct to its fact-finding role. But adjudication under the statute is entrusted to the NGT and cannot be delegated to the administrative authorities. Adjudicatory functions assigned to the courts and tribunals cannot be hived off to administrative committees. ...

* * *

22. The NGT has in the present case abdicated its jurisdiction and entrusted judicial functions to an administrative Expert Committee. An Expert Committee may be able to assist the NGT, for instance, by carrying out a fact-finding exercise, but the adjudication has to be by the NGT. This is not a delegable function. Thus, the order impugned in the appeal cannot be sustained. The consequence of the impugned order is to efface the meticulous exercise which was carried out by the earlier Benches. Valuable time has been lost in the meantime and crucial issues pertaining to the environment in the present case have been placed on the back-burner.”

20. In a recent landmark decision, *Madhyamam Broadcasting Ltd. v. Union of India*¹¹, the principles of natural justice have been crystallised in the words of Hon’ble Dr Dhananjaya Y. Chandrachud, C.J. as under: (SCC para 55)

“55. ... 55.2. ...The facet of audi alteram partem encompasses the components of notice, contents of the notice, reports of inquiry, and materials that are available for perusal. While situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core of the principle is abrogated because it is the core that infuses procedural reasonableness.”

21. A reading of the above, clearly indicates that the NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. The NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in accordance with law which would also include compliance with the principles of natural justice as envisaged in Section 19(1) of the Act.

11 (2023) 13 SCC 401 : 2023 SCC OnLine SC 366



(TRUE COPY)

SINGRAULI SUPER THERMAL POWER STATION v.
 ASHWANI KUMAR DUBEY (*Nagarathna, J.*)

49

a **22.** In this context, it would be useful to refer to what is known as the “official notice” doctrine, which is a device used in administrative procedure. Although an authority can rely upon materials familiar to it in its expert capacity without the need formally to introduce them in evidence, nevertheless, the parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them. The data on which an authority is acting must be appraised to the party against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authority relies. This has been explained by Schwartz in his work on Administrative Law. The aforesaid doctrine applies with greater force to a judicial/adjudicatory body.

b
 c **23.** Therefore, applying the aforesaid principle to the cases that come up before the NGT, if the NGT intends to rely upon an Expert Committee report or any other relevant material that comes to its knowledge, it should disclose in advance to the party so as to give an opportunity for discussion and rebuttal. Thus, factual information which comes to the knowledge of NGT on the basis of the report of the Committee constituted by it, if to be relied upon by the NGT, then, the same must be disclosed to the parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to the Tribunal.

d **24.** It is needless to observe that the experts’ opinion is only by way of assistance in arriving at a final conclusion. But we find that in the instant case the report of the Expert Committee as well as the recommendations have been made the basis of the directions and such an approach is improper.

e **25.** We have perused the impugned order¹ of the NGT and particularly para “16” which has been extracted above. It is apparent that the appellant(s) herein who were respondents before the NGT were not given an opportunity to file their objections to the recommendations made by the Committee constituted by the NGT which is apparent by the fact that the recommendations were uploaded on 15-1-2022 and the final order¹ of the NGT was passed three days later on i.e. 18-1-2022. Thus, this is a clear case of there being non-compliance with the principles of natural justice. On the said ground alone the impugned order¹ is set aside, the matter is remanded to the NGT for re-consideration from the stage of the recommendations filed by the Expert Committee constituted by the NGT. The appellant(s) herein are permitted to file their objections, if they are so advised. The NGT shall consider the objections, if any, filed to the recommendations and thereafter dispose of the applications in accordance with law and after giving a reasonable opportunity to all parties.

f
 g **26.** The appeals are allowed and disposed of in the aforesaid terms. Pending application(s), if any, shall stand disposed of.

h

¹ *Ashwani Kumar Dubey v. Union of India*, 2022 SCC OnLine NGT 120



(TRUE COPY)



2024 SCC OnLine SC 3585

In the Supreme Court of India
(BEFORE B.R. GAVAI AND K.V. VISWANATHAN, JJ.)

Civil Appeal Nos. 1711-1712 of 2021

Grasim Industries Limited ... Appellant(s);

Versus

State of Madhya Pradesh and Another ...
Respondent(s).

With

Civil Appeal No. 5158 of 2021

Civil Appeal Nos. 1711-1712 of 2021 and Civil Appeal No. 5158 of
2021

Decided on November 27, 2024

Advocates who appeared in this case :

For Appellant(s) Mr. Neeraj Kishan Kaul, Sr. Adv.

Mr. Rajat Jariwal, Adv.

Ms. Prerna Singh, Adv.

Mr. S. Abhishek Iyer, Adv.

Ms. Nishtha Kumar, Adv.

Mr. Gaurav Sharma, Adv.

Ms. Shatakshi Tripathi, Adv.

Mr. Dev Chand, Adv.

For M/s. Trilegal

Mr. R. Basant, Sr. Adv.

Mr. Manish Nair, Adv.

Mr. T. G. Narayanan Nair, AOR

Mr. Raunak Arora, Adv.

Mr. Naman Vashishta, Adv.

Ms. Samyuktha H Nair, Adv.

For Respondent(s) Mr. Raghav Sharma, Adv.

Mr. Salvador Santosh Rebello, AOR

Mr. Jaskirat Pal Singh, Adv.

Ms. Kritika, Adv.

Mr. Pranjal Pandey, Adv.

Mr. Rahul Pratap, AOR

The Judgment of the Court was delivered by

B.R. GAVAI, J.:—

(TRUE COPY)

CIVIL APPEAL NO(S). 1711-1712/2021

1. These appeals challenge the order dated 07.04.2021 passed by the National Green Tribunal (NGT), vide which the NGT has held that the appellant had committed a violation of the provisions of Environment Protection Act. The Court found that the appellant had failed to install the online flow meter in CS2 stacks to quantify the CS2 emissions. It also found that the acid produced which is a by-product of the process employed by the appellant was hazardous to the environment. The NGT, therefore, on different counts imposed penalty of Rs. 75,00,000/- each.

2. We have heard Shri Neeraj Kishan Kaul, learned senior counsel for the appellant and Shri Raghav Sharma, learned counsel appearing for Respondent No. 1/State of Madhya Pradesh through Madhya Pradesh Pollution Control Board and Shri Rahul Pratap, learned counsel appearing for Respondent No. 2.

3. Though, Shri Neeraj Kishan Kaul, learned Senior Counsel, submits that there is no violation as found by the learned NGT, we find that the present appeals deserve to be allowed on the following short ground.

4. After the NGT entertained the O.A. on the basis of the letter addressed by Respondent No. 1, it initially directed the plant of the appellant to be examined by the State Pollution Control Board. After the receipt of the report of the State Pollution Control Board, the Court appointed a Joint Committee to give its report. The said Joint Committee made certain recommendations and the NGT passed the impugned order on the basis of the said recommendations.

5. The material placed on record would also reveal that the appellant herein was not made a party to the proceedings before the learned NGT or before the Joint Committee. Though an application for impleadment was filed by the appellant, the same was rejected by the learned NGT.

6. It further appears that even the Joint Committee appointed by the NGT neither gave any notice to the appellant nor an opportunity was given of being heard. Though, this objection was specifically taken by the appellant, the NGT observed "We asked the learned Counsel whether the stand of the unit is that the violations found never existed or whether they existed but have been remedied. His answer is later. It is patent that there were violations".

7. It is thus clear that the procedure followed by the learned NGT was totally unknown to the settled principles of natural justice.

8. Neither was any notice given by the Joint Committee before giving an adverse report against the appellant nor the NGT permitted impleadment of the appellant as a party respondent. As a matter of fact, the NGT could not have proceeded further with the matter even at the initial stage without impleading the appellant herein as a party

A handwritten signature in blue ink, appearing to read 'Avi Tandon'.

(TRUE COPY)

respondent. The approach adopted by the NGT clearly smacks of condemning a person unheard. A reliance in this respect should be placed on the judgment of this Court in the case of *Municipal Corporation of Greater Mumbai v. Ankita Sinha*¹.

9. Another glaring error that has been committed by the NGT is that it has based its decision only on the basis of the report of the Joint Committee. The NGT is a tribunal constituted under the National Green Tribunal Act of 2010. A tribunal is required to arrive at its decision by fully considering the facts and circumstances of the case before it. It cannot outsource an opinion and base its decision on such an opinion. A reliance in this respect should be placed on the judgment of this Court in *Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat*².

10. In that view of the matter, the impugned orders are not sustainable, the same are quashed and set aside and the matters are remitted back to the learned NGT for considering the matters afresh.

11. Needless to state that if the NGT decides to proceed further on the basis of the complaint of Respondent No. 1, it shall not do so unless the appellant herein is impleaded as a party respondent.

12. With these observations and directions, the appeals are allowed.

13. Pending application(s), if any, shall stand disposed of.

CIVIL APPEAL NO. 5158 OF 2021

1. The facts in the present case are almost similar or rather more glaring than the facts in Civil Appeal Nos. 1711-1712 of 2021. In the present appeals the complainant (Respondent No. 2 herein) had not even mentioned the name of the present appellant. However, the learned National Green Tribunal (NGT) on the basis of the Report of the Joint Committee imposed penalty of Rs. 82.2 Lacs and Rs. 75.6 Lacs for violation of environment laws on two counts.

2. In the appeal arising out of the same common order we have found that the approach of the NGT in deciding the matter without impleading an affected party and passing its decision on an outsourced opinion of the experts is not permissible on the ground of violation of principle of natural justice.

3. In that view of the matter, we are inclined to allow this appeal.

4. The impugned order is quashed and set aside and the matter is remitted back to the learned NGT for considering the matter afresh.

5. The appeal is accordingly allowed.

6. Pending application(s), if any, shall stand disposed of.

¹ (2022) 13 SCC 401 : 2021 INSC 624

² 2022 SCC OnLine SC 120 : 2022 INSC 79



(TRUE COPY)



SCC Online Web Edition, © 2025 EBC Publishing Pvt. Ltd.
Page 4 Thursday, January 23, 2025
Printed For: Avi Tandon Meghna Tandon and Ami Tandon
SCC Online Web Edition: <https://www.sconline.com>
© 2025 EBC Publishing Pvt. Ltd., Lucknow.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

A handwritten signature in blue ink, appearing to read 'Avi Tandon', written in a cursive style.

(TRUE COPY)

731
ANNEXURE OJ-40

235



CENTRAL POLLUTION CONTROL BOARD

DELHI 110 032

B-13011/1/2019-20/AQM

10802-10847

January 07, 2020

OFFICE MEMORANDUM

Sub: Guidelines for Setting Up of New Petrol Pumps in Compliance of Hon'ble NGT order dated January 18, 2019 in OA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors -regarding.

Hon'ble National Green Tribunal, vide order dated January 18, 2019 in OA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors directed Central Pollution Control Board and MoPNG to look into the issue of setting up of large number of petrol pumps in the country and directed that appropriate guidelines be issued by the Central Pollution Control Board in exercise of statutory power.

An Expert Committee comprising of members from IIT Kanpur, NEERI, IIP, TERI, MoPNG and CPCB was constituted to frame Guidelines for setting up of new Petrol Pumps including siting criteria and pollution prevention and control measures

The guidelines were placed in public domain and comments/suggestions/objections were invited from public and concern stakeholder and these were reviewed and guideline have been finalised.

The final Guidelines prepared by Expert Committee are hereby circulated for implementation by concerned stakeholders. These guidelines are hereby issued with the approval of the Competent Authority.

(V.K. Shukla)

Additional Director, AQM Div.

Encl.: As Above

To.

1. As per List Enclosed

Copy to:

1. Joint Secretary
CP Division
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhavan,
Jorbagh Road, New Delhi – 110 003

2. PS to CCB

3. PS to MS

(TRUE COPY)

GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS

A. Containment and treatment of spillages from fuel filling operations at petrol pumps:

1. Petrol pumps located in areas with high groundwater table i.e. groundwater levels less than 04 meters shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. It shall be the responsibility of OMC to properly get measured groundwater level at the site of proposed petrol pump and ensure implementation of these adequate protection measures for such sites. Details of measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.
2. All new retail outlets shall have underground tanks/ above ground tank and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials (HDPE/ Mild Steel etc.) with required protective coating, as applicable, duly approved by PESO.
3. Any major leakage/ spillage of Petrol, Diesel, Lube Oil (more than 1 barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

Operation of concerned underground storage tank (UST) and its ancillary components shall be stopped immediately and not be resumed till corrective measures to contain and stop leakage/ spillages are implemented to the satisfaction of PESO and concerned SPCB.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 5 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

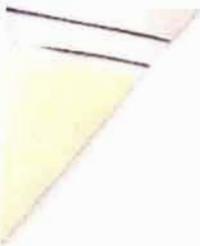
4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.
5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.



(TRUE COPY)

6. Single/ double plane swivel with breakaway coupling shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidentally.
 7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.
 8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with line leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.
 9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.
 10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system approved by PESO.
 11. All Retail Outlets shall provide overfill alarm through automation.
 12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.
- B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination:**
1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
 2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
 3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil / groundwater contamination:
 - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such underground storage tank (UST) and its ancillary components shall be stopped immediately.
 - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.


(TRUE COPY)

- 
- c. OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 05 years in this field. Various approved methods shall be considered for cleaning underground contaminants.
 - d. Operation of Underground tank and its ancillary components shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.
4. All underground tanks and pipelines shall be subjected to test for leaks every 7 years.

C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:

Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.

D. Installation, Operation and maintenance of Vapour Recovery System:

1. All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
2. Any new retail outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be installed within a period 03 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
3. In case of Stage II VRS, nozzle shall be provided with flexible cover flap or other alternative system for proper covering of filling tank and therefore proper recovery of vapors.
4. OMCs are responsible for maintaining installed VRS. They have to maintain periodic inspections for A/L regulator as prescribed by Legal Metrology. Proper record shall be maintained.



(TRUE COPY)

5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMC. VRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fueling station. Proper records of operation of VRS shall be maintained.

6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OSHA norms (Time-Weighted Average) and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of VOCs.

E. Ground water and soil quality monitoring within petrol pump selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OMCs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

Permissible Limit

Sr.No.	Parameter	Permissible Limit
1.	Total petroleum hydrocarbons	600µg/l
2.	BTEX	i. Benzene- 950µg/l ii. Toluene- 300µg/l iii. Xylenes- a. o-xylene- 350µg/l b. m & p- xylene- 200µg/l
3.	Ethanol	1400 µg/l
4.	Methyl Tertiary Butyl Ether	13µg/l
5.	PAH	0.0001µg/l

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination.

Signature
(TRUE COPY)

F. Measures for protection of Worker's Health

1. All workers engaged at retail outlets may be covered under ESI. OMC dealers shall implement the personal protective equipment (PPE) as per labor laws.
2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions.

G. Audit of all protection measures and monitoring system implemented at petrol pumps:

PESO shall conduct audit of tanks and fuel equipment including pipes, overfill protection equipment and alarm system on annual basis and maintain records.

H. Siting criteria of Retail Outlets:

In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters. No high tension line shall pass over the retail outlet.

These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.

**(TRUE COPY)**



CENTRAL POLLUTION CONTROL BOARD

DELHI 110032

B-13011/1/2020-21/AQM

January 29, 2021

OFFICE MEMORANDUM

Sub: Clarification with regard to cut-off date for applicability of siting criteria referred in Guidelines for Setting Up of New Petrol Pumps dated 07.01.2020

This is in reference to guidelines issued by CPCB on 07.01.2020 for setting up of new petrol pumps indicating the siting criteria to be got implemented for new Retail Outlets.

References/cases have been received with regard to applicability of CPCB siting criteria dated 07.01.2020, in case of Retail Outlets where Letter of Intents (LoIs) have been issued or applications have been made for obtaining NOC or prior clearance/ initial approval has been obtained from PESO.

In this regard, it is clarified that the siting criteria for new Retail Outlets is to be complied with in cases where construction of Retail Outlets by Oil Marketing Companies commenced on or after 07.01.2020. In other words, the siting criteria will not apply to those cases where PESO prior clearance/ initial approval has been obtained and subsequently construction has been started by the OMC before 07.01.2020.

This is issued with the approval of Competent Authority.

(PKG)

(P. K. Gupta)

Additional Director and Head
AQM division

To:

1. All SPCBs/PCCs - *With a request to circulate to Commissioner of civil supplies or other similar authorities who look after issues related to fuel Retail Outlets at State level and District Collectors.*
(As per list enclosed)
2. Ministry of Petroleum And Natural Gas
Joint Secretary (Marketing)
Ministry of Petroleum and Natural Gas, Govt. of India
Shastri Bhavan,
New Delhi – 110001

(Signature)

(TRUE COPY)



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

B-13011/1/2019-20/AQM

August 16, 2021

OFFICE MEMORANDUM

Sub: Addendum to the Guidelines for Setting Up of New Petrol Pumps issued on January 07, 2020 -regarding.

CPCB in compliance of the Hon'ble National Green Tribunal order dated January 18, 2019 in O.A. No. 86/2019: Gyanprakash @ Pappu Singh Vs Uol & Ors. issued guidelines for Setting Up of New Petrol Pumps vide O.M. No. B-13011/1/2019-20/AQM/10809 dated January 07, 2020.

Hon'ble NGT vide further orders dated 23.07.2020 and 09.10.2020, in the matter of Suresh Mandaloi Vs. State of M.P & Ors. (O.A. No. 61 of 2019 (CZ)), directed MoEF&CC and CPCB to submit a report with regard to the minimum distance from water bodies to the petrol pump.

The matter was referred to the Expert Committee and the draft guidelines for implementation in case of petrol pumps near water bodies were prepared. The guidelines also specify the groundwater and soil sampling protocol, frequency of sample collection and the prescribed parameters and screening values to be adopted. The same monitoring protocol and parameters/ values (except for monitoring frequency) need to be adopted for petrol pumps covered under the guidelines dated January 07, 2020.

These draft guidelines were placed in public domain for seeking comments/suggestions from public and concerned stakeholders. These were reviewed by the Expert Committee and the guidelines have been finalised and are hereby issued as addendum to the earlier CPCB Guidelines dated January 07, 2020 for implementation by concerned stakeholders.

This issues with the approval of the Competent Authority.


(P.K. Gupta)
Additional Director & Divisional Head
AQM Div.

Encl.: As Above

To

1. All SPCBs/ PCCs
(As per list enclosed)

with a request to circulate to Commissioner of civil supplies or other similar authorities who look after issues related to petrol pumps at State/ UT level and District Collectors/ Commissioners /Deputy Commissioners.

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032
दूरभाष/Tel : 43102030, 22305792, वेबसाइट/Website : www.cpcb.nic.in

(TRUE COPY) 

ADDENDUM TO GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS

The Hon'ble NGT vide orders dated 23.07.2020 and 09.10.2020, in the matter of Suresh Mandaloi Vs. State of M. P. & Ors. (O.A. No. 61 of 2019 (CZ)), directed MoEF&CC and CPCB to submit a report with regard to the minimum distance from water bodies to the petrol pump.

The matter was subsequently referred to the Expert Committee constituted by CPCB earlier in the matter of guidelines for setting up of new petrol pumps and the following addendum guidelines (to guidelines dated 07.01.2020) have been finalised for implementation in case of petrol pumps near water bodies:

- a) All the surface water bodies irrespective of utility shall be protected from any possible contamination. These include lakes, ponds, streams, rivers, wetlands, canals and creeks, as per revenue records. Retail Outlets shall not be located within a distance of 50 meters from the nearest point of water bodies. In case of streams and rivers, the distance shall be considered from floodway. In case floodway is not defined, the distance shall be considered from firm banks/ edge of river. The siting criterion is to be implemented for all new petrol pumps where construction by OMCs starts post the issuance of these guidelines.
- b) Retail outlets coming within 50 meter to 100 meter from the nearest point of surface water body shall have secondary containment by way of double walled tanks or concrete protection walls around Underground Storage Tank (UST).
- c) Groundwater and soil quality monitoring near the premises of fuel retail outlets shall be conducted by OMCs once a year through E (P) Act, 1986 approved labs or labs with national/international accreditation. The monitoring shall be done for those Fuel Retail Outlets which are located within 100 meter from the nearest point of surface water bodies. These shall be applicable to all petrol pumps, regardless of the date of establishment. In case of any clarification and/or difficulty in obtaining samples for groundwater and soil quality monitoring, OMCs may seek

assistance of local administration/SPCB/PCC/CGWB. Protocol for soil and groundwater monitoring is annexed as Annexure-I.

- d) Groundwater and soil quality monitoring shall also be conducted by OMCs before installation of the new fuel retail outlet, for those retail outlets coming up within 100 meter from the nearest point of surface water bodies.

NOTE: These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders, Notifications such as Wetlands (Conservation and Management) Rules, 2017, Coastal Regulation Zone (CRZ) Notification, 2011 etc. The other measures, prescribed in CPCB guidelines for setting up of new petrol pumps dated 07.01.2020, for containment and treatment of spillages, check on leakages from USTs, treatment and disposal of sludge removed from underground tanks during cleaning, measures for protection of workers' health, audit of all protection measures and monitoring system implemented at petrol pumps, shall also apply to the fuel retail outlets falling in the criteria specified above.

Monitoring protocol specifying the prescribed parameters and screening values annexed with these guidelines (other than the monitoring frequency), shall also be adopted for those retail outlets where CPCB guidelines dated 07.01.2020 are applicable.

These guidelines shall be reviewed from time to time.


(TRUE COPY)

Annexure-I**Protocol for monitoring quality of soil and groundwater near the premises of fuel retail outlets**

Samples of groundwater being used for drinking purposes shall be collected from at least three different directions with reference to the retail outlet. The sampling point should be preferably within 50m distance from the underground storage tank location at the retail outlet.

The samples shall be analysed for the following parameters:

Table 1.

Sr. No.	Parameter	Screening Values
1.	Total petroleum hydrocarbons (C ₁₀ -C ₄₀)	0.6mg/L
2.	BTEX	i. Benzene- 0.01mg/L ii. Toluene- 0.7mg/L iii. Xylene-0.5mg/L
3.	Methyl Tertiary Butyl Ether	13µg/l
4.	Total PAH	0.0001mg/l

Further, soil sample shall be collected from a borehole within the premises of the fuel retail outlet adjacent to the Underground Storage Tank (UST) pit. The depth of bore hole should be up to 1m below the bottom of the storage tank level. Soil samples shall be analysed for the following parameters:

Table 2.

Sr. No.	Parameter	Screening Values(mg/kg)
1.	Total petroleum hydrocarbons (TPH)	5000
2.	Benzene	5
3.	Toluene	30
4.	Xylene	50
5.	Methyl Tertiary Butyl Ether	100
6.	Total PAH	40

Ground water and soil quality monitoring shall be conducted by OMCs once a year through E (P) Act, 1986 approved labs or labs with national/international accreditation and the reports are to be submitted to SPCB. The soil monitoring shall be done in first six months while groundwater monitoring shall be done in the next six months.

(TRUE COPY) 

In case of exceedance of screening by any parameter, or in case of leakage resulting in soil/groundwater contamination, the measures/steps as prescribed in the guidelines for setting up of petrol pumps dated 07.01.2020 shall be taken up. Assessment and remediation shall be carried out as per the guidelines issued by MoEF&CC and CPCB.


(TRUE COPY)

ANNEXURE OJ-43

Item No. 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

M. A. No. 27/2025

In

Original Application No. 613/2023
(I.A. No. 111/2025)

Om Prakash Gupta

Applicant

Versus

Gorakhpur Development Authority & Ors.

Respondent(s)

Date of hearing: 21.02.2025

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**Applicant: Mr. Avi Tandon, Mrs. Meghna Tandon & Mr. Ami Tandon, Advocates in
M.A. No. 27/2025**ORDER**

1. This M.A. has been filed by the applicant with a prayer to pass further orders in OA No. 613/2023 and direct the Vice Chairman of the Gorakhpur Development Authority (GDA) to approve/sanction the Composition Plan submitted by the applicant for the Filling Station and also issue a direction to the GDA to de-seal/re-open the seal of the proposed retail outlet of the Filling Station/Petrol Pump.

2. The background of the case is that OA No. 613/2023 was filed raising a grievance against the setting up of the petrol pump by the present applicant in the flood line area of Rapti River in Rajghat, Gorakhpur, Uttar Pradesh. The Tribunal by order dated 11.10.2023 had disposed of the OA by constituting a Joint Committee and directing as under:-

“

2. Having regard to the issue raised in the application, we deem it proper to constitute a joint Committee comprising of the representative of the Member Secretary of Uttar Pradesh State Pollution Control Board, the representative of Secretary of Jal Shakti and District Magistrate, Gorakhpur. The District Magistrate, Gorakhpur will act as nodal agency. The joint Committee will carry out the spot inspection and prepare a report.

1


(TRUE COPY)

In case if any violation of norms in the setting up of the petrol pump by respondent no. 7 is found, then the copy of the report will be sent to respondent no. 6, Bharat Petroleum Corporation Limited, who on receipt of the report will take an appropriate decision in accordance with law by following the principles of 'Natural Justice'.

3. A copy of the report will also be submitted by the Committee before the Registrar General of the Tribunal and if found necessary, the matter will be listed for consideration before the Court.

4. The application is accordingly disposed of. ”

3. The plea of the applicant is that in terms of the direction issued by the Tribunal, the Joint Committee had held that the proposed site for setting up the retail outlet petrol pump is within the flood affected area, therefore, it has been sealed. The report of the Joint Committee dated 10.04.2024 in this regard states as under:-

“१७ गोरखपुर विकास प्राधिकरण गोरखपुर के कार्यालय पत्रसंख्या.25६नियो० अनु० ६ गो०वि०प्र०६2021.22 दिनांक 10.02.2022 के द्वारा स्थलीय नियम के अनुसार राप्ती नदी के पूरब स्थित हार्बट बन्धे के पश्चिम स्थित है जो महायोजना 2021 में बाढ़ प्रभावित क्षेत्र के रूप में प्रदर्शित है। उल्लिखित पेट्रोल पम्प का स्थल डूब क्षेत्र के अन्तर्गत है। डूब क्षेत्र में निर्माण कार्य अनुमन्य नहीं है जिसके दृष्टिगत स्थल पर किए गए निर्माण कार्य को जी०डी०ए० द्वारा दिनांक 16.03.2024 से सील कर दिया गया है।

अतः उपरोक्त से स्पष्ट है कि उल्लिखित प्रस्तावित पेट्रोल पम्प का स्थल डूब क्षेत्र में होने के दृष्टिगत स्थापना हेतु निर्माण कार्य हेतु अनुमन्य नहीं है। उपरोक्त संयुक्त आख्या इकाई के प्रकरण पर अग्रिम आवश्यक कार्यवाही हेतु सादर प्रस्तुत है।

4. Submission of counsel for the applicant is that the applicant had approached the High Court of Allahabad by way of Writ C No. 32309 of 2024, wherein the counsel for the GDA had taken the stand that the matter was seized by the NGT and therefore, the applicant had a remedy to approach it. Accordingly, the writ petition was disposed of by the Allahabad High Court by order dated 30.09.2024 refusing to entertain the petition and leaving it open to the petitioner/applicant herein to press the relief before the NGT.

5. Learned counsel for the applicant referring to the map on page 237 (174) has submitted that the distance of the proposed site for the retail outlet from Rapti River is 579.20 meters. He further submitted that the RTI information was sought and in the latest reply dated 18.12.2024 (Annexure MA-27) the proposed site is not shown to be the flood affected site. He has also submitted that a flood plain of River Rapti has not been defined and in terms of the amended guidelines issued by the CPCB vide O.M. dated 16.08.2021, the applicant is beyond the prohibited limit. In this regard, he has referred to Clause A of the O.M. which reads as under:-

“ a) All the surface water bodies irrespective of utility shall be protected from any possible contamination. These include lakes, ponds, streams, rivers, wetlands, canals and creeks, as per revenue records. Retail Outlets shall not be located within a distance of 50 meters from the nearest point of water bodies. In case of streams and rivers, the distance shall be considered from floodway. In case floodway is not defined, the distance shall be considered from firm banks/edge of river. The siting criterion is to be implemented for all new petrol pumps where construction of OMCs starts post the issuance of these guidelines.”

6. Issue notice to the respondents for filing the response by way of affidavit. Applicant is directed to serve the respondents and file affidavit of service at least one week before the next hearing date.

7. List on 26.05.2025.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

February 21, 2025
M. A. No. 27/2025 in
Original Application No. 613/2023
(I.A. No. 111/2025)
AS..



कार्यालय गोरखपुर विकास प्राधिकरण, गोरखपुर।

(वाद अनुभाग)

आपत्ति पत्र

पत्रांक 537/वाद-अनु0/जोन-3/2025-26

दिनांक 21/05/2025

सेवा में,

श्री ओमकार कुमार कुशवाहा,
पुत्र श्री बृज कुमार कुशवाहा,
पता-मु0 हॉसपुर,
थाना-राजघाट,
जनपद-गोरखपुर।

1. नाम प्रार्थी: श्री ओमकार कुमार कुशवाहा
2. रसीद संख्या... 43966.....
3. तादाद शब्द (वस्तु) संख्या शब्द मात्र
4. तादाद फीस... प्रत्येक मात्र
5. तारीख सवाल.....
6. तारीख नोटिस... 16-7-2025
7. तारीख हवालसी... 16-7-2025

विषय:- भारत पेट्रोलियम पम्प के कम्पोजिशन प्लान प्रार्थना-पत्र को निरस्त करने के सम्बन्ध में।

महोदय,

आप द्वारा प्रार्थना-पत्र दिनांक 18.04.2024 के साथ प्रस्तुत कम्पोजिशन प्लान व अन्य प्रपत्रों की जाँच करायी गयी। जाँच आख्या के अनुसार श्री ओमकार कुमार कुशवाहा पुत्र श्री बृज कुमार कुशवाहा के द्वारा आराजी संख्या-178, 179 एवं 180 मौजा-हॉसपुर मुस्तकिल, गोरखपुर पर बनाये गये पेट्रोल पम्प को दिनांक 09.11.2023 को सक्षम अधिकारी के आदेशानुसार विधिवत सील कर दिया गया था। प्रश्नगत निर्माण स्थल का भू-उपयोग महायोजना-2021 के अनुसार बाढ़ प्रभावित क्षेत्र दिया गया है तथा महायोजना-2031 (पुनरीक्षित) में प्रश्नगत स्थल का भू-उपयोग 45 मीटर चौड़ा बन्धा मार्ग, शमशान/कब्रिस्तान है, जारी किया गया है। दोनों ही महायोजना में प्रश्नगत निर्माण स्थल पर पेट्रोल पम्प का निर्माण अनुमन्य नहीं होने के कारण नियमानुसार मानचित्र स्वीकृत/शमन किया जाना सम्भव नहीं है।

उपाध्यक्ष महोदय द्वारा जाँच का आख्या अवलोकन किया गया। आपके द्वारा कम्पोजिशन (कम्पाउन्डिंग) प्लान को स्वीकृत करने हेतु दिनांक 18.04.2024 को दिये गये प्रार्थना-पत्र पर विचार करते हुए उपाध्यक्ष महोदय के आदेश दिनांक 20-05-2025 के द्वारा निरस्त कर दिया गया है।

अतः आपको सूचित किया जाता है कि आपके द्वारा स्वेच्छा से जमा करायी गयी धनराशि (रु0-दो लाख मात्र) मूल रसीद व शपथ-पत्र प्रस्तुत करके वापस लिया जा सकता है। कृपया उपरोक्त से अवगत होने का कष्ट करें।

सत्य प्रतिलिपि

16/7/25
गोरखपुर विकास प्राधिकरण
गोरखपुर

प्रमारी अधिकारी (वाद),
गोरखपुर विकास प्राधिकरण,
गोरखपुर।

RU1349867891N IVR:8285134986789
RL MBC GORAKHPUR RMS <273012>
Counter No:1,22/05/2025,19:00
To:OMKAR KR KUSHWAHA, RAJGHAT
PIN:273005, Gita Press SO
From:GDA, GXP
Wt:10gms, REB=17.0
Amt:25.96, Tax:3.96, Amt.Paid:26.00 (Cash)
<Track on www.indiapost.gov.in>
<Dial 18002666868><Wear mask -Stay safe>



नकल शुल्क अर्वाला रूपमा प्रत्येक मात्र चालान सं० 43966 के आवेदन से दिनांक 16-7-2025 के प्राधिकरण निर्दिष्ट के जमा किया गया है, जिसे निरस्त करके स्टाव से सलंगन है, वापस श्री ओमकार कुमार कुशवाहा पुत्र श्री बृज कुमार कुशवाहा पता-मु० हॉसपुर, राजघाट, गोरखपुर के पत्रांक 537/वाद अनु०/जोन०3/2025-26 दिनांक 21-05-2025 (आपत्ति पत्र) को सत्य प्रतिलिपि / 16-7-25 वाद सं० 191/2025

(TRUE COPY)

TRUE TRANSLATED COPY OF
ANNEXURE OJ-44

Office of Gorakhpur Development Authority, Gorakhpur.
(Case Section)
Objection Letter

Letter No. 537/Case - Section / Zone-3 /2025-26 dated 21/05/2025

To,	1. Name Applicant- Shri Omkar Kumar Kushwaha
Shri Omkar Kumar Kushwaha,	2. Receipt No.- 43966
Son Shri Bri Kumar Kushwaha,	3. Number of words- About seventy words only
Address - Mohalla Hosupur,	4. Number of fees- Twenty five only
P.S. - Rajghat,	5. Date of presentation
District- Gorakhpur	6. Date of notice: 16-7-2025
	7. Date of handover- 16-2-2025

Subject:- Regarding cancellation of composition plan application of
Bharat Petroleum Pump.

Sir,

The composition plan and other forms submitted by you



(TRUE TRANSLATED COPY)

along with the application dated 18.04.2024 were examined. According to the investigation report, the petrol pump built by Shri Omkar Kumar Kushwaha son of Shri Brij Kumar Kushwaha on land number - 178, 179 and 180 Mauja - Hosupur Mustkil, Gorakhpur was duly sealed on dated 09.11.2023 as per the order of the competent officer. The land use of the construction site in question has been given as flood affected area as per Master Plan – 2021 and in Master Plan - 2031 (Revised), the land use of the site in question is 45 meter wide bund road, crematorium / cemetery, has been issued. Since construction of petrol pump at the construction site in question is not permissible in both the master plans, it is not possible to approve / mitigate the map as per the rules.

The investigation report was reviewed by the Vice President. That by considering the application given by you on dated 18.04.2024 for approval of the composition (compounding) plan, your application has been cancelled by the order of the Vice President dated 20-05-2025.

Therefore, you are informed that the amount deposited by you voluntarily (Rs. Two lakh only) can be withdrawn by submitting the original receipt and affidavit. Please be aware of the above.

True copy.	SD/-
SD/-	Officer In Charge
16-7-25	(Litigation),
Gorakhpur Development	Gorakhpur



(TRUE TRANSLATED COPY)

Authority, Gorakhpur Development Authority,
Gorakhpur

RU134986789IN IVR: 8285134986789 Stamp
RL MBC GORAKHPUR RMS <273012> India Post
Counter No: 1, 22/05/2025, 19:00
To: OMKAR KR KUSHWAHA, RAJGHAT
PIN: 273005, Gita Press SO
From: GDA, GKP
Wt: 10gms, REG=17.0
Amt:25.96, Tax:3.96, Amt. Paid: 26.00 (Cash)
<Track on www.indiapost.gov.in>
<Dial 18002666860><Wear mask – Stay safe>

The copy fee of Rs. twenty-five only has been deposited in the Authority Fund through Challan No. 43966 dated 16-7-2025, which has been cancelled and is enclosed herewith,

In relation to true copy , letter no. 5371, Case Section / Zone 03 / 2025-26 dated 21-05-2025 (Objection Letter) of the Shri Omkar Kumar Kushwaha son of Shri Brij Kumar Kushwaha address - Mohalla Hosupur, Rajghat, Gorakhpur

Dated: 21.05.2025.



(TRUE TRANSLATED COPY)

ANNEXURE OJ-45

Item No. 17

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

M.A. No. 27/2025

In

Original Application No. 613/2023
(IA No 111/2025)

Om Prakash Gupta

Applicant

Versus

Gorakhpur Development Authority
& Ors.

Respondent(s)

Date of hearing: 26.05.2025

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**Applicant: Mr. Avi Tandon, Mrs. Meghna Tandon & Mr. Ami Tandon, Advocates for
Applicant in M.A. No. 27/2025Respondents: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB
Mr. Amit Sharma, Adv. for R - 1
Mr. Sudhanshu Prakash & Mr. Himanshu Gupta, Advs. for R - 7**ORDER**

1. In this Misc. application, applicant has prayed for following relief:

9. PRAYER(S): That, therefore, in view of the above-mentioned facts, Grounds, reasons and/or circumstances, it is most humbly and respectfully prayed before this Hon'ble Tribunal by the Applicant herein, that this Hon'ble Tribunal may graciously be pleased to:

(a) allow the present Application filed by the Applicant herein before this Hon'ble Tribunal;

(b) pass further directions in favour of the Applicant herein by this Hon'ble Tribunal in Original Application No. 613 of 2023 before this Hon'ble Tribunal;

(c) allow the Application dated 18.04.2024 submitted by the Applicant herein before the Ld. Vice Chairman of the Gorakhpur Development Authority [i.e. ANNEXURE MA19 (COLLY) annexed to the present Application] in respect of M/s. Maa Bhagyavani Filling Station located at the property in question [i.e. Plot Nos. 178, 179 and 180 situated at Village Hansupur, Tehsil Sadar



(TRUE COPY)

- on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur in the State of Uttar Pradesh];
- (d) direct the Ld. Vice Chairman of the Gorakhpur Development Authority [i.e. Respondent No. 1 herein] to grant approval/sanction to the Composition Plan submitted by the Applicant herein before the Ld. Vice Chairman of the Gorakhpur Development Authority [i.e. ANNEXURE MA19 (COLLY) annexed to the present Application] in respect of M/s. Maa Bhagyavani Filling Station located at the property in question [i.e. Plot Nos. 178, 179 and 180 situated at Village Hansupur, Tehsil Sadar on Road connecting Amrud Mandi to Nehru Park, District Gorakhpur in the State of Uttar Pradesh];
- (e) direct the Gorakhpur Development Authority [i.e. Respondent No. 1 herein] to de-seal/re-open the seal of the proposed Retail Outlet of the Filling Station/Petrol Pump of the Applicant herein located at the property in question;
- (f) permit the Applicant herein to commence the operations and business of the Retail Outlet of the Filling Station/ Petrol Pump of the Applicant herein located at the property in question;
- (g) direct the Respondents herein not to obstruct/interfere at all in the working as well as day-to-day operations of the Retail Outlet of the Filling Station/Petrol Pump of the Applicant herein located at the property in question; and/or
- (h) pass such other and/or further order(s) in favour of the Applicant herein that this Hon'ble Tribunal may deem fit and proper in facts and circumstances of the present case.”

2. Earlier, original application no. 613/2023 was filed by the original applicant objecting to the construction of the petrol pump by the applicant in present misc. application (respondent no.7 in the original application) on the ground that construction is in flood line area near river Rapti in Rajghat, Gorakhpur, Uttar Pradesh.

3. Tribunal by order dated 11.10.2023 had constituted a joint committee and had disposed of the original application with the following directions:-

“2. Having regard to the issue raised in the application, we deem it proper to constitute a joint Committee comprising of the representative of the Member Secretary of Uttar Pradesh State Pollution Control Board, the representative of Secretary of Jal Shakti and District Magistrate,

Gorakhpur. The District Magistrate, Gorakhpur will act as nodal agency. The joint Committee will carry out the spot inspection and prepare a report. In case if any violation of norms in the setting up of the petrol pump by respondent no. 7 is found, then the copy of the report will be sent to respondent no. 6, Bharat Petroleum Corporation Limited, who on receipt of the report will take an appropriate decision in accordance with law by following the principles of 'Natural Justice'.

3. A copy of the report will also be submitted by the Committee before the Registrar General of the Tribunal and if found necessary, the matter will be listed for consideration before the Court."

4. Counsel for the applicant submits that present misc. application has been filed before the Tribunal in pursuance to the order of the High Court of Judicature at Allahabad dated 30.09.2024 passed in Writ-C No. 32309/2024 wherein the applicant has raised the grievance in respect of non-decision of the composition application. He submits that now composition application has been decided by the competent authority. His only grievance is that the construction does not fall in the flood plain area but in the misc. application, applicant has made multiple prayers which cannot be entertained in a disposed of original application, especially, when in the order dated 11.10.2023 while disposing of the original application, no specific direction connecting to the prayers was issued.

5. On the basis of the direction issued by Tribunal in the OA 613/2023 on 11.10.2023, District Magistrate, Gorakhpur has filed the report dated 21.06.2024 disclosing as under:

"9. गोरखपुर विकास प्राधिकरण, गोरखपुर के कार्यालय पत्रसंख्या-25/नियो०अनु०/गो०वि०प्र०/2021-22 दिनांक 10-02-2022 के द्वारा स्थलीय नियम के अनुसार राप्ती नदी के पूरब स्थित हार्बट बन्धे के पश्चिम स्थित है, जो महायोजना 2021 में बाढ़ प्रभावित क्षेत्र के रूप में प्रदर्शित है। उल्लिखित पेट्रोल पम्प का स्थल डूब क्षेत्र के अन्तर्गत है। डूब क्षेत्र में निर्माण कार्य अनुमन्य नहीं है, जिसके दृष्टिगत स्थल पर किए गए निर्माण कार्य को जी०डी०ए० द्वारा दिनांक 16-03-2024 से सील कर दिया गया है।"

6. In view of the above, Learned Counsel for the applicant submits that he is not pressing misc. application but liberty be granted to file objection to the report of the District Magistrate, Gorakhpur.
7. Misc. application-27/2025 is accordingly dismissed as not pressed.
8. Office is directed to register the report of District Magistrate, Gorakhpur dated 21.06.2024 as separate misc. application and list the same on 20.08.2025.
9. Parties present today will have an opportunity to file objection to the report of the District Magistrate, Gorakhpur in that misc. application.

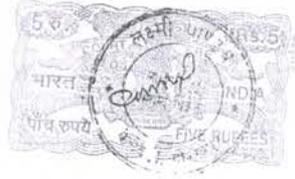
Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

May 26, 2025
M.A. No. 27/2025
JG.


(TRUE COPY)

09-07-2025 08



गोरखपुर

न्यायालय श्रीमान अध्याक्ष गौ०वि०प्रा०/ आमुक्त मद्योदय, गोरखपुर मण्डल, गोरखपुर।
अपील संख्या C 262505000001750 2025
1. अर्जुन कुमार कुमाहाडा पुत्र रूजकुमार कुमाहाडा निवासी मोहल्ला डांगूर, थाना
राजघाट, जिला गोरखपुर। ... अपीलान्ट

पदि
3

कागज

- 1. गोरखपुर विकास प्राधिकरण, गोरखपुर जरिये संघ। ... रेलवा०
- 2. प्रभारी अधिकारी वादः गौ०वि०प्रा०, गोरखपुर।

अपील विरुद्ध आदेश उपाध्याय, गौ०वि०प्रा० गोरखपुर, दिनांक 20.5.2025, जिलाको
प्रभारी अधिकारी वादः गौ०वि०प्रा० गोरखपुर जिलाको अपनै पत्रांक संख्या
537/वाद-अनु०/जोन-अति 2025-2026, दिनांक 21.5.2025 को अपीलान्ट को
सूचित किया गया है, जो अपीलान्ट को दिनांक 28 जून 2025 को प्राप्त हुआ, के
विरुद्ध अपील उपाध्याय द्वारा जारी पत्र संख्या 29 दिनांक 2000 के आधार पर
प्रस्तुत की जा रही है जो आरक्षी मुहल्ला डांगूर मुलाकिला संघ गोरखपुर, जिला
गोरखपुर में स्थित है।



नक्ल पोरो प्रति आधार अपील डि० 08/25
कीलने हु

Ji Landa
(TRUE COPY)



100
7=00

1-नाम सायल..... श्री भानु प्रकाश
 2-नम्बर सवाल..... 1206
 3-सवाल शब्द..... 1200
 4-सवाल फीस..... 7=00
 5-सवाल..... 14/1/25 (चौदह जुलाई पच्चीस)
 6-सवाल..... 14/1/25 (चौदह जुलाई पच्चीस)
 7-सवाल.....
 8-सवाल..... 14/1/25

Signature

(TRUE COPY)

17-2025 06



न्यायालय श्रीमान अध्यक्ष गोविंदराव/ आतुक्त मंडोदम, गोरखपुर मंडल, गोरखपुर।
अपील संख्या C 202505000001750 2025
1. अंकार कुमार कुमाहाहा पुत्र वृजकुमार कुमाहाहा निवासी मोहल्ला हांपुर, थाना
राजघाट, जिला गोरखपुर। ... अपीलान्ट

काम

- 1. गोरखपुर विकास प्राधिकरण, गोरखपुर जरिये संचित। ... रेखा 0
- 2. प्रभारी अधिकारी वादः गोविंदराव, गोरखपुर।

अपील विरुद्ध आदेश उपाध्यक्ष, गोविंदराव गोरखपुर, दिनांक 20 5. 2025, जिलाको
प्रभारी अधिकारी वादः गोविंदराव गोद्वारा अपीलान्ट को अपने पत्रांक संख्या
537/वाद-अनु०/जोन-3/अन 2025-2026, दिनांक 21. 5. 2025 से अपीलान्ट को
सूचित किया गया है, जो अपीलान्ट को दिनांक 28 जून 2025 को प्राप्त हुआ, के
विरुद्ध अपील उग्रशक्ति द्वारा जारी पत्र संख्या 29 दिनांक 2000 के आधार पर
प्रस्तुत की गयी है जो आराजी मुहल्ला हांपुर मुस्ताफि नगर गोरखपुर, जिला
गोरखपुर में स्थित है।



1. यह कि विद्वान् उपाध्यक्ष मंडोदम, गोविंदराव गोरखपुर द्वारा वाहित आदेश
दिनांक 20. 5. 2025 जिलाको प्रभारी अधिकारी वादः गोविंदराव गोद्वारा अपने पत्र
दिनांक 21. 5. 2025 द्वारा अपीलान्ट को सूचित किया गया है, विधि, नियम एवं
तथ्यों के विपरीत है। आशय निरस्त किये जाने योग्य है।

2. यह कि अपीलान्ट आराजी नं० 178, 179 और 180 का भूमिगत कांविज दर्जित
है।

3. यह कि अपीलान्ट ने उक्त आराजी में भारत पेट्रोलियम से मिले तैलन। Sanction
के आधार पर पेट्रोल पम्प स्थापित करने हेतु अपीलान्ट ने अपने उक्त आराजियात
के नक्शा स्वीकृत करने हेतु गोविंदराव के समक्ष नक्शा प्रस्तुत किया, जिसे गोविंदराव
द्वारा नहीं माना गया। वाद में अपीलान्ट ने उक्त के सम्बन्ध में कम्पाउन्डिंग मैप
Compounding Map- गोविंदराव के समक्ष प्रजानित मुक्त व साक्ष्यों के आधार पर
प्रस्तुत किया।

4. यह कि उक्त के सम्बन्ध में संचित गोविंदराव गोद्वारा अपीलान्ट को यह
कहा गया कि आप इस सम्बन्ध में 200000/- रुपये जमा करदे, आप का नक्शा स्वीकृत
हो जायेगा। अपीलान्ट ने माननीय संचित मंडोदम, गोविंदराव के आदेशानुसार

Omkar Kumar Kurlwaha

[Handwritten signature]

-2-

उक्त 200000/- रुपये गोविंदराव गोरखपुर के खाते में जमा कर दिया और इस तथ्य में रतीद भी गोविंदराव गोरखपुर को जमा कर दिया। अपीलान्ट को जो रतीद इस सम्बन्ध में मिली, उस पर वेता जमा करने वाले काबू ने यह लिखा कि सर्व्व महोदय के आदेशानुसार वेता जमा किया जा रहा है।

5. यह कि उक्त के सम्बन्ध में अपीलान्ट को कोई साक्ष्य व सुनवाई का अवसर नहीं प्रदान किया गया और प्रसंगी आदेश ममाननी तौर पर पारित कर दिया गया।

6. यह कि उक्त आदेश के विरुद्ध श्रीमान जी केवट अपीलदाखिल करने का प्रावधान है अतएव अपीलान्ट इस सम्बन्ध में अपील उक्त आदेश के विरुद्ध प्रस्तुत कर रहा है।

7. यह कि अपील आदेश के तत्पश्चात् किये जाने की तिथि से समय के अन्दर है।

यह कि इस सम्बन्ध में जिन आधारों पर अपीलान्ट का हस्ताङ्कन मैन निरस्त किया गया है वह विलुप्त ही गत है।

यह कि अपीलान्ट का जो निर्माण है वह 45 मीटर चौड़ा सड़क के बाद है तथा अपीलान्ट उक्त आराजी का भूमि अधिकार दखील है।

यह कि इस सम्बन्ध में यह कहा जा रहा है उक्त आराजी मास्टर प्लान में इम्मान एवं कम्प्लैन्स के लिये सुरक्षा कर दी गयी है वह विलुप्त ही गत है। अपीलान्ट उक्त आराजी का भूमि अधिकार दखील है, अतएव अपीलान्ट को उक्त आराजी का नक्शा स्वीकृत करने का पूर्ण अधिकार है।

11. यह कि महायोजना के अन्तर्गत उक्त आराजियात के सम्बन्ध में कोई भी आदेश पारित करने का कोई अधिकार नहीं है क्योंकि अपीलान्ट उक्त आराजी का भूमि अधिकार है।

12. यह कि उक्त आराजियात को मध्य देखना इम्मान व कम्प्लैन्स दर्शाया गया है।

13. यह कि अपीलान्ट का प्लेट पर प्लान का निर्माण पूरा है अतएव इस पर हस्ताङ्कन मैन के आधार पर नक्शा स्वीकृत किया जाना चाहिए था।

-3-

pe
ji tandan

Ombudsman Kurukshetra

(TRUE COPY)

-3-

14. यह कि प्रसंगत आराजिवात अपीलान्ट की भूमिधरी की आराजी है, अपीलान्ट को उक्त आराजिवात को किती भी प्रकार से प्रयोग करने का पूरा-पूरा अधिकार है और इस अधिकार से अपीलान्ट को बाँधा नहीं किया जा सकता है।

15. यह कि विद्वान उपाध्यक्ष महोदय, गोर्खोप्राठ द्वारा पारित प्रसंगत आदेश विधिक दृष्टिकोण से कोई आदेश नहीं है। और प्रसंगत आदेश एक नान स्वीकिंग *Now Speaking* एवं क्रिप्टीक *Cryptic* आदेश है।

16. यह कि विद्वान उपाध्यक्ष महोदय, गोर्खोप्राठ द्वारा अपनायी गयी प्रक्रिया ग़लत है।

17. यह कि प्रसंगत मामले में जाननीपडच्य स्वाभाविक द्वारा पारित आदेश को भी अनुपालन नहीं किया गया है।

18. यह कि विद्वान उपाध्यक्ष महोदय, गोर्खोप्राठ ने प्रसंगत आदेश पारित करते समय घोर अन्यायिताता एवं अवैधानिकता करती है।

अतः प्रार्थना है कि विद्वान उपाध्यक्ष महोदय, गोर्खोप्राठ गोरखपुर द्वारा पारित प्रसंगत आदेश को निरस्त किया जाय तथा अग्रे तत्कथ स्वीकारकिया जाय।

अपीलान्ट

दिनांक 06.07.2025

। ओंकार कुमार कुमाहा ।

प्रातालाप कर्ता

तुलना कर्ता

अथ प्रतिनिधि

14.07.2025

पत्रकार

पत्रकार कार्यालय, गोरखपुर

Omkar Kumar Kushwaha

Om Kumar

(TRUE COPY)



759

263

कार्यालय गोरखपुर विकास प्राधिकरण, गोरखपुर।

(वाद अनुभाग)

आपत्ति पत्र

पत्रांक 537/वाद-अनु0/जोन-3/2025-26

दिनांक 21/05/2025

सेवा में,

श्री ओमकार कुमार कुशवाहा,
पुत्र श्री बृज कुमार कुशवाहा,
पता-मु0 हॉसुपुर,
थाना-राजघाट,
जनपद-गोरखपुर।

विषय:- भारत पेट्रोलियम पम्प के कम्पोजिशन प्लान प्रार्थना-पत्र को निरस्त करने के सम्बन्ध में।

महोदय,

आप द्वारा प्रार्थना-पत्र दिनांक 18.04.2024 के साथ प्रस्तुत कम्पोजिशन प्लान व अन्य प्रपत्रों की जाँच करायी गयी। जाँच आख्या के अनुसार श्री ओमकार कुमार कुशवाहा पुत्र श्री बृज कुमार कुशवाहा के द्वारा आराजी संख्या-178, 179 एवं 180 मौजा-हॉसूपुर मुस्तकिल, गोरखपुर पर बनाये गये पेट्रोल पम्प को दिनांक 09.11.2023 को सक्षम अधिकारी के आदेशानुसार विधिवत सील कर दिया गया था। प्रश्नगत निर्माण स्थल का भू-उपयोग महायोजना-2021 के अनुसार बाढ़ प्रभावित क्षेत्र दिया गया है तथा महायोजना-2031 (पुनरीक्षित) में प्रश्नगत स्थल का भू-उपयोग 45 मीटर चौड़ा बन्धा मार्ग, शमशान/कब्रिस्तान है, जारी किया गया है। दोनों ही महायोजना में प्रश्नगत निर्माण स्थल पर पेट्रोल पम्प का निर्माण अनुमन्य नहीं होने के कारण नियमानुसार मानचित्र स्वीकृत/शमन किया जाना सम्भव नहीं है।

उपाध्यक्ष महोदय द्वारा जाँच का आख्या अवलोकन किया गया। आपके द्वारा कम्पोजिशन (कम्पाउन्डिंग) प्लान को स्वीकृत करने हेतु दिनांक 18.04.2024 को दिये गये प्रार्थना-पत्र पर विचार करते हुए उपाध्यक्ष महोदय के आदेश दिनांक 20-05-2025 के द्वारा निरस्त कर दिया गया है।

अतः आपको सूचित किया जाता है कि आपके द्वारा स्वेच्छा से जमा करायी गयी धनराशि (रु0-दो लाख मात्र) मूल रसीद व शपथ-पत्र प्रस्तुत करके वापस लिया जा सकता है। कृपया उपरोक्त से अवगत होने का कष्ट करें।


प्रभारी अधिकारी (वाद),
गोरखपुर विकास प्राधिकरण,
गोरखपुर।


(TRUE COPY)



INDIA NON JUDICIAL



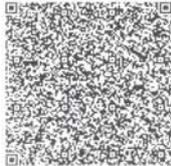
Government of Uttar Pradesh

IN-UP73218147680055X

e-Stamp

ACC Name- MOHIT JAISWAL
ACC Code-UP14842604
ACC Address-Civil Court, Gorakhpur
Licence No.-198, Moh.-811624598
Tehsil & District-Sadar, Gorakhpur
Signature.....

Certificate No. : IN-UP73218147680055X
 Certificate Issued Date : 04-Aug-2025 12:35 PM
 Account Reference : NEWIMPACC (SV)/ up14842604/ GORAKHPUR SADAR/ UP-GRK
 Unique Doc. Reference : SUBIN-UPUP1484260444066115866566X
 Purchased by : OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
 Description of Document : Article 4 Affidavit
 Property Description : Not Applicable
 Consideration Price (Rs.) :
 First Party : OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
 Second Party : Not Applicable
 Stamp Duty Paid By : OMKAR KUMAR KUSHWAHA S O BRIJ KUMAR KUSHWAHA
 Stamp Duty Amount(Rs.) : 10
 (Ten only)



Omkar Kumar Kushwaha

15/08/25
KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur

VAKALATNAMA

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI.

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023

IN THE MATTER OF:

OM PRAKASH GUPTA

... ORIGINAL APPLICANT/APPELLANT/COMPLAINANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS/DEFENDANTS

KNOW ALL to whom these presents shall come that I, **OMKAR KUMAR KUSHWAHA**, the **RESPONDENT/NON-APPLICANT NO. 7**, do hereby appoint and retain **A3T LEGAL LLP THROUGH ADVOCATES MRS. MEGHNA TANDON, MR. AVI TANDON & MR. AMI TANDON**, ADDRESS: 59, SUPREME ENCLAVE, MAYUR VIHAR PHASE – 1, DELHI – 110091, INDIA, (hereinafter called the Advocate/s) to be my Advocates in the above noted case.

✓

Omkar Kumar Kushwaha

14/07/25
KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur.



Authorised him/her/them:-

To act, appear and plead in the above-noted case in this Court/Tribunal or in any other Court/Tribunal in which the same may be tried or heard and also in the appellate Court/Tribunal including High Court subject to payment of fees separately for each Court/Tribunal by me/us.

To sign, file, verify and present pleadings, appeals, cross objections or petitions for execution, review, revision, withdrawal, compromise or other petitions or affidavits, or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

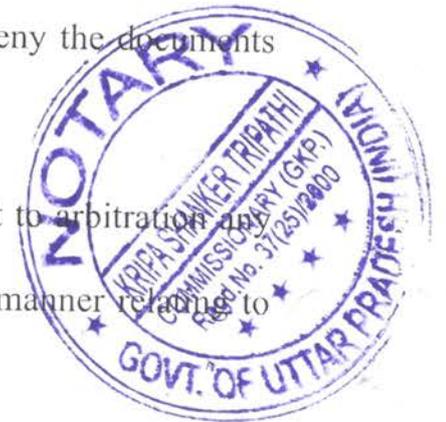
To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on

✓ Ombkar Kumar Kurkurecha



10/11/2024
KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur

my/our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I/we or my/our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

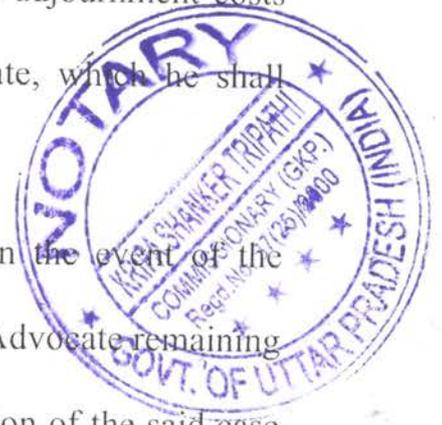
And I/we undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I/we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the Advocate shall be entitled for additional fee equivalent to half of the agreed fee for every additional three years or part thereof.

IN WITNESS WHEREOF, I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this

✓ Omkar Kumar Kurhara

17/05/2025
 TRIPATHI SHANKER TRIPATHI
 NOTARY
 Commissioner, Gorakhpur



the 4th day of the month of August of the year 2025.

Accepted subject to the terms of fees.



[CLIENT]

RESPONDENT/NON-APPLICANT NO. 7



Omkar Kumar Kushwaha

(OMKAR KUMAR KUSHWAHA)

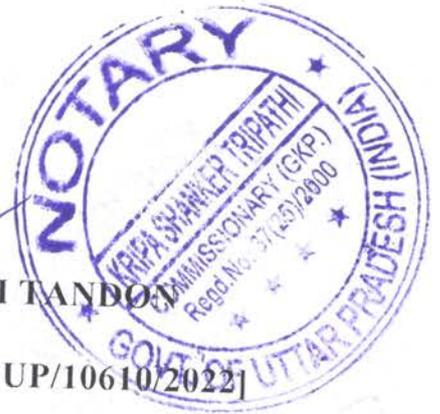
THROUGH ADVOCATES
FOR A3T LEGAL LLP:

Avi Tandon

Meghna Tandon

Ami

AVI TANDON / MEGHNA TANDON / AMI TANDON



Enrl. No.: [UP/04165/2012] / [UP/08085/2016] / [UP/10610/2022]

ADVOCATES FOR THE RESPONDENT/NON-APPLICANT NO. 7.

Address : 59, Supreme Enclave, Mayur Vihar Phase – 1, Delhi – 110091.

Mobile(s) : +91 – 8586866448; +91 – 9453018787; +91 – 8004792768.

Email(s) : avi@avitandon.in; meghna@avitandon.in; ami@avitandon.in

Signed & executed in presence of SWARBHANU DEY Advocate/Notary.

Enrolment No. UP 167/05 | Signature Swarn Bhanu Dey

Dated this the 4th day of the month of August of the year 2025.

Omkar Kumar Kushwaha

15/08/2025
KRIPA SHANKER TRIPATHI
NOTARY
Commissionary, Gorakhpur.

Omkar Kumar Kushwaha



Identified The Signature Of Omkar Kumar Kushwaha
Swat Bhanu Dev Adv
Advocate
Regd No. U.P. 167/85 4/10/25

Sr No . 569 Date 4.0.25
Attested the Signature/Thumb Impression of
Sri/Smt. Omkar K. Kushwaha
Who Sign as per former Signature/Thumb Impression
before me and which is in the true and extention of
his Affidavit before me. He is a living person/Dead His
Her Signature/Thumb Impression identified by
Advocate Shri. S.B. Day

Kripa Shanker Tripathi
4.0.25
Kripa Shanker Tripathi
Commissionary, Gorakhpur

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
[ORIGINAL JURISDICTION]**

M. A. NO. 84 OF 2025

IN

ORIGINAL APPLICATION NO. 613 OF 2023

IN THE MATTER OF:-

OM PRAKASH GUPTA ... ORIGINAL APPLICANT

VERSUS

GORAKHPUR DEVELOPMENT AUTHORITY & ORS.

... RESPONDENTS/NON-APPLICANTS

**PROOF OF SERVICE BY EMAIL UPON THE ORIGINAL
APPLICANT AS WELL AS UPON THE RESPONDENTS/
NON-APPLICANTS.**

767

271



Gmail

Avi Tandon <avi@a3tlegal.com>

Service of Objections in M.A. No. 84 of 2025 in Original Application No. 613 of 2023 before the Hon'ble National Green Tribunal, Principal Bench at New Delhi.

Avi Tandon <avi@a3tlegal.com>

Tue, Aug 12, 2025 at 10:50 PM

To: gda_gorakhpur@rediffmail.com, gdagorakhpur@gmail.com, dmgor@nic.in, sspgkr-up@nic.in, commgor@nic.in, cao@uppcb.in, guptasan@bharatpetroleum.in, Ujjwal Mishra <contactujjwal26@gmail.com>, Himanshu Gupta <himanshu.ylc@gmail.com>
Cc: omkarkumar730@gmail.com, Avi Tandon <avi@avitandon.in>, ami@avitandon.in, Meghna Tandon Airtel <meghna@avitandon.in>

Reference: M.A. No. 84 of 2025 in Original Application No. 613 of 2023 (titled "Om Prakash Gupta v. Gorakhpur Development Authority & Ors.") pending before the Hon'ble National Green Tribunal, Principal Bench at New Delhi.

To,

1. Gorakhpur Development Authority (i.e. Respondent/Non-Applicant No. 1) through emails - gda_gorakhpur@rediffmail.com; gdagorakhpur@gmail.com
2. District Magistrate, Gorakhpur (i.e. Respondent/Non-Applicant No. 2) through email - dmgor@nic.in
3. Uttar Pradesh Police (i.e. Respondent/Non-Applicant No. 3) through email - sspgkr-up@nic.in
4. Commissioner, Gorakhpur Region (i.e. Respondent/Non-Applicant No. 4) through email - commgor@nic.in
5. Uttar Pradesh Pollution Control Board (i.e. Respondent/Non-Applicant No. 5) through email - cao@uppcb.in
6. Bharat Petroleum Corporation Limited (i.e. Respondent/Non-Applicant No. 6) through email - guptasan@bharatpetroleum.in
7. Om Prakash Gupta (i.e. Original Applicant) through emails - contactujjwal26@gmail.com; himanshu.ylc@gmail.com

Copy to: Omkar Kumar Kushwaha (i.e. Respondent/Non-Applicant No. 7) through email - omkarkumar730@gmail.com

Subject: Service of Objections in M.A. No. 84 of 2025 in Original Application No. 613 of 2023 before the Hon'ble National Green Tribunal, Principal Bench at New Delhi.

Sir/Madam,

768**272**

Please find attached herewith Objections on behalf of the Respondent No. 7 (i.e. Omkar Kumar Kushwaha) in M.A. No. 84 of 2025 in Original Application No. 613 of 2023 before the Hon'ble National Green Tribunal, Principal Bench at New Delhi for service upon you.

 Scanned Objections.pdf

Please take note that the next date of hearing before the Hon'ble National Green Tribunal, Principal Bench at New Delhi in the aforesaid matter is 20.08.2025.

This email is for your kind information and necessary record.

Thank you.

**Warm regards,
Mr. Avi Tandon, Advocate for the Respondent No. 7 (i.e. Omkar Kumar Kushwaha) in M.A. No. 84 of 2025.
Mobiles: +91-9415014689, +91-8586866448.**

--

Avi Tandon
Partner



A3T Legal LLP

B.C.L. (University of Oxford)

B.Sc. LL.B. (Business Law Honours) (National Law University, Jodhpur)

Mobile: +91-8586866448 | +91-9415014689

Website: www.a3tlegal.com

Email: avi@a3tlegal.com | avi@avitandon.in

At A3T Legal LLP we perceive the confidence of our clients as the most important asset of our firm.

Privileged Communication:

This message (including any attachment(s) hereto) is confidential and may also be privileged. It is intended solely for the addressee. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. If you have received this message in error you are requested to delete it from your system and to contact the sender by replying to this message immediately. A3T Legal LLP or its associates are not liable for the improper transmission of this message nor for any damage sustained as a result of this message.