BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No.77 of 2025

IN THE MATTER OF

KUNWAR KALI EDUCATIONAL TRUST ...APPLICANT

VERSUS

UNION OF INDIA AND OTHERS ...RESPONDENT

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10.01.2026
New Delhi

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REJOINDER ON BEHALF OF KUNWAR KALI EDUCATIONAL TRUST

MOST RESPECTFULLY SHOWETH:

1. That the present rejoinder is being filed on behalf of the Applicant, KUNWAR KALI EDUCATIONAL TRUST, in response to the Counter Affidavit filed by the Respondent No. 5 M/s Ekaa Wood Works Foundation dated 11.11.2025 **("Counter Affidavit")**, wherein several incorrect, misleading and factually untenable assertions have been made regarding the establishment, purpose and regulatory compliance of the proposed Common Facility Centre (CFC) at Bijnor under the One District One Product (ODOP) Scheme of the Government of Uttar Pradesh.

2. That at the very outset, the Applicant denies each and every averment, contention and allegation made in the Counter Affidavit, except those which are a matter of record or are specifically admitted herein. The present Rejoinder is being filed to place the true, complete and accurate facts before this Hon'ble Tribunal and to correct the misleading assertions sought to be advanced by Respondent No. 5.

PRELIMINARY SUBMISSIONS

A. THE PRECAUTIONARY PRINCIPLE REQUIRES INTERVENTION EVEN BEFORE HARM OCCURS

i. That the Respondent No. 5's contention that *"no harm has occurred"* and that the Applicant's grievance is based on speculative apprehension is fundamentally misconceived. The very object of Section 20 of the National Green Tribunal Act, 2010 is that this Hon'ble Tribunal must apply the Precautionary Principle while passing any decision or order, and the same mandates consideration of preventive action before environmental harm occurs, and not merely after demonstrable damage.

ii. That the Precautionary Principle is a foundational part of Indian environmental law jurisprudence. The Hon'ble National Green Tribunal in **Gurpreet Singh Bagga v. Ministry of Environment & Forests**, OA No. 184/2013, has emphatically held

"One of the fundamental basis of Precautionary Principle is that all steps should be taken to protect the environment while permitting Sustainable Development. It is better to take precautions than restore the environment after its degradation. The Tribunal enunciated on this principle in the case of M/s Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board, 2013 ALL (I) NGT REPORTER (DELHI)"

iii. That the Respondent No. 5's plea that "no harm has yet occurred" is legally irrelevant. The principle requires this Hon'ble Tribunal to anticipate and prevent harm, especially where sanctioned project components, such as a Chemical

Treatment Plant, Wood Seasoning, and a 1000 kg/hr Boiler, carry inherent environmental risk.

iv. That the Hon'ble Supreme Court in **A.P. Pollution Control Board v. Prof. M.V. Nayudu**, (1999) 2 SCC 718, held that where there is an identifiable risk of serious or irreversible harm, the burden of proof shifts to the person proposing such an activity. The Court observed:

"The precautionary principle suggests that where there is an identifiable risk of serious or irreversible harm, including, for example, extinction of species, widespread toxic pollution in major threats to essential ecological processes, it may be appropriate to place the burden of proof on the person or entity proposing the activity that is potentially harmful to the environment. (See Report of Dr Sreenivasa Rao Pemmaraju, Special Rapporteur, International Law Commission, dated 3-4-1998, para 61.)"

v. Applying the above principle, it is the Respondent No. 5 and not the Applicant, who must demonstrate that its activities pose no environmental risk, particularly in light of its own sanctioned Final approval involving chemical treatment and boiler-based processing. It is also pertinent to mention that the said onus cannot be deemed to be discharged merely by producing an affidavit to the extent saying that no such harm will be caused and no such activity will be undertaken which might impact the environment. The Respondent No. 5 has not produced any satisfactory evidence that any hazardous activity will not be undertaken including chemical treatment plant and usage of boiler except by providing a written affidavit which

notably contradicts the sanction letter for the establishment of the Respondent No. 5, the very incorporating document.

vi. That Respondent No. 5's repeated defence that the unit is "under construction" cannot dilute environmental scrutiny. The Precautionary Principle applies at all stages which are planning, construction, installation, and commissioning. The potential for harm arises from the approved project components, not from the current physical state of the plant. The Respondent cannot escape regulatory oversight by claiming that pollution has not begun yet. The Tribunal is empowered under Section 20 to intervene at the earliest stage to prevent harm.

vii. The Applicant's concerns are neither speculative nor unfounded. They are grounded in the legally mandated precautionary framework which requires this Hon'ble Tribunal to regulate and prevent environmental harm before it occurs. The Respondent No. 5's submissions to the contrary are untenable and contrary to settled law.

B. THE JOINT COMMITTEE REPORT IS INCONCLUSIVE AND IS NOT SUPPORTING THE RESPONDENT NO. 5'S CASE

i. That in order to assess the environmental harm that might be caused due to the operations of the Respondent No. 5, a Joint Committee was established vide this Hon'ble Tribunal's order dated 25.02.2025 Joint Committee Report **("Joint Committee Report")** relied upon by Respondent No. 5 does not, in any manner, approve or endorse the Respondent No. 5's proposed CFC. The Joint Committee Report is wholly inconclusive and does not contain any independent finding regarding the

environmental impact, machinery installed, or processes intended to be undertaken at the unit.

ii. Joint Committee did not undertake any meaningful inspection of the Respondent No. 5's CFC. As recorded in the Joint Committee Report, the unit was *"under construction",* several machines were *"packed",* and therefore no air, noise, effluent, chemical, or particulate sampling could be carried out. In such a situation, the Committee neither approved nor disapproved the Respondent No. 5's activities as to foreseeable environmental harm; rather, it simply refrained from performing the very assessment for which it was constituted.

iii. That, the Joint Committee is bound by the foundational principle of natural justice, namely, *"nemo causae tuae iudex esse potest"* meaning that no person can be a judge in their own cause. In the present case, the Committee's conclusion rests predominantly on the Respondent No. 5's self-serving assertion that it "will not use any chemicals, boiler or seasoning chamber", despite the fact that the Respondent No. 5's own ODOP Final Approval expressly list a Chemical Treatment Plant and a 1000 kg/hr Boiler as sanctioned components. In the present case, accepting the Respondent No. 5's bare assertions, contrary to the Final approval, would amount to letting the Respondent decide its own environmental compliance, which is impermissible in law.

iv. That the Joint Committee Report cannot, in any circumstance, be treated as the sole basis for adjudication. The Hon'ble Supreme Court, in **Grasim Industries Ltd. v. State of Madhya Pradesh**, 2024 INSC 926 has said that:

"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."

v. In the present case, the Joint Committee Report contains no scientific analysis, no environmental sampling, and no verification of machinery. Therefore, this Hon'ble Tribunal cannot rely upon it as the determinative basis for assessing pollution risk or regulatory compliance.

C. THE SPV CANNOT ALTER ITS SANCTIONED ODOP PURPOSE BY UNILATERAL UNDERTAKING

i. That Respondent No. 5's sanctioned ODOP Final Approval letter dated 20.12.2022 **("Sanction Letter")** clearly defines the purpose and functional components of the proposed Common Facility Centre. Paragraph 7 of the Sanction Letter provides that the CFC, i.e., Respondent No. 5 will have the following facilities: *(i) Wood Seasoning and Chemical Treatment Plant and (ii) Advance Toolroom*, and the same are the very objects on the basis of which the genesis of Respondent No. 5 was approved and public funds were sanctioned under the ODOP Scheme. Moreover, the sanctioned list of machinery includes, *inter alia*: (i) a Chemical Treatment Plant of 225 CFT capacity, (ii) a Chemical Mixing Tank, (iii) a 1000 kg/hr Boiler, (iv) a Wood Seasoning Chamber, and (v) an Effluent Treatment Plant. These components form the list of machineries approved for operations of the project.

ii. Despite these binding project documents, the Respondent No. 5 has sought to contradict its own sanctioned purpose by issuing a unilateral letter/undertaking claiming that it “will not use chemicals, boiler or seasoning chamber”. Such an undertaking has no legal effect and cannot override the binding letters of the Sanction Letter, which remains the controlling document giving rise to the very birth of Respondent No.5. A beneficiary of a government scheme cannot, at its own discretion, invalidate or rewrite the purpose for which it was granted approval and public funds.

iii. In the light of the above-mentioned, it is provided that the Sanction Letter clearly embodies a provision to avoid the above-mentioned circumventions by the SPVs and paragraph 15 records that *machinery which is finalized can only be changed with prior consent of the ODOP State Lever Steering Committee*. This clause clearly acknowledges that Respondent No. 5 is not legally permitted to rewrite, alter or dilute the project components sanctioned by the Government. The Respondent No. 5’s conduct, attempting to nullify sanctioned machinery such as the Chemical Treatment Plant and Boiler through a private letter, falls squarely within the category of impermissible alterations.

iv. In these circumstances, the Respondent No. 5’s attempt to substitute its sanctioned project purpose with a unilateral undertaking is contrary to administrative law, contrary to ODOP Scheme, and devoid of legal validity. This Hon'ble Tribunal is therefore required to assess the Respondent No. 5 strictly on the basis of its Sanction Letter and approved machinery list.

D. THE UPPCB'S SUBSEQUENT WHITE CATEGORY CLASSIFICATION IS ARBITRARY AND UNSUPPORTED BY LAW

i. That the UP Pollution Control Board's (UPPCB) treatment of the Respondent No. 5's unit as "White Category" is arbitrary, factually incorrect, and contrary to CPCB categorisation norms. No scientific assessment, site verification, or technical evaluation was carried out by UPPCB before altering the category.

ii. White Category industries are defined as those with "nil or negligible pollution potential" and specifically exclude any unit involving chemical treatment, fuel-fired boilers of substantial capacity, or wood-processing units using thermal or chemical processes. The Respondent No. 5's sanctioned machinery including Chemical Treatment Plant, Chemical Mixing Tank, 1000 kg/hr Boiler, Wood seasoning Chamber, places it far outside the White Category under any recognised CPCB and UPPCB categorization, and that the District Magistrate's forwarding of the Respondent No. 5's undertaking and the UPPCB's White Category classification are procedurally flawed, factually incorrect, and legally unsustainable. Moreover, the UPPCB's White-category classification of wood-seasoning units, being directly inconsistent with the CPCB's Green-category classification under its 12.02.2025 notification, is ultra vires Section 18(1)(b) of the Water and Air Acts, which mandates strict conformity of State Boards to the Central Board's directions.

REPLY TO THE PRELIMINARY OBJECTIONS: -

1. The contents of Preliminary Objection A(i) are denied as misconceived and contrary to settled environmental jurisprudence. It is humbly submitted that the Applicant has approached this Hon'ble Tribunal on the basis of Respondent No. 5's own Final ODOP Approval, which sanctions a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler. The presence of such sanctioned components establishes inherent pollution potential and renders the Applicant's concerns legitimate and legally cognisable under the Precautionary Principle mandated by Section 20 of the NGT Act.

2. The contents of Preliminary Objection A(ii) are denied. It is submitted that the Respondent No. 5 has incorrectly stated that the jurisdiction of this Hon'ble Tribunal can be invoked only upon proof of existing environmental degradation. The Hon'ble Supreme Court and this Hon'ble Tribunal have consistently held that mere absence of present pollution does not bar preventive jurisdiction, particularly where sanctioned activities carry foreseeable environmental risk. The Applicant's case is based on official approvals and statutory non-compliance, not conjecture or internal correspondence.

3. The contents of Preliminary Objection A(iii) are denied. It is denied that all statutory compliances have been ensured. Approval under the ODOP Scheme does not override mandatory compliance with the Water Act, 1974 and the Air Act, 1981. Respondent No. 5 has admittedly not obtained Consent to Establish (CTE) or Consent to Operate (CTO) despite its sanctioned project involving pollution-causing machinery. The allegation of mala fides is baseless and made only to deflect scrutiny from statutory violations.

4. The contents of Preliminary Objections B(i) and B(ii) are not disputed to the limited extent that Respondent No. 5 is an SPV and that final

approval dated 20.12.2022 was granted under the ODOP Scheme. However, it is emphatically denied that such approval characterises the project as non-polluting. The Final ODOP Approval itself sanctions chemical and boiler-based processes, which legally disqualify the project from being treated as a White Category unit.

5. The contents of Preliminary Objection B(iii) are denied as false and contrary to record. The statement that no chemical treatment, wood seasoning, or boiler usage is envisaged is directly contradicted by the sanctioned machinery list annexed to the Final ODOP Approval. Respondent No. 5 cannot, through pleadings, rewrite or nullify the scope of its own approved project.

6. The contents of Preliminary Objection B(iv) are denied. The unilateral undertaking dated 22.04.2025 relied upon by Respondent No. 5 has no legal effect, as an SPV cannot alter sanctioned project components without approval of the competent authority. Such an undertaking cannot override statutory requirements or cure violations under the Water Act and Air Act or any other environmental laws.

7. The contents of Preliminary Objection B(v) are denied. The Respondent No. 5 does not qualify for White Category classification under CPCB Guidelines, as units involving chemical treatment and boilers are expressly excluded. The exemption from CTE/CTO is therefore unavailable, and reliance on the UPPCB letter dated 30.09.2024 is inappropriate.

8. The contents of Preliminary Objections C(i) and C(ii) are denied insofar as they suggest that the Joint Committee conducted a detailed or conclusive environmental assessment. The Joint Committee itself recorded that the unit was under construction, machinery was covered, and therefore air, noise, and pollution monitoring could not be

conducted. A report that could not undertake scientific testing cannot be treated as confirmation of compliance.

9. The contents of Preliminary Objection C(iii) are denied. The affidavits filed by the District Magistrate and Deputy Commissioner merely reiterate procedural facts and rely on the same incomplete inspection and the Respondent's undertaking. They do not contain any independent scientific findings capable of negating environmental risk.

10. The contents of Preliminary Objection C(iv) are denied. Official records do not negate the Applicant's case; rather, they demonstrate that no meaningful environmental assessment was ever carried out, thereby strengthening the Applicant's invocation of the Precautionary Principle.

11. The contents of Preliminary Objections from D(i) to D(vi) are denied in *toto*. The Applicant's case does not rest on imagined injury but on sanctioned project documents, statutory non-compliance, and admitted absence of CTE/CTO. The Respondent No. 5's attempt to label the application as speculative ignores the settled principle that environmental harm must be prevented before it occurs, particularly where approved activities carry inherent risk. The absence of pollution findings during inspection was solely because the unit was under construction and incapable of being tested. The Respondent No. 5 cannot take advantage of its own non-operational status to defeat environmental scrutiny. The jurisdiction of this Hon'ble Tribunal under Section 14 of the NGT Act is therefore clearly attracted.

PARAWISE REPLY TO REPLY ON MERITS

1. That the contents of paragraph 1 of the Counter Affidavit are denied except to the limited extent that the existence and functioning of the

Applicant Trust and its educational institution are matters of record. It is submitted that the Respondent No. 5's assertion that the Applicant's proximity "has no bearing" on the present proceedings is wholly misconceived. The existence of an educational institution directly adjoining the Respondent No. 5's project is legally relevant because any activity involving chemical treatment, boiler-based processing or wood-seasoning operations, expressly mentioned in the Respondent No. 5's Sanction Letter and sanctioned machinery list, poses inherent environmental and health risks. Additionally, Respondent No. 5's claim of being a "non-polluting" project is factually incorrect and contrary to its own Sanction Letter, which includes a Chemical Treatment Plant, a 1000 kg/hr Boiler and a Seasoning Chamber, none of which fall within the White Category. Therefore, the Applicant is fully entitled to invoke the jurisdiction of this Hon'ble Tribunal to prevent environmental harm to its students, faculty, and premises.

2. The contents of paragraph 2 of the Counter Affidavit are a matter of record and need no specific response.

3. That the contents of paragraph 3 of the Counter Affidavit are vehemently denied in their entirety. It is humbly submitted that the Respondent No. 5's assertion that it is "not constructing any illegal factory" is incorrect and contrary to the official record. The Respondent No. 5's own Sanction Letter and sanctioned machinery list include a Chemical Treatment Plant, a 1000 kg/hr Boiler, Chemical Mixing Tank, Seasoning Chamber and other pollution-generating components. No statutory Consent to Establish (CTE) under Section 21 of the Air Act or Section 25 of the Water Act has ever been obtained, making the construction patently illegal under environmental law. The Respondent No. 5's attempt to portray the project as "non-polluting" and falling under the White Category has no factual or legal basis. The UPPCB's later classification letter was

issued without inspection, without scientific analysis, and solely on the Respondent No. 5's unilateral undertaking, which is legally incapable of overriding the sanctioned project purpose. Therefore, the allegation of illegal construction is not only correct but reinforced by the Respondent No. 5's own non-compliance with mandatory statutory requirements.

4. That the contents of paragraph 4 of the Counter Affidavit are denied in toto. It is humbly submitted that the Respondent No. 5's assertion that it is not constructing any sawmill, wood-processing unit, or boiler-based facility is directly contradicted by its own Sanction Letter, which expressly includes a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler. These sanctioned components define the Respondent No. 5's project purpose and cannot be disowned through subsequent pleadings or self-serving undertakings.

5. That the contents of paragraph 5 of the Counter Affidavit are partly admitted only to the limited extent that the Applicant did file a complaint dated 21.06.2024 before the Regional Office of the UPPCB. It is submitted that, the Respondent No. 5's statement that the allegations were "speculative" because the unit is a "White Category" unit is wholly incorrect and misleading. The Respondent No. 5's project was never a White Category unit at the time of complaint, and the UPPCB's "clarification" was issued without any scientific inspection and without technical assessment. Respondent No. 5's Sanction Letter explicitly includes a Chemical Treatment Plant, Chemical Mixing Tank, Seasoning Chamber, and a 1000 kg/hr Boiler, all of which categorically exclude the unit from White Category classification under CPCB as well as UPPCB norms. Therefore, the Applicant's complaint was not based on speculation but on the Respondent No. 5's own approved machinery list. The UPPCB's

classification letter dated 30.09.2024 does not cure the Respondent No. 5's non-compliance, as it was issued contrary to statutory procedure and without any scientific or factual basis.

6. The contents of paragraphs 6 and 7 of the Counter Affidavit are denied except to the limited extent that the UPPCB communications dated 22.06.2024 and 04.07.2024 are matters of record and correctly stated that no permission or consent had been granted to the Respondent No. 5's unit. The UPPCB's subsequent communication dated 30.09.2024, relied upon by Respondent No. 5, was issued without inspection and without examining the sanctioned machinery list. It therefore cannot be treated as a lawful or binding reclassification. Respondent No. 5 was never a White Category unit as per its Sanction Letter, which expressly sanctions a Chemical Treatment Plant, a 1000 kg/hr Boiler, a Seasoning Chamber, and other pollution-causing components. Accordingly, the exemption from CTE/CTO is not available to the Respondent No. 5 under the White Category norms.

7. The contents of paragraph 8 of the Counter Affidavit are denied in their entirety as false, misleading, and contrary to the official record. It is submitted that Respondent No. 5's assertion that "no industrial operation capable of causing environmental impact exists at the site" is directly contradicted by its own Sanction Letter, which expressly sanctions a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler. These components inherently possess significant potential to cause air, noise, water, and chemical pollution, and therefore the claim of being "non-polluting" is factually untenable. Respondent No. 5's blanket denial of any polluting process is a self-serving assertion unsupported by any statutory document. The Applicant's concerns are not "self-generated" or speculative but arise from the very nature of the pollution-causing machinery approved under the Government

scheme. The potential for environmental harm exists from the stage of installation and construction itself, and under the Precautionary Principle, this Hon'ble Tribunal is mandated to address such risks before actual harm occurs

8. That the contents of paragraphs 9 and 10 of the Counter Affidavit are denied except to the limited extent that the Applicant did file an RTI application dated 04.11.2024 and received a reply dated 09.11.2024, which correctly reflected the existing legal position. It is humbly submitted that Respondent No. 5's attempt to disregard the RTI reply as "outdated" is wholly misconceived. The UPPCB's subsequent communication dated 30.09.2024, relied upon by Respondent No. 5, was issued without inspection and without examining the sanctioned machinery list. It therefore cannot be treated as a lawful or binding reclassification. Respondent No. 5 was never a White Category unit as per its Sanction Letter, which expressly sanctions a Chemical Treatment Plant, a 1000 kg/hr Boiler, a Seasoning Chamber, and other pollution-causing components. Accordingly, the exemption from CTE/CTO is not available to the Respondent No. 5 under the White Category norms, and the Applicant's reliance on the RTI reply remains correct and relevant.

9. The contents of paragraphs 11 of the Counter Affidavit are denied in their entirety as false and misconceived. It is humbly submitted that the Applicant's letter dated 09.11.2024 to the Hon'ble Chief Minister was neither based on false assumptions nor unverified claims. The concerns raised therein directly stemmed from Respondent No. 5's own Sanction Letter, which expressly includes pollution-causing components such as a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler. These sanctioned components establish the inherent pollution potential of the project, contradicting Respondent No. 5's narrative that it is "non-

polluting." Respondent No. 5's reliance on the UPPCB letter dated 30.09.2024 is misplaced. The said letter was issued without any scientific inspection and without technical evaluation of the sanctioned machinery list. Additionally, the communication dated 02.12.2024 from the Deputy Secretary does not endorse Respondent No. 5's actions; it merely directs the concerned departments to act as per rules. Compliance with law remains the Respondent No. 5's obligation, and the Applicant's grievance is precisely that Respondent No. 5 has failed to obtain mandatory statutory consents despite operating a project involving pollution-causing processes.

10. That the contents of paragraph 12 of the Counter Affidavit are denied in full as false, misleading, and contrary to record. It is humbly submitted that the Respondent No. 5's assertion that the project does not violate any siting norms is incorrect. The Respondent's own Sanction Letter sanctions a Chemical Treatment Plant, 1000 kg/hr Boiler, Wood Seasoning Chamber, and Chemical Mixing Tank, all of which are pollution-generating processes requiring compliance with statutory siting, zoning, and buffer-distance norms under the environmental regulatory framework. The Respondent No. 5's claim that the project is "non-polluting" and "non-industrial" is demonstrably false. The sanctioned machinery list places the project squarely within activities that require mandatory Consent to Establish (CTE) and Consent to Operate (CTO) prior to installation or construction. In such circumstances, the proximity of the project to an educational institution is not only relevant but raises legitimate environmental, health, and safety concerns under the Precautionary Principle embodied in Section 20 of the NGT Act. Therefore, Respondent No. 5 cannot rely on erroneous White Category classification to evade statutory distance and siting obligations. The Applicant's institution is directly at risk from the pollution-causing

components of Respondent No. 5's sanctioned project, and the denial of such risk is contrary to both record and law.

11. The contents of paragraphs 13 and 14 of the Counter Affidavit are denied in their entirety. It is humbly submitted that the Respondent No. 5's repeated assertion that the construction is of a "non-polluting" CFC is contradicted by its own Sanction Letter, which includes a Chemical Treatment Plant, Chemical Mixing Tank, and a 1000 kg/hr Boiler. These components inherently have pollution potential, regardless of whether they are currently operational. Respondent No. 5's claim that no emissions, dust, or noise were generated is legally irrelevant. The Joint Committee itself noted that air and noise monitoring could not be conducted because the unit was under construction, not because such pollution could never arise. The absence of data is not evidence of the absence of pollution. It is a direct consequence of Respondent No. 5's non-operational and non-inspectable project condition. Therefore, the assertion that complaints of health issues are "speculative" is unfounded. No meaningful inspection was possible, and in such circumstances, the Precautionary Principle mandates that potential harm must be prevented rather than ignored.

12. The contents of Paragraphs 15 to 19 of the Counter Affidavit are denied as misconceived and misleading. It is submitted that Respondent No. 5's assertion that the project "does not involve sawdust emissions, chemical treatment, or a boiler" is directly contradicted by its own Sanction Letter, which expressly includes a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler. These sanctioned components establish the pollution-generating nature of the project beyond dispute. The undertaking dated 22.04.2025 relied upon by Respondent No. 5 cannot override or modify the government issued Sanction

Letter and, an SPV, i.e., Respondent No. 5, created pursuant to the very Sanction Letter cannot unilaterally change its sanctioned purpose without approval of the sanctioning authority. Such an undertaking, given without statutory backing, has no legal value and cannot erase pollution potential inherent in the approved project design. Respondent No. 5's claim that the Joint Committee report and affidavits of district authorities "confirm full compliance" is incorrect. The Joint Committee itself recorded that the unit was under construction, machines were covered, and therefore no scientific assessment of air quality, noise levels, chemical handling, or pollution potential could be conducted. A report that could not carry out monitoring cannot be treated as evidence of "absence of any polluting source." Thus, far from confirming compliance, the Joint Committee report underscores the failure to conduct a proper assessment, which reinforces the Applicant's case under the Precautionary Principle. It is humbly submitted that the issue is not whether the land was converted for non-agricultural use; the issue is that Respondent No. 5's sanctioned project involves pollution-causing machinery requiring statutory consents under the Water Act and Air Act, none of which have been obtained. The Respondent No. 5's repeated reference to land conversion and ODOP approval does not absolve it from compliance with environmental law. The allegation of regulatory breach is not only founded on record but is reinforced by the Respondent No. 5's attempt to downplay and contradict its own sanctioned machinery list. It is humbly submitted that the Applicant has never asserted that the project requires Environmental Clearance under the EIA Notification, 2006. The core contention is that Respondent No. 5's sanctioned machinery, particularly the Chemical Treatment Plant and Boiler, requires mandatory Consent to Establish (CTE) and Consent to Operate (CTO) under the Water Act and Air Act. Respondent No. 5's attempt to shift focus to EC is an irrelevant

deflection. The project indeed involves hazardous and pollution-causing processes as per its own approved list, irrespective of whether it falls within the EIA Schedule. The UPPCB letter dated 30.09.2024, relied upon by Respondent No. 5, was issued without any inspection, without testing and without evaluating the sanctioned machinery. It cannot override the legal requirement of CTE/CTO under Section 25 of the Water Act and Section 21 of the Air Act. White Category classification applies only to units with negligible pollution potential. A facility sanctioned with a Chemical Treatment Plant, Boiler, Seasoning Chamber, and Chemical Mixing Tank can never fall under the White Category as per CPCB and UPPCB norms. Therefore, Respondent No. 5's reliance on the said letter is misplaced and legally unsustainable.

13. The contents of paragraph 21 of the Counter Affidavit are denied in their entirety as incorrect, misleading, and contrary to the Respondent No. 5's own Sanction Letter. It is humbly submitted that the Respondent No. 5's reliance on the absence of a statutory 500-meter buffer for White Category units is misplaced. The Applicant has never asserted that a buffer requirement applies to genuine White Category units. The core issue is that Respondent No. 5 is not a White Category unit at all, as its Sanction Letter sanctions a Chemical Treatment Plant, Chemical Mixing Tank, Wood Seasoning Chamber, and a 1000 kg/hr Boiler, all of which fall squarely within pollution-generating processes under CPCB norms. Respondent No. 5's continued attempt to portray the project as "non-polluting" is contradicted by its own sanctioned machinery list. Reliance on the erroneous UPPCB classification letter dated 30.09.2024, issued without inspection, cannot absolve Respondent No. 5 of compliance with siting norms applicable to pollution-causing units. Thus, the project's closeness to

the Applicant's institution raises valid and serious environmental concerns which cannot be dismissed.

14. That the contents of paragraph 22 of the Counter Affidavit are denied in toto as false, misleading, and contrary to the Respondent No. 5's own sanctioned documents. It is humbly submitted that Respondent No. 5's assertion that no "factory" involving machines, boiler operations, or sawdust emissions is being constructed is directly contradicted by its own Sanction Letter**,** which expressly sanctions a Chemical Treatment Plant**,** Chemical Mixing Tank**,** Wood Seasoning Chamber**,** and a 1000 kg/hr Boiler. These components clearly establish that the project is industrial in nature and capable of generating pollution.

15. That the contents of paragraph 23 of the Counter Affidavit are denied in their entirety as misconceived, incorrect, and contrary to the statutory framework governing environmental protection. It is humbly submitted that the present case clearly discloses violations of Schedule I enactments under the National Green Tribunal Act, 2010, including Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as Respondent No. 5 has commenced construction of a project involving a Chemical Treatment Plant, 1000 kg/hr Boiler, Chemical Mixing Tank and Wood Seasoning Chamber as per its Sanction Letter, without obtaining the mandatory Consent to Establish (CTE) or Consent to Operate (CTO). The matter therefore raises a substantial question relating to the environment, squarely attracting the jurisdiction of this Hon'ble Tribunal under Sections 14 and 15 read with Section 20 of the NGT Act, which mandates application of the Precautionary Principle. Respondent No. 5's reliance on the UPPCB letter dated 30.09.2024, issued without inspection, is wholly misplaced and cannot override statutory violations or negate the

pollution potential inherent in the sanctioned project components. Moreover, the Respondent No. 5 cannot cure illegality or evade environmental scrutiny by issuing an undertaking that directly contradicts its own final approval. Therefore, the Applicant's invocation of this Hon'ble Tribunal's jurisdiction is not only maintainable but necessary to prevent environmental harm and ensure compliance with statutory mandates.

16. The contents of paragraph 24 of the Counter Affidavit are denied as incorrect and misleading. It is humbly submitted that Respondent No. 5 has indeed undertaken construction without obtaining the mandatory CTE and CTO under Section 25 of the Water Act and Section 21 of the Air Act, despite its sanctioned Final ODOP Approval involving a Chemical Treatment Plant, a 1000 kg/hr Boiler, and other pollution-causing components. The mere fact that the land is converted for non-agricultural use or that ODOP approval exists does not legalise construction undertaken in violation of statutory environmental permissions. The UPPCB and Deputy Commissioner have never conducted a complete independent inspection. Accordingly, the construction is illegal under environmental law, and the Respondent No. 5's claim of full compliance is false and contrary to record.

PRAYER

In view of the foregoing submissions and without prejudice to the averments already made in the main application, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

a. Reject the prayer(s) and objections raised by the Respondent no. 5/ Project Proponent in its counter affidavit;

b. Allow the application of the Applicant in terms of the reliefs already prayed for in the main application, in the interest of justice; and

c. Pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, in favour of the Applicant and in the interest of justice.

APPLICANT

10.01.2026
New Delhi

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Affidavit of Ashok Kumar Singh age 65 S/o Veer Singh R/o H.N. 260 Village Rasheedpur Garhi P/o & Distt. Bijnor (U.P.)

09-01-2026

B. Balwant Singh, Advocate
NOTARY
BIJNOR (U.P.)

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वीरेन्द्र कुमार
स्टाम्प विक्रेता, बिजनौर
लाई०नं०-65./200*

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

ORIGINAL APPLICATION NO. 77 OF 2025

IN THE MATTER OF:

KUNWAR KALI EDUCATIONAL TRUST

(Through its Authorized Representative)

...APPLICANT

VERSUS

UNION OF INDIA

.... RESPONDENTS

AFFIDAVIT

I, Ashok Kumar Singh, son of Sh. Veer Singh, age about 65 years, R/o 260 Gram Rashidpur Gadhi, Adarsh Nagar, Bijnor, Uttar Pradesh – 246701, presently at New Delhi do hereby solemnly do hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the Applicant Trust in the above- mentioned Original Application and therefore competent to swear the present Affidavit.
2. That the accompanying rejoinder has been drafted by my counsel on my instructions, and the contents the same are true and correct to my knowledge.

DEPONENT

VERIFICATION

I, Ashok Kumar Singh, son of Sh. Veer Singh, age about 65 years, R/o 260, Gram Rashidpur Gadhi, Adarsh Nagar, Bijnor, Uttar Pradesh - 246701, the deponent named hereinabove, do hereby solemnly affirm and verify, that the contents of the above Affidavit are true and correct to the best of my knowledge and no part of it is false and no material has been concealed therefrom.

Verified at Bijnor on 09.01.2026

DEPONENT

09-01-2026.