

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 285 OF 2025**

IN THE MATTER OF:

SHIV KUMAR DUBEY

... APPLICANT

VERSUS

UNION OF INDIA & ORS

... RESPONDENTS

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**REJOINDER TO THE REPLY FILED BY RESPONDENT
NO. 4 (HARYANA STATE POLLUTION CONTROL
BOARD)**

MOST RESPECTFULLY SHEWETH:

1. At the outset, it is respectfully submitted that the Respondent No. 4, Haryana State Pollution Control Board, has failed to even address the detailed allegations regarding pollution-causing activities of the private Respondents as highlighted by the Applicant in his Original Application. The Applicant reiterates the submissions made in the original application.
2. The Board's Reply merely presents a tabular, unit-level survey without adequately grappling with the enormous environmental challenges, cluster-level non-compliance, and continuous statutory breaches detailed in the OA. There is a clear failure to appreciate the collective impact of cumulative violations by the cluster of establishments at the Subject Land.
3. The Reply does not engage with or even acknowledge the legal standards, judicial directions, and statutory frameworks repeatedly cited by the Applicant, including those arising from the NGT, CPCB, CAQM, and various Supreme Court judgments, as detailed below.

PRELIMINARY SUBMISSIONS

A. Failure to Address Cumulative Impacts of the Pollution-Causing Activities on the Subject Land

4. It is respectfully submitted that it is beyond dispute, and repeatedly pleaded in the OA, that the entire subject Land is being operated, leased and controlled by only two individuals—Respondent Nos. 8 (Dalbir Singh Yadav) and 9 (Charan Singh @ Charanpal). These two private parties constructed, let out, and managed the entire cluster comprising dozens of shops, car workshops, building material vendors, and eateries as a single, contiguous commercial market.
5. The operations are not disparate or naturally fragmented. Respondent Nos. 8 and 9 act as de facto developers and are responsible for the environmental and operational control of the entire premises. This control structure squarely triggers the guidelines and legal framework for clusters/area-based regulation and enforcement, as repeatedly recognized by the NGT and the Haryana State Pollution Control Board's own office orders.
6. Current law and HSPCB's explicit guidelines require cluster-based consent and environmental management for market complexes, commercial aggregations, and multi-operator spaces. The consent procedure under the Water Act, Air Act, and Environment (Protection) Act, read with the HSPCB Office Order dated 13 September 2021 and the CPCB Mechanism/Guidelines for Control of Pollution at Clusters of Restaurants/Banquets/Commercial Spaces, mandates the following:
 - a. The entire compound or cluster, regardless of how the spaces are internally divided among tenants, must obtain Consent to Establish

- (CTE) and Consent to Operate (CTO) from the Board before any commercial activity can commence;
- b. Environmental impact must be assessed cumulatively, and consents must be obtained either by the main developer/owner (here, Respondent Nos. 8 and 9) or by the Association of Occupiers; and
 - c. Individual operators cannot escape the consent requirement where the pollution load is aggregated by common operations, shared utilities (power, water, waste), and shared environmental risk.
7. In the present case, dozens of commercial entities, including automobile workshops, building material depots, dry-cleaning operations, eateries, and other businesses, have functioned continuously on the subject Land. As noted by the Applicant and not rebutted by the Board, there is no trace of any cluster-level CTE/CTO—a non-compliance so egregious that the entire market area should have never been allowed to operate.
8. Further, the fact that Respondent Nos. 8 and 9 continue to let out spaces, supply utilities, and organise activities in the manner of a commercial complex makes them directly liable for all pollution load, waste management, dust mitigation, and legal compliance failures across the site.
9. It is inconceivable under current environmental jurisprudence, and wholly contrary to both Board guidelines and NGT orders, that such a large, planned commercial cluster could operate for years without ever having secured cluster/area-level consents. The Board was thus not only justified but legally bound to:
- a. Treat the subject Land and its activities as a single market cluster/commercial complex;

- b. Demand and verify the existence of valid CTE/CTO at the cluster or developer level (i.e., for Respondent Nos. 8 and 9);
- c. Assess cumulative impacts—emissions, effluents, waste generation, dust, and noise—arising from the aggregate activities; and
- d. Take enforcement measures against the promoters/operators (Respondent Nos. 8 and 9) for operating and profiting from an unauthorised, polluting cluster.

10. However, it is submitted that the Board has erred in carrying out a limited, superficial survey of the individual “units”, which are operating illegally without any independent legal recognition, and ignored the cumulative environmental impact of the activities being carried out on the subject land, which is in violation of the decisions of this Hon’ble Tribunal as well as HSPCB’s own consent guidelines.

11. The Applicant, in his OA, had specifically flagged the cumulative effects from the commercial cluster, but the Board’s response treats each operator in isolation, which is contrary to both statutory mandate and the facts.

12. No area-level/zonal environmental audit, mapping of total operations, or holistic assessment of impacts on air, water, noise, or land have been conducted or proposed by the Board. There is no mention of pollutant load analysis, baseline or trend data, or cumulative risk evaluation. This is a fundamental failure to address the core issues raised by the OA.

13. By focusing only on a piecemeal, unit-wise tabulation, the Board has abdicated its core statutory responsibility. This approach ignores the law’s purpose, which is to address aggregate environmental risks, prevent dilution of responsibility, and ensure that major developers/promoters cannot escape liability by splitting operations into smaller units.

14. The Board's failure to undertake cluster-level assessment and enforcement has permitted precisely the type of unregulated, high-risk market development that the environmental laws and guidelines are designed to prevent.

15. It is respectfully submitted that this Hon'ble Tribunal must reject the unit-wise approach adopted by the Board, direct the Board to forthwith proceed against the owners and promoters of the entire illegal complex, and ensure that all further compliance and penalties are imposed at the cluster/developer level, in strict accordance with statutory mandate and the authoritative guidelines of the HSPCB, CPCB, and NGT.

B. Unaddressed Dust Pollution from Construction Material Sale and Storage

16. The OA provided uncontroverted documentary and photographic evidence proving open, uncovered handling, sale, and storage of construction materials (bricks, sand, gravel, cement) by multiple traders, as well as the indiscriminate lying of such material on and along public roadways.

17. It is respectfully submitted that this issue has not been considered at all by the Board. The Board's Reply, inter alia, does not:

- a. Conduct an assessment or report the cover/protection used for these materials;
 - b. Examine compliance with the 2017 CPCB Dust Mitigation Guidelines (Sprinkling, barricading, covering of vehicles, etc.);
 - c. Identify or penalise any instance of roadside sale of construction materials (explicitly prohibited) as per CPCB/CAQM/NGT directions;
- or

- d. Mention any air monitoring specifically for PM10/PM2.5 or dust, nor reference any sampling, compensation calculation, or notice to the concerned entities.

18. Pertinently, there is not even any reference to enforcement of NGT directions made in OA No. 21/2014 (Vardhaman Kaushik), nor to municipal coordination for seizure, demarcation of dumping, or dust suppression at the cluster.

C. No action on the Plastic Waste disposed at the Subject Land

19. It is respectfully submitted that the Applicant has attached detailed photographs depicting significant amount of plastic waste deposited at the subject Land, in complete violation of the applicable Plastic Waste Management Rules. Despite being aware of the concerned waste at the Subject Land, the Board has failed to take any action pursuant to the said violation.

20. The Applicant captured more images after the issuance of notice in the captioned original application on 30 May 2025 and found that the problem of non-disposal of plastic waste became more extreme and aggravated. A copy of photos captured by the Applicant after 30 May 2025 is annexed herewith as **Annexure-A**.

D. Non-Enforcement of C&D Waste Management, Non-Reporting of Open Dumping/Burning

21. The OA specifically alleged, and annexed photographic evidence, that C&D (construction and demolition) waste is being handled and dumped in violation of the C&D Waste Management Rules, 2016, and further alleged incidents of open burning of materials/waste by the traders.

22. It is respectfully submitted that this issue has also not been considered by the Board, and its reply is silent, inter alia, on:

- a. Any physical inspection or mapping of waste generation and disposal flows;
- b. Steps taken to address unauthorised dumping or open burning;
- c. Communications with the MCD or authorities for effective C&D waste collection and management; and
- d. Environmental compensation levied for these clear breaches or imposition of municipal fines as per NGT directions.

E. Unaddressed Sewage and Water Pollution

23. The OA clearly revealed that none of the subject commercial establishments have a connection to the municipal sewage system, and all discharge untreated effluent and grey water directly into the open or existing stormwater drains, causing regular overflow, clogging, and local contamination.

24. It is respectfully submitted that the Board's Reply fails to:

- a. Address, document, or even mention the absence of sewage treatment or connection;
- b. Consider monthly water quality analysis (TSS, BOD, Oil & Grease) or sample-taking, or other mandates of the Water Act and concerned guidelines;
- c. Identify responsibility for untreated discharge or propose immediate cessation, remediation, or compensation for groundwater contamination; or
- d. Refer to relevant standards (including those appended to HSPCB's 2021 Office Order for clusters/restaurants/banquets, etc.) governing mandatory treatment and disposal.

F. **No Action or Monitoring for Unregulated Noise and DG Set Pollution**

25. The OA alleged rampant use of illegal DG sets for commercial electricity supply, leading to gross air and noise pollution, in direct violation of the Air Act, Environment (Protection) Act, and Noise Pollution (Regulation and Control) Rules, 2000. The Applicant had also placed on record a video showing the usage of the same, causing immense noise pollution.

26. It is respectfully submitted that the reply filed by the Board merely tabulates superficial “DG set found/not found” status and for only one specific unit it states that “*DG set found*”, without any indication of the action, if any, taken by the Board with respect to the same.

27. It is submitted that the Board’s reply fails to demonstrate that:

- a. Any ambient or spot noise monitoring (using decibel meters) was carried out, nor whether such readings were compared to the standards laid down in the Noise Rules;
- b. Inspections captured actual operational hours of DG sets;
- c. Acoustic enclosures, stack heights, and compliance under the CAQM’s latest directions (including Direction No. 76 and others) were verified;
- d. Any verification took place of commercial supply/distribution of power from DG sets, especially after statutory power disconnection due to documented theft; or
- e. NGT’s direction for immediate seizure/confiscation of illegal/compliant DG sets was either noted or enforced.

28. It is submitted that there is a complete lack of data on emissions, ambient air quality during DG operation, and no reference to “backup only” restrictions or rules about monitored usage hours, rendering the reply untenable.

G. **Superficial/Tokenistic Issuance of Notices and Lack of Follow-up Enforcement**

29. It is respectfully submitted that the Board's Reply only refers to a couple of SCNs (show cause notices) for closure/prosecution/environmental compensation for a handful of units (Detailing Addicts, Dry Cleaner closure, Moongfali Restaurant). There is no information, inter alia, on:

- a. Grounds and details of such notices;
- b. Whether these units actually ceased operation, paid compensation, or faced prosecution; and
- c. Whether similar notices or action was considered for the majority of remaining violators.

30. Importantly, the Board failed to issue any notice to the spearheads of the illegal actions being carried out on the subject Land, being Respondent Nos. 8 and 9.

31. Furthermore, even for these 3 units, the Board merely states that it has "*already initiated applicable action under Water Act, 1974 and Air Act, 1981*" and "*recommendation of closer action has been sent to Head Office on 28.07.2025*", without providing any details about, inter alia, the details of the action initiated or the content of the recommendation sent to the Head Office, and the action, if any, taken by the Head Office pursuant to the said recommendation. The copy of the said recommendation has also not been attached with the reply.

32. In any case, it is submitted that the "recommendation for closer action" for only three units is wholly inadequate when considered against the scale and prevalence of violations as detailed in the photographs attached with the OA.

H. Inadequate Scrutiny and Statutory Exemption Errors for Consent to Establish/Operate (CTE/CTO)

33. It is respectfully submitted that numerous units in the HSPCB's table are marked "CTE/CTO not required/NA" with no legal basis cited, despite clear applicability of consent provisions, especially given that most are engaged in processes (building materials, automobile repairs, commercial shops, dry cleaning, etc.) that require CTE/CTO.
34. There is no documentary evidence of consent applications, copies of consents/conditions, reasons for requirements being marked "not applicable", or adherence to the 13.09.2021 HSPCB "Mechanism/Guidelines" for clusters of commercial operations.
35. The Reply does not address or rebut the RTI response annexed to the OA proving that no entity in the cluster had a valid CTE/CTO as of May 2025.
36. It is further submitted that the entire cluster operates in an integrated and interdependent manner under the common control, management, and direction of Respondent Nos. 8 and 9, thereby constituting a single composite industrial/commercial unit for the purposes of regulatory scrutiny. The activities within the cluster are not isolated or independent; rather, they are functionally linked and cumulatively generate environmental impacts that fall squarely within the ambit of the consent requirements prescribed under the Water Act, Air Act, and allied environmental regulations. The HSPCB has not conducted any assessment to determine the applicability of CTE/CTO to the cluster when considered as a whole, nor has it examined whether the cumulative operations trigger thresholds that would mandatorily require prior consent. Such an omission undermines the statutory objective of ensuring that environmental safeguards are applied to all polluting activities, including

those that are organised or operated collectively under a single controlling entity.

I. **Absence of Data, Analytical Evidence, or Reasoned Findings**

37. It is respectfully submitted that the Reply contains no reference to:

- a. Any analytical air/water/noise quality data, sample reports, or lab analyses carried out during or after inspection;
- b. Inspection timing, methodology, or cross-verification with complaints/evidence submitted by the Applicant and other residents; or
- c. Inclusion of photographs linked to specific findings (the annexed images are not discussed, nor analysed for evidentiary value).

38. Moreover, there are no details of engagement with the units' representatives, document verification, or steps taken to require production of relevant statutory approvals.

39. Importantly, the Reply does not commit to (or even propose) any schedule for periodic, surprise, or follow-up cluster inspections. There is no outlined enforcement strategy, action plan for repeat/non-compliers, or mention of coordination with MCG, CAQM, CPCB, or police for long-term environmental restoration or deterrent action.

40. Therefore, it is respectfully submitted that despite repeated references in the OA to binding precedents—specifically NGT's Vardhaman Kaushik judgment, CAQM guidelines and most recently, the Supreme Court's decision in Rajendra Kumar Barjatya v. UP Avas Evam Vikas Parishad—there is not even a mention, let alone implementation, of these landmark regulatory/judicial standards by the HSPCB.

41. There are also no references to imposition of slab-wise environmental compensation, development of compliance protocols, or inter-agency joint inspections as per NGT's directions for large commercial clusters in the NCR.
42. In view of the above, it is respectfully submitted that the actions taken by the Board, being in violation of the applicable norms and mandatory statutory requirements, are not sufficient redressal of the issues raised in the present OA.
43. Therefore, it is respectfully submitted that for effective resolution of the issues raised in the present OA, it is imperative that the following actions are taken forthwith:
- a. All units at the Subject Land operating without valid CTE/CTO and/or environmental clearances must be sealed and closed;
 - b. The whole shopping complex must be seen assessed for CTE/CTO requirement.
 - c. Any DG set found on the Subject Land not in compliance with CAQM/NGT/CPCB norms must be removed and seized;
 - d. The Board must be directed to assess and impose environmental compensation/fines on all violators as per prescribed NGT/CPCB guidelines, and to initiate prosecution under the Air Act, Water Act, and EPA for continued unauthorised operation;
 - e. A joint NGT-supervised team (to include HSPCB, CPCB, MCG, CAQM) must be constituted to perform a detailed area-level audit, including air (PM_{2.5}/10), water, and noise monitoring, and an independent zone-wise mapping of all commercial activities;

- f. Immediate compliance must be ensured with Dust Mitigation Guidelines 2017 and C&D Waste Rules, including covering/barricading and prohibition of roadside sale/storage;
- g. Uncovered materials must be seized or confiscated, and daily penal levies must be levied for each day of continued non-compliance;
- h. Immediate prohibition must be ordered on discharge of untreated effluent/wastewater and each unit must be required to demonstrate connection to municipal sewer/STP or face sealing and prosecution; and
- i. HSPCB must be directed to submit periodic (quarterly) monitoring, enforcement, and compliance reports, including future complaints received and actions taken.

44. In view of the facts and circumstances stated hereinabove, this Hon'ble Tribunal may be pleased to allow the captioned OA in the interest of justice, and pass necessary directions to put an immediate stop to the pollution-causing activities being carried out by the Respondents herein.

Filed by:



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ORIGINAL APPLICATION NO. 285/2025

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Shiv Kumar Dubey ... Applicant

Versus

Union of India & Ors. ... Respondents

AFFIDAVIT

I, Shiv Kumar Dubey s/o Late Shri Ram Dubey, aged about 48 years, having office at 10, Central Avenue, 2nd Floor Maharani Bagh, New Delhi, Delhi, India – 110065 do hereby solemnly affirm and state as under:

1. That I am the Applicant in the present application and I am well conversant with the facts and circumstances of the case and, as such, I am competent to swear this affidavit.
2. That I have read over and understood the contents of the accompanying Rejoinder to the Reply filed by Respondent No. 4/Haryana State Pollution Control Board dated 28.07.2025, that has been drafted by my counsel under my instructions. I say that the same is true and correct to my knowledge and belief.
3. That the Annexure(s) appended to the accompanying Rejoinder are true copies of their respective originals.

Shiv Kumar

DEPONENT

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

Verified at _____ on this _____ Day of _____ 2025,



Shiv Kumar

DEPONENT

ATTESTED
M
NOTARY PUBLIC 11 AUG 2025

Photographs of the Subject Land after 30.05.2025











