

**BEFORE THE NATIONAL GREEN TRIBUNAL, PB, NEW DELHI**  
**ORIGINAL APPLICATION NO. 561 OF 2023**

**IN THE MATTER OF:**

RAJIV KUMAR DUBEY

... APPLICANT

**VERSUS**

UNION OF INDIA AND OTHERS

.... RESPONDENTS

**I N D E X**

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<b>1.</b>	Rejoinder to the Reply filed by CPCB along with affidavit in support.	<b>1-6</b>

Place: DELHI

Date: 13.02.2024

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

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**REJOINDER TO REPLY FILED BY CPCB-RESPONDENT NO.2**

1. At the outset, the applicant would like to highlight the important issues that are raised in the subject original application which the Respondent No.2 conveniently ignored to answer and rather submit the issues which are to be dealt by the other Respondents in the matter.
2. The issue that needs consideration and proper response/ stand of the CPCB is w.r.t. to the land requirement for developing CBWTF in the given area as per the **Guideline 7 of the CBWTF Guidelines 2016** which specifies land requirements for setting up a CBWTF, reads as under:

“7. Land requirement Sufficient land shall be allocated to the CBWTF to provide all requisite systems which include dedicated space for storage of waste (both treated and untreated), waste treatment equipment, vehicle washing bay, vehicle parking space, ETP, incineration ash storage provision, administrative room, space for DG Set etc.,

(a) Preferably, a CBWTF shall be set up on a plot size of not less than one acre in all the areas. However, a CBWTF can be developed in adjacent plots but cannot be set up in two or more different plots located in different areas. Separate plots can be permitted only for vehicle parking if located in the close vicinity of the proposed CBWTFs or the existing CBWTFs.

(b) In case of upcoming or new CBWTFs (both in municipal limits with population more than 25 lakhs or in rural areas), the land area requirement may be relaxed (but in any case not less than 0.5 acre) by the SPCB/PCC, with additional control measures such as zero liquid discharge, increase in stack height, stringent emission norms, odour control measures or any other measures felt necessary by the prescribed authority on case-to-case basis, only in consultation with CPCB.

3. The Hon'ble NGT in O.A. 622 of 2022 clearly stated in its directions dated 31.07.2023 at para 74 & 75 as follows –

*“... 74. On a reading of said guideline it appears that the land area requirement can be relaxed in case of upcoming or new CBWTFs in municipal limits with population more than 25 lakhs or in rural areas and land area requirement cannot be relaxed in case of upcoming or new CBWTFs in municipal limits with population less than 25 lakhs. Further such relaxation of land area requirement is subject to two conditions (i) stipulation of Additional control measures such as zero liquid discharge, increase in stack height, stringent emission norms, odour control measures or any other measures felt necessary **and (ii) consultation with CPCB.***

*75. It may be observed here that setting up of CBWTF on land measuring 1 acre- 4047 sq.mtrs. (approx.) is the rule and relaxation of land requirement for setting up CBWTF over land measuring less than 1 acre - 4047 sq.mtrs. (approx.) is an exception. Such relaxation has to be for exceptional reasons and cannot be granted by rule of thumb without considering all relevant facts and circumstances to see whether there is in*

*fact any exceptional ground for such relaxation. Needless to say that the land requirement of 1 acre-4047 sq.mts. (appx.) has been worked out for establishment of a new CBWTF keeping in view the infrastructure requirements for the same. While there may be some legitimate constraints regarding availability of land in residential areas, the land requirement of 1 acre-4047 sq.mts. (appx.) can be easily met by seeking allotment of plot of requisite size in an industrial area and generally speaking there may hardly be any valid reason for relaxation of land requirement for setting up of CBWTF in Industrial area...”*

4. Meaning thereby that the ultimate authority in the matter is CPCB but strictly in accordance with law. In other words, it was clearly held that setting up of CBWTF on land measuring 1 acre- 4047 sq.mtrs. (approx.) **is the rule and relaxation of land requirement for setting up CBWTF over land measuring less than 1 acre - 4047 sq.mtrs. (approx.) is an exception.** It was clearly directed by the Hon'ble NGT that such relaxation has to be for exceptional reasons and cannot be granted by rule of thumb without considering all relevant facts and circumstances to see whether there is in fact any exceptional ground for such relaxation and in the case of CBWTF across the State, the land requirement of 1 acre-4047 sq.mts. (appx.) has been worked out for establishment of a new CBWTF keeping in view the infrastructure requirements for the same. As has been stated in the O.A.622/2022, similarly in the present matter while there may be some legitimate constraints regarding availability of land in residential areas, the

land requirement of 1 acre-4047 sq.mts. (appx.) can be easily met by seeking allotment of plot of requisite size in an industrial area and there was hardly be any valid reason for relaxation of land requirement for setting up of CBWTF in Industrial area less than 1 acre. The erring respondent took lease of other plot which is not only less than 0.5 Acre but also taking the violation of law for granted, did not even bothered to take the land of 1 acre easily available in the concerned area and is uniformly applicable for all the others CBWTF coming under the jurisdiction of the concerned respondents of the area.

5. Needless to state that the impugned issues challenged in the present O.A. are based on false/ manipulated records submitted by the respondents and proposed proponent, as is apparent from the documents annexed with the replies being filed in the matter. The fact that the specific allegations in the application are not replied is admission by Respondent No.2 to those allegations, as has been held by Hon'ble Apex Court that silence in the petition/ replies etc. to be held as admission.
6. The Respondent No.2 completely failed to disclose the permission required in the matter and the material on record to allow operation of CBWTF in the less than as mandated under Guideline 7. As stated above, the submissions by Respondent No.2 in reply is clear that the concerned respondent is completely unaware of the powers to be exercised in the matter and held other respondents for the wrongs or non-compliance of rules and regulations applicable in the matter. The impugned directions

were overlooked abusing the powers, exceeding the jurisdiction and against the mandated laws/ guidelines/ rules/ procedures etc. thereby acting in a manner not permissible.

In the light of the submissions made above, it is respectfully prayed that the Hon`ble Tribunal may kindly decide the O.A. in favour of the applicant and take stringent action against the errant official who not only committed improprieties to suppress the illegalities being committed and infact non-exercise of the powers to be exercised in a specific manner. Leading to the present situation wherein few handfuls of private people operate in a manner which is violative of applicable laws and damaging the environment as the laws in the matter are laid down after considerable thought process and any deviation is not only unprecedented but also amounts to causing irreparable loss to the environment as also arbitrary attitude in a particular case for personal gains.

Prayed accordingly

Place: DELHI  
Date: 12.02.2024

for Rajiv Kumar Dubey



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AFFIDAVIT

I, RAJIV KUMAR DUBEY, S/o Sh Munnalal Dubey, aged about 51 years, R/o D-16, 3<sup>rd</sup> Floor, Pandav Nagar, Delhi-92, do hereby solemnly declare and affirm as under:

1. That I'm the applicant and in that capacity authorised and competent to swear this affidavit.
2. That the present rejoinder is filed under my instructions and I have gone through the contents of the same, which are true and correct to my knowledge and understanding and are based on legal advice.

  
Deponent

Verification:

I, the deponent above named, do hereby solemnly declare and affirm that the contents of the above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.  
Verified at Delhi on this ... day of February, 2024.



  
Deponent

TESTED  
NOTARY PUBLIC

13 FEB 2024