

**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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1.	Rejoinder to the Reply filed by CPCC along with affidavit in support.	1-6

Place: DELHI

Date: 13.02.2024

SUMIT BABBAR, ADVOCATE
LEGAL AVENUES (LAW FIRM FOR APPLICANT)
B-5, GULMOHAR PARK, NEW DELHI-110 049
+91-9818626009;
consult.legalavenues@gmail.com

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PRINCIPAL BENCH, NEW DELHI**

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REJOINDER TO REPLY FILED BY CPCC-RESPONDENT NO.4

1. At the outset, the applicant would like to highlight the important issues that are raised in the subject O.A. which the Respondent No.4 conveniently ignored to answer and rather submit the issues which are already been dealt with and adjudicated upon illegally and in violation of the mandated guidelines as per their convenience & mischief. It is pertinent to mention that in addition to not replying to the illegalities being committed by Respondent No.4 and being silent on the core issue as to under what circumstances and which provisions did the Respondent No.4 allowed and directed Proposed Proponent to operate against the mandated guidelines, totally against the practice as has been rightly followed in all the other operating CBWTF coming under their jurisdiction. The contents of the application are reiterated and are not repeated herein for the sake of convenience and to avoid repetition, same may be read as part and parcel of the present rejoinder.
2. Needless to state that the impugned decision/s challenged in the present application are based on false/ manipulated records as is apparent from the

documents annexed with the application and the statement under oath by the authority. The submission that land in question is 0.5 acre and guidelines allow the authority to relax the land even when the population is less than 25 lakhs that too without any orders/ consultation from the CPCB is not only false and against mandated guidelines but also in the teeth of the judgement dated 31.07.2023 in O.A. 622/2022 as also other numerous directions passed by the Hon'ble NGT in the similar matters. Further submissions that there is no provision of 33% of green belt to be developed in the matter goes to show the ignorance of law by the very authority who is responsible for its upkeep. The O.M. dated 4.01.2019 issued by MoEF vide F.No22-34/2018-IA.III was issued to all the concerned authorities including the State Pollution Control Boards and the answering respondent shown complete unawareness of the mandated provisions and depose falsely before the Hon'ble NGT.

3. Mere repetition of the submissions made by the other respondents in the matter is clear to indicate that the authorities are in sync in committing illegalities and the operation is as per their whims and fancies completely oblivious of the fact that the authorities are for protection of environment and public at large and not for personal benefit and benefit of few corporate having deep pockets to manage the illegalities as per their convenience. The same cannot be taken lightly and amounts to serious illegalities to be dealt under Section 340, CrPC, which mandates the Hon'ble Court and will be justified in initiating prosecution where it deems necessary to inquire

into an offence and empowers the Hon'ble NGT accordingly under the NGT Act and other applicable provisions under Water/Air/Environment Laws.

4. The fact that the specific allegations in the application are replied falsely and ignored to be responded in the correct manner amounts to admission of those allegations, as has been held by Hon'ble Apex Court that silence in the petition/ replies etc. to be held as admission.
5. The issue of land requirement; green belt and height of the chimney are all clearly stated in the guidelines, O.M's and numerous judgments passed in the matters of CBWTF by the Hon'ble NGT and other Hon'ble Courts. Despite having clear knowledge and being duty bound to follow the same in letter and spirit, the answering respondent deposed falsely and deviated from the practice being followed uniformly for other operating CBWTF under its jurisdiction. The same being serious issue, needs to be dealt seriously and the officer responsible for filing present reply be put to strict proof thereof as to under whose instruction *firstly*, the said response was filed and *secondly*, under whose instruction such unit is allowed to be operated without proper adjudication in complete violation for years.
6. The Hon'ble NGT in O.A. 622 of 2022 came heavily on the authorities for deposing falsely and finally dismissed all the illegal permissions granted to the erring CBWTF operator taken against the mandated rules and regulations. It is humbly prayed that although the violations are different in both the matters but the core issue is similar i.e. violation of mandated

guidelines and the applicant taking support of the recent judgement prays for appropriate orders in the present matter. 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 submissions and the documents annexed with the replies being filed in the matter.

7. The Respondent No.4 (along with other respondents) completely ignorant of the prevailing laws are operating in the State goes to so the sorry state of affairs and the standard of operation in the State of Punjab & Haryana. The concerned respondent is completely unaware of the powers to be exercised in the matter and held applicant responsible for filing false application wherein the position is completely opposite goes to show the illegal public-private partnership in operation of CBWTF by the authorities. The matter of Bio-Medical Waste pollution in the State of Punjab & Haryana is not new to the Hon'ble NGT and present matter is the red-flag as to the main reason for depletion of environment in an around the areas coming directly under the jurisdiction of answering respondent. The mandated/ 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 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, 3rd 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.

[Signature]

Deponent

[Signature]

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.



[Signature]

Deponent

[Signature]
NOTARY PUBLIC
3 FEB 2024