

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

**M.A NO. 102 OF 2025
IN
O.A NO. 142/ 2024**

IN THE MATTER OF:

SURENDER

...APPLICANT

Versus

STATE OF UTTAR PRADESH & ORS ...RESPONDENTS

**REJOINDER ON BEHALF OF RESPONDENT NO. 3
I.E. M/S AL NASIR EXPORTS PVT LTD**

(FOR INDEX: - Kindly See Inside)

**New Delhi
Dated 30.08.2025**

S.A Zaidi Mansi
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ADVOCATES
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FILED BY

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**REJOINDER ON BEHALF OF RESPONDENT NO. 3
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MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:

1. At the outset, the answering respondent submits that it is a law-abiding and environmentally conscious slaughterhouse/export unit which has always operated strictly in accordance with the prevailing environmental laws. At no point has the unit indulged in any violation of norms, and it has consistently obtained all statutory consents and

permissions from time to time which were duly renewed in accordance with law.

2. That the answering respondent lawfully obtained the Consent to Operate (CTO) dated 23.08.2024. The allegation of the UPPCB that the respondent obtained an amended CTO vide letter dated 02.09.2024 in collusion with the then Chief Environmental Officer is false, baseless, and vehemently denied. The CTO dated 23.08.2024 was granted after due compliance and in exercise of the powers under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

3. That in compliance of the directions of the Hon'ble Supreme Court in *Writ Petition (Civil) No. 309 of 2003, Laxmi Narayan Modi vs. Union of India*, a State Level Committee was constituted in U.P. vide O.M. dated 11.09.2012, modified on 16.09.2014. Pursuant thereto, the answering

respondent preferred an application seeking approval of the Committee for operation of its slaughterhouse. The matter was duly considered in the 8th meeting held on 14.12.2016, where it was specifically decided that since the unit was already in operation from 21.11.2013 after obtaining due permissions from UPPCB and APEDA, no permission from the State Level Committee was required. The said decision was formally communicated vide O.M. dated 20.12.2016. Hence, the contention of the UPPCB that the answering respondent was required to obtain further permission from the State Level Committee is wholly incorrect and denied. The copy of office memorandum of State Level Committee dated 20.12.2016 is already annexed with its translated copy in M.A. No. 102 as **ANNEXURE A1 at (page 22-25).**

4. That the UPPCB has incorrectly stated that the answering respondent obtained an illegal

extension in collusion with one of its officers. It is submitted that the Hon'ble Allahabad High Court, Lucknow Bench, in *Writ-A No. 7724 of 2025, Vivek Roy vs. State of U.P. & Ors.*, vide judgment dated 04.08.2025, categorically quashed the suspension order dated 10.11.2024 passed against UPPCB official Mr. Vivek Roy. Thus, the allegation of collusion is unfounded and contrary to judicial findings.

The True Copy of Honourable High Court order dated 04.08.2025 passed in Writ-A No. 7724 of 2025, Vivek Roy vs. State of U.P. & Ors is annexed herewith and marked as ANNEXURE A/1.

5. It is respectfully submitted that the jurisdiction of UPPCB is confined to matters under the Air Act, 1981 and the Water Act, 1974, i.e., prevention and control of water and air pollution. The UPPCB does not have any authority to issue directions

beyond its statutory competence, particularly regarding requirements of approval/NOC from the State Level Committee. The Hon'ble Allahabad High Court in *Writ-C No. 10671 of 2024, M/s Al-Haq Foods Pvt. Ltd. vs. State of U.P. & Ors.*, judgment dated 13.02.2025, held that the UPPCB cannot revoke CTO/CCA in the absence of any violation of the Air Act or Water Act, and has no jurisdiction to insist upon a revalidated NOC from the State Level Committee. The same is also upheld by Hon'ble Supreme Court vide its order dated 20.05.2025 in SLP NO. 12674 /2025 titled as *State of U.P. & Ors. vs. M/s AL Haq Food Pvt. Ltd.* Thus, the action of UPPCB in directing the answering respondent to obtain a fresh NOC from the State Level Committee is wholly without jurisdiction and liable to be set aside.

6. That it is further submitted that had any such permission been required, the State Level Committee itself would have taken action against

the answering respondent. On the contrary, the Committee's decision dated 20.12.2016 categorically exempted the unit from seeking any such permission. Therefore, the insistence of UPPCB is untenable in law.

7. That it is humbly submitted that the respondent continues to comply with all environmental conditions. The CTO dated 23.08.2024 was lawfully granted, and there has been no violation of the conditions imposed therein. Hence, there is no legal ground available to the UPPCB to revoke or suspend the said CTO.

8. PARA WISE REPLY:

- i. That the contents of Para 1- 8 are a matter of record and needs no reply.
- ii. That the contents of Para 9 of the reply are denied wherein the UPPCB stated that the project proponent got its amended CTO wrongfully in collusion with the then Chief

environmental officer, and humbly submitted that The CTO dated 23.08.2024 was granted to the answering respondent lawfully, after due compliance and in exercise of the powers under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

- iii. That the contents of Para 10 of the reply is a matter of record. However the answering respondent humbly submits that the answering respondent preferred an application seeking approval of the State Committee for operation of its slaughterhouse. The matter was duly considered by the state level committee in the 8th meeting held on 14.12.2016, where it was specifically decided that since the unit was already in operation from 21.11.2013 after obtaining due permissions from UPPCB and

APEDA, no permission from the State Level Committee was required.

- iv. That the contents of Para 11 of the reply are denied and humbly submitted that the jurisdiction of UPPCB is confined to matters under the Air Act, 1981 and the Water Act, 1974, i.e., prevention and control of water and air pollution. The UPPCB does not have any authority to issue directions beyond its statutory competence, particularly regarding requirements of approval/NOC from the State Level Committee. Hence, the UPPCB cannot act beyond its powers.
- v. That the contents of Para 12 of the reply are denied and humbly submitted that the Hon'ble Allahabad High Court, Lucknow Bench, in *Writ-A, No. 7724 of 2025, Vivek Roy vs. State of U.P. & Ors.*, vide judgment dated 04.08.2025, categorically quashed the suspension order

dated 10.11.2024 passed against UPPCB official Mr. Vivek Roy. Thus, the allegation of collusion is unfounded and contrary to judicial findings.

- vi. That the contents of Para 13 of reply are wrong and hence denied.
- vii. That the contents of Para 14- 16 are a matter of record, and needs no reply.

9. That the present rejoinder is being made bonafide in the interest of justice.

10. **PRAYER:**

In view of the above facts and submissions, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- A. Direct the Uttar Pradesh Pollution Control Board to forthwith reinstate and revalidate the Consent to Operate dated 23.08.2024 granted in favour of the applicant for

operation of its Fully Integrated Meat Processing Plant with modern abattoir (slaughterhouse) at full/extended capacity;

B. Pass any other or further order(s) as this Honourable Tribunal may deem just and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE ANSWERING RESPONDENT AS IN DUTY BOUND SHALL EVER PRAY.

Applicant/Respondent No. 3

Dated:30.08.2025
New Delhi

Through

S.A. Zaidi *Mansi*
S.A. ZAIDI & MANSI CHAHAL
Advocates
Chamber No-7, Trishul Tower
Kaushambi, Ghaziabad, U.P

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AFFIDAVIT

I Iqbal Ahmad, Manager in M/s AL-Nasir Exports Pvt. Ltd. situated at Khasra No. 2761, Bhoorgarhi, Dasna, Ghaziabad, Uttar Pradesh, presently at New Delhi do here by solemnly affirm and declare as under:

1. That I am the Respondent No 3 in O.A. No. 142 /2024

and applicant in the above noted M.A. No. 102/2025

therefore I am fully conversant with the fact of the case

I am competent to sign and swear this Affidavit.

2. That the accompanying Rejoinder has been drafted by my counsel and the same has been read over and explain to me and I say and declare that the same are true and correct.



3. That the Contents of accompanying Rejoinder be read as part and parcel of this affidavit as the same are not repeated herewith for the sake of brevity.

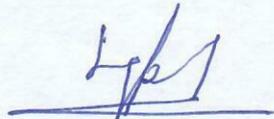


DEPONENT

VERIFICATION

28 AUG 2025

Verified at Delhi on this day of , 2025 that the contents of my above Affidavit are true and correct to my knowledge and nothing material has been concealed there from.



DEPONENT



ATTESTED

NOTARY
DELHI (INDIA)

28 AUG 2025

Court No. - 4**Case :-** WRIT - A No. - 7724 of 2025**Petitioner :-** Vivek Roy**Respondent :-** State Of U.P. Thru. Prin. Secy. Environment Forest
And Climate Change Deptt., Lucknow**Counsel for Petitioner :-** Salil Kumar Srivastava, Rahul Srivastava**Counsel for Respondent :-** C.S.C., Ashok Kumar Verma, Ishan Baghel**Hon'ble Abdul Moin, J.****Morning Session**

The specific case of learned counsel for the petitioner is that at the time of passing of suspension order dated 10.11.2024 neither departmental inquiry was contemplated nor was pending against the petitioner as specifically averred in paragraph 3 of the writ petition. Incidentally U.P. Pollution Control Board though has filed its counter affidavit but as per the reply given thereto in paragraph 16 of the counter affidavit the said averments have been indicated to be false, incorrect, misleading and devoid of merit without adverting or replying to specific averments made in paragraph 3 of the writ petition.

Shri Ashok Verma, learned counsel for the respondents no. 2 and 3 is required to seek instructions as to whether on the date of passing of suspension order i.e. 10.11.2024 any departmental inquiry was contemplated or pending against the petitioner.

Put up this case at 0215 PM.

At 0215 PM

1. At the very outset, Sri Vivek Shukla, learned Additional Chief Standing counsel states that he does not intend to file any counter affidavit on behalf of the respondent no. 1.
2. The aforesaid statement is recorded and the Court proceeds to hear and decide the matter finally.
3. Heard Sri Mohd. Arif Khan, learned Senior Advocate assisted by

Sri Salil Kumar Srivastava, learned counsel for the petitioner, Sri Vivek Shukla, learned Additional Chief Standing counsel appearing on behalf of the respondent no. 1 and Sri I.B. Singh, learned Senior Advocate assisted by Sri Ishan Baghel and Sri Ashok Kumar Verma, learned counsel for the respondents no. 2 & 3.

4. Under challenge is the suspension order dated 10.11.2024. a copy of which is annexure 1 to the writ petition whereby the petitioner has been placed under suspension.

5. A specific averment has been made in paragraph 3 of the writ petition that on the date of passing of the suspension order i.e 10.11.2024 neither any inquiry was contemplated nor was proceeding against the petitioner and thus considering Rule 4 (1) of the U.P. Government Servant (Discipline and Appeal) Rules, 1999 (hereinafter referred to as the "1999 Rules"), the suspension order is patently vitiated on this ground alone.

6. When the matter was taken up in the morning session, this Court had specifically required the learned counsel appearing on behalf of the respondents no. 2 & 3 to seek instructions as to whether on the date of the suspension i.e 10.11.2024, any inquiry was contemplated or pending against the petitioner.

7. Sri Baghel, learned counsel for the respondents no. 2 & 3 informs on the basis of records as made available by the respondents no. 2 & 3 and are available in Court today itself which have been perused by Sri Baghel, learned counsel for the respondents no. 2 & 3 that on the date of the suspension order dated 10.11.2024, neither any departmental inquiry was contemplated nor was pending. He further states that the recommendation for issuance of charge sheet was sent on 28.11.2024 and in fact the charge sheet dated 02.01.2025 has been issued to the petitioner.

8. Sri Baghel, Advocate argues that now the aforesaid ground of Rule 4 (1) of the Rules, 1999 may not be available to the petitioner considering the fact that the charge sheet has already been issued to him.

9. However, Sri Baghel states that he does not press with this argument at this stage.

10. A Division Bench of this Court in the case **Radhey Shyam Srivastava Vs. State of U.P and Ors- (2007) SCC OnLine All 870** after considering the provisions of Rule 4 (1) of the Rules, 1999 has held as under:-

"4. Learned Counsel for the parties have not disputed that a member of centralised service of Development Authority can be placed under

suspension under Rule 4(1) of 1999 Rules which reads as under:

4. Suspension.-(1) A Government Servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the Appointing Authority:

Provided that suspension should not be resorted to unless the allegations against the Government Servant are so serious that in the event of their being established may ordinarily warrant major penalty:

Provided further that concerned Head of the Department empowered by the Governor by an order in this behalf may place a Government Servant or class of Government Servants belonging to Group 'A' and 'B' posts under suspension under this rule:

Provided also that in the case of any Government Servant or class of Government Servant belonging to Group 'C and 'D' posts, the Appointing Authority may delegate its power under this rule to the next lower authority.

5. A perusal of Rule 4(1) shows that a government servant can be placed under suspension against whose conduct an inquiry is contemplated or is proceeding. **A perusal of the entire order of suspension impugned in this writ petition nowhere shows that an inquiry was in contemplation or pending warranting suspension of the petitioner in the present case. Suspension order has been passed without mentioning as to whether the incumbent is being placed under suspension in contemplation of disciplinary proceedings or pendency thereof.** The question whether such an order of suspension would be valid, came up for consideration before a Division Bench of this Court in *Meera Tiwari (Smt.) v. The Chief Medical Officer and Ors.* (2001) 3 UPLBEC 2057, in which one of us (Hon'ble S.R. Alam, J.) was a member, and it was held as under:

3. From the said rule it appears that a Government Servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry. The impugned order of suspension does not refer to any contemplated inquiry or the fact that any inquiry is pending. 4. In that view of the matter, we are of the view that the order of suspension is against the provisions of Rule 4 of the U.P. Government Servant (Discipline & Appeal Rules, 1999 and the same cannot be sustained....

6. The order of suspension impugned in this writ petition also suffers from the same illegality and, therefore, in our view it cannot be sustained in view of the law laid down in the case of *Meera Tiwari (Supra)*."

(emphasis by the Court)

11. From a perusal of the Division Bench judgment of this Court in the case of **Radhey Shyam Srivastava (supra)** it clearly emerges that the Division Bench after placing reliance on the earlier judgment of this Court in the case of Meera Tiwari (smt) Vs. The Chief Medical Officer- (2001) 3 UPLBEC 2057 has held that a Government servant against whose conduct an inquiry is contemplated or is proceeding may be placed under suspension pending the conclusion of the inquiry yet the impugned order of suspension has to refer to either the inquiry being contemplated or the fact that the inquiry is pending and in absence thereto, the suspension order would be vitiated.

12. Perusal of the suspension order dated 10.11.2024 would indicate that the aforesaid fact does not find mentioned in the suspension order.

13. Considering the aforesaid, the writ petition is allowed. The impugned order of suspension dated 10.11.2024, a copy of which is annexure 1 to the writ petition is quashed.

14. Consequences to follow.

15. However, it would be open for the respondents to pass a fresh order in accordance with law.

16. Needless to mention that the petitioner would co-operate in the inquiry proceedings which have been initiated against the petitioner more particularly Mohd. Arif Khan, learned Senior Advocate appearing on behalf of the petitioner states that he has not challenged the charge sheet.

Order Date :- 4.8.2025

Pachhere/-