

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

O. A. No. 91 OF 2026

Gram Panchayat, Village Tehang

... Applicant

Versus

Union Of India and Others

... Respondents

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Place: Delhi

Dated: 12/7/26 *Bhargava*

(VIBHA NAGAR)

(GURSHABAD SINGH SANDHU)

PH225602 P/2214/2017,

PH P/3387/2017

ADVOCATES

COUNSEL FOR THE APPLICANT

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**Reply on behalf of the Applicant to the interim
Application filed by Respondent no.7 & 8 seeking
clarification of order dated 29.04.2026**

Respectfully submitted:

Preliminary Submissions:

1. That it is submitted that the Respondent no.7 & 8 have committed a clear violation of the statutory provisions by commencing operations of the plant without first obtaining the mandatory Consent to Operate (CTO) from the concerned Pollution Control Board under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.
2. That the requirement of obtaining CTO is not a mere procedural formality but is a mandatory statutory safeguard intended to ensure that the industrial activity is operated only after the competent authority has verified compliance with environmental safeguards and pollution control measures.
3. That the act of commencing operations prior to obtaining CTO amounts to an illegal commencement of activity and a violation of environmental laws. Any subsequent application or grant of CTO cannot cure the initial illegality committed by the respondent by bypass the mandatory regulatory mechanism.
4. That it is submitted that the clarification can only be granted to remove ambiguity or explain an existing order; it cannot be used as a tool to modify a well-reasoned and a defined unambiguous order. The order passed by this Hon'ble Tribunal is well defined, elaborated and reasoned and requires no interference or clarification.

5. That the present application, though styled as one seeking “clarification”, in substance seeks to alter, expand, and vacate the effect of the operative part of the order dated 29.04.2026. It is well settled that what cannot be done directly cannot be permitted to be done indirectly under the guise of clarification. The application, in effect, amounts to an attempt to regularise the admitted position of commencement of operations without obtaining Consent to Operate and to indirectly seek vacation/modification of the restraint order passed by this Hon’ble Tribunal.
6. The interim restraint is intended to maintain environmental balance and prevent potential environmental harm pending final adjudication. The attempt to secure a “clarification” enabling regulatory action in isolation while pending adjudication is contrary to the intent and spirit of the order.
7. That it is most pertinent to mention here that, even after restraint order passed by this Hon’ble Tribunal dated 29.04.2026, the plant is still functioning either during the day time or at night. In this regard a complaint has also been made to Police Station Phillaur on 08.06.2026, however, due to the influence of Respondent no.7 & 8, no action has been taken till date. True copy of the proof of the plant working and emitting smoke even after passing the order of this Hon’ble Tribunal and tipper trucks parked on the main road are attached herewith as **Annexure R-1**.

Also, in the media coverage by the Chetna Channel on 24.06.2026, the tipper trucks are seen parked on the road, and a personnel of Respondent no.8 and 9 has himself admitted before the media that a part of the plant is operational. The exact time of the media coverage in which the admission of functional plant is at 8:29, and in the same video when played further shows that, the police officials showing complete ignorance of the matter when questioned by the journalist. The link of the said video available on youtube platform is given below:

https://youtu.be/_bZp1QAxt08?si=GpSIiMXQ4oQpEq8Z

Parawise Reply:

1. That the contents of Para no.1 are a matter of record
2. That the contents of Para no.2 are denied for the want of knowledge

3. That the contents of Para no.3 are denied for the want of knowledge upto the fact that, Hot Mix Plant is connected with execution of public infrastructure projects. It is vehemently denied that, the plant has been established after obtaining valid permissions and approvals.
4. That the contents of Para no.4 are denied being false and incorrect. It is vehemently denied that, the plant is operating after obtaining valid permissions and approvals. That the violations committed by the respondent in the establishment of the plant have already been elaborated in detail in the Original Application. The same are not being reiterated herein for the sake of brevity and to avoid unnecessary repetition.
- 5-7 That in reply to the contents of Para no.5-7, it is most respectfully submitted that, the claimed permissions and approvals (if any) granted to the Respondents for establishing the plant are already under challenge in the present Original Application, as the clear cut violations of guidelines for the establishments of Hot Mix Plant in the state of Punjab, and also laid down in notification no. GSR 376 € dated 18.05.2023 for hot mix plant, of the Ministry of Environment, Forest and Climate Change, Government of India have been established in detail in the original application.

Further, there is another grave violation on part of the Respondents of operating the plant without obtaining the CTO, which itself renders the commencement and continuation of operations illegal and contrary to the statutory scheme governing environmental regulation. The Respondents cannot claim any equity or protection for an activity commenced in violation of mandatory environmental permissions, as the Consent to Operate is required to be obtained prior to commencement of actual operations and not as a post facto formality.

8. That in reply to the contents of Para No. 8, it is most respectfully submitted that, *firstly*, the plant has been established at a location having substantial human habitation in its vicinity, in utter disregard of the prescribed environmental safeguards, siting criteria, and applicable norms. The Respondents have failed to appreciate or account for the serious adverse environmental and public health consequences arising from the operation of such a highly polluting activity in close proximity to residential areas.

Secondly, it is submitted that the plant has been operating without obtaining the mandatory Consent to Operate (CTO), which renders the commencement as well as continuation of its operations wholly illegal and in violation of the statutory framework under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. Despite such clear violations, the Respondents are now seeking preponement of the present matter under the misconceived plea of urgency and so-called national importance.

It is further submitted that the plea of alleged hardship is wholly untenable, as the Respondents, being government contractors engaged in multiple construction projects, are not dependent solely upon the plant in question. Procurement of material from other operational and compliant plants cannot be said to be impracticable so as to justify dilution of mandatory environmental safeguards.

The Original Application raises serious environmental violations relating to the establishment and operation of a polluting industry in violation of the prescribed siting norms, guidelines and statutory conditions. The Respondents cannot be permitted to take advantage of their own wrong

9. That the contents of Para no.9 are a matter of record
10. That the contents of Para no.10 are a matter of record
11. That in reply to this para it is hereby submitted that, the mere absence of an express direction prohibiting Respondent No.5 from processing the pending application for Consent to Operate cannot be construed as a mandate to proceed with such processing in isolation, particularly when the very subject matter of consideration is under judicial scrutiny before this Hon'ble Tribunal. The processing of the application is intrinsically linked with the legality and environmental permissibility of the plant's operations, which remain sub judice.

Also, the said order, restraining the operation of the Hot Mix Plant, is intended to preserve environmental safeguards and prevent continuation of potentially polluting activities during the pendency of the present proceedings.

12. That in reply to para no.12 it is submitted that, the issue involved is not limited to procedural compliance alone, but also pertains to substantive environmental considerations, which are subject matter of adjudication before this Hon'ble

Tribunal. Accordingly, the claim of “complete compliance”, validity of permissions (if any) is premature, self-serving, and is under adjudication.

13. That in reply to the contents of paragraph no.13, it is most respectfully submitted that without admitting the correctness or conclusiveness of the alleged stack emission sampling report dated 17.06.2026, the same, even if taken at its face value, is confined only to a limited assessment of emission parameters at a particular point of time and does not address the larger statutory and environmental concerns involved in the present matter. Such emission sampling reports cannot, by themselves, negate or override the undisputed and material fact that the Hot Mix Plant is situated in close proximity to a heavily populated residential area, thereby exposing the surrounding human habitation to continuous environmental and health risks. The presence of dense population in the vicinity is a relevant and significant consideration under environmental law, which stands independent of isolated emission readings.
14. That in reply to the contents of para no.14 it is submitted that, the averment that “complete compliance” has been achieved is incorrect, misleading, and denied. The assertion that Consent to Operate has not been granted “solely because the present Original Application is pending” is also misconceived. The pendency of the present proceedings and the subsisting interim order passed by this Hon’ble Tribunal are relevant and material considerations, however, the non-grant of consent is not exclusively attributable to pendency alone, but is also dependent upon regulatory satisfaction and environmental compliance, which remains subject to verification and adjudication.
15. That in reply to the contents of Para no.15 it is hereby submitted that, administrative or contractual obligations arising out of Government works, including alleged risk of termination, recovery, or blacklisting, cannot be a ground to permit operation of a Hot Mix Plant in violation of environmental safeguards or in contravention of the interim order passed by this Hon’ble Tribunal.

Also, the Respondents are now clearly attempting to fill up the lacuna of obtaining Consent to Operate during the pendency of the present adjudication, after having already made the plant fully functional, by adopting a belated and self-serving stand.

16. That the contents of para no. 16 are denied being false and concocted. It is once again submitted that, the plant has been established at a location having substantial human habitation in its vicinity, in utter disregard of the prescribed environmental safeguards, siting criteria, and applicable norms, and has been further made fully functional without obtaining the requisite CTO. The Respondents have failed to appreciate or account for the serious adverse environmental and public health consequences arising from the operation of such a highly polluting activity in close proximity to residential areas.

The plea of alleged hardship is wholly untenable and deserves to be rejected. The Respondents, being Government contractors engaged in multiple construction activities, are not dependent exclusively upon the plant in question, and in any case, procurement of material from other operational and duly compliant plants cannot be said to be impracticable so as to warrant any relaxation or dilution of mandatory environmental safeguards.

The present Original Application raises serious issues of environmental violations concerning the establishment and operation of a polluting unit in breach of prescribed siting norms, guidelines, and statutory conditions. The Respondents, having acted in violation of the applicable environmental regime, cannot be permitted to take advantage of their own wrong to seek indulgence from this Hon'ble Tribunal.

17. That in reply to Para no.17 it is once again submitted that, the present application, though styled as one seeking "clarification", in substance seeks to alter, expand, and vacate the effect of the operative part of the order dated 29.04.2026. It is well settled that what cannot be done directly cannot be permitted to be done indirectly under the guise of clarification. The application, in effect, amounts to an attempt to regularise the admitted position of commencement of operations without obtaining Consent to Operate and to indirectly seek vacation/modification of the restraint order passed by this Hon'ble Tribunal while pending adjudication of the matter.
18. That the contents of Para no.18 are denied being false and incorrect. It is hereby submitted that, The Respondents have failed to appreciate or account for the serious adverse environmental and public health consequences arising from the operation of such a highly polluting activity in close proximity to residential areas.

The plea of alleged hardship is wholly untenable and deserves to be rejected. The Respondents, being Government contractors engaged in multiple construction activities, are not dependent exclusively upon the plant in question, and in any case, procurement of material from other operational and duly compliant plants cannot be said to be impracticable so as to warrant any relaxation or dilution of mandatory environmental safeguards.

The present Original Application raises serious issues of environmental violations concerning the establishment and operation of a polluting unit in breach of prescribed siting norms, guidelines, and statutory conditions. The Respondents, having acted in violation of the applicable environmental regime, cannot be permitted to take advantage of their own wrong to seek indulgence from this Hon'ble Tribunal.

It is most respectfully prayed that the reliefs sought by the Respondents be rejected and the present application be dismissed as being devoid of merit.

Place: Delhi

Dated: 12/7/26
Vibha Nagar

(VIBHA NAGAR)

PH225602 P/2214/2017,


(GURSHABAD SINGH SANDHU)

PH P/3387/2017

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COUNSEL FOR THE APPLICANT

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... Applicant

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... Respondents

Affidavit of Sh. Nirmal Singh, (Sarpanch of the Village) aged about 53 years, resident of Village Tehang, Tehsil Phillaur, District Jalandhar, Punjab, Punjab.

Aadhar no. 523392059412, Mobile No. 9855165672;

I, the above-named, deponent, do hereby solemnly declare & affirm as under: -

1. That the deponent is filing the accompanying reply along with this affidavit and the contents mentioned in the petition are true and correct as per the knowledge of the deponent and nothing has been concealed therein.

2. That the accompanying reply has been drafted and prepared by my counsel under my instructions and the contents of the same are based on the records and have been read over by my Counsel in vernacular to me and I have understood the same.

That the all the contents of reply and Annexures filed are true and typed copies of their respective original documents.



Place:

Dated:

Verification:

Certified further that this affidavit has been read and explained to (Name Nirmal Singh) The declarant who seemed perfectly to understand the same at the time of marking there of

Oath Commissioner, Jalandhar

Nirmal Singh
DEPONENT
(NIRMAL SINGH)

It is verified that the above said contents of the affidavit are true and correct to my knowledge and nothing has been concealed therein.

Place:

Dated:

Certified that the above was declared before me this 9 day of July 2026, by Sukhraj Singh identified by S. K. Mehta who has personally known to me further certified that contents of the affidavit has been read over explained to the deponent who see as perfectly to understand the same & admits the same to be correct

Oath Commissioner, Jalandhar

Nirmal Singh
DEPONENT
(NIRMAL SINGH)

I identify the deponent/executor who has signed/thumb marked in my presence

09 JUL 2026

0:01

283

-0:07

1x



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A photograph of a construction site. In the foreground, a large yellow excavator is positioned on a dirt path. Behind it, a red brick wall is visible. The background shows a clear blue sky and some industrial structures. The text "sunny sandhu" is written in a cursive font across the middle of the image.

sunny sandhu

10:55 AM / Tuesday



