

PRINCIPAL BENCH, NEW DELHI

Original Application No. 971/2024

In the matter of:

Prajwal Chand

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

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| 1. | Reply on behalf of Respondent no. 2 Central Pollution Control Board, i.e, CPCB in compliance of Hon'ble NGT order dated 19.11.2024 in O.A No. 971/2024 | |
| 2. | Annexure- I A copy of Hon'ble NGT order dated 19.11.2024 in O.A. No. 971/2024. | |



**Filed by Adv. Rajkumar
(On behalf on Central Pollution Control Board)**

Place: Delhi**Dated: 17.12.2024**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 971 OF 2024**

In the matter of:

Prajjawal Chand

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REPLY ON BEHALF OF RESPONDENT NO. 02, CENTRAL POLLUTION CONTROL BOARD

1. That Hon'ble NGT vide Order dated 19.11.2024 impleaded the Central Pollution Control Board (hereinafter referred as CPCB) as Respondent no. 02 in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the very outset, the answering Respondent deny all claims, contentions, allegations and averments against answering respondent CPCB in the above Original Application (OA) contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981, and The Environment (Protection) Act, 1986.



4. That, Hon'ble NGT in its order dated 26.09.2024 constituted a Joint Committee comprising of Uttar Pradesh State Pollution Control Board (hereafter will be referred as 'UPPCB'), Central Pollution Control Board (hereafter will be referred as 'CPCB') and District Magistrate, Gorakhpur and directed the Committee to submit the factual report within one month to Hon'ble NGT with respect to the complaint raised against Common Biomedical Waste Treatment Facility (hereafter will be referred as 'CBWTF') namely M/s Integrated Pollution Committee, Gorakhpur wherein it was alleged that CTO granted to the facility is illegal and the facility was not meeting siting criteria.
5. That, in compliance of Hon'ble NGT's order dated 26.09.2024, the afore-said joint Committee visited CBWTF namely M/s Integrated Pollution Committee, Vill. - Baghagada, Taal- Navartaal, Tappa Haveli, Pargana Bhauvapaar, Tehsil-Sadar, Distt. – Gorakhpur (hereafter will be referred as 'the facility') on 28.10.2024. The visit report of the joint committee was filed by District Magistrate, Gorakhpur, Uttar Pradesh on 06.11.2024 before this Hon'ble NGT.

Findings of Joint Committee:

- The facility does not have valid Combined Consent and Authorization (hereafter will be referred as 'CCA'). Initially, CCA was granted to the facility on 26.07.2023, which was valid only till 31.12.2023 and thereafter applications for grant of CCA was rejected by UPPCB for non-compliance to environmental norms. However, UPPCB has granted authorisation under Biomedical Waste Management Rules, 2016 (hereafter will be referred as 'BMWM Rules, 2016') to the facility on 27.07.2023 which is valid till 26.07.2028.



- It is also reported by the Joint Committee that the facility is located within 500 m from the residential area and has not obtained Environmental Clearance (hereafter will be referred as 'EC') from State Environmental Impact Assessment Authority (hereafter will be referred as 'SEIAA').
 - During visit, the facility was not operational and no bio-medical waste was found stored at the facility. However, the facility is collecting the biomedical waste from 22-member healthcare facilities located at Gorakhpur District and sending the same to its sister concern CBWTF namely M/s Medical Pollution Control Committee, Khalilabad for final treatment & disposal.
 - UPPCB issued show cause notice to the facility on 02.07.2024 for non-operation of treatment facilities in compliance to BMWM Rules, 2016.
 - The committee also reported that according to the survey conducted by Lekhpal, Owner of land i.e. Shri Awadh Raj, has made agreement with Shri Arun Kumar Awasthi, on 02.02.2024, which is valid for 10 years. However, the ownership of this CBWTF seems disputed as four people (Sh. Anup Pandey, Sh. Arun Awasthi, Sh. Arun Mishra and Dr. Vinay Verma) have made representation to the Regional Officer, UPPCB, Gorakhpur to establish their ownership towards the facility.
6. That, the present matter is regarding the complaint raised against a Common Biomedical Waste Treatment Facility namely M/s Integrated Pollution Committee, Gorakhpur wherein it is alleged by the Complainant that Consent to Operate has been granted to the facility by UPPCB on 26.07.2023 which was once rejected on 05.07.2023. It is also alleged by the Complainant that the facility is not meeting siting criteria.



7. That, with regard to the afore-said matter, following is humbly submitted:

- Biomedical Waste Management Rules, 2016 has been notified under Environment (Protection) Act, 1986 by Ministry of Environment Forest & Climate Change which stipulates the provisions for treatment & disposal of biomedical waste in an environmentally sound manner. The said Rules stipulates that the Healthcare Facilities shall handover the segregated biomedical waste to Common Biomedical Waste Treatment Facility (CBWTF) for further treatment and disposal. The generated biomedical waste shall be treated and disposed off as per the treatment options given under Schedule I in compliance to standards prescribed for incinerator stack emission, standard for treated effluent, standard for autoclave/microwave/hydroclave and chemical disinfection, under Schedule II of said Rules.
- Rule 10 of BMWM Rules, 2016, stipulates that the CBWTF Operator shall obtain authorization from respective State Pollution Control Board /Pollution Control Committee (hereafter will be referred as 'SPCB/PCC') and the validity of such authorisation shall be synchronised with the validity of the consents under Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 from the respective SPCB/PCC prior to commencement of the CBWTF.
- With respect to the requirement of Environmental Clearance, it is humbly submitted that as per Environment Impact Assessment Notification, 2006 and its further amendment dated 17.04.2015 as well as CPCB guidelines for Common Biomedical Waste Treatment & Disposal Facilities, CBWTF is required to obtain Environmental Clearance from the respective SEIAA or MoEF& CC, as the case may



be, before any construction work, or preparation of land by the projects management.

- With respect to the location of the facility within 500 m from the residential area, it is humbly submitted that CPCB issued guidelines for CBWTFs outlining the criteria for setting up of CBWTF in any locality or region. These guidelines also prescribed the location criteria for development of a CBWTF which is as follows:

- (a) CBWTF shall preferably be developed in a notified industrial area without any requirement of buffer zone; (or)
- (b) CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies by the proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity.

8. That, it is humbly submitted that the facility is violating the provisions of Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981; Biomedical Waste Management Rules, 2016 notified under Environment (Protection) Act, 1986 and Environment Impact Assessment Notification, 2006 since the facility is operating without valid Consent, authorisation under BMW Rules, 2016 and Environmental Clearance. The



prescribed authority i.e. Uttar Pradesh Pollution Control Board has issued directions dated 13.12.2024 under section 33 (A) of Water (Prevention & Control of Pollution) Act, 1974 to the facility to close down its operation with immediate effect including dis-connection of electric power supply and water supply.

9. That, in light of the above submission, it is respectfully submitted that this Answering Respondent i.e. CPCB, shall abide by any order(s) or direction(s) passed by this Hon'ble Tribunal in the instant O.A. and render justice.



A handwritten signature in blue ink, appearing to be "V.P. Yadav".

(V.P. Yadav)
Scientist 'F'

Central Pollution Control Board

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 971 OF 2024**

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Versus

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AFFIDAVIT

I, **V.P. Yadav**, working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. 2, in the above matter, do hereby solemnly affirm, declare on oath and state as under: -

1. That I, the deponent herein is the authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the records maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
निदेशक/ Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
(Mo Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110042
Parivesh Bhawan, East Arjun Nagar, Delhi-110042

VERIFICATION

Verified at Delhi on this day of 17 DEC 2024 2024 that the contents of the above reply are correct and true on the basis of the record of the cases as mentioned in the day to day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.



ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA

17 DEC 2024



DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
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 (Mo Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूरबी खर्जुन नगर, दिल्ली-110028
 Parivesh Bhawan, East Arjun Nagar, Delhi-110028

Item No. 15

Court No. 2

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

Original Application No.971/2024

Prajjwal Chand

Applicant(s)

Versus

State of UP

Respondent(s)

Date of hearing: 19.11.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicants: None

Respondents: Ms. Priyanka Swami, Advocate for State of U.P.
Mr. Amit Shukla, Advocate for UPPCB

ORDER

1. Original Application was registered on a letter petition dated 06.02.2023 of Prajjwal Chand son of Om Prakash Chand resident of village Chilawa, District Gorakhpur in exercise of *suo-moto* jurisdiction in view of law laid down by Supreme Court in ***Municipal Corporation of Greater Mumbai Versus Ankita Sinha and Others, (2022) 13 SCC 401.***

2. Complainant had stated that M/s Integrated Pollution Committee was allowed to operate a Common Medical Bio Waste Treatment Facility by illegally granting Consent to Operate (hereinafter referred to as '**CBWTF**'). It is also said that facility was not meeting siting criteria and CTO was issued to an individual though facility was allowed to be operated by another body.

3. Tribunal vide order dated 26.09.2024 found it appropriate to obtain a factual report and thus constituted a Joint Committee comprising Uttar Pradesh State Pollution Control Board (hereinafter referred to as '**UPPCB**'); Central Pollution Control Board (hereinafter referred to as '**CPCB**'); and District Magistrate, Gorakhpur. Committee was required to submit its report within one month.

4. Through District Magistrate, Gorakhpur Joint Committee's Report vide letter dated 06.11.2024 has been filed which shows that a Consent to Establish (hereinafter referred to as '**CTE**') was granted on an application for grant of Consent to Establish submitted by Anoop Pandey, Director Integrated Pollution Committee, Village Bahagata, Tappa Haveli Pragna, Tehsil Sadar and District Gorakhpur on 19.02.2023. CTE was granted by UPPCB vide letter dated 10.07.2023 to M/s Integrated Pollution Committee. Before grant of CTE field inspection was conducted by officials of UPPCB and as per their report the nearest area was at a distance of approximately 500 meters.

5. It is also stated in the report that CBWTF was sought to be established at Khasra No.576 and 577 which were owned by Avedraj son of Drupad who entered an agreement with Anoop Kumar Pandey on 16.01.2014 for a period of 10 years. After expiry of above period owner of land Avedhraj has entered into another agreement on 02.02.2024 for a period of 10 years with Arun Kant Avesthi son of Shri Kant Avesthi. Integrated Pollution Committee is jointly owned by Anoop Pandey, Arun Aveshti, Arun Mishra and Vinay Verma. Authorization under Bio Medical Waste (Management and Handling) Rules, 2016 was granted to said CBWTF on 29.04.2015. Environment Impact Assessment Notificate dated 14.09.2016 was amended by notification dated 17.04.2015 rendering it

mandatory to obtain prior Environmental Clearance for establishment of Common Bio Medical Waste Treatment Facility. No such EC was obtained by said CBWTF CTO under Air (Prevention and Control of Pollution) Act, 1981, was granted on 06.10.2016 by UPPCB valid for period of 24.09.2016 to 31.12.2017 similarly CTO under Water (Prevention and Control of Pollution) Act, 1974 was granted on 01.10.2016 valid from 24.10.2016 to 31.12.2017.

6. For the subsequent period also, it appears that consent was granted and after expiry of consent, a Consolidated Consent and Authorization (hereinafter referred to as 'CCA') was applied by proponent on 28.05.2023 but it was declined/refused by UPPCB on 05.07.2023. For non-compliance of environmental norms. Thereafter, proponent again applied for CCA on 07.07.2023 and it was granted on 26.07.2023 valid from the period of 07.07.2023 to 31.12.2023. For further renewal of CCA proponent applied on 14.12.2023 but it was rejected for non-compliance of environmental norms as also Bio Medical Waste Management Reules, 2016 and CPCB Guidelines. Further request for grant of CCA applied on 24.03.2024 and 08.06.2024 was also rejected.

7. The observations, siting criteria, and details regarding Consent and conclusions recorded in the Joint Committee report are reproduced as under:

Observations:

- a) *“The facility is having incinerator with capacity 100 Kg/Hr., Autoclave-200 Kg/Batch and Shredder-50 Kg/Hr for bio-medical waste treatment. During visit, facility was not operational and no bio-medical waste was found stored at the facility.*
- b) *Incinerator of the facility is equipped with automatic feeding system with dual chamber. Residence time to flue gas in the Secondary chamber is 03 second. Emission from the incinerator is vented through stack of heigh approx. 30 m followed by Wet Scrubber and Venturi Scrubber as APCD.*

OCEMS has been installed at incinerator stack and it is informed that it is connected with CPCB server.

- c) The facility has installed ETP, which comprises of Equalization Tank, Bio-logical Tank, Settling Tank, Sand Filter, Activated Carbon Filter. During inspection, ETP was not operation and no effluent received at ETP.

Siting Criteria:

- d) The facility was granted Consent to Establish (CTE) on 10.07.2013 with validity of two years. The CTE was granted to the facility based on field inspection by official of UPPCB on 20.02.2013. As per report, nearest residential area is approx. 500 m. Copy of site inspection report and N.O.C. issued by UPPCB is annexed as Annexure-2 & 3. During visit, residential area was observed within 500 m from the location of CBWTF plant.
- e) Presently, Bio-medical waste generated from HCFs (Health Care Facilities) of Gorakhpur City is treated in 02 CBWTF (Common Bio-medical Waste Treatment Facilities). One CBTWF (M/s Medical Pollution Control Committee) located at Khalilabad (located approx. 32 km from the facility).
- f) It is informed by the facility representative; presently the facility is having 22 member HCFs. Bio Medical waste is sent to its sister concern CBTWF (M/s Medical Pollution Control Committee) located at Khalilabad for treatment.
- g) The location of facility was surveyed by the Lekhpal for the current status of land and residential area. Report of Lekhpal is annexed as Annexure-4. That as per point no.(i) of Lekhpal Report, owner of Gata No.576 and 577 is Shri Awadh Raj (Land Owner) son of Durpat has made land agreement with Shri Anup Kumar Pandey on 16.01.2024 for ten years, which has completed on 15.01.2024. Further, Owner of land has made agreement with Shri Arun Kumar Awasthi son of Shri Shrikant Awasthi. Agreement has been made on 02.02.2024 is valid for 10 years.
- h) It is also informed that four people (Sh. Anup Pandey, Sh. Arun Awasthi, Sh. Arun Mishra and Dr. Vinay Verma) have made representation to the Regional Officer, UPPCB, Gorakhpur to establish their ownership towards this CBWTF. Hence, the ownership of this CBWTF is seems disputed.

Consent to Operate and compliance status

- i) Authorization under the biomedical waste (Management and Handling) Rules, 1998 (as amended Rules, 2000) was granted to the facility on 29.04.2015, which was valid for one year.
- j) The facility has been installed by project proponent after obtaining NOC. Consent to Operate under the Air (prevention and Control of Pollution) Act, 1981 (as amended) was granted

to the facility on 06.10.2016, which was valid from 24.09.2016 to 31.12.2017. Consent to Operate (CTO) under the Water (Prevention and Control of Pollution) Act, 1974 was granted on 01.10.2016, which was valid from 24.10.2016 to 31.12.2017. Copy of CTO are annexed as Annexure-5 and 6.

k) The present status of CCA and authorization applied and granted by the facility is as below:

| | Applied on | Granted on | Validity | |
|---------------|------------|------------|------------|------------|
| | | | From | Till |
| CCA | 07.07.2023 | 26.07.2023 | 07.07.2023 | 31.12.2023 |
| Authorization | 27.05.2023 | 27.07.2023 | 27.07.2023 | 26.07.2023 |

- l) The facility applied for CCA (Consolidated Consent to Operate and Authorization) on 28.05.2023, which was refused by UPPCB on 05.07.2023 for non-compliance of environmental norms. Copy of refusal letter issued by UPPCB is annexed as annexure-7.
- m) The facility again applied for CCA on 07.07.2023 and CCA was granted on 26.07.2023, which was valid from 07.07.2023 to 31.12.2023. CCA was granted with bank guarantee of Rs.02 lacs. Compliance status of previous CCA is annexed as Annexure-8
- n) The facility again applied for CCA on 14.12.2023, 24.03.2024 and 08/06/2024 to UPPCB. But UPPCB has rejected the CCA for non-compliance of environmental norms, as per provision of Bio-medical Waste Management Rules, 2016 and CPCB guidelines copy of the rejection letters along with reason of rejections are annexed as Annexure-9.
- o) The facility has been granted CTO only from 24.09.2016 to 31.12.2017 and 07.07.2023 to 31.12.2023 UPPCB is continuously refusing CCA application of the facility due to non-compliance of environmental norms, provisions of the Bio-medical waste Management Rules, 2016 and CPCB guidelines.
- p) The facility has been granted Authorization under the Bio-medical Waste Management Rules, 2016, on 27.07.2023, which is valid till 26.07.2028.
- q) UPPCB has been issued show cause notice to the facility on dated 02.07.2024. Copy of show cause notice is annexed as Annexure-10.

Environmental Clearance under Environment Impact Assessment Notification dated 14.9.2006.

- r) The facility was granted CTE on 10.07.2013 and Environmental Clearance (EC) requirement for the Bio-medical Waste Treatment

Facility was included in EIA Notification S.O. 1142(E). Dated 17.04.2015. Hence, EC is not obtained by the facility.

Conclusions and Recommendations:

It is evident from above observations; the facility has not valid CCA UPPCB is rejecting CCA applications of the facility due to non-compliance of environmental norms, provisions of the Bio-medical Waste Management Rules, 2016 and CPCB guidelines. The ownership of the facility is also seems disputed. UP CB may take necessary action on show cause notice against the facility as per law.”

8. In view of the above finding of Joint Committee it is evident that *prima facie* proponent has been allowed to illegally and in violation of Statutory Provisions relating to environment particularly Environment (Protection) Act, 1986 read with Environment Impact Assessment Notification dated 14.09.2006 as amended by notification dated 17.04.2015. In these circumstances we find it appropriate to implead following as respondents.

- I. State of Uttar Pradesh through Additional Chief Secretary, Ministry Environment Forest and Climate Change, UP, Lucknow
- II. Central Pollution Control Board through Member Secretary, Parivesh Bhawan, East Arjun Nagar, Delhi
- III. Uttar Pradesh State Pollution Control Board through Member Secretary Building No.TC-12 V,Vibhuti Khand, Gomti Nagar, Lucknow
- IV. District Magistrate, DM Bungalow Road, Golghar, Gorakhpur, Uttar Pradesh.
- V. Integrated Pollution Committee, Village Baghagada, Navar Taal Tappa Haveli Pargana Bhauvapaar, Tehsil Sadar, District Gorakhpur.

9. Notice on behalf of Uttar Pradesh Pollution Control Committee has been accepted by Shri Amit Shukla, Advocate and Ms. Priyanak Swami Advocate has accepted notice on behalf of State of UP and District Magistrate, Gorakhpur. Hence, notices to remaining respondents shall be issued by registry as per rules.
10. Respondents may file their response within three weeks.
11. Learned Counsel appearing for UPPCB stated that presently CBWTF i.e. M/s Integrated Pollution Committee is not operating.
12. In the light of the facts disclosed in Joint Committee report, *prima-facie* we are satisfied that without consent and EC, said CBWTF cannot be allowed to operate, hence, UPPCB and District Magistrate, Gorakhpur shall ensure that above CBWTC shall not be allowed to operate until further order of this Tribunal.
13. List on 18.12.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

November 19, 2024
Original Application No. 971/2024
M