

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 13 OF 2023**

IN THE MATTER OF

Indo Tech Waste Solution

...Appellant

Vs.

**Uttar Pradesh State Environment Impact
Assessment Authority (UP SEIAA) & Ors.**

...Respondent(s)

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1.	Reply Affidavit in compliance to Hon'ble NGT order dated 19.07.2023 in Appeal No. 13 of 2023 in the matter of Indo Tech Waste Solution Vs. Uttar Pradesh State Environment Impact Assessment Authority (UPSEIAA) & Ors.	
2.	Annexure-I: A copy of Hon'ble NGT order dated 19.07.2023	



(G. Rambabu)

Scientist-D

Central Pollution Control Board,

Parivesh Bhawan, East

Arjun Nagar,

Delhi-

110032

Date: 19.10.2023

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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APPEAL NO. 13 OF 2023**

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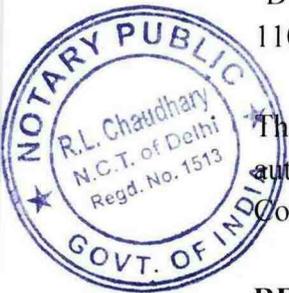
**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 5, i.e. CENTRAL
POLLUTION CONTROL BOARD, PARIVESH BHAWAN, EAST ARJUN
NAGAR, DELHI- 110 032.**

I, G. Rambabu, S/o (late) Shri G. Musalैया, aged about 40 years, working as Scientist 'D', in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110 032, Delhi, do hereby solemnly affirm and declare as under:

That I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present affidavit on behalf of Central Pollution Control Board (hereafter referred as CPCB) as under:

REPLY ON MERITS

1. That the averments made in Para 1 and 2 are statement about the details of Appellant and Respondents, the same are matter of record. Hence, no comments to offer by this answering Respondent.
2. That the averments made in Para 3,1.1,1.2 and 1.4 are statements about the introduction of the Appellant partnership firm M/s Indo Tech Waste Solutions engaged in treatment and disposal of biomedical waste and took a plot on lease at Saron Tehsil, Kasganj District, Uttar Pradesh. Hence, no comments to offer by this answering Respondent.



3. That the averment made in para 3.1.3 is regarding introduction of the Respondents. In this regard, it is humbly submitted that the answering Respondent no. 5 i.e., Central Pollution Control Board is a statutory organisation which was constituted under the Water (Prevention and Control of Pollution) Act, 1974 and was entrusted with the powers and functions under the Water (Prevention and Control of Pollution) Act, 1974 under and the Air (Prevention and Control of Pollution) Act, 1981.
4. That the averments made under Para 3.1.5 to 1.9, it is mentioned that the present appeal is filed against the rejection of application of Environmental Clearance of the Appellant by Respondent no. 1 i.e., Uttar Pradesh State Environment Impact Assessment Authority (hereafter referred as UPSEIAA) for establishing Common Biomedical Waste Treatment Facility (hereafter referred as CBWTF). In this regard, it is humbly submitted that as per Environment Impact Assessment notification, 2006 and its further amendments as well as guidelines for CBWTFs, the authority for grant of Environmental Clearance is State Environment Impact Assessment Authority.
5. That the averment made under Para 3.1.10 and 1.11 are regarding rejection of application for Consent to Establish filed by the appellant by respondent no. 4 i.e. Uttar Pradesh Pollution Control Board (hereafter referred as UPPCB). In this regard, it is humbly submitted that the prescribed authority for grant of 'Consent to Establishment' under Sec 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under Sec 21 of the Air (Prevention and Control of Pollution) Act, 1981, is respective State Pollution Control Board/Pollution Control Committee.
6. That the averment made under Para 3.1.12, it is mentioned that the respondent no.1 that is UPSEIAA withheld the grant of Environmental Clearance for comments of UPPCB with reference to complaint of M/s Punahchakran (P) Ltd. In this regard it is humbly submitted that the Answering Respondent reiterate the same as stated in Para no. 4 of this reply Affidavit.
7. That the averment made under Para 3.1.13 is statement wherein it is mentioned that the appellant investigated about the compliant of M/s Punahchakran (P) Ltd. It is also mentioned that the matter Original Application no. 622 of 2022 is against M/s Punahchakran (P) Ltd. and also quoted order of Hon'ble National Green Tribunal in the said matter. In this regard it is humbly submitted that the same are matter of record. Hence no comments to offer by this answering Respondent.

That the averment made under Para 3.1.14 to 1.18 are statements that the appellant filed a writ petition before Hon'ble Allahabad High Court, before filing the present appeal and also filed complaints before the Respondents regarding rejection of application for Environmental Clearance by Respondent no. 1 that is



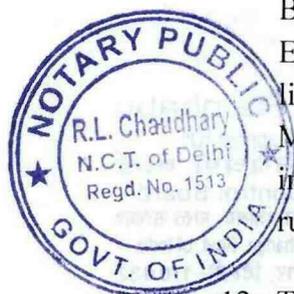
UPSEIAA. In this regard it is humbly submitted that the same are matter of record. Hence, no comments to offer by this answering Respondent.

8. That the averment made under Para 3,1.19 is statement regarding jurisdiction of Hon'ble Tribunal. Hence no comments to offer by this answering Respondent.
9. That the averment made under Para 3,1.20 is statement regarding discretionary power of Administrative Authority. Hence no comments to offer by this answering Respondent.
10. That the averment made under Para 3,1.21 and 1.22 are regarding explanation of Apex Court in Indian Railway Construction Co. Ltd. Vs. Ajay Kumar in 2003 and Hon'ble Supreme Court in the matter of State of NCT of Delhi Vs. Sanjeev in 2005, respectively, regarding scope of discretionary power and the same are matter of record. Hence no comments to offer by this answering Respondent.
11. That the averment made under Para 3,1.23, it is mentioned that Biomedical Waste Management Rules, 2016 and Guidelines are mandatory in nature, but were overlooked in appellant's case. In this regard, it is humbly submitted that Biomedical Waste Management Rules, 2016 were notified by the Ministry of Environment, Forest and Climate Change and CPCB has prepared Guidelines in line with the said Rules. It is further humbly submitted that the Biomedical Waste Management Rules, 2016 and Guidelines are mandatory in nature which are to be implemented by the respective agencies as prescribed under the said rules/Guidelines.
12. That the averment made under Para 3,1.24 and 1.26 are statements regarding pleading before Hon'ble Tribunal by the appellant. Hence, no comments to offer by this answering Respondent.
13. That the averment made under Para 3,1.25 is statement regarding appeal filed by the appellant before Hon'ble High Court of Allahabad and the same is matter of record. Hence, no comments to offer by this answering Respondent.

GROUNDS

Para 2.1 to 2.13

14. That with regard to the averments made under Paras, it is humbly submitted that the Biomedical Waste Management Rules, 2016 and CPCB Guidelines for CBWTFs, prescribed Authority for grant of Environmental Clearance is State Environment Impact Assessment Authority or Ministry of Environment, Forest



and Climate Change, as the case may be and the prescribed authority for grant of 'Consent to Establishment' under Sec. 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under Sec. 21 of the Air (Prevention and Control of Pollution) Act, 1981, is respective State Pollution Control Board/Pollution Control Committee.

15. That averment made under Para 3 is statement that the cause of action by the Appellant is rejection of application of Environmental Clearance for establishing CBWTF. It is humbly submitted that as per Act/Rules applicable the agency prescribed is liable to take appropriate action.
16. That the averment made under Para 4, 5 and 7 are regarding limitation, interim relief and relief sought by the appellant, respectively. Hence, no comments to offer by this answering Respondent.

In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent shall abide by any order or direction, passed by this Hon'ble Tribunal.



VERIFICATION

19 OCT 2023

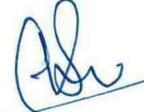
Verified at Delhi on this 19th the day of October, 2023 that the contents of the above reply affidavit are correct to the best of my knowledge and belief. Nothing has been concealed therein.

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA
 19 OCT 2023


DEPONENT

जी. रामबाबू /G. Rambabu
 वैज्ञानिक "घ" / Scientist "D"
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 M/o Env't. Forest & Climate Change, Govt. of India
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110 032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032


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 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110 032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No. 01

Court No. 1

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Appellant

Versus

Uttar Pradesh State Environment Impact
Assessment Authority (UP SEIAA) & Ors.

Respondent(s)

Date of hearing: 19.07.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Vikramaditya Singh & Mr. Sumit Babbar, Advs.

ORDER

1. Challenge in this Appeal is the order dated 11.05.2023 passed by SEIAA whereby and whereunder SEIAA vide its solution dated 07.04.2023 decided that:

“SEIAA noted that SEAC has forwarded the reply of project proponent to SEIAA and has made no comment on the complaint letter or other issue. SEIAA gone through the file and document and found that in public hearing minutes also it is mentioned that Gap analysis has not been done for the above project, RO, UPPCB, Aligarh letter no. 29/2/NOC-3061/2023 dated 14.02.2023 also states that Gap analysis report is not available. Hence in light of above SETAA opined to review its decision dated 14/11/2022 of granting EC to the above project and reject the application.”

2. Order is appealable, thus, issue notice to the respondents, returnable within four weeks. Respondents are directed to submit their reply within six weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

3. Appellant is directed to take necessary steps for service to the respondents by both ways and also on available email.

4. Appellant is directed to supply the copy of the appeal and relevant documents to the Respondent(s) within a week and after compliance of service, the appellant has to submit an affidavit that the notice and copy of the appeal have been served upon the respondent(s).

5. List the matter on 20.10.2023.

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

July 19, 2023
Appeal No. 13/2023
SN