

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

Original Application No. 1237/2024

News Item titled "Two Killed 3 injured in firecracker explosion in Gonda"
appearing in the Times of India dated 07.10.2024

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THROUGH

Priyanka Swami

Date:04.01.2025
Place: New Delhi

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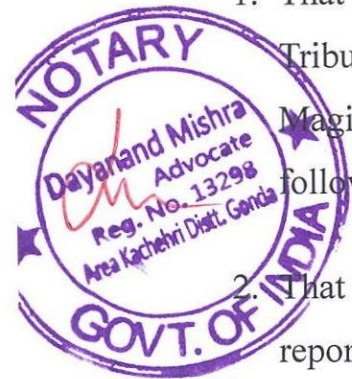
News Item titled "Two Killed 3 injured in firecracker explosion in Gonda"
appearing in the Times of India dated 07.10.2024

REPLY ON BEHALF OF DISTRICT MAGISTRATE GONDA, IN
COMPLIANCE WITH THE ORDER DATED 16.10.2024. ALONG WITH
THE SUPPORTING AFFIDAVIT.

MOST RESPECTFULLY SHOWETH:

1. That in compliance with the order dated 16.10.2024 passed by this Hon'ble Tribunal, the present Report is being filed on behalf of the District Magistrate, Gonda, Uttar Pradesh, who, with utmost respect, submits as follows:

2. That the Hon'ble Tribunal has taken **suo motu** cognizance of the news report dated 07.10.2024 in *The Times of India*, detailing a tragic explosion in an unlicensed firecracker manufacturing setup in Village-Belsar, Ragarganj Bazar (Nagar Panchayat Belsar), Tehsil-Tarabganj, District Gonda, resulting in multiple fatalities and injuries. Pursuant to such cognizance, directions were issued to, inter alia, the District Magistrate, Gonda, and other authorities for submission of factual and action-taken reports.



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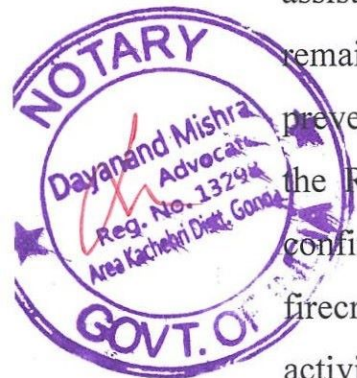
3. That upon receipt of the Tribunal's directions, the District Magistrate, Gonda, instituted a **five-member team** under the chairmanship of the Additional District Magistrate, Gonda, on 13.11.2024. This team was specifically mandated to undertake an on-site inspection of the affected premises, verify the facts, ascertain compliance with relevant safety and environmental regulations, and assess the need for further measures. The said team visited the site on 17.01.2025, interviewing local residents, collecting relevant documentation, and verifying official records to compile a comprehensive inquiry report. A copy of the **Constitution Order/Notification (Letter No. DM/5-MemberTeam/2024 dated 13.11.2024)** is herewith annexed as ANNEXURE-1. A copy of the **Site Inspection Report dated 17.01.2025 (Ref. No. ADM/Inspection/2025)** is herewith annexed as ANNEXURE-2.



That during this inspection, it was revealed that the location in question was a vacant, semi-constructed house owned by one Farooq, situate in Village-Belsar, Ragarganj Bazar, Tehsil-Tarabganj, District Gonda. Local residents affirmed that approximately four to five days prior to the explosion, five individuals had commenced illegal firecracker manufacturing in the said house, namely: (i) Ayub alias Lallu son of Shri Nakkhu, (ii) Akash alias Chhotu son of late Amarnath, (iii) Ayaz Mohammad alias Toofan son of late Dost Mohammad, (iv) Ishaq son of Shri Nakkhu, and (v) Krishna Kumar son of Shri Chhavile. It was specifically mentioned that these individuals had neither obtained any license from the competent authority nor secured necessary statutory clearances from the Pollution Control Board or any other governmental body for conducting hazardous manufacturing activity.

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5. That the catastrophic incident took place between 12:00 pm and 01:00 pm on 07.10.2024, when an explosion occurred while the aforesaid individuals were allegedly engaged in assembling firecrackers. All five sustained severe injuries at the spot, whereupon three—being (i) Shri Ayub alias Lallu, (ii) Shri Akash alias Chhotu, and (iii) Shri Ayaz Mohammad alias Toofan—subsequently succumbed during treatment, increasing the death toll to three. The remaining two (Shri Ishaq and Shri Krishna Kumar) survived but suffered grave injuries, necessitating continued medical treatment.
6. That in immediate response, officers of the District Administration and the Police Administration arrived at the scene, arranged for urgent medical assistance for the injured, and **destroyed or rendered unusable** the remaining stock of firecrackers so as to safeguard the local populace and prevent secondary accidents. During the official investigation, the office of the Regional Uttar Pradesh Pollution Control Board (UPPCB), Ayodhya, confirmed that **no consent** or authorization had ever been granted for firecracker manufacturing at this location, thereby establishing that the activity was wholly unauthorized and violative of applicable statutes, including the Environment (Protection) Act, 1986 and allied rules.
7. That following the initial findings, an FIR bearing No. 446/2024 was registered on 07.10.2024 at Police Station Tarabganj, District Gonda, under Sections **3/4/5 of the Explosive Substances Act, 1908** and **3(5) 105/110 BNS**, detailing how the illegal manufacture of firecrackers culminated in an explosion causing multiple casualties. The police report affirms that on reaching the spot, authorities were confronted with strong odors of gunpowder, widespread debris, and injured individuals lying at or near the

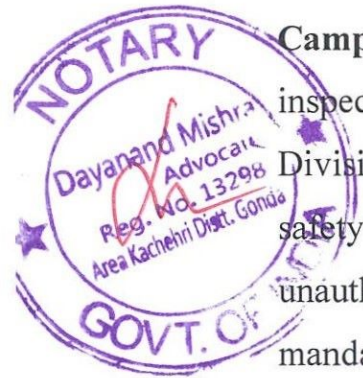


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premises. Investigation is ongoing, and the matter is set to be tried under the competent court's jurisdiction—i.e., before the Hon'ble Special Judge, N.I. Act, Lucknow—where the offenders may be prosecuted as per law, including further inquiries into the role of the property owner, Farooq. A copy of **FIR No. 446/2024 dated 07.10.2024** is herewith annexed as **ANNEXURE-3**.

8. That it is further pertinent to highlight that, in anticipation of accidents relating to fireworks manufacture and storage during festive seasons, the Additional Director General of Police, Law & Order, Uttar Pradesh, vide **Letter No. DG-8-81 (Firecracker Campaign) 2024/2580 dated 03.10.2024**, and the Superintendent of Police, Gonda, vide **Letter No. Reader/C-10/2024 (Campaign) dated 03.10.2024**, had initiated a **Special Campaign** from 03.10.2024 to 09.10.2024. This campaign envisaged joint inspections of licensed fireworks factories by the Area Officer, Sub-Divisional Magistrate (SDM), Fire Service, and local police to verify that safety norms were observed, child labor was prevented, and no illegal or unauthorized manufacturing was taking place. Furthermore, said instructions mandated strict action against any entity found operating surreptitious units, as well as thorough checking of potential transportation or storage hubs for hazardous materials.

9. That, pursuant to the Special Campaign, a meeting was convened on 03.10.2024 at Outpost Ragarganj under the chairmanship of the Inspector-in-Charge, Tarabganj Police Station, wherein Peace Committee members and local festival organizers were apprised of the need to abide by lawful procedures, including obtaining proper licenses and refraining from illegal



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manufacturing or sale of fireworks. Moreover, the District Administration had granted a valid license solely to one Raees son of Gangole for the sale of firecrackers in the Ragarganj Outpost area, which was duly inspected on 04.10.2024, and found compliant. However, the location belonging to Farooq, being locked from the outside and isolated, remained undetected and did not surface as a suspected manufacturing site during the official checks.

10. That the clandestine nature of the operation effectively prevented authorities from discovering the hazard earlier. The five perpetrators had evidently chosen a secluded spot to evade detection, thus defying both the statutory requirements for hazardous activity and the rigorous checks carried out under the Special Campaign. Although multiple rounds of inspections and public awareness meetings were held, no complaint was lodged by the neighboring residents until after the unfortunate incident took place.



That the illegal manufacturing was wholly devoid of any statutory insurance coverage under the **Public Liability Insurance Act, 1991**, since the persons engaged in such activity had never approached the competent authority or the Collector under Section 6 of the said Act. Under these circumstances, there is no avenue for invoking any insurance claim or statutory compensation for the individuals who themselves were in contravention of the law. The District Administration, however, stands committed to extending timely help to innocent or third-party victims, should any be identified or discovered, and to ensuring that the rule of law prevails against those complicit in breaching safety and environmental regulations.

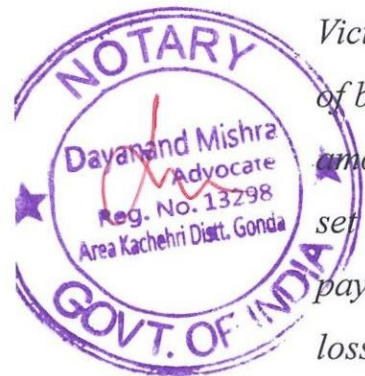
12. That That, in *Original Application No. 44/2021* (news item titled “At least 19 dead in Virudhunagar firecracker factory blast, more than 30 injured”),

Or

this Hon'ble Tribunal laid down guidelines for enhanced compensation where firecracker factory blasts result in loss of life and injuries, and clarified the State's right to recover from erring enterprises. In this regard, the Tribunal, *vide* its order, observed:

Paragraph 10:

“Taking note of the fact that in the Uphaar tragedy victims case the maximum compensation was Rs. 10 lakhs, but it related to an incident that took place in 1997, almost 25 years back, we will double the compensation for death at Rs. 20 lakhs per family of each of the deceased victims and Rs. 15 lakhs to persons who have burns in excess of 50% and Rs. 10 lakhs for persons who have burns from 25 to 50% and Rs. 5 lakhs for persons who have injuries between 5 to 25%. Victims who were treated as outpatients and who had but minor degree of burns or other forms of simple injuries shall be paid Rs. 2 lakhs. The amounts shall be directed to be paid within the time the Tribunal may set and direct a further liability of interest at 12% p.a. for default of payment. The compensation is not merely a financial reparation for the loss of lives and injuries that have restitutive attributes but also designed to be punitive for the criminal negligence in carrying out hazardous activities in brazen violation of several laws that we have outlined above. The compensation amounts must necessarily therefore, be higher than what could occasion in a straightforward case of granting compensation as a welfare measure such as under the Workmen's (Employees') Compensation Act. ... The compensation amounts must necessarily therefore, be higher than what could



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occasion in a straightforward case of granting compensation as a welfare measure such as under the Workmen's (Employees') Compensation Act."

Paragraph 15:

"We reiterate the above view. Almost two years have gone and victims could not get relief as awarded and directed by this Tribunal. Stand of the State is against facts and law, apart from being unfair and unjust. State is not entitled to any further indulgence. It has already been made clear that State is at liberty to recover the amount from erring enterprises. The State is also under obligation to take preventing measures for ensuring environmental safety of citizens and maintaining strict vigil to avert such incidents. Thus, even on fresh consideration, we reiterate the directions in the orders of this Tribunal dated 11.06.2021 and 03.03.2022, already reproduced above. The State may take steps for compliance at the earliest, preferably within one month from today."

A copy of the **Judgment in O.A. No. 44/2021 (Virudhunagar firecracker factory blast case)** is herewith annexed as **ANNEXURE4.**

13. That in light of these observations, it is respectfully submitted that while the Hon'ble Tribunal has underscored the necessity of compensation at enhanced rates for victims, it has also emphasized that the errant or responsible enterprises could be made liable for payment. In the present case, however, the deceased and injured persons themselves engaged in

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unauthorized and unlicensed firecracker manufacturing, without any valid insurance or license. Consequently, they do not fall within the ambit of the Public Liability Insurance Act, 1991 or any other statutory mechanism that would otherwise be available to lawfully conducted enterprises or innocent third parties. The District Administration, nonetheless, stands ready to abide by any subsequent directives of this Hon'ble Tribunal in the event there emerges a need for welfare or punitive measures concerning environmental and public safety.

14. That thereafter, the District Administration and Police Administration have considerably heightened vigilance in the district, including rigorous patrols, community awareness initiatives, and urging local residents to report any suspicious activities involving explosive substances or chemicals. The undersigned respectfully avers that all feasible measures have been taken in immediate response to the unfortunate incident and to prevent any recurrence of such a tragedy.

15. That in conclusion, the District Magistrate, Gonda, submits that the directions of this Hon'ble Tribunal have been duly complied with in spirit and substance by conducting the site inspection, gathering factual data, ensuring destruction of the remaining firecrackers, registering an FIR, and reinforcing safety measures. It is, therefore, most humbly prayed that this Hon'ble Tribunal may kindly be pleased to take this Compliance Report on record and pass such further or other orders as it deems fit, in the interests of justice, public health, and the environment.

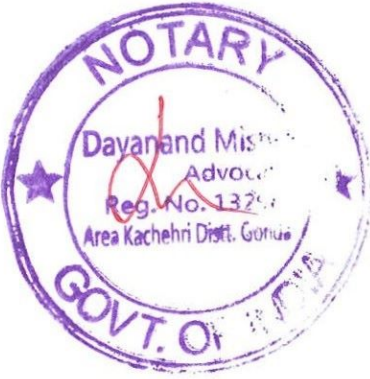
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Priyanka

Date:04.01.2025
Place: New Delhi

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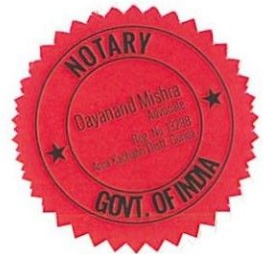
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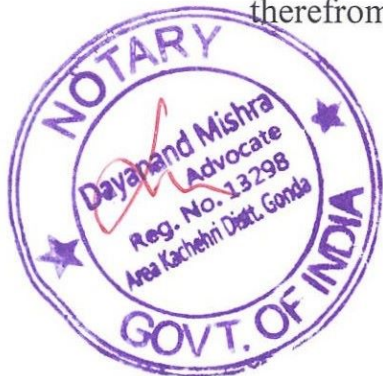
News Item titled "Two Killed 3 injured in firecracker explosion in Gonda"
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AFFIDAVIT



I, Neha Sharma aged about 40 years D/o Sh. R.K. Sharma is presently posted as District Magistrate, Gonda, Uttar Pradesh.

1. That I am posted as stated above and well conversant with the facts of the present case and as such competent to swear this affidavit before this Tribunal.
2. That the accompanying Reply has been drafted by our counsel upon my instructions.
3. That the contents of the Reply are true and correct, and the knowledge has been derived from official records and nothing material has been concealed therefrom.



Solemnly Affirmed &
Declared before me
on.....

4.02.2025
Dayanand Mishra
Advocate
Notary Kachehari
Distt. Gonda (U.P.) 271001

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[Handwritten signature]

DEPONENT

VERIFICATION

Verified on solemn affirmation at Gonda on this _____ day of _____ 2025,
that the contents of the foregoing affidavit are true and correct to the best of my
knowledge and no part of it is false and nothing material has been concealed
therefrom.



[Handwritten signature]

DEPONENT

Solemnly Affirmed &
Declared before me
on.....

4-2-2025

Dayanand Mishra
Advocate
Notary Kachehari
Distt. Gonda (U.P.) 271001

टीपें एवं आज्ञायें
Notes & Orders

जिलाधिकारी महोदया,

कृपया मा० एन०जी०टी०, नई दिल्ली में योजित ओ०ए० संख्या-1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024 में पारित आदेश दिनांक 16.10.2024 जो पत्रावली में दाहिनी ओर "पताका क" के रूप में सलंग्न है, का अवलोकन करना चाहें। मा० एन०जी०टी० द्वारा पारित आदेश के मुख्य अंश निम्नवत् हैं-

- "1. This original application is registered suo-motu on the basis of the news item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024
2. The news item relates to an explosion at a firecracker factory in Gonda, Uttar Pradesh resulting in the death of two people, and three others getting injured. As per the news item, a group of people were illegally making firecrackers at an abandoned and dilapidated house in Belasar village when the explosion took place....."
- "...5. Hence, we implead the following as respondents in the matter:
 1. Member Secretary, Uttar Pradesh Pollution Control Board (UPPCB): Building No. TC-12 V, Vibhuti Khand, Gomti Nagar, Lucknow-226010;
 2. Central Pollution Control Board (CPCB), Through its Member Secretary: Parivesh Bhawan, East Arjun Nagar, Delhi - 110032;
 3. Ministry of Environment, Forest and Climate Change (Regional Office, Lucknow): Kendriya Bhawan, 5th Floor, Sector H, Aliganj, Lucknow-226024;
 4. District Magistrate (DM), Gonda: District Magistrate Office, Gonda, Uttar Pradesh, India ;
 5. Let notice be issued to the respondents for filing their response/reply by way of affidavit before the Tribunal at least one week before the next date of hearing. If any respondent directly files the reply without routing it through his advocate then the said respondent will remain virtually present to assist the Tribunal.
 6. List on 06.02.2025."

मा० एन०जी०टी० द्वारा पारित उक्त आदेश द्वारा सभी प्रतिवादियों को अगली सुनवाई की तिथि से कम से कम एक सप्ताह पूर्व अपना रिस्पॉन्स/प्रतिउत्तर शपथ पत्र के माध्यम से मा० एन०जी०टी० में दाखिल/ई-फाइल करने के निर्देश दिये गये हैं।

अतः आपसे अनुरोध है कि उक्त परिप्रेक्ष्य में मा० एन०जी०टी० में रिस्पॉन्स/प्रतिउत्तर दाखिल किये जाने के सम्बन्ध में आवश्यक कार्यवाही कराने की कृपा करें।

(डा० टी०जी० सिंह)
क्षेत्रीय अधिकारी
क्षेत्रीय अधिकारी
उ० प्र० प्रदूषण नियन्त्रण बोर्ड
अयोध्या

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13/11/24

ADM/JA/SP Gonda
SDM Tarabganj/SP Gonda

13/11/24

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विषय—मा0 एन0जी0टी0, नई दिल्ली में योजित ओ0ए0 संख्या—1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024 में पारित आदेश दिनांक 16.10.2024 के अनुपालन में प्रश्नगत स्थल ग्राम — बेलसर, रगडगंज बाजार, तहसील—तरबगंज, जनपद—गोण्डा की स्थलीय निरीक्षण आख्या।

उपरोक्त विषयक मा0 एन0जी0टी0, नई दिल्ली में योजित ओ0ए0 संख्या—1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024 में दिनांक 16.10.2024 को आदेश पारित किये गये हैं, मा0 एन0जी0टी0 द्वारा पारित आदेश निम्नवत् हैं—

- “1. This original application is registered suo-motu on the basis of the news item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024
2. The news item relates to an explosion at a firecracker factory in Gonda, Uttar Pradesh resulting in the death of two people, and three others getting injured. As per the news item, a group of people were illegally making firecrackers at an abandoned and dilapidated house in Belasar village when the explosion took place.....”
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 3. Ministry of Environment, Forest and Climate Change (Regional Office, Lucknow): Kendriya Bhawan, 5th Floor, Sector H, Aliganj, Lucknow-226024;
 4. District Magistrate (DM), Gonda: District Magistrate Office, Gonda, Uttar Pradesh, India ;
6. A notice be issued to the respondents for filing their response/reply by way of affidavit before the Tribunal at least one week before the next date of hearing. If any respondent directly files the reply without routing it through his advocate then the said respondent will remain virtually present to assist the Tribunal.
6. List on 06.02.2025.”

मा0 एन0जी0टी0 द्वारा पारित उक्त आदेश के अनुपालन में रिस्पॉन्स/प्रतिउत्तर दखिल किये जाने के सम्बन्ध में आवश्यक कार्यवाही हेतु पत्रावली जिलाधिकारी महोदया को दिनांक 13.11.2024 को प्रस्तुत की गयी थी। तत्कम में जिलाधिकारी महोदया द्वारा प्रश्नगत प्रकरण की जांच हेतु एक संयुक्त जांच कमेटी गठित की गयी। संयुक्त जांच कमेटी द्वारा प्रश्नगत स्थल ग्राम — बेलसर, रगडगंज बाजार, तहसील— तरबगंज, जनपद—गोण्डा का निरीक्षण दिनांक 17.01.2025 को किया गया। निरीक्षण के दौरान लिए गये फोटोग्राफ्स निम्नानुसार हैं—



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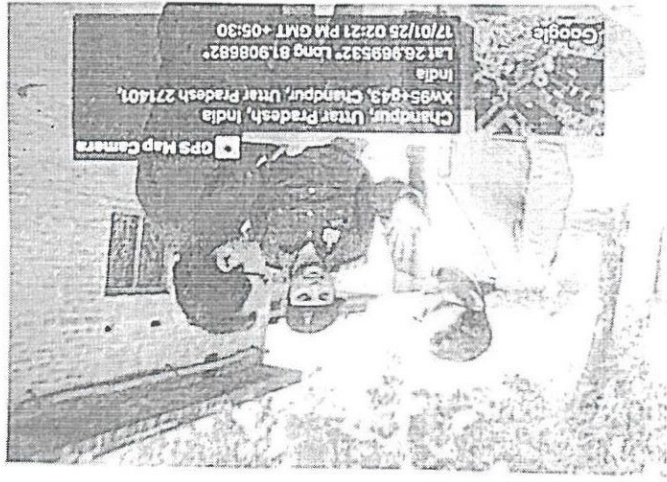
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सहायक पदावस्था अभियंता, क्षेत्रीय अधिकारी, उ0य0 प्रदूषण नियंत्रण बोर्ड, उ0य0 प्रदूषण नियंत्रण बोर्ड, तरबंगल, गौड, अयोध्या
 उप निताधिकारी, क्षेत्रीय अधिकारी, उ0य0 प्रदूषण नियंत्रण बोर्ड, तरबंगल, गौड, अयोध्या
 उप निताधिकारी, क्षेत्रीय अधिकारी, उ0य0 प्रदूषण नियंत्रण बोर्ड, तरबंगल, गौड, अयोध्या

उपरोक्त निरीक्षण आख्या आपके अवलोकनार्थ एवं अभिमान आग्रहयक कार्यावाही हेतु सादर प्रस्तुत है।

का कोई मुआवजा अनुमन्य नहीं होगा।
 Firecreackers बनाने का कार्य किया जा रहा था, जिस कारण उक्त कार्य में खिले लगे/परिजनों को किसी प्रकार
 है। अगल कराना है कि उपरोक्त गलत लगे/परिजनों द्वारा उक्त स्थल पर अवैध रूप से बिना कोई लाइसेंस प्राप्त कि
 पर दिनांक 07.10.2024 को हुई घटना के संदर्भ में जिला प्रशासन/पुलिस प्रशासन द्वारा अग्रत कार्यावाही की जा रही
 (कार्यकर्ता) को बनाने/उपदान हेतु राज्य प्रदूषण नियंत्रण बोर्ड से सहमति प्राप्त नहीं की गयी थी। प्रस्ताव स्थल
 क्षेत्रीय कार्यालय, उ0य0 प्रदूषण नियंत्रण बोर्ड, अयोध्या के कार्यालय अभिलेखानुसार प्रस्ताव स्थल पर पटखी

विस्फोटक पदार्थ के निर्माण का कार्य होता हुआ पाया गया।
 निर्मित/मण्डित पटखी को निष्पत्त्य/नष्ट कर दिया गया था। निरीक्षण के दौरान उक्त स्थल पर किसी प्रकार के
 द्वारा यह भी अगल करया गया कि उक्त घटना के पश्चात जिला प्रशासन/पुलिस प्रशासन द्वारा प्रस्ताव स्थल पर
 03. अयाल मोहम्मद उर्फ रूफान पत्र ख0 दोस्त मोहम्मद की इलाज के दौरान मृत्यु हो गयी थी। स्थानीय निवासियों
 से बायल ही गये थे, जिसमें से 03 लोग 01. अयूब उर्फ लाल पुत्र नख्त 02. आकाश उर्फ छोट पुत्र ख0 अमरनाथ
 दीपहर नाममा 12:00 बजे से 01:00 बजे के मध्य हुई थी, जिसमें मौके पर उपरोक्त गलत सभी 05 लोग गम्भीर रूप
 कार्य किया जा रहा था, जो 4-5 दिन पूर्व ही प्रारंभ किया गया था। उक्त स्थल पर पटखी के विस्फोट की घटना
 तहसील- तरबंगल, जनपद- गौड के संदर्भ में घटना दिनांक 07.10.2024 को पटखी (कार्यकर्ता) बनाने का
 मोहम्मद 04. इशहाक पुत्र नख्त एवं 05. केसा कुमार पुत्र खलील समस्त निवासीगण ग्राम- बेलसर डीहा, ग्रामा व
 उर्फ लाल पुत्र नख्त द्वारा 02. आकाश उर्फ छोट पुत्र ख0 अमरनाथ 03. अयाल मोहम्मद उर्फ रूफान पत्र ख0 दोस्त
 फाख के खाली पडे अधिनित मकान में अयूब पुत्र नख्त जिसका घर फाख के घर से सटा हुआ है, में 01. अयूब
 अगल करया गया कि प्रस्ताव स्थल ग्राम-बेलसर, रंगगल बाजार, तहसील-तरबंगल, जनपद-गौड में स्थित
 तपस्यात इंद्रीष पठान का प्लॉट एवं दक्षिण दिशा में लागू स्थित है। मौके पर उपस्थित स्थानीय निवासियों द्वारा
 पठान का प्लॉट तपस्यात कृषि योग्य भूमि पहिचम दिशा में सटा हुआ नख्त का घर, उत्तर दिशा में सांखनिक मार्ग
 निरीक्षण के दौरान मौके पर उपस्थित स्थानीय निवासियों के अनुसार प्रस्ताव स्थल के पूरे दिशा में इंद्रीष



BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.
Original Application No.1237/2024

News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024.

Date of hearing:06-02-2025

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

विपक्षीगण की ओर से अभिकथन(Instructions)।

महोदय,

प्रार्थी/उत्तरदाता मा० न्यायालय के समक्ष निम्न प्रकार प्रस्तरवार अभिकथन करते हुए विनयी है:-

प्रस्तर-1 समाचार पत्र टाइम्स आफ इण्डिया में दिनांक 07.10.2024 को प्रकाशित समाचार पत्र के आधार पर प्रमुख प्रार्थना-पत्र पंजीकृत हुआ है (02 मरे, 03 घायल)। प्रकरण में विस्फोटक पदार्थ से मृत्यु होना दर्शित किया गया है।

प्रस्तर-2 इस प्रस्तर के संबंध में कथन करना है कि मु०अ०सं०-446/2024 धारा-3/4/5 विस्फोटक पदार्थ अधिनियम 1908 व 3(5)105/110 बी०एन०एस०, थाना-तरबगंज, जनपद-गोण्डा में दिनांक 07.10.2024 को पंजीकृत हुआ था। उक्त प्रथम सूचना रिपोर्ट में उल्लिखित है कि "दिनांक 07.10.2024 को दिन में समय लगभग 12:30 बजे बेलसर गांव, चौकी-रगड़गंज में विस्फोटक होने एवं व्यक्तियों के घायल होने के संबंध में सूचना पाकर मैं उ०नि० तत्काल रवाना होकर मौके पर बेलसर गांव पहुंचा, जहां पर इशहाक पुत्र नख्खू निवासी बेलसर गांव थाना-तरबगंज, जनपद-गोण्डा के घर के बगल में स्थित फारूख के प्लाट, जिसमें 02 कमरे बने हैं, के सामने ग्रामवासियों की काफी भीड़ एकत्रित है। फारूख के प्लाट के अन्दर खाली स्थान पर 03 व्यक्ति घायलावस्था में पड़े हुए थे और 02 व्यक्ति घायल अवस्था में बाहर बैठे थे। मौके पर चारों तरफ बारूद की गंध फैली थी व बारूद के अवशेष व खून चारों तरफ फैला है। मौके पर मौजूद पुलिस बल व जनता के व्यक्तियों की मदद से तत्काल एम्बुलेंस व निजी साधन बुलाकर घायल व्यक्तियों 1-इशहाक पुत्र नख्खू 2-अयूब उर्फ लल्लू पुत्र नख्खू 3-आकाश उर्फ छोटू पुत्र स्व० अमरनाथ 4-कृष्ण कुमार पुत्र छबीले 5-अयाज मोहम्मद उर्फ तूफान पुत्र स्व० दोस्त मोहम्मद समस्त निवासीगण बेलसर डीहा, थाना-तरबगंज, जनपद-गोण्डा को चिकित्सीय उपचार हेतु सी०एच०सी० बेलसर भिजवाया गया। सूचना पाकर मौके पर चौकी प्रभारी रगड़गंज, उ०नि० श्री सुनील कुमार तिवारी, प्र०नि० तरबगंज महोदय व अन्य उच्चाधिकारीगण व पुलिस बल मौके पर मौजूद है। घटना के बारे में जानकारी करने पर मौके पर मौजूद तमाम लोगों ने बताया कि उपरोक्त इशहाक, अयूब उर्फ लल्लू, आकाश उर्फ छोटू, कृष्ण कुमार व अयाज मोहम्मद उर्फ तूफान कुछ अन्य लोगों के साथ मिलकर चोरी छिपे बाहर से ताला लगाकर पीछे के रास्ते से आकर पीछे फाटक बन्द करके अवैध रूप से विस्फोटक पटाखों का निर्माण कर

क्रमशः2/-पर



(2)

रहे थे, उसी दौरान विस्फोटक होने से सभी घायल हो गये हैं व आजाद पुत्र अरशद निवासी बेलसर थाना तरबगंज गोण्डा व कुछ अन्य लोग भी इसमें शामिल हैं और मौके से फरार हो गये हैं। घटनास्थल के निरीक्षण हेतु फील्ड यूनिट गोण्डा व बी0डी0डी0एस0 टीम को द्वारा उचित माध्यम सूचना दी गयी। प्रकरण में दो व्यक्तियों की मृत्यु (आयाज मोहम्मद उर्फ तूफान व अयूब उर्फ लल्लू) तथा 03 घायल थे। इलाज के दौरान मृतकों की संख्या-03 हो गयी। आयाज मोहम्मद उर्फ तूफान, अयूब उर्फ लल्लू व आकाश उर्फ छोटू की दौरान इलाज मृत्यु हो चुकी है। दो अभियुक्तों इशहाक व कृष्ण कुमार का इलाज चल रहा है, तथा प्रकाश में आये अभियुक्त फारूख पुत्र मो0 बख्श के विरुद्ध विवेचना प्रचलित है।

- प्रस्तर-3 इस प्रस्तर का कथन "the Public Liability Insurance Act, 1991 and Environment(Protection) Act, 1986." में दी गयी विधि व्यवस्था से संबंधित है। अतः किसी टिप्पणी की आवश्यकता नहीं है।
- प्रस्तर-4 इस प्रस्तर का कथन "Municipal Corporation of Greater Mumbai vs. Ankita Sinha&Ors." reported in 2021 SCC Online SC 897. में दी गयी विधि व्यवस्था से संबंधित है। अतः किसी टिप्पणी की आवश्यकता नहीं है।
- प्रस्तर-5 इस प्रस्तर का कथन प्रत्युत्तरदाताओं से संबंधित है।
अभिकथन आख्या सादर सेवा में प्रेषित है।

6
20/1/25
प्रभारी अधिकारी शस्त्र/नगर मजिस्ट्रेट,
गोण्डा।

102
जिला मजिस्ट्रेट
गोण्डा।



प्रस्तरवार कलकत्ता तथ्यों के
आधार पर लेखन की गयी है।

SP.O.
20-1-2025

सौष्ठव अभियोजन अधिकारी
गोण्डा

102

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

FIRST INFORMATION REPORT

(Under Section 173 B.N.S.S)

प्रथम सूचना रिपोर्ट
(धारा 173 बी एन एस एस के तहत)

1. District/Unit (जिला/इकाई): गोंडा

P.S. (थाना): तरबगंज

Year (वर्ष): 2024

FIR No.(प्र.सू.रि. सं.): 0446

Date & Time of FIR(प्र.सू.रि. की दिनांक/समय): 07/10/2024 15:47

2. S.No. (क्र.सं.)	Acts (अधिनियम)	Sections (धारा(एँ))
1	विस्फोटक पदार्थ अधिनियम, 1908	3
2	विस्फोटक पदार्थ अधिनियम, 1908	4
3	विस्फोटक पदार्थ अधिनियम, 1908	5

3.(a) Occurrence of offence (अपराध की घटना) :

1. Day सोमवार
(दिन):

Date From 07/10/2024
(दिनांक से):

Date To 07/10/2024
(दिनांक तक):

Time Period पहर 4
(समय अवधि):

Time From 12:30 बजे
(समय से):

Time To 12:30
(समय तक): बजे



PR

(b) Information received at P.S. (थाना जहाँ सूचना प्राप्त हुई):

Date 07/10/2024 Time (समय): 15:47 बजे
(दिनांक):

(c) General Diary Reference (रोजनामचा संदर्भ):

Entry No. 058 Date & Time 07/10/2024 15:47 बजे
(प्रविष्टि सं.): (दिनांक और समय):

4. Type of Information (सूचना का प्रकार): लिखित

5. Place of Occurrence (घटनास्थल):

Direction and distance from P.S. पश्चिम, 10 Beat No.
1. (a) (थाना से दूरी और दिशा): किमी (बीट सं.):
(b) Address फारूख का प्लाट, बहद ग्राम बेलसर गांव
(पता):(c) In case, outside the limit of this Police Station, then
(यदि थाना सीमा के बाहर है तो):Name of P.S. District(State)
(थाना का नाम): (ज़िला (राज्य)):

ec

6. Complainant / Informant (शिकायतकर्ता/सूचनाकर्ता):

(a) Name (नाम): उ०नि० श्री सुभाष विश्वकर्मा पी०एन०ओ० 960740318

(b) Father's/Husband's Name (पिता / पति का

(c) Date/Year of Birth (जन्म तिथि / वर्ष): 15/02/1974

(d) Nationality (राष्ट्रीयता): भारत

(e) UID No. (यूआईडी सं.):

(f) Passport No. (पासपोर्ट सं.):

Date of Issue (जारी करने की तिथि):

Place of Issue (जारी करने का स्थान):

(g) Id details (Ration Card, Voter ID Card, Passport, UID No., Driving License, PAN)

S.No.(क्र.सं.)	Id Type (पहचान पत्र का प्रकार)	Id Number (पहचान संख्या)
1		

(h) Address (पता):

S.No. (क्र.सं.)	Address Type (पता का प्रकार)	Address (पता)
1	वर्तमान पता	थाना तरबगंज, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
2	स्थायी पता	थाना तरबगंज, तरबगंज, गोंडा, उत्तर प्रदेश, भारत

(i) Occupation (व्यवसाय):

(j) Phone number (दूरभाष सं.):

Mobile (मोबाइल सं.): 91-9919821797

7. Details of known/suspected/unknown accused with full particulars

(ज्ञात / संदिग्ध / अज्ञात अभियुक्त का पूरे विवरण सहित वर्णन):

Accused More Than (अज्ञात आरोपी एक से अधिक हों तो संख्या):



N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

S.No. (क्र.सं.)	Name (नाम)	Alias (उपनाम)	Relative's Name (रिश्तेदार का नाग)	Present Address (वर्तमान पता)
1	इशहाक		पिता का नाम : नकखू	1. बेलसर डीहा, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
2	अयूब उर्फ लल्लू		पिता का नाम : नकखू	1. बेलसर डीहा, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
3	आकाश उर्फ छोटू		पिता का नाम : स्व0 अमरनाथ	1. बेलसर डीहा, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
4	कृष्ण कुमार		पिता का नाम : छबीले	1. बेलसर डीहा, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
5	अयाज मोहम्मद उर्फ तूफान		पिता का नाम : स्व0 दोस्त मोहम्मद	1. बेलसर डीहा, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
6	आजाद		पिता का नाम : अरशद	1. बेलसर, तरबगंज, गोंडा, उत्तर प्रदेश, भारत
7	कुछ अन्य लोग			1. अज्ञात, अज्ञात

8. Reasons for delay in reporting by the complainant/informant
(शिकायतकर्ता / सूचनाकर्ता द्वारा रिपोर्ट देरी से दर्ज कराने के कारण):

9. Particulars of properties of interest (संबन्धित सम्पत्ति का विवरण):

S.No. (क्र.सं.)	Property Category (संपत्ति श्रेणी)	Property Type (सम्पत्ति का प्रकार)	Description (विवरण)	Value (In Rs/-) (मूल्य (रु में))
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10. Total value of property (In Rs/-)-सम्पत्ति का कुल मूल्य(रु

11. Inquest Report / U.D. case No., if any (मृत्यु समीक्षा रिपोर्ट / यू.डी. प्रकरण सं., यदि कोई हो.):

S.No. UIDB Number

12. First Information contents (प्रथम सूचना तथ्य):

नकल तहरीर हिन्दी वादी.....सेवा में, श्रीमान प्रभारी निरीक्षक थाना तरबगंज गोण्डा महोदय, कृपया अवगत कराना है आज दिनांक 07.10.2024 को दिन में समय लगभग 12.30 बजे बेलसर गांव चौकी रगड़गंज में एक घर में विस्फोट होने एवं व्यक्तियों के घायल होने के सम्बन्ध में सूचना पाकर मैं 30नि0 तत्काल रवाना होकर मौके पर बेलसर गांव पहुँचा जहाँ पर इशहाक पुत्र नकखू निवासी बेलसर गांव थाना तरबगंज जनपद गोण्डा के घर

के बगल में स्थित फारूख के प्लाट जिसमें 02 कमरे बने हैं के सामने ग्रामवासियों की काफी भीड़ एकत्रित है। फारूख के प्लाट के अन्दर खाली स्थान पर 03 व्यक्ति घायलावस्था में पड़े हुए थे और 02 व्यक्ति घायल अवस्था में बाहर बैठे थे। मौके पर चारों तरफ बारूद की गंध फैली थी व बारूद के अवशेष व खून चारों तरफ फैला है मौके पर मौजूद पुलिस बल व जनता के व्यक्तियों की मदद से तत्काल एम्बुलेंस व निजी साधन बुलाकर घायल व्यक्तियों 1.इशहाक पुत्र नक्खू 2.अयूब उर्फ लल्लू पुत्र नक्खू 3.आकाश उर्फ छोटू पुत्र स्व0 अमरनाथ 4.कृष्ण कुमार पुत्र छबीले 5. अयाज मोहम्मद उर्फ तूफान पुत्र स्व0 दोस्त मोहम्मद समस्त निवासीगण बेलसर डीहा थाना तरबगंज जनपद गोण्डा को चिकित्सीय उपचार हेतु सी0एच0सी0 बेलसर भिजवाया गया। सूचना पाकर मौके पर चौकी प्रभारी रगड़गंज उ0नि0 श्री सुनील कुमार तिवारी, प्र0नि0 तरबगंज महोदय व अन्य उच्चाधिकारीगण व पुलिस बल मौके पर मौजूद है। घटना के बारे में जानकारी करने पर मौके पर मौजूद तमाम लोगों ने बताया कि उपरोक्त इशहाक, अयूब उर्फ लल्लू, आकाश उर्फ छोटू, कृष्ण कुमार व अयाज मोहम्मद उर्फ तूफान कुछ अन्य लोगों के साथ मिलकर चोरी छिपे बाहर से ताला लगाकर पीछे के रास्ते से आकर पीछे का फाटक बन्द करके अवैध रूप से विस्फोटक पटाखों का निर्माण कर रहे थे उसी दौरान विस्फोट होने से सभी घायल हो गये हैं व आजाद पुत्र अरशद निवासी बेलसर थाना तरबगंज गोण्डा व कुछ अन्य लोग भी इसमें शामिल हैं और मौके से फरार हो गये हैं। घटनास्थल के निरीक्षण हेतु फील्ड यूनिट गोण्डा व बी0डी0डी0एस0 टीम को द्वारा उचित माध्यम सूचना दी गयी। अतः अनुरोध है कि उपरोक्त घटना की प्रथम सूचना रिपोर्ट अंकित करने की कृपा करें। हस्ताक्षर अंग्रेजी अपठनीय 07.10.24 (सुभाष विश्वकर्मा) उ0नि0 थाना तरबगंज जनपद गोण्डा नोट मै कां0मु0 बृजेश चतुर्वेदी पी0एन0ओ0 152310529 प्रमाणित करता हूँ कि तहरीर की नकल व कायमी मुद्दा का0मु0 द्वारा सीसीटीएनएस पर मौजूद का0 प्रवीण कुमार से अक्षरशः टाइप कराया गया है सिवाय तकनीकी त्रुटि के।



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N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

13. Action taken: Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2.

(की गयी कार्यवाही : चूंकि उपरोक्त जानकारी से पता चलता है कि अपराध करने का तरीका मद सं. 2 में उल्लेख धारा के तहत है)

(1) Registered the case and took up the investigation: (प्रकरण दर्ज किया गया और जांच के लिए लिया गया) or (या)

(2) Directed (Name of I.O.) UPENDRA YADAV Rank SI (Sub-Inspector) (जांच अधिकारी का नाम): (पद):

No. 152170851 to take up the Investigation (सं.): (को जांच अपने पास में लेने के लिए निर्देश दिया गया) or (या)

(3) Refused investigation due to (जांच के लिए):

or (के कारण इंकार किया या)

(4) Transferred to P.S. District (थाना): (ज़िला): on point of jurisdiction (को क्षेत्राधिकार के कारण हस्तांतरित) .

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant / informant free of cost. (शिकायतकर्ता / सूचनाकर्ता को प्राथमिकी पढ़ कर सुनाई गयी, सही दर्ज हुई माना और एक कॉपी निशुल्क शिकायतकर्ता को दी गयी)

R.O.A.C.(आर. ओ .ए .सी.)



10/2

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

14 Signature/Thumb impression of the
complainant / informant. (शिकायतकर्ता /
सूचनाकर्ता के हस्ताक्षर / अंगूठे का निशान):

15 Date and time of dispatch to the court
(अदालत में प्रेषण की दिनांक और समय):

Signature of Officer in charge,
Police Station

(थाना प्रभारी के हस्ताक्षर)

Name PS TARABGANJ

Rank I (Inspector)

No. 9454403496



Attachment to item 7 of First Information Report

(प्रथम सूचना रिपोर्ट के मद 7 संलग्नक):

Physical features, deformities and other details of the suspect/accused:

(If known / seen)

(संदिग्ध / अभियुक्त की शारीरिक विशेषताएँ, विकृतियाँ और अन्य विवरण :

(यदि ज्ञात / देखा गया))

S.No.(क्र.सं.)	Sex (लिंग)	Date/Year of Birth (जन्म तिथि / वर्ष)	Build (बनावट)	Height (cms.) (कद (से.मी.))	Complexion (रंग)	Identification Mark (s) (पहचान चिन्ह)
1	2	3	4	5	6	7
1	पुरुष					



पुरुष

पुरुष

N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

4	पुरुष					
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5	पुरुष					
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6	पुरुष					
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7	अज्ञात					
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N.C.R.B (एन.सी.आर.बी)
I.I.F.-I (एकीकृत जाँच फार्म -I)

These fields will be entered only if complainant/informant gives any one or more particulars about the suspect/accused.

(यह क्षेत्र तभी दर्ज किए जाएंगे यदि शिकायतकर्ता / सूचनाकर्ता संदिग्ध / अभियुक्त के बारे में कोई एक या उससे अधिक जानकारी देता है।)



Original Application No. 1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024

From : advpriyankaswami@gmail.com

Mon, Dec 23, 2024 04:13 PM

Subject : Original Application No. 1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024

2 attachments

To : DM Gonda <dmgon@nic.in>, CHIEF SECRETARY OFFICE GOVT OF UP <csup@nic.in>

SIR,

That the undersigned in the above-captioned matter was pleased to take notice on behalf of the State of Uttar Pradesh. in compliance with the order dated 26.09.2024

Therefore you are requested to disseminate any Specific instructions regarding this matter.

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI

Original Application No. 1237/2024 News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024

the matter was listed today in court no.1 , Date of hearing: 16.10.2024 next date of the same is 06.02.2025.

Find my appointment in the attachment and have a concerned officer with the instruction sent to my office

--
Priyanka Swami
Advocate
STATE OF U.P SENIOR PANEL, SUPREME COURT OF INDIA
CENTRAL GOVERNMENT SENIOR PANEL FOR C.A.T
STANDING COUNSEL OF STATE OF UTTAR PRADESH FOR N.G.T
F-13, GROUND FLOOR, JANGPURA EXTENTION, NEW DELHI-110014
RESI-CUM-OFFICE: CHAMBER NO. 4, SHIVALIK TOWERS, KAUSHAMBI, GHAZIABAD-201010
Mob.- 011-40158315,8800656660, E-mail: advpriyankaswami@gmail.com



ORDER 1237 2024.pdf
115 KB

NODAL MAAM.pdf
379 KB

Handwritten notes and signatures: ADM, 5802, Jmp, प्रोड्यूसियुएल, जिलाधिकारी गोण्डा 23/12/24, 24/12/24, and other illegible signatures.

Item No.07

Court No. 1

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

Original Application No. 1237/2024

News Item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024

Date of hearing: 16.10.2024

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

Applicant: None
Respondent: None

ORDER

1. This original application is registered *suo-motu* on the basis of the news item titled "Two Killed 3 injured in firecracker explosion in Gonda" appearing in the Times of India dated 07.10.2024

2. The news item relates to an explosion at a firecracker factory in Gonda, Uttar Pradesh resulting in the death of two people, and three others getting injured. As per the news item, a group of people were illegally making firecrackers at an abandoned and dilapidated house in Belasar village when the explosion took place.

3. The news item raises substantial issues relating to compliance of provisions of the Public Liability Insurance Act, 1991 and Environment (Protection) Act, 1986.

4. The power of the Tribunal to take up the matter *suo-motu* has been recognized by the Hon'ble Supreme Court in the matter of "*Municipal Corporation of Greater Mumbai vs. Ankita Sinha &Ors.*" reported in 2021 SCC Online SC 897.

Dr

Item No. 01

Court No. 1

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

(By Hybrid Mode)

Original Application No. 44/2021

In re: News item published in The News Indian Express dated 12.02.2021 titled **“At least 19 dead in Virudhunagar firecracker factory blast, more than 30 injured”**

Date of hearing: 16.05.2023

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. P. Wilson, Senior Advocate with Mr. D. Kumanan, Advocate for the State of Tamil Nadu

ORDER

1. Issue involved in this matter is remedial action against violation of environmental norms in operation of firecracker factories in Virudhunagar, Tamil Nadu, resulting in an incident on 12.02.2021 wherein 19 persons died and 30 were injured.

2. The Tribunal considered the matter first on 16.2.2021 and **while issuing notice to the concerned parties, including the State of Tamilnadu and the District Magistrate**, found that it was necessary to ascertain the status of compliance of the safety norms under Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (“the 1989 Rules”) and Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 (The 1996 Rules), relief to the victims, restoration of environment and precautions to prevent recurrence in future. Accordingly, eight - member Committee headed by Justice K. Kannan - former Judge of Punjab & Haryana and Madras High Courts with statutory

regulators of State and Centre and other experts was constituted to visit the site, ascertain the cause of incident, extent of damage and remedial measures required. The Tribunal noted other recent similar incidents, resulting in deaths and injuries on account of failure to follow safety norms in conducting industrial activities. Relevant observation in the said order quoted below:-

“1.....xxx.....xxx.....xxx

2. Above information gives rise to a substantial question of environment relating to compliance of the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (“the 1989 Rules”) and Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 (The 1996 Rules), which have been framed under the Environment (Protection) Act, 1986 (EP Act), falling in schedule to the NGT Act, 2010.

3. It is thus necessary to determine the above question and if necessary, award relief under Section 15 of the NGT Act to the victims and for restoration of the environment after determining the liability of the persons engaged in such activity as well as role of the statutory regulators in failing to prevent the same. Further question is preventive measures to avoid recurrence of such incidents in future in such activities.

4. **Accordingly, we issue notice to the State of Tamil Nadu, Central Pollution Control Board (CPCB), State Pollution Control Board (State PCB), District Magistrate, Virudhunagar and Sree Mariyammal Fireworks-factory.** Notice may be served by e-mail and response, if any be filed before the next date 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.

5. **To secure credible facts, we constitute following eight-member Committee:**

- (i) **Justice K. Kannan - Former Judge of Punjab & Haryana, and Madras High Courts, presently at Chennai - Chairman**
- (ii) Representative of MoEF&CC – Member
- (iii) Representative of CPCB – Member
- (iv) Representative of State Disaster Management Authority - Member
- (v) Head of the Chemical Engineering Department of the IIT Chennai - Member
- (vi) Nominee of Chief Control of Explosives, Nagpur - Member
- (vii) Nominee of Petroleum and Explosives Safety Organization (PESO), Delhi – Member
- (vii) Chief Inspector of Factories, Tamil Nadu - Member

The District magistrate, Virudhunagar and Regional Office, State PCB may provide logistic support to the Committee

to enable their fact-finding and reporting. State PCB will bear the initial cost of functioning of the Committee, including the honorarium to the non-official members to be determined in consultation with them. The Committee will be at liberty to take assistance of such experts, individuals and institutions as may be considered necessary. The State PCB and the CPCB will jointly act as nodal agency for coordination and compliance.

6. *The Committee (or such members as the Chairman may decide depending on availability) may visit the site preferably within one week and give its report within one month 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. The Committee may specifically report:*

- a. *The sequence of events;*
- b. *Causes of failure and persons and authorities responsible therefor;*
- c. *Status of onsite and offsite plans, mock drills and safety SoPs;*
- d. *Extent of damage to life, human and non-human; public health; and environment – including, water, soil, air;*
- e. *Steps to be taken for compensation of victims and restitution of the damaged property and environment, and the cost involved;*
- f. *Remedial measures to prevent recurrence;*
- g. *Any other incidental or allied issues found relevant.*

7. *Except for visit to the site at least once, the Committee will be free to conduct its proceedings online. It will be free to take the assistance from any other expert/organization. The Committee may suitably interact with the stakeholders and, apart from considering the present incident, also consider remedial measures for preventing such incident in the area or by other establishments even beyond the said area. The Committee may compile information about existence and working of onsite and offsite plans in terms of 1989 Rules and conducting of mock drills and safety SOPs., number of such units in the area and the carrying capacity of the area to sustain the same, whether siting criteria for such establishments needs to be reviewed having regard to the habitation or other establishments in the vicinity.*

8. *Since in the recent past, the Tribunal has dealt with similar issues of industrial accidents resulting in deaths and injuries¹ and*

¹

- i. Order dated 01.06.2020, relating to incident of gas leak dated 07.05.2020 in **LG Polymers India Pvt. Limited** at Vishakhapatnam, resulting in death of 11 persons and injuries to more than 100, apart from other damage (OA No. 73/2020, In re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village Visakhapatnam in Andhra Pradesh);
- ii. Order dated 03.02.2021, relating to incident dated 03.06.2020 in a chemical factory, **Yashyashvi Rasayan Pvt. Ltd.** at Dahej, District Bharuch, Gujarat resulting in deaths and injuries and other damage (OA No. 85/2020) (Earlier OA 22/2020) (WZ), Aryavart Foundation through its President vs. Yashyashvi Rasayan Pvt. Ltd. & Anr.);
- iii. Order dated 06.08.2020, in relation to incident of **oil well blow out on 27.05.2020 at Baghjan in the Tinsukia District of Assam** resulting in deaths, injuries and damage to the environment (OA No. 43/2020(EZ), Bonani Kakkar vs. Oil India Limited & Ors.).

Expert Committees in some of such accidents have given reports to this Tribunal, such reports may also be taken into account by the Committee to the extent relevant.”

3. The matter was then dealt with vide order dated 11.06.2021. **The Tribunal noted that though notice was issued to the State of Tamilnadu, District Magistrate, Virudhnagar, TN PCB, CPCB and Sree Mariyammal Fireworks-factory, they chose not to appear even though they interacted with the Committee appointed by the Tribunal.**

Observations of the Tribunal are:

“4. In spite of notice to the State of Tamilnadu, District Magistrate, Virudhnagar, TN PCB, CPCB and Sree Mariyammal Fireworks-factory and interaction by the eight-member Committee with concerned stake holders, none has entered appearance. We have thus to proceed further in the matter based on the factual situation depicted in the report. There is no reason not to accept the observations on factual aspects by

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- iv. Orders dated 06.07.2020 and 22.12.2020, relating to incident dated 30.06.2020 on account of gas leakage at **Sainor Life Sciences** factory at Parawada in industrial area on the outskirts of Vishakhapatnam (OA No. 106/2020, News item published in the local daily “Economic Times” dated 30.06.2020 titled “Another Gas Leakage at Vizag Factory kills two, critically injures four...”);
 - v. Orders dated 08.07.2020 and 22.12.2020, dealing with the incident dated 01.07.2020 resulting in death of 6 person and injury to 17 due to blast of boiler in **M/s Neyveli Thermal Power Station** (NLCIL), Cuddalore (OA No. 108/2020, News item published in the “Indian Express” dated 01.07.2020 titled “Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured”) and;
 - vi. Orders dated 23.07.2020 and 22.12.2020, in relation to incident of **fire engulfed the chemical plant of Visakha Solvents Ltd**, Vizag on 13.07.2020 at Ramky CETP Solvents building in Pharma City resulting in injuries (OA No. 134/2020, News item published on 13.07.2020 in the local daily named “India Today” titled “Massive fire engulf Vizag chemical plant, explosions heard, injuries reported”).
 - vii. Order **dated 18.12.2020**, in relation to incident of **explosion in a plastic recycling factory at Sujapur in Malda on 1.12.2020** resulting in death of six persons, including two minors and serious injuries to four persons (OA No. 272/2020, News item published in the “Times of India” dated 20.11.2020 entitled “Six killed as blast tears through Malda Plastic recycling factory”).
 - viii. Order dated **18.12.2020**, in relation to incident of **methane gas leak in a sugar factory** called Lokenete Bapurao Patil Agro Industries Ltd. in Mohol Taluka of Solapur District, Maharashtra on 21.11.2020 resulting in deaths and injuries and other damage (OA No. 274/2020, News item published in the “Indian Express” dated 23.11.2020 entitled “Maharashtra: Two Killed, eight injured in methane gas leak in sugar factory”).
 - ix. Order dated 08.01.2021, in relation **to Gas Leak in Agro Company** (O.A No. 107/2020, In RE: News item published in the local daily “Indian Express Sunday Express” dated 28.06.2020 titled “Gas Leak in Agro Company Claims life of one”)
 - x. Order dated 18.01.2021, in relation to News item published in Navbharat Times dated 24.12.2020 titled **“Gas leaks in IFFCO Plant, 2 Officers dead”** (O.A No. 04/2020, In re : News item published in Navbharat Times dated 24.12.2020 titled “Gas leaks in IFFCO Plant, 2 Officers dead”)
 - xi. Order dated **11.02.2021**, in relation to accident of **toxic gas leak in Rourkela Steel Plant in Orissa**” (O.A. No. 09/2021, In re: News item published in The Indian Express dated 07.01.2021 titled “Four workers dead due to toxic gas leak in Rourkela Steel Plant”)

the independent credible Committee appointed by the Tribunal.”

4. Concluding part of the order is as follows:

“Quantum of compensation

9. From the report, it is clear that 27 persons have died and 26 injured on account of fire incidents which were result of unscientific handling of hazardous chemicals in violation of law. We also find that scale of compensation based on restitution principle needs to be awarded. Procedure of this Tribunal is summary and akin to public law remedy. Compensation can be assessed on reasonable basis guided by restitution principle atleast at floor level, leaving other remedies of the victims open. Thus, broadly agreeing with the Committee, we direct that the scale of compensation should be Rs.20 lakhs in respect of each of the deceased victims and Rs.15 lakhs to persons who have burns in excess of 50% and Rs.10 lakhs for persons who have burns from 25 to 50% and Rs.5 lakhs for persons who have injuries between 5 to 25%. Victims who were treated as outpatients and who had but minor degree of burns or other forms of simple injuries shall be paid Rs.2 lakhs.

10. Accordingly, we hold that **the compensation assessed has to be paid by the State of Tamilnadu through the District Magistrate, Virudhunagar. Compliance will be responsibility of the Chief Secretary. Payment be ensured within one month from today. Ex gratia amount already paid may be deducted. We request the TN State Legal Services authority to provide legal aid to ensure that payment is made to genuine heirs of the deceased and to the injured without undue hassle.**

Remedial Measures

11. Apart from requirement of compensating the victims, the issue remains how such incidents are to be prevented and if such incident happens what steps are to be taken to prevent loss of lives and health. There is need for review of the matter at highest level in the State to consider the remedial steps. Hazardous activities need to regulated in terms of quantity of material to be used in the process of hazardous activities, number of persons to be allowed to work and safeguards to be followed and monitoring compliance of such safeguards.

In a recent order dated 3.2.2021 in OA 85/2020, Aryavrat Foundation vs. Yashyashwi Rasayan Pvt Ltd, the Tribunal observed:

“We note that in the recent past the Tribunal has come across the number of incidents of leakage of gases and handling of hazardous chemicals. On investigation, this Tribunal has found that most of the accidents are result of non-compliance of laid down safety norms under the 1989 Rules and the Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 [1996 Rules]. There is, thus, need for the establishments handling

hazardous chemicals to strictly follow the laid down norms, which need to be overseen by the statutory regulators...

In view of frequent accidents resulting in deaths and injuries, the Chief Secretaries of all the States/UTs may evolve a mechanism to ensure that the companies dealing with hazardous substance must forthwith pay compensation for deaths and injuries to the victims at least as per Workmen Compensation Act, 1923 wherever applicable or the principle of restitution laid down in Sarla Verma (supra), National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680 to the victims either directly or through the District Magistrate.

Conduct of safety audits of all establishments having potential for such accidents may be ensured. All States/UTs may also ensure availability of healthcare facilities in the vicinity of such establishments. PCB and DM must assess cost of restoration of environment which should be recovered from company and spent on such restoration. The States and UTs in accordance with 1989 and 1996 Rules need to step up vigilance, surveillance and monitoring to avert such accidents. Preparedness to meet such eventualities be ensured. Regular mock drills may be ensured in respect of onsite and offsite emergency plans. We may also refer to the directions issued by this Tribunal to the MoEF&CC and all the States/UTs on the subject of strengthening regulatory and oversight measures, vide order dated 01.02.2021 in OA 837/2018, Sandeep Mittal vs. Ministry of Environment, Forests & Climate Change & Ors.”

12. The Committee has suggested measures in a tabular form indicating the authorities who have to adopt such measures. We are in broad agreement with the said suggestions.

13. Apart from the measures suggested by the Committee, there is also need for a study of the carrying capacity of the area to sustain the extent of such activities having regard to the potential for accidental, occupational and environmental hazards. The study may include number of units to be allowed, size of operation of such units, quantity of material to be used, siting criteria for location of the units, arrangement for fire management and health services. **Let such study be conducted by the Director of Industrial Safety in coordination with the State PCB and CPCB within three months and report submitted to the Chief Secretary, Tamil Nadu for further action. The Committee may take the assistance of any other experts/individual.**

14. Further, there is need for review at highest level in the State. We direct the Chief Secretary, Tamilnadu to hold a meeting with all the concerned stake holders, as identified by the Committee in the table in the report quoted above, titled ‘Remedial Measures to Prevent Accidents’, within one month. **After necessary deliberations, appropriate remedial measures be identified to avoid recurrence of such incidents in future. The same may be implemented through the District Magistrate or any other appropriate authority as per law, which may be overseen by**

the Chief Secretary. The State PCB may incorporate appropriate conditions in consents including prohibiting use of banned chemicals, compliance of 1989 and 1996 Rules. Further, mechanism to ensure taking of insurance policies covering risk to life and health of all workers and others likely to be affected by fire or other accidents. Mechanism may provide monitoring of compliance and stopping activities of units not following laid down sops and regulations. Substance of this order and regulatory measures may be published in local area in vernacular language for information of local inhabitants to facilitate information and compliance.

Compliance

15. A report about compliance status of directions in this order be given by the Chief Secretary after four months 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.

16. We place on record our appreciation for the task executed by the Committee. CPCB may convey this observation to the members of the Committee. The report of the Committee may be placed on websites of the State PCB and the CPCB for purpose of reference for six months.

A copy of this order be forwarded to the Chief Secretary, Tamilnadu, CPCB, State PCB, Director of Industrial Safety, District Magistrate, Virudhunagar and Member Secretary TN State Legal Services Authority by e-mail for compliance.”

5. Against the said order, *Civil Appeal No(s). 423 of 2022, Tamil Nadu Fireworks and Amorges Manufacturers Association (TANFAMA) vs. State of Tamil Nadu & Ors.* was filed by TANFAMA with the grievance that it was affected party which was dealt with by the Hon'ble Supreme Court vide order dated 21.01.2022 with the observation that principles of natural justice required that Association of Fire Works Manufacturers is heard and fresh order is passed after hearing the said association. With the said order, Appeal filed by the State of Tamilnadu was also disposed of with the direction that in the interest of justice the appellants before the Hon'ble Supreme Court could appear before this Tribunal on 14.2.2022 to avail further opportunity in the matter as the Tribunal was directed to pass fresh order after hearing the parties. Order dated 21.01.2022 is reproduced below:

“Permission to file appeal(s) is granted.

Heard learned counsel for the parties, who had appeared pursuant to notice issued in the concerned appeals.

The appeals assail the decision of the National Green Tribunal, dated 11.06.2021 in Original Application No. 44/2021.

The primary question raised in the appeals about the jurisdiction of the National Green Tribunal to initiate suo motu proceedings stands concluded in terms of the decision of this Court in “Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors.” reported in 2021 SCC Online SC 897.

As has been mentioned in the said judgment, the Tribunal, even if were to initiate suo motu action, must put every person likely to be affected by its decision, to notice and give opportunity of hearing before passing final orders.

In the impugned judgment, it is noted that in spite of notice, the authorities and concerned parties did not enter appearance. In that sense, the matter proceeded ex parte against the concerned parties including the appellants.

Accordingly, in the interest of justice, we deem it appropriate to set aside the impugned judgment and order and relegate the parties before the National Green Tribunal for reconsideration of the entire matter afresh after giving opportunity to the concerned parties including the appellants, and to pass appropriate orders in accordance with law.

All contentions available to the parties are left open.

The parties appearing through learned counsel before this Court shall appear before the National Green Tribunal on 14.02.2022, on which date the Tribunal may proceed with the matter or assign a suitable date for hearing, as may be convenient to it.

The appeals and pending applications are disposed of accordingly.”

6. Accordingly, the Tribunal took up the matter for fresh consideration **but the State of Tamilnadu neither filed any response nor put in appearance inspite of opportunity granted by the Hon’ble Supreme Court.** Only TANFAMA appeared. The Tribunal after considering its stand passed fresh order dated 3.3.2022 in compliance of order of the Hon’ble Supreme Court dated 21.01.2022 as follows:

“6. We find the argument to be entirely untenable and the IA to be without any substance. TANFAMA is not directly affected by order of

*this Tribunal. It has no connection with the alleged violators against whom directions have been issued. It cannot be argued that violations of environmental safety norms, resulting in deaths and injuries are not actionable. As held by the Hon'ble Supreme Court in **M.C. Mehta v. UOI & Ors², a person undertaking hazardous activity for commercial gain is absolutely liable for any accident or loss.** No meaningful objection has been or can be raised against directions for preventing accidents in the process of hazardous activities, in the light of statutory rules on the subject. Learned counsel for TANFAMA lastly submitted that this Tribunal has no jurisdiction to deal with the issue of compensation to the victims when no damage has been caused to the environment even as per report submitted to this Tribunal. As shown by the report, even though the damage could not be assessed in terms of money, damage to the environment has been found, apart from violations of the statutory Rules under the EP Act. Issue could thus be certainly gone into by the Tribunal.*

7. Thus, even after hearing learned counsel for TANFAMA at length, following the directions of the Hon'ble Supreme Court, we do not find merit in the I.A. filed by the TANFAMA."

7. Against the order dated 3.3.2022, State of Tamil Nadu preferred Civil Appeal No. 2963 of 2022, *The State of Tamil Nadu v. The Registrar, National Green Tribunal* on the ground that the State had not been heard and order of Hon'ble Supreme Court dated 21.01.2022 had not been complied. The Hon'ble Supreme Court, vide order dated 18.04.2023, allowed the appeal and asked this Tribunal to reconsider the entire matter after adequate opportunity of hearing to all parties concerned including the State of Tamil Nadu. State of Tamil Nadu was required to appear before this Tribunal today. Operative part of the order is reproduced below:

“xxxxxx.....xxx
 15. On a perusal of the record, it would appear that the substantial part of directions aforesaid had been the same as were issued in the earlier order dated 11.06.2021. Be that as it may, grievance of the appellant-State of Tamil Nadu is that various findings have been recorded and directions of far reaching implications have been issued by the Tribunal but, without extending an opportunity of hearing to them.

16. It is but evident that this Court had passed the order dated 21.01.2022 in relation to two appeals where one was filed by the present appellant. This aspect seems to have escaped the

² (1987) 1 SCC 395

attention of the Tribunal altogether. As per the observations occurring in paragraph 3 of the impugned order, it appears that the Tribunal took note only of the appeal filed by TANFAMA in this Court, but not the other appeal bearing Civil Appeal No.6118 of 2021 filed by the present appellant. Even from the other passages of the impugned order, it does not appear if the Tribunal at all took note of the fact that the appellant-State was required to be heard in the matter, particularly in view of the order passed by this Court.

17. In fact, apart from containing the description of both the appeals, the contents of the order passed by this Court was clear and explicit that the matter was to be reconsidered after giving opportunity to the parties concerned including the appellant.

18. For what has been discussed hereinabove, the impugned order dated 03.03.2022, having been passed without hearing the appellant and several directions having been issued against the appellant-State, cannot be sustained. In the facts and circumstances of this case and looking to the subject-matter, we deem it appropriate that the matter be re-examined by the Tribunal after affording an opportunity of hearing to the appellant.

19. Accordingly, this appeal is allowed to the extent and in the manner indicated above. The impugned order dated 03.03.2022 is set aside and the matter involved in Original Application No.44 of 2021 stands restored for reconsideration of the National Green Tribunal, Principal Bench, New Delhi.

20. Having regard to the circumstances of the case and for what has been observed hereinabove, we would request the Tribunal to reconsider the entire matter afresh and for that purpose, to extend adequate opportunity of hearing to all the parties concerned, including the appellant-State of Tamil Nadu.

21. The appellant through its counsel shall stand at notice to appear before the Tribunal on 16.05.2023.”

8. Accordingly, in compliance of the above, we have taken up the matter for fresh consideration and heard learned Senior Counsel appearing for the State of Tamil Nadu.

9. **Inspite of direction of the Hon’ble Supreme Court, the State has not filed any written response. Oral argument of learned Senior Counsel is that the State has been deprived of opportunity in violation of principles of natural justice.**

10. We are unable to accept the submission. Order dated 16.2.2021 itself shows that notice was issued to the State and the fact finding Committee constituted by the Tribunal included Chief Inspector of Factories, Tamil Nadu, an officer of the State. The District magistrate, Virudhunagar and Regional Office, State PCB were to provide logistic support to the Committee to enable their fact-finding and reporting. State PCB was to bear the initial cost of functioning of the Committee, including the honorarium to the non-official members to be determined in consultation with them. The Committee constituted by the Tribunal interacted with the authorities of the State who signed the report. The matter was considered and order dated 11.6.2021 was passed after due opportunity though the State chose not to appear. A copy of the order of the Tribunal dated 11.6.2021 was directed to be forwarded to the Chief Secretary, Tamilnadu, State PCB, Director of Industrial Safety, District Magistrate, Virudhunagar and Member Secretary TN State Legal Services Authority by e-mail for compliance and the report was directed to be uploaded on websites of CPCB and State PCB. Remedial action was required to be taken by the State.

11. Further, orders of Hon'ble Supreme Court dated 21.2.2022 and 18.4.2023 in appeal filed by the State, quoted above, are again notice to the State and compliance of natural justice. If State has chosen not to avail of the opportunities in the said orders, we find it difficult to hold that principles of natural justice are violated. Order of this Tribunal dated 11.6.2021 expressly notes that notice was duly sent to the State and the fact finding committee interacted with the officers of the State. **Order of Supreme Court dated 21.2.2022 notes this factual position while granting further opportunity in the interest of justice but the said opportunity was never availed inspite of direction in the said order.**

Similarly, as per opportunity given vide order dated 18.4.2023, the State has not filed any response.

12. Faced with the above, learned Senior Counsel submits that copy of report was not available with the State which is against record. This plea can also not be accepted. Apart from its availability on the website and its representatives being in the Committee, copy of the report was sent to the Chief Secretary as per order dated 11.6.2021 and its content quoted in the order.

13. We have thus to proceed to deal with the merits. Only stand of the State is that compensation of Rs. 3 lacs already paid to the heirs of the victims is adequate and that State has no further liability in the matter.

14. We do not find any merit in the said submissions. Minimum compensation has to be to the extent of loss of earning. Compensation of Rs. 3 lacs for loss of life cannot be accepted as adequate by any standard. Further contention that the liability is only of individual wrongdoer and State has no liability can also not be accepted. While primary liability is of the wrongdoer but on *parens patriae* and under public trust doctrine, State cannot avoid liability for failing to regulate hazardous activity endangering lives of the citizens. Welfare State can hardly be allowed to take such plea and must come forward voluntarily to protect citizens. It will be worthwhile to reproduce recommendations of the Committee and observations of the Tribunal in order dated 11.6.2021:

Extracts from report of the Committee reproduced in order dated 11.6.2021

“VII. POSSIBLE CAUSES OF FAILURE AND PERSONS AND AUTHORITIES RESPONSIBLE

1. It must be remembered that the persons who were in shed nos. 36 and 37 have died and the sequence of events are recreated on gathering details/inputs from District Authorities, Police, Fire & Rescue Personnel,

officers of PESO, Industry stakeholders, and public including the families of injured and killed. The circumstances leading to the accident are hypothesized as under, by irrefutable inferences arising from objective materials collected, statements elicited and examination of physical features.

2. Instead of operating the unit for his own, the occupier of the factory Santhanamari S/o Muthaiah, in spite of knowing the fact that the factory should not be leased out, had leased out to persons like (1) Sakthivel, (2) Raja, (3) Sivakumar, (4) Ponnupandi, (5) Velraj (as per FIR 28/2021 of Elayirampannai PS, in Virudhunagar District in the state of TN).

3. The lease holders had been using the premises for manufacturing aerial fireworks items. Since they are leaseholders and not themselves licensees, they paid no attention or care to follow the rules and regulations under Explosives Rules, 2008, Conditions of the license, safety circulars and standard operating procedures, etc. Also, the unit was in operation without obtaining Consent to Operate from the Tamil Nadu Pollution control Board.

4. They had employed workers exceeding the limit of persons to be employed in such hazardous activities and caused workers to handle hazardous/dangerous chemicals/pyrotechnic mixtures in quantities more than the prescribed limit, thus exceeding both Human Limit and Explosive Limit. And they allowed workers to work outside the dedicated places and thereby causing accumulation of chemicals/pyrotechnic mixtures/semi-finished fireworks items/finished fireworks items in front of them in open areas under trees in an unorganized and haphazard manner throwing safety to wind. On 12.2.2021, the workers started the manufacturing activities of mixing pyrotechnic compositions and filling them into shells and tubes, packing, labeling, and finishing as fireworks. All these hazardous activities were allowed to continue without the presence of Certified Foreman as required under Explosives Rules, 2008. The Certified Foreman is a competent person to supervise the manufacturing process/activity in a fireworks factory as per the requirement of Explosives Rules 2008.

5. To rush up the finishing process, the workers were allowed to use incompletely dried colour pellets by the lease holders for making fireworks items (this is called in fireworks industry as shot drying). Incompletely dried pellets are susceptible for auto-decomposition and by that process, enormous amount of heat and fire could be generated which might be the source of fire that originated in the shed Nos.37 & 38. The fact that there had been a deep crater on the floor of sheds Nos.37 & 38 established this probability. And from there, the fire must have got propagated. Since the workers were present both inside and outside the sheds, and the quantity of chemicals and pyrotechnic mixtures were kept in large quantities and strewn everywhere, the fire spread quickly and the fire and explosion engulfed the entire area. The fire spread was very quick and ferocious, workers found it difficult to escape from the scene resulting in huge fatalities and

injuries. The spread of fire all over the factory was due to ignition by chemical and hazardous materials and mixtures kept in open areas, under trees, in very unsafe and haphazard manner and since these were aerial fireworks items, due to their inherent missile effect, they started flying hither and thither in all directions causing huge impact in terms of casualty/injury/damage to properties.

6. The materials have been gathered by the police as well as by us. Three samples had been reportedly collected by the police at three different spots within the licensed premises based on which forensic evidence has been collected from Kaliswari College.

.....

7. These are not one-off incidents. There have been recurrent accidents over a period of time. Even after the accident that the report draws upon, there were subsequent event on 25.2.2021 at 4.25 pm at another site at M/s Thangaraj Pandian Fireworks at Kalayarkurichi (v) Pudhupatti PS, where they were both human casualties (4 dead and 20 injured) and property damage.

Each one of the transgressions could not have happened over night. Deployment of persons more than authorised, the manner of stocking the manufactured goods, the places where they were operating have all contributed to place being rendered exceedingly susceptible to accident.

8 The causes for the blast could be summarized as under:

- i. Sublease of the premises by the licensee.***
- i. Deployment of more personnel at the site than numbers authorised.***
- ii. Friction/impact caused by mishandling of fireworks composition.***
- iii. Flouting of safety norms by carrying out, mixing chemicals used for fireworks outside the sheds and in open spaces.***
- iv. Lack of constant vigil at the place by inspection by the Inspector of Factories and the representatives of Controller of Explosives.****
- v. Stocking of fireworks in a manner that should not have been done.***
- vi. Lack of observance of appropriate attire of safety to prevent catching of fire.***
- vii. Drying of colour pellets under direct sunlight instead of drying under shadow.***
- viii. Handling sensitive pyrotechnic composition susceptible for impact and friction in a casual /unsafe manner.***
- ix. Auto decomposition of colour pellets resulting in generation of heat and fire.***
- x. Complete ignorance /non- compliance of Explosives Rules,2008, Standard Operating Procedures, Safety Circulars/Advisories, employing untrained workers.***

**** This is stated by one of us, Dr.Kulkarni, is on account of insufficient manpower. Indeed, no frequency of inspection has***

been defined under rule 128 of Explosive Rules. To have effective control on approximately 1000 fireworks manufacturing units in Sivakasi and associated fireworks storage shops, the present strength of four officers of the license issuing authority is not sufficient. Also, in the view of one of us, Dr. Kulkarni, the government's ease of doing business has reduced inspection frequency, and lessened the compliance burden that impacts the number of such accidents. Rule 135 of the Explosives Rules provides immunity to officers/ employees of the government or any authority constituted under the Act and rules in respect of anything which is done in good faith in pursuance of the Act and the Rules.

Xxxxx

Norms for compensation

1. The compensation that is payable for victims of the tragedy could never be arbitrary. The need to compensate or right to secure compensation could themselves be not a matter of debate at all. Only the scale of compensation and the persons who would become liable to pay the compensation will require to be appraised.

2. There are several compensation regimes for deaths and injuries and different enactments which are dis-similar and grossly variant. The Workmen Compensation Act, which is surely applicable, provides compensation that will have scales of compensation determined on the age and the income of the workman. The liability shall be on the principal employer. Here the problem is that the licensee has sub-leased the premises to three different persons whom we have named above but have not gathered statements from any one of them since they appear to be in judicial custody after arrest, pending investigation into criminal offences instituted against them.

3. The Public Liability Insurance Act casts an absolute liability, caps the entitlement to a paltry sum of Rs.50,000/- for death and Rs.25,000/- for grievous injury. It cannot be efficacious to look for relief under the said Act.

4. The scales of compensation under different enactments for transport accidents as in Carriage by Air Act, Railways & Motor Vehicles Act are different. In the first three enactments set out, there is absolute liability and the compensation ranges between Rs.8 lakhs and Rs.15 lakhs. The Motor Vehicles Act contemplates three regimes: absolute liability under Section 140, prescribing Rs.2 lakhs for death, Rs.50,000/- for grievous injuries and compensation up to Rs.800,000/- under a structured formula of strict liability norm under Section 163A. Just compensation under Section 166 is what is most scientific and driven essentially through two decisions in Sarla Varma Vs. DTC - (2009) 6 SCC 121 and as modified by National Insurance Company Vs. Pranay Sethi - (2017) 16 SCC 680. The compensation is determined based on a multiplier formula which will be applied against the multiplicand that is quantified as the likely contribution to the family by the deceased victim. The conventional heads of claims, such as, loss to estate, loss of love and affection, loss of consortium towards spouse, funeral expenses

are all added. In the amendment contemplated by Amendment Act 32 of 2019, the minimum threshold amount that will become payable shall be not less than Rs.5 lakhs for fatal accident and Rs.2 lakhs for grievous injuries.

5. In traumatic accidents such as bomb blasts or fire accidents due to electrocution or terrorist activities, public law remedies have been resorted to, where the compensation shall not always be made to depend on the age of the victims and the number of dependents. They are invariably fixed sums within the broad age brackets, such as persons less than 20 years of age and above the said age limit. In MCD Vs. Uphaar Tragedy Victims Association -(2011) 14 SCC at page 481 - the compensation was fixed at Rs.10 lakhs in the case of those aged more than 20 years and Rs.7.5 lakhs to those aged less than 20 years and compensation of Re.1 lakh was awarded to each of the injured victims. The amount carried interest at 9%.

6. In Dabwali Fire Tragedy Victims Vs. Union of India & Others, a Division Bench of the P & H High Court provided compensation by examining the recommendations of the One-man Commission that elicited details about the age of the victims, the number of dependents of each of them, the income of the deceased persons, in amounts ranging between Rs.1 lakh and Rs.15 lakhs. The decision of the Division Bench passed in CWP 13214 of 1996 through its decision on 09.11.2009, was confirmed by the decision of the Supreme Court in -(2013) 10 SCC at page 494. In Sanjay Gupta v State of UP (2015)5 SCC 283, the Supreme Court was dealing with an incident of devastating fire that broke out in a Consumer Show held at Victoria Park, Meerut. It was organised by a private company through contractors engaged by them after seeking permission from the State Government. It resulted in death of 64 persons and grievous injuries to several others. The Commission of Enquiry found the State and its authorities to be prima facie responsible for statutory violations while granting permission and during the show. No doubt, in this case there was no violation of any law in the grant of licence, but there had been a lack of care to see that the premises had been used only by the persons who held the licence.

7. In Sanjay Gupta (Supra) the Supreme Court had taken note of the compensation awarded in Uphaar Tragedy Victims Association case, decided in 2011 as well as Dabwali fire tragedy case, decided in 2013. They observed that the State Government should see that the victims did not remain in a constant state of suffering and despair and interim compensation of Rs.30 lakhs was directed to be paid, which subsequently through a direction issued in the same case and reported in (2018) SCC 634, to be distributed on pro-rata basis through the Jurisdictional District Judge.

8. There have been other earlier decisions of the Supreme Court when fixed sums have been awarded through public law remedy. In what was referred as boat tragedy case dealing with

deaths of children due to boat capsizing in *MS Grewal Vs. Deep Chand Sood* (2001) 8 SCC 151, the court awarded compensation at the rate of Rs 5 lakhs for each child and on the recommendations of former Chief Justice Chandrachud's report in *Lata Wadhwa Vs. State of Bihar* in (2001) 8 SCC at page 187 – the compensation ranged between Rs.2 lakhs per child and an amount upto Rs.5 lakhs per adult. To persons who had burn injuries to the extent of 10% or below, the Supreme Court awarded, in modification of the Chief Justice's Report, a minimum amount of Rs.2 lakhs.

9. In all the cases before us, we do not have data of the number of dependents for the deceased persons. In respect of injuries, a few have been treated as outpatients and immediately discharged while some persons are still undergoing treatment. The percentage of burns have varied from 5% to 75%. Unfortunately, among the injured victims, there have been casualties during the treatment, for on as late as 05.04.2021, the tally of dead was 27. In this accident, there is no report of any child as having been injured or dead. We confronted only a few persons who are injured and who are less than 18 years of age. We do not think it would be proper for us to assess compensation for everyone by eliciting the age, income, etc. It will be appropriate to take the examples of lumpsum amounts awarded through public law remedies and allow for independent rights to be pursued by any victim through statutory forums prescribed under the Workmen Compensation Act, if so advised. The Workmen Compensation Act itself does not recognise any payment other than through the Commissioner and any compensation that we will recommend could be directed to be paid to the party under notice to the Workmen Compensation Commissioner so that they are not treated as amounts awarded by 'contracting out'. In the decisions which we have referred, the ex-gratia payment made by the government will not be required to be deducted. On the other hand, we believe that the State Government shall take responsibility for 10% of liability for lack of effective supervision through Inspector of Factories and 10% on the Central Government for their failure to implement the safety laws. Rest of the 80% shall be levied on the licensee and his lessees jointly and severally and the 10% each as we have fixed on the Central and State Governments shall be several. One of us, (Kulkarni) is of the view that on account of the quoted provision of immunity, the payment by the State and the Centre shall be by way of contribution in gratis rather than responsibility by default. Further, as per rule 2(37) of the aforesaid rules, the occupier who has the control and who is responsible for managing the affairs of premises is solely responsible for the accident for the violations of rules and conditions of the licence.

10. Taking note of the fact that in the Uphaar tragedy victims case the maximum compensation was Rs.10 lakhs, but it related to an incident that took place in 1997, almost 25 years back, we will double the compensation for death at Rs.20 lakhs per family of each of the deceased victims and Rs.15 lakhs to persons who have burns in excess of 50% and Rs.10

lakhs for persons who have burns from 25 to 50% and Rs.5 lakhs for persons who have injuries between 5 to 25%. Victims who were treated as outpatients and who had but minor degree of burns or other forms of simple injuries shall be paid Rs.2 lakhs. The amounts shall be directed to be paid within the time the Tribunal may set and direct a further liability of interest at 12% p.a. for default of payment. The compensation is not merely a financial reparation for the loss of lives and injuries that have restitutive attributes but also designed to be punitive for the criminal negligence in carrying out hazardous activities in brazen violation of several laws that we have outlined above. The compensation amounts must necessarily therefore, be higher than what could occasion in a straightforward case of granting compensation as a welfare measure such as under the Workmen's (Employees') Compensation Act.

11. The amounts on the same scales could be made also to victims of accidents in the same district just before and after our visit

XIII. REMEDIAL MEASURES TO PREVENT ACCIDENTS

Sl No	Activity	At whose instance
1	Video clips of safety through WhatsApp and mobile devices apart from periodical workshops imparting norms of safety to be circulated to all employees	Central Government - Explosives experts State government - Industrial safety
2.	Strict vigilance to ensure conformity as regards working only in sheds and not in open spaces	PESO and District Revenue Authority
3.	Drone surveillance of various sheds	PESO and District Revenue Authority
4.	Submit the compliance of the occupier once in a six months or quarterly basis and mandated to be uploaded on the public domain on the website of the respective regulatory agency.	Manufacturer/ Licensee
5.	Permanent closure of sheds which have in the past been found guilty of breaches.	Licensing authority
6.	Punitive fines of not less than Rs. 50 lacs for instances of violations of conditions of license such as grant of lease, sublease, employment of more personnel than authorised, use of banned chemicals etc.	Licensing authority
7	Public liability insurance for all factories to be made obligatory.	Collector

8.	<i>Group insurance providing for higher compensation of not less than Rs.5,00,000 than the limit hitherto observed for Rs. 50,000.</i>	<i>Licensing authority</i>
9.	<i>Existing manpower of the various regulatory authorities to be strengthened in order to have periodical post clearance monitoring and ensure better compliance</i>	<i>Central government State Government</i>
10.	<i>Defaulting industries need to be immediately inventoried and regulated within a time frame</i>	<i>Revenue Division of the Collectorate</i>
11.	<i>Firecrackers' manufacturing and bulk storage facilities under the ambit of Consent Management within specified time frame as mandated</i>	<i>Tamil Nadu Pollution Control Board</i>
12.	<i>Occupational Health surveillance i.e., periodical health check-up of the employees</i>	<i>Directorate of Industrial Safety and Health</i>
13.	<i>Fire-fighting facilities such as dry powder extinguisher, soda ash, limestone etc. are in place to handle the accident in the Fireworks Industry/ metal-based fire accident.</i>	<i>State Fire Services</i>
14.	<i>Provision for appropriate clothing, gloves, and footwear</i>	<i>Licensee</i>
15.	<i>Increased automation that avoids physical handling of dangerous chemicals and substances</i>	<i>Industrial Entrepreneurs / Dept of Industries & Commerce</i>
16.	<i>Through CSR funds of the industries located in the district, more focus should be given to the development of education to the local communities and their upliftment.</i>	<i>Licensing authorities for MSMEs & Factories Ministry of Commerce/ Company Affairs</i>
17.	<i>Crisis Management System and Co-ordination Committee constituted shall meet periodically and review effective monitoring mechanism and suggest measures for prevention and recurrence of such accidents.</i>	<i>Central Government, State Government and District Collector</i>
18.	<i>As per section 9B of Explosive Act 1884 punishment for certain offences given is very moderate. The same requires legislative review for greater stringency.</i>	<i>Legislature</i>

19.	Since the unit in which the accident occurred is no more in a state to take manufacturing activity, the licence granted by PESO, NOC granted by District Authorities, Arms Act license for sulphur, factories Act license shall be cancelled.	The respective licensing authorities
20.	The workers who are engaged in most hazardous operations viz. mixing, filling of chemicals, colour pellets making shall be certified after training and those alone shall be employed. The unit shall not functional unless these workers are certified.	Licensees/ employers
21.	To monitor the ambient air quality in all clusters of firework factories, minimum of two Continuous Ambient Air Quality Stations shall be installed, through which impact on environment due to incidental explosion can be quantified.	Tamil Nadu Pollution control Board

Observations of the Tribunal in order dated 11.6.2021 about liability of the State

Persons responsible – Liability of the State for its failure

“7. The persons who had taken licences had further rented out the premises. Some private persons have been identified. It is also clear that incidents are frequent. Activities are highly dangerous but are not being regulated by the State PCB, Labour Department and the District Magistrate. **The State has failed to put in appearance or give any explanation for its failure to protect lives of citizens by enforcing the law. The reason may be negligence of the concerned officers or incompetence. In such circumstances, the victims have to be compensated by the State and the State can recover the amount from erring parties.** Primary liability is of the occupiers of the premises where activities were carried out leading to the incidents and the operators of the hazardous activity. It is the occupier who allowed the activities and the operators obviously were directly involved. The liability is joint and several and absolute. As found by the Committee there was failure to follow safety norms. Under MSIHC Rules 1989, Director Industrial Safety and District Magistrate have crucial role to oversee safety norms. In schedule V to the Rules, their responsibilities are clearly laid down. State PCB has responsibility to ensure that no industrial activity have potential for pollution of air or Water are run without consent to establish and consent to operate. Incidents are frequent but the State authorities have failed to perform their regulatory obligations for safety in operation of hazardous activities. We note that GO dated 23.12.2010 has been issued by the State to declare that the firecracker activities are covered by the Factories Act but the High Court has granted stay on

30.11.2011. However, this could not prevent either the State PCB or the District Magistrate or the Director Industrial Safety to discharge their statutory responsibility for ensuring safety of the workers and other citizens. Thus, the State cannot avoid responsibility to pay compensation to the victims in these circumstances. The victims need immediate relief and it is not possible for the victims to chase the violators who are scattered and whose means are not known. It is the State who have by its failure permitted illegal hazardous activities being carried out which has resulted in deaths and injuries. Public trust doctrine applies in the circumstances. The State is at liberty to recover from the violators or the erring officers. We have taken this view recently while dealing with another similar incident in Gujrat where hazardous activity was found to be operated illegally resulting in deaths and injuries and the violator did not appear to have known sources for payment of compensation. Vide order dated 23.03.2021 in O.A. No. 258/2020, In Re: News item published in the "Indian Express" dated 04.11.2020 titled "Ahmedabad: Nine killed as godown collapses after factory blast" this Tribunal held that the State will be liable to pay compensation to the victims except the victims who was responsible for the incident with liberty to recover from erring persons. Relevant extract from the order is as follows:-

"9.**For death of all other persons and injured, the State will be liable to pay compensation, without prejudice to its right to recover the same from the violators of law or erring officers, following due process of law. The responsibility for compliance will be of the Chief Secretary, Gujarat, through the District Magistrate, Ahmedabad.** In the light of directions already issued for preventive action by way of compliance of laid down safety norms, the State of Gujrat needs to take remedial measures to ensure that such incidents do not occur and hold accountable persons responsible for failure of the oversight. We also direct a joint Committee of Director, Industrial Safety and Health (DISH), Gujarat, and State PCB in coordination with respective Municipal Corporations and District Magistrates to conduct survey of the entire State to ascertain if any other such activities are going on, and if so to take remedial action by way of closing such illegal activities. The State PCB will be the nodal agency for coordination and compliance. The said Committee may give its report to the Chief Secretary, Gujarat within three months for further remedial action."

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12. The Committee has suggested measures in a tabular form indicating the authorities who have to adopt such measures. We are in broad agreement with the said suggestions.

13. Apart from the measures suggested by the Committee, there is also need for a study of the carrying capacity of the area to sustain the extent of such activities having regard to the potential for accidental, occupational and environmental hazards. The study may include number of units to be allowed, size of operation of such units, quantity of material to be used, siting criteria for location of the units, arrangement for fire management and health services. **Let such study be conducted**

by the Director of Industrial Safety in coordination with the State PCB and CPCB within three months and report submitted to the Chief Secretary, Tamil Nadu for further action. The Committee may take the assistance of any other experts/individual.

14. Further, there is need for review at highest level in the State. We direct the Chief Secretary, Tamilnadu to hold a meeting with all the concerned stake holders, as identified by the Committee in the table in the report quoted above, titled 'Remedial Measures to Prevent Accidents', within one month. **After necessary deliberations, appropriate remedial measures be identified to avoid recurrence of such incidents in future. The same may be implemented through the District Magistrate or any other appropriate authority as per law, which may be overseen by the Chief Secretary. The State PCB may incorporate appropriate conditions in consents including prohibiting use of banned chemicals, compliance of 1989 and 1996 Rules. Further, mechanism to ensure taking of insurance policies covering risk to life and health of all workers and others likely to be affected by fire or other accidents. Mechanism may provide monitoring of compliance and stopping activities of units not following laid down sops and regulations. Substance of this order and regulatory measures may be published in local area in vernacular language for information of local inhabitants to facilitate information and compliance.**

Compliance

15. A report about compliance status of directions in this order be given by the Chief Secretary after four months 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.

16. We place on record our appreciation for the task executed by the Committee. CPCB may convey this observation to the members of the Committee. **The report of the Committee may be placed on websites of the State PCB and the CPCB for purpose of reference for six months.**

A copy of this order be forwarded to the Chief Secretary, Tamilnadu, CPCB, State PCB, Director of Industrial Safety, District Magistrate, Virudhunagar and Member Secretary TN State Legal Services Authority by e-mail for compliance."

15. We reiterate the above view. Almost two years have gone and victims could not get relief as awarded and directed by this Tribunal. Stand of the State is against facts and law, apart from being unfair and unjust. State is not entitled to any further indulgence. It has already been made clear that State is at liberty to recover the amount from erring enterprises. The State is also under obligation to take preventing measures for ensuring environmental safety of citizens and maintaining strict vigil to avert such

incidents. Thus, even on fresh consideration, we reiterate the directions in the orders of this Tribunal dated 11.06.2021 and 03.03.2022, already reproduced above. The State may take steps for compliance at the earliest, preferably within one month from today.

The Application stands disposed of.

A copy of this order be forwarded to MoEF&CC, Chief Secretary, Tamil Nadu, CPCB, State PCB, Director of Industrial Safety, District Magistrate, Virudhunagar and Member Secretary, TN State Legal Services Authority by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 16, 2023
Original Application No. 44/2021
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