

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

Original Application No. 363/2022

(I.A Nos. 115/2022, 42/2023, 43/2023, 44/2023 & 45/2023)

IN THE MATTER OF:

Vikrant Tongad & Anr.

....Applicants

Versus

State of Uttar Pradesh & Ors.

....Respondents

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1.	Reply on behalf of Respondent No. 12, i. e, Central Pollution Control Board (CPCB) in compliance to Hon'ble NGT order dated 22.02.2024 in O.A No. 363/2022, titled as Vikrant Tongad & Anr. Vs. State of Uttar Pradesh & Ors.	
2.	Annexure- I A copy of Hon'ble NGT order dated 22.02.2024.	

(Sharandeep Singh)

Scientist-E

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar
Delhi- 110032.

Date: 24.04.2024

Place: Delhi

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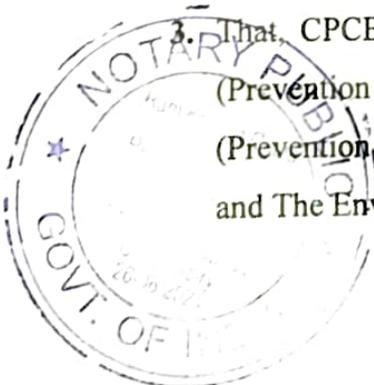
REPLY ON BEHALF OF RESPONDENT NO. 12, i.e., CENTRAL
POLLUTION CONTROL BOARD (CPCB)

MOST RESPECTFULLY SHOWETH

1. That I, in capacity of Scientist 'E' of CPCB, have made myself acquainted with the facts and circumstances of the instant case due to the official capacity as mentioned above and on the basis of available records, I am well versed with the facts and circumstances of the matter and as such competent & authorized to submit this reply on behalf of Respondent No. 12.
2. That, I have read and understood the averments made by Applicant and at the outset it is respectfully submitted that all averments/contentions/ submissions made in the present Application are denied unless specifically admitted by the answering Respondent.

PRELIMINARY SUBMISSIONS

3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and control) Act, 1974. It performs the functions under The Water (Prevention and control) Act, 1974, The Air (Prevention and control) Act, 1981 and The Environment (Protection) Act, 1986.



4. That in the instant matter, Hon'ble National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "Hon'ble NGT") vide its Order dated 03.11.2023 impleaded this answering Respondent as Respondent No. 12 and directed to file reply/response with reference to the environmental aspects raised in the original application. Accordingly, the Answering Respondent submits its reply in succeeding paragraphs:
5. That the present Application has been filed by Applicants being aggrieved by alleged reckless, excessive and indiscriminate concretization of road-sides and road-berms which are allegedly being carried out in violation of Hon'ble Tribunal Orders, Government Orders and relevant Guidelines by Noida Authority in Sectors 28, 37, 47 50, 55 and 62 of Noida and by Greater Noida Authority in Sectors Omega 1, Alpha and P3 of Greater Noida. In this context, the applicant has drawn attention towards the Orders passed by the Hon'ble NGT in the various matters.

In this regard, it is humbly submitted that, in the matter of O.A. No. 165/2013 (*Akash Vashishtha Vs. Union of India & Ors.*) along with E.A. No. 34 of 2017 & M.A. No. 588 of 2016, a Committee of experts was constituted vide its order dated 02.09.2015 in the instant matter. The said Committee had submitted its observations and recommendations in relation to the water bodies; ponds, lakes in the area; constructions in the parks as well as road side and the kind of tiles that were required to be used. Further, Hon'ble NGT directed the Competent Authority and the Uttar Pradesh State Departments to issue policy guidelines vide its order dated 06.07.2016 passed in the ibid matter.

Further, vide order dated 10.11.2016 passed in the matter of O.A. No. 21/2014 (*Vardhaman Kaushik Vs Union of India & Ors*), Hon'ble NGT had directed the Government authorities to ensure greenery around the flyovers and roads and to cover the open land with grass along with the implementation of air and dust control measures.

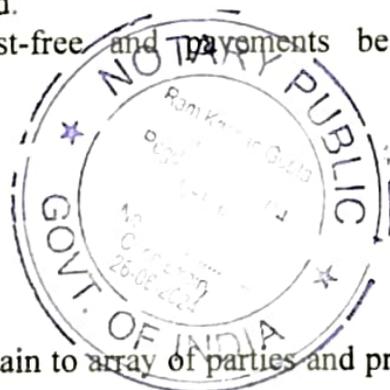


Furthermore, vide order dated 03.12.2020 passed in the matter of O.A. No. 283/2020 (*R.S. Virk Vs. Central Pollution Control Board*), Hon'ble NGT had directed all local bodies in the National Capital Region experiencing poor air quality to plant grass, raise small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements. In the same matter Hon'ble NGT also directed that, the pavement may also be appropriately covered so as to prevent generation of dust.

6. That the following actions are required to be adopted by respective concerned agencies for mitigation of the air/dust pollution and ground water recharge;
 - a. Efforts should be made to cover open land with green grass as directed by Hon'ble NGT in O.A No 21 of 2014.
 - b. Efforts should be made for planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements as directed by Hon'ble NGT in O.A No 283 of 2020
 - c. Compliance of the Guidelines for greening of urban areas and landscaping dated 23 September 2013 as issued by the Ministry of Urban Development may be ensured.
 - d. Use of specified tiles as per the Government of Uttar Pradesh letter dated 23 March 2018 issued in compliance of the direction of Hon'ble NGT in O.A No 165 of 2013 be ensured.
 - e. Roads should be made dust-free and pavements be made green pavements.

PARA-WISE REPLY

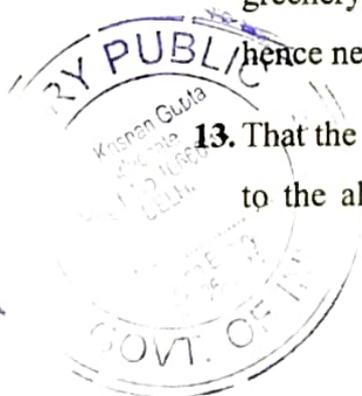
7. That the contents of Para 1 to 3 pertain to array of parties and provides general information in respect of both Applicants and original Respondents in the instant OA, thereby, needs no comments from this Answering Respondent, herein.
8. That the averments made in the Para nos. 4 to 7 under 'FACTS IN BRIEF' pertains to the issues raised by the applicants e.g. reckless, excessive and



indiscriminate concretization of road-sides and road-berms which are allegedly being carried out by the Noida Authority in Sectors 28, 37, 47 50, 55 and 62 of Noida and by Greater Noida Authority in Sectors Omega 1, Alpha and P3 of Greater Noida by laying down interlocking tiles and blocks. In this context, the answering respondent humbly re-iterates the submission made at para 6 of this reply.

9. That the averments made in the Para no's. 8 to 16 under 'FACTS IN BRIEF' pertains to the Hon'ble NGT proceedings concluded in the matter of O.A. No. 165 of 2013 and E.A. No. 34/2017, recommendations of the committee constituted under the same matter and relevant Order issued by Uttar Pradesh State Government in respect of the issues allegedly raised by the applicant in the instant OA, the same are matter of records and hence need no comments from this Answering Respondent.
10. That the averments made in the Para nos. 17 and 18 under 'FACTS IN BRIEF' are stating about alleged violations made by the Noida Authority and Greater Noida Authority with regard to the Government Order issued by the State. In this context, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.
11. That the averments made in the Para no. 19 under 'FACTS IN BRIEF' pertains to the issuance of Government Order by the State of Uttar Pradesh with respect to conservation of ground water recharge. The same is a matter of records and hence need no comments from the Answering Respondent.
12. That the averments made in Para no.20 under 'FACTS IN BRIEF' pertains to the Hon'ble NGT Judgment dated 10.11.2016 in the matter of O.A. No. 21/2014, *Vardhaman Kaushik Vs Union of India & Ors.* regarding ensuring greenery around the flyovers and roads. The same are matter of records and hence need no comments from this answering Respondent.

13. That the averments made in the Para no. 21 under 'FACTS IN BRIEF' pertains to the allegations of violation of direction passed in above referred Hon'ble



NGT Order dated 10.11.2016, in the matter of O.A. No. 21/2014, *Vardhaman Kaushik Vs Union of India & Ors* at Noida and Greater Noida. In this context, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.

14. That the averments made in the Para no.22 under 'FACTS IN BRIEF' pertains to the Hon'ble NGT Order dated 03.12.2020, passed in O.A. No. 283/2020, *R.S. Virk Vs. Central Pollution Control Board*, which provides for various dust mitigation measures including planting of grass/raising small herbs and shrubs on the sides of the pavements and on open dusty areas. The same are matter of records and hence need no comments from this Answering Respondent.
15. That the averments made in the Para no.23 under 'FACTS IN BRIEF' pertains to the allegations of violation of directions passed in above referred Hon'ble NGT Order dated 03.12.2020, in O.A. No. 283/2020, *R.S. Virk Vs. Central Pollution Control Board* at Noida and Greater Noida. In this context, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.
16. That the averments made in the Para no.24 under 'FACTS IN BRIEF' pertains to the conclusions of the applicant regarding Orders of Hon'ble NGT and hence need no comments from this Answering Respondent.
17. That the averments made in the Para no 25 under 'FACTS IN BRIEF' pertains to the alleged happening of concretization around the roadside trees and News reports appearing in Newspaper articles depicting the effects of concretization around trees on its roots . In this context, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.
18. That the averments made in the Para no. 26 under 'FACTS IN BRIEF' pertains to the Hon'ble NGT Order dated 23.04.2013 in O.A. No. 82 of 2013, *Aditya N. Prasad v. Union of India*, whereby one of the directions regarding de-concretization within one metre radius of the trees had been issued. Further, Guidelines by Ministry of Urban Development issued in context of issues

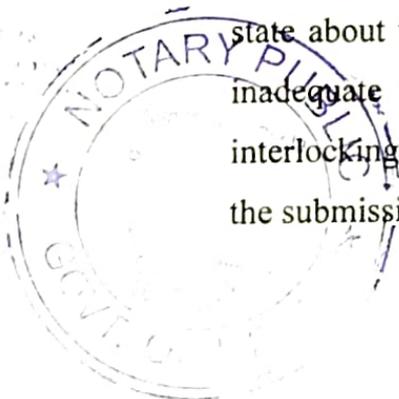


raised have been referred. In this regard, the Answering Respondent humbly reiterates the submission made at para 6 of this reply.

19. That the averments made in the Para nos. 27 to 29 under 'FACTS IN BRIEF' refers to the Guidelines for greening of urban areas and landscaping dated 21.07.2000 issued by the Ministry of Urban Development and Poverty Alleviation, Ministry of Urban Development Guidelines dated 23.09.2013 and Letter of Ministry of Urban Development dated 03.09.2013 addressed to all States and UTs. In this regard, it is humbly submitted that, guidelines/circular/office order issued by Central/State Government be followed by respective agencies.
20. That the averments made in the Para nos. 30 to 34 under 'FACTS IN BRIEF' pertains to the statement made by Central Ground Water Authority (CGWA) regarding ground water recharge in their affidavit filed before Hon'ble NGT in O.A. No. 165 of 2013, in relation to run-off co-efficient and allied effects of soil/ground/surface/concretisation on the various components of the environment.. The same are matter of records and hence no comments from this Answering Respondent.
21. That the averments made in Paragraph 35 under 'FACTS IN BRIEF' pertains to the Hon'ble NGT directions issued vide Order dated 07.03.2022 in O.A. No. 175/2022 , Vijay Kishor Goswami Vs State of Uttar Pradesh & Ors regarding concretization which are matter of records and hence need no comments from this Answering Respondent.
22. That the averments made in the Paragraph 36 under 'FACTS IN BRIEF' relates to research paper, titled "Energy Saving Potentials and Air Quality Benefits of Urban Benefits of Urban Heat Island Mitigation" of the U.S. Department of Energy. In this report heating effect of concretization has been referred. These are matter of records and hence need no comments from this Answering Respondent.



23. That the averments made in the Para no's. 37 and 38 under 'FACTS IN BRIEF' the applicant has referred to his submission regarding requirement of nourishment and protection of the urban green spaces especially in the pandemic situation and related articles "Nourishing and protecting our urban 'green space' in a post-pandemic world" on creation of urban spaces. In respect of the submission made by the applicant, it is humbly submitted that for the mitigation of air pollution/dust pollution, necessary measures like landscaping the roadsides and road berms with grass and other vegetation or development of green pavement may be ensured by respective agencies.
24. That the averments made in the Para no. 39 under 'FACTS IN BRIEF' pertains to 'albedo' and tiling works being done in Noida and Greater Noida with non-porous, impermeable and high albedo materials. In this regard, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.
25. That the averments made in the Para no. 40 under 'FACTS IN BRIEF' state about indiscriminate concretization of roadsides and road berms allegedly being carried out by the Noida Authority at a few stretches in Sectors 26, 27, 30, 41, 46, 51, 55 and 56. In this regard, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.
26. That the averments made in the Para no. 41 under 'FACTS IN BRIEF' states about defunct and/or choked storm water drains in above stated Sectors including the absence of recharging pits and outlets which consequences in massive run off of water on concretized ground surfaces. In this regard, it is humbly submitted that, violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.
27. That the averments made in the Para nos. 42 to 44 under 'FACTS IN BRIEF' state about the alleged destruction of green road berms by NOIDA authority, inadequate capacity of storm water drainage in Noida, use of cemented interlocking etc. In this regard, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.



28. That the averments made in the Para no's. 45 and 46 under 'FACTS IN BRIEF' pertain to applicants' concerns on various advantages of de-concretization of roadsides and road berms, landscaping of roadsides and road berms with grasses and other vegetation. In this regard, it is humbly submitted that guidelines/circulars/office orders issued by the Central/State Government be followed by respective agencies.

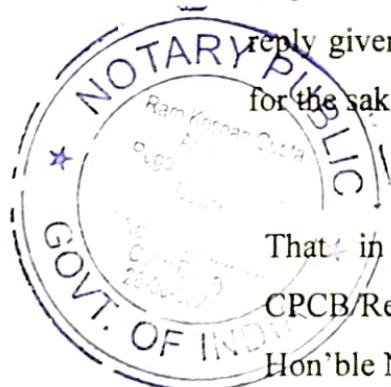
29. That the averments made in the Para no. 47 under 'FACTS IN BRIEF' pertains to Section 36(4) of the Biological Diversity Act, 2002 and role of Ministry of Environment, Forest & Climate Change in the matter under reference and hence need no comments from this Answering Respondent.

30. That the averments made in the Para nos. 48 to 51 under 'FACTS IN BRIEF' pertains to the submission of applicants regarding various communications allegedly made to various agencies regarding the alleged violations and alleged non-action by them and thereby, allegedly being compelled, filing of instant application before Hon'ble NGT by the applicants. In this regard, the Answering Respondent humbly re-iterates the submission made at para 6 of this reply.

31. That the averments made in the Para no.52 regarding various Grounds of the application. In this, regard it is humbly submitted that the reply given in the above paragraphs may please be considered and is not repeated for the sake of brevity.

32. That the averments made in rest of para pertains to Limitation clause and subject Prayer of the applicants. In this, regard it is humbly submitted that the reply given in above paragraphs may please be considered and is not repeated for the sake of brevity.

That in view of the above, it is respectfully submitted that the CPCB/Respondent No. 12 shall abide by any orders or directions passed by Hon'ble NGT.



NOTARY PUBLIC
GOVT. OF INDIA
2018

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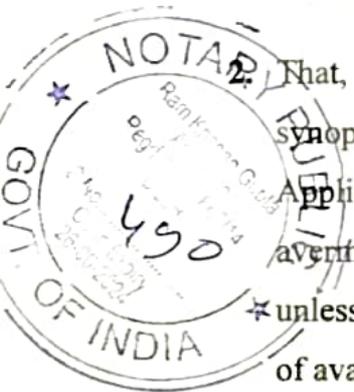
....Respondents

AFFIDAVIT

I, Sharandeep Singh, S/o Charanjeet Singh, aged 44 years, currently working as Scientist 'E' in the Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, the Respondent No. 12 in the above matter (hereinafter referred to as "CPCB" or "Answering Respondent") do hereby solemnly affirm and declare as under:

1. That I, in capacity of Scientist 'E' of CPCB, have made myself acquainted with the facts and circumstances of the instant case due to the official capacity as mentioned above and on the basis of available records, I am well versed with the facts and circumstances of the matter and as such competent & authorized to affirm this reply on behalf of Respondent No. 12.

2. That, I have read and understood the averments made by Applicants in synopsis, list of dates, grounds and annexures enclosed with the Original Application and at the outset it is respectfully submitted that all averments/contentions/submissions made in the present Application are denied unless specifically admitted by the answering respondent and are also borne out of available record of the case.



Sharandeep

DEPONENT
शरणदीप सिंह / Sharandeep Singh
शक्ति ई / Scientist E
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, जल एवं वायु प्रदूषण नियंत्रण, उत्तरांचल)
(Min. Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No.1

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.363/2022
(I.A Nos. 115/2022, 42/2023, 43/2023, 44/2023 & 45/2023)

Vikrant Tongad & Anr.

Applicants

Versus

State of Uttar Pradesh & Ors.

Respondents

Date of hearing: 22.02.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Akash Vashishtha, Advocate for Applicant
with Ms. Supriya Mahajan, Applicant (through VC)

Respondents: Mr. Gi. Gi. C. George and Mr. Dheeraj Singh,
Advocates for Respondents No. 1, 2 and 6
Mr. Pramod Kumar, DFO, NOIDA.
Mr. Abdhesh Chaudhary and Mr. Nishi Kant Singh
Advocate for R – 3 NOIDA.
Mr. Vijay Kr. Rawal, DGM NOIDA (Through VC)
Mr. Ravindra Kumar Senior Advocate with Mr. Shivam
Saksena Advocate for R-4 – GNIDA.
Mr. Vijay Kumar B Vajpai Senior Manager (Project),
GNIDA.
Mr. Rakesh Mahajan Advocate for Respondent No. 5
(through VC).
Mr. Milind Garg, Advocate for Applicant in I.A. No. 42,
43, 44 and 45 of 2023.
Mr. Pradeep Misra Advocate for UPPCB (Through VC)

**Application under Section 18 (1) read with Sections 14 and 15 of the
National Green Tribunal Act, 2010.**

ORDER

1. It has been brought to our notice that in paragraphs no. 6 and 7 of order dated 03.11.2023 number '12' was written instead of number '13' due to inadvertent clerical/typographical mistakes which is ordered to be corrected accordingly.
2. The above said corrections be made in order dated 03.11.2023 and also in copy of order dated 03.11.2023 uploaded on the website of this Tribunal.
3. Vide order dated 03.11.2023, respondent no. 5-MoEF& CC and respondent no. 12- CPCB were directed to file reply/response with reference to the environmental aspects raised in the original application and observations made in the report of the Joint Committee and personal appearance of the officers duly authorized by Secretary, MoEF & CC, Secretary, Ministry of Housing and Urban Affairs, (MoHUA) Member Secretary, CPCB, CEOs, GNIDA and NOIDA Authority and District Magistrate, Gautam Budh Nagar was ordered.
4. In compliance thereof Mr. Vijay Kr. Rawal, DGM, NOIDA has appeared through VC and Mr. Pramod Kumar, DFO, NOIDA and Mr. Vijay Kumar B Vajpai Senior Manager (Project), GNIDA have appeared physically and we have interacted with them.
5. The applicant has filed brief submissions vide email dated 20.02.2024.
6. Reply has also been filed by Ministry of Housing and Urban Affairs vide email dated 20.02.2024.

7. Learned Counsel for respondents no. 1 to 6 seek time to file their response/ additional response.
8. Response/additional response as the case may be filed by respondents no 1 to 6 with reference to averments made in the application and documents attached with the same within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
9. List the matter for further consideration on 25.04.2024.
10. Interim order dated 24.05.2022 shall continue to operate till further orders to the contrary.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 22nd, 2024

AG