

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO.1225 OF 2024

IN THE MATTER OF :-

AMIT KUMAR

....APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

NDOH : 07.02.2025

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RESPONDENT NO.13

THROUGH:-

Deepak Agarwal

PLACE: DELHI

DEEPAK KR AGARWAL

DATED : 21/2/25

ADVOCATE FOR RESPONDENT NO.13

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REPLY ON BEHALF OF RESPONDENT NO.13

PRELIMINARY OBJECTIONS AND SUBMISSIONS :

MOST RESPECTFULLY SHOWETH:

1. At the outset it is submitted that present application is filed by the applicant is not maintainable in as much as the applicant has no locus standi to file the present application. It is submitted that applicant is not resident of Shamli District and as such has no locus to file the present application. It is submitted that applicant has failed to disclose his locus in filing the present application. Apparently, applicant has filed the present application to pressurize the answering respondent no.13 and to legally extract money from answering respondent no.13.

2. It is submitted that applicant has not placed any document on record to prove his credentials that he is and environmentalist or a social worker and has been working on environmental protection matters. It is submitted that applicant is further failed to disclose as to how Applicant who is resident of Delhi has gained information about the site in question which is approximately 200 kilometres away from his place of residence. Admittedly in the entire petition

applicant has nowhere stated how he allegedly gained knowledge about site in question or what is his locus in filing the present application and instant application is liable to be dismissed on this ground alone.

3. It is submitted that answering respondent no.13 who is small trader is not engaged in any manufacturing activity from site in question. It is submitted that answering respondent no.13 is engaged in business of trading of petro product in which the answering respondent no.13 buys the product from the traders and manufacturer and sells the said product without any modification to his customers. And in the said process the said site is used for storage, loading and unloading of the product and as such no manufacturing activity is being done at the site.

4. It is submitted that answering respondent no.13 is engaged in trading of (i) Low Sulphur Fuel Oil (LSFO), (ii) Fuel Oil and (iii) Bulk Bitumen (*tarcoal* used for road building) and there is no manufacturing activity going on from the site in question. It is submitted that since answering respondent no.13 is engaged in storage and trading only its necessary permission for the same from the concerned authority has been obtained. It is submitted that for trading of said products no pollution is caused. It is submitted that most of the times Bitumen (*tarcoal*) is directly sold to the party without transferring the same into a new container. It is submitted that Bitumen (*tarcoal*) is mostly used for road construction and as such there is negligible sale of Bitumen (*tarcoal*) in winters as most of the times in winter due to enforcement of GRAP order the construction of road activity by government is put in abeyance.

PARAWISE REPLY ON MERIT :

1. That the contents of para no.1 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that the present application is filled under Sec.18(1) read with Sec.14,15, and 16 of the National Green Tribunal Act, 2010 (hereinafter referred to as the 'NGT Act'), by the application, who is an environmentalist working on several environment protection matters in the different states of India. It is submitted that applicant is trying to illegally extort money from answering respondent no.13. It is submitted that applicant has not placed any document on record to prove his credentials that he is an environmentalist and has been working on environmental protection matters. It is submitted that applicant is further failed to disclose as to how and applicant who is resident of Delhi has gained information about the site in question which is approximately 200 kilometres away from his place of residence. Admittedly in the entire petition applicant has nowhere stated how he allegedly gained knowledge about site in question or what is his locus in filing the present application. It is submitted that instant application is liable to be dismissed on this ground.
2. That the contents of para no.2 of the application are wrong, incorrect and denied except to the extent which are matter of record.
3. That the contents of para no.3 of the application are wrong, incorrect and denied except to the extent which are matter of record.

4. That the contents of para no.4 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders i.e. Respondent No.13 has been operating in gross violation of environments laws, including the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974, and the Environment (Protection) Act,1986. It is denied that unit has been manufacturing, processing and storing Charcoal, Pyrolysis oil and furnace oil since 2018 at Khasra No.110, Village Bhatti Majra, District Shamli, without obtaining the necessary Consent to Operate (CTO) from the Uttar Pradesh Pollution Control Board (UPPCB), which has caused severe air and water pollution in the area.
5. That the contents of para no.5 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is mischievous to state that M/s Kuber Traders was established in 2018 on land designated for agricultural purpose, Khasra No.110 owned by the Respondent Nos.10, 11, and 13, but it is being used for commercial activities without the requisite conversion permission from the Respondent No.9.
6. That the contents of para no.6 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that residents of Bhatti Majra and neighboring villages are facing serious environmental and health issues, including respiratory problems due to toxic gases emitted from the burning of hazardous materials like Pyrolysis oil. It is denied that these emissions include volatile organic compounds (VOCs), sulfur dioxide (SO₂), nitrogen oxides

(NO.), and carbon monoxide (CO), all of which pose significant risks to human health. It is submitted that there is no complaint from any local resident of the locality against the answering respondent no.13. It is submitted that applicant is trying to mislead this Hon'ble Tribunal by making false averment.

7. That the contents of para no.7 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is mischievous to state that M/s is Kuber Traders has been illegally extracting groundwater without obtaining the requisite permits from the Ground Water Department, in direct contravention of applicable laws. It is denied that the answering Respondent No.13 is discharging polluted wastewater from its operations into the ground through unlined (kachha) pits, thereby allowing contaminants to infiltrate and pollute the groundwater. It is denied that answering Respondent No.13 is storing charcoal in unlined pits, which risks the groundwater contamination through the leaching of toxic substances into the soil and water table. It is submitted that the photographs showing pit is being mis quoted by the applicant in as much as the said pit is used for toilet discharge and is not used for storage of any charcoal as alleged by the applicant. It is submitted that even the said pit has been recently dug up and is mostly dry in summer is due to hot weather condition.
8. That the contents of para no.8 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that despite multiple complaints from local residents, including a formal complaint to the District

Magistrate of Shamli and UPPCB in August 2024 no significant action has been taken to shut down the illegal operations. It is submitted that pursuant to issuance of letter dated 24.08.2024 issued by Respondent no.5, the answering respondent no.13 has removed the said chimney. And the said chimney is no more functional from the said site. Even otherwise also the said chimney is hardly out to any use as answering Respondent No.13 is engaged in business of trading only and not manufacturing.

9. That the contents of para no.9 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is mischievous to state that Respondent No. 6, UPPCB conducted an inspection on 17 August 2024 confirming the environmental violations by M/s Kuber Traders, and a notice was issued on 24 August 2024, directing M/s Kuber Traders to cease operations at the current site and submit a compliance report within 15 days. It is denied that despite the notice, M/s Kuber Traders continued its operations and no action has been taken by the Respondent No. 6. It is submitted that pursuant to the said notice the chimney has been removed from the site and no manufacturing activity is being undertaken at the site. It is submitted that answering respondent no.13 is only undertaking trading activity from the site which does not cause any pollution. Without prejudice to the submissions made herein above it is submitted that even otherwise also answering respondent no.13 has applied for all the necessary permission from the concerned authorities and the same is likely to be granted soon. It is submitted that answering

respondent no.13 is small trader and not a big manufacturer and industrialist and is always ready and willing to abide by the statutory compliances.

10. That the contents of para no.10 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that the Respondent No.13's proximity to residential areas and educational institutions, including the Guru Vashisht Inter College, further enhances the dangers posed by its illegal operations. It is denied that Children and residents are at risk due to the frequent movement of heavy vehicles transporting hazardous materials through the area, and the constant exposure to toxic emissions. It is submitted that the vehicle transporting the material does not cross the educational Institute as the way for the educational Institute and the site in question are different and the route used by the transport vehicle does not cross educational Institute as the route before educational institution is very thin and cannot be used to ply transport vehicle.
11. That contents of para no.11 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that continued operation of M/s Kuber Traders without the necessary environmental clearances and permissions is a gross violation of the precautionary principle, which mandates that environmental and public health should not be compromised by industrial activities. It is mischievous to state that Right to Life, as enshrined under Article 21 of Constitution, includes right to clean air and a healthy environment. It is denied that factory's ongoing operations, by

continuously polluting the air and environment, pose an imminent and direct threat to health of residents, students, and environment, thereby infringing upon their fundamental rights.

12. That contents of para no.12 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that the applicant and other local residents have made repeated attempts to alert the authorities, but their concerns have been largely ignored. It is denied that there are any ongoing violations of environmental norms, along with the failure of authorities to enforce the law, have left the applicant with no choice but to seek immediate judicial intervention.
13. That the contents of para no.13 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders is violating multiple environmental laws, including the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, and the Environment (Protection) Act, 1986. It is mischievous to state that unit operates without the required Consent to Operate (CTO) from the UPPCB, posing serious risks to public health and the environment.
14. That the contents of para no.14 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders causes severe air pollution, emitting toxic gases like volatile organic compounds (VOCs), sulfur dioxide (SO₂), nitrogen oxides (NO_x), and carbon monoxide (CO). It is denied that these emissions are

harming air quality and leading to health issues, especially respiratory problems for nearby residents.

15. That contents of para no.15 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders extracts groundwater illegally, without permission from authorities or unregulated extraction depletes local water resources, worsening water scarcity for agriculture and daily use in area.
16. That contents of para no.16 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders is polluting the groundwater by discharging untreated wastewater and storing hazardous materials in unlined pits resulting in the contamination of the water table and posing serious environmental and public health risks.
17. That the contents of para no.17 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that hazardous materials like heated Charcoal, Pyrolysis oil and furnace oil are stored improperly, which increases the risk of soil contamination and fires. It is denied that lack of proper safety measures endangers both the environment and the local population.
18. That the contents of para no.18 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that the facility is located too close to residential areas and schools, including the Guru Vashisht Inter College. It is denied that proximity of such hazardous

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operations to homes and schools is illegal and poses a serious risk to the health and safety of children and residents.

19. That the contents of para no.19 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that M/s Kuber Traders continues to operate illegally, despite complaints by residents and a notice from the UPPCB to cease operations. It is denied that unit's refusal to comply shows a disregard for the law and the environment.
20. That the contents of para no.20 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that the ongoing illegal operations are causing irreversible environmental damage, including air and water pollution. It is denied that this harm violates the principles of environmental justice and sustainable development, and its effects will be long-lasting.
21. That the contents of para no.21 of the application are wrong, incorrect and denied except to the extent which are matter of record. It is denied that present application is being filed well within the limitation prescribed under the NGT Act, 2010. It denied that given that environmental violations by M/s Kuber Traders are ongoing, and the harmful impacts on the residents persist, this application is well within the limitation period.

REPLY TO PRAYER CLAUSE :

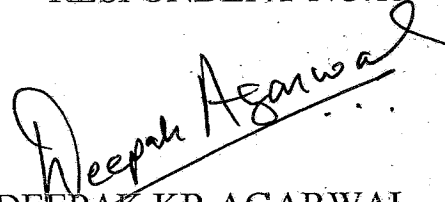
It is submitted that applicant is not entitled to any relief as prayed for from this Hon'ble Tribunal. It is submitted that present application is liable to be dismissed with exemplary cost being devoid of merit.

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And this Hon'ble may pass any further order or directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of the present case.


RESPONDENT NO.13

THROUGH:-


DEEPAK KR AGARWAL
ADVOCATE FOR RESPONDENT NO.13
E-188, LGF,
EAST OF KAILASH,
NEW DELHI - 110065
MOB : 9650335116
EMAIL : agarwalandroy@gmail.com

PLACE: DELHI

DATED : 21/1/25

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....APPLICANT

VERSUS

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...RESPONDENTS

AFFIDAVIT

I, Jai Singh, S/o Boyat Ram, C/o Khasra No.110, Village Bhatti Majra, Manglaura – Bidauli Road, PO Udpur, Tehsil Unn, District Shamli, UP – 247773, aged about 45 years, presently at New Delhi do hereby solemnly affirm and declare as under :-

1. That I am Respondent No.13 in captioned matter and thus competent to swear the present affidavit.
2. That accompanying reply has been drafted by my counsel under my instructions and the contents of the same has been read over and explained to me and the same are true and correct to best of my knowledge and belief and nothing material has been concealed therefrom.

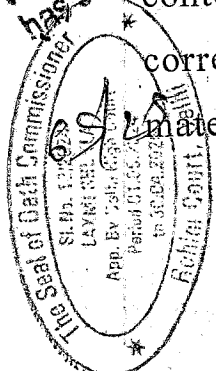
29 JAN 2025

Jai Singh
DEPONENT

VERIFICATION:-

Verified at New Delhi on _____ 2025 that the contents of above mentioned paras of affidavit are true and correct to my knowledge. No part of it is false and nothing material has been kept concealed therefrom!

Deepak Agrawal
I, the undersigned who has signed in my presence



CERTIFIED THAT THE DEPONENT
Shri/Smt./Mra. *Jai Singh*
S/o W/o Do *Boyat Ram*
R/o
Identified by
has sworn
Delivered on *29 JAN 2025*
that he which have
been read
consent to
Oath Commissioner, Shamli

Jai Singh
DEPONENT

CASE NO. 07/1225 OF 20 24

IN THE MATTER OF :-

Amit Kumar

..... PLAINTIFF

Union of India & ORS. VERSUS

..... DEFENDANT

KNOW ALL to whom these presents shall come that I, Jai Singh, s/o Boyat Ram
c/o Ichasra No. 110, Village Bhatti Majra, Manglaura
Dist Shamli the of above named Respondent No. 13 do hereby appoint :-

DEEPAK AGARWAL

Advocate
 E-188, LGF, East of Kailash,
 New Delhi-110065
 Mob. 9650335116

Enrl. No. D/3853709

(herein after called the Advocate/s) to be my/our Advocate/s in the above noted case & authorize them :-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in

To file and take back documents & to admit and/or deny the documents

To withdraw or compromise the said case or submit to arbitration may arise touching or in any manner relating to the said case. To take

To deposit, draw and receive money, cheques, cash and grant receipts and to do all other acts and things which may be necessary to be done for the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing his authority hereby conferred upon the Advocate whenever he may think fit. Power of Attorney on my/our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done or to be done by me/us or substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I/we or my/our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I/We the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid, I/we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 21 day of January, 2025.

Accepted subject to the terms of fees.

Advocate/s

Deepak Agarwal

Client

Jai Singh

