

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. -299 of 2022**

IN THE MATTER OF:

SANJAY KUMAR

... Appellant

Versus

STATE OF UTTAR PRADESH & ORS.

...Respondent(s)

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Priyanka Swami
 PRIYANKA SWAMI

Advocate

Counsel for Directorate of Environment, UP

Chamber 04, Shivalik Tower

Kaushambi, Ghaziabad

Date: __.07.2022

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Reply on the behalf of respondent No. 02, Directorate of Environment, Uttar

Pradesh are stated below:-

MOST RESPECTFULLY SHOWETH: -

1. That the Hon'ble Tribunal, vide its Order dated 05.05.2022, has passed the following Order in above- captioned matter-

“The applicant has filed present application under section 14 of the National Green Tribunal Act, 2010 seeking issuance of directions to respondents no. 3 and 5 to decide his legal notice dated 11.03.2022 and to direct the respondents to formulate and implement Ground Water Security Plan for Noorpur Block, District Bijnor.

Applicant has stated that observing the fact that ground-water of Noorpur Block situated in District Bijnor is depleting at an alarming rate, respondent No.1 declared the same as a notified area under section 9 of the Uttar Pradesh Groundwater (Management and Regulation) Act, 2019 (for short '2019 Act') vide notification dated 17.06.2020. Central Ground Water Board in its Block-wise Ground Water Resources Assessment 2017 also declared Noorpur Block of District Bijnor as a critical zone. Since Noorpur Block has been declared notified area digging of new bore- 2 well there is prohibited by Section 12 of the 2019 Act.

Respondent no.1 is bound to prepare the Ground Water Security Plan for the above said notified area under Section 13 of 2019 Act. Respondent No. 6 has applied to respondents No. 1 and 3 for establishing sugar factory in Noorpur area of District Bijnor. Operation of the sugar factory would be dependent on extraction of ground water which would affect ground water table of the area. The applicant sent legal notice cum representation dated 11.03.2022 to the respondents but no action has been taken on the same.

We have heard learned counsel for the applicant and gone through the relevant record.

The averments made in the application raise substantial questions relating to environment arising out of the implementation of the enactments specified in Schedule -I to the National Green Tribunal Act,2010.”

2. Ministry of Environment and Forest, Govt. of India through its notification dated 14/09/2006 (as amended) has made it mandatory to obtain Prior Environmental Clearance prior to establishment or expansion of any such project or activity which is listed in the schedule of notification.
3. Environmental clearance shall be required for:
 - a) All new projects or activities listed in the Schedule to this notification.
 - b) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
 - c) Any change in product-mix in an existing manufacturing unit included in Schedule beyond the specified range.
 - d) Objective of this process is to impose certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts.
4. The environmental clearance shall be taken from Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level, the State Environment Impact Assessment

Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity. The State Environment Impact Assessment Authority (SEIAA) shall base its decision on the recommendations of a State level Expert Appraisal Committee (SEAC).

5. The SEIAA and SEAC, Uttar Pradesh have been constituted by Ministry of Environment and Forest & CC, Govt. of India vide notification bearing no. S.O 3338(E) dt. 16.10.2017 and subsequently reconstituted through notification bearing no. S.O. 2276(E) dated 11/06/2021
6. Directorate of Environment, Govt. of U.P. has been declared to function as Secretariat to these statutory bodies i.e. SEIAA and SEAC by State Government.
7. All such project proposals received to the SEIAA, UP for Prior Environmental Clearance are dealt according to the EIA Notification, 2006 (as amended).
8. That it is submitted that no online application for Environment Clearance is received to SEIAA UP till date regarding start new sugar industry within village Changhipur, Noorpur, District Bijnore, Uttar Pradesh, M/s Bindle Papers Mills Limited.
9. It is also submitted that in response to the Legal Notice dated 11/03/2022, Directorate of Environment, Uttar Pradesh, vide letter no 1120 dated 30/03/2022 requested Member Secretary, Uttar Pradesh State Pollution Control Board to look into the matter and intimate the applicant on the action taken by them. Copy of letter dated 30.03.2022 in this regard is being filed herewith and marked as **Annexure I**.

10. It becomes necessary to mention here that in compliance to the order of Hon'ble NGT, the Department of Environment, Forest & Climate Change Uttar Pradesh has issued Vide Letter No. NGT-181/81-7- 2022 dated 07.06.2022 and reminder Letter No. NGT-268/81-7- 2022 Dated 15.07.2022 to Additional Chief Secretary, Minor Irrigation & Ground Water Department, Uttar Pradesh, District Magistrate, Bijnore, and Member Secretary, Uttar Pradesh Pollution Control Board, mentioning responsibility to prepare Ground Water Security Plan under sections of 3,4,5 & 6 of The UP Ground Water (Management and Regulation) Act, 2019 and to file Reply/Counter Affidavit. Copy of letters dated 07.06.2022 & 15.07.2022 in this regard is being filed herewith and marked as **Annexure II & III**.



Respondent

THROUGH

PRIYANKA SWAMI

Advocate

Counsel for Directorate of Environment, UP

Chamber 04, Shivalik Tower

Kaushambi, Ghaziabad

Date: __.07.2022

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

- i. Dismiss this Application with Exemplary cost Or
- ii. Pass any such other order as may deem fit.



Respondent

THROUGH


PRIYANKA SWAMI

Advocate

Counsel for Directorate of Environment, UP

Chamber 04, Shivalik Tower

Kaushambi, Ghaziabad

Date: __.07.2022

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. -299 of 2022**

IN THE MATTER OF:

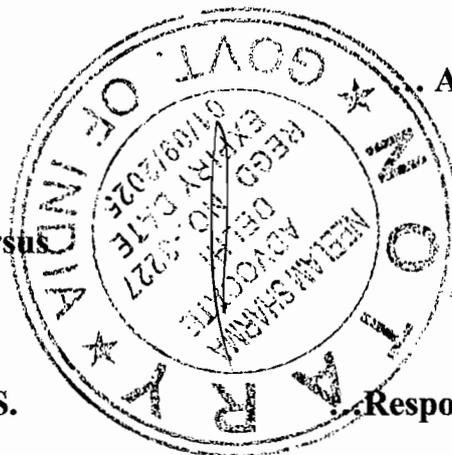
SANJAY KUMAR

Appellant

Versus

STATE OF UTTAR PRADESH & ORS.

Respondent(s)



AFFIDAVIT

Affidavit of Sh. ANURAG KUMAR YADAV, aged about 46 years s/o Sh. P.N. SINGH, presently posted as DEPUTY DIRECTOR, DIRECTORATE OF Environment ^{U.P.} having office at E-12/1, NOIDA, 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 instructions based on official record.
3. That the contents of the accompanying reply are true and correct and the knowledge has been derived from official records and nothing material has been concealed there from.



DEPONENT

Identify the Deponent who has
 signed out T.I. in my presence

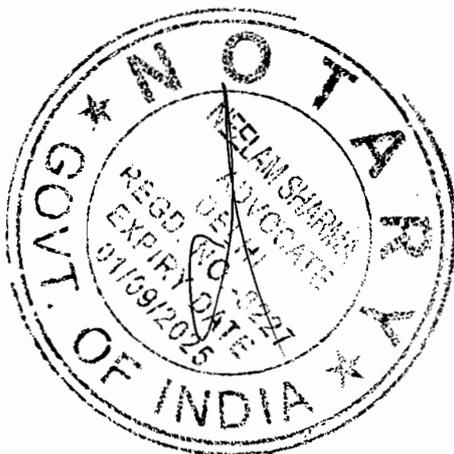
VERIFICATION

19 JUL 2022

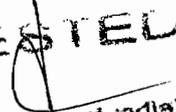
Verified on solemn affirmation at New Delhi on this _____ day of July, 2022, that the contents of the foregoing affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed there from.



DEPONENT



ATTESTED


 NOTARY (Govt. of India)
 Neelam Sharma
 Advocate
 Ch. No 165A, Gate No. No. 15,
 Patela House Courts,
 New Delhi-110001
 (M) 9899408301

19 JUL 2022

Anne

प्रेषक,

निदेशक,
पर्यावरण निदेशालय, उ० प्र०,
विनीत खण्ड-1, गोमती नगर, लखनऊ।

सेवा में,

सदस्य सचिव,
उ०प्र० प्रदूषण नियंत्रण बोर्ड,
टी०सी० 12-वी, विभूति खण्ड,
गोमती नगर, लखनऊ।

पत्रांक: 1120/पर्या०/शिकायती पत्र/2021-22

दिनांक: 20 मार्च, 2022

विषय: श्री संजय कुमार, एडवोकेट, मा० सुप्रीम कोर्ट, नई दिल्ली के शिकायती पत्र "Regarding Protection and Conservation of Groundwater in Notified Area of District-Bijnor, U.P." के संबंध में।

महोदय,

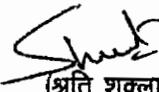
कृपया श्री संजय कुमार, एडवोकेट, मा० सुप्रीम कोर्ट, चैम्बर नं०-45, पटियाला हाऊस कोर्ट, नई दिल्ली के शिकायती पत्र दिनांक 11-03-2022, जो ई-मेल के माध्यम से प्राप्त हुआ है (प्रति संलग्न), का संदर्भ ग्रहण का कष्ट करें, जिसके द्वारा अवगत कराया गया है उत्तर प्रदेश सरकार द्वारा दिनांक 17-06-2020 के माध्यम से जनपद-बिजनौर के कुछ क्षेत्रों को Uttar Pradesh Ground Water (Management and Regulation) Act, 2019 के अंतर्गत अधिसूचित क्षेत्र घोषित किया गया है। श्री संजय कुमार, एडवोकेट द्वारा यह भी अवगत कराया गया है कि मे० बिन्दल पेपर्स मिल लि० द्वारा ग्राम-चंघीपुर, नूरपुर, जनपद-बिजनौर, उ०प्र० में नयी शुगर यूनिट की स्थापना की जा रही है तथा ब्लॉक नूरपुर को Uttar Pradesh Ground Water (Management and Regulation) Act, 2019 के अंतर्गत अधिसूचित क्षेत्र घोषित किया गया है तथा नये बोरवेल की स्थापना को प्रतिबंधित किया गया है।

उपरोक्त के क्रम में श्री संजय कुमार, एडवोकेट, मा० सुप्रीम कोर्ट, नई दिल्ली के शिकायती पत्र दिनांक 11-03-2022 की प्रति संलग्न कर इस अनुरोध के साथ प्रेषित है कि कृपया प्रकरण पर नियमानुसार कार्यवाही करवाते हुए कृत कार्यवाही से श्री संजय कुमार को सीधे अवगत कराते हुए पत्र की एक प्रति पर्यावरण निदेशालय को भी उपलब्ध कराने का कष्ट करें।

संलग्नक-यथोक्त।

भवदीया,

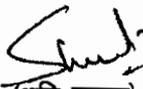
9c


(श्रुति शुक्ला)
उप निदेशक

पृष्ठांकन संख्या: 1120/पर्या०/शिकायती पत्र/2021-22 तददिनांक

प्रतिलिपि : श्री संजय कुमार, एडवोकेट, मा० सुप्रीम कोर्ट, चैम्बर नं०-45, पटियाला हाऊस कोर्ट, नई दिल्ली को सूचनार्थ प्रेषित।

9c


(श्रुति शुक्ला)
उप निदेशक

संख्या-एन.जी.टी.-181/81-7-2022

प्रेषक,

मनोज सिंह,

अपर मुख्य सचिव,

उ०प्र० शासन।

सेवा में,

- 1- अपर मुख्य सचिव/प्रमुख सचिव,
लघु सिंचाई एवं भूगर्भ जल विभाग,
उ०प्र० शासन।
- 2- जिलाधिकारी,
बिजनौर।
- 3- सदस्य सचिव,
उ०प्र० प्रदूषण नियंत्रण बोर्ड,
लखनऊ।

पर्यावरण, वन एवं जलवायु परिवर्तन अनुभाग-7 लखनऊ : दिनांक : ०7 जून, 2022

विषय-मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० संख्या-299/2022 संजय कुमार बनाम उ०प्र० सरकार एवं अन्य में पारित आदेश 05.05.2022 के संबंध में।

महोदय,

उपर्युक्त विषयक मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० संख्या-299/2022 संजय कुमार बनाम उ०प्र० सरकार एवं अन्य में पारित आदेश 05.05.2022 का कृपया संदर्भ ग्रहण करने का कष्ट करें, जिसके कार्यकारी अंश निम्नवत् है :-

".....1. The applicant has filed present application under section 14 of the National Green Tribunal Act, 2010 seeking issuance of directions to respondents no. 3 and 5 to decide his legal notice dated 11.03.2022 and to direct the respondents to formulate and implement Ground Water Security Plan for Noorpur Block, District Bijnor.

2. Applicant has stated that observing the fact that ground-water of Noorpur Block situated in District Bijnor is depleting at an alarming rate, respondent No.1 declared the same as a notified area under section 9 of the Uttar Pradesh Groundwater (Management and Regulation) Act, 2019 (for short '2019 Act') vide notification dated 17.06.2020. Central Ground Water Board in its Block-wise Ground Water Resources Assessment 2017 also declared Noorpur Block of District Bijnor as a critical zone. Since Noorpur Block has been declared notified area digging of new bore- 2 well there is prohibited by Section 12 of the 2019 Act. Respondent no.1 is bound to prepare the Ground Water Security Plan for the above said notified area under Section 13 of 2019 Act. Respondent No. 6 has applied to respondents No. 1 and 3 for establishing sugar factory in Noorpur area of District Bijnor. Operation of the sugar factory would be dependent on extraction of ground water which would affect ground water table of the area. The applicant sent legal notice cum representation dated 11.03.2022 to the respondents but no action has been taken on the same.....

....5. Let notices be issued to Respondents no 1 to 6 requiring them to file replies

specifically responding to all material averments made in the application within two months."

2- प्रश्नगत प्रकरण में वादी द्वारा उल्लेख किया गया है कि प्रतिवादी संख्या-06, Bindal Papers Mills Ltd द्वारा सुगर फैक्ट्री, नूरपुर जिला बिजनौर में स्थापित करने हेतु उ0प्र0 प्रदूषण नियंत्रण बोर्ड के समक्ष आवेदन किया गया है।

उक्त के अतिरिक्त वादी द्वारा प्रश्नगत सुगर फैक्ट्री के संचालन में जल के दोहन से क्षेत्र में भूगर्भ जल स्तर पर पड़ने वाले प्रभाव तथा Ground Water Security Plan तैयार करवाने एवं उसको लागू करने के बिन्दुओं को मा0 एन0जी0टी0 के समक्ष इंगित किया गया है।

3- इस संबंध में उल्लेखनीय है कि उ0प्र0 भूगर्भ जल (प्रबन्ध और विनियमन) अधिनियम 2019 की धारा-3, 4, 5 एवं 6 में Ground Water Security Plan के संबंध में स्पष्ट रूप से दायित्व निर्धारित किये गये हैं, जो पूर्णतया भूगर्भ जल विभाग, उ0प्र0 एवं सम्बन्धित जनपद के जिलाधिकारी से सम्बन्धित है।

4- अतः इस संबंध में मुझे यह कहने का निदेश हुआ है कि विषयगत ओ0ए0 संख्या-299/2022 संजय कुमार बनाम उ0प्र0 सरकार एवं अन्य में मा0 अधिकरण द्वारा पारित आदेश के अनुक्रम में समयान्तर्गत उत्तर/प्रतिशपथ दाखिल करने एवं प्रभावी पैरवी करने का कष्ट करें।

भवदीय,

Signed by मनोज सिंह
(मनोज सिंह)
Date: 03-06-2022 14:45:13
अपर मुख्य सचिव।
Reason: Approved

संख्या एवं दिनांक तदैव

प्रतिलिपि—निदेशक, पर्यावरण, उ0प्र0, लखनऊ को उनके पत्र संख्या-176/पर्या0/ओ0ए0 संख्या-299/2022, दिनांक 19.05.2022 के संदर्भ में।

आज्ञा से,

(मनोज सिंह)

अपर मुख्य सचिव।

संख्या-एन.जी.टी.-268 / 81-7-2022

प्रेषक,

ओम प्रकाश,

अनु सचिव,

उ०प्र० शासन।

सेवा में,

1- अपर मुख्य सचिव/प्रमुख सचिव,

लघु सिंचाई एवं भूगर्भ जल विभाग,

उ०प्र० शासन।

2- जिलाधिकारी,

बिजनौर।

3- सदस्य सचिव,

उ०प्र० प्रदूषण नियंत्रण बोर्ड,

लखनऊ।

पर्यावरण, वन एवं जलवायु परिवर्तन अनु-7

लखनऊ : दिनांक : 15 जुलाई, 2022

विषय-मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० संख्या- 299 / 2022 संजय कुमार बनाम उ०प्र० सरकार एवं अन्य में पारित आदेश 05.05.2022 के संबंध में।

महोदय,

उपर्युक्त विषयक शासन के पत्र संख्या-एन.जी.टी.-181 / 81-7-2022, दिनांक 07.06.2022 का कृपया संदर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० संख्या-299 / 2022 संजय कुमार बनाम उ०प्र० सरकार एवं अन्य में पारित आदेश 05.05.2022 के अनुक्रम में समयान्तर्गत उत्तर/प्रतिशपथ दाखिल करने एवं प्रभावी पैरवी करने हेतु अनुरोध किया गया है।

2- अतः शासन के उक्त संदर्भित पत्र दिनांक 07.06.2022 के अनुक्रम में मुझे पुनः यह कहने का निदेश हुआ है कि विषयगत वाद में मा० अधिकरण द्वारा पारित आदेश के अनुक्रम में समयान्तर्गत उत्तर/प्रतिशपथ दाखिल करने एवं प्रभावी पैरवी करने का कष्ट करें।

भवदीय,

Signed by ओम प्रकाश

(ओम प्रकाश) 2022 15:54:11

अनुसचिव approved

संख्या एवं दिनांक तदैव

प्रतिलिपि-निदेशक, पर्यावरण, उ०प्र०, लखनऊ को उनके पत्र संख्या-463 / पर्या०/ओ०ए० संख्या-299 / 2022, दिनांक 14.07.2022 के संदर्भ में।

आज्ञा से,