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

In IA No 620 of 2025, in
Appeal No. 61 of 2025

In the matter of:

Hari Om Sharan Dwivedi

... Appellant

Versus

Union of India through MoEF & CC & Others

...Respondents

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Filed by Defendant No 3 through Counsel

Ajay Bhagwati, (HIM/172/1995)
Advocate for Respondent No. 3 – Shivalik Solid Waste Management Ltd.
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Place: Panchkula
Date: 04-12-2025

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REPLY ON BEHALF OF RESPONDENT NO. 3 (Shivalik Solid Waste Management Ltd.)

Preliminary Objections

1. That the present application for stay is wholly misconceived, not maintainable, and liable to be dismissed at the threshold, and devoid of any cause of action, as the answering Respondent has no role in the grant or issuance of the Environmental Clearance (EC) impugned in this appeal, besides being devoid of merit.

2. That the plaintiff has not made out any prima facie case, nor any balance of convenience lies in his favour.

3. That the Respondent No. 3 (Shivalik Solid Waste Management Limited) was engaged only as an Environmental Consultant by Respondent No. 2, for the limited purpose of preparing the Environmental Impact Assessment (EIA) Report, Detailed Project Report (DPR), and assisting in submission of the application to Respondent No. 1 (MoEF & CC) for Environmental Clearance for the proposed Common Hazardous Waste Treatment, Storage and Disposal Facility (CHWTSDF).

4. That the answering Respondent had no decision-making or recommending authority in respect of the EC, which was solely considered and granted by the competent authority—MoEF & CC, after appraisal by the Expert Appraisal Committee (EAC), who granted EC for Common Hazardous Waste Treatment Storage and Disposal Facility (CHWTSDF) with secured landfill (SLF), used oil recycling, MEE and Pre-processing for Co Processing, proposed by Win Waste Management Pvt. Ltd., under the provisions of EIA Notifications, 2006 as amended therein, subject to the specific conditions and other Standard (General) EC Conditions as specified by the Ministry vide OM dated 04.01.2019 for the said project/activity

5. That **Section 16 of the National Green Tribunal Act, 2010** confers a *limited statutory right of appeal* only upon a "person aggrieved" by an order granting or refusing Environmental Clearance (EC) issued by the MoEF & CC. Such an appeal must mandatorily be preferred **within 30 days** from the date on which the order, decision, direction, or determination is **communicated** to the appellant, but not otherwise, hence liable to be dismissed on this ground, as not adhered to by the Appellant.

6. That the said right of appeal is available only to those persons who have either (i) participated in the regulatory process envisaged under the EIA Notification dated **14.09.2006**, or (ii) are otherwise directly and substantially affected by the impugned EC. In the present case, although the appellant has preferred an appeal, **he does not fall within the ambit of "person aggrieved"** as contemplated under Section 16 of the Act, 2010.

7. That in the aforesaid circumstances, though the appellant has instituted the present appeal challenging the EC dated **11.08.2025**, he is **neither a necessary party nor a person aggrieved** under Section 16 of the Act.

8. That the appellant has approached this Hon'ble Tribunal purely in his **personal capacity**, without having ever participated in the public consultation or the regulatory process relating to the grant of EC in favour of the answering Respondent. Further, the decision or determination of EC was **never communicated to him**, as required under Section 16. Therefore, the appellant cannot maintain the present appeal, as he lacks both **locus standi** and **statutory entitlement** to file the same.

9. That it is a settled position of law that an appeal is a **creature of statute**, and the right to file the same must strictly conform to the conditions prescribed under the governing statute. Section 16 of the NGT Act restricts the right of appeal only to a person aggrieved, and that too within the prescribed limitation period.

10. That the present appellant, having filed this appeal in his personal capacity without any demonstrable grievance or legal injury arising from the impugned EC, is barred from invoking the appellate jurisdiction of this Hon'ble Tribunal. Consequently, the appeal is also **bad for non-joinder of necessary parties** and is liable to be dismissed at the threshold.

11. That it is also equally well settled that the authorities inclusive of expert authorities are authorized to subserve the environmental norms and standards in terms of Environment (Projection) Act, 1986, Environmental (Protection) Rules, 1986 and the notifications issued thereunder inclusive of the notification

dated 14.09.2006 published in official gazette of Central Government in order to determine the scope of the project. Besides this the notification dated 03.03.2016 mandates accreditation of consultants, and seeks to enhance transparency, technical rigour, and standardization in EIA/EMP preparation. This reduces the risk of poor quality or bugus impact assessments being submitted by unqualified consultants. It also helps safeguarding the integrity of the appraisal and EC grant process, because only vetted entities with technical expertise and recognized credentials can prepare and present the environment impact studies.

12. The extract of screening and assessment of cumulative effect and so long as the statutory process is followed and Environmental Impact Assessment (EIA) made by the authorities is not found to be irrational or improper so as to frustrate the very purpose of Environmental Impact Assessment (EIA), the appellate court ought not to interfere the decision of the authorities in exercise of power of judicial review.

Hence, in view of the aforesaid facts and the settled legal position, it is respectfully submitted that no fault whatsoever can be attributed to the answering Respondent No. 3. The answering respondent has acted bona fide, diligently, and strictly in accordance with law, on the basis of the information and documents furnished by Respondent No. 2. The unfounded and frivolous allegations raised by Respondent No. 2 are misconceived, untenable and liable to be rejected.

It is, therefore, most humbly prayed that the present stay application, along with the accompanying appeal, may kindly be dismissed, in the interest of justice, equity and fair play.

13. That the plaintiff has concealed material facts and approached this Hon'ble Court with unclean hands, therefore no equitable relief of stay can be granted.

14. That the application is an attempt to stall the proceedings and delay the matter, which is impermissible.

Reply on Merits (Without Prejudice to Objections)

Para-wise reply to the stay application:

1. Para 1: Contents matter of record.
2. Para 2: Matter of record, whereas the allegations are denied. The answering defendant has already filed reply to the appeal filed by the appellant, the contents of the reply may be read as a part and parcel of this reply also. The appellant has failed to demonstrate any legal injury that warrants grant of stay.
3. Para 3, 4, & 5: Contents are denied being wrong and devoid of merit.
4. Para 6: Contents are denied being wrong and devoid of merit. Whereas, it is vehemently denied that any irreparable loss will be caused to the appellant. On the contrary, it is the defendant who will suffer serious prejudice if stay is granted, as the defendant-2 as a consultant, acted in bonafide and on the information provided by the project proponent.
4. Para 7, 8, & 9, 10,: Contents are denied being wrong and devoid of merit, the appellant has no legal right, title or basis to seek the relief claimed.

No Prima Facie Case

The plaintiff has not produced any documentary or legal basis that shows a strong prima facie case. Emotional or speculative assertions cannot constitute grounds for stay.

No Irreparable Loss

The plaintiff has not shown any real, tangible, or irreparable injury.

Balance of Convenience in Favour of Defendant

1. The defendant acted strictly in accordance with law, being the consultant of the project proponent.
2. Grant of stay will unnecessarily hinder lawful rights, cause delay, and prejudice the defendant's interests.
3. Balance of convenience, therefore, lies entirely in favour of allowing the defendant to continue without any restraint.

Plaintiff Not Entitled to Equitable Relief

Stay is an equitable relief. A party who suppresses facts, acts malafide, or approaches the Court with ulterior motives is not entitled to equity.

Prayer

In view of the above submissions, it is most respectfully prayed that this Hon'ble Court may kindly:

a) Dismiss the appellant's stay application with costs; and

b) Pass any other order(s) as deemed fit and proper in the interest of justice.

Filed by Defendant No 3 through Counsel

Ajay Bhagwati, (HIM/172/1995)
Advocate for Respondent No. 3 – Shivalik Solid Waste Management Ltd.
Email id:- ajaybhagwati@gmail.com
Mob 9816002722.

Place: Panchkula
Date: 04-12-2025

VERIFICATION

I, Ashok Sharma, Son of Sh. Raj Kumar Sharma, resident of #H232, New Generation Apartments, Dhakoli, Zirakpur SAS Nagar Mohali, Punjab-140603, &, duly authorized representative & and presently working as Chief Executive Officer of Respondent No. 3 Shivalik Solid Waste Management Ltd., having its registered office at Village Majra, PO Dabhota,, Tehsil Nalagarh, District Solan, H.P., do hereby verify that the contents of the foregoing reply are true and correct to my personal knowledge and belief, and nothing has been concealed therefrom.

Verified at _____ on this ___ day of _____, 2025.

DEPONENT

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

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... Appellant

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AFFIDAVIT

I, Ashok Sharma, Son of Sh. Raj Kumar Sharma, resident of #H232, New Generation Apartments, Dhakoli, Zirakpur SAS Nagar Mohali, Punjab-140603, &, duly authorized representative & and presently working as Chief Executive Officer of Respondent No. 3 Shivalik Solid Waste Management Ltd., having its registered office at Village Majra, PO Dabhota,, Tehsil Nalagarh, District Solan, H.P., do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of Respondent No. 3 in the above-captioned stay application and am competent to swear this affidavit.
2. That the contents of the accompanying reply on behalf of Respondent No. 3 to the stay application have been drafted under my instructions, and the statements made therein are true and correct to my knowledge and belief.
3. That the annexures annexed to the reply are true copies of the respective originals.

NOTARY PUBLIC Vikas Arya Advocate Regn. No. 16805 Valid Upto 30.11.2030 PANCHKULA (INDIA) GOVT. OF INDIA

Verified at _____ on this 04 day of -12-, 2025.

DEPONENT

Respondent No. 3 – Shivalik Solid Waste Management Ltd.

VERIFICATION

I, Ashok Sharma, Son of Sh. Raj Kumar Sharma, resident of #H232, New Generation Apartments, Dhakoli, Zirakpur SAS Nagar Mohali, Punjab-140603, &, duly authorized representative & and presently working as Chief Executive Officer of Respondent No. 3 Shivalik Solid Waste Management Ltd., having its registered office at Village Majra, PO Dabhota,, Tehsil Nalagarh, District Solan, H.P., do hereby verify that the contents of above affidavit of mine true and correct to my personal knowledge and nothing has been concealed therefrom.

Verified at _____ on this 04 day of -12-, 2025.

DEPONENT

ATTESTED
VIKAS ARYA
Notary Public, Panchkula (Hry.)

2025