

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 97 OF 2022

IN THE MATTER OF:

SALMAN MIYA

....APPLICANT

Versus

STATE OF UTTAR PRADESH

....RESPONDENTS

REPLY ON BEHALF OF THE RESPONDENT NO. 8
WITH AFFIDAVIT

(FORINDEX:-Kindly See Inside)

NEW Delhi
Dated: 06.03.2023

FILED BY



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NEW Delhi

Dated: ...03.2023

S. A. Zaidi
Mansi
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REPLY ON BEHALF OF RESPONDENT NO. 8 (VIKAS
KASANA, OWNER) OWNER, OF PLOT NO. G45, PHASE 1,
MG ROAD, HAPUR

TO,

THE HON'BLE CHAIRPERSON
AND HIS OTHER COMPANION JUDGES
OF THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

MOST RESPECTFULLY SHOWETH:

1. That an Original Application being O.A No. 97/2022 titled as Salman Miya versus State of Uttar Pradesh was filed before this Honourable Tribunal against the running of illegal acid and

chemical factories without license as well as of burning of E-waste in open area in Village Chivra, PS Dholana, District Hapur, Uttar Pradesh.

2. That the Honourable Tribunal was pleased to consider the matter and vide its order dated 03.11.2022, the Honourable Tribunal issued notices to the respondent No. 1-12. The relevant Para of the order dated 03.11.2022 is reproduced herein as below:-

“In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, (2) State Pollution Control Board (UPPCB), (3) State Environment Impact Assessment Authority (SEIAA) (4) Uttar Pradesh State Industrial Development Authority (UPSIDA), (5) District Magistrate, Hapur (6) Mr. Naseem Ahmed, Plot Number E-59, Phase-1, MG Road, Hapur, (7) Mr. Arif, Plot No. G-54, Phase-1, MG Road, Hapur, (8) Mr. Shami, Plot No. G45 Phase-1, MG Road, Hapur, (9) Mr. Sanjeev Kumar, Plot No. G-71, Phase1, MG Road,

Hapur, (10) M/s M F Fabrication, Plot No. H-16, Phase I, MG Road, Hapur, (11) Owner of Plot No. I-10, Phase III, MG Road, Hapur, (12) M/s Actinate Bio Pharma Pvt. Ltd., Plot No. I-8, Phase III, MG Road, Hapur, who stand impleaded as respondents No. 1 to 12. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents requiring them to file their reply/response within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."

3. That this fact didn't come into the knowledge of the answering respondent that any such notices have been issued in a matter by this Honourable Tribunal against the answering respondent's premises. The answering respondent submits that he was not aware of this matter at all.
4. That subsequently again on 16.02.2023, notices were again issued by the Honourable Tribunal to all the respondent parties.

However, on 20.02.2023, it came into the knowledge of the answering respondent about the notices issued by this tribunal in the above captioned matter, through the District Magistrate Hapur.

5. FACTS

- a) That the answering respondent i.e. Mr. Vikas Kasana is the owner of the property having Plot No. G-45, Phase 1, MG Road, Hapur. It is humbly submitted that the property of the answering respondent was lying vacant since last the lockdown period. The answering respondent used to live in Vasundhra, Ghaziabad whereas the above stated property was situated in Hapur.
- b) That previously, the answering respondent used to do some manual hand work (thread work) in his Plot No. G-45, Phase 1, MG Road, Hapur for which no consent/NOC was required to be obtained by the U.P Pollution Control Board. But, due to the COVID-19 pandemic and after the lockdown measures,

the answering respondent has to shut down his work/business.

- c) That since COVID-19 and lockdown, the above stated property was lying vacant and a guard was deployed by the answering respondent to take care of his property/plot.
- d) That the guard, without the knowledge of the answering respondent let out the property to some Mr. Shami. The answering respondent was absolutely clueless about the Mr. Shami or the work he was carrying out in the above stated vacant plot. It is after the first inspection dated 23.04.2022, that the answering respondent came to know about this illegal industrial activity, which was carried out in his plot without his knowledge.
- e) That as soon as the answering respondent came to know about the illegal industrial activity, which was carried out in his plot without his knowledge, he made the plot vacated vacated from Mr. Shami at once and also fired the guard

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which was deployed by him to take care of his above stated plot. The answering respondent locked his premises after that.

- f) That it is evident from the second inspection conducted on 29.08.2022, that the joint team found the Plot No. G-45, Phase 1, MG Road, Hapur lying vacant and locked. The photographs of the vacant and locked premises of the answering respondent have also been shown in the joint committee report dated 14.10.2022.
- g) That subsequently on 24.02.2023, the answering respondent received a recovery certificate from the Tehsildar of Dhaulana, District Hapur, Uttar Pradesh to deposit the Environment Compensation of Rs. 13, 80,000/- (Rs. Thirteen Lakhs Eighty Thousand) for violating the environmental norms due to polluting activity being carried out in his plot/ premises.

- h) That the answering respondent humbly submits that he was not at all aware of any illegal activity being done by some Mr. Shami in his premises. The guard, without the knowledge of the answering respondent, gave the premises to Mr. Shami. The answering respondent used to live in Vasundhra, Ghaziabad whereas his plot was situated in Hapur, thus the answering respondent used to visit his plot quite occasionally. If the answering respondent would have known about the illegal activity being carried out in his premises by anybody, he would have taken action against him then and there only.
- i) That the answering respondent is definitely not in a position to deposit the hefty compensation of Rs. 13,80,000/-. Moreover, the violations are not being done by him, but some Mr. Shami who was carrying out the activity without the knowledge of the answering respondent.
- j) That the answering respondent humbly submits that the answering respondent is not in a position to pay this much

hefty, environment compensation due to severe financial crisis. It is very difficult for him to pay such a hefty compensation, and moreover after the COVID-19 pandemic, the business of the answering respondent has also been stopped. He is facing extreme financial difficulties after the closure of the business also.

- k) That the submissions of the answering respondent be kindly be considered by this Honourable Tribunal keeping in view the fact that the violations were done without the knowledge of the answering respondent and he was not at all involved in any violation.
- l) That the answering respondent undertakes that he will be more careful and will keep a strict vigilance on his property/plot in future.
- m) That the present reply is being made bonafide in the interest of justice.

6. PRAYER

In view of the aforesaid facts and circumstances, it is prayed that this Honourable Tribunal may graciously be pleased to:-

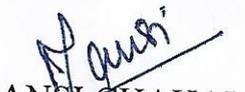
- a. To waive off the Environment Compensation of Rs. 13,80,000/- (Rs. Thirteen lakh and eighty thousand Rupees) imposed on the answering respondent.
- b. To pass an order that may be deemed necessary and fit on the facts and circumstances of the aforesaid case.

Dated: .../03/2023

New Delhi

Applicant
Through


S.A. ZAIDI


MANSI CHahal
ADVOCATES

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 97 Of 2022

IN THE MATTER OF

SALMAN MIYA

...APPLICANT

VERSUS

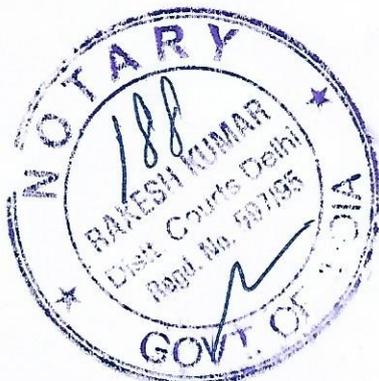
STATE OF UTTAR PRADESH

....RESPONDENT

AFFIDAVIT

I, Vikas Kasana S/o Balram Kasana, R/o House No-414, Sector-11, Vasundhra, Ghaziabad, U.P:=-201012, presently at Delhi do here by solemnly affirm and declare as under:-

1. That I am the Respondent No. 8 in the above noted O.A. No 97/2022 therefore I am fully conversant with the fact of the case I am competent to sign and swear this Affidavit.
2. That the accompanying reply has been drafted by my counsel and the same has been read over and explain to me and I say and declare that the same are true and correct.



3. That the contents of accompanying I.A be read as part and parcel of this affidavit as the same are not repeated herewith for the sake of brevity.

Vikas Kasana

DEPONENT

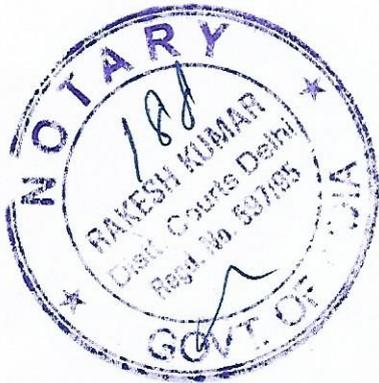
I hereby certify that the above affidavit was signed by the deponent

VERIFICATION

Verified at Delhi on this 6 MAR 2023 day of 2023 that the contents of my above Affidavit are true and correct to my knowledge and nothing material has been concealed there from.

Vikas Kasana

DEPONENT



CERTIFIED THAT THE DEPONENT
Shri/Smt./Ks. Vikas Kasana
W/O W/D R/o
S.O. Baham/Kasane
identified by Shri
Kapil Sagar
at Delhi on
that the Contents of the affidavit
been read and explained to him and
correct to his knowledge

Notary

6 MAR 2023

VAKALATNAMAIN THE COURT OF National Green Tribunal, New DelhiI.A No. _____ of 2023 in O.A 97/2022
Salman Miya Piff./Petition/Appellant

Versus

State of U.P & Ors. Defdt./Respdts.Know all to whom these presents shall come that I/we Vikas Kawana s/o Bahani Kawana the above-named applicants in I.A do hereby appoint,**SHARIQ ABBAS ZAIDI, MANSI CHAHAL**

ADVOCATE (Enrollment No:-

Chamber No. 7, Trishul Tower (infront of Pacific Mall) D/6223/2017)

Kaushambi, Ghaziabad (U.P.)

Tel : 9868369914, 0120-4115171

E-mail : info@sazaidiassociates.com

Website : www.sazaidiassociates.com

(Adv. Mansi Chahal)

(hereinafter called the Advocates) to be my/our Advocate in the above-note case and authorise him/her:-

To act appear and plead in the above-noted case in the Court, or in any other Courts in which same may be tried or heard and also in the appellate Courts.

To sign, file and present pleading, appeals, applications of execution, review, revision, restoration, withdrawal, replies, objections, or Affidavits or other documents as may be required in prosecutions of the said case in all its stages.

To file and take back documents.

To withdraw, or compromise the said disputes that may arise touching or in any manner relating to the said cause.

To take out execution proceedings.

To deposit draw and receive moneys and grant, receipts there for and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said cause.

To appoint and instruct any other Legal Practitioner authorising him/her to exercise the power and authorities hereby conferred upon the advocate whenever they may think fit to do so.

And I/We, the undersigned to hereby agree ratify and confirm all acts done by the Advocate or his 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 authorised agent would appear in the Court on all hearings.

And I/we the undersigned, do hereby agree not to hold the advocate or his substitute responsible for the result of the said cause in consequence of their absence from the court when the said cause is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/We, the undersigned, do hereby agree that in the event of the whole or any part of the fee agreed by me / us to be paid to the Advocate remaining unpaid they shall be entitled to withdraw from the prosecution of the said cause until the same is paid up. If any costs are allowed from an adjournment, the Advocate would be entitled to the same.

In witness where of I/We hereon to set my/our hand to these presents the, contents of which have been understood by me/us this 6th day of March, 2023.Mansi
AcceptedClient
Vikas Kawana