

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

ORIGINAL APPLICATION NO. 273 OF 2020

IN THE MATTER OF:

Rakesh Kumar & Anr.

... Appellants

-VERSUS-

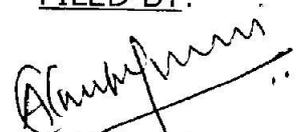
Union of India & Ors.

... Respondents

INDEX

S.No.	Particulars	Page No.
1.	Reply on behalf of State Level Environment Impact Assessment Authority.	
2.	Annexure A1 - Copy of factual report submitted by respondent no.4.	
3.	Annexure A2 - Copy of show cause notice dt. 06.04.2021.	
4.	Annexure A3 - Copy of reply dt. 21.04.2021 filed by project proponent.	
5.	Annexure A4 - Copy of minutes of meeting dt.25.05.2021.	

FILED BY:



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Dated: 21.06.2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

ORIGINAL APPLICATION NO. 273 OF 2020

IN THE MATTER OF:

Rakesh Kumar &Anr.

... Appellants

-VERSUS-

Union of India &Ors.

...Respondents

REPLY ON BEHALF OF STATE LEVEL ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY, UTTAR PRADESH.

RESPECTFULLY SHOWETH: -

PRELIMINARY OBJECTIONS: -

1. The captioned matter being filed by way of Original Application is not maintainable as only an Appeal under section 16 of the National Green Tribunal, 2010 can be preferred against grant of an environmental clearance.

2. The original application is barred by limitation and no application seeking condonation of delay has been filed. It is submitted that as per the provisions of the Act, an appeal challenging grant of environment clearance can be preferred within a period of 30 days from the date of issuance of EC. It is

submitted that the impugned EC was granted on 30.06.2020 and the original application besides being not maintainable in in form has been preferred on 23.11.2020. Hence, there is a delay of 84 days in filing the captioned petition. Further, the delay can not be condoned as it is beyond a period of 60 days.

REPLY ON MERITS:-

1. It is submitted that an online Application Dt.29.01.2019 was preferred by the project proponent M/s Shushila Bio-Medical Waste Plant, Himgiri Colony, Kanth Road, Moradabad, U.P. for issuance of Terms of Reference for the proposed project of Bio-Medical Waste Plant, at Gata No-295 Min, Village FathepurBisnoi, Moradabad, U.P. M/s Shushila Bio-Medical Waste Plant.The project proposal falls under category-7(da) of EIA Notification, 2006 (as amended).

2. It is submitted that the case was considered by SEAC in its meetingdt.30.04.2019. Upon consideration of presentation made by project proponent along with his consultant,the committee discussed the matter and recommended to issue the terms of reference (TOR) for the preparation of EIA regarding the project.

3. It is submitted that subsequently the matter was considered by answering respondent SEIAA in its meeting dt. 22.05.2019 wherein, SEIAA agreed with the recommendation of the SEAC and resolved to issue ToR for conducting Environment Impact Assessment.

4. It is submitted that the Public Hearing in respect of the proposed project was organized on 21.12.2019. It is submitted that the project proponent after conducting the EIA submitted an online Application dt.02.03.2020 for issuance of Environmental Clearance for the proposed project. The same was considered by SEAC in its meeting dt. 20.05.2020 wherein a presentation was made by the project proponent along with their consultant M/s Ind Tech House Consult. The committee discussed the matter and recommended grant of environmental clearance for the project proposal along with general and specific conditions.

5. It is submitted that subsequently, the case was considered answering respondent SEIAA in its meeting dt. 09.06.2020. The answering respondent considered relevant records and noted that machinery details like incinerator of 300kg/hr with ventury scrubber system, autoclave of 1500ltr/hr, shredder of 200kg/hr, ETP of 10 KLD should be added in the salient features of the

project. The answering respondent agreed with the recommendation of the SEAC to grant EC to the above project with following additional specific conditions:-

- a. Directions/suggestions given during public hearing and commitment made by the project proponent should be strictly complied.
- b. The unit shall strictly comply with the CPCB guidelines for setting up the Common Bio-Medical Waste Treatment Facility (CBWTF).
- c. Proponent shall strictly comply the design criteria for incinerator, autoclave, shedder and all other requirements including bar-coding etc. as per the CPCB guidelines.
- d. The unit shall strictly ensure mercury waste management at health care facility as per the CPCB guidelines.
- e. The unit shall establish Standard Operating Procedure for waste collection, handling transportation, treatment and disposal as per Biomedical Waste Management Rules 2016.
- f. Zero Liquid Discharge (ZLD) status shall be maintained all the time.
- g. The project proponent shall comply with the Environmental standards notified by MoEF & CC for incinerators along with the technology/guidelines.

h. The project proponent shall submit the schedule for training of various categories of employee involved in Bio-medical waste management at various levels of Bio-medical waste handling and treatment at Bio-Medical treatment facility within next 3 months to SEIAA U.P.

i. Authorization from UPPCB under Bio-medical waste (Management and Handling) rule, 2016 shall be obtained.

j. The unit shall develop 33% of plot area as a green belt within premises as per the CPCB guidelines.

k. The project proponent shall obtain the forest clearance and permission of Central and State Government as per law under the provisions of Forest (conservation) Act, 1980 before the start of work.

l. If the proposed project is situated in notified area of ground water extraction where creation of new wells for ground water extraction is not allowed, requirement of fresh water shall be met from alternate water sources other than ground water or legally valid source.

It is submitted that imposition of additional specific conditions by answering respondent reflects application of mind while granting EC. The EC was granted on 30.06.2020.

6. It is submitted that pursuant to order dt. 02.12.2020 passed by this Hon'ble Tribunal, joint meeting of SEIAA & SEAC was convened on 09.02.2021 wherein it was resolved to seek a factual report from UP Pollution Control Board verifying the distance of existing habitation and school from Bio-Medical Waste Plant.

7. It is submitted that respondent no.4 i.e.U.P. Pollution Control Board vide letter dt. 17.03.2021 submitted the factual report. The copy of factual report submitted by respondent no.4 to answering respondent is Annexure A1. The same was put for consideration before the joint committee in its meeting dt. 22.03.2021.

8. It is submitted that the joint committee observed that the content of the factual report has certain facts which are contrary to the facts mentioned in the project proposal submitted for grant of Environmental Clearance by the project proponent. Moreover, the project proponent in his application has concealed certain facts regarding the distance of school (150 meter), environmental sensitive area etc., which is an important aspect to be considered while issuing the Environmental Clearance. In view of the above, the joint committee decided to issue a show cause notice under

section 5 of Environment (Protection) Act, 1986 (as amended) to the project proponent for explaining the facts. The joint committee also decided to keep the Environmental Clearance in abeyance till final decision. The project proponent was directed to submit the reply within 15 days after receipt of show cause notice, failing which the Environmental Clearance will be revoked. As per the decision of joint Committee, respondent no.4 issued Show Cause Notice dt. 06.04.2021 to the project proponent. The copy of the show cause Notice is Annexure A2.

9. It is submitted that the Project proponent submitted the reply vide his e-mail dated: 21.04.2021 (Annexure A3) which was placed before the joint Committee on 25.05.2021 for consideration. The joint committee noted that the reply of show cause notice dated 21.04.2021 was satisfactorily submitted by project proponent. The committee discussed the matter in the light of reply and "Revised Guidelines for Common Biomedical Waste Treatment and Disposal Facility, 2016" in depth. The committee did not find any concealment of facts by the project proponent in project proposal after verifying with the clarification. However, the committee decided that the following additional conditions should also be imposed in the existing Environmental

Clearance to ensure all environmental safeguard measures:

1. Clean fuel must be used to operate incinerator installed in the proposed CBWTF with appropriate air pollution control systems so that the adverse impacts of the emissions may be mitigated.
2. There must be a provision of at least 10 meter height wind break/wind breaking wall on the side of the residential area and school on the boundary of CBWTF.
3. Appropriate measures like proper housekeeping etc. must be adopted for control of odour likely to be originated from CBWTF.
4. A three-tier plantation of large trees, small trees and shrubs having high APTI (Air Pollution Tolerance Index) should be planted at the boundary.

The copy of the minutes of the meeting of the joint Committee is Annexure A4.

10. It is submitted that the buffer zone mentioned in citing criteria in Revised Guidelines for Common Bio-Medical Waste Treatment and Disposal Facilities is only recommendatory and not mandatory. The guidelines itself suggests that the buffer zone may be reduced to less than 500m by prescribing additional

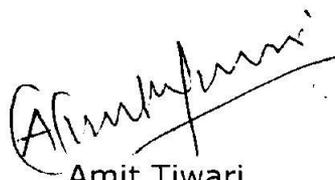
control measures. It is submitted that answering respondent has already issued additional conditions in this regard.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the original application with Exemplary cost. Or such other order as deem fit may be passed.


Respondent No.1

Through


Amit Tiwari
Counsel for the SEIAA
48, Lodhi Estate, New Delhi-110003
Mob: +91-8527271621
E-mail:- tiwariamit22@yahoo.com

Dated: 21.06.2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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IN THE MATTER OF:

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AFFIDAVIT

AFFIDAVIT OF SH. ANURAG KUMAR YADAV S/O SH. P N SINGH
AGED ABOUT 45 YEARS POSTED AS DEPUTY DIRECTOR HAVING
OFFICE AT E-12/1, SECTOR -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 my instructions.
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.



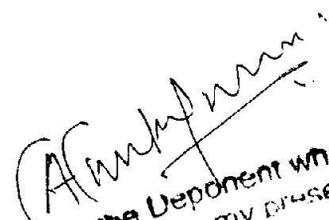
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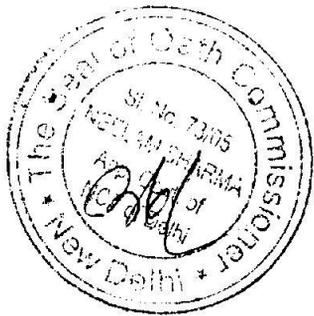

DEPONENT

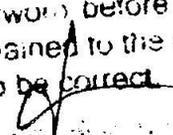
21 JUN 2021

Verified on solemn affirmation at New Delhi on this ___ day June, 2021, 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


* Identify the Deponent who has signed/put T. in my presence



Solemnly sworn before me read over & explained to the deponent
Admitted to be correct

Oath Commissioner, New Delhi

21 JUN 2021



Annexure A1
~~Annexure 08~~

उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड
UTTAR PRADESH POLLUTION CONTROL BOARD

संदर्भ संख्या

6352081 C-7/2020 को सी०-696/2021

दिनांक

17/3/21

सेवा में,

उप निदेशक
पर्यावरण निदेशालय,
विनीतरखण्ड-1, गोमतीनगर,
लखनऊ।

विषय:-माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० सं०-273/2020 राकेश कुमार एण्ड अनंदर बनाम यूनियन आफ इण्डिया एण्ड अदर्स के संबंध में।

महोदय

कृपया उपरोक्त विषयक अपने पत्र सं०-229/पर्या./सामान्य-एसईआईएए/2020 दिनांक 15 फरवरी 2021 का संदर्भ ग्रहण करें जिसके क्रम में माननीय एन०जी०टी० में विचाराधीन ओ०ए० सं०-273/2020 राकेश कुमार एण्ड अनंदर बनाम यूनियन आफ इण्डिया एण्ड अदर्स हेतु मै० सुशीला बायी मेडिकल वेस्ट प्लान्ट, गाटा सं०-295 मि० ग्राम फतेहपुर विशनोई, तहसील-को०, मुरादाबाद से संबंधित Factual Report संलग्न कर प्रेषित की जा रही है।

संलग्नक:-उपरोक्तानुसार।

भवदीय

(अनंत चन्द्रा)

मुख्य पर्यावरण अधिकारी कृते-

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ई-मेल-info@uppcb.com
वेब साईट- www.uppcb.com

TC 12 v. Vibhuti Khanda,
Gomti Nagar, Lucknow-226010
Phone 3522- 2720831, 2720828, 2720891, 2720681
e-mail: info@uppcb.com
Web Site: www.uppcb.com

Factual Report M/s Sushila BioMedical Waste Plant, Gata No. 295 Mi, Fathepur Vishnoi, Moradabad, Uttar Pradesh in the matter of O.A. No. 273/2000 Rakesh Kumar & Anr vs. Union of India and Ors.

- 1- M/s Sushila BioMedical Waste Plant has proposed to set up Common Bio-Medical Waste Treatment Facility at Gata No. 295 Mi, Vill- Fathepur Vishnoi, Moradabad with Geo-Coordinates as 28°53'31.9"N 78°39'35.5"E.
- 2- The proposed Common Bio-Medical Waste Treatment Facility involves setting up of Incinerator of 300 kg/hour, Autoclave 1500 litre / hour, Shredder 200 kg/hour for the treatment and disposal of Bio-Medical Waste. The capacity of the facility is 15 Ton/day of Bio-Medical Waste.
- 3- The Public Consultation for Environment Clearance under the provisions of EIA Notification No. SO1533(E) dated 14-09-2006 as amended was conducted on 21-12-2019 under the Chairmanship of Additional District Magistrate (Administration) Moradabad. The Public Notice inviting the objections and comments of the Public was published in news papers as per the provisions of the notification. The proceedings of the Public Consultation along with the queries raised by the participants were duly recorded in the minutes of Public Consultation. The minutes of Public Consultation were forwarded to State Level EIA Authority by UPPCB vide its letter dated 09-01-2020.
- 4- The said facility has been issued Environmental Clearance vide letter dated 30-06-2020 of the State Level Environment Impact Assessment Authority, Uttar Pradesh and Consent to Establish under the provisions of Water (Prevention and Control of Pollution) Act, 1974 as amended and Air (Prevention and Control of Pollution) Act, 1981 as amended has been issued by U.P. Pollution Control Board vide its letter dated 24-10-2020.
- 5- The details of proposed site are as follows : In the South West direction at 150 meter there is school. District School Invigilator Moradabad vide letter dated 29-09-2020 has confirmed that the school M/s S.D. International School is not recognised by Board of High School and Intermediate Education Uttar Pradesh.
Further, nearest abadi village Fatehpur Vishnoi is at a distance of 400 Meters in North direction and Village Jawri is at a distance of 1.30 K.M. in East direction. The Hakimpur Agwanpur Road is at a distance of 400 Meters in South direction.



- 6- Central Pollution Control Board has published Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities as per the provisions of Bio-medical Waste Management Rules, 2016. In the guidelines published by CPCB procedure for establishment of CBWTF and the methodologies for treatment and disposal of Bio-medical waste is defined however, siting criteria for CBWTF is not defined in the guidelines of CPCB.
- 7- The proposed Common Bio-Medical Waste Treatment Facility at Gata No. 295 Mi, Vill-Fathepur Vishnoi, Moradabad with Geo-Coordinates as 28°53'31.9"N 78°39'35.5"E shall be provided with Incinerator having primary and secondary chamber as per the norms laid down in the Bio-Medical Waste Management Rules, 2016. The Incinerator shall be provided with Quencher System, Venturi Scrubber, Packed Bed Scrubber, Activated Carbon System and Mist Eliminator for control of emissions. Stack of 30 Meters. The facility shall be provided with Autoclave, Shredder for Bio-Medical Waste Treatment Facility. The facility shall also be provided with Effluent Treatment Plant comprising of Collection Tank, Oil & Grease Trap, Chemical Dosing cum mixing tank, Coagulation Chamber, Primary Settling Tank, Biological Treatment Process, Secondary Settling Tank, Pressure Filter and pH Correction Tank. The treated effluent shall be utilized for irrigation thus achieving Zero Liquid Discharge into any surface water. Unit shall also install Online Emission Monitoring System with connectivity with the server of CPCB/UPPCB for Real Time Monitoring of the Emission Quality.

The Common Bio-Medical Waste Treatment Facility proposed at Gata No. 295 Mi, Vill-Fathepur Vishnoi, Moradabad shall install all necessary Water & Air Pollution Control Systems in order to ensure that the discharge of treated effluent and emissions shall be as per the prescribed norms.



Annexure A2

State Level Environment Impact Assessment Authority, Uttar Pradesh

Directorate of Environment, U.P.

Vineet Khandi, Gomti Nagar, Lucknow - 226 010

Phone: +91-522-2300541, Fax: +91-522-2300541

E-mail: doepiko@yaboo.com

Website: www.seiaup.com

Show-cause Notice

To,

Shri Vijay Yadav,
Director,
M/s Sushila Biomedical Waste Plant
Himgiri Colony, Kanth Road,
Moradabad, U.P. 244001

Ref: 63...../Parya/SEIAA/4650/2018

Dated: 06 April, 2021

विषय: पर्यावरण प्रभाव मूल्यांकन अधिसूचना, 2006 (यथा संशोधित) के अंतर्गत परियोजना प्रस्ताव "Bio Medical Waste Plant at Gata No.-295Mi, Village-Fatehpur Vishnoi, Moradabad, U.P., M/s Sushila Bio Medical Waste Plant" के संबंध में राज्य स्तरीय पर्यावरण प्रभाव निर्धारण प्राधिकरण, उपरो द्वारा निर्गत पर्यावरण अनापत्ति दिनांक 30-06-2020 के प्राविधानों के उल्लंघन के संबंध में पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा-5 के अंतर्गत कारण-बताओ नोटिस।

महोदय

आप द्वारा प्रस्तुत परियोजना प्रस्ताव "Bio Medical Waste Plant at Gata No.-295Mi, Village-Fatehpur Vishnoi, Moradabad, U.P., M/s Sushila Bio Medical Waste Plant" दिनांक 29-01-2019 के संबंध में राज्य स्तरीय पर्यावरण प्रभाव निर्धारण प्राधिकरण, उपरो द्वारा ई0अई0ए0 अधिसूचना, 2006 (यथा संशोधित) के क्रम में प्राधिकरण की पत्रावली ई0अई0आई0ए0ए0/4650, 2018 दिनांक 30-06-2020 द्वारा कतिपय प्रतिबन्धों के अन्तर्गत पर्यावरण अनापत्ति निर्गत का सूची है।

1- राज्य स्तरीय पर्यावरण प्रभाव निर्धारण प्राधिकरण, उपरो द्वारा निर्गत पर्यावरण अनापत्ति दिनांक 30-06-2020 पर ना0 राष्ट्रीय हरित न्यायधिकरण नई दिल्ली में ओ0ए0 संख्या-273/2020 Rakesh Kumar & Anr. Vs. Union of India & Ors में निवेदन की गई है जिस पर ना0 न्यायिकरण द्वारा दिनांक 02-12-2020 में निम्नवत आदेश पारित किए गए हैं-

1. Grievance in this application is that Environmental Clearance granted to M/s Sushila Bio Medical Waste Plant at Gata No. 295 Mi. at Village Fatehpur Vishnoi, District Moradabad, UP is contrary to the siting guidelines. The unit is close to the habitation and a school. The SEIAA made recommendations without Environment Impact Assessment and appraisal by the SEAC

2. In view of above, let the SEIAA, UP file its response after verifying the facts and take remedial action, following due process of law.
 3. A factual and action taken report may be furnished to this Tribunal within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.
 4. List for further consideration on 17.02.2021.
- 2- मा. एनओसीओ, नई दिल्ली द्वारा पत्र दिनांक 02-12-2020 के क्रम में राज्य स्तरीय पर्यावरण प्रभाव निर्धारण प्राधिकरण, उओप्र (एसओईओएओ) व राज्य स्तरीय विशेषज्ञ मूल्यांकन समिति, उओप्र (एसओईओएओसी) की संयुक्त बैठक दिनांक 09-02-2021 में विचार-विमर्श करते हुए निम्नवत् निर्णय लिया गया:-
- "The joint committee decided to seek factual report from UP Pollution Control Board verifying the distance of existing habitation and school from Bio Medical Waste Plant within a week in pursuance of aforesaid Hon. ble NGT order dated 02/12/2020
- The above matters were discussed and mutually decided by joint committee of SEIAA & SEAC."
- 3- एनओईओएओ व एसओईओसीओ, उओप्र की संयुक्त बैठक दिनांक 09-02-2021 में लिये गये निर्णय के क्रम में पर्यावरण निदेशालय की पत्रांका 823/पप/उत्तरांचल-एनओईओए/2020, दिनांक 15-02-2021 द्वारा संयुक्त समिति उओप्र प्रदूषण नियंत्रण बोर्ड, लखनऊ से प्रकरण पर factual report उपलब्ध करायें जाने का अनुरोध किया गया।
- 4- मुख्य पर्यावरण अधिकारी, वृत्त-7, उओप्र प्रदूषण नियंत्रण बोर्ड, लखनऊ द्वारा पत्रांक जी 35208/सी-7/एसओओसीओ-696/2021, दिनांक 17-03-2021 के माध्यम से प्रकरण पर factual report उपलब्ध करायी गयी, जिस पर एनओईओएओ व एसओईओसीओ, उओप्र की संयुक्त बैठक दिनांक 22-03-2021 में विचार-विमर्श करते हुए निम्नवत् निर्णय लिया गया:-
- "The joint committee in its meeting dated 22/03/2021 observed that the Chief Environment Officer, UPPCB, Circle-7 vide letter no. 35208-C-7/NOC-696/2021, dated 17/03/2021 (Annexure-1) has submitted his factual report. The content of this report has certain facts which are contrary to the facts mentioned in the project proposal submitted for grant of Environmental Clearance by the project proponent. Moreover, the project proponent in his application has concealed certain facts regarding the distance of school (150 meter), environmental sensitive area etc., which is an important aspect to be considered while issuing the Environmental Clearance.
- In view of the above, the joint committee decided to issue a show cause notice under section 5 of Environment (Protection) Act, 1986 (as amended) to the project proponent for explaining the facts. The joint committee also decided to keep the Environmental Clearance in abeyance till

final decision. The project proponent has to submit the reply within 15 days after receipt of show cause notice, failing which the Environmental Clearance will be revoked."

5. पर्यावरण प्रभाव मूल्यांकन अधिसूचना, 2006 के पैरा 8(A) में यह स्पष्ट प्रावधान किया गया है कि-

"Deliberate concealment and/or omission, or failure to disclose information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation or revocation of environmental clearance granted on that basis."

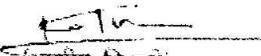
अतः पर्यावरण संरक्षण अधिनियम, 1986 की धारा 5 के अंतर्गत प्रदत्त शक्तियों के अधीन "Bio Medical Waste Plant at Gata No-295Mi, Village-FathepurVishnoi, Moradabad, U.P., M's Sushila Bio Medical Waste Plant" के संश्लेषण प्रस्ताव को श्रेष्ठ निर्देश दिए जाते हुए कारण बताओ नोटिस तत्काल प्रभाव से जमा किये जाने हूँ।

1. यह कि क्यों न निर्देशालय के पत्रक 153/सक/एराई0आइ0ए0ए0/4650/2018, दिनांक 30-06-2020 द्वारा निर्गत की निर्गत पूर्व पर्यावरण स्वीकृति को निरस्त कर दिया जाय।

2. यह कि क्यों न "Bio Medical Waste Plant at Gata No.-295Mi, Village-FathepurVishnoi, Moradabad, U.P., M's Sushila Bio Medical Waste Plant" परियोजना के संचालन हेतु उत्तरवायी व्यक्तियों के विरुद्ध पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा-15/16 के अंतर्गत सशम न्यायालय में अभियोजनात्मक कार्यवाही प्रारंभ कर दिया जाय।

उपरोक्त कारण बताओ नोटिस का उत्तर यह प्राप्ति से 15 दिन के अन्दर सुसंगत दस्तावेजों सहित प्रेषित करना सुनिश्चित करें। निर्धारित अवधि में सहायक उत्तर प्राप्त न होने पर उपरोक्त निर्देशों की पूर्ति कर दी जायेगी, जिसके लिए आप स्वयं उत्तरदायी होंगे।

भवदीय,


(आनूप तिवारी)

सदस्य सचिव

राज्य स्तरीय पर्यावरण प्रभाव निर्धारण प्राधिकरण, 2020

To,

Dated: 21.04.2021

**The Member Secretary,
State Level Environment Impact Assessment
Authority, Uttar Pradesh
Lucknow, U.P.**

Subject: Reply to Show-Cause Notice dated 06.04.2021 issued to M/s Sushila Biomedical Waste Plant by SEIAA.

Respected Sir,

1. I am in receipt of Show-Cause Notice dated 06.04.2021, issued to the undersigned, in his capacity as the Director of M/s Sushila Biomedical Waste Plant, by SEIAA, under Section 5 of the Environment (Protection) Act, 1986, vide which the undersigned has been directed to explain as to why the earlier Environmental Clearance, granted in favor of M/s Sushila Biomedical Waste Plant by SEIAA on 30.06.2020, should not be cancelled and appropriate proceedings should not be initiated against the concerned persons under Sections 15 and 16 of the Environment (Protection) Act, 1986. The reason for issuing the Show-Cause Notice to the undersigned, as highlighted in the Show-Cause Notice, is that there has been deliberate concealment of material information by the undersigned while applying for the Environmental Clearance in relation to M/s Sushila Biomedical Waste Plant, specifically the information pertaining to a school being situated at a distance of 150 meters from the project site.
2. In this regard, you are kindly requested to consider the following submissions, which will make it abundantly clear that there has been no concealment of any kind, leave alone deliberate concealment, on the part of the undersigned, in applying for or obtaining the Environmental Clearance in relation to M/s Sushila Biomedical Waste Plant.



(a) At the outset, it is submitted that the project being established by the undersigned in Moradabad, in the name of M/s Sushila Biomedical Waste Plant, is a project of great environmental and public interest. It is well known that biomedical waste has a serious adverse impact on water, soil, air quality, human health and the environment as a whole. A biomedical waste plant, by treating the biomedical waste in a scientific manner, seeks to minimize and virtually negate the damage caused to the environment and public health by biomedical waste, apart from creating employment opportunities from the local populace **(Annexure-1)**. In light of the increasing amounts of biomedical waste being generated in the country, especially after the onset of the prevailing Covid-19 pandemic, there have been several calls for establishment of bio-medical waste plants in the country on an extremely urgent basis **(Annexure-2)**. It is relevant to point out that there is not a single bio-medical waste plant within a vicinity of 75 kms of the bio-medical waste plant being set up by the undersigned and the establishment of the said plant is greatly beneficial for the State of Uttar Pradesh. The same is also evidenced by the letter dated 25.04.2019 written by the Regional Officer,UPPCB, Moradabad to the undersigned **(Annexure-3)**.

(b) It is extremely pertinent to mention that the school, which is running in the name of M/s S.D. International School and is situated at a distance of 150 meters from the project site, neither has any registration from the Department of Higher Education nor is it affiliated to either the State Board of Higher Education or any of the other Boards like CBSE, ICSE, ISCE etc. The school is running on a private land owned by one of the residents of the area. Also, the school offers teaching facilities only from classes 1 to 5 and caters to around 40 students. Furthermore, the school is located in the south-west direction [upwind] from the project site and any emission taking place from the



chimney at the project site will have absolutely no adverse effect on the children visiting the school.

- (c) The project site for the establishment of the bio-medical waste plant by the undersigned was taken after much deliberation, keeping in mind all the suitability requirements for establishing a bio-medical waste plant. All the details pertaining to the site of the establishment of M/s Sushila Biomedical Waste Plant, including the presence of a school at a distance of around 150 meters from the site of the incinerator, were duly disclosed by the undersigned at each stage of the process involved in obtaining the Environmental Clearance for the project. It was first disclosed to the members of the State Expert Appraisal Committee (SEAC), Uttar Pradesh at the time of making the presentation regarding the project on 30.04.2019, when all details regarding the proposed site of the project were depicted in detail. Subsequent to the presentation made by the undersigned, the SEAC consciously recommended the issuance of the Terms of Reference (TOR) for the preparation of the Environment Impact Assessment (EIA) report. In the Minutes of Meeting of SEAC held on 30.04.2019 (**Annexure-4**), it was clearly indicated that before appraisal of the EIA, a site inspection shall also be carried out by the SEAC Members. On the basis of the recommendation of the SEAC, the TOR's were issued by SEIAA on 13.06.2019 (**Annexure-5**).
- (d) Subsequent to the issuance of the TOR's, a detailed draft EIA Report was prepared by the Consultant on behalf of the undersigned in relation to the project. Thereafter, as per the mandate of law and after following the requisite procedure, a public hearing was conducted under the aegis of the Uttar Pradesh Pollution Control Board (UPPCB) on 21.12.2019 (**Annexure-6**), in which a large number of residents of the area were present, along with the concerned officials of the district administration and the UPPCB. The exact nature of the project and the work that



will be done at the site was explained in detail to the people present during the public hearing and a number of comments/suggestions/queries were made by the people regarding the project. All the local residents present during the public hearing were enthused by the proposed establishment of the project and offered their support for the same and agreed that the project is in public interest. Not a single objection was raised regarding the location of the project site or that it may have an adverse bearing on the nearby area. The Final EIA Report was submitted by the undersigned on 02.03.2020 after incorporating the points raised during the public hearing. It is relevant to mention that the presence of a school near the project site is clearly indicated at various places in both in the TOR Compliance and in the Final EIA Report. [Reference may be had to Pages 1, 67(4.2.1.3), 72 and 101 of the EIA Report] **(Annexure-7)**.

- (e) The project was considered by the SEAC in its meeting on 20.05.2020 **(Annexure-8)** and after deliberation, SEAC recommended for the grant of Environmental Clearance to the project, on the basis of which the Environmental Clearance was issued to the project by SEIAA on 30.06.2020 **(Annexure-9)**
- (f) Thereafter, the undersigned, as per the condition imposed in the Environmental Clearance, applied to the UPPCB for grant of Consent to Establish (COE) in relation to the project. During the process of grant of the COE, a specific query was raised by UPPCB regarding the presence of a school at a distance of 150 meters from the project site and a response was sought from the undersigned. A detailed response to the query was submitted to the Regional Officer, UPPCB, Moradabad by the undersigned on 01.10.2020, in which it was highlighted as to how the school is not even registered with the Board of High School and Intermediate Education, Uttar Pradesh and even otherwise it shall not be adversely affected in any manner



by the project. It was only after considering and being satisfied with the response submitted by the undersigned that the UPPCB issued the COE in relation to the project of the undersigned on 24.10.2020 (**Annexure-10**), subsequent to which the undersigned has put in a huge amount of capital investment of Rs. 3.5 crores (**Annexure-11**) in setting up the plant.

(g) Hence, as is evident from the above submissions, the undersigned never indulged in any concealment with regard to the establishment of the project and all aspects pertaining to the project, including the presence of a school at a distance of 150 meters from the incinerator site, were duly disclosed to all the regulatory and administrative agencies by the undersigned, including SEAC and SEIAA. In fact, several site inspections were conducted by various authorities, including by the SEAC Members, in terms of their decision in the meeting held on 30.04.2019. The entire procedure, including a detailed public hearing involving the participation of a large number of local residents, was followed to the letter before grant of the Environmental Clearance in favor of the project of the undersigned and hence, it is unfathomable as to how allegations of any concealment can be levelled against the undersigned at this stage.

(h) In fact, the report submitted by the Chief Environment Officer (**Annexure-12**), on which reliance has been placed by SEIAA while issuing the Show Cause Notice, confirms the position which has been highlighted by the undersigned hereinabove and states that the school is not even registered with the Board of High School and Intermediate Education, Uttar Pradesh and even otherwise and that the nearest habitation is at a distance of around 400 meters from the project site [further away from the incinerator]. The report further recommends that the waste plant of the undersigned shall install the necessary equipment in order to ensure that the discharge and



emissions are within prescribed norms **(Annexure-13)**. The report also notes that though the Central Pollution Control Board (CPCB) has specified revised guidelines **(Annexure-14)** for Common Bio-medical Waste Treatment and Disposal Facilities (CBWTF), no siting criteria has been defined and only recommendatory provisions are contained in the guidelines.

- (i) It is further submitted that as per the guidelines specified by CPCB, CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 meters so as to have minimal impact on these areas. However, it has also been stated in the same condition that in case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 meters by the SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (BAT) by the proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity.”
- (j) The bio-medical waste plant set up by the undersigned is equipped with all the state of the art machinery and best possible pollution abating equipment and technology. It is capable of ensuring that minimal impact is caused to the environment as a result of the operation of the plant and the emissions generated from the plant are well within the prescribed norms. It will also be a Zero Liquid Discharge (ZLD) unit.
- (k) It is also relevant to point out that the Show Cause Notice seems to have been issued by SEIAA pursuant to an order dated 02.12.2020 passed by the Hon'ble National Green



Tribunal in O.A. No. 273/2020 (the details of which are not available with the undersigned till date), wherein the Hon'ble NGT has noted that the recommendation for issuance of the Environmental Clearance has been made by the SEIAA without EIA and appraisal by the SEAC. As is clear from the submissions made by the undersigned in the preceding paras, which can be easily verified from the official records, the entire process of issuance of TOR, submission of EIA Report, public consultation, appraisal etc. was rigorously followed before issuance of the EC in favor of the project of the undersigned and the Hon'ble NGT seems to have been misled into observing otherwise.

3. Thus, in view of the above submissions and keeping in mind the fact that there has been absolutely no concealment by the undersigned at any stage, in relation to any fact, regarding the establishment of the bio-medical waste plant at Moradabad, and further taking into consideration that no complaint has ever been received from the local residents regarding the project and a large amount of investment has already been put in by the undersigned to set up the plant subsequent to the grant of the COE by the UPPCB, it is respectfully prayed that the undersigned may be permitted to operate the bio-medical waste plant set up at Moradabad. SEIAA may impose additional safeguards and conditions in the interest of preservation and protection of environment, keeping in mind that the CPCB guidelines only lay down a recommendatory provision, and as a responsible citizen who has established the bio-medical waste plant in public interest and who is committed to ensure a clean and green environment, an undertaking is given by the undersigned that he is going to be willing to subject the bio-medical waste plant to the strictest scrutiny and monitoring and the strictest environmental norms that are applicable to it.

ENCLOSED

Annexure 1 : Letter Issued by Gram Pradhan.

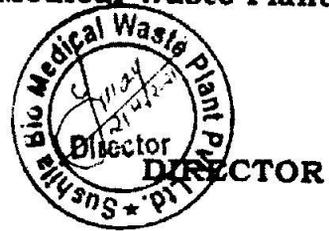


- Annexure2 : Letter Issued by Additional Director of Health
Moradabad.
- Annexure3 : Letter Issued by Regional Officer,UPPCB,
Moradabad.
- Annexure4 : Minutes for Meeting(398) of SEAC held on
30.04.2019
- Annexure5 : TOR's Issued by SEIAA on 13.06.2019.
- Annexure6 : Public Hearing Meeting Minutes.
- Annexure7 : Final EIA Report.
- Annexure8 : SEAC Meeting Minutes(465) Dated 20.05.2020.
- Annexure9 : Environmental Clearance was issued to the project
by SEIAA on 30.06.2020
- Annexure10 : CTE Issued By CEO UPPCB Dated 24.10.2020
- Annexure11: Capital Investment Certificate Issued by
Chartered Accountant 04.03.2021.
- Annexure12: Factual Report Signed by The CEO UPPCB.
- Annexure13: Letter Issued by Machinery and Equipment
Manufactured and Supplier certified that the
best technology of bio medical waste incinerator
supplied and installed by us is complete as
per CPCB/PCB norms And Guidelines.



Annexure 14: CPCB Revised Guidelines for Common Bio
Medical Waste Treatment and Disposal Facilities
Dated 21.12.2020

Yours Sincerely,
Sushila Bio Medical Waste Plant



Minutes of the Joint meeting of SEIAA and SEAC, U.P. held on 25/05/2021 at Directorate of Environment, Gomti Nagar, Lucknow.

The Joint Meeting of State Environment Impact Assessment Authority (SEIAA) & State Expert Appraisal Committee (SEAC) was held in Directorate of Environment, U.P. on 25/05/2021, following members were present in the meeting:

- | | | |
|-----|----------------------------|--|
| 1. | Prof. Rana Pratap Singh, | Chairman, SEIAA |
| 2. | Dr. (Smt.) Madhu Bhardwaj, | Member, SEIAA |
| 3. | Shri Ashish Tiwari, | Member Secretary, SEIAA |
| 4. | Dr. S.N. Singh, | Chairman, SEAC <i>CIASM</i> |
| 5. | Dr. Sarita Sinha, | Member, SEAC (Chairperson) |
| 6. | Shri Rajive Kumar, | Member, SEAC |
| 7. | Dr. Virendra Misra, | Member, SEAC |
| 8. | Dr. Pramod Kumar Mishra, | Member, SEAC |
| 9. | Dr. Ranjeet Kumar Dalela, | Member, SEAC |
| 10. | Dr. Ajoy Kumar Mandal, | Member, SEAC |
| 11. | Shri Meraj Uddin, | Member, SEAC |

1. Discussion on Hon'ble National Green Tribunal, New Delhi in Original Application No. 273/2020 Rakesh Kumar & Anr. Vs. Union of India & Ors.

The joint committee in its meeting dated 09/02/2021 deliberated that Hon'ble NGT has passed an order dated 02/12/2020 in the matter of Original Application No. 273/2020 Rakesh Kumar & Anr. Vs. Union of India & Ors. The operating part of order is as follows:

- Grievance in this application is that Environmental Clearance granted to M/s Sushila Bio Medical Waste Plant at Gata No. 295 Min. at Village Fatehpur Vishnoi, District Moradabad, UP is contrary to the siting guidelines. The unit is close to the habitation and a school. The SEIAA made recommendations without Environment Impact Assessment and appraisal by the SEAC.*
- In view of above, let the SEIAA, UP file its response after verifying the facts and take remedial action, following due process of law.*
- A factual and action taken report may be furnished to this Tribunal within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.*
- List for further consideration on 17.02.2021.*

The joint committee decided to seek factual report from UP Pollution Control Board verifying the distance of existing habitation and school from Bio Medical Waste Plant within a week in pursuance of aforesaid Hon'ble NGT order dated 02/12/2020.

The joint committee in its meeting dated 22/03/2021 observed that "the Chief Environment Officer, UPPCB, Circle-7 vide letter no.

Madhu Bhardwaj
CIASM
UM
RPS: jh

G35208/C-7/NOC-696/2021, dated 17/03/2021 has submitted his factual report. The content of this report has certain facts which are contrary to the facts mentioned in the project proposal submitted for grant of Environmental Clearance by the project proponent. Moreover, the project proponent in his application has concealed certain facts regarding the distance of school (150 meter), environmental sensitive area etc., which is an important aspect to be considered while issuing the Environmental Clearance.

In view of the above, the joint committee decided to issue a show cause notice under section 5 of Environment (Protection) Act, 1986 (as amended) to the project proponent for explaining the facts. The joint committee also decided to keep the Environmental Clearance in abeyance till final decision. The project proponent has to submit the reply within 15 days after receipt of show cause notice, failing which the Environmental Clearance will be revoked.

Hon'ble NGT may be requested to provide at least one month time for filing the reply on behalf of SEIAA."

The Secretariat issued a show cause notice to the project proponent on 06/04/2021 for explaining the facts as per points mentioned in factual report. The project proponent through e-mail dated 21/04/2021 submitted the reply of show cause notice dated 06/04/2021 (copy enclosed).

The joint committee noted that the reply of show cause notice dated 21/04/2021 was satisfactorily submitted by project proponent. The committee discussed the matter in the light of reply of show cause notice and "Revised Guidelines for Common Biomedical Waste Treatment and Disposal Facility, 2016" in depth. The committee does not find any concealment of facts by the project proponent in project proposal after verifying with the clarification. However, the committee decided that the following additional conditions should also be imposed in the existing Environmental Clearance to ensure all environmental safeguard measures:

1. Clean fuel must be used to operate incinerator installed in the proposed CBWTF with appropriate air pollution control systems so that the adverse impacts of the emissions may be mitigated.
2. There must be a provision of at least 10 meter height wind break/wind breaking wall on the side of the residential area and school on the boundary of CBWTF.
3. Appropriate measures like proper housekeeping etc. must be adopted for control of odour likely to be originated from CBWTF.
4. A three tier plantation of large trees, small trees and shrubs having high ~~APTI~~ ^{Air} (High Pollution Tolerance Index) should be planted at the boundary.

Handwritten signatures and initials:
mv, KDM, madhu bhadra, J, VM, RPS, jh

2. **Regarding compliance of Hon'ble NGT, New Delhi order dated 26/11/2020 in the matter of Appeal No. 52 of 2020 (IA NO 386/2020, IA NO 387/2020) : Sanjay Kumar Sharma Vs. Ministry of Environment, Forest and Climate Change, and others.**

The joint committee noted that Hon'ble NGT has passed an order dated 26/11/2020. The operating part of order is as follows:

1. *This Appeal has been preferred against Environmental Clearance (EC) granted by the SEIAA in favour of respondent No.07, Girish Chandra for Sand/ morrum mining at Khand No. 01, Gata No.1, Village Uchagaon Khadar, Tehsil Bibai, District Bulandshahr, U.P (Lease area 9.897 ha).*
2. *The appellant has raised two objections: (i) public hearing was held on 23.10.2018, while EIA report was filed on 19.02.2020. (ii) Geo-coordinates mentioned by the District Magistrate in the letter dated 23.07.2020 do not match with those mentioned by the project proponent in the EIA. The map is flawed on account of which demarcation could not be done.*
3. *With reference to the above, let the SEIAA, U.P and the District Magistrate, Bulandshahr give their response within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.*

A copy of this order be forwarded to the SEIAA, U.P and the District Magistrate, Bulandshahr by email.

The appellant may serve a set of papers to the SEIAA, U.P and the District Magistrate, Bulandshahr and file affidavit of service within one week by email.

In compliance of the Hon'ble NGT Order the SEIAA and SEAC in its joint meeting dated 09/02/2021 have taken following decisions:

1. *As per EIA Notification, 2006 the time limit between grant of TOR and submission of EIA report for the purpose of grant of EC in the concerned category is four years. The project proponent has submitted EIA within this period. Moreover, the project proponent got the permission from competent authority for this mining lease under the rules 78 of UP Minor Mineral Concession Rules, 1963.*
2. *The District Magistrate, Bulandsahar should be asked to provide certified lease map and verified Geo coordinates by 17/02/2021. The matter should be given time bound priority as it pertains to Hon'ble NGT order.*

Further, in the convened joint meeting of SEIAA and SEAC held on 01/03/2021 wherein, the joint committee observed that the District Magistrate, Bulandsahar has sent the factual report of the site vide letter no. 1780/Khanan Lipik/2021, dated 16/02/2021. However, the report does not contain the certified lease map.

FTN *Madan Chandray* *VM* *RPS, ph*

In view of which, the joint committee in its meeting on March 01, 2021 decided to send a letter to District Magistrate, Bulandsahar to provide the certified lease map at the earliest. Hon'ble NGT may be requested to provide extra time for filing the reply on behalf of SEIAA.

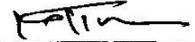
The joint committee in its meeting on 16/04/2021 observed that the map provided by District Magistrate, Bulandsahar vide letter no. 09/khanan, dated 08/4/2021 is not readable in terms of geo-coordinates and cadastral map scale. Hence, District Magistrate, Bulandsahar is again requested to provide the certified copy of cadastral lease map in ammonia print on cadastral map scale to enable us to make out the decision. The committee also decided to put this EC in abeyance till final decision.

Further, the joint committee in its meeting on 25/05/2021 observed that the map provided by District Magistrate, Bulandsahar vide letter no. 09/khanan, dated 08/04/2021 has been provided (in original) without geo-coordinates. Hence, District Magistrate, Bulandsahar should be again requested to provide the certified copy of cadastral lease map (with geo-coordinates) in ammonia print on cadastral map scale to enable us to make out the decision. Copy of this letter should also be send to Principal Secretary, Geology and Mining Department, Govt. of U.P. and Director, Geology and Mining, Govt. of U.P. for immediate action at the end of District Magistrate, Bulandsahar.

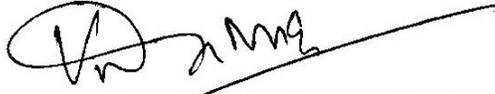
Hon'ble NGT may be requested to provide extra time for filing the reply on behalf of SEIAA, due to prevailing serious COVID-19 situation in the State of Uttar Pradesh.


(Prof. Rana Pratap Singh)
Chairman, SEIAA


(Dr. (Smt.) Madhu Bhardwaj)
Member, SEIAA

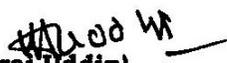

(Ashish Tiwari)
Member, Secretary,
SEIAA

(Dr. Sarita Sinha)
Chairperson, SEAC


(Dr. Virendra Misra)
Member, SEAC

(Dr. Pramod Kumar Mishra)
Member, SEAC

(Dr. Ajoy Kumar Mandal)
Member, SEAC


(Meraj Uddin)
Member, SEAC

(Rajive Kumar)
Member, SEAC


(Dr. Ranjeet Kumar Dalela)
Member, SEAC