

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI

APPEAL NO. 57 OF 2020

IN THE MATTER OF:

Manendra Pratap

... Appellant

-VERSUS-

Ministry of Environment, Forest And
Climate Change & Ors.

...Respondents

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FILED BY:



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Dated: 25.02.2020

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

RESPECTFULLY SHOWETH: -

1. The captioned appeal challenging the grant of Environment Clearance dt.15.10.2020 by the SEIAA, Uttar Pradesh for the proposed Sand/Morrum Mining at Khand No.1, Gata No.1, Village Unchagaon Khadar, Tehsil Dibai, District Bulandshahr, Uttar Pradesh in favour of Sh. Girish Chandra is pending adjudication before this Hon'ble Tribunal. The main grievance of the appellant is that the project falls in the Critically Polluted Industrial Areas (CPAs). It is further contended that since the project falls in critically polluted area, in view of General Condition appended to EIA Notification dt. 14.09.2006, respondent no.1 could not have

granted EC to the project. It has also been contended that in view of Office Memorandum dt. 31.10.2019, the projects specified in Category B1 will be appraised at the Central Level, if located in whole or part within 5 km from the boundary of Critically Polluted Areas or severally polluted areas.

2. Upon consideration of the matter, this Hon'ble Tribunal vide order dt. 24.12.2020 issued notice and sought response from respondent no.1. The appellant has also placed reliance on order dt. 20.11.2020 passed by this Hon'ble Tribunal in Appeal No. 04/2020 titled as "Abhinav Gramodyog & Seva Sansthan vs. State Level Environment Impact Assessment Authority, UP & Ors." wherein this Hon'ble Tribunal placing reliance of the law settled by the Hon'ble Supreme Court in *Alembic Pharmaceuticals Ltd. vs. Rohit Prajapati & Ors.* 2020 SCC Online SC 347 held that the circular dt. 30.12.2019 of the MoEF & CC, Govt. of India, in exercise of administrative powers, cannot have the effect of diluting the 14.09.2006 notification which is statutory under section 3 of The Environment Protection Act. It was further held that applicant could not be clothed with the power to issue EC in violation of Notification dt. 14.09.2006 under which the project in polluted zone has to be appraised as "A" category by the MoEF

itself. Consequently, the appeal was allowed and the impugned EC was quashed.

3. It is submitted that entire basis of the captioned appeal is order dt. 20.11.2020 passed in Appeal No.04/2020. It is submitted that the subject project falls in Village Unchagaon Khadar, Tehsil Dibai, District Bulandshahr, Uttar Pradesh which does not fall within the range of 5 kms from the boundary of critically polluted area. It is submitted that the project is situated at a distance of more than 60 kms from the boundary of Critically Polluted Areas i.e Bulandshahr and Khurza.

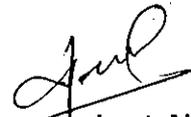
4. It is submitted that as per the General Condition appended to Notification dt.14.09.2006 as amended, it is only the Category "B" projects located in whole or in part within 5 kms. from the boundary of **Critically Polluted Areas** as identified by the CPCB from time to time are to be considered as category "A" project and needs to appraised by MoEF & CC, Govt. of India. It is submitted that the subject project falls in Village Unchagaon Khadar, Tehsil Dibai, District Bulandshahr, Uttar Pradesh which does not fall within the range of 5 kms from the boundary of critically polluted area. It is submitted that the project is situated

at a distance of more than 60 kms from the boundary of Critically Polluted Areas i.e Bulandshahr and Khurza.

6. It is submitted that so far as compliance of Office Memorandum dt. 31.10.2019 is concerned, the same has been passed in exercise of administrative powers and cannot have the effect of diluting the 14.09.2006 notification which is statutory under section 3 of The Environment Protection Act. Moreover, the Hon'ble Supreme Court vide order dt.22.10.2020 passed in Civil Appeal Dy. No. 19271/2020 titled as "Gujarat Chambers of Commerce Industry vs. Central Pollution Control Board & Anr." has stayed the operation of Office Memorandum dt. 31.10.2019. It is further submitted that Respondent no.1, in view of the order passed by the Hon'ble Supreme Court has issued Office Memorandum dt. 28.01.2021 whereby the Office Memorandum dt.31.10.2019 has been kept in abeyance. The captioned appeal is based on misconception of fact and hence is liable to be dismissed.

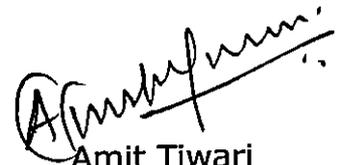
PRAYER

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



Respondent No.1

Through



Amit Tiwari

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Dated: 25.02.2020

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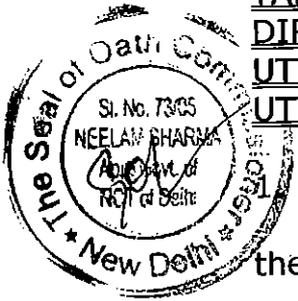
-VERSUS-

Ministry of Environment, Forest And
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AFFIDAVIT

AFFIDAVIT OF SH. HEMENDRA KUMAR VERMA AGED ABOUT 51
YAERS S/O K P VERMA, PRESENTLY POSTED AS ASSISTANT
DIRECTOR, DIRECTORATE OF ENVIRONMENT, GOVERNMENT OF
UTTAR PRADESH HAVING OFFICE AT E-12/1, SECTOR -1, NOIDA,
UTTAR PRADESH.



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.


DEPONENT

VERIFICATION:

Verified on solemn affirmation at New Delhi on this 25 FEB 2021 day Feb. 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.

[Signature]
DEPONENT

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25 FEB 2021

Details of CEPI Scores of Polluted Industrial Areas (PIAs) monitored during 2018

Sl. No.	Zone wise and State wise	Name of Polluted Industrial Areas (PIAs)	Environment	Criteria pollutants selected on the basis of monitoring carried out during 2018	EPI Score	CEPI Score	Status of Environment	Demarcation of boundaries/industrial clusters/potential impact zones
1.	Uttar Pradesh	Agra	Air	PM ₁₀ , PM _{2.5} , Ben.,	60.00	76.22	Ac_Wc_Ln	Numihai Industrial Estate, Rambag Nagar, UPSIDC Industrial Area and Runukata Industrial Area.
			Water	TP, T NH ₄ -N, BOD	66.88			
			Land	TDS, T. Nit., T. Hard.	47.00			
2.		Aligarh	Air	PM ₁₀ , PM _{2.5} , CO	56.25	64.42	As_Wc_Ln	ITI Industrial area, UPSIDC industrial area sectors I and II and TalaNagri in Aligarh.
			Water	TP, T NH ₄ -N, BOD	61.88			
			Land	T, Hard., BOD, F	11.88			
3.		Bulandsahar-Khurza	Air	PM ₁₀ , PM _{2.5} , As	79.50	85.23	Ac_Wc_Ln	UPSIDC Industrial area, Shikandarabad, Khurza.
			Water	TP, T NH ₄ -N, BOD	76.00			
			Land	T. Hard., SO ₄ ²⁻ , Se	36.75			
4.		Firozabad	Air	PM ₁₀ , PM _{2.5} , As	76.00	81.62	Ac_Wc_Ln	<ul style="list-style-type: none"> - Greater Industrial Estate, Firozabad, - Greater Industrial Estate, Shikohabad, - Mini industrial estate, tundla, Firozabad, - Mini industrial estate, Usaini, Firozabad, - UPSIDC Industrial Estate, Firozabad - Industrial Estate, Makkhanpur, Firozabad
			Water	TP, T NH ₄ -N, BOD	72.00			
			Land	TKN, Fe, T. Hard.	32.50			
5.		Gajraula Area	Air	PM ₁₀ , PM _{2.5} , Ben.	71.00	80.14	Ac_Wc_Ln	UPSIDC Industrial area, Gajraula
			Water	Phenol, T. NH ₄ -N, BOD	70.00			

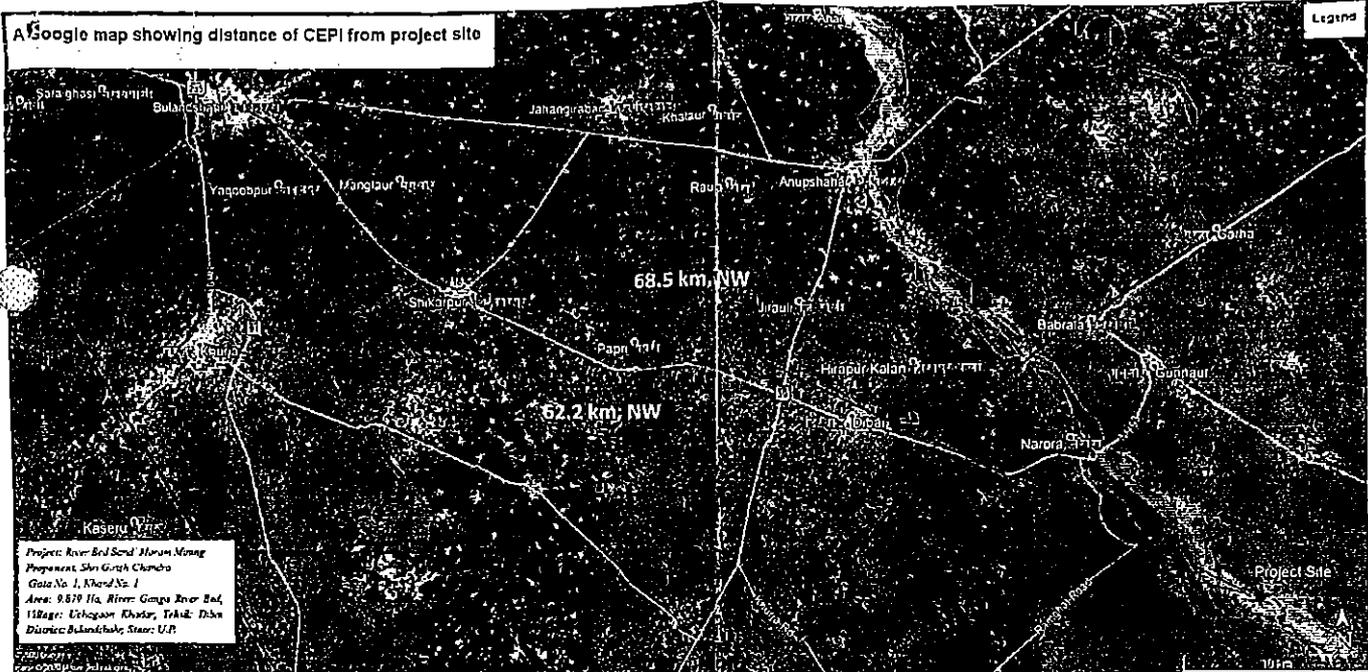
6.	Ghaziabad	Land	Mn, Se, T. Hard.	45.00	72.30	As_Wc_Ln	Sub-cluster A - Mohan nagar Industrial area - Rajindernagar Industrial area - Sahibabad Industrial areas Sub-cluster B - Pandavnagar Industrial area - Kavinagar Industrial area - Bulandshahar Road Industrial area - Amritnagar - Aryanagar Industrial area Sub-cluster C - Merrut road Industrial area Sub-cluster D - Loni Industrial area - Loni Road Industrial area - Roop Nagar Industrial area Sub-cluster E - Hapur Road Industrial area - Dasna - Philkua Sub-cluster F (other scattered Industrial areas) - South side of GT road - Kavi Nagar - Tronica city - Anand Nagar - Jindal Nagar - Prakash Nagar - Rural Industrial estate
		Air	PM ₁₀ , PM _{2.5} , CO	57.50			
		Water	TP, Phenol, BOD	66.00			
		Land	T. Hard., Hg, TDS	32.25			
7.	Kanpur	Air	PM ₁₀ , PM _{2.5} , SO ₂	66.00	89.46	Ac_Wc_Ln	Industrial areas: - Dada Nagar - Panki
		Water	TP, Phenol, T NH ₄ -N	85.00			
		Land	Fe, Mn, T. Hard.	45.00			

								<ul style="list-style-type: none"> - Fazalganj - Vijay Nagar - Jajmau
8.		Mathura	Air	PM ₁₀ , PM _{2.5} , As	86.00	91.10	Ac_Wc_Ln	Mathura City Area (6 km ²).
	Water		OCP, TP, T. NH ₄ -N	81.00				
	Land		TDS, B, Fe	45.00				
9.		Meerut	Air	PM ₁₀ , PM _{2.5} , CO	52.00	66.09	As_Wc_Ln	Meerut (25-30 km ²).
	Water		TP, Phenol, T. NH ₄ -N	65.00				
	Land		T. Hard., TDS, Fe	6.00				
10.		Moradabad	Air	PM ₁₀ , PM _{2.5} , As	76.00	87.80	Ac_Wc_Lc	Moradabad city (2.41 km ²)
	Water		TP, T NH ₄ -N, BOD	71.50				
	Land		T. Hard., TDS, Mn	68.75				
11.		Noida	Air	PM ₁₀ , PM _{2.5} , As	59.75	68.76	As_Wc_Ln	Territorial jurisdiction of: <ul style="list-style-type: none"> - Noida Phase-1 - Noida Phase-2 - Noida Phase-3 - Surajpur Industrial Area - Greater Noida Industrial Area - Village-Chhaparaula
	Water		BOD, TP, T NH ₄ -N	62.75				
	Land		T. Hard., TDS, Mn	27.00				
12.		Singrauli (UP & MP)	Air	PM ₁₀ , PM _{2.5} , CO	45.00	62.59	An_Ws_Ln	<ul style="list-style-type: none"> - Sonebhadra (UP): Dala-Tola, Obra, Renukoot, Anpara, Renusagar, Kakri, Dudhichuwa, Bina, Khadia, Shakti Nagar, Rihand Nagar, Bijpur - Singrauli (Madhya Pradesh): Vindhya Nagar and Jayant, Nigahi, Dudhichua, Amlohri&Jhingurdah townships
	Water		TP, Hg, BOD	57.25				
	Land		T. Hard., Fe, As	27.75				
13.		Varanasi-	Air	PM ₁₀ , PM _{2.5} , CO	67.50	85.35	Ac_Wc_Ln	- Industrial Estate, Mirzapur

		Mirzapur	Water	Phenol, TP, BOD	80.00			- Chunar
			Land	TP, T. Hard., F	39.63			- Industrial Estate, Chandpur Varanasi - UPSIDC, Industrial Estate, Phoolpur - Industrial Area, Ramnagar, Chandauli - Industrial Area Karkhiyon

Notes:

- The overall CEPI is presented in the alpha numeric form stating the score along with the status of Air, Water and Land environment in terms of subscript as critical/severe/normal. A sub-index score of more than 60 shows a critical level of pollution in the respective environmental component, whereas a score between 50-60 shows a severe level of pollution with reference to the respective environmental component.



enck

For Class Environment Engineer (35) : 201

[Signature]
Project No. 0.1000