



क्षेत्रीय कार्यालय-उ०प्र० प्रदूषण नियंत्रण बोर्ड, गाजियाबाद  
Regional Office, U.P. Pollution Control Board, Ghaziabad  
Website- [www.uppcb.com](http://www.uppcb.com), e-mail: roghaziabad@uppcb.in

संदर्भ संख्या : 1922/NGT OA-549/20/2022

दिनांक 18/11/2022

To,

The Registrar,  
The National Green Tribunal,  
Principal Bench,  
New Delhi  
E-mail- [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) & [ngt.filling@gmail.com](mailto:ngt.filling@gmail.com)

**Sub: Report of the Joint Committee in compliance to Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi Order dated 06.01.2022 in O.A. No. 549/2019 in the matter of Mahakar Singh Vs State of U.P.**

Respected Sir,

With reference to the above-mentioned subject Report of joint committee in Original Application No-549/2019 in the matter of Mahakar Singh Vs State of U.P. Report is hereby submitted for kind perusal and necessary action please.

**Enclosure: Joint report.**

Yours Sincerely

  
Regional Officer

**Copy to:**

1. Member Secretary, U.P. Pollution Control Board, Lucknow for information.
2. Shri Pradeep Misra, Advocate, Hon'ble Supreme Court/NGT, New Delhi for perusal and necessary action please.
3. Chief Environmental Officer, Circle-1, U.P. Pollution Control Board, Lucknow for information.
4. Law Officer-I, U.P. Pollution Control Board, Lucknow for information.

Regional Officer

क्षेत्रीय कार्यालय : आई०एन०एस०-२, सेक्टर-१६, वसुन्धरा, गाजियाबाद-२०१०१२ फोन-०१२०-४१६०१०८  
मुख्यालय : TC-12V, विभूति खण्ड, गोमती नगर, लखनऊ २२६०१०

**Report of the Joint Committee in compliance to Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi Order dated 06.01.2022 in O.A. No. 549/2019 in the matter of Mahakar Singh Vs State of U.P.**

**1. Introduction**

Hon'ble NGT passed order on 06.01.2022 in O.A. No. 549/2019 in the matter of Mahakar Singh Vs State of U.P., and relevant paras of the Order dated 06.01.2022 are reproduced below: -

*".....4. From the above, it is seen that Consent to Establish (CTE) was granted by the State PCB on 10.03.2011, EC was granted on 31.07.2014 and NOC from CGWA was granted on 17.05.2019 for extraction of groundwater of 38772 m<sup>3</sup>/day or 14151780 m<sup>3</sup>/year (permitted 31 existing bore wells and 14 proposed bore wells). The Consent to Operate (CTO) dated 17.03.2020 was for built-up area of 1,49,292 Sq.m. Before consent to operate and other permissions, construction started in January 2016 itself and built-up area 6,87,059 Sq.m has been constructed, in excess of permitted area of construction. The groundwater has also been extracted during construction even for the period prior to the grant of NOC, though the area is 'over-exploited' in terms of groundwater.*

*5. In these circumstances, the liability of the Project Proponent was required to be assessed in terms of orders of the Hon'ble Supreme Court in Goel Ganga Developers India Pvt. Ltd. v UOI equal to the 10% of the project cost. Though the project cost is not mentioned, having regard to the fact that there are 12000 units for construction, project cost may extent to thousands of crores. The joint Committee constituted by the Tribunal has failed to follow the directions of the Hon'ble Supreme Court on the aspect of assessment of appropriate compensation and gone by norms laid down by some authority contrary to norms laid down by the Hon'ble Supreme Court which may merely encourage violations and not act as deterrent.*

*6. Accordingly, we direct the statutory regulators to take further remedial action in accordance with law. Remedial action may include appropriate amount of compensation and restoration plan, utilising the amount of compensation recovered and*

*stopping/removing of illegal construction. This may be done by giving opportunity of being heard to the affected party. We note that using gains of crime by violating environmental laws is an offence under section 3 of the PMLA Act, 2002 and, if necessary, the said provision be invoked. We also issue notice to the Project Proponent - M/s Uppal Chaddha Hi-Tech Developers Pvt. Ltd, Ghaziabad and Gautam Budh Nagar, UP which may be served by the State PCB, with a copy of the paper book. The PP is at liberty to file its response, if any, in the matter before this Tribunal within two months. The joint Committee may file its further action taken report within two months by e-mail at judicialngt@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 11.04.2022. ....”

### **Action taken report**

In compliance of above order, Regional Officer, U.P.P.C.B., Ghaziabad vide letter dated 25.01.2022 provided following documents in the form of paper book to project proponent:

- i. Copy of complaint dated 14.03.2019 made by petitioner.
- ii. Copies of the action taken report submitted by the Joint Committee on dated 23.11.2019, 13.07.2020, 09.03.2021 and 21.09.2021 in Hon'ble NGT, Delhi.
- iii. Copies of orders passed by Hon'ble NGT, Delhi in O.A. no. 549/2019 Mahakar Singh & Anr. Vs. State of U.P. & Ors.

Copy of same is attached as **Annexure -1**.

Further, A review meeting of the Joint Committee constituted by Hon'ble NGT was held on 05.03.2022 at Regional Office, UPPCB, Ghaziabad to discuss the course of action to be taken for ensuring compliance to Hon'ble National Green Tribunal order dated 06.01.2022. Representative of project proponent was not present in the meeting and had sent information via email dated 04.03.2022 they have filed an appeal in Hon'ble Supreme Court and matter is listed on 07.03.2022.

Water Authority, in which it is requested that as per Hon'ble NGT order dated 06.01.2022 in said matter, it has been directed that the liability of the Project Proponent was required to be assessed in terms of orders of the Hon'ble Supreme Court in Goel Ganga Developers India Pvt. Ltd. v UOI equal to the 10% of the project cost. It has been requested that the recovery of the amount pertains to UPGWD.

5. The Committee decided that since the matter is pending with Hon'ble Supreme Court and copy of appeal filed in Hon'ble Supreme Court or any representation has not been received from the Project Proponent, the Committee shall meet again and proceed in compliance of Hon'ble Supreme Court's order.

In view of above, a letter was sent to Ghaziabad Development Authority by Regional Officer, U.P.P.C.B., Ghaziabad vide letter dated 11.03.2022 to provide report on verification of illegal construction done by project proponent in said project, copy of same is annexed as **Annexure-2**.

Project proponent informed through its e-mail dated 16.03.2022 that Hon'ble Supreme Court of India has passed following order on dated 07.03.2022:

*"It will be open to the appellant to file an application before the National Green Tribunal for interim relief, as it is stated that some authorities have started taking action on the basis of the order dated 06.01.2022.*

*Recording the above, the appeal is disposed of....."*

Copy of e-mail dated 16.03.2022 received from project proponent is annexed as **Annexure-3**.

In view of above, A letter was issued by regional office, UPPCB, Ghaziabad vide letter dated 06.04.2022 to project to provide a copy of any reply/ proposal/ action plan/ representation submitted by project in Hon'ble National Green Tribunal regarding order dated 06.01.2022 passed by Hon'ble NGT, Delhi and Hon'ble Supreme Court order dated 07.03.2022, copy of same is annexed as **Annexure-4**.

Main highlights of discussion are as follows:

1. Regional officer, UPPCB, Ghaziabad informed that an e-mail dated 04.03.2022 is received from project proponent, in which it is informed by representative that PP is unable to joint meeting as PP has filed civil appeal under section 22 of the NGT Act before the Hon'ble Supreme Court of India and the case is listed on 7<sup>th</sup> March 2022 before court no. 16 having diary no. 4033/2022.

2. As per the direction laid down in para 4 of Hon'ble NGT order dated 06.01.2022, which is as follows: -

*"The Consent to Operate (CTO) dated 17.03.2020 was for built-up area of 1,49,292 Sqm. Before consent to operate and other permissions, construction started in January 2016 itself and built-up area 6,87,059 Sqm has been constructed, in excess of permitted area of construction."*

Joint Committee is in the view that Project has obtained prior Consent to Establish (CTE) for construction of said built up area, which is within the permissible limit as per EC and CTE obtained by PP. PP has obtained Consent to Operate (CTO) for operation of built-up area of 1,49,292 Sqm out of total built up area.

3. In compliance of direction laid down in para 6 of Hon'ble NGT order dated 06.01.2022,

*"Accordingly, we direct the statutory regulators to take further remedial action in accordance with law. Remedial action may include appropriate amount of compensation and restoration plan, utilising the amount of compensation recovered and stopping/removing of illegal construction. This may be done by giving opportunity of being heard to the affected party."*

It was decided that a letter has to be sent to Ghaziabad Development Authority by state PCB as nodal of the Joint Committee regarding verification of illegal construction done by project proponent in said project or not.

4. Shri Jagdamba Prashad, Scientist 'D', CGWB, NR, Lucknow informed the committee that an e-mail dated 12.01.2022 was received from Central Ground

Project proponent submitted its reply through e-mail dated 05.04.2022, in which it was informed that project has filed I.A. in Hon'ble NGT, Delhi in the said O.A. no. 549/2019, copy of same is annexed as **Annexure-5**.

In continuation of above, a review meeting of the Joint Committee was held on 07.04.2022 through video conferencing to discuss the course of action to be taken for ensuring further compliance. In the meeting, Regional Officer, UPPCB, Ghaziabad informed the Committee about reply of project proponent submitted through its e-mail dated 05.04.2022.

Hon'ble Supreme Court's order dated 10.08.2018 in Civil Appeal 10854 of 2016 was perused by the Joint Committee. The portion of the order relied upon is as below:

*"....57. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law.*

Further, after deliberations with Board's Counsel, another meeting of the Committee was called on 24.08.2022 (*CPCB was not represented due to transfer of concerned officer and no new nomination*) and it was decided that since the matter is pending before Hon'ble Tribunal, show cause be issued to the project proponent with regards to imposition of environmental compensation of 5% of the project cost as per Hon'ble Supreme Court's order dated 10.08.2018 in Civil Appeal 10854 of 2016. Project cost for said purpose has been taken as Rs. 15103.47 Crores as given by the project proponent at point no. 25 of Form I and Form 1A submitted at the time of applying for environmental clearance. The said show-cause shall be subject to decision of Hon'ble Tribunal in project proponent's application/representation pending before Hon'ble Tribunal.

In view of above, Board has issued a show cause notice with regards to imposition of environmental compensation of Rs. 755,17,35,000 (*Seven Fifty Five Crores Seventeen Lakhs and Thirty Five Thousand Only*) to M/s Uppal Chadha Hi-Tech Developers (P) Ltd. on 02.09.2022, copy of the show cause order dated 02.09.2022 is annexed as **Annexure-6**.

Report is being submitted for kind perusal and necessary action.

  
(Paras Nath)  
Member, SEIAA, UP

  
(J. Chandra Babu)  
Sc 'E', CPCB, Delhi

  
(Jagdamba Prasad)  
Scientist D, CGWB

  
(Utsav Sharma)  
R.O., UPPCB, Ghaziabad



क्षेत्रीय कार्यालय-उ०प्र० प्रदूषण नियंत्रण बोर्ड, गाजियाबाद  
Regional Office, U.P. Pollution Control Board, Ghaziabad  
Website- [www.uppcb.com](http://www.uppcb.com), e-mail: [roghaziabad@uppcb.com](mailto:roghaziabad@uppcb.com)

ANNEXURE-1

संदर्भ संख्या : 1953/एन०जी०टी०-88/ओ०ए०नं-549/2019/2022

दिनांक 25/01/2022

मैसर्स उप्पल चडडा हाईटैक डैवलपर्स प्रा० लि०,  
ग्राम महरोली, शाहपुर बम्हेटा,  
गाजियाबाद।

Alai  
By Hand

**विषय: मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित OA No-549/2020 Mahakar Singh & Anr. Vs State of Uttar Pradesh & Ors. में पारित आदेश दिनांक 06.01.2022 के अनुपालन के सम्बन्ध में।**

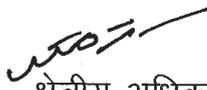
उपरोक्त विषयक का संदर्भ ग्रहण करने का कष्ट करें। मा० मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित OA No-549/2020 Mahakar Singh & Anr. Vs State of Uttar Pradesh & Ors. में पारित आदेश दिनांक 06.01.2022 के अनुपालन में निम्न सूचनाएँ पेपर बुक के रूप में प्रेषित की जा रही हैं:-

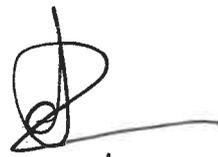
1. याचिकाकर्ता द्वारा की गयी शिकायत दिनांक 14.03.2019 की छायाप्रति।
2. मा० राष्ट्रीय हरित अधिकरण में संयुक्त समिति द्वारा दिनांक 23.11.2019, 13.07.2020, 09.03.2021 एवं 21.09.2021 को प्रेषित की गयी आख्याओं की छायाप्रतियाँ।
3. मा० राष्ट्रीय हरित अधिकरण द्वारा OA No-549/2020 Mahakar Singh & Anr. Vs State of Uttar Pradesh & Ors. में पारित आदेशों की छायाप्रतियाँ।

  
(उत्सव शर्मा)  
क्षेत्रीय अधिकारी

प्रतिलिपि: निम्नलिखित को सादर सूचनार्थ प्रेषित।

1. जिलाधिकारी महोदय, गाजियाबाद।
2. सदस्य सचिव महोदय, उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
3. मुख्य पर्यावरण अधिकारी, वृत्त-1, उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
4. प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, गाजियाबाद।
5. विधि अधिकारी-प्रथम, उ०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।

  
क्षेत्रीय अधिकारी

  
24/1/22

क्षेत्रीय कार्यालय : आई०एन०एस०-2, सेक्टर-16, वसुन्धरा, गाजियाबाद-201012 फोन-0120-4160108  
मुख्यालय : TC-12V, विभूति खण्ड, गोमती नगर, लखनऊ 226010



क्षेत्रीय कार्यालय-उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गाजियाबाद  
Regional Office, U.P. Pollution Control Board, Ghaziabad  
Website- [www.uppcb.com](http://www.uppcb.com), e-mail: [roghaziabad@uppcb.in](mailto:roghaziabad@uppcb.in)

संदर्भ संख्या : 196/एन0जी0टी0-88/ओ0ए0नं-549/19/2022

दिनांक 11/03/2022

सेवा में,  
सचिव,  
गाजियाबाद विकास प्राधिकरण,  
गाजियाबाद।

**विषय: मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित OA No-549/2019 Mahakar Singh & Anr. Vs State of Uttar Pradesh & Ors. में पारित आदेश दिनांक 06.01.2022 के अनुपालन के सम्बन्ध में।**

महोदय,

कृपया उपरोक्त विषयक का संदर्भ ग्रहण करने का कष्ट करें। मा0 एन0जी0टी0 नई दिल्ली में योजित OA No-549/2019 Mahakar Singh & Anr. Vs State of Uttar Pradesh & Ors. में पारित आदेश दिनांक 06.01.2022 को निम्न आदेश पारित किये गये हैं:-

".....Accordingly, we direct the statutory regulators to take further remedial action in accordance with law. Remedial action may include appropriate amount of compensation and restoration plan, utilising the amount of compensation recovered and stopping/removing of illegal construction. This may be done by giving opportunity of being heard to the affected party. We note that using gains of crime by violating environmental laws is an offence under section 3 of the PMLA Act, 2002 and, if necessary, the said provision be invoked. We also issue notice to the Project Proponent - M/s Uppal Chaddha Hi-Tech Developers Pvt. Ltd, Ghaziabad and Gautam Budh Nagar, UP which may be served by the State PCB, with a copy of the paperbook. The PP is at liberty to file its response, if any, in the matter before this Tribunal within two months. The joint Committee may file its further action taken report within two months by e-mail at [judicialngt@gov.in](mailto:judicialngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF....."

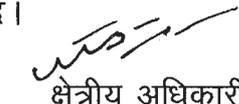
उक्त आदेश के अनुपालन में समिति द्वारा दिनांक 05.03.2022 को बैठक की गयी व मा0 अधिकरण द्वारा पारित आदेश में अवैध निर्माण के सम्बन्ध में गाजियाबाद विकास प्राधिकरण से आख्या चाही गयी है। अतः आपसे अनुरोध है कि उक्त के अनुपालन में परियोजना M/s Uppal Chaddha Hi-Tech Developers Pvt. Ltd के अन्तर्गत अवैध निर्माण किये जाने की वास्तविक स्थिति का आंकलन कर आख्या एक सप्ताह में प्रेषित किये जाने हेतु सम्बन्धित को निर्देशित करने का कष्ट करें।

भवदीय

  
(उत्सव शर्मा)  
क्षेत्रीय अधिकारी

प्रतिलिपि:निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु सादर प्रेषित।

1. जिलाधिकारी महोदय, गाजियाबाद।
2. उपाध्यक्ष महोदय, गाजियाबाद विकास प्राधिकरण, गाजियाबाद।

  
क्षेत्रीय अधिकारी

क्षेत्रीय कार्यालय : आई0एन0एस0-2, सेक्टर-16, वसुन्धरा, गाजियाबाद-201012 फोन-0120-4160108  
मुख्यालय : TC-12V, विभूति खण्ड, गोमती नगर, लखनऊ 226010



RO Ghaziabad &lt;roghaziabad@uppcb.in&gt;

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**Supreme Court Order dated 07.03.2022 in M/s Uppal Chadha Hi Tech Developers Pvt. Ltd. vs Mahakar Singh & Anr. (Civil Appeal No. 1845/2022)**

1 message

Naresh Patel &lt;naresh.patel@wavecity.in&gt;

Wed, Mar 16, 2022 at 1:49 PM

To: roghaziabad@uppcb.in

Cc: nareshpatel0207@gmail.com, rajiv@wavecinemas.com, Sumeer Sodhi &lt;sumeer@vsalegal.in&gt;

Dear Sir

1. This is in furtherance of your letter dated 03.03.2022 r/w our response dated 04.03.2022.

2. Please find attached the copy of the Order dated 07.03.2022 passed by the Hon'ble Supreme Court in *M/s Uppal Chadha Hi Tech Developers Pvt. Ltd. vs Mahakar Singh & Anr.* (CA No. 1845/2022) wherein the Hon'ble Supreme Court held that the Order dated 06.01.2022 passed by the Hon'ble National Green Tribunal in *Mahakar Singh & Anr. vs State of Uttar Pradesh & Ors.* (OA No. 549/2019) cannot be treated as recording firm and conclusive findings. It further held that the observations made in the Order dated 06.01.2022 are only prima facie and tentative and are of the nature of a Show Cause Notice. Further, the Hon'ble Supreme Court granted liberty to the Undersigned to respond to the Show Cause Notice including the statements made therein, on all grounds including that the assertions / facts recorded in the said Order are factually incorrect. The Order dated 07.03.2022 is attached with the present Email/Letter and is self-explanatory.

3. The Undersigned was further granted liberty to file application before the NGT for interim reliefs.

4. The Undersigned is in process of filing its response before the Hon'ble NGT in view of the Order passed by the Hon'ble Supreme Court as well as Application for interim relief along with detailed objections to the Joint Committee Reports. Since the Hon'ble Supreme Court has held that the Order dated 06.01.2022 is only in the nature of a Show Cause Notice, you are requested to kindly permit the undersigned to place its case before the Hon'ble NGT and show cause as to why no action is required to be taken.

5. Also request to inform all members of committee appointed by NGT with this order.

Thanks and Regards

Naresh Patel

M/s Uppal Chadha Hi Tech Developers Pvt Ltd

---

C-1, Sector 3, Noida - 201301  
(A Platinum LEED Certified Building)  
Tel: 0091-120-4180500  
Website: [www.thewavegroup.com](http://www.thewavegroup.com)

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 Letter to PCB.16.3.22.pdf  
169K

Date: 14.03.2022

The Regional Officer  
Uttar Pradesh Pollution Control Board,  
Ghaziabad UP

Sub: **Supreme Court Order dated 07.03.2022 in M/s Uppal Chadha Hi Tech Developers Pvt. Ltd. vs Mahakar Singh & Anr. (Civil Appeal No. 1845/2022)**  
Ref: 1) Order dated 06.01.2022 passed by the Hon'ble National Green Tribunal in Mahakar Singh & Anr. vs State of Uttar Pradesh & Ors. (OA No. 549/2019)  
2) Your letter No. 2146 dated 03.03.2022  
3) Email dated 04.03.2022 sent by the undersigned to Regional Office, UPPCB, Ghaziabad.

Sir/Madam,

This is in furtherance of your letter dated 03.03.2022 r/w our response dated 04.03.2022.

Uppal Chadha Hi-Tech  
Developers Pvt. Ltd.  
CIN No. U45201DL2004PTC128784

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E: customercare@wavecity.in  
www.wavecity.in

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India

T: +91 - 11 - 26254474

Please find attached the copy of the Order dated 07.03.2022 passed by the Hon'ble Supreme Court in *M/s Uppal Chadha Hi Tech Developers Pvt. Ltd. vs Mahakar Singh & Anr. (CA No. 1845/2022)* wherein the Hon'ble Supreme Court held that the Order dated 06.01.2022 passed by the Hon'ble National Green Tribunal in *Mahakar Singh & Anr. vs State of Uttar Pradesh & Ors. (OA No. 549/2019)* cannot be treated as recording firm and conclusive findings. It further held that the observations made in the Order dated 06.01.2022 are only prima facie and tentative and are of the nature of a Show Cause Notice. Further, the Hon'ble Supreme Court granted liberty to the Undersigned to respond to the Show Cause Notice including the statements made therein, on all grounds including that the assertions / facts recorded in the said Order are factually incorrect. The Order dated 07.03.2022 is attached with the present Email/ Letter and is self-explanatory.

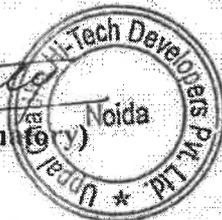
The Undersigned was further granted liberty to file application before the NGT for interim reliefs.

The Undersigned is in process of filing its response before the Hon'ble NGT in view of the Order passed by the Hon'ble Supreme Court as well as Application for interim relief along with detailed objections to the Joint Committee Reports. Since the Hon'ble Supreme Court has held that the Order dated 06.01.2022 is only in the nature of a Show Cause Notice, you are requested to kindly permit the undersigned to place its case before the Hon'ble NGT and show cause as to why no action is required to be taken.

Thanking you,

Yours faithfully,  
For **Uppal Chadha Hi-Tech Developers Pvt. Ltd.**

(Authorised Signatory)



Encl: As above

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022  
(@ Diary No.4033/2022)

M/S UPPAL CHADHA HI TECH DEVELOPERS PVT. LTD. Appellant

VERSUS

MAHAKAR SINGH & ANR. Respondents

O R D E R

I.A. No. 28321/2022, which is an application for permission to file an appeal, is allowed.

Heard the learned counsel for the appellant.

The impugned order dated 06.01.2022 is in the nature of a Show Cause Notice. The impugned order dated 06.01.2022 cannot be treated as recording firm and conclusive findings. The observations are *prima facie* and tentative. The appellant have right to respond to the Show Cause Notice including the statement(s) made therein, on all grounds including that the assertions/facts recorded in the order dated 06.01.2022 are factually incorrect. It is now a settled position of law that the National Green Tribunal enjoys *Suo Moto* jurisdiction as held in *Municipal Corporation of Greater Mumbai v. Ankita Sinha & Ors.*<sup>1</sup>

However, we clarify that we have not commented on the merits

Validity unknown  
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Mukul/1221  
Date: 2022.01.13  
18:30:41  
Reason:

the contentions raised by the appellant, which are to be raised before the National Green Tribunal and to be decided by the said Tribunal. In case and if the appellant be aggrieved by the final

order, it will be at liberty to challenge the same in accordance with law.

It will be open to the appellant to file an application before the National Green Tribunal for interim relief, as it is stated that some authorities have started taking action on the basis of the order dated 06.01.2022.

Recording the above, the appeal is disposed of.

Pending application(s), if any, stand disposed of.

\* \* \* \* \* J.  
(SANJIV KHANNA)

\* \* \* \* \* J.  
(BELA M. TRIVEDI)

NEW DELHI;  
MARCH 07, 2022

ITEM NO.4 Court 16 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 4033/2022

(Arising out of impugned final judgment and order dated 06-01-2022 in OA No. 549/2019 passed by the National Green Tribunal), Principal Bench, New Delhi.

M/S UPPAL CHADHA HI TECH DEVELOPERS PVT. LTD. Petitioner(s)

VERSUS

MAHAKAR SINGH & ANR. Respondent(s)

(IA No.28324/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.28323/2022-STAY APPLICATION and IA No.28321/2022-PERMISSION TO FILE APPEAL )

Date : 07-03-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Shyam Divan, Sr. Adv.  
Mr. Sumeer Sodhi, AOR  
Ms. Shreya Nair, Adv.  
Mr. Prannoy Joe Sebastian, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is disposed of in terms of the signed order.

Pending application(s),if any, stand disposed of.

(BABITA PANDEY)  
COURT MASTER (SH)

(DIPTI KHURANA)  
COURT MASTER (NSH)

(Signed order is placed on the file)



ANNEXURE-5

RO Ghaziabad <roghaziabad@uppcb.in>

---

**Order passed by NGT for case OA No. 549/2020 Mahakar Singh & Anr. Vs. State of Uttar Pradesh & Ors. Dtd. 14.06.2021**

1 message

---

**MK Gangadharan** <mk.gangadharan@waveinfratech.com>  
To: roghaziabad@uppcb.in  
Cc: nareshpatel0207@gmail.com

Tue, Apr 5, 2022 at 11:16 AM

Dear Sir,

This has reference to your Letter No. Letter No. 2267//NGT-88/OAN-549/2019/2022 dtd. 29.03.2022. As desired, we attach herewith copies of documents which we are going to submit before the NGT Court to defend our case.

Regards,

Naresh Patel  
Uppal Chadha Hi-Tech Developers Pvt. Ltd.  
Ghaziabad

---

**2 attachments**

 **I.A. - Mahakar Singh vs. State of UP.pdf**  
278K

 **Counter & Objection - Mahakar Singh vs. State of UP.pdf**  
19161K

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

I.A. No. \_\_\_\_\_ of 2022

IN

**ORIGINAL APPLICATION NO. 549 OF 2019**

**IN THE MATTER OF:**

Mahakar Singh

...Applicant

VERSUS

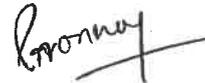
State of Uttar Pradesh.

...Respondents

**INDEX**

S.No.	Particulars	Page No.
1.	I.A. No 2022 for stay against proceeding by UPPCB on behalf of Respondent No. 2, M/s Uppal Chadha Hi Tech Developers along with affidavit.	2-7
2.	Proof of Service	8

DRAWN AND FILED BY:



VSA Legal  
Counsels for Respondent No.2  
32, Ground Floor, Uday Park,  
South Extension II,  
New Delhi 110047  
Phone - 01143541022  
[office@vsalegal.in](mailto:office@vsalegal.in)

DATE: 02.04.2022  
PLACE: New Delhi

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**I.A. No. \_\_\_\_\_ of 2022**

**IN**

**ORIGINAL APPLICATION NO. 549 OF 2019**

**IN THE MATTER OF:**

Mahakar Singh

...Applicant

**VERSUS**

State of Uttar Pradesh.

...Respondents

**INTERLOCUTORY APPLICATION FOR STAY**

1. That the present Interlocutory Application has been filed on behalf of the Respondent No. 2, M/s Uppal Chadha Hi Tech Developers for stay of proceedings by Uttar Pradesh Pollution Control Board or any other authority in purported compliance of Order dated 06.01.2022 pending consideration the present Original Application No. 549 of 2019.

2. The instant OA was registered based on a compliant received by post from Mahakar Singh against alleged illegal cutting of trees, extraction of ground water and construction without Environment Clearance (EC) for the project of Wave City at Ghaziabad and High Tech City at NOIDA.

3. This Hon'ble considered the OA on multiple dates and directed the constitution of Joint Committee for

ascertaining the factual position with respect to the allegations raised in the letter.

4.It is submitted that this Hon'ble Tribunal on the basis of the Joint Committee Report dated 21.09.2021 passed the Order dated 06.01.2022 noting its prima facie and tentative observations and in the nature of a show cause notice. However, the Respondent Authorities namely, UPPCB initiated recovery proceedings against the Respondent No. 2 for payment of environmental compensation on the basis of Goel Ganga Developer India Pvt. Ltd. Vs UOI (2018) 18 SCC 257. It is submitted that the Answering Respondent was issued notice in the instant matter on 06.01.2022 and UPPCB issued letter dated 03.03.2022 directed the submission of documents for computation of environmental compensation.

5.It is submitted that the Answering respondent has not had a single opportunity of being heard. The Answering Respondent had submitted letters dated 23.07.2021, 19.08.2021 and 01.09.2021 (appended as Annexure 26, 27 and 28 respectively of the Reply / Objections). However, the UPPCB without taking into consideration the letter submitted by the answering Respondent on merits simply proceeded to impose environmental compensation.

6. Fearing such unilateral actions being taken by UPPCB, the Answering Respondent, approached the Hon'ble Supreme Court on the ground that the action is being taken against it without providing an opportunity to submit his case on merits.

7. The Hon'ble Supreme Court vide Order dated 07.03.2022 in *M/s Uppal Chadha Hi Tech Developers Pvt. Ltd. vs Mahakar Singh & Anr.* (Civil Appeal No. 1845/ 2022) recorded that the Order dated 06.01.2022 by this Hon'ble Tribunal is in the nature of a Show Cause Notice and observed that it cannot be treated as recording firm and conclusive findings. It stated that the observations made in the Order dated 06.01.2022 of this Hon'ble Tribunal are prima facie and tentative and the Answering Respondent has right to respond to the Show Cause Notice including the statements made therein, on all grounds including that the assertion/facts recorded in the Order dated 06.01.2022 are factually incorrect. It further granted liberty to the Answering Respondent to file an application before this Hon'ble Tribunal for interim relief as some authorities have started taking action on the basis of the Order dated 06.01.2022.

8. It is submitted that the respondent No. 2 is therefore approaching this Hon'ble Tribunal seeking a stay against the UPPCB from taking action against the answering

Respondent till the ongoing proceedings end and the case of the Answering Respondent is heard on merits.

9. That the Answering Respondent further places reliance on the contents of the accompanying Reply/ Objections to Committee Report herein, which may be read along with the contents of this Application for stay.
10. That the Answering Respondent has a strong prima facie case in their favour and the balance of convenience lies in the favour of their favour and no harm will be caused to any other party in this regard. However, there will be irreparable loss to the Answering Respondent if UPPCB imposes environmental compensation.
11. That the application is being made bonafidely and in the interest of justice.

#### **PRAYER**

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

- A. Pass an order directing stay of proceedings against the Answering Respondent by UPPCB and or any other authority in purported compliance of Order dated 06.01.2022;

B. Pass such other or further orders as may be deemed just and proper by this Hon'ble Tribunal on the facts and in the circumstances of the case and in the interest of justice.

DRAWN AND FILED BY:



VSA Legal  
Counsels for Respondent No.2  
32, Ground Floor, Uday Park,  
South Extension II,  
New Delhi 110047  
Phone - 01143541022  
[office@vsalegal.in](mailto:office@vsalegal.in)

DATE: 02.04.2022  
PLACE: New Delhi

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

7

I.A. No. \_\_\_\_\_ of 2022

IN

ORIGINAL APPLICATION NO. 549 OF 2019

**IN THE MATTER OF:**

Mahakar Singh

...Applicant

VERSUS

State of Uttar Pradesh.

...Respondent

AFFIDAVIT

I, Shri **Naresh Patel**, S/o Shri G R Patel Aged about 42 years, R/o 841, 1st Floor, Shakti Khand-4, Indirapuram, Ghaziabad-201014, presently at New Delhi, do hereby solemnly affirm and state on oath as under:-

1. That I am the Authorized Representative for Respondent M/s Uppal Chadha Hi Tech Developers in the abovementioned matter and as such I am well conversant with the facts and circumstances of the case and hence I am competent to swear and sign the present Affidavit.
2. That the accompanying Interlocutory Application has been drafted as per my instructions by my counsel, and I have read the contents thereof and I understood the same.
3. That the Annexure enclosed with the Application are true and correct copies of their respective originals.

4. That the contents of the aforesaid Interlocutory Application are true and correct to the best of my knowledge and belief, no part of it is false and no material has been concealed therefrom.

*Planner*  
I identify the Deponent and his presence has signed in my presence



For Uppal Chadha Hi-Tech Developers Pvt. Ltd.

*[Signature]*  
Deponent's Signatory

VERIFICATION:

I, *Naresh Patel*, do hereby verify on this the 02 APR 2022 day of April 2022 that the contents of the abovesaid affidavit are true and correct to the best of my knowledge and belief, no part of it is false and no material has been concealed therefrom.

Shri/Smt./M... *Naresh Patel*  
S/o, W/o, D/o... *VR Patel*  
R/o... *Pranav Sr. Srivastava*  
I identified the... *VR Patel*  
has solemnly sworn... *VR Patel*  
on... *VR Patel*  
that the contents... *VR Patel*  
which... *VR Patel*  
have been... *VR Patel*  
true and correct to the best of my knowledge

For Uppal Chadha Hi-Tech Developers Pvt. Ltd

*[Signature]*  
Authorised Signatory  
Deponent

(Oath Commissioner, Delhi)

02 APR 2022



उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड  
UTTAR PRADESH POLLUTION CONTROL BOARD

ANNEXURE-6

24/09/22

686

Ref No- H00642

/C-1/जी-688/पर्याप्तता काबोनो/2022

Date: 02.09.22

सेवा में,

पंजीकृत

परियोजना मैसर्स उप्पल चड्डा हाई-टैक डैवलपर्स प्रा०लि० (वेव हाईटेक टाउनशिप),  
ग्राम-मैहरौली, शाहपुर बमहेटा, दुरियाई, डासना, सादिकपुर/काजीपुर, बयाना, नाईफल एवं  
ग्राम-आरिफपुर, सादत नगर, इक्ला तथा इनायतपुर, तलबपुर, कछेरा वारिसाबाद, दुजाना  
एवं गिरधरपुर, गाजियाबाद।

विषय:-परियोजना के विरुद्ध पर्यावरणीय क्षतिपूर्ति अधिरोपण हेतु कारण बताओ नोटिस प्रेषित किये जाने के सम्बन्ध में।

महोदय,

यह कि मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ०ए० संख्या 549/2019 Mahkar Singh Vs State of Uttar Pradesh में मा० राष्ट्रीय हरित अधिकरण द्वारा गठित संयुक्त समिति द्वारा मैसर्स उप्पल चड्डा हाई-टैक डैवलपर्स प्रा०लि०, गाजियाबाद द्वारा पर्यावरणीय स्वीकृति की शर्तों का उल्लंघन करते हुये जनवरी 2016 से अगस्त 2021 के मध्य किये गये भूगर्भ जल दोहन के दृष्टिगत केन्द्रीय प्रदूषण नियंत्रण बोर्ड, नई दिल्ली द्वारा तैयार की गयी गार्डडलाईन के अनुरूप रू० 5993892.00 की गणना करते हुये आख्या मा० अधिकरण में प्रस्तुत की गयी है।

उक्त आख्या का अवलोकन करते हुये मा० अधिकरण द्वारा दिनांक 06.01.2022 को पारित आदेश के सुसंगत अंश निम्नवत् हैं:-

".....4. From the above, it is seen that Consent to Establish (CTE) was granted by the State PCB on 10.03.2011, EC was granted on 31.07.2014 and NOC from CGWA was granted on 17.05.2019 for extraction of groundwater of 38772 m<sup>3</sup> /day or 14151780 m<sup>3</sup>/year (permitted 31 existing bore wells and 14 proposed bore wells). The Consent to Operate (CTO) dated 17.03.2020 was for built-up area of 1,49,292 Sq.m. Before consent to operate and other permissions, construction started in January 2016 itself and built-up area 6,87,059 Sq.m has been constructed, in excess of permitted area of construction. The groundwater has also been extracted during construction even for the period prior to the grant of NOC, though the area is 'over-exploited' in terms of groundwater.

5. In these circumstances, the liability of the Project Proponent was required to be assessed in terms of orders of the Hon'ble Supreme Court in Goel Ganga Developers India Pvt. Ltd. v UOI equal to the 10% of the project cost. Though the project cost is not mentioned, having regard to the fact that there are 12000 units for construction, project cost may extent to thousands of crores. The joint Committee constituted by the Tribunal has failed to follow the directions of the Hon'ble Supreme Court on the aspect of assessment of appropriate compensation and gone by norms laid down by some authority contrary to norms laid down by the Hon'ble Supreme Court which may merely encourage violations and not act as deterrent....."

अग्रेतर संयुक्त समिति द्वारा दिनांक 05.03.2022, दिनांक 07.04.2022 तथा दिनांक 24.08.2022 को बैठक की गयी, जिसमें प्रोजेक्ट प्रोपोनेन्ट द्वारा मा० सर्वोच्च न्यायालय के आदेश दिनांक 07.03.2022 के क्रम में मा० अधिकरण में दायर इम्प्लीडमेन्ट एप्लीकेशन के सम्बन्ध में चर्चा करते हुये निर्णय लिया गया कि उक्त प्रोजेक्ट पर मा० राष्ट्रीय हरित अधिकरण द्वारा पारित आदेश दिनांक 06.01.2022 के क्रम में मा० सर्वोच्च न्यायालय द्वारा Goel Ganga Developers India Pvt Ltd. Vs. UOI के सापेक्ष पर्यावरणीय क्षतिपूर्ति अधिरोपित किया जाना उचित होगा।

मा0 सर्वोच्च न्यायालय द्वारा सिविल अपील नं-10854/2016 Goel Ganga Developers India Pvt Ltd. Vs. UOI में दिनांक 10.08.2018 को निम्न आदेश पारित किये गये हैं:-

"57- .....Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law. However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has maneuvered and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone upto 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area etc.. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs.100 crores or 10% of the project cost whichever is more....."

परियोजना द्वारा पर्यावरणीय स्वीकृति की शर्तों का उल्लंघन करते हुये जनवरी 2016 से अगस्त 2021 के मध्य किये गये भूगर्भ जल दोहन के दृष्टिगत केन्द्रीय प्रदूषण नियंत्रण बोर्ड, नई दिल्ली द्वारा तैयार की गयी गाईडलाईन के अनुरूप क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गाजियाबाद द्वारा की गयी संस्तुति के क्रम में सक्षम अधिकारी से प्राप्त अनुमति के उपरान्त परियोजना के विरुद्ध पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने से पूर्व निम्न कारण बताओ नोटिस जारी किया जाता है:-

"यह कि क्यो न मा0 एन0जी0टी0 द्वारा पारित आदेशों के अनुपालन में केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा दोषी इकाईयों के विरुद्ध पर्यावरणीय क्षतिपूर्ति अधिरोपित करने हेतु बनायी गयी गाइड लाइन के आधार पर परियोजना मैसर्स उप्पल चड्डा हाई-टैक डैवलपर्स प्रा0लि0, गाजियाबाद के विरुद्ध कुल प्रोजेक्ट लागत रू0 15103.47 करोड़ का 5 प्रतिशत रू0 7,55,17,35,000/- (रू0 सात सौ पचपन करोड़ सतरह लाख पैतिस हजार मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुये नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जाये? उक्त कारण बताओ नोटिस मा0 राष्ट्रीय हरित अधिकरण में वर्तमान प्रकरण में परियोजना द्वारा दायर इम्पलीडमेन्ट एप्लीकेशन में पारित आदेश के अधीन होगा।"

उपरोक्त पर अपना पक्ष/स्पष्टीकरण 15 दिन के अन्दर राज्य बोर्ड को प्रेषित किया जाना सुनिश्चित करें. अन्यथा की स्थिति में आपके परियोजना के विरुद्ध रू0 7,55,17,35,000/- (रू0 सात सौ पचपन करोड़ सतरह लाख पैतिस हजार मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुये नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जायेगी, जिसका सम्पूर्ण उत्तरदायित्व आपका स्वयं का होगा।

भवदीय,

/

(विवेक राय)

मुख्य पर्यावरण अभियन्ता, वृत्त-1

प्रतिलिपि:-क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, गाजियाबाद को सूचनार्थ एवं अग्रिम आवश्यक कार्यवाही हेतु प्रेषित।

मुख्य पर्यावरण अभियन्ता, वृत्त-1