

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi

O.A. No. 585/2023

Arif Kidwai

Applicant

Vs.

Union of India & Ors.

Respondents

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1.	Response on behalf of CPCB in compliance of Hon'ble NGT order dated 04.10.2023 in O.A. No. 585/2023, Arif Kidwai Vs Union of India & Ors.	
2.	Annexure-I: A copy of the Hon'ble NGT Order dated 04.10.2023.	



(Anamika Sagar)

Scientist E

Central Pollution Control Board

Delhi-110032

Date: 09.12.2023

Place: Delhi

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL

BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 585 OF 2023

IN THE MATTER OF:

Arif Kidwai

Applicant

Versus

Union of India & Ors.

Respondents

RESPONSE ON BEHALF OF THE RESPONDENT NO. 2, i.e., CENTRAL POLLUTION CONTROL BOARD

I, Anamika Sagar, W/o Shri A.K. Sagar, aged about 54 years, working as Scientist 'E' in the Central Pollution Control Board, Delhi, do hereby solemnly affirm and declare as under:

1. That I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present Affidavit.
2. That Hon'ble National Green Tribunal, Principal Bench, New Delhi passed an order on 04.10.2023, whereby Hon'ble Tribunal issued notice and inter-alia passed the following order:



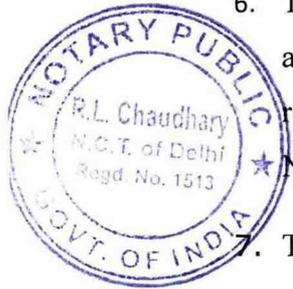
".....5. Issue Notice to the respondents. The applicant is directed to serve the respondent by both the modes and file the proof of service on or before the next date of hearing. Respondents, specially Respondent No. 3, State of Uttar Pradesh is directed to file the response on or before the next date of hearing....."

A copy of the Hon'ble NGT Order dated 04.10.2023 is annexed as **Annexure-I**.

अनामिका सागर / Anamika Sagar
श्री ए.के. सागर / Scientist E
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(राज्य, जो कि भारत सरकार द्वारा नियंत्रित है)
(Ministry of Environment, Forest & Climate Change, Govt. of India)
राजिस्ट्रार नगर, पूर्व काठिन नगर, दिल्ली-110032
Rajwasti Bazaar, East Katina Nagar, Delhi-110032

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3. That the applicant under this Original Application (hereinafter referred to as "OA") No. 585 of 2023, has referred to paragraph 29 of the judgment of the Hon'ble Supreme Court in the matter of Deepak Kumar & Ors. Vs. State of Haryana & Ors. reported in (2012) Vol 4 SCC 629 wherein there was a direction to all the States/Union Territories that all leases of minor minerals including their renewal for an area of less than 5 hectares could be granted only after obtaining Environment Impact Assessment (EIA) Clearance from Ministry of Environment, Forest and Climate Change (hereinafter referred to as "MoEF&CC"), Government of India.
4. That the applicant submits that by issuing the letter dated 01.05.2020, the Secretary of the State of Uttar Pradesh has acted contrary to the judgment of the Hon'ble Supreme Court in the case of Deepak Kumar & Ors. Vs State of Haryana & Ors. and also the MoEF&CC Notification dated 15.01.2016 issued in pursuance to the said judgment.
5. That the Environmental Impact Notification S.O.1533 (E), dt.14th September 2006, as amended 2009, issued under Environment (Protection) Act 1986, has made it mandatory to obtain environmental clearance for scheduled development projects. The notification has classified projects under two categories 'A' & 'B'. Category A projects (including expansion and modernization of existing projects) require clearance from MoEF&CC, Government of India and for category B from State Environmental Impact Assessment Authority (SEIAA), constituted by Government of India.
6. That the activities of borrowing / excavation of 'brick earth' and 'ordinary earth', upto an area less than 5 ha, has been categorized under 'B2' Category and considered by the respective SEIAA notified by MoEF&CC for environmental clearance under EIA Notification, 2006.
7. That in accordance to Environmental (Protection) Act,1986 and the Rules/Notifications made thereunder, Category A projects require environmental clearance from MoEF&CC, and category B require the same from SEIAA.
8. That in view of the above, it is humbly requested that a suitable order may be passed in the present matter and this answering respondent no. 2, undertakes to abide by any orders issued by this Hon'ble Tribunal in the present OA.



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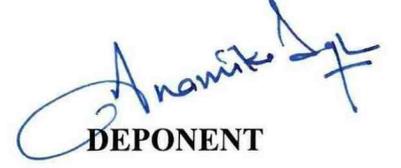

DEPONENT
अनामिका सागर / Anamika Sagar
वैज्ञानिक 'ई' / Scientist 'E'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार)
 (M/o Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION

- 9 DEC 2023

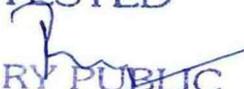
Verified at New Delhi on this day of December, 2023 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.




DEPONENT

अनामिका सागर / Anamika Sagar
वैज्ञानिक 'ई' / Scientist 'E'
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

ATTESTED


NOTARY PUBLIC
GOVT. OF INDIA

- 9 DEC 2023

Item No. 01

Court No. 1

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

Original Application No. 585/2023

Arif Kidwai

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 04.10.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Gaurav Kumar Bansal & Ms. Nandita Bansal, Advs.

ORDER

1. In this Original Application, the applicant has questioned the circular dated 01.05.2020 issued by Secretary, Government of Uttar Pradesh giving exemption from Environmental Clearance to the brick kilns and the activities of handmade earthen pots requiring mining upto the depth of 2 mtrs. only.

2. Learned Counsel for the applicant has referred to paragraph 29 of the judgment of the Hon'ble Supreme Court in the matter of Deepak Kumar & Ors. vs. State of Haryana & Ors. reported in (2012) Vol 4 SCC 629 wherein there was a direction to all the States/Union Territories that all leases of minor minerals including their renewal for an area of less than 5 hectares could be granted only after getting Environment Impact Assessment (EIA) Clearance from MoEF&CC, Government of India. He has also referred to the Notification dated 15.01.2016 issued under the provision of Environmental Protection Act, 1986 amending EIA Notification 2006 issued vide number SO 1533 (E) dated 14.09.2006 in light of judgment of the Hon'ble Supreme Court in the case of Deepak Kumar (Supra) and inserting the following clause therein:

“(iv) The B2 Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA The DEIA A Shall base its decision on the recommendations of DEAC, as constituted for this notification”

3. He has also submitted that certain representations were received by the Ministry of Environment, Forest and Climate Changes with the prayer of waiver of requirement of prior Environment Clearance for borrowing of ordinary earth for roads, and manual extraction of lime shells (dead shells), shrines etc. within inter tidal zone by the traditional community and the notification dated 28.03.2020 was issued and by the said Notification exemption to 13 category of cases was granted from Requirement of Environmental Clearance. He submits that under Clause 13, “the activities declared by the State Government under the legislations or rules as non-mining activity” are exempted but that is only for a limited purpose. He submits that on the basis of Notification dated 28.03.2020, Environmental Clearance is not required for those Brick Kilns unit which are manufacturing bricks manually through extraction of ordinary clay up to 2 meters. He further submits that by issuing the letter dated 01.05.2020, the Secretary of the State of UP has acted contrary to the judgment of the Hon’ble Supreme Court in the case of Deepak Kumar as also the Notification dated 15.01.2016 issued in pursuance to the said judgment.

4. The issue raised in the OA involve substantial question relating to compliance of Environmental Law.

5. Issue Notice to the respondents. The applicant is directed to serve the respondent by both the modes and file the proof of service on or before the next date of hearing. Respondents, specially Respondent No. 3, State of Uttar Pradesh is directed to file the response on or before the next date of hearing 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.

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6. List this matter on 11.12.2023.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

October 04, 2023
Original Application No. 585/2023
SN

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