

**BEFORE THE HON'BLE GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 265 OF 2022

IN THE MATTER OF:

Prasoon pant & another

... Applicants

Versus

Ministry of Environment,
Forest & Climate & Ors

... Respondents

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THROUGH



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**PLACE: - DELHI
DATED:- 03.04.2023**

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**RESPONSE TO THE REPORT FILED BY UTTAR PRADESH POLLUTION
CONTROL BOARD (UPPCB) RESPONDENT NO. 3 DATED 27.01.2023**

MOST RESPECTFULLY SHOWETH:

1. The above mentioned Application was filed by the Applicants before this Hon'ble Tribunal under Sections 14,15, 18(1) and section 20 of the National Green Tribunal Act, 2010 (hereinafter "NGT") raising substantial question related to environment arising out of the gross violation of environment clearance condition granted to M/s Durga Enterprises Pvt. Ltd (hereinafter Respondent No.8). The Respondent No.8 is setting up of an industrial park with 366 industries in the Critically Polluted Areas (CPAs) of Ghaziabad. The construction activities were already undertaken by the Respondent No.8 without obtaining No Objection Certificate (NOC)/ Consent to Establish (CTE) by UPPCB. The Applicant seeks the Hon'ble Tribunal to stop all the construction activities undertaken by the M/s Durga Enterprises Pvt. Ltd.
2. That via order dated 08.09.2022 in O.A 265 of 2022 the Hon'ble Tribunal directed the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) to verify reports regarding compliance

*13. Respondent no. 8 (Project Proponent) is directed to file affidavit regarding compliance by it with consent conditions imposed by respondents no. 2 and 3. Respondents no. 2 and 3 are also directed to **file verification reports regarding compliance by***

respondent no. 8 with the consent conditions imposed by respondents no. 2 and 3 on it.

3. That the present response is filed by the Applicant in response to the compliance report filed by the UPPCB on 27.01.2023. At the outset, the Applicant submits that the report of the UPPCB clearly states violations of the EC conditions that the project proponent has undertaken while establishing the 366 industries under the project "Durga Industrial Park". The Applicant submits that these serious violations of environmental norms will have severe implications to the already Critically Polluted Areas (CPAs) of Ghaziabad city. Furthermore, some of the tables are left blank in the report, which gives lacks of clarity on the on ground reality. There are pertinent aspects in the report that the Applicant would like to point out, which is elaborated in the present response to the report.

On the matter of ambient air quality & Dust Suppression

4. That the UPPCB in its report dated 27.01.2023 in SI no: 1 (@Pg 354) clearly states that that the ***Ambient air quality of Ghaziabad is beyond ambient standards.*** *Project proponent has submitted reports from NABL accredited lab for ambient air quality and noise. Same are for month of June, 2022.* The Applicant herein submits that in order to prevent, control or abate air pollution, CPCB identified cities with poor air quality and categorized as non-attainment cities. There are 131 non-attainment cities and Ghaziabad city is one of them. As per the Ghaziabad Action Plan for Critically Polluted Areas (CPAs), Ghaziabad has a CEPI score of 70 and above and is identified as 'Critically Polluted Industrial Cluster'. It is also declared as the most polluted cities in the Country by the World Health Organization (WHO) in 2017.
5. That the setting up of 366 industries by Respondent no.8 is in the Critically Polluted Areas (CPAs) of Ghaziabad, is detrimental to the environment. The project proponent in its compliance status stated that all standards related to ambient environment quality will be strictly complied. The

setting up of 366 industries is in complete disregard to the carrying capacity of the environment and in violations to the directions of Hon'ble Supreme Court directions in ***Aditya Dubey (Minor) & Anr v. Union of India (WP) (C) No. 1135 of 2020.***

6. That as per the UPPCB report SI no. 1 (**@Pg 354**) it can also be observed that only ***partial compliance of dust mitigation measures were observed during the inspection.*** The Applicant submit that it is in violation to the EC conditions no. 1 of Specific conditions (**@Pg 35**). Therefore the project proponent has completely disregarded the environment and is running the industrial park with repeated violations in the EC conditions, thereby causing severe environmental threat.

ON THE MATTER OF OBTAINING NECESSARY CLEARANCES FOR THE ABSTRACTION AND USE OF GROUNDWATER

7. That the UPPCB report dated 27.01.2023 in SI no. 11 of General Conditions (**@Pg357**), SI No. 30 of the specific conditions (**@Pg 383**), observes bore wells in front of the individual plots without permission/ registration of UPGWD. The Applicant submits that this is in violation to the EC conditions 11 (**@Pg 33**) of general conditions and 30 of the Specific Conditions (**@Pg 36**) granted to the Project Proponent wherein it stated to obtain *necessary clearances from the competent Authority on the abstraction and use of ground water during the construction and operation phases.*
8. That Ghaziabad city has alarming depletion of water table as per the reports of Central Ground Water Board because of the exploitation by the industrial units. Recommendations and measures were undertaken to artificially recharge the ground water but the efforts remain counterproductive as long as the exploitation continues.

ON THE MATTER OF BUILDING PARKING SPACE WITHIN THE PROJECT BOUNDARY

9. That the UPPCB report in Sl no: 10, 32, 52, (@Pg356, 365,370 **respectively**) states that no separate area has been earmarked for parking nor it is developed. That this is in violation to the EC condition point no 37 of the Specific condition(@Pg 37) *no parking shall be allowed outside the project boundary*. That it was the duty of the project proponent to ensure that the movement of heavy vehicles be managed and enough parking spaces available inside the industrial park to avoid congestion outside. Therefore the project proponent violated the provision.

ON THE MATTER OF DEVELOPMENT OF GREEN AREA DEVELOPMENT IN 15% OF AREA OF THE TOTAL PLOT AREA

10. That the UPPCB report in Sl no. 39 (@Pg 367), Sl no. 67 (@Pg 373) stated that the green belt is developed as per the approved layout plan. It is submitted by the Applicant that this information in the report is false and misleading. The Applicant visited the project site and it is stated that the area of green belt do not cover 10% of the total area. furthermore, as per the EC conditions no 17 of specific condition *15% of the total plot area shall be compulsorily made available for the green area development including the peripheral green area. Plantations of trees should be on indigenous species and may be as per the consultation of local district officer*. The Applicant visited the project site and it is hereby submitted that there is no green area development in 15% of the total plot area. The Applicant is submitting herein the Google earth images to substantiate that there is no green area development or green belt around the periphery of the Industrial Park that is constituting 15% of the area of the total plot and the same is misled by the project proponent.

The copy of the Google earth images showing the demarcated plot of Durga Enterprises is attached herewith as **ANNEXURE A6**

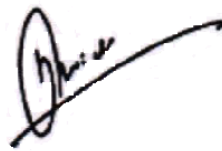
11. That it is the duty of the Respondent No.8 to ensure that the individual plot owners are adhering to the EC conditions granted for the project "Durga Industrial Park". However, the UPPCB report clearly states that there are several violations of EC condition done by the individual plot owners. The Respondent No.8 is conveniently evading from the responsibility of making sure that the individual plot owners adhere to the environment principles. It can be noted that, severe exploitation of resources is being done by the individual plot owners under the guise of "Durga Industrial Park" without obtaining required permissions as per the EC conditions. Thereby causing severe environmental threat.

ON THE MATTER OF ESTABLISHING WHITE AND GREEN INDUSTRIES

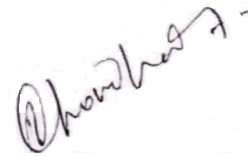
12. That as per the response in the UPPCB report in Sl no.2 (@Pg 355) of the General Conditions, the CTE obtained by the project proponent on 01.06.2022 specifically states that only non- polluting industries under the White and Green Category shall be installed in the Industrial Parks. That as per the information gathered by the Applicant, it is humbly submitted that industries which undertake cable manufacturing and manufacture of incense sticks which fall under orange category are few of the industries which are currently operating in the Industrial Park. The Google earth images attached by the Applicant shows the established industries in the industrial park (Annexure A6)
13. That the project proponent has seriously mislead the Hon'ble Tribunal in concealing the information of the industries that are being established with an undertaking that only white and green category industries will be established. Therefore, it is humbly submitted by the Applicants to the Hon'ble Tribunal to direct the respondents to furnish a list of industries that are coming up in the 'Durga Industrial Park'.

14. That the consequences of violating the conditions of EC would render the environment clearance cancelled. It is also pertinent to note that the project proponent has deliberately plotted and sold the plots to individual owners even before obtaining Consent to Establish from the UPPCB. That the planning and plotting has resulted in the start of construction activities by the individual plot owners. The project proponent has grossly violated the EC conditions by concealing factual data, false/fabricated data. Therefore the EC must be cancelled and the project proponent should be held liable.
15. Therefore, in the light of the submission made by the Applicant the Hon'ble tribunal may pass appropriate orders.

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