

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No. 68/2025**

In the Matter of:

Sanjaya Kumar Mishra

...Applicant

Versus

Central Pollution Control Board & Anr.

...Respondents

REJOINDER

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Place: Gurugram
Date: 11.08.2025

(FILED BY)



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REJOINDER TO THE REPLY FILED BY RESPONDENT NO. 1 – CPCB

MOST RESPECTFULLY SHOWETH:

1. That the Hon'ble National Green Tribunal (hereinafter referred to as "Hon'ble NGT") was pleased to pass an Order dated 28.05.2025. The reply on behalf of Respondent No. 1 (hereinafter referred to as "CPCB") dated 15.05.2025 was on record and Respondent No. 2 was granted three weeks' time to file their reply, after which the Applicant was allowed to file rejoinder within two weeks. However, Respondent No. 2 did not file any reply till date. Therefore, this rejoinder is only with regard to the reply filed by CPCB.
2. Paragraphs 1, 3 of the reply are of introductory nature and do not call for a response.
3. That with reference to Paragraph 2, it is respectfully submitted that, in accordance with well-settled legal principles, any allegation or contention in the Original Application (hereinafter referred to as "OA") that has not been specifically denied or traversed by the Respondent shall be deemed to have been admitted.
4. That in Paragraph 4, CPCB distorts the Applicant's case by reducing it to the phrase "*wrongly granted recognition*" to Respondent No. 2 pursuant to Section 12(1)(b) of the Environment (Protection) Act, 1986. This apparent mischaracterisation obscures the core allegations. The OA alleges that CPCB did not take action against the erring

Respondent No. 2 despite the provisions set forth in the Guidelines for Recognition of Environmental Laboratories under the Environment (Protection) Act, 1986 (Page 307, 348) and continued the recognition. The OA also alleges CPCB's failure to comply with the legal mandate as specified in Notification bearing S.O. 2340(E) dated 16.06.2021 (hereinafter referred to as "Notification dated 16.06.2021") by not making the inspection report public. Significantly, the CPCB has not addressed these specific allegations, thereby implying its tacit admission thereof.

5. That in Paragraph 5, the CPCB has asserted that "*The recognition granted to the environmental laboratory signifies that the laboratory has all the requisites for assessing the quality of environment by analysing all the concerned parameters under its scope.*" This assertion strikes at the core of the issues raised in the OA. The Applicant, through specific facts and evidence in Paragraphs 6.11, 6.13, and 6.14, has squarely rebutted this presumption, establishing that Respondent No. 2 lacks the requisite capability in terms of skilled manpower, analytical expertise in method selection, test reporting, and complaint handling.
6. Paragraphs 6(A) and 6(B) of the reply are of introductory nature and do not call for a response.
7. That, with reference to Paragraphs 6(C) and 6(D) of the reply, it is submitted that the CPCB has acted in contravention of Paragraph 8 of the Notification dated 16.06.2021 by deputing members for "verification of the complaint and compliance of the lab for EPA conditions," which is beyond and contrary to the legal mandate prescribed therein. It is further reiterated that the CPCB has failed to discharge its statutory obligation to place the inspection report in the public domain, thereby withholding material information and acting in violation of the said provision.
8. CPCB has stated in Paragraph 6(E) that mandatory accreditation under ISO/IEC 17025:2017 is one of the prerequisites. It is pertinent to state that Paragraph 6.14 of the OA highlights serious violations and deviations by Respondent No. 2 with respect

to Clause 4.1 of the General Requirements of ISO/IEC 17025:2017, and Clauses 7.3.3, 7.8.2.2, and 7.8.5(e) of the said standard.

9. Paragraph 7 of the reply is irrelevant to the instant matter.

10. That, in Paragraph 8 of the reply, the CPCB states that it granted recognition to Respondent No. 2, valid until 12.01.2024, on the basis of an application submitted on the CPCB Portal on 19.12.2022, and thereafter extended such recognition to align with the validity of the ISO/IEC 17025:2017 accreditation. In support of this, CPCB has relied upon Annexure-V (Page 250). However, the following aspects merit consideration:

A. Annexure-V, comprising letters at Pages 248 and 250, reflects the date 07.12.2022, and not 19.12.2022.

B. The letter dated **12.01.2024** (Page 250) issued by the CPCB contains no reference to the validity date of the NABL accreditation under ISO/IEC 17025:2017. The RTI reply dated 04.06.2024, issued pursuant to the Order of the First Appellate Authority of the CPCB, reveals that Respondent No. 2 was furnished a copy of the extension of validity of the ISO/IEC 17025:2017 accreditation by NABL only on **10.02.2024** (Page 219). In the absence of any proof of valid NABL accreditation under ISO/IEC 17025:2017 between 12.01.2024 and 10.02.2024, the recognition stood automatically terminated, and any subsequent renewal of such recognition is without legal sanction and thus untenable.

C. **The discrepancies in dates raise serious questions.**

D. That both letters submitted as Annexure-V (Pages 248 and 250) at Point No. 7 explicitly state:

“The laboratory should compulsorily follow the accepted terms and conditions. In case of serious non-compliance of any of the terms and conditions, the laboratory may be blacklisted for a minimum period of two

years and civil/criminal proceedings, as applicable, may be initiated for performing functions on behalf of the Government in an unauthorized manner.”

Further, Condition No. 11 of the Terms & Conditions for Recognition of Laboratories under the Environment (Protection) Act, 1986 (Page 347) mandates:

“It shall maintain complete secrecy in respect of test results. These shall not be divulged to any person or authority other than Officer empowered under section 11 of the Act or the court having jurisdiction.”

Paragraph 6.11 of the OA clearly demonstrates CPCB’s failure to comply with this condition. The resultant breach of confidentiality caused suppression of material facts and concealment of a compliance condition imposed by the Ministry of Environment, Forest and Climate Change. This non-compliance holds grave significance in the context of air pollution control and is thus a **matter of substantial public interest**.

Moreover, Condition No. 21 stipulates:

“The Central Government / CPCB shall have the right to de-recognize the laboratory at any time in public interest without assigning any reason, if it is deemed necessary by the Central Government.”

Therefore, it is evident that, notwithstanding the clear statutory provisions, the CPCB’s stand in not derecognising Respondent No. 2 evidences a serious lapse in the discharge of its statutory and regulatory obligations.

11. Paragraph 9 further states that the Recognition was again granted to Respondent No. 2 based on application submitted on 01.07.2024 and **fulfilment of the requirement of Guidelines** for Recognition of Environmental Laboratories Under the Environment (Protection) Act, 1986, issued by CPCB in 2008-09.

A. However, in Paragraph 23, CPCB has submitted that *“Since, the Respondent*

*No. 2 fulfilled all the requirements as per Guidelines, the **renewal** of recognition has also been granted by CPCB.”*

B. Respondent No. 2 did not fulfil the requirement of the Guideline (Page 304):

“The Environmental laboratories desirous of renewal of recognition at the expiry of earlier recognition period have to submit application for renewal of recognition at least six months before the expiry date of earlier recognition.”

C. Further, CPCB has failed to submit any documentary evidence confirming the constitution of the Expert Committee mandated by the Guidelines (Page 299) to review all Government and Private Laboratory cases. The Committee is required to comprise an External Expert, a CPCB Expert, a CPCB Member Convener, and an Expert Member from the Ministry of Environment, Forest and Climate Change as a Permanent Invitee. This failure constitutes a clear procedural lapse in compliance with the prescribed oversight mechanism.

D. CPCB has also failed to produce documentary evidence demonstrating that the recognition dated 31.07.2024, granted to Respondent No. 2, was preceded by a due inspection conducted by the joint inspection team, as mandated by the Guidelines (Page 301). This omission further underscores procedural non-compliance.

In view of the foregoing, the claim that Respondent No. 2 fulfilled all the requirements under the Guidelines stands disproved, rendering the renewal of recognition legally unsustainable.

12. It is respectfully submitted that the reference in Paragraph 10 to “in the meantime” is misleading and incorrect, as the Member Secretary, CPCB, was duly served with copies of the complaint via email (mscb.cpcb@nic.in) on 05.12.2022 and 08.01.2023—well before 10.10.2023 and subsequent dates. Despite this, CPCB failed to respond to these earlier communications. Furthermore, the characterization of the reports as “**Partial and inaccurate**” amounts to “**biased and inaccurate**” reporting,

which raises serious concerns about the integrity and reliability of the reporting practices employed by a CPCB-recognized environmental laboratory.

13. With respect to Paragraph 11, it is reiterated that the Committee constituted by CPCB was not constituted in compliance with the requirements set forth in Paragraph 8 of the Notification dated 16.06.2021.

14. With reference to Paragraph 12 it is submitted that:

A. As already submitted, the inspection and the consequent Inspection Report were carried out in violation of Paragraph 8 of the Notification dated 16.06.2021, rendering the Inspection Report invalid. Furthermore, the technical capacity—particularly in respect of skilled manpower, analytical expertise in method selection, test reporting, and complaint handling—has been specifically disputed by the Applicant but has been wholly disregarded in the said Inspection Report.

B. Further, the Inspection Report fails to incorporate the data sheets it claims to have verified, thereby rendering it incomplete and unacceptable.

C. Observation No. 1 in the Inspection Report (Page 379) defends the Carbon Monoxide (CO) results without proper scrutiny, which was reported by Respondent No. 2. Notably, the reported CO level ranges from 16.28 ppm to 29.74 ppm (Page 98 - 104), whereas IS 13270: 1992 sets a detection limit of 500 ppm (Page 147). Similarly, the reported range of 31.89 mg/Nm³ to 53.75 mg/Nm³ is falsified, as the standard method's detection limit for this parameter is also 500 ppm. The CPCB Inspection Report conceals this serious material fact, which establishes the lack of technical capacity of Respondent No. 2, particularly in relation to skilled manpower, analytical expertise in method selection, test reporting, and complaint handling. Accordingly, the CPCB's report is unjustified and liable to be rejected.

D. CPCB bears the burden of proof for the issues raised under Observation Nos.

2(1) to 2(4) in the Inspection Report. These points are critical and have the potential to set a national precedent in the quality standards of air emission monitoring.

- E.** Observation No. 2(5) in the Inspection Report is vague, given that a clear Standard Method published by the Bureau of Indian Standards—cited in the OA—exists. CPCB has failed to produce evidence demonstrating how Respondent No. 2 complied with this method.
 - F.** Observations No. 3, 4, and 5 in the Inspection Report are vague and biased in favour of Respondent No. 2, as the critical parameter at the heart of this dispute remains unreported. If such data existed, it would have been expressly cited, in view of its pivotal importance. This omission is of grave significance concerning environmental governance, compliance with Environmental Clearance conditions, and the serious issue of air pollution, thereby directly impacting Public Interest.
 - G.** Observation No. 6 in the Inspection Report is misleading and prejudiced, as the contested Test Reports are incorporated in Environmental Clearance Compliance Reports. Being a Public Document, it carries serious implications for air pollution management, which is a matter of vital Public Interest.
 - H.** Observation No. 7 of the Inspection Report contains a flawed and contradictory statement by CPCB, claiming that DG set (2000 KVA) monitoring for compliance should occur at 1 meter, while insertion loss checks may be done at 0.5 meters. This directly contradicts the Notification cited in the OA (Page 200) and is legally unsupportable. Such inconsistent and erroneous reasoning must be outright rejected.
- 15.** Paragraph 13 is irrelevant, as it furnishes no Quality Control Data pertaining to the test parameters in issue in the present OA, and therefore stands rejected.
- 16.** Paragraph 14 and 15 are missing from the CPCB reply.

17. Paragraphs 16 and 17 do not call for a response.
18. In Paragraph 18, CPCB has unjustifiably given a clean chit to Respondent No. 2 despite clear evidence of deviation from the prescribed standard and validated methodology. As submitted in Paragraph 6.13 of the OA, the reporting of Carbon Monoxide as CO concentrations ranging from 16.28 ppm to 29.74 ppm in stack emissions using IS 13270 is incorrect and falsified, since the detection limit for Orsat method is 0.2% and the gas chromatographic method is 500 ppm. CPCB's protection of such flawed reporting by Respondent No. 2, a recognized laboratory under its oversight, is a matter of grave concern and must be strongly condemned.
19. Further, the averments in Paragraph 6.8 of the OA establish the incapability of Respondent No. 2 in terms of skilled manpower and analytical expertise, reflecting a clear disregard for prescribed Standards.
20. That CPCB's submission in Paragraph 19 reflects a clear non-application of mind. As noted in Paragraph 10(f) above, Respondent No. 2 has failed to maintain the required secrecy of test results and has improperly concealed significant data related to environmental compliance and air pollution. This also constitutes a violation of ISO 17025:2017 requirements, as highlighted in Paragraph 6.14 of the OA. Accordingly, CPCB's submission is emphatically rejected. Furthermore, the failure to conduct a proper inspection and to make the inspection report public renders the extension of recognition both illegal and invalid, warranting derecognition.
21. That the evasive stance adopted by CPCB regarding Paragraphs 6.14, 6.22, and 6.23—asserting that the averments “warrant no reply”—is legally untenable, as every material allegation must be specifically addressed; failure to do so amounts to admission by necessary implication.
22. That the averments made in Paragraphs 6.24, 6.25, and 6.26 of the Original Application constitute serious allegations against CPCB's functioning. There is ample credible evidence demonstrating that CPCB inappropriately permitted the continuation

and renewal of recognition granted to Respondent No. 2. Consequently, the current recognition warrants immediate withdrawal for a period of two years.

23. That Paragraph 22 of the CPCB reply is clearly submitted without application of mind, reflecting a failure to comprehend the Grounds raised. Such conduct by CPCB amounts to support for mis-governance and runs contrary to Public Interest (Page 305). Therefore, CPCB's statement is wholly negated, and the grounds of the OA stand admitted in their entirety.

24. The claim in Paragraph 23 that CPCB complied with all legal mandates in processing Respondent No. 2's recognition application is an unsubstantiated assertion devoid of evidentiary support. CPCB has conspicuously failed to produce any proof of the constitution of the Expert Committee as mandated by the Guidelines (Page 299) or of the joint inspection team's inspection as required (Page 301). In the absence of such fundamental evidence, CPCB's claim is wholly unsustainable and must be rejected outright.

In light of the above submissions, it is respectfully contended that the recognition and its subsequent renewal granted to Respondent No. 2 are in clear breach of the applicable statutory provisions, regulations, and guidelines, and are thus void and unenforceable. It is, therefore, prayed that this Hon'ble Tribunal be pleased to issue appropriate directions to the CPCB to forthwith revoke such recognition/renewal, in order to uphold the mandate of law and safeguard environmental and public interest.


(Applicant)



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...Respondents

AFFIDAVIT

I, Sanjaya Kumar Mishra, son of Shri Nilamani Mishra, do hereby solemnly affirm and declare as under:

- 1) That I am the Applicant in this Original Application No. 68/2025.
- 2) That I am fully conversant with the facts of the case and am competent to sign and swear this Affidavit.
- 3) That I am an Advocate enrolled with the Orissa State Bar Council under Enrolment No. O-1047/2011. I further state that I maintain a communication address at 115, Sagar Enclave, Sector 104, Near Daulatabad Road MGF Toyota, Gurugram, Haryana, for the purposes of this Original Application, including the service of any notices, replies, or rejoinders related thereto.
- 4) That the contents of the accompanying Rejoinder are part and parcel of this Affidavit and are not repeated herein for the sake of brevity.

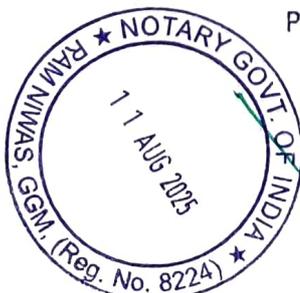
Sanjaya Kumar Mishra
DEPONENT

VERIFICATION:

Verified at Gurugram on this 11th Day of August 2025 that the contents of the above Affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Sanjaya Kumar Mishra
DEPONENT

This document has been registered
at Sr. No. 214 Book No. 59
Page No. 43 On Dated 11/08 2025



ATTESTED

RAM NIWAS, ADVOCATE
NOTARY GURUGRAM (HRY.) INDIA

430



Sanjaya Kumar Mishra <sanjayakmishra@gmail.com>

REJOINDER AFFIDAVIT IN OA No. 68 OF 2025

1 message

Sanjaya Kumar Mishra <sanjayakmishra@gmail.com>
To: suman arora <aroras16@gmail.com>

11 August 2025 at 17:59

Madam/Sir,

Please find attached the Rejoinder Affidavit being filed in OA No. 68/2025 in the matter of Sanjaya Kumar Mishra Vs. CPCB & Anr.

Regards,

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Sanjaya K. Mishra
Applicant in Person

 **Rejoinder in OA 68 of 2025_.pdf**
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