

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNALAT (WZ), PUNE

ORIGINAL APPLICATION No. 39 /2019

In the Matter of:

APPLICANT:

Devidas Khatri

/Versus//

RESPONDENTS:

Union of India & Others

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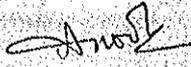
N.D.O.H. 04.02.2022

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Date: 28 /1 /2022

Place:

Filed By :


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Devidas Khatri

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL AT
(WZ), PUNE**

ORIGINAL APPLICATION No. 39 /2019

In the Matter of:

APPLICANT: Devidas Khatri
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RESPONDENTS: Union of India & Others

**REJOINDER TO THE REPLY AFFIDAVIT DATED
23.04.21 FILED ON BEHALF OF RESPONDENT NO. 2**

MAY IT PLEASE THIS HON'BLE TRIBUNAL,

The humble applicant most respectfully beg to submit the rejoinder to reply Affidavit dated 23.04.2021 submitted on behalf of respondent No. 2 as under :-

PARA WISE REJOINDER

1. That content of para No. 1 of affidavit needs no rejoinder .
2. That content of para No. 2 of the affidavit is not admitted as stated. It is respectfully submitted that vide order dated 25.07.2019 Hon'ble tribunal directed respondent no.2 Maharashtra pollution control Board to submit a report on factual aspects of the case as set out in the application. And further directed to inspect the unit and verify on the allegations and it was also directed that if allegations are found to be true, appropriate action be instituted against the

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respondent no.4 (Project proponent) in accordance with law. After that MPCB visited the industry on 26.07.2019 and observed that there is several non-compliances as per conditions of Consent conditions and thereafter Regional officer of MPCB vide show cause notice dated 31/7/2019 asked to close-down the manufacturing unit. Copy of aforesaid notice is malafidely concealed by the MPCB from the Hon'ble tribunal so far for the reason best known to them. In the said notice dated 31/07/2019, besides other allegations, MPCB in para 14 made serious allegation that project proponent is dumping burnt sand outside factory premises in the River Indrayani Catchment area near Andhra Dam downstream. But no reply has been given by the project proponent and thereafter in connivance with the project proponent MPCB submitted a factual and Action taken report dated 16.10.2019 has been submitted on the basis of notice dated 06.08.2018 (Annexure-1), but concealed the notice dated 31/07/2019 due to some malafide intention and thereafter again on 16.12.2019 MPCB has again submitted a report proposing a meager compensation of Rs 1,24,20,000/- only, which was also very less amount as per default done by project proponent. But even after that MPCB again reconsider the project proponent and now vide order dated 19.8.2021 only Rs 7,80,000/- as environmental compensation has been assessed, which is totally wrong. Project proponent without

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consent is operating the industry after 30.04.2018, and also several conditions of consent has been violated. CGWA permission is not there and dumping burnt sand in the catchment area of river Indrayani near Andhra Dam Downstream and causing huge pollution. But all facts has been concealed by the MPCB from the Hon'ble tribunal and in order to provide benefit to the project proponent false report has been prepared. So, a committee deserve to be formed consisting of senior higher officials including members of CPCB and MoEF who may be directed for detailed inspection of the unit and submit its report before Hon'ble tribunal.

3. It all shows that there is a great manipulation between present officials of MPCB and Project Proponent.
4. That Hon'ble tribunal directed State pollution control Board to file present status and to assess the Environmental compensation for non compliances indicated in the findings taking into consideration the duration of such non-compliances. After that State pollution control Board did not gave parawise reply with malafide intention and inadvertently he has admitted the facts of O.A. Without filing detailed reply, he could not be permitted to file any affidavit to counter the allegations.
5. That content of para no. 4 of reply affidavit is admitted as stated. But MPCB has not done his

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duty with full devotion, rather he has facilitated the project proponent to justify their wrongs.

6. That content of para no. 5 of affidavit is not admitted. It is wrong to say that respondent industry has submitted any compliance report during personal hearing on 2.3.2020, nor there was any occasion to do so. When project proponent has already complied with all conditions on 31.8.2018, then how during visit of officials of MPCB on 26.7.2019, found several irregularities and how notice no. ROP/MPCB/PD/1907310002 dated 31.7.2019 has been issued to project proponent. And why it has not been mentioned in the report dated 16.10.2019 before Hon'ble tribunal. It all shows that there is manipulation between present officials of MPCB and Project Proponent.
7. That contents of para no.6 of affidavit is not admitted as stated. It is true that Hon'ble tribunal vide order dated 6.2.2020 directed MPCB to deal with the representation and take considered decision, but never directed to review the Environmental compensation against the law. MPCB in order to facilitate the project proponent only 26 days compensation has been calculated which it self shows their incorrectness.
8. That contents of para no.7 of affidavit is not admitted as stated. It is very surprised that instead of protecting the environment, Respondent MPCB is protecting the project

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proponent and true report has not been submitted. MPCB has not deal with the main allegation against the project proponent that he has got consent and environment clearance concealing the material fact that he is generating 50000MTPA burnt sand as waste during the process and also during inspection made by officials of MPCB on 26.7.2019, founds 23non-compliances, which has no been rectified till date even after passing of more than 30 months long time. So a committee desrve to be formed in this case . and further as the project proponent has not complied with the various conditions of Environment clearance. So he could not be allowed to carry out operations.

It is therefore humbly prayed that the counter affidavit may kindly be taken on the record and a fresh committee consisting of higher official including members of CPCB may be formed to inspect the site and submit its report in this case. and further as the project proponent has not complied with the various conditions of Environment clearance. So his may not be allowed to carry out its operations till hearing of this case.

Humble Applicant

Through Counsel

(Rohit Kumar Tuteja/Anoop Agarwal)
ADVOCATES

Devdas Khichi

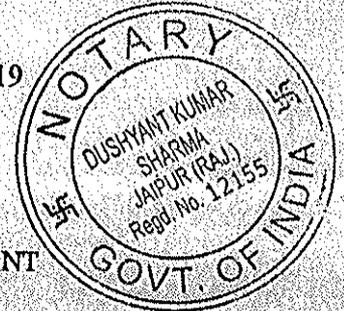
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL AT

(WZ), PUNE

ORIGINAL APPLICATION No. 39/2019

AFFIDAVIT



In the Matter of:
Devi das Khatri

..... APPLICANT

//Versus//

Union of India & others

.....RESPONDENTS

Affidavit in support of Rejoinder to Reply Affidavit of Respondent no.1

I, Devidas Khatri S/o Shri Nand Kishore Khatri, aged about 38 Years, R/o 239, Laxmi nagar, Behind Mangori walon ki Bagichi, Brahampuri Jaipur 302002, do hereby take oath and state as under:-

1. That I am Applicant and well conversant with the facts of the case and thus competent to depose this affidavit.
2. That the accompanying rejoinder has been drafted and prepared by my counsel under my instructions and the same are based on the records and has been read over by me and I have understood the same.
3. That the all the contents of rejoinder are true and correct.

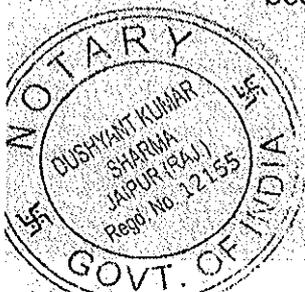
Devidas Khatri
DEPONENT

Identified by
[Signature]
90231/2435

VERIFICATION

I, the above named deponent, do hereby solemnly affirm that the contents of Para No.1 to 3 of the above affidavit are true to my personal knowledge. Nothing has been concealed in it. No part of it is false. So help me God.

Devidas Khatri
DEPONENT



ATTESTED

[Signature]
Notary Public,
Jaipur Raj (INDIA)

25 JAN 2022