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**BEFORE NATIONAL GREEN TRIBUNAL AT DELHI****Original Application No. 802 of 2023****IN THE MATTER OF:**

Anand Hooda,

.... Applicant

Versus

Haryana State Pollution Control Board

... Respondent

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Place: New Delhi

Dated: 02.04.2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL AT DELHI**

**ORIGINAL APPLICATION NO. 802 OF 2023**

**IN THE MATTER OF:**

**Anand Hooda**

**.... Applicant**

**Versus**

**Haryana State Pollution Control Board & Ors.**

**...Respondents**

**REJOINDER ON BEHALF OF THE APPLICANT TO REPLY ON**

**BEHALF OF RESPONDENTS 4 TO 9**

**MOST RESPECTFULLY SHOWETH:**

1. At the outset, the Applicant denies the averments and contentions raised by the Respondent Nos. 4 to 9 in their reply. The submissions made in the reply are not only misleading but also an attempt to obfuscate the real issues concerning the environment and public interest. The Applicant refutes the assertion that the present Original Application (OA) is vexatious or frivolous. On the contrary, this OA raises serious environmental concerns, which fall squarely within the purview of the Hon'ble Tribunal's jurisdiction. The Applicant categorically denies the allegation that the OA is motivated by business rivalry. This baseless claim is an attempt by the Respondents to divert attention from their non-compliance with environmental laws. The Ministry of Environment, Forest, and Climate

Change's (MOEFCC) reply, dated 5/12/2024, substantiates the Applicant's position, as the Ministry has acknowledged that the Respondents have violated the provisions of the EIA Notification 2006. This confirmation by the Ministry reinforces the legitimacy of the Applicant's claims, which go beyond personal or business rivalry and directly concern environmental protection. The OA is filed in furtherance of public interest to ensure adherence to the same.

2. The Applicant denies the contentions raised by the Answering Respondents, including the blanket denial of all purported grounds, submissions, allegations, and contentions set forth in the Original Application (OA). The Applicant asserts that the submissions in the OA are accurate, substantiated by evidence, and fully supported by the facts of the case. The Respondents' non-compliance with the Environmental Impact Assessment (EIA) Notification, 2006, is significant. As per the EIA Notification, formaldehyde manufacturing falls under Category 'A' of item 5(f), and mandatory prior Environmental Clearance (EC) is required. This has been admitted by the Ministry of Environment, Forest, and Climate Change (MOEFCC) in its reply, where it was stated that out of 12 formaldehyde manufacturing units, 8 are operating without requisite EC. This further substantiates the Applicant's case and highlights the clear violation of statutory environmental regulations.

3. The Respondents' reliance on the principle of res judicata is misplaced. The Applicant submits that the earlier cases referred to by the Respondents, including OA No. 287/2020, OA No. 840/2019, and OA No. 298/2020, dealt with different factual scenarios and parties. The issues raised in the present OA pertain to the continued non-compliance and operation of the Respondents' units without the requisite Environmental Clearances (ECs), despite judicial directions and statutory mandates. Therefore, the present OA is not barred by the principle of res judicata.
4. That the Applicant submits that it is well-established by the Hon'ble Supreme Court that obtaining prior EC is not merely a procedural requirement but a mandatory condition precedent for the commencement of any project or operation that may impact the environment. The Hon'ble Apex Court has repeatedly held that any operation carried out without obtaining the requisite EC, as mandated under the Environmental Protection Act, 1986 and the relevant rules, constitutes a clear violation of environmental norms and statutory obligations (refer to Indian Council for Enviro-Legal Action v. Union of India and similar precedents). The pendency of applications for EC or alleged procedural delays cannot, as a matter of law, justify the unlawful operation of units or activities without the necessary clearance. The Respondents' reliance on the ongoing process of obtaining EC fails to address the legal requirement of compliance with

environmental safeguards before operations commence. Moreover, the provisions of the Environment (Protection) Act, 1986 and related environmental clearance procedures make it abundantly clear that the grant of EC, even if pending, cannot retroactively validate actions or operations that have already taken place without it. Further, it is submitted that such continuing violations of the statutory requirement for prior clearance not only undermine the statutory regime but also affect the larger public interest in safeguarding environmental health. The Respondents' argument regarding procedural delays is therefore without merit, as the duty to comply with environmental laws is immediate and continuous, and no such violations can be excused on the grounds of administrative delays or ongoing applications.

5. That the Applicant submits that the Respondents' reliance on the office memorandums dated 7.7.2021 and 28.1.2022, as well as the Hon'ble Supreme Court's order dated 2.1.2024 in WP (Civil) 1394/2023, is misplaced and legally untenable. The interim stay granted by the Hon'ble Supreme Court on the operation of certain office memorandums cannot be construed as a blanket permission to operate in violation of environmental laws. Reference is drawn to the order dated 02.02.2024 passed by the Hon'ble Supreme Court in the above-mentioned Writ Petition. The order dated 02.02.2024 observes as under:

*5. We clarify that our orders dated 02nd January, 2024 would not come in the way of the competent authorities in considering the proposals for modifications/alterations in the Environmental Clearances if area of such projects had any valid environmental clearances prior to 07th July, 2021.*

*6. Needless to state that such applications for modification/alteration would be considered by the competent authorities strictly in accordance with law as it existed prior to 07th July, 2021.*

The stay order does not absolve the Respondents from the statutory requirement of obtaining prior Environmental Clearances (ECs) before commencing any operations that have the potential to impact the environment. The requirement for obtaining EC is a legal obligation that stands independently of any procedural delays or challenges to the office memorandums. Therefore, the stay on certain memorandums does not exonerate the Respondents from their failure to comply with the established environmental safeguards as there is no stay operating in cases where the EC was applied for prior to the OM of July 2021 nor does it justify their continued operation without the necessary clearance. The Respondents' actions remain in violation of environmental norms, and their reliance on the stay order does not provide a valid defence for their unlawful conduct.

6. That the MOEFCC's reply dated 5.12.2024 reiterates that the requirement to obtain EC is a statutory obligation and must be complied with, regardless of any pending modification petitions. The MOEFCC has made it clear that no formaldehyde manufacturing unit, including the Respondents', can operate without obtaining the necessary EC, and this applies even if there is an ongoing application in the Supreme Court. The Respondents' failure to obtain EC continues to constitute a violation of the law. The legal obligation to obtain EC is clear and unequivocal, and the pendency of an application for modification of a stay order does not excuse the Respondents' continued violations of environmental norms. Therefore, the Respondents' non-compliance with the statutory requirement of prior ECs remains unlawful, and the procedural matter before the Hon'ble Supreme Court cannot serve as a defence for their illegal
7. The Applicant denies the Respondents' claim that their units are non-polluting or have "Zero Trade Discharge." The Applicant submits that the Respondents have failed to provide any credible evidence to substantiate this claim. Moreover, the lack of prior EC inherently implies that no proper environmental impact assessment (EIA) has been conducted to ascertain the environmental risks posed by the Respondents' operations.
8. The Applicant that the assertion by the answering respondents that the non-obtaining of EC was an "unintentional procedural lapse" does not absolve

the Respondents from their legal obligation to secure EC before commencing operations, as this is a preventive measure to assess environmental impacts. Furthermore, the fact that the government allowed the Respondents to continue operations pending their application for EC does not legalize their non-compliance, nor does it alter the statutory requirement. The MOEFCC's reply, dated 5/12/2024, further clarifies that while the Haryana State Pollution Control Board (HSPCB) may have issued Consent to Establish (CTE) and Consent to Operate (CTO) to the Respondents, these consents do not exempt them from the need to obtain EC. The Ministry emphasizes that the requirement for EC is separate and independent from other clearances and cannot be substituted by any other regulatory approvals. As such, the Respondents' reliance on the CTO and CTE is misplaced, as they are still legally bound to secure EC before commencing operations. Therefore, the Respondents' post-facto application for EC does not remedy their prior illegal operations, and their reliance on these points to justify non-compliance is without merit

9. The Applicant submits that the Respondents' reliance on the judgments of the Hon'ble Supreme Court in *Lafarge* (2011) 7 SCC 338, *Electrotherm (India) Ltd.* (2016) 9 SCC 300, and *Alembic Pharmaceuticals Ltd.* (2020) SCC Online SC 347 is wholly misplaced. These judgments emphasize the principle of sustainable development and the need to balance

environmental protection with industrial growth. However, they do not condone the operation of industries without obtaining prior ECs. The Hon'ble Supreme Court, in all these cases, imposed strict penalties and directed compliance with environmental norms. The Respondent's reference to the Pahwa Plastics Pvt. Ltd. vs. Dastak NGO case is inapplicable, as the facts differ significantly, and the Hon'ble Supreme Court has clarified that ex post facto ECs are exceptions, not the rule. The Ministry's reply, which confirms the illegal operation of these units without EC, is consistent with the principles established in these cases, which emphasize the importance of obtaining EC to ensure compliance with environmental regulations. The MOEFCC's stance reinforces the legal necessity for the Respondents to halt their operations until they obtain the proper ECs, in line with established judicial and statutory requirements.

10. The Applicant submits that the Respondents' claim of non-obtaining of prior Environmental Clearance (EC) due to a "bonafide lack of knowledge" is untenable. Regardless of the confusion or lack of awareness on the part of both the authorities and the industry, the legal requirement for prior EC remains clear and unequivocal. Ignorance of the law, whether by the Respondents or the concerned authorities, does not provide a valid defence against non-compliance. The fact that the Haryana Pollution Control Board sought clarification from the Ministry of Environment, Forest and Climate

Change (MoEF) in 2019 regarding the applicability of EC to formaldehyde manufacturing units does not justify the Respondents' failure to adhere to the legal mandate. It is a well-established principle that ignorance of the law is no excuse, and the statutory obligation to obtain prior EC is not contingent on the awareness of the authorities or the industry. Moreover, while the pollution control boards may have granted time to units to apply for EC, this concession does not legitimize the continued operation of the units without the requisite clearance. The statutory requirement for EC is a preventive measure, and operations conducted without such clearance, regardless of any confusion or subsequent action taken by authorities, remain unlawful. Therefore, the Applicant submits that the Respondents' reliance on the confusion regarding the applicability of EC to formaldehyde manufacturing units is not a valid excuse and does not absolve them of their obligation to comply with environmental regulations.

11. The fact remains that the Respondents operated their units without the necessary clearance, which constitutes a violation of the statutory provisions under the Environmental Protection Act, 1986. The mere fact that the authorities allowed the units to apply for EC does not retrospectively legitimize the unlawful operation of the units without prior clearance. Furthermore, the Applicant submits that the argument that no deliberate violation or pollution hazard occurred is not only

unsubstantiated but also cannot be used as an excuse in light of the mandatory nature of obtaining prior EC. The requirement for EC is not contingent on the actual environmental harm caused, but rather on ensuring that the potential environmental impact is assessed and mitigated before the operation begins.

12. The Applicant submits that the process of obtaining EC involves a comprehensive environmental impact assessment, public consultation, and the imposition of specific conditions designed to mitigate potential environmental harm. Furthermore, the Ministry of Environment, Forest, and Climate Change's (MOEFCC) reply dated 5/12/2024 highlights the importance of this assessment, emphasizing that the EIA process is vital for ensuring that environmental risks are thoroughly evaluated and adequately mitigated before the commencement of any industrial activity. The Ministry's response makes it clear that no industrial unit, including the Respondents', can proceed with operations without first securing the EC, which entails conducting an EIA. The Ministry's stance is unequivocal: until the EIA is completed and the EC is granted, the operations of the Respondents remain in violation of the law.

Lack of both EC and EIA means that the Respondents' operations are continuing without proper environmental safeguards, potentially exposing the surrounding communities to serious environmental risks. The absence

of these required assessments not only undermines public health and safety but also undermines the very purpose of environmental regulations, which are designed to ensure that industrial activities do not cause irreversible harm to ecosystems, water bodies, air quality, or public health. The Respondents' failure to comply with these fundamental requirements is a direct violation of statutory obligations that cannot be overlooked.

13. The Applicant submits that the Respondents' contention that their units are contributing to the economy and providing livelihoods, while industrial growth is important, it cannot come at the cost of environmental degradation and public health. The principle of sustainable development mandates that industrial operations must comply with environmental laws and regulations.
14. The Applicant submits that the Respondents have failed to address the core issue of their illegal operations without prior ECs. The Respondents' attempt to justify their actions by citing procedural delays and financial investments is untenable. The Hon'ble Supreme Court, in Alembic Pharmaceuticals Ltd., has categorically held that industries operating without ECs cannot escape liability and must face legal consequences.
15. The Applicant submits that the Respondents' interpretation of the order dated 25.8.2021 passed by the Hon'ble Supreme Court is both misleading

and legally erroneous. While the Hon'ble Supreme Court may have clarified that the interim order would not prevent the processing of applications for Environmental Clearance (EC), this does not imply any validation of the Respondents' continued operations without the required EC. The clarification provided by the Hon'ble Supreme Court only allowed for the processing of applications, and not for the continuation of operations in the absence of the necessary EC. It is important to note that the interim order did not grant blanket permission for the Respondents to operate without EC, but permitted the authorities to continue processing the applications. Furthermore, the Respondents' reliance on the principle of merger of interim orders with final orders is legally flawed. The principle of merger indeed applies in certain circumstances, but it does not retroactively validate an unlawful action that occurred during the interim period. Even if the interim order merged with the final order passed on 25.3.2022, it does not alter the fact that the Respondents' operations were conducted without the requisite EC, which remains a violation of the statutory requirements under the Environmental Protection Act, 1986. The final order merely addressed the procedural aspect of not interfering with operations pending the decision on EC but did not absolve the Respondents from their obligation to obtain EC in the first place.

16. The Applicant submits that the Respondents' denial of the Board granting illegal permission to the units or of the relaxation period for acquiring the Environmental Clearance (EC) having long elapsed is unsubstantiated and legally incorrect. While it is acknowledged that three of the Respondents' cases are still pending consideration before the Hon'ble Supreme Court, and that a stay order is in place, this does not absolve the Respondents from their failure to comply with the mandatory requirement of obtaining prior EC. Moreover, as regards Respondents Nos. 4 and 6, while the final judgment may have been delivered in their favour, however the said Respondents have not given any details with respect to the present situation in terms of Para 67 to 69 of the observations of the Hon'ble Apex Court in Civil Appeal No. 4795 of 2021.
17. That the Applicant submits that the Respondents' claim that none of the units have expanded their manufacturing capacity without obtaining EC or Consent to Establish (CTE) is not supported by the facts. On the contrary the RTI response submitted by the Haryana Pollution Control Board dated 12.12.2023 the manufacturing capacity is evidently much lower. It is the data provided by the state authority. Therefore, the Applicant submits that the Respondents' continued operation without EC remains unlawful, and their claims of complying with the law and obtaining all necessary

permissions cannot excuse their non-compliance with the fundamental requirement of obtaining prior EC.



**Applicant**

**Through**



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New Delhi  
Dated: **01.04.2025**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL AT DELHI

ORIGINAL APPLICATION NO. 802 OF 2023

IN THE MATTER OF:

Anand Hooda

.... Applicant

Versus

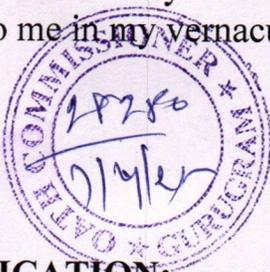
Haryana State Pollution Control Board & Ors.

...Respondents

AFFIDAVIT

AFFIDAVIT OF ANAND HOODA S/O SH. DHARAMPAL HOODA AGE 46 YEARS, R/O HOUSE NO.13, NEAR BAL BHAVAN SCHOOL, ASHOK VIHAR COLONY, KANSAPUR, JAGADHARI, YAMUNA NAGAR, HARYANA-135001 DO HEREBY SOLMNLly AFFIRM AND DECLARE AS UNDER: -

- 1. I am the applicant in the above noted application is well conversant with the facts of the case and as such am competent to swear this affidavit on oath.
- 2. That the contents of the accompanying rejoinder has been drafted by my counsel at my instructions and the same have been read over and explained to me in my vernacular, I admit them as correct.



that the above statement is declared before me  
 at Gurugram By Sh. Anand Hooda  
 who is identified by  
 who is personally

*[Signature]*

DEPONENT

VERIFICATION: -

Verified at Gurugram on this 1st day of April 2025, that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.

Certified further that this Affidavit is read  
 and explained to the declarant who understands the contents of the same  
 to understand & at the time of making same

*[Signature]*

DEPONENT

**ATTESTED**  
*[Signature]*  
 POOJA DEVI  
 Advocate  
 Oath Commissioner  
 Gurugram



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**Advance Copy of Rejoinder**

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**From** Amit <amit@sheoranassociates.co>

**Date** Wed 4/2/2025 6:31 PM

**To** hspcbho@gmail.com <hspcbho@gmail.com>; ashu@synochemorganics.com <ashu@synochemorganics.com>; sumeet@apcolitepolymers.com <sumeet@apcolitepolymers.com>; sawariaindustries@gmail.com <sawariaindustries@gmail.com>; chandan pahwa <chandan.pahwa@gmail.com>; chemwoodind@gmail.com <chemwoodind@gmail.com>; gurujioverseas92@gmail.com <gurujioverseas92@gmail.com>; globepanel@gmail.com <globepanel@gmail.com>; officeofadvtarungupta955@gmail.com <officeofadvtarungupta955@gmail.com>; tanmay.kumar-rj@gov.in <chairman-seiaa@hry.gov.in>

**Cc** Ashish <ashish@sheoranassociates.co>; sa.sheoran@gmail.com <sa.sheoran@gmail.com>

1 attachment (13 MB)

REJOINER ANAND HOODA NGT.pdf;

I hope this email finds you well.

Please find attached an advance copy of the Rejoinder on behalf of the Applicant to Reply on behalf of Respondent No. 4 to 9 in Original Application No. 802 of 2023, titled Anand Hooda vs. Haryana State Pollution Control Board & Anr., pending before the Hon'ble National Green Tribunal.

Warm Regards,

Amit Kumar Arya  
Sheoran & Associates