

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

M. A No. 90 Of 2023

in

Original Application No. 774 Of 2022

In matter of: -

Gaurav Garg

Applicant

Versus

Union of India & Ors.

Respondents

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(V.P. Yadav)

Scientist 'F'

Central Pollution Control Board

Delhi- 110032

Place: Delhi

Date: 12.02.2024

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

M. A No. 90 Of 2023

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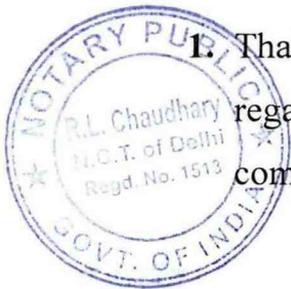
**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2 CENTRAL
POLLUTION CONTROL BOARD PARIVESH BHAWAN, EAST ARJUN
NAGAR, DELHI- 110 032.**

I, Vijay Prakash Yadav, S/o Shri Ramashraya Yadav, aged about 57 years, working as Scientist "F", Central Pollution Control Board, Delhi, do hereby solemnly affirm and declare as under:

That I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present affidavit as under:

1. That the averments made under Paras No. 01 and 02 are statements regarding address of applicant and respondents. Hence, needs no comments from this answering Respondent.

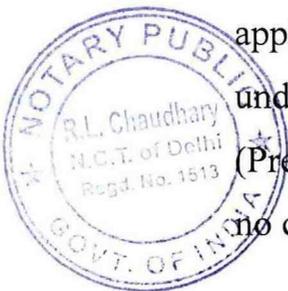
2. That the averment made under Para No. 03, the applicant has reproduced the order dated 02.03.2023 of Hon'ble National Green Tribunal (hereafter



will be referred as Hon'ble NGT) in the matter of Original Application No. 774 of 2022. The same is matter of record, hence, needs no comments from this answering Respondent.

3. That the averment made under Para No. 04 is statement regarding application of Environmental Clearance (hereinafter referred as EC) filed by applicant as per order of Hon'ble NGT. Hence, needs no comments from this answering Respondent.

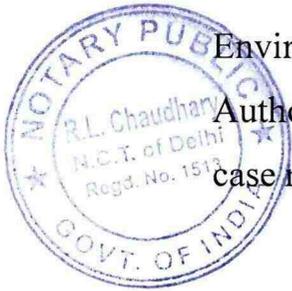
4. That the averments made under Para Nos. 05 and 06 are regarding application as well as representation for grant of Consent under Water (Prevention & Control of Pollution) Act, 1974 (hereinafter referred as Water act) and Air (Prevention & Control of Pollution) Act, 1981 (hereinafter referred as Air Act) made before Respondent No. 5 that is Uttar Pradesh pollution Control Board (hereinafter referred as UPPCB) by the applicant. It is also mentioned that there was delay in grant of Consent under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 by UPPCB. Hence, needs no comments from this answering Respondent.



5. That, the averments made under Para Nos. 7, 8, 9 & 10, the applicant reproduced the directions given by Hon'ble NGT wherein Hon'ble NGT directed Respondent No. 8 (Applicant of present miscellaneous application) in the matter of Original Application No. 774 of 2022 to apply for Environmental Clearance and also directed UPPCB to allow operation of the Applicant's Common Biomedical Waste Treatment Facility (hereinafter referred as CBWTF) for at least three months which may be extended till disposal of the application for grant of Environmental

Clearance filed by the Applicant. The Applicant also referred the order passed by Hon'ble Tribunal in the matter of M.A. No. 63 of 2023 under O.A. of 774 of 2022 directing State Environment Impact Assessment Authority, Uttar Pradesh, to dispose of the application of Environmental Clearance as early as possible within 30 days. In this regard, it is humbly submitted that since the matter pertains to issuance of Consent under Water Act and Air Act by prescribed authority i.e. UPPCB. Hence, needs no comments from this answering Respondent.

6. That, the averment made under Para No. 11, the Applicant mentioned that there is delay in disposal of application for Environmental Clearance filed by Applicant before State Environment Impact Assessment Authority. In this regard, it is humbly submitted that the authority for grant of Environmental Clearance is State Environment Impact Assessment Authority or Ministry of Environment, Forest & Climate Change as the case may be. Hence, needs no comments from this answering Respondent.



7. That the averment made under Para No. 12, the applicant mentioned about the reason of filing the present application that is non-compliance to orders dated 02.03.2023 and 11.08.2023 of Hon'ble NGT. In this regard, it is humbly submitted that in aforesaid orders of Hon'ble NGT, there was no direction for this answering Respondent. Hence, needs no comments from this answering Respondent.

PRAYER

In view of the above facts indicated in earlier paras, it is respectfully submitted that as per Biomedical Waste Management Rules, 2016 (herein after will be called as BMW Rules, 2016) notified under Environment

(Protection) Act, 1986 the Prescribed Authority for implementation of said Rules is State Pollution Control Board in their respective State. As per BWM Rules, 2016, this answering Respondent has no mandate in issuing the Consent under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 nor in issuing Environment Clearance under Environment Impact Assessment Act, 2006. Thereby, in this regard, it is humbly prayed to remove this answering Respondent No. 02 from the array of Respondents.

This Respondent shall abide by any order or direction, passed by this Hon'ble Tribunal.

DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार
 (Mo Environment, Forest and Climate Change, Government of India)
 पर्यावरण प्रदूषण नियंत्रण बोर्ड, भारत सरकार
 Pollution Control Board, Government of India



VERIFICATION

Verified at on this **12 FEB 2024** day of February, 2024 that the contents of the above reply affidavit are correct to the best of my knowledge and belief.

Nothing has been concealed therein.

DEPONENT

विजय प्रकाश यादव / Vijay Prakash Ya
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बो
 Central Pollution Control Bo
 पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार
 (Mo Environment, Forest and Climate Change, Government of India)
 पर्यावरण प्रदूषण नियंत्रण बोर्ड, भारत सरकार
 Pollution Control Board, Government of India

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA

12 FEB 2024

Item No. 1

(Court No. 2)

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

(Through Physical Hearing with Hybrid V.C. Option)

M.A No. 90/2023 & M.A No. 94/2023
In
Original Application No. 774/2022

Gaurav Garg

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 09.10.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Gaurav Kumar Bansal, Advocate for the applicant.

Respondents: Mr. Ajay Bansal, Mr. Gaurav Yadav, Ms. Veena Bansal and Mr. Sourav Jindal, Advocates for Respondent No. 8-Project Proponent.

**Application under Section 18(1) Read with Section 14 Of the National
Green Tribunal Act, 2010**

ORDER

1. The applicant-respondent no. 8-M/s Synergy Waste Management Pvt. Ltd. has filed M.A No. 90/2023 that vide order dated 02.03.2023 this Tribunal directed respondent no. 8 to apply for EC within one month from the date of receipt of a copy of this order and directed the UPPCB to allow the respondent no. 8 to run the CBWTF for at least three months till filing of the application and consideration of the same for grant of EC ex-post facto, subject to extension in case of delay in disposal of the application for grant of EC. This Tribunal further directed that in case of any further delay in disposal of the application for grant of EC the respondent no. 8-Project Proponent may apply to UPPCB for extension of the validity period of

consents to operate and may also move this Tribunal by appropriate proceedings for such extension. Respondent no. 8 applied to SEIAA for EC on 01.04.2023 and made a representation to UPPCB for grant of consent. UPPCB granted consent on 05.06.2023, with effect from 12.05.2023 till 11.08.2023. Respondent no. 8 again applied to UPPCB for grant of consent but UPPCB did not allow extension and rejected the same. The applicant filed M.A No. 63/2023 on which this Tribunal vide order dated 11.08.2023 directed SEIAA to dispose of the application for EC within 30 days. Scheduled Meetings of SEIAA/SEAC could not take place and grant of EC is likely to take more time. Orders dated 02.03.2023 and 11.08.2023 have not been complied by the respondents. The applicant-respondent no. 8 has prayed for issuance of directions to UPPCB to grant consent to operate and to SEIAA to consider the application for grant of EC.

2. The original applicant- Mr. Gaurav Garg has filed M.A No. 94/2023 for issuance of directions to the respondents Authorities for taking action against the illegal operation of CBWTF by the respondent no. 8 without obtaining consents to operate and environmental clearance. The original applicant has submitted that respondent no. 8 applied for EC on 01.04.2023 and could not obtain the same and consents to operate expired on 11.01.2023. Respondent no. 8 is illegally operating CBWTF. The original applicant made complaints to the concerned respondents-Authorities but no action has been taken on the same and concerned respondents-Authorities be directed to take action against respondent no. 8 and to submit report in a time bound manner.

3. Learned Counsel for the respondent no. 8 has submitted that SEIAA and UPPCB have not complied with orders dated 02.03.2023 and 11.08.2023 and appropriate directions may be issued to them for considering the applications of the applicant-respondent no.8 and also for grant of extension of time for

operation of CBWTF in terms of order dated 02.03.2023 and 11.08.2023.

4. Learned Counsel for original applicant has submitted that in its order dated 11.08.2023, this Tribunal merely directed SEIAA to dispose of the application of respondent no. 8 as early as possible say within 30 days and no such extension of time can be granted as such extension will amount to review of order dated 11.08.2023.

5. The original application no. 774/2022 was disposed of by this Tribunal vide order dated 02.03.2023. The relevant part of the order dated 02.03.2023 reads as under:-

“67. In these facts and circumstances of the case the application is disposed of with the directions to the Respondent No.8 to apply for EC within one month from the date of receipt of a copy of this order and (iii) to the UPPCB to allow the Respondent No.8 to run the CBWTF for at least three months till filing of the application and consideration of the same for grant of EC ex post facto, subject to extension in case of delay in disposal of the application for grant of EC.

68. The Questions raised by the applicant and enlisted by this Tribunal in the present order are answered in terms of the above discussion.

69. In view of peculiar facts and circumstances of the case the parties are left to bear their own costs.

70. In case of any further delay in disposal of the application for grant of EC the Respondent No. 8-Project Proponent may apply to UPPCB for extension of the validity period of consents to operate and may also move this Tribunal by appropriate proceedings for such extension.

71. The Applicant shall also be at liberty to move this Tribunal by appropriate proceedings in case of violation of the BMWM Rules 2016, the CBWTF Guidelines 2016 EC/Consent Conditions and environmental norms.”

6. Learned Counsel for the original applicant and respondent no. 8 appearing before us have conceded that no appeal or writ petition has been filed against order dated 02.03.2023 passed by this Tribunal. Consequently, said order has become final.

7. No doubt, this Tribunal vide order dated 11.08.2023 directed UPSEIAA to dispose of the application of respondent no. 8 for EC as early as possible say within 30 days but this Tribunal did not thereby review or modify order dated 02.03.2023 in any manner and order dated 02.03.2023 will operate on its own force.

8. In view of order dated 02.03.2023, UPPCB is bound to allow respondent no. 8 to run the CBWTF till consideration of the application for grant of EC *ex-post facto* by UPSEIAA. Vide order dated 02.03.2023 UPPCB was directed to do so initially for three months but UPPCB was also directed to extend the same in case of delay in disposal of the application for grant of EC. Therefore, UPPCB is bound to extend the validity period of consents to operate till disposal of the application for grant of EC by UPSEIAA. In view of order dated 11.08.2023 UPSEIAA is bound to dispose of the application for grant of EC expeditiously. UPSEIAA and UPPCB cannot be allowed to flout the orders in the name of any vacancy or lack of infrastructure. *Prima facie* there appears to be no valid justification for any such non-compliance by these authorities with orders passed by this Tribunal which would also constitute an offence under Section 26 of the National Green Tribunal Act, 2010.

9. Let notices of both the miscellaneous applications be issued to the opposite parties.

10. List for further consideration on 30.10.2023.

11. In the mean while till further orders to the contrary respondent no. 4- UPPCB is directed to grant consents to operate to respondent no. 8 till disposal of its application for grant of EC by UPSEIAA.

12. However, nothing in this order shall debar UPPCB from taking action

against respondent no. 8-Project Proponent for environmental violations in accordance with law and principles of natural justice.

13. In view of the facts and circumstance of the case, we also consider personal appearance of the Member Secretaries, UPPCB and UPSEIAA, physically on the next date of hearing for explaining the circumstances of non-compliance with the orders passed by this Tribunal and also for assisting this Tribunal in just and proper adjudication of the questions involved in the miscellaneous applications and they are accordingly directed to remain present before this Tribunal on that date with the relevant record.

14. A copy of this order be supplied to the Member Secretaries, UPPCB and SEIAA by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 09th, 2023
AG

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI

M.A No. 90/2023

IN

Original Application No. 774/2022

Gaurav Garg Vs. Union of India & Ors.

To,

1. **GAURAV GARG**
S/o Jaipal Garg Thakur Dwara, Baghpat, Ward 13, Baghpat,
Meerut Uttar Pradesh-250609
Email: gouravgarg2022@gmail.com/ emailtogkb@gmail.com
2. **UNION OF INDIA**
Through Its Secretary Ministry of Environment, Forests and Climate Change
Paryavaran Bhawan, Jorbagh, New Delhi-110003
Email: Secy-moef@nic.in
3. **CENTRAL POLLUTION CONTROL BOARD**
Through Its Member Secretary, Paryavaran Bhawan East Arjun Nagar Delhi-110032
Email: mccb.cpcb@nic.in
4. **STATE OF UTTAR PRADESH**
Through Chief Secretary Secretariat Office Lucknow Uttar Pradesh
Email: cs-up@nic.in
5. **UTTAR PRADESH STATE POLLUTION CONTROL BOARD**
Through Member Secretary UPPCB Bhawan Building No. TC-12V, Vibhuti Khand
Gomti Nagar Lucknow-10
Email: ms@uppcb.in
6. **REGIONAL OFFICER**
Uttar Pradesh State Pollution Control Board
Regional Office Pocket-T, C-3/2, Pallav Puram, Phase-II, Modi Puram,
Meerut, Uttar Pradesh – 250110
Email: romeerut@uppcb.in
7. **MEERUT DEVELOPMENT AUTHORITY**
Through Chief Town Planner Vikas Bhawan Civil Lines, Meerut Uttar Pradesh-250001
Email: mdameerut@rediffmail.com
8. **DISTRICT MAGISTRATE**
Meerut DM Office, Civil Lines, Meerut, Uttar Pradesh
Email: commmee@nic.in

NOTICE

Whereas the above titled MA No. 90/2023 IN OA No. 774/2022 was listed before the Hon'ble Tribunal on 09.10.2023 (a copy of order as well as petition is enclosed), when the Hon'ble Tribunal inter-alia passed the following order:-

"9. Let notices of both the miscellaneous applications be issued to the opposite parties.

10. List for further consideration on 30.10.2023."

2. Now, Take notice that the above matter will be listed on 30th October, 2023 for further consideration, before the Hon'ble Tribunal at Faridkot House, Copernicus Marg, New Delhi- 110001 through Physical Hearing (With Hybrid Option), when you may appear before the Hon'ble Tribunal

either in person or by a pleader duly instructed and file their reply, if any, as per directions of the Hon'ble Tribunal vide order dated 09.10.2023.

3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.

Given under my hand and the seal of this Tribunal, on this 20th October, 2023.

Note: (For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

Encl.: As above


Consultant (Judicial)
National Green Tribunal (PB)

