

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

M. A No. 94 Of 2023

in

Original Application No. 774 Of 2022

Gaurav Garg

Applicant

Versus

Union of India & Ors.

Respondents

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1.	Reply Affidavit on behalf of Respondent No. 2 Central Pollution Control Board (CPCB).	
2.	Annexure- I A copy of letter dated 01.07.2020 issued by CPCB to UPPCB regarding public grievance against Common Bio-Medical Waste Treatment Facilities (CBWTF) namely M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh.	
3.	Annexure- II A copy of Hon'ble NGT order dated 09.10.2023.	



(V.P. Yadav)
Scientist 'F'

Central Pollution Control Board
Delhi- 110032

Place: Delhi

Date: 12.02.2024

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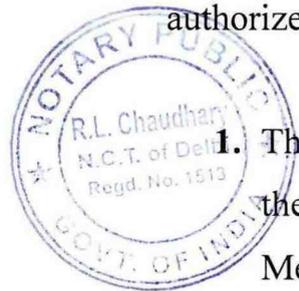
Union of India & Ors.

Respondents

**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:

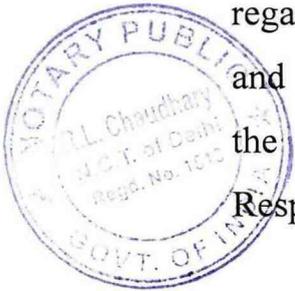
That, I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present affidavit as under:



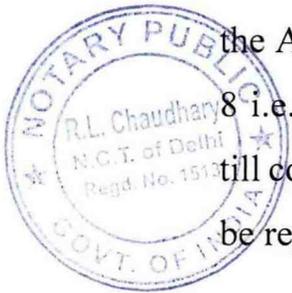
1. That in the averments made under Para No. 01, the Applicant alleged that the Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, is operating and collecting Biomedical Waste without Consent to Operate and Environmental Clearance and therefore, in his present application seeks directions of Respondent Authorities to take action against the Respondent No. 8. In this regard, it is humbly submitted

that the prescribed authority for implementation of Biomedical Waste Management Rules, 2016 (hereafter will be referred as BMWM Rules, 2016) is State Pollution Control Board/ Pollution Control Committee in respect of State/ Union Territory respectively.

2. That, in the averment made under Para No. 02, the Applicant has reproduced order dated 02.03.2023 of Hon'ble National Green Tribunal (hereinafter referred as Hon'ble NGT) in the matter of Original Application No. 774 of 2022. The same is matter of records and needs no reply from this answering Respondent.
3. That, the averments made under Para No. 03 (i) to 03 (iii) are statements regarding filing of Original Application No. 774 of 2022 by the Applicant and orders dated 21.10.2022 and 02.03.2023 passed by Hon'ble NGT in the said application. Hence, needs no reply from this Answering Respondent.
4. That in the averment made under Para No. 03 (iv), the Applicant has alleged that Respondent No. 8 i, e, M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, applied for Environmental Clearance at very later stage and has not yet obtained the same. It is also mentioned that Consent to Operate granted to M/s Synergy Waste Management Pvt. Ltd. was expired on 11.08.2023 and thereafter no consent granted to the facility. In this regard, it is humbly submitted that as per BMWM Rules, 2016, Uttar Pradesh Pollution Control Board is the authority to ensure implementation of BMWM Rules, 2016 in Uttar Pradesh.

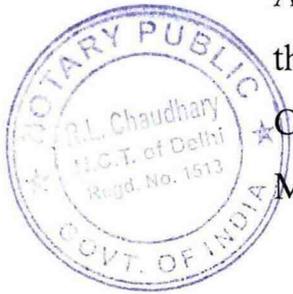


5. That, in the averments made under Para No. 3 (v) and (vi), the Applicant mentioned about M.A. No. 63 of 2023 filed under the Original Application No. 774 of 2022 which has been filed by Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh and order dated 11.08.2023 of Hon'ble NGT in the said matter. The averments are statements and hence, need no comments from this answering Respondent.
6. That, in the averment made under Para No. 03 (vii), it is mentioned that Consent to Operate granted to Respondent No. 8 ie M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, was expired on 11.08.2023 and thereafter not granted. In this regard, it is humbly submitted that Uttar Pradesh Pollution Control Board is the authority for granting Consent to Operate. Hence, needs no reply from this answering Respondent.
7. That, the averment made under Para No. 03 (viii) is regarding representation made before the Member Secretary and Chief Environment Officer of Respondent no. 04 i.e, Uttar Pradesh Pollution Control Board by the Applicant to investigate the case and close the unit of Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, till complete compliance. It is humbly submitted that the same may suitably be replied by the concerned Respondent.
8. That, in the averment made under Para No.04, it is mentioned that Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh is operating and collecting Biomedical Waste without Consent to Operate and Environmental Clearance. In this regard, it is humbly submitted that as per BMWM Rules, 2016, Uttar Pradesh Pollution



Control Board is the authority to ensure implementation of BMWM Rules, 2016 in Uttar Pradesh.

9. That, in the averments made under Para Nos. 5 & 6, the Applicant mentioned that Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd. Meerut, Uttar Pradesh, is operational in institutional area and not complied with criteria for minimum land requirement as per CPCB guidelines. In this regard, it is humbly submitted that as per BMWM Rules, 2016, the department in the business allocation of land assignment is responsible for providing suitable site for setting up of Common Biomedical Waste Treatment Facility (hereinafter referred as CBWTF) is the State Government or Union territory Administration. Further, with regard to operation of CBWTF by Respondent No. 08 inside the institutional area, the facts may be verified by UPPCB being Prescribed Authority for the State of Uttar Pradesh. It is also humbly submitted that the authority for grant or rejection of application for Environmental Clearance is State Environmental Impact Assessment Authority or Ministry of Environment, Forest & Climate Change as applicable.

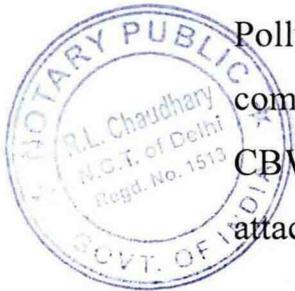


10. That, in the averment made under Para No. 7, the Applicant mentioned that Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, has submitted false compliance report before Hon'ble NGT regarding development of Green Belt/Miyawaki Forest inside the facility. The same is matter of records and hence need no reply from this answering Respondent.

11. That in the averment made under Para No. 8, it is mentioned that Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut,

Uttar Pradesh, is not complied with the condition of Combined Consent to Operate and Authorization because the facility is using HSD/Diesel fuel which is not as per approved fuel list as per direction of Commission for Air Quality Management in NCR and Adjoining Areas as mentioned in condition of Combined Consent to Operate and Authorization. In this regard, the reply made under Para 1 of this reply affidavit may be referred.

12. That, in the averment made under Para No. 9 indicates about an email dated 06.06.2020 of Expert Member of CPCB, Sh. T. K. Joshi wherein the comment was made on complaint against Respondent No. 8 ie. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh. In this regard, it is humbly submitted that the answering Respondent received similar grievance against Common Biomedical Waste Treatment Facility namely M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh ie Respondent No. 8. The said grievance was forwarded to Uttar Pradesh Pollution Control Board vide letter dated 01.07.2020 to verify status of compliance to Biomedical Waste Management Rules, 2016 by said CBWTF and take necessary action. Copy of letter dated 01.07.2020 is attached herewith as **Annexure -I**.



13. That, in the averment made under Para No. 10, the Applicant states that facility for biomedical waste management shall be entertained only at Central Level at Expert Appraisal Committee, Ministry of Environment Forest & Climate Change and not by State Environment Impact Assessment Authority. It is not under the preview of CPCB hence, needs no reply from this answering Respondent.

14. That, in the averment made under Para No. 11, it is mentioned that Respondent No. 8 i.e. M/s Synergy Waste Management Pvt. Ltd., Meerut, Uttar Pradesh, has not adopted bar code system for tracking of biomedical waste. In this regard, it is humbly submitted that as per BMW Rules, 2016, operator of Common Biomedical Waste Facility is required to establish bar code system for tracking of biomedical waste. Also, Rule 9 of BMW 2016 as well as guidelines issued by Central Pollution Control Board for "Bar Code System for Effective Management of Bio-medical Waste" stipulates that State Pollution Control Board / Pollution Control Committee is the Prescribed Authority for overall implementation of said rules in the concerned State / Union Territory. In case of Uttar Pradesh State, Uttar Pradesh Pollution Control Board is the prescribed authority for ensuring implementation of BMW Rules, 2016 including implementation of Barcode system for tracking of Biomedical waste.

In view of the above facts indicated in earlier paras, it is respectfully prayed that this Respondent shall abide by any order or direction, passed by this Hon'ble Tribunal.



VERIFICATION

12 FEB 2024

Verified aton this 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.

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA

12 FEB 2024

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
 (Ministry of Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अखण्ड नगर, दिल्ली-110019
 Parivesh Bhawan, East Ayan Nagar, Delhi-110019

DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
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 Parivesh Bhawan, East Ayan Nagar, Delhi-110019



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Annexure- I

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

By E-Mail

F.No.B-31011/BMW (57)/2020/WMD-1/

July 1, 2020

To

The Member Secretary,
Uttar Pradesh Pollution Control Board,
Building No TC -12V,
Vibhuti Khand, Gomti Nagar,
Lucknow - 226010.

Sub: Public grievance against CBWTF namely M/s Synergy Waste Management Pvt. Ltd., Meerut (Uttar Pradesh) reg.

Ref: DHRES/E/2020/00833dt. 05.06.2020

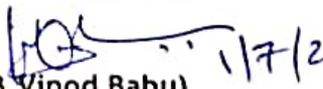
Sir,

This has reference to public grievance dated 05.06.2020 received from Shri Vinod Khanna, a resident of R-428, Colony No.-5, Jawalपुरी, Delhi-110087 regarding violation of CPCB guidelines and Bio-Medical Waste Management Rules, 2016 by M/s Synergy Waste Management Pvt. Ltd. operating in Subharti Medical College, Meerut (Uttar Pradesh). In this context, this office has received UPPCB letter dated 08.06.2020 providing point-wise status on the issues raised in another complaint against same facility by Sh. Vijay Kumar.

Meanwhile, few Officers in CPCB have received a WhatsApp video on 24/06/2020, which alleges improper treatment of biomedical waste at above facility. Video also highlights leakage form venturi scrubber, extraction of ground water, use of open vehicles etc. Copy of said video is attached for ready reference.

In view of above and repeated complaints, it is requested that compliance of aforesaid facility may be verified with respect to provisions under BMW Rules, 2016 and CPCB guidelines. In case of violations, necessary action as deemed necessary may be taken against M/s Synergy Waste Management Pvt. Ltd., Meerut, U.P. Action taken report may kindly be forwarded to this office by email at youthika.cpcb@nic.in / bmw.cpcb@nic.in .

Yours Faithfully,


(B. Vinod Babu)
AD & DH, WMD - I

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032

Parivesh Bhawan, East Arjun Nagar, Delhi-110032

दूरभाष/Tel : 43102030, 22305792, वेबसाइट/Website : www.cpcb.nic.in

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