

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 440 OF 2023**

IN THE MATTER OF:

Naveen Kumar

Applicant

Vs.

State of Uttar Pradesh & Ors.

Respondent

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(Nazimuddin)

Scientist-'F'

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar
Delhi- 110032.

Date: 15.05.2024

Place: Delhi

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

ORIGINAL APPLICATION NO. 440 OF 2023

NAVEEN KUMAR

APPLICANT

VS.

**STATE OF UP &
ORS.**

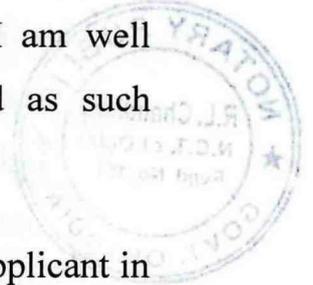
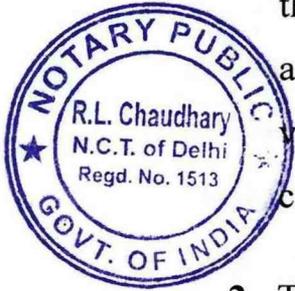
RESPONDENT

**REPLY ON BEHALF OF RESPONDENT NO. 6 I.E. CENTRAL
POLLUTION CONTROL BOARD (CPCB)**

1. That I, in capacity of Scientist "F" of Central Pollution Control Board (hereinafter referred to as "CPCB"), have made myself acquainted with the facts and circumstances of the instant case due to the official capacity as mentioned above and on the basis of available records, I am well versed with the facts and circumstances of the matter and as such competent & authorized to affirm this reply on behalf of CPCB.

2. That, I have read and understood the averments made by the Applicant in synopsis, list of dates, grounds and annexures enclosed with the Original Application (hereinafter referred to as "OA") and at the outset it is respectfully submitted that all averments/contentions/submissions made against the Answering Respondent in the present OA are denied unless specifically admitted by the Answering Respondent.

3. That "CPCB" is a statutory board which has been constituted under Section 3 of the Water (Prevention and Control of Pollution) Act, 1974



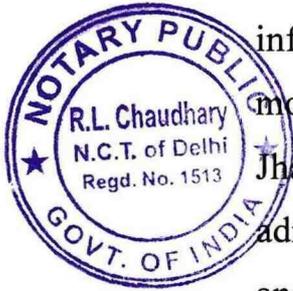
(herein after referred as Water Act). It performs the functions assigned to it under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986.

PRELIMINARY SUBMISSIONS:-

4. That the captioned matter was earlier disposed of by Hon'ble NGT (PB) vide order dated 04.07.2023. The order dated-04.07.2023 was challenged before Hon'ble Supreme Court in Civil Appeal No.6492/2023 and Hon'ble Supreme Court vide order dated 12.02.2024 restored the original application for decision in the light of observations made by Hon'ble Supreme Court. Thereafter the captioned matter was listed before Hon'ble NGT (PB) on 18.03.2024 and notice were issued to respondents.

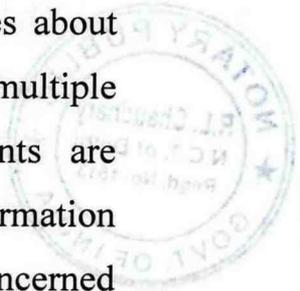
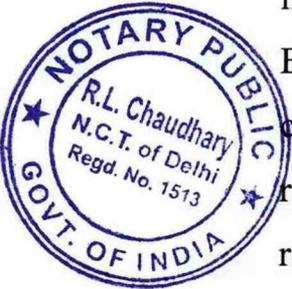
PARA-WISE REPLY

5. That the averments contained in Para 1 pertain to the personal information of the applicant and also allege the issue of illegal sand & morrum mining observed by applicant on the riverbed of Dhasan River, Jhansi and may be answered by the concerned respondents of local administration. It is humbly submitted that under provisions of The Mines and Minerals (Development And Regulation) Act, 1957 (MMDR Act), the States are empowered to make the rules for regulating the grant of prospecting licenses or mining leases in respect of minor minerals including river sand mining and making rules for preventing illegal mining, transportation and storage of minerals.
6. That the averments contained in Para 2 pertain to allegations against the project proponent for non-compliances of the Environmental Clearance (EC) conditions and may be answered suitably, by the concerned



respondents including project proponent, Mining Department and UP SPCB.

7. That the averments contained in Para 3 pertain to geographical and historical data in respect of Dhasan river and it is respectfully submitted that the same needs no comments from this answering respondent.
8. That the averments contained in Para 4 & 5 concerns to Environmental Clearance granted by UP SEIAA to project proponent (respondent no 11) and relevant general and specific conditions imposed therein. It is respectfully submitted that these may be answered by concerned respondents including project proponent, Mining Department and UP SPCB.
9. That the averments contained in Para 6 to 37 pertains to issues about mining operation carried out by project proponent in violation of multiple EC conditions. It is humbly submitted that these averments are contentious in nature and require field verification. The information regarding compliance of EC conditions may be submitted by concerned respondents i.e., project proponent, Mining Department and UP SPCB.
10. That the averments contained in Para 38 pertain to study of National Bureau of Fish Genetic Resources, Lucknow, Wildlife Institute of India, Dehradun and Kolkata Centre of CIFE, Mumbai titled as 'Biodiversity of Freshwater fishes in Uttar Pradesh: Regenerating Status and Reinforcing Conservation Efforts for Sustainable management'. In this regard it is humbly submitted that the same is a matter of record and hence needs no comments from this answering respondent.
11. That the averments contained in Para 39 pertain to study of Benthic Macro-invertebrates in river Dhasan. In this regard it is humbly submitted



that the same is a matter of record and hence needs no comments from this answering respondent.

12. That the averments contained in Para 40, 41 & 42 provide the provisions of Sustainable Sand Mining Management Guidelines 2016 issued by MoEF & CC and the same is a matter of record and hence needs no comments from this answering respondent.

13. That the averments contained in Para 43 pertain to District Survey Report of District Jhansi and alleges it to be old, obsolete and irrelevant. In this regard it is respectfully submitted that these may be answered by concerned state respondents i.e. Mining Department, District Magistrate Office of Jhansi and UP SPCB.

14. That the averments contained in Para 44, 45 & 46 provide the provisions of Enforcement and Monitoring Guidelines for Sand Mining 2020 issued by MoEF&CC and the same is a matter of record and hence needs no comments from this answering respondent.

15. That the averments contained in Para 47 & 48 pertain to mining activity undertaken by project proponent. It is respectfully submitted that these averments are contentious in nature and require field verification. The information regarding compliance of EC conditions may be submitted by concerned respondents i.e. project proponent, Mining Department and UP SPCB.

16. That the averments contained in Para 49 relate to the order of Hon'ble Supreme Court passed in case titled as Deepak Kumar Vs. State of Haryana [(2012) 4 SCC 629] wherein guidelines for sand mining was issued. It is respectfully submitted that these are matter of records and do not require any comments from this answering respondent.



17. That the averments contained in Para 50 to 57 pertain to various orders passed by Hon'ble NGT in matters related to mining of minerals. It is respectfully submitted that these are matter of records and do not require any comments from this answering respondent.
18. That the averments contained in Para 58 & 59 relate to alleged violation of the conditions imposed in the EC issued by UP SIEAA to project proponents and may be replied by concerned respondents i.e. project proponent, Mining Department and UP SPCB, .
19. That the averments contained in Para 60 pertain to provisions of Biological Diversity Act, 2002. It is respectfully submitted that these are matter of records and do not require any comments from this answering respondent.
20. That the averments contained in Para 61 pertains to the representations made by appellant to the various authorities regarding revocation of EC and may be answered by concerned respondents.
21. That, with regard to the averments made in Grounds clause by the applicant, it is humbly submitted that the submissions made in the preceding para's are re-iterated and are not repeated for the sake of brevity.
22. That in light of the above submission, it is respectfully submitted that this Answering respondent i.e. CPCB, shall abide by any order(s) or direction(s) passed by this Hon'ble tribunal in the instant OA.



Nazimuddin
(Nazimuddin)
Scientist 'F'

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

ORIGINAL APPLICATION NO. 440 OF 2023

IN THE MATTER OF:

NAVEEN KUMAR

APPLICANT

VS.

**STATE OF UP &
ORS.**

RESPONDENT

**REPLY ON BEHALF OF RESPONDENT NO. 6 I.E. CENTRAL
POLLUTION CONTROL BOARD (CPCB)**

AFFIDAVIT

I Nazimuddin, having office at Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, do hereby solemnly affirm, declare on oath and state as under:-

1. That the accompanying reply may be read part and parcel of the present reply as I am competent to swear this reply.

2. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



नाज़िमउद्दीन / Nazimuddin
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest And Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032


DEPONENT

VERIFICATION

I, the above-named deponent do hereby verify that the contents of my above reply are true to my knowledge and belief based on official record. No part of it is false and no material has been concealed therein.

16 MAY 2024

Verified at Delhi on this..... day of May 2024.



ATTESTED
[Signature]
NOTARY PUBLIC
GOVT. OF INDIA

16 MAY 2024

16 MAY 2024

[Signature]
DEPONENT

नाज़िमउद्दीन / Nazimuddin
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
 (Mo Environment, Forest And Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No. 10

Court No. 1

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

Original Application No.440/2023

Naveen Kumar

Versus

Applicant

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 18.03.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Akash Vashishtha, Adv. for Applicant

ORDER

1. Grievance of the applicant is as against respondent no.11 for non compliance of the EC conditions in undertaking sand mining in River Dhasan a tributary of River Yamuna at Gata No.1419 Kha Khand No.01, in Village Dhamnaud, Tehsil Garautha in Jhansi District, Uttar Pradesh and for violation of environmental norms of Sustainable Sand Mining Management Guidelines, 2016 and 2020.

2. Earlier this original application was disposed of by Tribunal by order dated 04.07.2023 which was subject matter of challenge before Hon'ble the Supreme Court in Civil Appeal No.6492/2023 and Hon'ble Supreme Court by order dated 12.02.2024 has set aside the order dated 04.07.2023 and restored this original application for decision in the light of the observations made by Hon'ble Supreme Court. The Hon'ble Supreme Court had passed the following order in Civil Appeal No.6492/2023 on 12.02.2024 :-

"The appeal is taken up for hearing.

Heard the learned counsel appearing for the parties.

By the impugned order, an Original Application filed by the appellant was dismissed by the National Green Tribunal, Principal Bench at New Delhi. The Original Application has been dismissed without any adjudication on the grounds pleaded in the Application. The reason for dismissal is only in paragraph 3 of the impugned order which reads thus:

"3. There is no challenge to the EC by way of Appeal and limitation for filing appeal has since expired. It is also not the case of the applicant that any specific EC condition has been violated nor any material in support of such allegation is reproduced. Allegations are hypothetical and general."

In view of what is observed in paragraph 3, we had called upon the appellant to produce a copy of the Original Application filed by the appellant. In fact, in several paragraphs in the Original Application, the appellant has specifically alleged the violation of the terms and conditions incorporated in the Environmental Clearance. Thus, the factual finding recorded in paragraph 3 of the impugned order is completely erroneous. The Tribunal ought to have gone into the allegations of breach of the terms and conditions made in the Original Application.

We, therefore, set aside the order dated 4th July, 2023 and restore the Original Application No.440 of 2023 to the file of the National Green Tribunal, Principal Bench, New Delhi.

The Tribunal will decide the Original Application afresh in the light of what we have observed in this judgment as expeditiously as possible.

The appeal is accordingly partly allowed."

3. After hearing the Counsel for the applicant and considering the plea taken in the original application, we deem it proper to issue notice to the respondents. Applicant is directed to serve the respondents and file affidavit of service atleast one week before the next date of hearing.

4. List on 22.05.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM