

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 754 OF 2023
(IA NO. 887 OF 2023)**

IN THE MATTER OF:

Vipul Kumar

Applicant

Versus

Uttarakhand Environment Protection
and Pollution Control Board & Ors.

Respondent(s)

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1.	Reply on behalf of the Respondent No. 2, i.e. Central Pollution Control Board (CPCB) in compliance to Hon'ble NGT PB order dated 22.12.2023 in OA No. 754/2023, Vipul Kumar Vs. Uttarakhand Environment Protection and Pollution Control Board & Ors.	
2.	Annexure-I: Copy of the Hon'ble NGT order dated 22.12.2023.	
3.	Annexure-II: Copy of the MoEF&CC Notification dated 22.02.2022.	


(Anamika Sagar)

Scientist E
Central Pollution Control Board
Delhi-110032

Dated: 19.02.2024

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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**REPLY ON BEHALF OF THE RESPONDENT NO. 2, i.e. CENTRAL POLLUTION
CONTROL BOARD (CPCB)**

1. That Central Pollution Control Board (hereinafter referred as "CPCB") is a statutory organization 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 Act, the Air (Prevention and Control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986.
2. That the Hon'ble National Green Tribunal (hereinafter referred to as "NGT"), Principal Bench, New Delhi vide order dated 22.12.2023 passed the following:

".....2. Hence, we deem it proper to issue notice to the respondents on Original Application as also on I.A. No. 887 of 2023. Applicant is directed to serve the respondent and file affidavit of service on or before the next date of hearing. The respondent No. 1, Uttarakhand Pollution Control Board is directed to file the report at-least one week before the next date of hearing....."



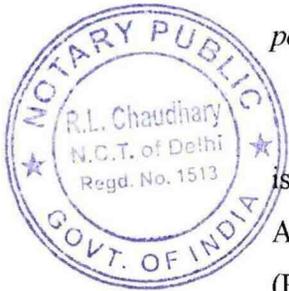
A copy of the Hon'ble NGT Order dated 22.12.2023 is annexed as **Annexure-I**.

3. That the applicant has filed the present Original Application (hereinafter referred to as "OA") and Interlocutory Application (hereinafter referred to as "IA") seeking closure of M/s Balaji Brick Field situated at Nagla Saktu, Berhampur, Manglaur, Tehsil Roorkee,

District Haridwar, Uttarakhand. According to the applicant, the said brick field is operating illegally with impunity in blatant violation of the siting criteria as stipulated in the Notification dated 22.02.2022 issued by the Ministry of Environment, Forest and Climate Change (hereinafter referred to as "MoEF&CC") and rules prescribed by the Uttarakhand Pollution Control Board (hereinafter referred to as "UKPCB"). The UKPCB has granted Consolidated Consent & Authorization (hereinafter referred to as "CCA") dated 03.01.2023 to the said brick kiln without ensuring compliance of the MoEF&CC Notification dated 22.02.2022. It is also alleged by the Applicant that UKPCB vide its letter/order dated 28.11.2023 has revoked the CCA issued to the said brick kiln. Despite the revocation order of UKPCB, the said brick kiln is still operational and causing immense air pollution in the area and UKPCB has failed to stop the illegal operation of said brick kiln.

In reply, it is humbly submitted that, MoEF&CC has issued Notification vide GSR No. 143 (E), dated 22.02.2022 i.r.o brick kilns. Note 6 of the aforesaid Notification, stipulates *"Brick kilns should be established at a minimum distance of 0.8 kilometre from habitation and fruit orchards. State Pollution Control Boards/Pollution Control Committees may make siting criteria stringent considering proximity to habitation, population density, water bodies, sensitive receptors, etc."*.

Further, it is submitted that as per the modified directions dated March 07, 2016 issued by CPCB under section 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 (hereinafter referred to as "Water Act") and section 18(1)(b) of the Air (Prevention & Control of Pollution) Act, 1981 (hereinafter referred to as "Air Act") to State Pollution Control Boards/Pollution Control Committees (hereinafter referred as SPCBs/PCCs) regarding harmonization of Classification of Industrial Sectors under Red/Orange/Green/White categories, "Brick kiln" are categorized under 'Orange' category and required to obtain Consent to Establish and Consent to Operate from the concerned SPCB/PCC. While granting CTE/CTO, the concerned SPCB/PCC shall ensure that conditions stipulated in the MOEF&CC notification are complied with.



4. That the applicant by way of the present OA prayed for shutting down the operation of aforesaid Brick kiln immediately and impose interim environmental compensation (hereinafter referred to as "EC") for continuous and deliberate violation of order of revocation dated 28.11.2023 passed by UKPCB. Applicant has also prayed in IA that ex-parte order(s) may be granted against the said brick kiln thereby staying the operation and functioning of said brick kiln with immediate effect, till the pendency of the present OA.

In this regard, it is humbly submitted that, MoEF&CC has issued Notification vide GSR No. 143 (E), dated 22.02.2022 i.r.o brick kilns including Particulate Matter Standards of 250 mg/Nm³, conversion of existing brick kilns into zig-zag or vertical shaft or use of Piped Natural Gas as fuel in brick making, guidelines for siting, fugitive dust emissions control, approved fuels, porthole and platform for emission monitoring are prescribed in the said Notification. A copy of the MoEF&CC Notification dated 22.02.2022 is annexed as **Annexure-II**.

5. This Answering Respondent further craves leave of this Hon'ble Tribunal to file further status report, if required, in future.
6. That in view of above, Hon'ble Tribunal may pass appropriate Order / Directions, as deemed fit, in the instant case. It is also most respectfully submitted that the answering Respondent No. 2 will abide by any Orders / Directions passed by this Hon'ble NGT in the present OA and IA.



ANAMIKA SAGAR / आनामिका सागर
 Scientist 'E' / वैज्ञानिक 'ई'
 Central Pollution Control Board
 (Ministry of Environment, Forest & Climate Change, Govt. of India)
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Anamika Sagar
 DEPONENT

अनामिका सागर / Anamika Sagar
 वैज्ञानिक 'ई' / Scientist 'E'
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
 (Ministry of Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 754 OF 2023
(IA NO. 887 OF 2023)**

IN THE MATTER OF:

Vipul Kumar

Applicant

Versus

Uttarakhand Environment Protection
and Pollution Control Board & Ors.

Respondent(s)

AFFIDAVIT

I, Anamika Sagar, working as Scientist 'E, in Central Pollution Control Board, office at Parivesh Bhawan, East Arjun Nagar, Delhi- 110032, do hereby solemnly affirm and declare as under:

- A. That I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present affidavit in my official capacity as under:
- B. That the contents of the annexed reply have been drafted by me and the contents of the same are true and correct on the basis of the record of the case as maintained in the day-to-day affairs of the CPCB and the contents of the short reply may kindly be treated part of this affidavit and the same are not repeated herein for the sake of brevity.




DEPONENT

अनामिका सागर / Anamika Sagar
वैज्ञानिक 'ई' / Scientist 'E'
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

19 FEB 2024 VERIFICATION

Verified at New Delhi on this 19th day of February, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.



ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA
19 FEB 2024


DEPONENT

अनामिका सागर / Anamika Sagar
वैज्ञानिक 'ई' / Scientist 'E'
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No. 08

Court No. 1

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

Original Application No. 754/2023
(I.A. No. 887/2023)

Vipul Kumar

Applicant

Versus

Uttarakhand Environment Protection
and Pollution Control Board &Ors.

Respondent(s)

Date of hearing: 22.12.2023

**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. Neeraj Kumar Sharma & Ms. Nidhi Agarwal, Advs.

ORDER

1. In this Original Application, applicant has raised the issue that (CCA) Consolidated Consent & Authorization was issued to Respondent No.5, Balaji Brick Field on 03.01.2023 after issuance of the notification dated 22.02.2022, and that the Respondent No.5 unit does not satisfy the criteria which has been prescribed in Clause 6 and 7 of the notification. Learned counsel for the applicant during the course of argument has also pointed out that the (CCA) Consolidated Consent & Authorization has been revoked by the order dated 28.11.2023, yet the respondent no.5 is operating without the valid CCA (Consolidated Consent & Authorization). The averment made in the Original Application reveals that the substantial issue relating to compliance of the environmental norms is involved in the matter.

2. Hence, we deem it proper to issue notice to the respondents on Original Application as also on I.A. No. 887 of 2023. Applicant is directed

to serve the respondents and file affidavit of service on or before the next date of hearing. The respondent no. 1, Uttarakhand Pollution Control Board is directed to file the report at-least one week before the next date of hearing.

3. List on 20th February, 2024

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

December 22, 2023
Original Application No. 754/2023
(I.A. No. 887/2023)
PU.



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-22022022-233662
CG-DL-E-22022022-233662

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 140]

नई दिल्ली, मंगलवार, फरवरी 22, 2022/फाल्गुन 3, 1943

No. 140]

NEW DELHI, TUESDAY, FEBRUARY 22, 2022/PHALGUNA 3, 1943

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 22 फरवरी, 2022

सा.का.नि. 143(अ).—केन्द्रीय सरकार, पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 6 और धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पर्यावरण (संरक्षण) अधिनियम, 1986 का और संशोधन करते हुए निम्नलिखित नियम बनाती है:, अर्थात्:-

1. संक्षिप्त नाम और प्रारंभ :

- (1) इन नियमों का संक्षिप्त नाम पर्यावरण (संरक्षण) संशोधन नियम, 2022 है।
- (2) वे राजपत्र में उनके अंतिम प्रकाशन की तारीख से लागू होंगे।

2. पर्यावरण (संरक्षण) नियम, 1986 में, अनुसूची-1 में, क्रम सं. 74 पर प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि को रखा जाएगा, अर्थात्: -

74"	ईट भट्टे	चिमनी से उत्सर्जन में विविक्त पदार्थ	250 मिलीग्राम/एनएम3
		चिमनी की न्यूनतम ऊंचाई (भट्टों की वर्टिकल साफ्ट)	14 मीटर (लोडिंग प्लेटफॉर्म से कम से कम 7.5 मीटर)
		- भट्टा क्षमता 30,000 ईट प्रतिदिन से कम	16 मीटर (लोडिंग प्लेटफॉर्म से कम से कम 8.5 मीटर)
		- भट्टा क्षमता 30,000 ईट प्रति दिन के बराबर या अधिक	

	चिमनी की न्यूनतम ऊँचाई (भट्टों की वर्टिकल शाफ्ट के अलावा)	
	- भट्टा क्षमता 30,000 ईट प्रतिदिन से कम	24 मीटर
	- भट्टा क्षमता 30,000 ईट प्रति दिन के बराबर या अधिक	27 मीटर

टिप्पणियां :

1. सभी नए ईट भट्टों को केवल ज़िग-ज़ैग तकनीक या वर्टिकल शाफ्ट के साथ होने की या ईट बनाने में ईंधन के रूप में पाइप प्राकृतिक गैस के उपयोग की अनुमति दी जाएगी और इस अधिसूचना में निर्धारित मानकों का पालन ब होगा।
2. विद्यमान ईट भट्टे जो ज़िग-ज़ैग तकनीक या वर्टिकल शाफ्ट या ईट बनाने में ईंधन के रूप में पाइप प्राकृतिक (पीएनजी) के उपयोग का पालन नहीं कर रहे हैं, उन्हें (क) गैर-प्राप्ति शहरों के 10 किमी के दायरे में स्थित मामले में एक वर्ष (जैसा कि केंद्रीय प्रदूषण नियंत्रण बोर्ड द्वारा यथापरिभाषित) (ख) अन्य क्षेत्रों के लिए दो वर्ष अवधि के भीतर ज़िग-ज़ैग तकनीक या वर्टिकल शाफ्ट में परिवर्तित किया जाएगा या पीएनजी का उपयोग बनाने में ईंधन के रूप में किया जाएगा। इसके अतिरिक्त, ऐसे मामलों में जहां केंद्रीय प्रदूषण नियंत्रण बोर्ड/प्रदूषण नियंत्रण बोर्ड/प्रदूषण नियंत्रण समितियां ने रूपांतरण के लिए अलग से समय-सीमाएं निर्धारित की हैं, ऐसे आदेश प्रभावी होंगे।
3. सभी ईट भट्टे केवल अनुमोदित ईंधन जैसे कि पाइप प्राकृतिक गैस, कोयला, ईंधन लकड़ी और/या कृषि अपशिष्ट का उपयोग करेंगे। पेट कोक, टायरों/प्लास्टिक/खतरनाक अपशिष्टों के उपयोग की अनुमति ईट भट्टों को नहीं जाएगी।
4. उत्सर्जन की निगरानी के लिए केंद्रीय प्रदूषण नियंत्रण बोर्ड द्वारा निर्धारित मापदंडों/रूपरेखा के अनुसार ईट स्थायी सुविधा (पोर्ट होल और प्लेटफार्म) का निर्माण करेंगे।
5. विविक्त सामग्रियों (पीएम) के निष्कर्ष 4% CO₂ पर प्रसामान्य किए जाएंगे जो निम्नलिखित हैं:
पीएम (सामान्य) = (पीएम(मापित) X 4%)/(चिमनी में मापित CO₂ का %, मापित CO₂ के मामले में \geq कोई प्रसामान्यीकरण नहीं। चिमनी की ऊँचाई (मीटर में) भी H= 14 Q^{0.3} सूत्र (जहां Q kg/hr में SO₂ उत्तर दर है) द्वारा परिकलित की जाएगी, और अधिकतम दो को काम में ले सकेंगे।
6. ईट भट्टों को आवासों और फलों के बागों से 0.8 कि.मी. की न्यूनतम दूरी पर स्थापित किया जाना चाहिए। प्रदूषण नियंत्रण बोर्ड/प्रदूषण नियंत्रण समितियां आवास, जनसंख्या घनत्व, जल निकायों, संवेदनशील रिसे इत्यादि की निकटता का ध्यान रखते हुए स्थापित मापदंडों को सख्त बना सकते हैं।
7. किसी क्षेत्र में भट्टों की अधिक संख्या से बचने के लिए मौजूदा ईट भट्टों से कम से कम एक किलोमीटर की दूर ईट भट्टों को स्थापित किया जाना चाहिए।
8. ईट भट्टों को संबंधित राज्य प्रदूषण नियंत्रण बोर्ड/प्रदूषण नियंत्रण समितियां द्वारा निर्धारित उत्सर्जन प्रक्रिया/पल धूल उत्सर्जन नियंत्रण दिशा-निर्देशों का पालन करना होगा।
9. ईट भट्टों से निकलने वाली राख को ईट बनाने में उसी परिसर के अंदर ही इस्तेमाल किया जाएगा।
10. ईट भट्टे में ईट बनाने के लिए उपयोग की जाने वाली मिट्टी को निकालने के लिए संबंधित राज्य/संघ राज्य क्षेत्र विभाग सहित संबंधित प्राधिकरणों से सभी आवश्यक अनुमोदन प्राप्त किए जाएंगे।
11. ईट भट्टा मालिक यह सुनिश्चित करेंगे कि कच्चे माल/ईटों के परिवहन के लिए उपयोग की जाने वाली सड़के पक्के सड़के हैं।
12. कच्चे माल/ईटों के परिवहन के दौरान वाहनों को ढका जाएगा।"

[फा. सं. क्यू-15017/35/2007-सीपीड]

नरेश पाल गंगवार, अपर स

टिप्पण: मूल नियम भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (i) में तारीख 19 नवंबर, 1986 के का.आ. 844 (अ) द्वारा प्रकाशित किए गए थे और 04 अक्टूबर, 2021 की अधिसूचना सा.का.नि. 724 (अ) द्वारा अंतिम बार संशोधित किए थे।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 22nd February, 2022

G.S.R. 143(E).—In exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules further to amend the Environment (Protection) Rules, 1986, namely:—

1. Short Title and commencement: -

- (1) These rules may be called the Environment (Protection) Amendment Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl. No. 74, the following entry shall be substituted, namely: -

74	Brick Kilns	Particulate matter in stack emission	250 mg/Nm ³
		Minimum stack height (Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	14 m (at least 7.5m from loading platform)
		- Kiln capacity equal or more than 30,000 bricks per day	16 m (at least 8.5m from loading platform)
		Minimum stack height (Other than Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	24 m
		- Kiln capacity equal or more than 30,000 bricks per day	27 m

Notes :

1. All new brick kilns shall be allowed only with zig-zag technology or vertical shaft or use of Piped Natural Gas as fuel in brick making and shall comply to these standards as stipulated in this notification.
2. The existing brick kilns which are not following zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making shall be converted to zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making within a period of (a) one year in case of kilns located within ten kilometre radius of non-attainment cities as defined by Central Pollution Control Board (b) two years for other areas. Further, in cases where Central Pollution Control Board/State Pollution Control Boards/Pollution Control Committees has separately laid down timelines for conversion, such orders shall prevail.
3. All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.
4. Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid down by the Central Pollution Control Board for monitoring of emissions.
5. Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:

PM (normalized) = (PM (measured) x 4%) / (% of CO₂ measured in stack), no normalization in case CO₂ measured \geq 4%. Stack height (in metre) shall also be calculated by formula $H=14Q^{0.3}$ (where Q is SO₂ emission rate in kg/hr), and the maximum of two shall apply.

6. Brick kilns should be established at a minimum distance of 0.8 kilometre from habitation and orchards. State Pollution Control Boards/Pollution Control Committees may make siting or stringent considering proximity to habitation, population density, water bodies, sensitive recee etc.
7. Brick kilns should be established at a minimum distance of one kilometre from an existing kiln to avoid clustering of kilns in an area.
8. Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribe concerned State Pollution Control Boards/Pollution Control Committees.
9. The ash generated in the brick kilns shall be fully utilized in-house in brick making.
10. All necessary approvals from the concerned authorities including mining department of concerned State or Union Territory shall be obtained for extracting the soil to be used for l making in the brick kiln.
11. The brick kiln owners shall ensure that the road utilized for transporting raw materials or brick paved roads.
12. Vehicles shall be covered during transportation of raw material/bricks”.

[F. No. Q-15017/35/2007-C

NARESH PAL GANGAWAR, Addl. S

Note : The principle rules were published in the Gazette of India, Extraordinary, Part II, Section 3, section (i) *vide* number S.O. 844(E), dated the 19th November, 1986 and lastly amended number G.S.R. 724(E), dated the 04th October, 2021.