

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No. 832 / 2024
IN
I.A No. 317/2024**

In the matter of:

Akash Vashishtha

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

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1.	Reply on behalf of Central Pollution Control Board, Respondent No. 10 i.e, (CPCB) in the matter of Original Application No. 832/2024 in I.A No. 317/2024 Akash Vashishtha Vs. State of Uttar Pradesh in compliance to the Hon'ble National Green Tribunal order dated 29.07.2024.	
2.	Annexure-I A copy of Hon'ble NGT order dated 29.07.2024 in OA No. 832/2024 in I.A No. 317/2024	



**Filed by Adv. Suman Arora
On behalf of Central Pollution Control Board**

Place: Delhi

Dated:18.10.2024

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PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 832 / 2024
(IA No. 317/2024)**

Akash Vashishtha

Applicant

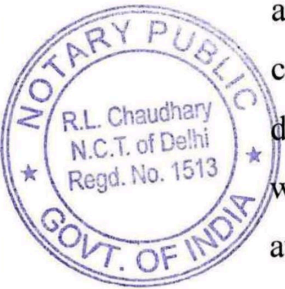
Versus

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Respondents

**REPLY ON BEHALF OF CENTRAL POLLUTION CONTROL BOARD
(CPCB) i.e, RESPONDENT NO. 10.**

1. That, the Hon'ble NGT vide order dated 29.07.2024 and notice dated 07.08.2024 has sought the reply of CPCB in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the outset, the answering respondent denies all claims, contentions, allegations and averments against answering respondent CPCB in the above OA contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial or on the ground of non-traverse, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and Control of Pollution) Act, 1974. It performs the functions 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.
4. That the present Application has been filed by Applicant being primarily aggrieved by alleged excessive and indiscriminate concretization of



roadside/road berms and constructions in parks in Ghaziabad, which are allegedly being carried out in violation of Hon'ble Tribunal Orders in O.A No 165/2013 titled *Akash Vashishtha Vs Union of India & Ors*; Order dated 10.11.2016 in O.A. No. 21/2014 titled *Vardhaman Kaushik Vs Union of India*, ; Order dated 03.12.2020 in O.A No 283/2020 titled *R. S. Virk v Central Pollution Control Board* and Government Order dated 23.03.2018 numbered 1022/Nine-5-2018-02sa/18 issued by the State of Uttar Pradesh in respect of limiting the concretization of areas along the sides of the roads as well as in parks.

REPLY:

5. That, it has been submitted and admitted by the Applicant vide Para 46 of the instant OA, that in another Hon'ble NGT matter bearing Original Application No. 363/2022 titled *Vikrant Tongad Versus State of Uttar Pradesh & Ors*. the issues of concretization of road-sides and road-berms in violation of Hon'ble NGT Orders, Government Orders and relevant Guidelines by Noida Authority in Sectors 28, 37, 47 50, 55 and 62 of Noida and by Greater Noida Authority in Sectors Omega 1, Alpha and P3 of Greater Noida had been raised. The answering respondent CPCB who was respondent no. 12 in that matter had admittedly filed its Reply Affidavit dated 24.04.2024 before Hon'ble NGT, whereby CPCB had recommended the following actions to be required to be adopted by respective concerned agencies for mitigation of the air/dust pollution and ground water recharge:

- a. Efforts should be made to cover open land with green grass as directed by Hon'ble NGT in O.A. No. 21 of 2014.
- b. Efforts should be made for planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements as directed by Hon'ble NGT in O.A. No. 283 of 2020.



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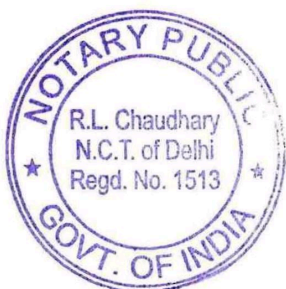
Respondents

AFFIDAVIT

I, **Sharandeep Singh** working as Scientist 'E' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. 10 in the above matter, do hereby solemnly affirm, declare on oath and state as under: -

1. That I, the deponent herein is authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
3. 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.

Sharandeep
DEPONENT

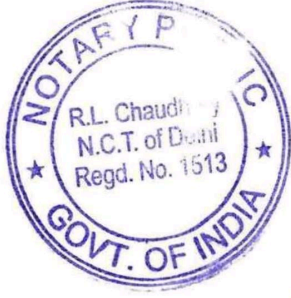


शरणदीप सिंह / Sharanideep Singh
वैज्ञानिक 'ई' / Scientist 'E'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(Mo Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan,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

VERIFICATION

18 OCT 2024

Verified at New Delhi on this day of _____ 2024 that the contents of the above reply are correct and true on the basis of the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.



ATTESTED
Roy
NOTARY PUBLIC
GOVT. OF INDIA

18 OCT 2024

A handwritten signature in blue ink that reads "Sharandeep".

DEPONENT

शरणदीप सिंह / Sharandeep Singh
वैज्ञानिक 'ई' / Scientist 'E'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
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Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No. 01

Court No. 1

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Original Application No. 832/2024
(IA No. 317/2024)

Akash Vashishtha

Applicant

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State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 29.07.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Sanjay Upadhyay, Senior Advocate with Ms. Katyayni &
Mr. Shubham Upadhyay, Advs. for Applicant

ORDER

1. In this Original Application, Applicant has made an allegation of large scale, excessive and indiscriminate concretization of roadsides/roadberms and constructions in parks in Ghaziabad. The plea of the applicant is that such concretization is being done in violation of the order of the Tribunal in OA No. 165/2013 in the case of *Akash Vashishtha Vs. Union of India & Ors.* and the Government Order dated 23.03.2018 issued by the State of Uttar Pradesh.

2. Learned Senior Counsel for the applicant during the course of argument has referred to the O.M. dated 21.07.2000 issued by the Ministry of Urban Development and Poverty Alleviation (Delhi Division) which contain the guidelines for greening of urban areas and landscaping and provides as under:-

“

- 1. To avoid use of excessive tiling of pavements: porous materials to be used**
Unnecessary and excessive tiling of the roadside pavement should be avoided. The area around trees lined along the road should not be covered with tiling as it hampers the basic necessary functions and needs of the trees i.e root aeration and availability of water get drastically reduced. Whenever tiling is done, porous tiles alone should be used. Roots of the trees should be protected, top soil should be preserved while taking up civic works. Indiscriminate tiling of road dividers and footpaths should be avoided.”

3. He has also referred to the circular dated April, 2001 (Annexure A-6) issued by the Chief Secretary, Government of UP which contains the following instruction:-

“ 2.4 Other actions

- i. *For plantation on roadsides, parks and open areas, such species should be selected that require minimum water and can remain green even after consuming less water in the summer season.*
- ii. *The roadsides should be kept soiled and muddy, if possible, in which provisions should be made for “brick-on-edge” / “loose-stone pavement” so that recharge of ground water becomes possible.”*

4. He has placed reliance upon the communication dated 03.09.2013 (Annexure A – 10) issued by Ministry of Urban Development, Government of India to the Chief Secretaries concerning the action plan for flood proofing of cities/towns and laid emphasis on paragraph (b) of the said communication which reads as under:-

- “ (b) increased run off due to inappropriate concretization/ paving in urban area and increased intensity of precipitation due to climate change.*

Due to rapid concretization/paving in urban area, volume of peak run off is increasing leading to water logging/ flooding in urban areas. The ever increasing concretization/paving in urban areas, reduces ground water recharge on one hand and increases peak run off on other hand, thus, resulting in overflowing of existing drains already clogged with solid waste. As such, there is urgent need to review existing By-laws in urban areas to make it mandatory to manufacture and use of porous paving tiles/bricks, to the extent feasible, to facilitate ground water recharge. Rain water harvesting is closely linked with urban flooding and its provision in houses would be beneficial in not only reducing water requirement but also bring down the level of flooding:

In addition to above, it is well established now that because of anthropogenic activities, global warming is on rise, resulting in change in rainfall pattern and intensity of precipitation. This necessitates enhancing of capacities of existing storm drains and constructing new drains incorporating above factors.”

5. He has further placed reliance upon the communication issued by the Joint Secretary, Government of Uttar Pradesh page 113 which contains the decision taken by government in pursuant to order of NGT in the matter of *Akash Vashishtha Vs. Union of India & Ors.* as under:-

“ 2. MASONRY (PUCCA) CONSTRUCTION IN PARKS

- (a) *For footpaths, only Stabilized Soil/coarse Sand/Granular Sub Base (G.S.B.) should be used in the given preference.*
- (b) *The total area used for boundary wall, footpath-fountain, works being done by infrastructure like public utility etc should not exceed more than 5 percent of total area of the concerned park.*

3. CORNERS OF ROAD IROADSIDE)

- (a) *Except the carriage way, on both sides of roads, perforated blocks/fly ash brick/straight over burnt bricks can be used only in maximum width of 0.50 meter.*
- (b) *Roads for which footpaths have been provisioned, on those roads perforated blocks/fly ash/straight over burnt bricks should only be used on footpaths.*
- (c) *Roads for which footpaths have been provisioned, on footpaths, on granular sub base/, W.M.M. (Wet Mix Macadam) interlocking tiles/brick-on-edge (Kharanja) may be used. Maximum width of footpath can be 1.50 meter only. Remaining portion of roads would be left vacant for the purpose of drain, sewage and other infrastructure facilities. ”*

6. He has also placed reliance upon the order of the Tribunal dated 30.07.2018 passed in Execution Application No. 34/2017 in Original Application No. 165/2013 *Akash Vashishtha Vs. Union of India & Ors.* (Annexure A - 3) and has submitted that the MoEF & CC had concurred with the policy guidelines of 23rd March, 2018 in respect of non-concretization of the open spaces.

7. During the course of argument, he has referred to the photographs which have been filed as (Annexure A – 1) page 84 onwards and has also placed reliance upon paragraph 3 of the OA and has submitted that these orders/guidelines have been violated in District Ghaziabad and the concretization of pavements and concretization inside the parks have been done in violation thereof.

8. The OA raises substantial issue relating to the compliance of environmental norms.

9. Issue notice on the OA and I.A. No. 317/2024 to the respondents. Applicant is directed to serve the respondents and file affidavit of service atleast one week before the next date of hearing.

10. List on 21.10.2024

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

July 29, 2024
Original Application No. 832/2024
(IA No. 317/2024)
AS.