

NDOH: 29.11.2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 202 OF 2024

IN THE MATTER OF -

PRAMOD KUMAR

...APPLICANT

VERSUS

CENTRAL POLLUTION CONTROL

BOARD & ORS.

...RESPONDENTS

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New Delhi

Date: 26.09.2024



(ROHAN THAWANI)

Advocate for the Respondents

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

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REPLY ON BEHALF OF RESPONDENT NO. 13

MOST RESPECTFULLY SHOWETH:

1. The Respondent No.13 is filing this reply to the captioned OA. At the outset, the Answering Respondent denies all claims, contentions, allegations and averments against it in the above Original Application (OA) contrary to anything stated or submitted in this reply. Nothing in the OA maybe deemed to have been accepted or admitted by the Answering Respondent for want of specific denial save any averment which has been expressly admitted hereinafter.
2. It is the case of the Applicant that the brick kilns situated in area of Sarurpur Kalan, Baghpat, U.P, NCR region are in operation by usage of coal as fuel that is not in conformity with the order dated 17.02.2021 passed in O.A. No. 1016 of 2019 (Utkarsh Panwar vs. UPPCB & Ors.). The Applicant has prayed for inspection of the brick kilns and seizure of the coal stock lying at the premises of respondent brick kilns.

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3. The answering Respondents respectfully submit that the OA proceeds on a factually incorrect foundation. The crux of the submissions of the Applicant are contained in paras 4.2 to 4.4 of the OA, wherein the Applicant has sought to project that the order of this Hon'ble Tribunal dated 17.02.2021 passed in *Utkarsh Panwar* OA No. 1019 of 2019 prohibits all brick kilns in the NCR from using coal as fuel, and that the brick kilns can only operate using zig zag technology and CNG/PNG as fuel. This is patently incorrect as a bare perusal of the order of this Hon'ble Tribunal in OA No. 1019 of 2019 reveals that in para 20, the conclusion is that coal fired brick kilns cannot be allowed to operate in the NCR during severe air quality conditions where there is no assimilative capacity. The time fixed for operation of brick kilns in NCR was March – June of each year, and it was then observed in para 21 that if brick kilns switch over to clean fuels such as PNG, they may be allowed to operate all throughout the year. Thus, ex facie, coal fired brick kilns using zig zag technology technology are permitted to operate in NCR areas between March – June of each year. There is no absolute prohibition on use of coal as the Applicant is trying to project. It is also not in dispute that the answering Respondents are operating using zig zag technology and that too in the permitted time frame. Hence, the OA is based on an incorrect reading of the order in *Utkarsh Panwar* and has no legs to stand on.
4. It is further submitted that the order of this Hon'ble Tribunal in OA No. 1019 of 2019 has been assailed before the Hon'ble Supreme Court in Civil Appeal D. No. 18213 of 2021, and the Supreme Court has passed detailed orders which now hold the field in the matter on

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the basis of doctrine of merger. There is no prohibition imposed by the Hon'ble Supreme Court either on the use of coal. On the contrary, the order dated 13.05.2022 (**page 120**) shows that the Hon'ble Supreme Court ordered tests regarding emissions to be conducted upon various brick kilns, which involved the use of coal as well as agro fuel wastes. Hence even the Hon'ble Supreme Court contemplated the use of coal by brick kilns.

5. Further, the MOEFCC Notification dated 22.02.2022 (**page 150**) compliance of which has been made mandatory by the Hon'ble Supreme Court, also contemplates the use of coal by brick kilns as an approved fuel (para 3), along with PNG, fire wood and agricultural residue.
6. It is only on the basis of the directions of the CAQM (as annexed with the reply filed by the CPCB) that industries operating in the NCR have been mandated to shift to approved clean fuels, in which coal is not a contemplated fuel.
7. It is respectfully submitted that the members of the Answering Respondent, which is a society of brick kilns, were aware of the orders passed by the Hon'ble Supreme Court and MOEFCC notification dated 22.02.2022, and are fully in compliance with the same. The brick kilns being situated in a remote area, were not made aware of the directions issued by the CAQM due to lack of adequate publicity of the same. They only became aware of CAQM Direction No. 65 following the notice issued to them in the present OA, whereupon they came to see the reply filed by the CPCB which has

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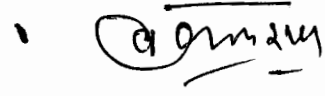
highlighted the said directions. Upon learning of the same, the members of the Answering Respondent promptly ceased the use of coal and have fully transitioned to biofuel and agricultural waste.

8. The Applicant contends that, upon visiting various brick kilns, he discovered several heaps of coal on their premises. In response, it is submitted that the coal present at the brick kilns during the issuance of the NGT order consisted of old stock already stacked in the brick kilns. No new coal has been procured by the members of the Answering Respondent after they came to know of the CAQM directions.
9. Thus the members of the answering Respondent are fully in compliance with the law and no further orders need be passed in the present OA as regards them.
10. The Applicant has also made an incorrect submission before this Hon'ble Tribunal, as recorded in para 2 of the order dated 01.03.2024, that as per the order of this Hon'ble Tribunal in OA No. 1019 of 2024, only 300 brick kilns with ziz zag technology are allowed to operate in Baghpat area in March but more than 400 brick kilns are operating. It is submitted that the order of this Hon'ble Tribunal has merged with the orders of the Hon'ble Supreme Court in Civil Appeal D. No 18213 of 2021, wherein the Hon'ble Supreme Court has not restricted the numbers of brick kilns which can be allowed to operate at a time, but has only made operation permissible between March – June of each year and

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subject to compliance with other norms, all of which the members of the answering Respondent are complying with.

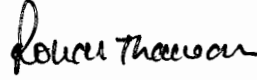
11. Thus the OA lacks substance and deserves to be dismissed.
12. The Answering Respondent reserves the right to file any further submissions, and undertakes to do so if directed by this Hon'ble Tribunal.

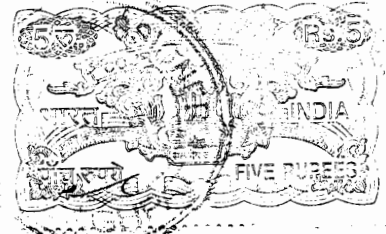


(RESPONDENT NO.13)

New Delhi

Date : 26.09.2024

 ^{जिलाध्यक्ष} भागपत ईट निर्माता समिति (रजि.)
(ROHAN THAWANI) जनपद भागपत (सोपुं०)
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C-64, Basement, Defence Colony
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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ORIGINAL APPLICATION NO. 202 OF 2024

IN THE MATTER OF -

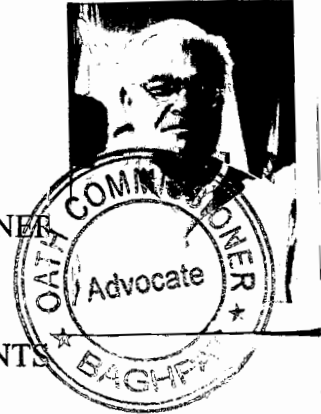
PRAMOD KUMAR

...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL
BOARD & ORS.

...RESPONDENTS



AFFIDAVIT

I, Vikram Singh Rana, aged 66 years, s/o Shri Bullan Singh Rana, r/o 1434, Nirpura, Baghpat, UP 250625, President of Respondent No.13 Eindh Nirmata Samiti, Baghpat, do hereby affirm and state on oath as under -

I am the President of Respondent No.13 Eindh Nirmata Samiti, Baghpat, and I am aware of the facts of the case and am competent to swear this affidavit.

I have read and understood the contents of the accompanying reply and I state that the contents of the same are true and correct to my knowledge and records and nothing material is concealed therein.

3. I say that the annexures filed with the accompanying reply are true copies of their respective originals.

जिलाध्यक्ष
भागपत ईट निर्माता समिति (रजि.)
जनपद बागपत (उ०प्र०)

DEPONENT

VERIFICATION -

I, the deponent above named, do hereby verify that the contents of the accompanying affidavit are true and correct to my knowledge and records and nothing material is concealed herein.

Verified on this 25 day of September 2024 at Baghpat

जिलाध्यक्ष
भागपत ईट निर्माता समिति (रजि.)
जनपद बागपत (उ०प्र०)

DEPONENT

Serial No. 07 - Coopan No 562
Verified by That Shri Vikram Singh Rana s/o Bullan Singh Rana R/o 1434, Nirpura Baghpat
Identified By Shri Rohan Thawani Adv.
Made This Affidavit before me
Dated 25-9-2024
At 10/10 A.M./P.M. at Baghpat

Oath Commissioner
25-9-24



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...RESPONDENTS

VAKALATNAMA

I/~~WE~~ Vikram Singh Rana, President of Respondent No. 13 the above named RESPONDENT NO. 13 do hereby appoint ROHAN THAWANI, Advocate To be my/our Advocate in the above noted case. I / We authorize them to act, appear and plead in the above-noted case in this Court in which the same may be tried or heard and also in the appellate Court.

To sign, file, verify any present pleadings, replication, appeals, cross-objections or petitioners for executions, review, revision, restoration, or other documents as may be deemed necessary or proper for the prosecution of the case in all its stages.

To file and take documents.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take out execution proceedings.

To deposit, draw and receive moneys, cheques and grant receipts, thereof, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner authorizing them to exercise the powers and authorities hereby conferred upon the Advocate when-ever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I / We, the undersigned do hereby agree to ratify and confirm the acts, done by the said Advocate and / or his substitute in the matter as my/our own acts as if done by me / us to all intents and purposes.

IN WITNESS WHEREOF I / We do hereunto set my / our hand to these presents
this 26th day of September, 2024.

Accepted, Identified & Certified

Rohan Thawani
ROHAN THAWANI
D/10612002

Pooja Dhar
POOJA DHAR
D/1413/2003

Aakriti Vikas
AAKRITI VIKAS
D/12958/2022

Pratul Singh
PRATUL SINGH
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S. Ambica
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~~D/1063/2022~~

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Mob. No. 9810802319

Email : rohanthawani@gmail.com

P. Singh

(CLIENT)

भारत ईट निर्यात समिति (रजि.)
रनपद इलाहाबाद (उत्तरप्र.)

*Identified
Rohan Thawani*

