

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Reply Affidavit on behalf of Respondent no. 23

In ref.

Original Application No.422 of 2023

Abhishek Shukla

..... Applicant

Versus

State of UP & Others

..... Respondents

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Dated : 04 January, 2024



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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.422 of 2023**

IN THE MATTER OF :-

Abhishek Shukla

S/O Sri Keshav Prasad Shukla,

R/O Village Jarar, PS-Girwan,

Tahsil Naraini, District-Banda,

Mob. No.-9532378463

..... Applicant

Versus

State of UP & Others

..... Respondents

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 23

I, Dharmendra Kumar Tyagi, S/o Sri M.C. Tyagi, aged 44 years, resident of House no. 389, Sector-5, Avas Vikas Colony, Central Park Sikandra, Agra (U.P.) Pin-282007, the deponent do hereby solemnly affirm and State on oath as under :-

1. That the deponent is authorized signatory of the answering respondent no.23, Limited Liability Partnership (LLP) namely M/s AHVS INFRA LLP (Identification Number-AAN-1308), principal place of Business of the Firm at C-2/37, Vikas Market, Kamla Nagar, Agra (U.P.) Pin-282005 and the deponent is duly authorized to file this reply affidavit on behalf of the answering respondent No.-23 before this Hon'ble Tribunal.



2. That the deponent has read over the complaint dated 12-03-2023, and has understood the contents of the instant Original Application, and is well acquainted with the facts and circumstances of the case deposed to hereunder.
3. That by way of present letter petition the applicant complaining about illegal mining blasting and crushing in violation of environmental norms in villages Jarar, Chhaneha Purwa, Raghwa Purwa, Girwan. Patraha Tehsil Naraini, District Banda.
4. That the applicant vide complaint dated 12-03-2023 has also submitted that six mining leases have been allotted in two hills in the area situate on village Jarar and five crushers have been established in Village Jarar and Chhaneha Purwa and mining is being done by resorting to illegal blasting which has resulted in damage to the houses of villagers. The applicant further alleged that the crushers are being operated day and night and the crushers do not have any boundary wall. There is no sprinkling of water during operation thereof. The crushers are causing dust and noise pollution due to which the residents are suffering from 'Asthma' and other diseases. Illegal blasting has also affected old temples located on the hills. Illegal mining and



blasting are also adversely affecting the wildlife in the area. The roads to the above said villages have been damaged by the overloaded vehicles used for transportation of excavated minor minerals.

5. That on the Complaint dated 12-03-2023, submitted by the applicant, this Hon'ble Tribunal vide order dated 01-08-2023 was pleased to constitute a joint committee comprising of representative of Director, Geology & Mining U.P. Lucknow, Uttar Pradesh Pollution Control Board, Lucknow. District Magistrate, Banda to verify the factual position and take appropriate remedial action and factual and action taken report may be submitted within one month by e-mail before this Hon'ble Tribunal.

6. That in compliance of order dated 01-08-2023 passed by this Hon'ble Tribunal the joint committee visited the field between 17-08-2023 to 18-08-2023 and vide his joint inspection report dated 30-08-2023, in paragraphs 13 to 20 mentioned status of Stone Crushers' as under :-

"13. As per information provided by UPPCB, Banda, the following stone crushers are identified in village-Jarar (Chhaneha Purwa, Raghwa Purwa), Tahsil-Naraini,



District-Banda. **Annexure-2.** The issued date of Consent to Establish (CTE) and Consent to Operate (CTO) to stone crushers are given as below:-

S. No.	Name and address of stone crusher unit	Co-ordinate	Product and Capacity	CTE issued date by UPPCB	CTO status issued by UPPCB	
					CTO issued Date	Granted CTO valid up to
1	2	3	4	5	6	7
1	A.H.V.S. IFRA LLP. Gata No. 1166, Vill-Jarar, Tahsil-Naraini, Banda	25.324488 80.347927	Stone grit-180 MT/Hrs	28-06-22	05-09-22	31-08-26
2	Associated Ventures. Gata No. 1172,1179 &1180, Vill-Jarar, Tahsil-Naraini, Banda	25.328259 80.348467	Stone grit-225 MT/Hrs	24-12-21	05-03-22	31-07-26
3	Peer Baba Granite Gata No. 1798, Vill-Jarar, Tahsil-Naraini, Banda	25.333284 80.363266	Stone grit-225 MT/Hrs	03-01-22	11-01-23	31-07-27
4	Neelkanth Granite Gata No. 1382, Vill-Jarar, Tahsil-Naraini, Banda	25.337391 80.358105	Stone grit-135 MT/Hrs	03-01-22	27-08-22	31-07-26
5	Indus stone Crusher Pvt Ltd Gata No. 1794, Vill-Jarar, Tahsil-Naraini, Banda	25.333521 79.976312	Stone grit-225 MT/Hrs stone dust-25 MT/Hrs	15-04-23	Under construction	



14. 05 stone crushers were identified in village-Jarar (Chhaneha Purwa, Raghwa Purwa), out of 5 stone



crusher, 4 stone crusher were found in operation and one stone crusher was found under construction.

15. *During committee visit, dust suppression system i.e. water spraying facility on jaw crusher, cone and main conveyer, covering of vibrating screen and conveyor have been found installed on each operational stone crushers.*
16. *Metal sheet made boundary wall have been found on each stone crusher but strengthening of the boundary wall surround the stone crusher is required.*
17. *All stone crusher are established beyond the 500 meters distance from the habitant area.*
18. *All stone crushers have been submitted compliance report along with ambient air quality monitoring report. The air polluting parameters is within prescribed limit.*
19. *During the committee visit, it was observed that crops was not found affected in nearby agricultural field.*
20. *As per CMO report, no any patient was found as mentioned illness in complain. **Annexure-3.**"*



7. That the report submitted by the Divisional Forest Officer, Banda Division Banda vide letter No.-3707/33-1 dated 28.05.2022 regarding unit in question sent to the Regional Officer, Uttar Pradesh Pollution Control Board, Banda reveals as under :-

"(1) The proposed land for Crusher unit to be established is situate Banda Naraini Road on Paigambar to Jarar Marg between 04 and 05 Km. Which distance is 01 km. from the road and 4.0 km. from protected forest area and Banda Naraini main road.

(2) The air distance of the proposed Crusher unit from forest area (Akbarpur Girwan) is 2.0 km.

(3) There are no garden within the radius of 1.0 km. from proposed land for Crusher unit.

(4) The distance of the inhabitant from proposed land is 2.0 km.

(5) There are no School or Collage nearby area of the proposed Crusher unit.



(6) The distance of the proposed Crusher unit from Ranipur Wild life Sanctuary is 130.0 km."

8. That the Sub-District Officer, Naraini regarding Crusher Unit in question vide letter no-628/एफ-नरैनी dated 07-06-2022 informed to the Regional Officer, Uttar Pradesh Pollution Control Board, Banda as under :-

"(1) The proposed Gata No.-1166 measuring 3.529 Hecter land is situate in Village-Jarar Tahsil-Naraini, District-Banda which has been taken on rent for a period of 10 years by the M/s AHVS INFRA, LLP.

(2) Proposed Gata No. 1166 is situate 3 Km. away from Devi Ji Girwan link road.

(3) The distance of the proposed land from Banda Naraini main road 3.5 Km.

(4) The distance of the proposed land from inhabitant is 1100 meters.

(5) The distance of the proposed land from School/College about 1150 meters.

(6) The distance of the proposed land from nearest Railway Station Khurhand is 15 Km.



(7) The proposal land is suitable for establishment of Crusher Unit."

9. That on the basis of aforesaid report dated 28-05-2022 of the forest department and report dated 07-06-2022 of the revenue department the Uttar Pradesh Pollution Control Board, Lucknow vide ref. No.-158842/UPPCB/Banda(UPPCB BRO)/CTE/Banda/2021 dated 28-06-2022 issued the consent to establish for new unit under the provisions of water (Prevention and Control of Pollution) Act 1974 as Air (Prevention and Control of Pollution) Act 1981 as amended in favor of M/s AHVS INFRA, LLP respondent no.23. The respondent no. 23 has established the Crusher Unit under the names as per CTE.

10. That after establishment of the plant the Regional Officer of Uttar Pradesh Pollution Control Board, Regional Office, Banda, under the provisions of Sections 25 & 26 of the Water (Prevention & Control of Pollution) Act, 1974 and Section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 also issued Consolidated consent to operate vide letter dated 05-09-2022 to the answering respondent no.23. Hence, the



answering respondent no.23 has obtained all the necessary statutory permissions from various authorities, as required under the provisions of law for running Stone Crusher Plant.

11. That the answering respondent no.23 done the following works for protection of environment of area :-

- 1- The M/s AHVS INFRA LLP at Gata no. 1166 Village Jarar, tehsil-Naraini, District-Banda (UP) is under operation.
- 2- The consolidate consent to operate and authorization hereinafter referred to as the CCA (Consolidated Consent & authorization) (Fresh) under Section-25 of the Water (Prevention & control of Pollution) Act, 1974 and under Section-21 of the Air (Prevention & control of Pollution) Act, 1981 vide letter no 161504/UPPCB/Banda/UPPCBRO)/CTO/both/Banda/2022 dated 05-09-2022 valid till 31-08-2026. has from received and are complying all the conditions mentioned in the consent to operate.



3- Complying with the direction of the Central Pollution Board under Environment (Protection) Act, 1986 for the periodic operation and maintenance of the dust suppression system for stone crusher unit to avoid the adverse impact on the surrounding environment.

4- Operating and maintaining the air pollution control system as per the guideline of UP Pollution Control Board issued vide letter no.H71497/C-3/Nodal Stone Crusher-163/22 dated 10-02-2022.

12. That the compliance of the UP Pollution control Board guidelines for Stone Crusher Unit the following action have been taken for air pollution control measures and dust suppression system.

- i) Cover with closed metal sheet enclosures on dust emitting points i.e., the crusher including their discharge points, screens, and the transfer points of belt conveyors have been installed. Covering of all belt conveyors to avoid the process emission i.e., dust have been installed.



- ii) Adequate facility of spraying water on all dust generation sources, land inside the industry premises to avoid the dust spreading in the air have been provided. (Water networking and water tanker provided)
- iii) Metaled/Cement Concrete Road of inside the unit have been constructed.
- iv) The 5.0 meters high wind breaking wall around the stone crusher premises have been installed. Wind breaking wall 1.0 meter high from highest belt conveyors with minimum 8.0 mm thick G.I. sheet/other barricading arrangement tight with nut bolts.
- v) It is being ensured regularly that height of stored material (raw material/product) below the 1.5 meter of wind breaking wall.
- vi) Green belt developed around the stone crusher periphery. Green belt of suitable varieties of trees to arrest the dust in 33% area of the total land all



along the boundary of the unit premises have been insured.

- vii)** SPM standard as prescribed in Environment (Protection) Act, 1986 is being achieved.
- viii)** The installation, maintenance and operation of control system of dust and sound are being done on our own cost.
- ix)** The stock licence has been obtained from District Mining Officer Banda (UP).

13. That the answering respondent no.23 also submitted report of compliance of condition mentioned in the consolidated consent to operate and authorization hereinafter referred to as the CCA (Consolidated Consent & authorization) (Fresh) under Section-25 of the Water (Prevention & control of Pollution) Act, 1974 and under Section-21 of the Air (Prevention & control of Pollution) Act, 1981. Vide letter dated 05-08-2022 to the Regional Officer, UP Pollution Control Board, Banda (UP) Pin-210001 and The Chief Environmental Officer (Circle-2), UP Pollution Control Board, Lucknow (UP) Pin-226010.



14. That the answering respondent no.23, namely AHVS INFRA LLP, C-2/37, Vikas Market, Kamla Nagar, Agra is registered firm under the provisions of LLP Rules 2009, by the Government of India, Ministry of Corporate Affairs LLP and its Identification Number AAN-1308 dated 02-07-2021 and till date there has been no complaint from any local inhabitant regarding pollution created in water or air by the answering respondent no.23, and this original application has been filed before this Hon'ble Tribunal for the first time, and after perusal of this application, the deponent has not found any specific grievance of the applicant in operation of the stone crusher plant run by the answering respondent no. 23.

15. That in view of aforesaid averment, it would be evident that the answering respondent no.23 has followed all the norms and guidelines issued by the authorities for running of the stone crusher plant, and the premises of the stone crusher are fully covered by wind-breaking wall having height of 12 feet.

16. That it is further submitted that the Uttar Pradesh Pollution Control Board is fully cautious of its duties and obligation and is also performing their duties in the public interest. It is also



pertinent to mention here that whenever any Industry is running, it may cause pollution in the environment, but an attempt is always made to minimize the pollution, otherwise the basic requirement of development of infra-structure cannot be fulfilled. In the case of ***Intellectual Forum, Tripathi Vs. State of A.P. [(2006) 3 SCC 549]***, the Hon'ble Supreme Court has observed that it should follow the Principle of Sustainable Development' and find the balance between the developmental need and the environmental degradation adherent to the Principle of Sustainable Development, is now a constitutional requirement, how much damage to the environment and ecology has got to be decided on the fact of each case. In the case of ***T.N. Godavarman Thirmulkpad (104) Vs. Union of India [(2008) 2 SCC 222]***, it has been observed by the Hon'ble Supreme Court that the courts are required to balance developmental need with the protection of environment and ecology. It is the duty of the State Government under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational quality.



17. That in view of aforesaid averment there is no violation by the answering respondent which require interference of this Hon'ble Tribunal against the respondent no.23 as per reports submitted before this Hon'ble Tribunal by the joint committee.

VERIFICATION:

I, the above named deponent do verify that the content of my above affidavit are true to the best of knowledge and belief and there is nothing concealed therefrom.

Verified at Banda on this 4th day of January 2024.



No. 60 From 2:10 PM
 Solemnly Affirmed Presented before me
 by Sri. Pranendra Kumar Jaggi
 whom the Contents of this
 Affidavite have been read over and
 who is Identified by Sri. B. Choudhary
 Received Rs. 5 AS Rs. 5
 Dated 04/01/24
 O. C. No. [Signature]

**V A K A L A T N A M A****BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.422 of 2023****Abhishek Shukla****..... Applicant****Versus****State of U.P. & others****..... Respondents**

KNOW ALL to whom these present shall come that I, Dharmendra Kumar Tyagi, S/o Sri M.C. Tyagi, aged 44 years, resident of House no.389, Sector-5, Avas Vikas Colony, Central Park Sikandra, Agra (U.P.) Pin-282007, duly authorized on behalf of respondent no.23, do hereby appoint (herein after called the advocate to be our Advocate in the above noted case authorise him:-

MANOJ KUMAR, Advocate (U.P.1502/78), COP No. 193761, GF-1, Shubh Apartment, Vivekanandpuri, Faizabad Road, Lucknow, Mobile no.09532100117

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be consider or heard and also in the appellate Court, including High Court subject to payment of fees separately for each Court by us. To sign, file, and present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents, as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents of admit and/or deny the documents of opposite party.

To withdraws 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 execution proceedings. The deposit, draw and receive money, cheques, cash 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 him to exercise the power and authority hereby conferred upon the Advocate



whenever he may think it to do so and to sign the Power of Attorney on our behalf.

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

And I undertake that I or my duly authorized agent would appear in the Court on all hearings and will inform the Advocate for appearance when the case is called.

And I undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I the undersigned do hereby agree that in the even of the whole or part of the fee agreed by us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I hereby agree that once the fee is paid, I will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition of three years or part thereof.

IN WITNESS WHEREOF I do hereunto set our hand to these presents the contents of which have been understood by us on this4th..... day of January, 2024.

Accepted subject to the terms of fees.

Advocate Chhanna
(Manoj Kumar)
UP.1502/78

