

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 299 OF 2022**

IN THE MATTER OF:

SANJAY KUMAR

....APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS....RESPONDENTS

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Dated: 23.07.2022

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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IN THE MATTER OF:

SANJAY KUMARAPPLICANT
VERSUS
STATE OF UTTAR PRADESH & ORS....RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 6 WITH
AFFIDAVIT**

MOST RESPECTFULLY SHOWETH:

1. That the present Reply is being filed on behalf of Bindals Papers Mills Limited/Respondent No, 6, through its Director Mr. Mayank Bindal, in compliance of order dated 05.05.2022 passed by this Hon'ble Tribunal, pursuant to notice being received of the pendency of the present proceedings.
2. That at the outset, the Answering Respondent craves the liberty of this Hon'ble Tribunal to raise preliminary objections to the maintainability of the present Original Application qua Respondent No. 6.

PRELIMINARY OBJECTIONS

3. That the present Original Application has been filed by the Applicant raising concerns about alleged violation and improper enforcement of the provisions of the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019 and non-preparation of Ground Water Security Plan for Noorpur Block, District Bijnor, Uttar Pradesh by the concerned authorities, who have been arrayed as Respondent Nos. 1 to 5 in the present Original Application.
4. That the Applicant, in the present Original Application, has prayed for a direction to Respondent No. 3 [Uttar Pradesh Pollution Control Board] and Respondent No. 5 [District Magistrate, District Bijnor, Uttar Pradesh] to decide the Legal Notice dated 14.12.2021, sent by the Applicant to these authorities. Further, the Applicant has also prayed for a direction to the Respondents to formulate and implement Ground Water Security Plan for Noorpur Block, District Bijnor.
5. That a bare perusal of the reliefs sought by the Applicant in the present Original Application makes it evident that the prayers in the Original Application are

directed at the Official Respondents, impleaded as Respondent Nos. 1 to 5, and none of these prayers has got anything to do with the Answering Respondent, which has not even commenced any sort of industrial operations in the concerned area. It is submitted that since no specific relief has been sought against the Answering Respondent in the Application, the name of the Answering Respondent deserves to be deleted from the array of parties.

6. It is submitted that the Answering Respondent is a company, which has been a reputed presence in the industrial circles since the last several years and prides itself on practicing the highest standards of professional and business ethics in pursuing its commercial interests. The answering Respondent has always been extremely vigilant in ensuring that all environmental and statutory norms and regulations are complied with and that the company has got all the necessary approvals, licenses and clearances from the regulatory authorities before commencing operations. The Answering Respondent considers the same as not only

its liability but also its duty as part of responsibly conducting its business interests.

7. That the Answering Respondent, in the year 2021, took the decision to explore the possibility of establishing a new sugar factory and distillery unit in the State of Uttar Pradesh and earmarked an area situated in Village Changipur, Taluka Noorpur, District Bijnor for the said purpose. The Answering Respondent, in accordance with the rules, expressed its intention of establishing a new sugar factory, along with an Application, to the Additional Chief Secretary, Sugar Industry & Cane Development Department, State of Uttar Pradesh.
8. That after receiving the preliminary go-ahead from the Cane Commissioner, State of Uttar Pradesh, regarding the feasibility and requirement of a new sugar factory in the concerned area, the Answering Respondent set about the task of applying for all the necessary approvals, licences and permissions for the purpose of establishing the sugar factory. The Answering Respondent wrote letters dated 21.12.2021 and

21.04.2022 to the Nodal Officer, District Ground Water Management Council [DGWMC], District Bijnor, requesting for NOC for permission to extract/withdraw ground water for the proposed sugar and distillery plant at Village Chaugiput, Noorpur Block, Tehsil Chandpur, District Bijnore, Uttar Pradesh. The Answering Respondent, in terms of the mandate of the EIA Notification, 2006, also applied with the concerned authority [MoEF] for issuance of the Environmental Clearance.

9. That however, till date, the Answering Respondent has neither received the necessary permission from the Uttar Pradesh Ground Water Department nor has been granted the Environmental Clearance for the proposed project. The only thing that has happened till date is that the Answering Respondent has expressed its intention of setting up a sugar factory in a particular area and in accordance with the rules, has applied for the necessary permissions to do so.

10. That in such a situation, it is untenable for the Applicant to impute in the Application that some sort of

violation of environmental norms has taken place in the instant case. In fact, it is extremely unwarranted on the part of the Applicant to presume and act on the assumption that the concerned authorities will grant any sort of permission/clearances to the Answering Respondent in violation of the legal norms in place. Today, by way of the present Original Application, the Applicant is not raising a challenge to any actual permission or clearance, which has been granted to the Answering Respondent in violation of the environmental norms, but is giving vent to its apprehension that the authorities may grant some permission in violation of the environmental norms and thus urgent intervention of this Hon'ble Tribunal is required for that reason. It is respectfully submitted that such apprehension of the Applicant is completely unfounded and without any basis and amounts to wasting precious judicial time and resources.

11. That in light of the above submissions, it is clear that in the absence of any permission, pertaining to extraction of ground water or environmental clearance, having been actually granted to the Answering

Respondent till date, the present Application, in so far as it raises aspersions regarding the proposed sugar factory of the Answering Respondent, is premature and is based on surmises, conjectures, presumptions and apprehensions. The present Original Application, to the extent of making unnecessary and unwarranted averments/allegations against the proposed sugar factory of the Answering Respondent, deserves to be dismissed at the outset.

PRELIMINARY SUBMISSIONS

12. That the Answering Respondent, at the outset, submits that it has no objection to this Hon'ble Tribunal directing the authorities to decide the Legal Notice dated 14.12.2021, sent by the Applicant, by treating it as a representation or directs the authorities to comply with and act in accordance with law, as they are mandated to do in any case.
13. That however, the Answering Respondent craves the leave of this Hon'ble Tribunal to assist this Hon'ble Tribunal in respect of the legal issues arising in this case. The Applicant, in support of its submissions that

no bore-wells for commercial or industrial extraction can be constructed/sunk in Noorpur Block, has relied on the Block Wise Ground Water Resources Assessment done by the Central Ground Water Board [CGWB] in the year 2017, in which the CGWB has classified Noorpur Block as a Critical Zone, as well as the Notification dated 17.06.2020 issued by the State of Uttar Pradesh, under Section 9 (1) of the Uttar Pradesh Ground Water [Management and Regulation] Act, 2019, declaring the Noorpur Block as a Notified Area under the UPGWA. It is relevant to mention that the Notification dated 17.06.2020 has been issued by the State of Uttar Pradesh on the basis of the Block Wise Assessment of the year 2017 done by the CGWB, by declaring Over-Exploited and Critical Zones as Notified Areas. It is apposite to mention that Section 9(1) of the UPGWA itself makes it clear that its mandate extends to over-exploited/critical blocks and stressed urban areas.

14. That what has been deliberately concealed by the Applicant from this Hon'ble Tribunal is that in the National Compilation on Dynamic Ground Water Resources of India, 2020, issued by the Ministry of Jal

Shakti, Government of India, through the Central Ground Water Board in June, 2021, as per the mandate of law, calling for periodic re-assessment, the status of the blocks all over the country has been re-assessed and Noorpur Block, which is the subject matter of consideration in the present Original Application, has now been categorised as Semi-Critical.

A true copy of relevant extracts of the National Compilation on Dynamic Ground Water Resources of India, 2020 is annexed and marked as **Annexure R-6/1.**

15. That it is clear from the 2020 Report of the CGWB that the ground water levels in Noorpur Block in District Bijnor have improved, meriting its categorization from a critical to a semi-critical block. Since the Notification under Section 9 (1) of the UPGWA is issued by the State of Uttar Pradesh on the basis of the categorization of blocks done by the CGWB, it is expected that a new Notification shall be issued shortly by the State of Uttar Pradesh in accordance with the latest report of CGWB, in which the revised status of the Noorpur Block shall

be reflected. The same shall also be in conformity with the provisions of Section 9 (3) of the UPGWA, which mandates that the Notification issued under Section 9 (1) shall be reviewed periodically as per the new Ground Water Assessment Report.

16. That the Applicant, by deliberately presenting outdated data and selective documents before this Hon'ble Tribunal, has sought to mislead and prejudice this Hon'ble Tribunal and the said conduct needs to be deprecated in the strongest manner possible. It is pertinent to mention that with the purview of Notification under 9(1) extending only to over-exploited/critical blocks and with the re-categorization of the Noorpur Block as a semi-critical block and the legislative directive that the Notification under section 9 (1) be reviewed as per the new Ground Water Assessment Report, a new Notification, reflecting the revised status of the Noorpur Block, is expected to be issued shortly by the State of Uttar Pradesh, which shall take Noorpur Block out of the legislative restriction contained in Section 12 of the UPGWA.

17. That it is manifestly clear from the above submissions that not only is the present Original Application, filed by the Applicant, totally misconceived and premature qua the averments made in respect of the proposed sugar factory of the Answering Respondent, but the Applicant has also indulged in deliberate concealment and not disclosed the correct facts and legal position to this Hon'ble Tribunal.

18. That in such circumstances, it is respectfully prayed that the present Original Application may kindly be dismissed, qua the Answering Respondent.

BINDALS PAPERS MILLS LIMITED

THROUGH

Utkarsh Sharma

[UTKARSH SHARMA]

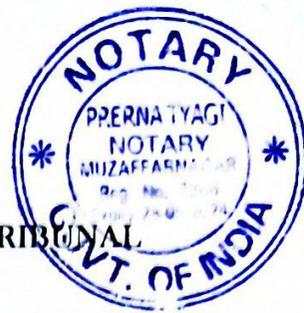
ADVOCATE

139, SETALVAD BLOCK, LAWYERS' CHAMBERS,

SUPREME COURT, NEW DELHI-110001.

PLACE: NEW DELHI

DATE: 23.07.2022



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....APPLICANT

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STATE OF U.P. & ORS.

....RESPONDENTS

AFFIDAVIT

I, Mayank Bindal, S/o Mr. Suresh Chand, aged 41 years, R/o 135/1, Dwarka Puri, Muzaffarnagar, Uttar Pradesh-251001, do hereby solemnly affirm and declare as under:-

1. That I am the Director of Bindals Papers Mills Limited and am fully conversant with the facts of the present case. I am also duly authorized on behalf of the Company to affirm this Affidavit.

2. That I have read and understood the contents of the accompanying Reply to the aforementioned Application, which has been drafted under my instructions and I state that the contents of the same are true and correct to the best of my knowledge derived from the records maintained during the course of usual business by Bindals Papers Mills Limited.

3. That the Annexures annexed to the present Reply are true and correct copies of their respective originals.

Mayank
DEPONENT

VERIFICATION

Verified at Muzaffarnagar on this day of July, 2022 that the contents of the above affidavit are true to my knowledge, no part of it is false, and nothing material has been concealed therefrom.

PRERNA TYAGI
NOTARY
MUZAFFARNAGAR

22 JUL 2022

Mayank Bindal
Identified by
Examining
Agent
which has
been
change
Muzaffarnagar

Mayank
Identified by
DEPONENT

**National Compilation on
DYNAMIC GROUND WATER RESOURCES OF INDIA, 2020**



**Central Ground Water Board
Department of Water Resources,
River Development & Ganga Rejuvenation
Ministry of Jal Shakti
Government of India**

**Faridabad
June, 2021**

Dynamic Ground Water Resources Estimation of India-2020

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State-wise Categorization of Blocks/ Mandals/ Taluks in India
(as in 2020)

CATEGORIZATION of ASSESSMENT UNITS, 2020							
UTTAR PRADESH							
S. No	Name of District	S. No	Name of Semi-Critical Assessment Units	S. No	Name of Critical Assessment Units	S. No	Name of Over-Exploited Assessment Units
1	Agra	1	Jagner	1	Achhnera	1	Agra City
		2	Jaitpur Kalan	2	Bah	2	Akola
		3	Kheragarh			3	Barauli Ahir
						4	Bichpur
						5	Etmadpur
						6	Fatehabad
						7	Fatehpur Sikri
						8	Khandauli
						9	Saiyana
						10	Shamsabad
2	Aligarh	1	Chandaus	1	Igles	1	Aligarh City
		2	Gangri				
		3	Jawa Sikandairpur				
		4	Khair				
		5	Lodha				
3	Ambedkar Nagar	1	Jalalpur				
4	Amethi	1	Sangrampur				
5	Amroha	1	Amroha	1	Dhanaura	1	Joyt
		2	Gangeswar	2	Gairaula		
6	Ayodhya			3	Hasanpur		
		1	Bikapur				
		2	Milkipur				
7	Azamgarh	1	Ahiraula				
		2	Atraulia				
		3	Kollsa				
		4	Palhana				
		5	Palhani				
		6	Sathiyason				
8	Baghpat	7	Tarwa				
		1	Baraut	1	Baghpat	1	Binauli
9	Banda	2	Chhaprauli			2	Khekra
						3	Pilana
		1	Baberu				
		2	Jaspura				
10	Bareilly	3	Naraini				
		4	Tindwari				
		1	Alampur Jafarabad			1	Bareilly City
		2	Fatehganj				
12	Bijnaur	3	Majhgawa				
		4	Ramnagar				
		1	Kotwall	1	Jalespur		
		2	Nehtaur (Aaku)				
13	Budaun	3	Noorpur				
		4	Sechra (Budhanpur)				
		1	Bisauli			1	Ambiapur
		2	Jagat			2	Asafpur
		3	Miaon			3	Islamnagar
		4	Quadar Chowk				
		5	Sahaswan				
14	Bulandshahar	6	Salarpur				
		7	Uhani				
		1	Anup Shahar	1	Amla Khurd	1	Bhawan Bahadur Nagar
		2	Jahangirabad	2	Khuria	2	Bulandshahar
		3	Lakhaothi	3	Shikarpur	3	Danpur
15	Chitrakoot	4	Pahasu	4	Unchagaon	4	Gujaothi
						5	Siana
						6	Sikandrabad
		1	Mau	1	Karwi		
		2	Pahari				
		3	Ramnagar				
17	Etah	1	Jaitbara	1	Aliganj		
		2	Nidhauli Kalan	2	Jalasar		
		3	Sakit				
		4	Shitalpur				
18	Farrukhabad	1	Barhpur				
		2	Kamalganj				
		3	Mohamadabad				
		4	Nawabganj				
19	Fatehpur	1	Airaya	1	Amauli	1	Bhaura
		2	Khajua				
		3	Malawan				
		4	Telyani				
20	Firozabad	1	Eka	1	Aron	1	Firozabad
		2	Jasrana			2	Hathwant
		3	Madanpur			3	Narkhi
21	G.B.Nagar					4	Shikohabad
						5	Tundla
		1	Dadri	1	Dankeur	1	Bisrakh
		2	Murednagar	2	Jewar		
22	Ghaziabad					1	Bhojpur
						2	Loni
						3	Razapur
						4	Ghaziabad City
23	Ghazipur	1	Saidpur				

Sanjay Kumar

....Applicant

Versus

State of U.P. &Ors.

....Respondents

KNOW ALL to whom these present shall come that I/We, the Respondent Nos. 6 in the captioned Application, do hereby appoint Utkarsh Sharma, Advocate (Hereinafter called the Advocate(s)) to be my/our Advocate in the above-noted case and authorize him: - CHAMBER NO-139, M.C. SETALVAD BLOCK, SUPREME COURT OF INDIA TO act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including the High Court subject to payment of fees separately for each court by me/us.

TO sign, file, verify and present pleadings, appeals, cross-objections or petition executions, review, revision, withdrawal, compromise or other petitions or affidavits or other documents and 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 in all its stages subject to payment of fees for each such stage.

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

TO initiate and conduct execution proceedings.

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

AND I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the aforesaid matter as my/our own acts, as if done by me/us to all intents and purposes and that it shall be our duty to keep constant touch with the advocate to seek updates of the case.

AND I/We hereby confirm and affirm that every application, pleadings, submissions, etc. counter-signed by us is drafted/submitted on the basis of the instructions and I/WE shall not dispute its veracity.

AND I/We the 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/We the undersigned do hereby agree that the fee settled is only in respect of this case exclusively in the above Court. I/We the undersigned do hereby, further, agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the unpaid fees is paid. I/We the undersigned do hereby, further, agree that once the fees is paid it is non-refundable and if the case prolongs for more than three years the original fees agreed shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set my/our hands to these presents the contents of which have been understood by me/us on this _____ day of July, 2022.

Accepted subject to the terms of the fees.



For BINDALS PAPERS MILLS LTD.

Sanjay
Director
CLIENT

Utkarsh Sharma
ADVOCATE
ENRL No: UP/2599/2011

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