

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

APPEAL NO. 18 OF 2020

IN THE MATTER OF:

WARIS CHEMICALS PVT. LTD.

..... APPELLANT

VERSUS

UTTAR PRADESH POLLUTION
CONTROL BOARD

..... RESPONDENT

INDEX

Sl. No.	Particulars	Page Nos.
1.	Reply on behalf of Uttar Pradesh Pollution Control Board.	1 – 8
2.	<u>ANNEXURE-1</u> True copy of the order dated 27.09.2019	9 – 18
3.	<u>ANNEXURE-2</u> True copy of showcause notice dated 24.10.2019.	19 – 24
4.	<u>ANNEXURE-3</u> True copy of recovery certificate dated 18.12.2019.	25 – 26
5.	<u>ANNEXURE-4</u> True copy of the order dated 28.01.2020.	27 – 29
6	<i>Proof of service</i>	30

NEW DELHI

DATED 02.12.2020


(PRADEEP MISRA & DALEEP DHYANI)

Counsel for U.P. Pollution Control Board,
138, New Lawyers' Chamber,
Supreme Court of India,
New Delhi 110001.
Mobile 9810252518

Email ID : pradeepmisra@yahoo.com

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

APPEAL NO. 18 OF 2020

IN THE MATTER OF:
WARIS CHEMICALS PVT. LTD. APPELLANT

VERSUS

UTTAR PRADESH POLLUTION
CONTROL BOARD RESPONDENT

REPLY ON BEHALF OF UTTAR PRADESH POLLUTION
CONTROL BOARD

I, Anand Kumar Anand, S/o. Shri Ram Kedar, aged about 49 years,
Regional Officer, U.P. Pollution Control Board, Kanpur Dehat, U.P.
at present at New Delhi do hereby solemnly affirm and state as
follows:

1. That I in the abovenoted capacity am well conversant with the facts and records of the present case, hence am competent to swear this affidavit.
2. That I have read the appeal filed by the Appellant and the enclosures annexed therewith and have understood the same fully.
3. That at the outset of this reply I deny each and every averment save and except those which are admitted by me specifically hereinafter.
4. That before giving parawise reply few facts which are necessary for adjudication of the issue are being placed as under:



(A) That Monitoring Committee in the Chairmanship of Hon'ble Justice Arun Tondon in the meeting held on 08.08.2019 regarding compliance of the orders of this Hon'ble Tribunal in O.A. No. 200 of 2014 has directed as follows:

"It was directed that progress of removal of chromium from dump site at Rania be reported in the next meeting. The Committee directed CPCB to issue notice for levy of Environmental compensation to the industries which have caused and are causing damage to the environment."

(B) That the report submitted by the said Monitoring Committee was registered as O.A. Nos. 985 and 986 of 2019 before this Hon'ble Tribunal which came up for consideration on 27.09.2019 and detailed directions have been issued by this Hon'ble Tribunal. True copy of the order dated 27.09.2019 is being enclosed herewith and marked as **Annexure-1** to this reply.

(C) That in pursuance of the said order the U.P. Pollution Control Board after examining the entire matter has issued a showcause notice dated 24.10.2019 to the said industry to showcause within 15 days as to why the compensation of Rs. 46,67,80,837.50 be not imposed against it for illegal dumping of chromium waste in village Khan Chandpur, Rania, Kanpur Dehat. True copy of showcause notice dated 24.10.2019 is being enclosed herewith and marked as **Annexure-2** to this reply.

(D) That inspite of expiry of time no reply was submitted by the said industry. Hence, on 19.11.2019 the said environmental compensation of Rs. 46,67,80,837.50 was imposed while directing the industry to deposit the said



amount of compensation within 15 days, otherwise the same will be recovered as arrears of land revenue.

(E) That as the industry failed to deposit the said amount, hence a recovery certificate dated 18.12.2019 has been issued against it. True copy of recovery certificate dated 18.12.2019 is being enclosed herewith and marked as **Annexure-3** to this reply.

(F) That thereafter when the recovery proceedings were started the industry has approached this Hon'ble Tribunal by way of Original Application No. 21 of 2020 wherein it was contended that without giving any opportunity of hearing Environmental Compensation has been imposed against them. The said fact was not correct. However, the said application came up for hearing on 28.01.2020 when this Hon'ble Tribunal believing the statement made on behalf of the Industry has directed that the order imposing Environmental Compensation will be treated as a proposal and the Board after giving two weeks' time to the industry will hear them and then only pass the order. True copy of the said order dated 28.01.2020 is being enclosed herewith and marked as **Annexure-4** to this reply.

(G) That as wrong statement was made in the Original Application, hence the replying Respondent filed Review Application No. 14 of 2020 before this Hon'ble Tribunal.

(H) That the Review Petition could not be heard, hence the replying Respondent in compliance of order dated 28.01.2020 again heard the Appellant and passed the order dated 28.05.2020 which is impugned in the present Appeal.

(I) That thereafter Review Petition came up for hearing on 31.07.2020 when the same has been disposed of as



infructuous as the Board has already complied with the order dated 28.01.2020.

PARAWISE REPLY

1-3. That the contents of Paras 1 to 3 need no reply.

4. REPLY TO FACTS IN BRIEF.

4(i) That the contents of Para 4(i) need no reply.

4(ii) That in reply to the contents of Para 4(ii) it is submitted that consent to establish was granted to Appellant vide order dated 05.09.1994 wherein it was specifically mentioned that Appellant will not start operation without obtaining the consent under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. It will comply with the norms prescribed under Air and Water Act. It has to ensure to obtain authorization under Hazardous Waste (Management and Handling) Rule, 1989 and to comply with those Rules. It has to ensure the compliance of the provisions of Public Responsibility Insurance Act, 1991 and to prepare and get approved Disaster Management Plan from Director of Industries.

4(iii) That in reply to the contents of Para 4(iii) it is submitted that the Appellant did not obtain consent to operate under Air and Water Act nor obtained authorization under Hazardous Waste (Management and Handling) Rules, 1989. Several notices have been issued to the Appellant for compliance of the conditions of NOC and environmental law including proper disposal of hazardous waste. Besides this, Appellant was also informed to comply with the environmental norms to obtain consent and authorization under Hazardous Waste (Management and Handling) Rules, 1989 and to obtain authorization but in vain.



4(iv)&4(v) That the contents of Paras 4(iv) and 4(v) are wrong hence denied. It is submitted that it is the obligation of the industry to treat and dispose of the hazardous waste. Common Treatment Plant and Secure landfill can be developed by the industries and for this purpose the Appellant with other units has formed a society titled as "Kanpur Pradooshan Niyantran Samiti" to which lease was granted by the Board of his land for five years. However, no plant was commissioned or completed which is admitted by Appellant in Para 4(v) Pages 21 and 22 of the Appeal as no environmental clearance was granted.

4(vi). That the contents of Para 4(vi) are wrong hence denied. There is nothing on the record that the then Member Secretary of the replying Respondent ever assured the Appellant that entire chrome waste will be lifted by Bharat Oil and Waste Management (Common Hazardous Waste Treatment and Disposal Facility).

4(vii). That in reply to the contents of Para 4(vii) it is submitted that the industry of the Appellant was closed w.e.f. 25.11.2005 due to non-compliance of Hazardous Waste (Management and Handling) Rules, 1989 and premises was sealed.

4(viii)&4(ix) That the contents of Paras 4(viii) and 4(ix) are matter of record and nothing contrary to record is admitted.

4(x) That the contents of Para 4(x) are not correct. As stated herein above the report submitted by the monitoring committee presided over by Justice Arun Tondon submitted his report which are registered as O.A. No. 985-986 of 2019.

4(xi) That the contents of Para 4(xi) are matter of record. However, it is submitted that the chromium waste dump is because of Appellant



and other basic chromium manufacturing units. Hence, showcause notice was issued by the replying Respondent as to why environmental compensation be not imposed on the Appellant for degradation of the environment caused by it.

4(xii) That the contents of Para 4(xii) are irrelevant for the purpose of present case. It is submitted that showcause notice itself was clear that the Appellant had to submit their explanation as to why environmental compensation be not imposed on it.

4(xiii) That the contents of Para 4(xiii) are wrong hence denied. It is submitted that as no reply to the showcause notice was received the replying Respondent has imposed the Environmental Compensation of Rs. 46,67,80,837.50.

4(xiv). That the contents of Para 4 (xiv) are matter of record, however, nothing contrary to record is admitted.

4(xv). That in reply to the contents of Para 4(xv) it is submitted that as per the list submitted by Appellant there are only 23 units mentioned in Annexure A-14, out of which 7 industries are shown in Kanpur Dehat, however, industry at Serial No. 19 K.U. Chemicals, Fatehpur Roshnai, Rania, Kanpur Dehat is neither in existence nor the replying Respondent has any record in respect of the said industry. Since the chromium dump has been found in Kanpur Dehat and only 6 units were operating in that area, hence action has been taken against the 6. It is submitted that 8 industries are shown in Kanpur, 7 in Unnao and 1 in Prayagraj. Out of 8 industries shown in Kanpur only 3 were basic chromium sulphate producing industries and were having proper hazardous waste disposal facilities and the rest 5 were not producing basic chromium sulphate as per the record. Out of 7 industries in Unnao only 3 are producing basic chromium sulphate and have proper hazardous waste disposal



facilities. Rest 4 industries are not in existence as per the record. There is no proof of disposal of any waste by these units to Khandchandpur, Rania Kanpur Dehat. These units are 50 kilometers away from the concerned site. One unit shown in Prayagraj is 50 kilometers away and having proper waste disposal facility.

4(xvi). That in reply to the contents of Para 4(xvi) it is submitted that as no reply was filed to the showcause notice and the imposing of environmental compensation was done, further action was issued for recovery of the same.

4(xvii). That in reply to the contents of Para 4(xvii) it is submitted that the Appellant did not inform to this Hon'ble Tribunal that it has not submitted any reply to the showcause notice.

4(xviii)&4(xix). That contents of Para 4(xviii)&4(xix) are matter of record and nothing contrary to record is admitted.

4(xx). That in reply to the contents of Para 4(xx) it is submitted that after considering the reply submitted by Appellant order dated 28.05.2020 was passed by imposing environmental compensation.

4(xxi). That the contents of Para 4(xxi) need no reply.



It is submitted that the compensation for degradation of environment was imposed considering the production capacity of Appellant which was approximately 16.67% of entire waste liability of Rs. 280.01 Crores.

5. That the grounds of challenge are argumentative in nature and will be replied at the time of hearing.

6-7. That the contents of Paras 6 and 7 need no reply.

8. That the contents of Para 8 are wrong hence denied. The Appellant is not entitled for any relief.

In view aforesaid facts and circumstances the Appeal under reply is liable to be rejected with costs.


DEPONENT

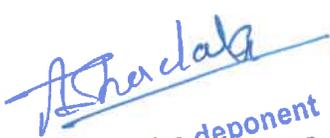
VERIFICATION:

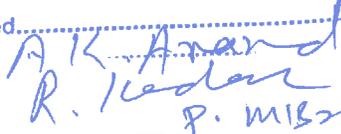
I, the abovenamed deponent do hereby verify that the contents of above affidavit are true to my knowledge derived from official record. No part of the same is false and nothing material has been concealed therefrom.

VERIFIED ON THIS THE 18th DAY OF NOVEMBER, 2020 AT NEW DELHI.


DEPONENT




I identified the deponent
has sig. in my presence

Verified..... Deponent
Shri 
R. Kedar Singh
P. Misra
18/11/2020
Notary Delhi

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

Original Application No. 985/2019
WITH
Original Application No. 986/2019

In Re : Water Pollution by Tanneries at Jajmau, Kanpur,
Uttar Pradesh

WITH

In Re : Water Pollution at Rania, Kanpur Dehat & Rakhi Mandi,
Kanpur Nagar, Uttar Pradesh

Date of hearing: 27.09.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Ms. Katyani, Advocate, Amicus

For Respondent(s): Mr. Rajkumar, Advocate for CPCB

ORDER

1. The matter has been taken up on receipt of two reports dated 25.09.2019 and 26.09.2019 from Justice Arun Tandon, former Judge of the Allahabad High Court, who has been appointed as a head of a Committee to oversee the compliance of the order of this Tribunal for control of pollution in River Ganga vide order dated 06.08.2018 in O.A No. 200/2014, *M.C Mehta v. Union of India*.
2. The order of this Tribunal dealt with the matter on transfer by the Hon'ble Supreme Court of proceedings pending before it in W.P.


TRUE COPY

(Civil) No. 3727/1985 on the subject of control of pollution of River Ganga. The Tribunal dealt with the matter vide two orders 10.12.2015 and 13.07.2017 with respect to different segments. Execution of the said orders is pending. The last order on the subject was passed on 22.08.2019, dealing with prevention of discharge of untreated industrial waste and sewage in Ganga and its tributaries, installation, maintenance and upgradation of STPs, CETPs and ETPs, control of dumping of waste, regulating the flood plains, maintaining e-flow and taking other steps. An extract from the order to the extent relevant for dealing with the present issue is as follows:

*16. As already observed by this Tribunal including in the order dated 14.05.2019 that River Ganga being National River with distinct significance for the country, **even a drop of pollution therein is a matter of concern. All the authorities have to be stringent and depict zero tolerance to the pollution of River Ganga. Wherever STPs are not operating, immediate bioremediation and/or phytoremediation may be undertaken if feasible.** To avoid procedural delay of tender processes, etc. specifications and norms for undertaking such activities may be specified in consultation with the CPCB, as was earlier directed in our order dated 29.11.2018. Performance guarantees may be required to be furnished for ensuring timely performance. It needs to be ensured that setting up of STPs and sewerage network to be completed and carried out so as to avoid any idle capacities being created. Performance guarantees may be taken for preventing such defaults.*

17. Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.

18. With regard to works under construction, after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply. Further with regard to the sectors where STP and sewerage network works have not yet started, the State has to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.

23. It was stated that though the tanneries were closed for violating the norms of discharge, the dues have not been collected from the members of the CETPs and the industries are clandestinely operating as shown from the data of water samples which contained high Chromium.

24. **Chromium dump has been stored since 1976 which is required to be shifted to TSDF. The State of Uttar Pradesh may undertake health survey of the area and ensure shifting of the Chromium dumps within three months failing which it would be liable to pay environmental compensation of Rs. 10 lakhs per month to CPCB besides furnishing performance guarantee of Rs. 1 Crore to CPCB.**

25. **Let the remedial measures be taken by the SPCB for effective monitoring by installing CCTV cameras or undertaking surveillance in any other manner with the help of local police."**

3. Though the matter relating to all aspects of pollution of River Ganga is being separately dealt with as above, present reports highlight an emergent issue threatening the life and health of citizens in a particular area requiring intervention by this Tribunal. We thus proceed to deal with the said reports. Ms. Katyani, Advocate present in court is appointed as Amicus to assist in the matter. Mr. Rajkumar, Advocate for the CPCB present before the Tribunal enters appearance.
4. We first take up the report filed in O.A No. 986/2019 relating to Kanpur Nagar, Uttar Pradesh around the area of Chromium dump at Rania, Kanpur Dehat and Rakhi Mandi, Kanpur Nagar Water Pollution at Rania, Kanpur Dehat and Rakhi Mandi, Kanpur. As already noted, the said dump of hazardous Waste has been in existence since 1976 and inspite of repeated orders, the authorities have failed to ensure its shifting. This gross failure of responsibility by the State of U.P. has resulted in situation depicted in the report which we will presently refer.
5. Justice Arun Tandon along with the representatives of the NMCG, CPCB, UPPCB, UP Jal Nigam and the local residents of the area

visited the sites and noticed the status of the Rania and Rakhi Mandi, Kanpur as follows:

"Status at Rania

The Committee found that huge dump of chromium was stacked about 500 meter away on the right side of the Kanpur-Jhansi Highway in village Khan chandpur falling in district Kanpur Dehat. Photographs of the dump were taken and are enclosed along with the report. The Committee was informed that the land over which the chromium dump is lying is either private land or the land belonging to Gram Sabha. The rain water collected near the dump was green in colour.

The Committee was informed by the residents of the area that the water which comes out from hand pump/bore well was coloured. It was unfit for drinking. The Committee accordingly collected samples from various places within the radius of around 150 meter both towards the highway from the dump as well as from the opposite direction. At all places the Committee found that colour of the water, sample thereof has been taken was greenish. Even the water from the bore well situate within a factory and was more than 150 meter deep had the same colour.

The Committee was taken across the highway by the local residents and the Committee could notice that the water from the hand pumps which was being used by the inhabitants of the locality was green in colour. Photographs of the same have been taken, samples have been drawn for analysis. Water from the hand pump at roadside dhaba was also provided to the Committee which was more green in colour. The sample of the water so provided along with analysis report of the same as carried out by CPCB is filed before the Hon'ble National Green Tribunal for its perusal.

The residents of the area informed that there was no source of fresh water except the underground water. It was stated that earlier a tube well was constructed on the left side of the highway but had to be closed as the underground water received from the tube well was green in colour.

The total population of village Khanchandpur is reported to be around 1500. The Committee also specifically noted that the surface area of the land of village Khanchandpur on both sides of the highway was more or less similar to the surface area of the dump of the chromium. The underground water which is used and

which lies collected in small puddles is used for drinking by animals.

Those who have resources purchase drinking water in 20/50 litre cans everyday. The residents of the area made serious complaints. They stated that the drinking water or underground in the village was contaminated due to leachet from the chromium dump. An old man specifically showed the physical infirmity in his leg to the Committee. He has been photographed. Copy whereof is filed along with the report.

The presence of chromium in the underground water in village Khanchandpur many times the permissible limit is established from the analysis report of CPCB of the samples drawn. **Use of such quality of water by human being and animals is dangerous not only to the existing residents but also for the future generations to come. Remedial steps are required to be taken to ensure safe drinking water for the residents of the area as well as for animals.**

The Committee was provided a copy of the letter of the State Government dated 02.08.2019 requiring the compliance of the order of the Hon. National Green Tribunal dated 13.07.2017 addressed to the Chief Executing Officer, U.P.S.I.D.A. with reference to DPR which was for removal of chromium dump at Rania. Copy of the said letter is enclosed along with this report.

On behalf of the U.P.S.I.D.A. vide letter dated 20.08.2019 serious objections with regard to the implementation of the proposed temporary measures/remedial measures in respect of the chromium dump at Raniaas suggested in the DPR of M/s ERM India Pvt. Ltd., were raised. The Committee was also shown a copy of the temporary remedial measure as suggested by M/s ERM India Pvt. Ltd., referred to as addendum to DPR letter dated 20.08.2019 along with addendum are enclosed along with the report.

It is surprising that in the temporary measures so suggested there is no mention of the measures to be taken for improving the quality of the underground water and/or the measures required to be taken for ensuring safe drinking water for human beings and animals of the concerned village as well as of the surrounding area of the village concerned.

In the opinion of the Committee the situation at Raniaais alarming and needs immediate intervention of Hon. National Green Tribunal.

Status at Rakhi Mandia.

Rakhi Mandi, Kanpur Nagar the Committee found that the water received from a bore well more than 150 feet deep, constructed inside a petrol pump was green in colour. The Committee was informed that the water received from hand pumps which were earlier used in the area was not portable and was green in colour. All such hand pumps have been closed.

Samples of the underground water have been drawn. Analysis report is awaited. **The Committee has no hesitation to record that the water at Rakhi Mandia, Kanpur Nagar is also completely unfit for drinking purposes for human being and animals."**

6. The following measures have been suggested:

- (a) All hand pumps along with tubewells/borewells installed in the area be sealed and there should be complete prohibition on extraction of underground water for drinking purposes both at village Khanchandpur, Kanpur Dehat and Rakhi Mandi, Kanpur Dehat.
- (b) State Government through its Chief Secretary must be directed to ensure supply of drinking water through tankers on day to day basis to the residents of the village Khanchandpur and also to surrounding areas till measures as below are not taken.
- (c) Drinking water Sintex tanks be installed in appropriate number at appropriate places in village Khanchandpur for providing potable water within a period of 15 days for the use of the residents of the area. These tanks must be connected to a supply pipe line from a source of potable water within another 7 days and till then the tanks be filled everyday with drinking water through tankers.
- (d) The materials which had been purchased for the purpose of Maha Kumbh Mela at Allahabad can be safely used for the above.
- (e) Under the Addendum of DPR has to be made available for the purpose transshipment of the dump of the chromium by the State Government."

7. A bottle of water of sample collected on 17/18.09.2019 from Khan Chandpur handpump duly signed by Justice Arun Tandon has also been received which is handed over to Sh. Rajkumar, Advocate for the CPCB. The CPCB may have the same analyzed and furnish its report to this Tribunal with all relevant details before the next date.
8. The above report is self-speaking and paints a grim picture of failure of the authorities in taking remedial measures, forcing the inhabitants to drink polluted water which is a serious hazard to the health. Needless to say that access to potable drinking water is a guaranteed fundamental right and inalienable duty of the State. The State has clearly failed in doing so in the present case. As suggested in the report, it is necessary to require remedial measures to be taken especially with regard to supply of drinking water to the affected inhabitants in the area.
9. The second report relates to Water Pollution by Tanneries at Jajmau, Kanpur. Apart from the fact that incorrect information was given to the Committee appointed by the Tribunal as mentioned in the report, the report shows that vide order dated 08.08.2019, Shri Manoj Kumar Singh, Principal Secretary, Urban Development, UP allowed the Jal Nigam, Kanpur to discharge effluents into River Ganga, pending cleaning of the trunk sewer. Such discharge is still continuing. 43 MLD STP was non-functional and may require one year to be functional. Industrial effluent to the extent of 10-12 MLD received in CETP was being pumped into irrigation canal untreated.
10. Any discharge of pollutants into a water body is prohibited under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and is punishable by imprisonment. We are surprised that the

Principal Secretary of the State has permitted such violation of law. The Uttar Pradesh State PCB was bound to initiate action for prosecuting such officer and all those discharging pollutants in River Ganga and failure to do appears to be against the mandate of law.

11. The report refers to two charts furnished by the NMCG handed over to the Committee which are contradictory as follows:

Name of Drain	Status with reference to chart dt. 30.08.19 (A)		Status with reference to chart dt. 18.08.19 (B)		
	Tapped	Completed	Partially tapped	Quantity (MLD)	Remarks
1. Ranighat 1.89 MLD	Tapped	Completed	Partially tapped	1.89 MLD	To be completed by Aug 2020
2. Sheetla Bazar 5.75 MLD	-do-	-do-	Partially tapped	4.25 MLD	-do-
3. Dhudhia Ghat 2.34 MLD	-do-	-do-	-do-	5.66 MLD	-do-
4. Wazidpur 7.66 MLD	-do-	-do-	-do-	20 MLD	
5. Ganda Nala 55 MLD	-do-	-do-	-do-		
6. Hatwa Khand 11.44 MLD	-do-	-do-	-do-	5.44 MLD	

12. The report mentions that while on 17.07.2019, information was given that STPs and CETP at Jajmau and Kanpur were not functional, on 02.09.2019, it was stated that the same were functional. We also note that from the minutes of meeting held on 02.09.2019 in the conference room of the NMCG under the Chairmanship of Justice Arun Tandon:

“Non-compliance to Faecal Coliform standards is unacceptable and Committee advised NMCG and UP Jal Nigam to take immediate steps to achieve the compliance.”

It becomes necessary for this Tribunal to intervene for remedial action.

13. Accordingly, we direct:

- i. The Chief Secretary, UP, may forthwith ensure steps for supply of drinking water to the residents in the affected area, apart from taking other remedial measures in the light of report of Justice Tandon in respect of Rania, Kanpur Dehat and Rakhi Mandi, Kanpur Nagar, around the area of Chromium dump and earlier orders of this Tribunal.
- ii. The Chief Secretary, UP, may ensure that untreated sewage is not discharged in River Ganga and pending a permanent solution, at least temporary arrangement by way of phyto-remediation, bio-remediation or any other technology is done to disinfect/treat water before the same is discharged into the River Ganga.
- iii. The Chief Secretary, UP, may initiate necessary action against the Principal Secretary, Urban Development, UP , UP Jal Nigam, State PCB for their illegal action in permitting discharge of untreated sewage and effluents directly into River Ganga.
- iv. A compliance report may be filed in the matter within one month by email at judicial-ngt@gov.in.
- v. The CPCB may furnish its report to this Tribunal with all relevant details before the next date.

A copy of this order by sent to the Chief Secretary an Uttar Pradesh and the CPCB by email.

List for further consideration on 04.11.2019.

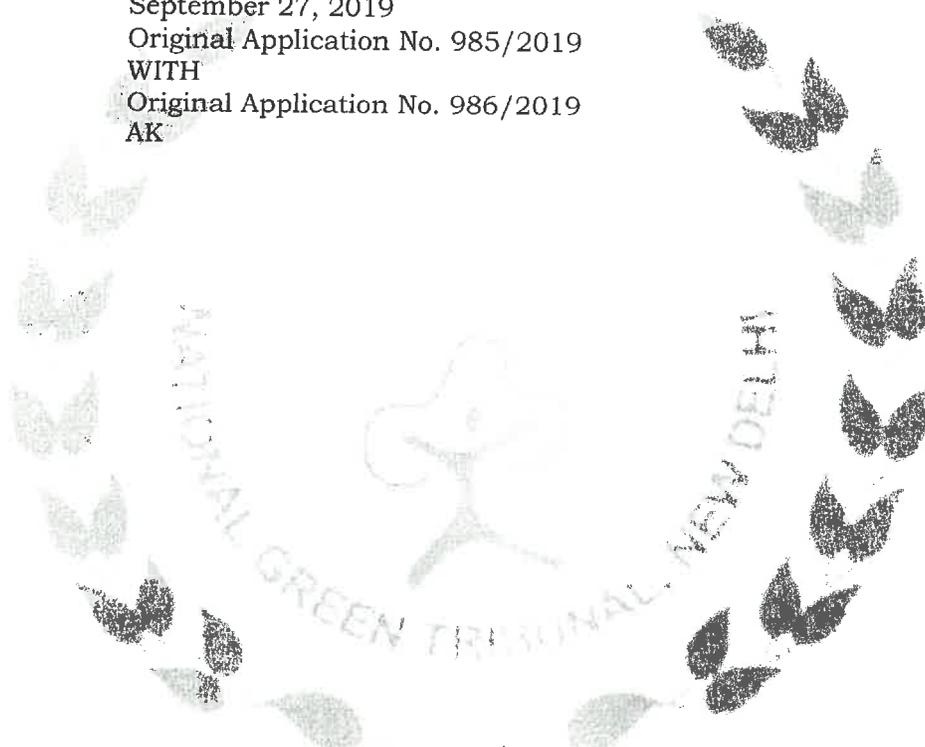
Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 27, 2019
Original Application No. 985/2019
WITH
Original Application No. 986/2019
AK




TRUE COPY

ANNEXURE-2

UTTAR PRADESH POLLUTION CONTROL BOARD, 844,
FATEHPUR ROSHNAI, RANIYA, KANPUR DEHAT

Registered

Dated 24.10.19

Reference No. 1517/R-130/2019

To,

1. M/s Waris Chemicals Pvt. Ltd., Khanchandrapur Raniya,
Kanpur Dehat through Shri Anil Shukla Warsi (Directr),
H-2, Kidwai Nagar, in front of Sanjayvan, Kanpur Nagar.

2. M/s. Waris Chemicals Pvt. Ltd., Khanchandrapur Raniya,
Kanpur Dehat through Smt. Pratima Shukla (Director),
H-2, Kidwai Nagar, in front of Sanjayvan, Kanpur Dehat.

Sub: Regarding imposition of Environmental Compensation
against M/s. Waris Chemicals Pvt. Ltd.,
Khanchandrapur Raniya, Kanpur Dehat due to pollution
in ground water as a result of storage of chromium
waste illegally in Village Khanchandrapur, Raniya,
Kanpur Dehat.

Sir,

The relevant portion of order dated 07.08.2019 passed by
Hon'ble N.G.T. in pending O.A. No. 200/2014; M.C. Mehta Vs. Union
of India & Ors. is as follows:

“..... viii) Other directions including displaying water quality
data in public domain and at prominent places, development
of bio-diversity parks, prohibition of river bed mining,
remediation of chromium dump sites in Uttar Pradesh,
collection of compensation from violators and involvement of
society including religious, charitable, social and educational
institutions for preventing and remedying pollution of River
Ganga.....”

TRUE COPY

Hon'ble Justice Shri Arun Tandon, Chairman of Monitoring Committee has given the following direction in the review meeting in the compliance of order dated 08.08.2019 in O.A. No. 200 of 2014:

"It was directed that progress of removal of chromium from dump site Rania be reported in the next meeting. The committee directed CPCB to issue notice for levy of Environmental Compensation to the industries which have caused and are causing damage to the environment."

In compliance of order dated 27.09.2019 passed by Hon'ble National Green Tribunal, New Delhi in O.A. No. 985/2019 and O.A. No. 986/2019, as per the direction given during the review meeting done on 17.10.2019 at Government level "the industries which have dumped their chromium waste illegally in Umran, Prasadhpur and Village Khanchandrapur, District Kanpur Dehat, recovery proceedings be done against them after imposing environmental compensation on the basis of Polluter Pays Principle."

Pursuant to the aforesaid direction, as per the comments received vide Letter No. 1515/R-130/2019 dated 22.10.2019 of Regional Office, Kanpur Dehat, the ground water of Village Khanchandrapur, Umran, Aryanagar of Fatehpur Roshnai, Rajendra Nagar Chauraha and Village Chiraura under Raniya, Kanpur Dehat have been polluted due to dump of Hexavalent Chromium illegally. M/s. Waris Chemicals Pvt. Ltd., Khanchandrapur Raniya, Kanpur Dehat, production capacity of which was 4 MTD has stored/dumped its Hexavalent Chromium containing hazardous waste generated during production in an unsafe manner. Your industry has a contribution of 16.67% in total hazardous waste of 62225 MT stored illegally.

In contravention of provisions of Hazardous and other waste (Management and Transboundary Movement) Rules, 2016, Central Pollution Control Board, Delhi has issued guidelines regarding

assessment of environmental compensation, provisions of the same are as follows:

$$\text{Environmental Compensation (EC)} = Q \times \text{ERF} \times R$$

Where

Q is noticed or observed quantity (in tone) of hazardous or other waste which have not been in compliance with various provisions of the Acts/Rules/Guidelines/conditions of authorization/directions issued by CPCB/SPCB/PCC/MoEF&CC (barring procedural violations have not caused environmental damage)

ERF = Environmental Risk Factor which is a number (as given in Table 1 below) denoting the increasing degree of risk to environmental and human health due to the scenarios as given in the table:

S. No.	Violation	ERF	
		For Hazardous Waste	For Other Waste*
1.	When hazardous and other wastes is disposed at unauthorized place or handed over or sold to unauthorized party.	1.5	0.3
2.	When treatment has not been imparted, as required, but only partial treatment has been given (TSD/Actual user)	1.0	0.2
3.	When product (derived from hazardous or other waste) is not confirming to prescribed specification or is specified for restricted use but sold in open market against (in case of actual user).	1.0	0.2
4.	Wastes found stored beyond the stipulated period (refer Rule 8 of the HOWM Rules, 2008)	0.1	0.05

R = Environmental Compensation factor, which may be taken as Rs. 30,000/-.

On the basis of calculation done as per the above, environmental compensation of Rs. 46,67,80,837.50 has been assessed against your unit.

Therefore, in the above perspective, you are being directed to ensure to send your reply to Regional Office and Board Headquarter, Lucknow, clarifying the position regarding the aforesaid within 15 days. Kindly note that in case of non receipt of reply within 15 days prescribed in the aforesaid notice or the reply is not found satisfactory, environmental compensation of Rs. 46,67,80,837.50 assessed on the unit and the responsible persons of the unit will be imposed, keeping in view the dump of the waste generated during operation of the industry on the basis of Polluter Pays Principle. Its entire responsibility will be of the responsible industry its responsible persons.

Issued after approval at competent level

Regional Officer

Copy to the following for information and necessary action:

1. Member Secretary, U.P. Pollution Control Board, Lucknow.
2. District Magistrate, Kanpur Dehat.
3. Chief Environmental Officer (Circle-2), U.P. Pollution Control Board, Lucknow.

Sd/-

Regional Officer



//ENGLISH TRANSLATION//



उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड

811, 7th Floor, Connaught Place, New Delhi-110008

उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड

दिनांक 14-10-19

संख्या: 17/2-20/2019

1. मैसर्स वारिस केमिकल्स प्रा० लि०, खानवन्दपुर रनिया, कानपुर देहात, द्वारा श्री अनिल शुक्ला वारिस (निदेशक), एच-2, किदवाह नगर, सजयवन के सामने, कानपुर नगर ।
2. मैसर्स वारिस केमिकल्स प्रा० लि०, खानवन्दपुर रनिया, कानपुर देहात, द्वारा श्रीमती प्रतीका शुक्ला, (निदेशक), एच-2, किदवाह नगर, सजयवन के सामने, कानपुर नगर ।

विषय- ग्राम खानवन्दपुर, रनियाँ, कानपुर देहात में अवैध रूप से मण्डारित कोमियम वेस्ट से प्रदूषित होने के कारण मैसर्स वारिस केमिकल्स प्रा० लि०, खानवन्दपुर रनियाँ, कानपुर देहात के विरुद्ध पर्यावरण क्षतिपूर्ति अधिसूचित किये जाने के सम्बन्ध में।

सन्दर्भ- कम्पनी मा० एन०सी०टी० में विद्यमान अधिनियम 200/2014, संख्या 17/2-20/2019 दिनांक 14-10-19 के दिशानिर्देशों के अन्तर्गत आदेश दिनांक 07/08/2019 के समुच्चय के निम्नलिखित हैं-

viii) Other directions including displaying water quality data in public domain and at prominent places, development of bio-diversity parks, prohibition of river bed mining, remediation of chromium dumpsites in Uttar Pradesh, collection of compensation from violators and involvement of society including religious, charitable, social and educational institutions for preventing and remedying pollution of River Ganga.....

मा० न्यायमूर्ति श्री अरुण दण्डन अलका मॉनोटोरिंग कमेटी द्वारा दिनांक 08/02/19 के संख्या सं 260/2014 में जारी आदेश के अनुपालन की समीक्षा बैठक में निम्न निर्देश दिये गये हैं-

It was directed that progress of removal of chromium from dump site at Rania be reported in the next meeting. The committee directed CPCB to issue notice for levy of Environmental Compensation to the industries which have caused and are causing damage to the environment.

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा सं० सं०-345/2013 एवं सं० सं०-385/2013 दिनांक 27/09/2019 को जारी आदेश के अनुपालन में संलग्न रूप से प्रेषित दिनांक 17/10/2019 को संलग्न के दौरान दिये गये निर्देश के अनुसार, जिस उद्योगों द्वारा अज्ञान कोमियम वेस्ट उत्पन्न प्रसिद्धपुर एवं खानवन्दपुर, जनपद कानपुर देहात में अवैध रूप से डम्प किया गया है, के विरुद्ध Polluter Pays Principle के आधार पर पर्यावरणीय क्षतिपूर्ति अधिसूचित कर बसूती की कार्यवाही की जाये।

उक्त निर्देश के अनुक्रम में क्षेत्रीय कार्यालय, कानपुर देहात के पत्रांक-1515/आ-130/2019 दिनांक 22/10/2019 द्वारा प्राप्त आख्यानुसार रनियाँ, कानपुर देहात के अन्तर्गत ग्राम खानवन्दपुर, जनपद कानपुर देहात के आधुनिक, राजेन्द्र नगर चौसड़ा एवं ग्राम-विरौरा का मूकमय जल अवैध रूप से अन्य हेक्सावैलेंट कोमियम से प्रदूषित हुआ है। मैसर्स वारिस केमिकल्स प्रा० लि०, खानवन्दपुर रनियाँ, कानपुर देहात जिसकी स्थापना वर्ष 1984 एमटीडी थी, के द्वारा उत्पादन अवधि के दौरान उद्योग से जनित हेक्सावैलेंट कोमियम वेस्ट परिसर के अन्दर ही क्षतिपूर्ति हेतु से संग्रहीत/डम्प किया गया है। अवैध रूप से मण्डारित कुल परिसरकतम संख्या 32225 एमटी में आपके उद्योग का 16.67 प्रतिशत योगदान है।

केन्द्रीय प्रदूषण नियंत्रण बोर्ड दिल्ली द्वारा परिसरकतम एवं अन्य अपशिष्ट प्रदूषण से निवारण संश्लेषण नियम, 2016 के प्रावधानों का उल्लंघन किये जाने के परिणाम में पर्यावरणीय क्षतिपूर्ति अधिसूचित किये जाने के संबंध में गाइडलाइन जारी की गयी है, जिसमें निम्न प्रावधान हैं-

Environmental Compensation (EC) = Q x ERF x R.

Q is actual or observed quantity (in tonnes) of hazardous or other wastes which have not been in compliance with various provisions of the Acts/Rules/Guidelines/conditions of authorisation/directions issued by CPCB/SPCB/PCC/MoEF&CC (barring procedural violations which have not caused environmental damage)

ERF = Environmental Risk Factor which is a number (as given in Table 1 below) denoting the increasing degree of risk to the environmental and human health due to the scenarios as given in the table:-

S. No.	Violation	ERF	
		For Hazardous Waste	For Other Waste*
1-	When hazardous and other wastes is disposed at unauthorised place or handed over or sold to unauthorised party	1.5	0.3
2-	When treatment has not been imparted, as required, but only partial treatment has been given (TSDF/Actual user)	1.0	0.2
3-	When product (derived from hazardous or other waste) is not conforming to prescribed specification or is specified for restricted use but sold in open market against (in case of actual user)	1.0	0.2
4-	Wastes found stored beyond the stipulated period (refer Rule 8 of the HOWM Rules, 2008)	0.1	0.05

R = Environmental Compensation factor, which may be taken as Rs. 30,000.

सूक्त के अनुसार की गई गणना के आधार पर आपके उद्योग के विरुद्ध रुपये 46,67,80,837.50 की पर्यावरणीय क्षतिपूर्ति आकलित की गई है।

अतः उपरोक्त परिपत्र में आपको निर्देशित किया जाता है कि 15 दिन के अंदर उपरोक्त के संबंध में रिपॉर्टि सप्लाइ करके हुए अपना प्रतिउत्तर क्षेत्रीय कार्यालय एवं बोर्ड मुख्यालय, लखनऊ में प्रेषित किया जाना सुनिश्चित करें। कृपया नोट करें कि सूक्त नोटिस में प्रदत्त 15 दिन की समयवधि में प्रतिउत्तर न प्राप्त होने अथवा संतोषजनक प्रतिउत्तर न होने की स्थिति में Polluter Pays Principle के आधार पर इकाई द्वारा उद्योग के दौरान जनित वेस्ट को उक्त स्थल पर डसा किये जाने के वृष्टिगत इकाई पर एवं इकाई के उत्तरदायी व्यक्तियों पर आकलित की गई रुपये 46,67,80,837.50 की पर्यावरणीय क्षतिपूर्ति अधिराशित कर दी जायेगी, जिसका सम्पूर्ण उत्तरदायित्व उद्योग के उत्तरदायी व्यक्तियों का होगा।

सक्षम स्तर से अनुमोदनोपरांत निर्गमित।

क्षेत्रीय अधिकारी

प्रतिलिपि - निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु सादर प्रेषित।

1. सदस्य सचिव, ज०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।
2. जिलाधिकारी, कानपुर देहात।
3. मुख्य पर्यावरण अधिकारी (वृत्त-२), ज०प्र० प्रदूषण नियंत्रण बोर्ड, लखनऊ।

क्षेत्रीय अधिकारी

ANNEXURE-3



REGIONAL OFFICE
UTTAR PRADESH POLLUTION CONTROL BOARD
844, FATEHPUR ROSHNAL, RANIA
KANPUR DEHAT- 209101

To,
The District Magistrate,
Kanpur Dehat

U.P. No. - 1620/18-130/19

Date: - 18/12/19

Subject: Regarding the directions passed in OA No. 200/2014 (M.C. Mehta Vs UOI and Others) and OA No. 985/2019 (In Re: Water Pollution by Tanneries at Jajmau, Kanpur, Uttar Pradesh) with 986/201 (In Re: Water Pollution at Rania, Kanpur Dehat & Rakhi Mandi, Kanpur Nagar, Uttar Pradesh) by Hon'ble National Green Tribunal, New Delhi for Collecting/Recovering the Environment Compensation.

Sir,

Respectfully it is to inform you that vide its order dated 07.08.2019 (uploaded on 22.08.2019) the Hon'ble National Green Tribunal has passed the direction in OA No. 200/2014 (M.C. Mehta vs. Union of India). The relevant portion of the direction is as follows-“.....: Other directions are including displaying water quality data in public domain and at prominent places, development of bio-diversity parks, prohibition of river bed mining, remediation of chromium dump sites in Uttar Pradesh, collection of compensation from violators and involvement of society including religious, charitable, social and educational institutions for preventing and remedying pollution of River Ganga...”

Furthermore vide its order dated 15.11.2019 in OA No. 985/2019 (In Re: Water Pollution by Tanneries at Jajmau, Kanpur, Uttar Pradesh) with 986/2019 (In Re: Water Pollution at Rania, Kanpur Dehat & Rakhi Mandi, Kanpur Nagar, Uttar Pradesh) the Hon'ble National Green Tribunal has passed a direction for the “Collection of Environmental Compensation from the Basic Chrome Sulphate Industries who had dumped their Hazardous Waste at Village-Khanchandpur, Rania”.

CERTIFICATE OF RECOVERY

UNDER THE U.P. PUBLIC MONEY RECOVERY OF DUES (AMENDMENT) ACT 1972

The sum of Rs. 46,67,80,837.50 (Rupees Forty Six Crore Sixty Seven Lakh Eighty Thousand Eight Hundred Thirty Seven and Fifty Paise Only) is payable on account of Environment Compensation from M/S Waris Chemicals Pvt. Ltd. Khanchandpur, Rania, Kanpur Dehat.

You are hereby requested to recover the same and deposit it into the account of the U.P. Pollution Control Board Account No. 701502010002104 IFSC Code- UBIN0570150 Union Bank of India, Vibhuti Khand, Gomati Nagar, Lucknow credit to his bill amount.

P.T.O.


TRUE COPY

The cost of the proceedings if any is recovered in addition.

(1) Amount to be recovered Rs. 46,67,80,837.50

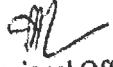
(2) Cost of the Proceedings Rs. 4,66,780,83.75

(3) Total Amount (1+2) Rs. 51,34,58,921.25

The amount recovered will be credited to the Account No. 701502010002104 IFSC Code- UBIN0570150 Union Bank of India, Vibhuti Khand, Gomati Nagar, Lucknow of the U.P. Pollution Control Board, Lucknow.

Issued the Recovery Certificate with the approval of the competent authority

Your's Sincerely


Regional Officer

CC:-

1- Member Secretary, U.P. Pollution Control Board; T.C-12 V, Vibhuti Khand, Gomati Nagar, Lucknow-226010.

2- Chief Environment Officer (Circle-2), U.P. Pollution Control Board, T.C-12 V, Vibhuti Khand, Gomati Nagar, Lucknow-226010.


Regional Officer


TRUE COPY

Scanned by CamScanner

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

Original Application No. 18/2020
(I.A. No. 45/2020)

WITH

Original Application No. 19/2020
(I.A. No. 46/2020)

WITH

Original Application No. 20/2020
(I.A. No. 47/2020)

WITH

Original Application No. 21/2020
(I.A. No. 48/2020)

WITH

Original Application No. 22/2020
(I.A. No. 49/2020)

Chandni Chemicals Pvt. Ltd.

Applicant(s)

Versus

Uttar Pradesh Pollution Control
Board & Anr.

Respondent(s)

With

Amelia Textiles and Chemicals Pvt. Ltd.

Applicant(s)

Versus

Uttar Pradesh Pollution Control Board & Anr.

Respondent(s)

With

Rukmini Chemicals Ltd.

Applicant(s)

Versus

Uttar Pradesh Pollution Control Board & Anr.

Respondent(s)

With

Waris Chemicals Pvt. Ltd.

Applicant(s)

Versus



TRUE COPY

Uttar Pradesh Pollution Control Board & Anr. Respondent(s)

With

Heilgers Chem Pvt Ltd. Applicant(s)

Versus

Uttar Pradesh Pollution Control Board & Anr. Respondent(s)

Date of hearing: 28.01.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

For Applicant(s): Mr. Santosh Krishan, Advocate

ORDER

Grievance in these applications is against orders of the Uttar Pradesh State PCB assessing compensation on 'Polluter Pays' principle for violation of law. Though these applications under Section 14 of the NGT Act, 2010 are not maintainable, we have treated the same to be appeal under Section 16 of the NGT Act, 2010.

According to the applicants, their units were not in operation at the relevant time and did not dump the hazardous waste for which they are held liable. This fact could not be pointed out as opportunity of hearing was not given.

Without expressing any opinion on merits, we direct that the impugned orders may be treated as a proposal with reference to which the applicants may furnish their response to the UP State PCB within two weeks. The UP State PCB may consider the objections of

the applicants and pass an appropriate order within four weeks thereafter dealing with the matter on merits, in accordance with law.

The applications are disposed of.

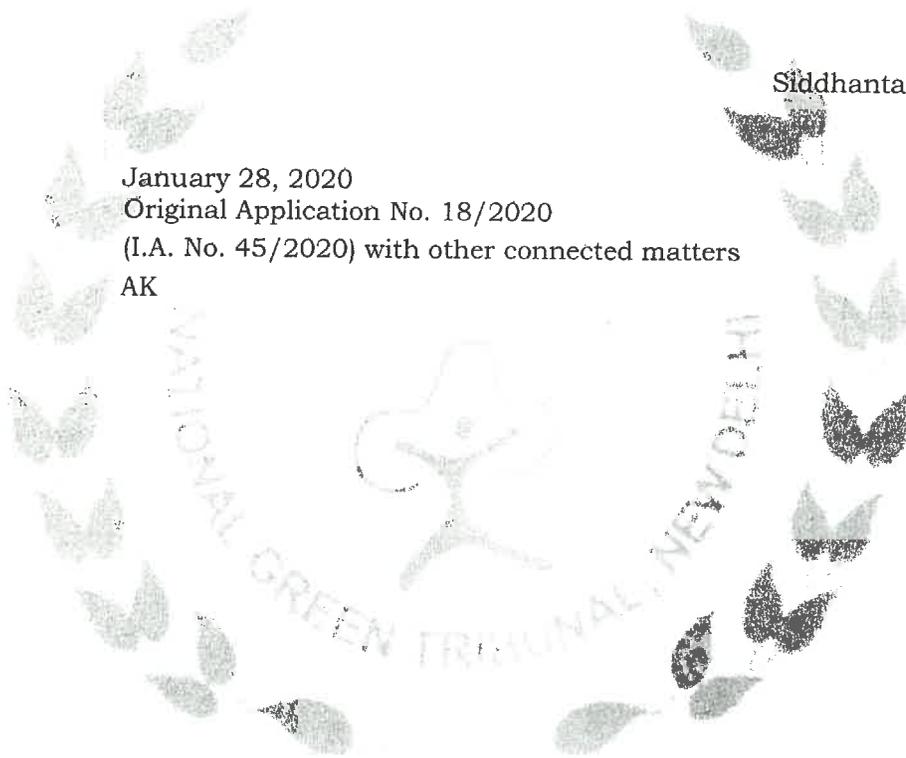
Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 28, 2020
Original Application No. 18/2020
(I.A. No. 45/2020) with other connected matters
AK




TRUE COPY

30

PRINCIPAL BENCH BEFORE THE NATIONAL GREEN
TRIBUNAL, NEW DELHI

APPEAL NO. 18 OF 2020

IN THE MATTER OF:
WARIS CHEMICALS PVT. LTD.**APPLICANT**

VERSUS

**UTTAR PRADESH POLLUTION
CONTROL BOARD** **RESPONDENTS**

PROOF OF SERVICE

Mr. Santosh Krishnan, Adv.	(by email)

12/2/2020

Yahoo Mail - Appeal No. 18 of 2020; Waris Chemicals Pvt. Ltd. Vs. U.P. Pollution Control Board.

Appeal No. 18 of 2020; Waris Chemicals Pvt. Ltd. Vs. U.P. Pollution Control Board.

From: Pradeep Misra (pradeepmisra@yahoo.com)

To: mail@skrishnan.in

Date: Wednesday, December 2, 2020, 01:15 PM GMT+5:30

Sir,

Please find attachment herewith Reply on behalf of U.P. Pollution Control Board in the matter of Appeal No. 18 of 2020; Waris Chemicals Pvt. Ltd. Vs. U.P. Pollution Control Board.

With Regards,

(PRADEEP MISRA)



Appeal No.18.pdf
1.9MB