

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
IN
Original Application No. 750/2024**

IN THE MATTER OF:

AJAY KUMAR SINGH

...APPLICANT

VERSUS

**STATE LEVEL ENVIRONMENT
IMPACT ASSESSMENT AUTHORITY,
UTTAR PRADESH
ORS.**

...RESPONDENTS

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Place: Delhi

(Filed by Adv. Atif Suhrawardy)

On behalf of Central Pollution Control Board

Dated: 16.11.2024

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**REPLY ON BEHALF OF RESPONDENT NO. 4, CENTRAL
POLLUTION CONTROL BOARD (CPCB)**

1. That the present reply is being filed by CPCB in compliance of order dated 06.08.2024 passed by this Hon'ble Tribunal in the present O.A. No. 750 of 2024.
2. That at the very outset, the answering Respondent deny all claims, contentions, allegations and averments against answering respondent CPCB in the above Original Application (OA) contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial or on the ground of non-traverse, save any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981, and The Environment (Protection) Act, 1986.

4. That under averments made in the Original Application No. 750 of 2024, the Applicant has alleged that the Environmental Clearance granted by State Environmental Impact Assessment Authority, Uttar Pradesh, and Consent to Establish granted by Uttar Pradesh Pollution Control Board, to Respondent No. 2 i.e. M/s AV Bio Medical Waste Services, Plot No. A-2/36, Sector 15, Gorakhpur Industrial Development Authority, Gorakhpur, Uttar Pradesh, is illegal and violating the rules of Uttar Pradesh Industrial Development Corporation (hereafter will be referred as UPSIDC) and allegedly is not as per Biomedical Waste Management Rules, 2016 (hereafter will be referred as BMW Rules, 2016) and CPCB guidelines.

PARA WISE REPLY

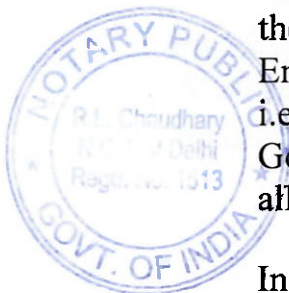
1. That the averments made in Paras 1 to 3 are regarding introduction of the Applicant and reasons for filing of present application. It is mentioned that the Environmental Clearance for establishment of Common Biomedical Waste Treatment Facility (hereafter will be referred as "CBWTF") and Consent to Establish granted to Respondent No. 2 i.e. M/s AV Bio Medical Waste Services, Plot No. A-2/36, Sector 15, Gorakhpur Industrial Development Authority, Gorakhpur, U.P. is illegal, violating the rules of UPSIDC and not as per BMW Rules, 2016 and CPCB guidelines. In this regard, it is humbly submitted that the submission made at Para (5) of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.
5. That no comments are offered over the averments made in Paras (A) (1) to (A)(8) of the OA being matter of records, wherein the applicant has brought out the requirement of Environmental Clearance for construction or expansion of new project/activities as per Environmental Impact Assessment notification, constitution of CPCB and guidelines for CBWTFs prepared by CPCB.
6. That under the averment made in Para (A) (9) to A (12), the applicant has alleged that the authorities failed to do their job while granting Environmental Clearance and Consent to Establish to Respondent No. 2 i.e. M/s AV Bio Medical Waste Services, Plot No. A-2/36, Sector 15, Gorakhpur Industrial Development Authority, Gorakhpur, U.P., for establishment of CBWTF and violated CPCB guidelines for CBWTFs and rules of UPSIDC. In this regard, it is humbly submitted that the submission made at Para (5) of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.



7. That, no comments are offered over the averments made in Para (A)(13) of the OA, being matter of records and for want of specific input over the alleged fact, as the applicant has casted doubt over the transparency of Gorakhpur Industrial Development Authority (hereafter will be referred as GIDA) due to the alleged fact that GIDA allowed Respondent No.2 i.e. M/s AV Bio Medical Waste Services, Gorakhpur, to establish the CBWTF in the industrial area whereas rejected the proposal for development of CBWTF of M/s Royal Pollution Control Services.
8. That the averments made in Para (A)(14) to (A)(18) pertains to CPCB's letter dated 07.03.2016 regarding modified classification of industries which was circulated to all SPCBs/PCCs and the acknowledgement of the same by UPPCB on 18.04.2016. It is also mentioned that CBWTF is categorised as red category industry as per the classification, however, UPPCB considered CBWTF as special red category and permitted establishment of CBWTF of Respondent No. 2 i.e. M/s AV Bio Medical Waste Services, Plot No. A-2/36, Sector 15, Gorakhpur Industrial Development Authority, Gorakhpur, U.P. in Industrial Area. In this regard, it is humbly submitted that the submission made at Para (13) of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.
9. That the averment made in Paras (A)(19), it is alleged by the applicant that the no new CBWTF is required in Ramnagar district and grant of Environmental Clearance and Consent to Establish to Respondent No. 2 i.e. M/s AV Bio Medical Waste Services, Plot No. A-2/36, Sector 15, Gorakhpur Industrial Development Authority, Gorakhpur, U.P., is allegedly based on inaccurate information.

In this regard, it is humbly submitted that the submission made at Para (15) of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.

11. That no comments are offered over the averment made in Para (A)(20) of the OA being matter of records, wherein the applicant has alleged of presenting various applications under Right to information Act, 2005 filed by the applicant to different officials. Moreover, it is also brought out that the applicant has not averred about any RTI application filed by him before the office of Answering Respondent herein under Right to information Act, 2005.
12. That under the averments made in Paras (A)(21) to (A) (24), the applicant has alleged that while granting Environmental Clearance and authorisation to proposed CBWTF, UPPCB and SEIAA, Uttar Pradesh, overlooked the



rules, 2016 and the same is allegedly in contravention of law. In this regard, it is humbly submitted that the submission made at Para (5) of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.

13. That in response to grounds Paras (A) to (S), the submissions made at Para 5, 10, 13 and 15 of the reply filed by the answering respondent herein in the matter of Original Application No. 623 of 2024 (by Respondent No. 7) may be referred.
14. That no comments are offered over the averments made under subsequent Paras related to limitation, interim relief and prayer by the Applicant.
15. That, in view of the submissions made above, it is humbly submitted that CPCB shall abide by all the directions/orders passed by Hon'ble Tribunal in the instant matter.



A handwritten signature in black ink, appearing to read "Vijay Prakash Yadav".

Vijay Prakash Yadav
Scientist 'F'
Central Pollution Control Board

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IN
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IN THE MATTER OF:

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VERSUS

**STATE LEVEL ENVIRONMENT
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ORS.**

...RESPONDENTS



AFFIDAVIT

I, Vijay Prakash Yadav working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, the Respondent No. 4, in the above matter (hereinafter referred to as "CPCB" or "Answering Respondent") do hereby solemnly affirm and declare on oath and state as under:-

1. That I, the deponent herein is the authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB, Respondent No. 4.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the records maintained during ordinary course of business of CPCB and available records and documents and the contents of the same

are read over and explained to me and are not repeated herein for the sake of brevity.




 विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 (Ministry of Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्व अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032
DEPONENT

VERIFICATION

Verified at Delhi on this day of 16 of November, 2024 that the contents of the above paragraphs are true and correct on the basis of the records of the case as mentioned in the day- to- day affairs of the CPCB. Nothing has been concealed therefrom or misstated.

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA
 16 NOV 2024


 विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
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 Parivesh Bhawan, East Arjun Nagar, Delhi-110032
DEPONENT

Item Nos. 04 to 06

Court No. 1

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

Original Application No. 623/2024
WITH
Original Application No. 749/2024
WITH
Original Application No. 750/2024

Ajay Kumar Singh

Applicant

Versus

State Level Environment Impact Assessment
Authority Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 06.08.2024

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

Applicant: Mr. Devashish Bharuka, Senior Advocate with Mr. Yash Mishra, Mr. Anuj Rathee, Mr. Anam Siddiqui & Ms. Swati Mishra, Advs.

ORDER

1. These original applications involve common issue.
2. Learned Counsel for the Applicant has referred to the revised guidelines for Common Biomedical Waste Treatment Facilities (CBWTF), Annexure A-7 and has referred to Clause 2 thereof relating to criteria for development of new Common Biomedical Waste Treatment and Diposal Facility for locality or region and has laid emphasis that no gap analysis has been conducted with reference to the coverage area of biomedical waste generation in the State of UP. He has submitted that in fact the requirement of sub-clause – (a) to (e) of Clause 2 have not been complied with in UP and also in respect of Project Proponents which provide as:

“2. Criteria for development of a new Common Bio-medical Waste Treatment and Disposal Facility for a locality or region.

- a) *Prescribed authority under the BMWM Rules, 2016 [i.e., State Pollution Control Board (SPCB) in the respective State or Pollution Control Committee (PCC) in the respective Union Territory Administration] is required to prepare an inventory or review with regard to the bio-medical waste generation at least once in five years in the coverage areas of the existing bio-medical waste treatment and disposal facility. The prescribed authority is also required to extrapolate the coverage-area wise bio-medical waste generation for the next ten years.*
- b) *SPCB/PCC is required to conduct gap analysis w.r.to coverage area of the bio-medical waste generation and also projected over a period of next ten years, adequacy of existing treatment capacity of the CBWTF in each coverage area of radius 75 KM, as given in **Annexure-I**.*

All the SPCBs and PCCs shall conduct the gap analysis and based on the gap analysis, action plan for development of new CBWTFs is required to be prepared and submitted to MoEF & CC & CPCB within six months' time. In case of States/UTs, where no CBWTF is available, in such a case, SPCB/PCC being prescribed authority under the BMWM Rules is required to submit the detailed proposal to MoEF & CC/MoH & FW through the respective State Government or UT Administration. Also, the option of forming association by the group of health care facilities (HCFs) to develop their own CBWTF also be encouraged following these guideline. In case, any coverage area requires additional treatment capacity , in such a case, action may be initiated by the prescribed authority for allowing a new CBWTF in that locality without interfering the coverage area of the existing CBWTF and beds covered by the existing CBWTF.

- c) *SPCB/PCC shall identify the coverage area, which require additional treatment facility and bring it to the notice of the concerned department in the business allocation of land assignment in the respective State Government or UT Administration. The department in the business allocation of land assignment shall be responsible for providing suitable site in the identified coverage area for setting up of a CBWTF, in consultation with the prescribed authority (i.e., SPCB/PCC), other stakeholders and in accordance with these guidelines issued by CPCB from time to time.*
- d) *Alternately, a CBWTF may also be allowed to be established on a land procured by an entrepreneur in accordance with the location criteria suggested under these guidelines.*
- e) *The SPCB/PCC or concerned department in the business allocation of land assignment in the respective State Government or UT Administration may seek expression of interest from the proponents for development of new CBWTF (s) in the identified coverage area. Upon allocation of site to the proponent, the proponent is required to take necessary approvals as required under the Environment (Protection) Act,*

1986 for development of the new CBWTF in accordance with these guidelines.

- f) In the absence of expression of interest by any proponent, then SPCB/PCC shall insist health care facilities to form association and to develop its own CBWTF in line with these guidelines or to have captive treatment facilities for ensuring treatment and disposal of generated bio-medical waste as stipulated under the BMWM Rules, 2016.*
- g) In case of any regulatory action including closure of any existing CBWTF is inevitable, the respective SPCB/PCC may take action under the BMWM Rules including for making alternate arrangement to ensure safe disposal of the bio-medical waste generated from the member health care facilities of such default CBWTF through CBWTF located nearby.*
- h) In case of hilly areas considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc., should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee.”*

3. He has further submitted that land has been allotted to the Respondents – Bio-medical Facilities in the industrial area just adjacent to the units such as flour mills, etc. which will have adverse health consequences. He has submitted that the requisite guidelines are required for separate allotment of land/setting up of these facilities.

4. In these original applications, the Applicant has also questioned the ECs which have been issued to the PPs on the ground that they have been issued in violation of the Guidelines Annexure-7. The plea of the Applicant is that the ECs are granted in the State of UP in complete violation of the norms in an arbitrary manner.

5. The OA's raise substantial issue relating to compliance of environmental norms.

6. Learned Senior Counsel for the Applicant has also submitted that such a situation is prevailing all over State of UP in respect of all the bio-medical facilities which have been set up after issuance of the revised guidelines within the industrial area.

7. Issue notice to the respondents. The Applicant is directed to serve the respondents and file affidavit of service atleast one week before the next date of hearing.

8. List on 18.11.2024.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

August 06, 2024
Original Application No. 623/2024
With Original Application No. 749/2024
With Original Application No. 750/2024
DV