

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

**Misc Application in Disposed of Cases No. 90/2023**

**In**

**Original Application No. 774/2022**

**WITH**

**Misc Application in Disposed of Cases No. 94/2023**

**In**

**Original Application No. 774/2022**

**IN THE MATTER OF:**

**Gaurav Garg**

**...Applicant**

**Versus**

**Union of India & Ors.**

**...Respondents**

**REPLY/RESPONSE ON BEHALF OF THE UTTAR PRADESH  
POLLUTION CONTROL BOARD, IN COMPLIANCE TO THE ORDER  
DATED 18.12.2024 PASSED BY THIS HON'BLE TRIBUNAL**

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*NDOH- 10-1-25*

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APPLICANT

THROUGH



COUNSEL

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Place

Dated: 6-1-25

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POLLUTION CONTROL BOARD, IN COMPLIANCE OF THE ORDER  
DATED 18.12.2024 PASSED BY THIS HON'BLE TRIBUNAL**

I, Bhuvan Prakash Yadav aged about 47 years S/o Sh. C.L. Yadav presently posted as Regional Officer at Uttar Pradesh Pollution Control Board Pocket-T, C-3/2, Pallav Puram, Phase-II, Modi Puram, Meerut, Uttar Pradesh 250110, presently at New Delhi, do hereby solemnly affirm and state as under:



1. That in the official capacity mentioned above I am fully acquainted with the facts of the case and I am competent and authorised to swear the present Affidavit.
2. That this Hon'ble National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "Hon'ble Tribunal") vide its order dated 18.12.2024 has directed the UPPCB to file its response regarding two significant questions:
  - I. Whether UPPCB can grant expansion of scope of activities of a CBWTF without Environmental Clearance (EC) from UPSEIAA?
  - II. Whether, in the case of closure of a CBWTF, alternative arrangements for the management of common bio-medical waste are to be made by UPPCB or by the concerned Project Proponent against whom the closure order is passed?
3. That in compliance of the order passed by this Hon'ble Tribunal and in response to question no. (I.) as mentioned in para 23 of the aforesaid order, it is noteworthy that the Ministry of Environment, Forest & Climate Change (MoEF & CC) notified an amendment to the EIA Notification 2006 and published it vide MoEF & CC Notification of S.O. 1142 (E) dated April 17, 2015 inter alia notifying that the 'bio-medical waste treatment facility' (CBWTF) is categorized under Item 7 (da) in the schedule, requiring Environmental Clearance (EC) from the State Environment Impact Assessment Authority (SEIAA). Therefore, the CBWTF operator



is required to obtain EC before any: (a.) New projects or activities pertaining to bio-medical waste treatment facilities. (b.) Expansion or modernization with additional treatment capacity of existing facilities (excluding augmentation of incineration facilities for compliance with residence time and emission norms without enhancing the existing treatment capacity). (c.) Expansion, modification, or relocation of existing CBWTFs, requiring compliance with relevant provisions notified under the Environment (Protection) Act, 1986. Copy of the EIA Notification, 2006 published vide MoEF & CC Notification 1142 dated April 17<sup>th</sup>, 2015 is Annexed herewith as **Annexure R-1**.

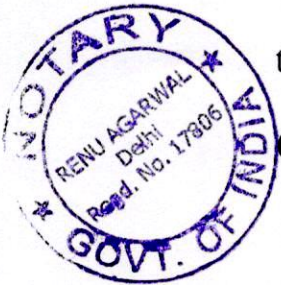
4. That as per official records, CBWTF, i.e., M/s Synergy Waste Management Pvt. Ltd., obtained authorization in 2001-2002 and Consent to Operate (CTO) from 2009 onwards from UPPCB.
5. That it is pertinent to mention that the grant of EC and Consents are requirements under different statutes and can be carried out as parallel processes. In this regard, MoEF & CC, vide its order dated 20.09.2021, issued directions to all SPCBs/UTPCCs under Section 5 of the Environment (Protection) Act, 1986, stating: (i.) Ascertain the applicability of EIA Notification at the time of grant/renewal of CTE and stipulate appropriate conditions for obtaining EC, if applicable, before construction/commencement of a project/activity. ii. Ensure that the project proponent possesses valid prior EC in terms of the extant EIA



Notification, if applicable, at the time of grant/renewal of CTO. No CTO shall be granted or renewed unless EC, if applicable, has been obtained.

Copy of the order dated 20.09.2021 is annexed herewith as **Annexure R 2.**

6. That as stated above, UPPCB can grant Consent to Establish (CTE) for the expansion of any project/activity in light of MoEF & CC's order stipulating the condition for obtaining EC, if applicable, before construction/commencement of project/activity. It is also submitted that the requirement for obtaining EC for CBWTFs came into force in 2015. Hence, there was no bar on granting the expansion of activities for CBWTFs prior to this. No expansion of activities has been granted by UPPCB after the Hon'ble Tribunal's order dated 03.02.2023 in the present matter.
7. That in reply to question no. (ii) as mentioned in para 23 of the said order, it is noteworthy that the Central Pollution Control Board (CPCB) issued Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities on 21.12.2016. These guidelines address: (a.) Criteria for developing new CBWTFs. (b.) Duties of the CBWTF operator. (c.) Applicability of guidelines, environmental laws, land requirements, coverage areas, treatment equipment, record-keeping, and cost structure.
8. That as per the Revised Guidelines, the duties of CBWTF operators include the preparation of an action plan for alternative arrangements in case of:
- (a.) Temporary breakdowns (not exceeding one week) for rectifications.



(b.) Closure due to violations of the BMW Rules or other reasons. Operators are mandated to submit MoUs with nearby CBWTFs or install standby treatment equipment of equivalent capacity.

9. That as per para 3(b)(a) of the Revised Guidelines, it is the duty of the CBWTF operator to ensure alternative arrangements for bio-medical waste management by arranging on its own through MoU with other nearby operator/s involving CBWTFs.
10. That, even otherwise, for granting the Consent to Establish (CTE) for any unit, obtaining an Environmental Clearance (EC) is not mandatory. However, it is required to secure the EC prior to the issuance of Consent to Operate (CTO) if the unit falls under the category where EC is mandatory. Furthermore, the Consent to Establish may be granted by the answering respondent without EC clearance, provided that the concerned unit obtains the EC on or before applying for the Consent to Operate. The concerned unit may also apply for EC concurrently.
11. That the Annexures annexed to the present response are true copies of their respective originals.
12. That the above response on behalf of the Uttar Pradesh Pollution Control Board is submitted before this Hon'ble Tribunal for kind perusal and consideration.



*B.P. Yadav*

DEPONENT

B.P. Singh  
(Adv.)

VERIFICATION:-

06 JAN 2025

I identified the deponent who has signed in my presence

2025, verified at New Delhi on this \_\_\_\_\_ Day of \_\_\_\_\_,

that the contents of my affidavit are true and correct to best of my knowledge.

No part of it is false and nothing material has been concealed therefrom.

*B.P. Yadav*

DEPONENT

ATTESTED  
NOTARY PUBLIC  
(INDIA)



06 JAN 2025



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, बृहस्पतिवार, अप्रैल 30, 2015/वैशाख 10, 1937

No. 887]

NEW DELHI, THURSDAY, APRIL 30, 2015 /VAISAKHA 10, 1937

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 17 अप्रैल, 2015

का.आ. 1142(अ).— केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और धारा 3 की उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोक हित में उक्त नियम के नियम 5 के उपनियम (3) के खंड (क) के अधीन सूचना की आवश्यकता से छूट के पश्चात्, भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितंबर, 2006 का निम्नलिखित और संशोधन करती है, अर्थात्:--

उक्त अधिसूचना की अनुसूची में मद 7(घ) और उससे संबंधित प्रविष्टियों के पश्चात् निम्नलिखित मद और प्रविष्टियां अंतःस्थापित की जाएगी, अर्थात्:--

(1)	(2)	(3)	(4)	(5)
"7(घ)(क)	जैव-चिकित्सा (बायो-मैडिकल) अपशिष्ट उपचार सुविधाएं		सभी परियोजनाएं	

[फा.सं.3-9/2014-आई.ए.।।।]

मनोज कुमार सिंह, संयुक्त सचिव

टिप्पण: मूल नियम भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में अधिसूचना सं.का.आ.1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और निम्नानुसार पश्चात्तवर्ती संशोधन किए गए:--

1. का.आ.1737(अ), तारीख 11 अक्टूबर, 2007;
2. का.आ.3067(अ), तारीख 1 दिसंबर, 2009;
3. का.आ.695(अ), तारीख 4 अप्रैल, 2011;
4. का.आ.2893(अ), तारीख 13 दिसंबर, 2012;

5. का.आ.674(अ), तारीख 13 मार्च, 2013;
6. का.आ.2559(अ), तारीख 22 अगस्त, 2013;
7. का.आ.2731(अ), तारीख 9 सितंबर, 2013;
8. का.आ.562(अ), तारीख 26 फरवरी, 2014
9. का.आ.637(अ), तारीख 28 फरवरी, 2014;
10. का.आ.1599(अ), तारीख 25 जून, 2014;
11. का.आ.2601(अ), तारीख 7 अक्टूबर, 2014;
12. का.आ.3252(अ), तारीख 22 दिसंबर, 2014;
13. का.आ.382(अ), तारीख 3 फरवरी, 2015;
14. का.आ.811(अ), तारीख 23 मार्च, 2015; और
15. का.आ.996(अ), तारीख 10 अप्रैल, 2015।

**MINISTRY OF ENVIRONMENT AND FORESTS  
NOTIFICATION**

New Delhi, the 17th April, 2015

**S.O.1142(E).**— In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986(29 of 1986) read with sub-rule(4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments to the notification of the Government of India, in the Ministry of Environment and Forests number S.O.1533(E), dated the 14th September, 2006 after dispensed with the requirement of notice under clause(a) of sub-rule(3) of the said rule 5 in public interest, namely:—

In the said notification, in the Schedule, after item 7(d) and the entries relating thereto, the following item and entries shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"7(da)	Bio-Medical Waste Treatment Facilities	-	All projects	-

[F. No. 3-9/2014-IA.III]

MANOJ KUMAR SINGH, Jt. Secy.

**Note:-** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended as follows:-

1. S.O.1737(E) dated the 11th October, 2007
2. S.O. 3067(E) dated the 1st December, 2009
3. S.O.695(E) dated the 4th April, 2011
4. S.O.2896(E) dated the 13th December, 2012
5. S.O.674(E) dated the 13th March, 2013
6. S.O.2559(E) dated the 22nd August, 2013
7. S.O. 2731(E) dated the 9th September, 2013
8. S.O. 562(E) dated the 26th February, 2014
9. S.O.637(E) dated the 28th February, 2014
10. S.O. 1599(E) dated the 25th June, 2014
11. S.O. 2601 (E) dated 7th October, 2014
12. S.O. 3252(E) dated 22nd December, 2014
13. S.O. 382 (E) dated 3rd February, 2015
14. S.O. 811(E) dated 23rd March, 2015
15. S.O. 996(E) dated 10th April, 2015.

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Annexure R-2

F. No. IA3-22/19/2021-IA.III [E 164361] 9  
Government of India  
Ministry of Environment, Forest and Climate Change  
(Impact Assessment Division)

\*\*\*\*\*

Indira Paryavaran Bhawan  
Aliganj, Jorbagh Road  
New Delhi-110 003

Dated: 20<sup>th</sup> September, 2021

**ORDER**

**Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 to not grant or renew CTO unless Environment Clearance, as applicable, has been obtained – regarding.**

Whereas, prior Environmental Clearance is a statutory requirement for project/activities covered in the schedule of the EIA Notification 2006, issued under section 3 of the Environment (Protection) Act, 1986.

2. And whereas, obtaining the consents under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 is mandatory for all industrial units in Red, Orange and Green categories.

3. And whereas, the grant of EC and Consents are requirements under different statutes and are not inter-dependent and can be carried out as a parallel process.

4. And whereas, many a times it has been observed that while industrial units are in possession of valid 'Consent to Establish' (CTE)/ 'Consent to Operate' (CTO) issued by State Pollution Control Boards (SPCBs)/ UT Pollution Control Committees (UTPCC), however, they have not obtained the Environmental Clearance (EC), even though it was required as per provisions of EIA Notification 2006.


5. And whereas, it has been observed that this situation is arising because majority of the SPCBs/ UTPCCs are issuing CTE/CTO to projects without ascertaining the applicability of prior EC to projects/ activities, resulting in an avoidable situation of closure for even those industries also who seek to carry out their activities following due procedure.

T.C. 3

6. Now therefore, in exercise of powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, hereby directs that all SPCB/UTPCC shall:

- i. Ascertain the applicability of EIA Notification at the time of grant/renewal of CTE and stipulate appropriate condition for obtaining Environmental Clearance (EC), if applicable, before construction/commencement of project/activity.
- ii. Ensure that the project proponent possesses a valid Prior EC in terms of the extant EIA Notification, if applicable, at the time of grant/renewal of CTO and no CTO shall be granted or renewed unless EC, if applicable, has been obtained.

7. This is issued with the approval of the Competent Authority.

  
(A K Agrawal)  
Director

To

Chairmen of all State/UT Pollution Control Boards and Pollution Control Committees

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS(RA)/JS(SKB)
5. Chairman of all the Expert Appraisal Committees
6. Chairperson/Member Secretaries of all the SEIAAs/SEACs
7. All the Officers of IA Division, MOEFCC
8. Website MoEF&CC/ Guard file.

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