

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
Principal Bench, New Delhi
In
Original Application No. 176/2022

In the matter of:-

Aman Chaudhary

Applicant

Versus

Union of India & Ors.

Respondents

Index

Sl. No.	Particulars	Page No.
1.	Reply on behalf of CPCB in compliance to Hon'ble NGT order dated 16.08.2022, in OA No. 176/2022, Aman Chaudhary Vs. Union of India & Ors.	
2.	Annexure-I: A copy of the Hon'ble NGT, PB order dated 16.08.2022.	



(Nazimuddin)

Scientist F

Central Pollution Control Board

Delhi-110032

Place- Delhi

Date- 05.09.2022

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

Principal Bench, New Delhi
In
Original Application No 176/2022

In The Matter of:

Aman Chaudhary

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Respondents

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 3 CENTRAL
POLLUTION CONTROL BOARD, (CPCB)

MOST RESPECTFULLY SHOWETH:-

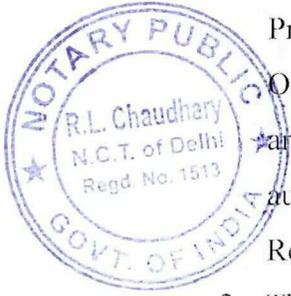
I, Nazimuddin, S/o Shri Iftitah Uddin, aged about 56 years in the capacity of Scientist 'F', having office at the Delhi, Central Pollution Control Board, Pravesh Bhawan, East Arjun Nagar, Delhi, do hereby solemnly affirm and sincerely state on oath as follows:

1. That I am presently working in the capacity of Scientist 'F' at Central Pollution Control Board (hereafter called as CPCB), and have been authorized to file the Present Affidavit. I have read and understood the contents of the copy of the above Original Application and I have perused the documents annexed therewith, and as I am conversant with the facts and circumstances of the present case, I am duly authorized and competent to file the present Counter Affidavit on behalf of the Respondent No. 3.

2. That contents of Para I to III under reply of the Original Application are not pertaining to the answering Respondent and merits no reply. The Applicant be put to strict proof of the contents mentioned in the para under reply.

PARA WISE REPLY TO FACTS

3. That contents of Para 1 & 2 under reply of the Original Application are not pertaining to the answering Respondent and the Averments are related to reason for filling of present Application and do not merits any reply.



4. That contents of Para 3 under reply of the Original Application are not pertaining to the answering Respondent and the Averments are Averments are pertaining to (i) sand mining activities without having Environmental Clearance, (ii) non-compliances of conditions of Environmental Clearance by mining industries, (iii) damage to stream of Ganga river belt in Kanpur, Unnao. It is submitted that the relevant authority for stopping illegal sand mining and ensuring compliance of condition of Environmental clearance (“EC”) for river sand mining be directed to provide appropriate response on these points.
5. That contents of Para 4 under reply of the Original Application are related to illegal sand mining and building of bridge in between Ganga River in Bilhaur near Kanpur by Respondent no 2 and damages to stream of river and environment. It is submitted that the joint committee (District Magistrates of Unnao and Kanpur and Regional Officers of UP SPCB Unnao and Kanpur) constituted by the NGT vide order dated 07.03.2022 has conducted field inspection in this area and submitted its report the relevant portion concerning the finding of the report 02.04.2022 are:

“

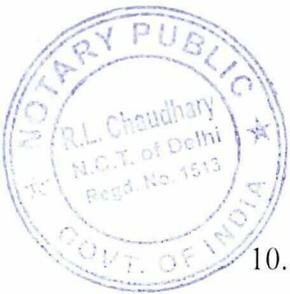
- *River bed mining is sanctioned at Vill-Katari Sunaudha, Tehsil-Bilhaur, District-Kanpur Nagar. The Committee found the issues raised in the Hon’ble NGT order are matter of concerns w.r.t construction of temporary bridge at mining site. During inspection no such temporary bridge was found in the mining lease area.*
- *According to Google Earth timeline map of dated 25.03.2018 & 18.04.20219, no such temporary bridge was observed.*
- *During inspection approach road was found at the mining lease site in the main stream area of River, which obstruct the flow of the river.*
- *Project proponent has not taken any significant measures for environmental safeguard and also not made any efforts/initiatives for conducting activities under CSR.*
- *Compliance of conditions of Environmental Clearance issued by SEIAA are not found.*



Hence, the Committee is in view that the lease holder may be directed to comply the conditions of Environmental Clearance and mining deed.

Environmental compensation may be imposed for violation of various Norms and degradation of surrounding environment."

6. That the contents of Para 5 under reply of the Original Application are matter of records and do not requires any comments.
7. That the contents of Para 6 Sub Para (i) under reply of the Original Application are pertaining to the brief of facts and circumstances for filling of present application as well as damage and effects of unrestricted sand mining on river and riparian ecology, damage to stream physical habitat characteristics due to extraction of alluvial material, associated impacts on in-stream biota and riparian habitat, increase in demand of sand resulting in legal and illegal mining activities, etc. The response on the para under reply may be provided by the concerned respondents.
8. That the contents of Para 6 Sub Para (ii) under reply of the Original Application are matter of records and do not require any comments.
9. That the contents of Para 6 Sub Para (iii) to (vi) under reply of the Original Application are pertaining to illegal mining in Bilhaur near Kanpur, building of bridge on Ganga river which made two separate stream, affected villages in Kanpur and Unnao region and ecological impacts due to flow diversion and making two separate river stream, etc. It is submitted that the joint committee constituted by the NGT has conducted field inspection in this area and submitted its report. Therefore, the response on the para under reply may be provided by the concerned respondents.
10. That the contents of Para 7 under reply of the Original Application, are pertaining to the grounds of the case raised in the present Original Application, the same are legal submissions and legal precedents and merits no comments from thee Answering Respondent.
11. That the contents of Para 8 under reply of the Original Application, are pertaining to the applicant's withdrawal of earlier petition filed by the applicant as a part of the legal requirement and the cause of action in filling of present Original Application and do not requires any comments. It is respectfully submitted that this answering Respondent will abide by any orders passed by this Hon'ble Court. The Applicant be put to strict proof of the contents mentioned in the para under reply.



12. That the contents of Para LIMITATION under reply of the petition, are legal submission and merits no reply. The Applicant be put to strict proof of the contents mentioned in the para under reply.

PRAYER

That the contents of Para PRAYER in sub para (i) to (v) under reply of the petition are denied and in view of the facts indicated in earlier paras it is respectfully prayed that necessary directions be passed and the Respondent No. 3 shall abide by any order or direction, passed by this Hon`ble Tribunal.



VERIFICATION

I, the above named deponent do hereby verify that the contents of my above affidavit are true to my knowledge and belief based on official record. No part of it is false and no material has been concealed therein.

Verified at Delhi on this 6th day of September, 2022.

ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA

- 6 SEP 2022



नाजिमउद्दीन / Nazimuddin
वैज्ञानिक "ई" / Scientist "E"
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110 032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

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Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No.01

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)
Original Application No.176/2022

Aman Chaudhary

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 16.08.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondents: Mr. Daleep Dhyani, Advocate for respondent no. 4.
Mr. Amit Mishra, Regional Officer of UPPCB.

**Application under Sections 14, 15 and 18 (1) of the National Green
Tribunal Act, 2010.**

ORDER

1. Grievance of the applicant is regarding illegal sand mining in the region of Kanpur and Unnao by Mr. Nagendra Singh (Respondent no. 2). It is submitted that even an unauthorized bridge has been constructed in the middle of the River Ganga due to which the river has got divided into two Streams which can also prove to be hazardous to the residents of the nearby villages.

2. Vide order dated 07.03.2022, this Tribunal constituted a Joint Committee comprising of the State PCB, District Magistrate-Unnao and Kanpur City (Uttar Pradesh) and directed the same to submit factual and action taken report within three months. The relevant part of the order reads as under:-

“Having regard to the allegations of the applicant, it appears necessary to ascertain the factual position in the matter through

a Joint Committee of the State PCB, District Magistrate-Unnao and Kanpur City (Uttar Pradesh). The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within four weeks and undertake site visit and look into the grievance of the applicant. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”

3. In compliance thereof, the Committee carried out field visit on 02.04.2022 and has submitted report vide email dated 10.08.2022. The relevant part of the report reads as under:-

“X X X X X X X

The District Magistrates of Kanpur Nagar/Unnao and UPPCB issued order of the Committee based on the nominations. As instructed in order, the committee has carried out field visits on 02.04.2022 to verify the status on the issues raised in Hon'ble NGT order.

Following are the details of joint committee visit:-

1. *The Committee carried out survey of mining area located at Village-Katari Sunaudha, Tehsil-Bilhaur, District-Kanpur Nagar. Village-Katari Sunaudha (Population approx. 1400) situated near river Ganga which is approx. 800 meters away from mining area.*

2. *In the interaction with District Administration the committee found that several orders/ directives have been issued by concerned departments in the matter. The compilation of action taken/ directive issued by various departments in this matter is tabulated and attached at Annexure-1.*

3. *Environmental Clearance (EC) was issued to Shri Nagendra Singh, M/s. Vaishnavi Enterprises, R/o MIG-02, Mahabalipuram, Kanpur Nagar, U.P. on 12.02.2018 by State Level Environmental Impact Assessment Authority (SLEIAA) for ordinary Sand Mining at Gata No. 2mi, Village-Katari Sunaudha, Tehsil-Bilhaur, District-Kanpur Nagar. The EC was granted for sanctioned lease area of 26.0 acres (10.50ha).*

4. *The period of Mining lease is for 5 years from the date of execution.*

5. *Permitted annual capacity is 2,10,000 M3 per annum of ordinary sand mining by manual/Semi Mechanised method.*

6. *Mining lease deed was registered on 07.04.2018 for the period up to dt. 06.04.2023.*

7. *The District Magistrate, Kanpur Nagar has restricted the mining Vide notice dt. 03.02.2021, which is restored vide order dt. 13.12.2021.*

8. *As per the information of mining department, the mining activities was started in April, 2018. Details of extraction is as below against the allowed permitted capacity.*

Year	Annual Mining Extraction in m³
April, 2018 to March, 2019	169297
April, 2019 to March, 2020	35339
April, 2020 to January, 2021	92154
December, 2021 to March, 2022	51306

The average daily vehicles movements during the mining operations is 30-35 vehicles per day.”

4. Notice alongwith copies of the application and report of the Joint Committee be issued to the respondents no. 1 to 6 requiring them to file their response/reply to the allegations made in the application/observations made in the report of the Joint Committee within one month at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. List for further consideration on 07.09.2022

6. In view of the facts and circumstances of the case, we also consider presence of the Director, Directorate of Geology and Mining, Government of Uttar Pradesh and Regional Officer of UPPCB before this Tribunal on the next date of hearing either through video conferencing or physically to be essential for producing the relevant documents regarding compliance with environmental norms and assisting this Tribunal in just and proper adjudication of the questions involved in the case and they are accordingly directed to remain present before this Tribunal on the date fixed.

7. A copy of this order be sent to Director, Directorate of Geology and Mining, Government of Uttar Pradesh by E-mail for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 16, 2022
AG