

BEFORE THE NATIONAL GREEN TRIBUNAL,  
NEW DELHI

ORIGINAL APPLICATION NO. 18 of 2025

IN THE MATTER OF:

KADIR AHMAD & ORS.

...Applicants

VERSUS

STATE OF U.P. & ORS.

...Respondents

**REPLY ON BEHALF OF THE  
RESPONDENT Nos. 4 and 5**

For Index

(Kindly see Inside)

Filed on:  
10.09.2025  
New Delhi



[NIRMAL KUMAR AMBASTHA]



[ASHMITA BISARYA]

Advocates for the Respondent Nos. 4 and 5  
90, Lawyers' Chamber, A. K. Sen Block,  
Supreme Court of India, New Delhi  
Cell No. 9899368041

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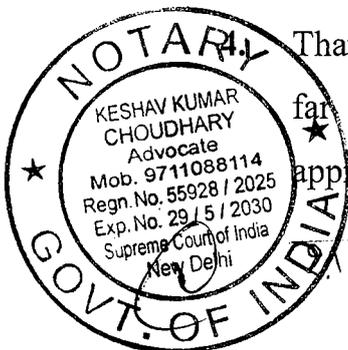
Reply on behalf of Respondent Nos. 4 and 5

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:

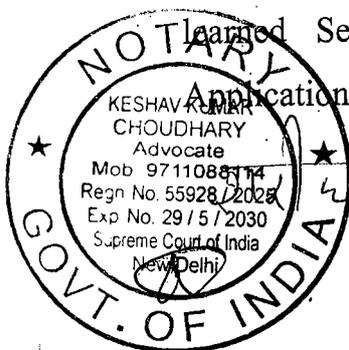
1. That the respondent No. 4 was granted license to run the business of baking the bricks in year 2017 and since then it has been carrying on the business of baking bricks by extracting soil from lands belong to the answering respondent and a few others with their due permission and after obtaining all the necessary permissions from the relevant authorities, such as U.P. Pollution Control Board, Directorate of Geology and Mining, Uttar Pradesh etc.
2. That the relevant authorities had duly granted and renewed the necessary permissions and licenses from time to time and same was valid on the date of the unfortunate incident and the same has not been disputed by any authority.
3. That the respondent No. 4 has been carrying out soil extracting and brick baking activities lawfully as permitted by various relevant authorities and there has not been any complaint against the respondent No. 4 and answering respondent since beginning till the date of the present accident.

That it is submitted that the respondent No. 4 work site is situated far away from the inhabited population and was not easily approachable by anyone including the children of the area.



21/11/2025

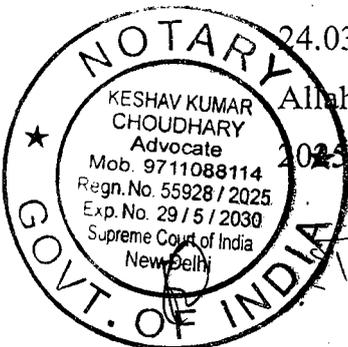
5. That it is submitted that the respondent No. 6 had not dug any pit exceeding the permission limit of two meters nor the answering respondent had permitted such deep digging on the lands owned by him.
6. That it is relevant to mention here that the applicants have placed the spot map prepared by the police on record as Annexure A-4 at page No. 38, perusal of which makes it evident that only a small part of land is shown to have been dug beyond permissible limit of 2 meters i.e. 9 feet and rest of the portion dug for extracting soil for the same purpose has been shown to be only 5 feet deep i.e. below the permissible limit of 2 meters. The spot map also shows that the alleged 9 feet deep pit is all around surrounded by 5 feet deep dug area and major part of the water-filled dug area has also been shown to be 5 feet deep only.
7. That it is further submitted that pursuant to the unfortunate accident leading to tragic accidental deaths of children on 19.07.2023, the answering respondent was arrested pursuant to the registration of the Shahbad P.S. FIR No. 0154 of 2023 dated 19.07.2023 for offence under section 304 of Indian Penal Code. The answering respondent had approached the Court of Sessions Judge, Rampur for grant of bail by filing Criminal Misc. (Bail) Application No. 1168 of 2023, which was allowed by the learned Sessions Judge categorically observing that prosecution has not shown that the accused (answering respondent) had not got extracted the soil for brick kiln as per permissible standard or what was the depth of the pit, or the answering respondent had any intention to commit the offence alleged. A true copy of the Order dated 01.08.2023 passed



0154 of 2023 dated 19.07.2023) is being annexed herewith and marked as **Annexure R-4/1**.

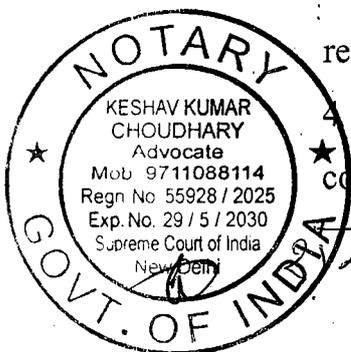
8. That the period during which the unfortunate incident occurred was a period, when entire Rampur district was suffering from menace of flood due to heaving rains in the district as well as in the hill areas. The district administration was running awareness programs in this regard in the entire district with the help of village Lekhpal, Gram Panchayat Officials and Gram Pradhans to advise the general public to keep vigil over movements of their children so as to avoid any unfortunate incident of drowning. Therefore, it is evident that the answering respondent was not at all responsible for filling of water in the pit, but the same had occurred due to natural causes. A true copy of the letter No. 226 dated 17.08.2023 issued by the office of the Respondent No. 3 is being annexed herewith and marked as **Annexure R-4/2**.

9. That it is further submitted that the police had conducted arbitrary investigation of the Shahbad P.S. FIR No. 0154 of 2023 dated 19.07.2023 and submitted charge-sheet being Charge-Sheet No. 01 of 2023 dated 11.08.2023 against the answering respondent and the learned CJM Rampur was pleased to take cognizance of the offence vide order dated 08.05.2024. Being aggrieved by the same, the answering respondent approached Hon'ble High Court praying for quashing of the entire proceeding by filing an Application Under Section 528 BNSS No. 8387 of 2025. Hon'ble High Court was pleased to issue notice in Application Under Section 528 BNSS No. 8387 of 2025 and was further pleased to stay the further proceedings before the learned Trial Court. A true copy of the Order dated 24.03.2025 passed by Hon'ble High Court of Judicature at Allahabad in Application Under Section 528 BNSS No. 8387 of 2025 is being annexed herewith and marked as **Annexure R-4/3**.



12/11/24 31/8/24

10. That it is submitted that in view of the Order dated 24.01.2025 passed in the present proceeding, the respondent No. 2, Mining Officer, Rampur and ADM, Tehsil – Shahbad conducted a joint inspection of respondent No. 4 on 07.03.2025, when the respondent No. 4 was found to be operational on the basis of consent issued vide Respondent No. 2's letter dated 19.09.2024, which is valid through 31.07.2029.
11. That vide Ref. No. H27462/C-7/Air-2170/2024 dated 28.04.2025, the respondent No. 2 issued a show-cause under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 to the respondent No. 4 asking to show cause as why respondent No. 4's operation be not stopped with immediate effect, competent authorities be desired to immediately stop all electricity and water supply connections and the consent issued vide letter dated 19.09.2024 be not immediately cancelled. A true copy of the show cause vide Ref. No. H27462/C-7/Air-2170/2024 dated 28.04.2025 issued by the respondent No. 2 to the respondent No. 4 is being annexed herewith and marked as **Annexure R-4/4**.
12. Further, the ADM, Shahbad, Rampur, vide his letter No. 515 S.T. dated 02.05.2025, forwarded a spot inspection report dated 19.07.2023 (date of unfortunate incident) signed by ADM, Rampur, Mining Officer, Rampur and Revenue Inspector to the respondent No. 2, wherein it was alleged that a pit measuring 18 meters long, 20 meters wide and 4.2 meters deep was found over Gata No. 494 area 0.9300 hectare, according to which the depth of the pit is about 4 feet more than its depth mentioned in the spot map prepared by the local police. On the basis of this report dated 19.07.2023, the respondent No. 2 herein issued a show cause to the respondent No. 4 seeking explanation that as to why the environmental compensation amount to Rs. 3,56,400/- be not imposed on it for

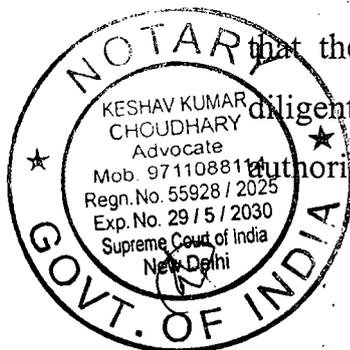


excavation of 792 (18 X 20 X 2.2) cubic meters without permission from the competent authority. This show cause notice referred to a Government notification dated 29.01.2020, which was concerning "Recommendation on scale of compensation to deal with the cases of illegal sand mining", for calculating the demand of environmental compensation. A true copy of the Show Cause vide Ref. No. H27788/C-7/Air-2170/2024 dated 02.05.2025 issued by the respondent No. 2 to the respondent No. 4 is being annexed herewith and marked as **Annexure R-4/5**.

13. That in response to the Show Cause vide Ref. No. H27788/C-7/Air-2170/2024 dated 02.05.2025 issued by the respondent No. 2, the respondent No. 4 herein submitted its reply wherein it was categorically stated that the show cause has been issued by the respondent No. 2 only after receipt of notice of the present proceeding after issuing consent and other necessary certificates by the relevant authorities after the unfortunate occurrence. The respondent No. 5 prayed for withdrawal of the show-cause notice. A true copy of the reply dated 16.05.2025 submitted by the answering respondent on behalf of the respondent No. 4 is being annexed herewith and marked as **Annexure R-4/6**.

14. That the present proceeding has been initiated after a lapse of more than one year 6 months since the occurrence as an afterthought and that too, after receiving compensation amount of Rs. 4 lakhs each for the unfortunate children and even the representation was submitted before the respondent No. 3 after more than a year since occurrence.

15. That it is submitted that it is evident on the basis of the foregoing that the respondent No. 4 was carrying its business operations diligently without violating any legal provision and various relevant authorities have been issuing necessary permissions and consents



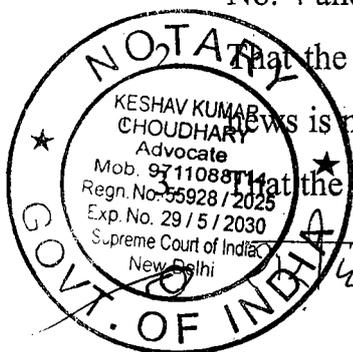
21/5/2025

required for its operation. It is also relevant to mention here that the answering respondent had no deliberate intention to store water in those dug pits, but the water logging was due to heavy rain in the region, for which even the district administration was taking up various remedial as well as precautionary steps.

16. That it is submitted that the Brick kiln and the pit holes are located in secluded place far away from the inhabited population and the unfortunate children had accidentally reached near the it and fell into it leading to their deaths for which the answering respondent cannot be held directly or indirectly liable on the ground of deliberately storing water in pit holes.
17. That it is further submitted that the pits were surrounded by extracted soil on all sides and there is no approachable road or a grazing field located nearby so as to make it usually accessible to general public. Further, there are other Brick kilns also located nearby which makes the place further ordinarily inaccessible for playing of children, except by way of childish adventurism for which the answering respondent cannot be held liable. The answering respondent had employed guards also on the spot, whom the children dodged and reached inside the brick kiln premises, where the accident occurred.

#### PARA-WISE REPLY

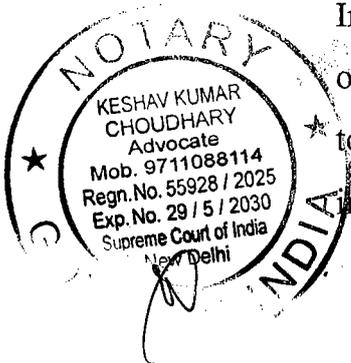
1. That the statement regarding grievance of the applicants and the death of five unfortunate children is admitted. However, it is denied that the pits were dug beyond permissible limits by the respondent No. 4 and answering respondent.



That the averments are matter of record, hence the publication of views is not denied.

That the averments are matter of record and hence not denied.

4. That the averments are matter of record, hence need no comment. It is submitted that the in this case, charge-sheet has been submitted and cognizance taken against the answering respondent and at the instance of the answering respondent, Hon'ble High Court has stayed the proceedings before the learned Trial Court.
5. That the averments are misleading, incorrect, thus denied except the fact of death of the children due to asphyxia due to antemortem drowning. It is humbly submitted that the plot bearing Gata No. 494 was being used for extracting soil for brick baking, and no agricultural activity was being carried out thereon. It is submitted that those unfortunate children had snicked in the excavated pit and started playing and they accidentally fell into the pit filed with rain water. It is further submitted that immediately after the occurrence, the police could not place any evidence of the pit being deeper than 2 meters at the time of hearing of the bail application of the answering respondent.
6. That the averments are matter of record, however it is humbly submitted that there is nothing except the sketch to show that the pit was dug deeper than 2 meters i.e. 9 feet and the said sketch itself depicts the entire surrounding area to be dug only to a depth of 5 feet and there is no explanation as to why a small portion was dug 9 feet deep and most of lands were dug only 5 feet deep. Moreover, this sketch is a document of police investigation, which has not been proved before the Court of law as required.
7. That the averments are misleading, incorrect, thus denied except for the legal proposition laid down by the Hon'ble Supreme Court of India. It is submitted that the allegation of digging of pit to the depth of 9 feet is based on a police investigation document, which is yet to be proved as required under law. Further, there is another spot inspection report dated 19.07.2023 (date of unfortunate incident)

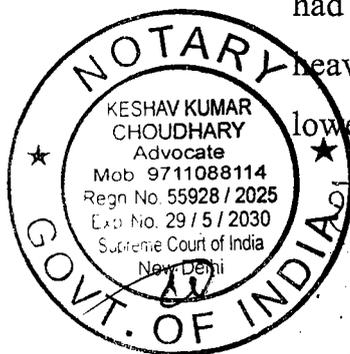


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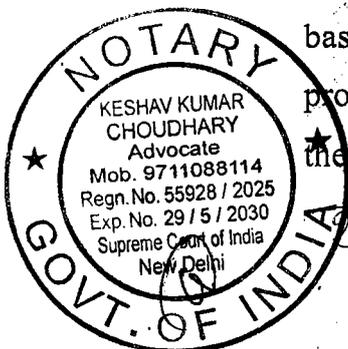
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signed by ADM, Rampur, Mining Officer, Rampur and Revenue Inspector to the respondent No. 2, wherein it was alleged that a pit measuring 18 meters long, 20 meters wide and 4.2 meters deep was found over Gata No. 494 area 0.9300 hectare, according to which the depth of the pit is about 4 feet more than its depth mentioned in the spot map prepared by the local police. Therefore, until the prosecution succeeds in establishing the said sketch or spot inspection report dated 19.07.2023, there is no cogent basis to conclude that the answering respondents had violated the conditions of consent/license or Environmental clearance was required to be obtained.

8. That the averments are misleading, incorrect, thus denied. A bare perusal of police sketch makes it evident that the spot where the unfortunate accident occurred, is surrounded on its two sides by brick kilns and is not an easily approachable area unless someone deliberately enters into it. It is submitted that those unfortunate children entered into a visibly dangerous area to satisfy their childish adventurism and accidentally met their unfortunate tragic end. It is submitted that pits could not be leveled due to filling of rain waters due to heavy rains, for which the answering respondent cannot be held liable.
9. That the averments are matter of record, hence need no comment.
10. That the averments are misleading, incorrect, thus denied. It is submitted that the charge-sheet and its contents cannot be relied upon till they are proved before a Court in accordance with law. Moreover, the charge-sheet alleges that the answering respondent had deliberately stored water in the pit without taking any notice of heavy rainfalls during the period leading to water logging in all the lower area including pits all around the district.



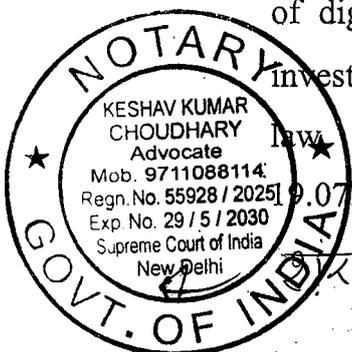
11. That the averments are misleading, incorrect, thus denied. It is submitted that the answering respondent had all the relevant legal permissions from different authorities for excavating the soil for the purpose of brick kiln and there was no violation of any environmental law whatsoever. Moreover, it is submitted that the unfortunate children are victims of their childish adventurism due to which they entered into the seemingly dangerous area of brick kiln. The brick kiln owner and operator are not liable for any loss as they were following all the legal norms and the allegation of digging a pit of 9 feet depth is yet to be established in accordance with law. It is relevant to mention here that different authorities have claimed different depths of the pit on the same day, i.e. the date of occurrence.
12. That the averments are matter of record, hence need no comment. However, it is submitted that the referred order was passed on the basis of a joint inspection report submitted by the respondent No. 2. It is further relevant to mention here that two inspection report prepared by two different authorities on the same date i.e. the date of occurrence shows different depth of the pit and the police sketch relied upon by the applicants shows only a small portion to be dug 9 feet deep and rest of the area was dug less than 2 meters i.e. about 5 feet. Therefore, neither of them can be believed.
13. That the averments are matter of record, hence need no comment. However, it is humbly submitted that the unfortunate children were non-earning persons and the compensation of their deaths should be calculated as per the established law. It is submitted that the earlier orders of this Hon'ble Tribunal awarding compensations were based on established violations of environment laws or other legal provisions, however no such violation has been so far established in the present case.



14. That the averments are matter of record, hence need no comment. However, it is humbly submitted that all these representations comprise of exactly same contents and copies of each other and have been submitted more than a year after the occurrence and receipt of compensation of Rs. 4 lakhs each.
15. That the averments are matter of record, hence need no comment.
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18. That the averments are matter of record, hence need no comment.
19. That the averments are matter of record, hence need no comment.
20. That the averments are matter of record, hence need no comment.
21. That the averments are matter of record, hence need no comment.
22. That the averments are matter of record, hence need no comment.
23. That the averments are matter of record, hence need no comment.
24. That averments need no reply.

**REPLY TO THE GROUNDS:**

- A. That the averments are misleading, incorrect, thus denied. It is submitted that the answering respondent had all the necessary permissions for such extraction of soil and the extraction site is surrounded by at least two brick kilns and is not an agricultural land. So far as leveling is concerned, it could not be done due to intervention of heavy rain fall in the region.
- B. That the averments are misleading, incorrect, thus denied. It is submitted that there is no conclusive document proving that there was any 9 feet deep pit on the spot. It is submitted that the allegation of digging of pit to the depth of 9 feet is based on a police investigation document, which is yet to be proved as required under law. Further, there is another spot inspection report dated 07.07.2023 (date of unfortunate incident) signed by ADM, Rampur,



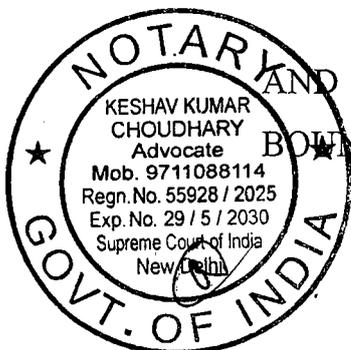
Mining Officer, Rampur and Revenue Inspector to the respondent No. 2, wherein it was alleged that a pit measuring 18 meters long, 20 meters wide and 4.2 meters deep was found over Gata No. 494 area 0.9300 hectare, according to which the depth of the pit is about 4 feet more than its depth mentioned in the spot map prepared by the local police. Therefore, until the prosecution succeeds in establishing the said sketch or spot inspection report dated 19.07.2023, there is no cogent basis to conclude that the answering respondents had violated the conditions of consent/license or Environmental clearance was required to be obtained.

- C. That the averments are matter of record, hence need no comment. However, it is relevant to mention here that such power can be invoked only after establishing any violation of relevant laws and not by merely alleging violation, because some unfortunate incident occurred.
- D. That the averments are matter of record, hence need no comment.
- E. That the averments are matter of record, hence need no comment. However, it is submitted that the present case is different on facts.
- F. That the averments are matter of record, hence need no comment. However, it is submitted that the present case is different on facts.

### PRAYER

In view of the above said facts and circumstances, it is most respectfully prayed that, this Hon'ble Tribunal may graciously be pleased to:-

- a) Dismiss the present Original Application; and/or
- b) Pass any other order /direction, which this Hon'ble Court deems fit and proper in the interest of justice



AND FOR THIS ACT OF KINDNESS PETITIONER IS IN DUTY BOUND SHALL EVERY PRAY

११/७/२०२४

Place: New Delhi

Date: 10.09.2025

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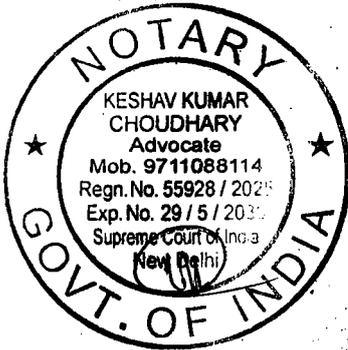
ANSWERING RESPONDENT

THROUGH

**ADVOCATE FOR THE ANSWERING  
RESPONDENT**

**Verification:-**

I, Sharif Ahamad, Aged About 61 Years S/O Shabbr Hassan, R/O near Masjid, Masjid Road, Dhakia, Rampur, Uttar Pradesh – 244 922 verify at New Delhi on this the <sup>10 SEP 2025</sup> \_\_\_ day of 10<sup>th</sup> day of September that the contents of the paragraph Nos. 1 to 16 of the Preliminary Submissions, 1 to 24 of the Para-wise Reply and para A to F of the reply to grounds are true and correct to the best of my knowledge and information and legal advice rendered to me, which I believe to be true. The last paragraph is the prayer to this Hon'ble Court.



10 SEP 2025

27/2/24 37844  
**DEPONENT**

I identify the Deponent who has  
 signed / Put T.I. in my presence

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AFFIDAVIT

I, Sharif Ahamad, Aged About 61 Years S/O Shabbr Hassan, R/O near Masjid, Masjid Road, Dhakia, Rampur, Uttar Pradesh – 244 922, presently at New Delhi, do hereby solemnly affirm and declare that:-

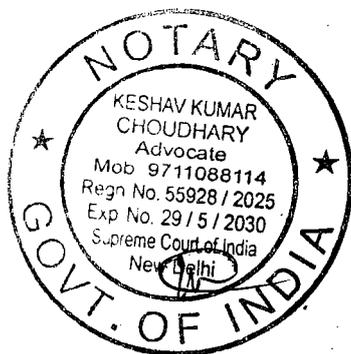
1. That answering respondent is the owner of the land bearing Gata No. 494, where the unfortunate accidental deaths of the five children occurred, and father of the proprietor of the respondent No. 4, M/S Shama Brick Works and is fully conversant with the facts of the present case on the basis of records thereof and duly authorized to swear the present affidavit on behalf of the respondent No. 4 also.
2. I state that accompanying Reply to the Original Application has been drafted by my counsels under my instructions and I have gone through and understood the contents thereof, which are true and correct to best of my knowledge and same may be read as part and parcel of the present affidavit, which are not being produced herein for the sale of brevity.

**I Identify The Deponent Who Has Signed / Put T.I. In my Presence**

*Sharif Ahmad*  
Deponent

Verification

Verified at New Delhi on this 10<sup>th</sup> day of September, 2025 that the contents of the above affidavit are true and correct to the best of my knowledge and no part of it is false nor anything has been concealed therefrom.



ATTESTED

*Keshav Kumar Choudhary*  
KESHAV KR. CHOUDHARY  
ADVOCATE, NOTARY, DELHI  
Regn. No. - 55928/2025  
GOVERNMENT OF INDIA  
SUPREME COURT OF INDIA, NEW DELHI  
Mob. 9711088114  
REGISTER Pg/SI. No. 10.....

10 SEP 2025

*Sharif Ahmad*  
Deponent

ATTESTED

*Keshav Kumar Choudhary*  
NOTARY PUBLIC  
Mob. 9711088114

10 SEP 2025

**न्यायालय, सत्र न्यायाधीश, रामपुर।**

दाण्डिक प्रकीर्ण (जमानत) प्रार्थना पत्र सं० 1168/2023

CNR No. UPRP010054492023

(पंजीयन सं० 1877/2023)

शरीफ अहमद पुत्र शब्बीर हसन, निवासी ग्राम ढकिया, थाना शाहबाद, जिला रामपुर।

बनाम

उत्तर प्रदेश सरकार।

धारा-304 भा०दं०सं०

थाना-शाहबाद, जिला रामपुर

अ०सं० 154/2023

**आदेश**

प्रार्थी/अभियुक्त शरीफ अहमद की ओर से यह प्रथम जमानत प्रार्थना पत्र अ०सं० 154/2023, धारा-304 भा०दं०सं०, थाना शाहबाद, जिला रामपुर के अभियोग में प्रस्तुत किया गया है। जमानत प्रार्थना पत्र शपथ पत्र से समर्थित है।

प्रार्थी/अभियुक्त के विद्वान अधिवक्ता व विद्वान जिला शासकीय अधिवक्ता (फौजदारी) के तर्कों को सुना तथा पत्रावली का अवलोकन किया।

अभियोजन के अनुसार अभियुक्त शरीफ अहमद पुत्र शब्बीर हसन का जंगल ग्राम गैहनी में शमा ब्रिक वर्कस के नाम से ईट का भट्टा स्थित है। अभियुक्त द्वारा अपने भट्टे में ईटों के निर्माण कार्य हेतु अपने खेत में से मिट्टी का खनन करते हैं। उक्त भट्टे के स्वामी शरीफ अहमद द्वारा अपने खेत में से मानक से अधिक मिट्टी उठाने के कारण एक गहरा गड्ढा बन गया, जिसमें बरसात का पानी एकत्रित हो गया है। अभियुक्त को यह ज्ञात था कि यदि उक्त गड्ढे में कोई व्यक्ति गिर जाये, तो उस व्यक्ति की मृत्यु कारित होने की पूर्ण संभावना है। अभियुक्त द्वारा उक्त गड्ढे को भरने का कोई प्रयास नहीं किया गया, जिस कारण दिनांक 19-06-2023 को 5 बच्चे, गुलअफ्सा आयु 12 वर्ष पुत्री नियाज अली, सना आयु 12 वर्ष पुत्री इसरार, चंचल आयु 12 वर्ष पुत्री मोहन, अलीना आयु 12 वर्ष पुत्री कदीर व आकिल अहमद आयु 15 वर्ष पुत्र शकील अहमद बकरी चराते समय अभियुक्त द्वारा खुदवाये गये गहरे गड्ढे में गिर गये, जिनकी मौके पर ही मृत्यु हो गयी। मृतका सना वादी इसरार की बेटी थी। गाँव के बच्चे आये दिन यहाँ खेलने आते थे, जिसकी जानकारी अभियुक्त को थी। फिर भी अभियुक्त द्वारा उक्त गड्ढा नहीं भरा गया। उक्त घटना अभियुक्त द्वारा ईटों के निर्माण हेतु खोदे गये गहरे गड्ढे के कारण हुई है। यदि अभियुक्त समय से उपरोक्त गड्ढे को भर देता, तो यह घटना घटित नहीं होती और न ही मासूम पांच बच्चों की मृत्यु होती।

प्रार्थी/अभियुक्त के विद्वान अधिवक्ता द्वारा तर्क दिया गया कि प्रार्थी/अभियुक्त द्वारा कोई अपराध नहीं किया गया है, वह निर्दोष है तथा उसे झूठा फंसाया गया है। प्रार्थी/अभियुक्त का शमा ब्रिक वर्क के नाम से ईट निर्माण का कार्य है, जिसका संचालन कार्य बहैसियत प्रबन्धक द्वारा देखा जाता है। प्रार्थी/अभियुक्त के उक्त ईट भट्टे पर समस्त कार्य कानूनी प्रक्रिया के तहत होता है तथा प्रार्थी/अभियुक्त द्वारा ईट निर्माण हेतु मानक के अनुसार गड्ढा खुदवा गया है। प्रथम सूचना रिपोर्ट में इस बात का कोई उल्लेख नहीं है कि कथत गड्ढा कितना गहरा था। प्रार्थी/अभियुक्त द्वारा ऐसा

कोई कृत्य नहीं किया गया है, जिससे कोई मानव वध हो सके और न ही ऐसा कोई कार्य किया है, जिसका ज्ञान प्रार्थी/अभियुक्त को हो कि ऐसा कार्य करने से मृत्यु कारित हो सकती है और न ही प्रार्थी/अभियुक्त की उक्त घटना कारित होने में कोई लापरवाही नहीं है। यह भी तर्क है कि प्रार्थी/अभियुक्त पूर्व सजायाफ्ता नहीं है तथा वह दिनांक 21-07-2023 से जिला कारागार में निरुद्ध है। अतः प्रार्थी/अभियुक्त को जमानत पर रिहा किया जाये।

विद्वान जिला शासकीय अधिवक्ता (फौजदारी)ने जमानत का विरोध किया है।

पत्रावली के अवलोकन से विदित होता है कि वर्तमान मुकदमा वादी इसरार की तहरीर के आधार पर थाना शाहबाद, जिला रामपुर पर दिनांक 19-07-2023 को समय 23.46 बजे पंजीकृत किया गया है। पत्रावली पर मृतकगण के शव-विच्छेदन आख्या उपलब्ध है, जिसमें मृतकगण की मृत्यु का कारण Asphyxia due to antemortem Drowning अंकित है। प्रथम सूचना रिपोर्ट के अनुसार कथित गढडा, जिसमें वादी की पुत्री एवं अन्य बच्चों की डूब कर मृत्यु होना उल्लिखित किया गया है, वह स्वीकृत रूप से प्रार्थी/अभियुक्त की स्वयं के भूमि पर स्थित है। प्रार्थी/अभियुक्त द्वारा मानक के अनुरूप ईटों के निर्माण हेतु मिट्टी नहीं खुदवायी गयी है, अथवा गढडा कितना गहरा था, यह अभियोजन द्वारा स्पष्ट नहीं किया गया है। प्रार्थी/अभियुक्त का उक्त घटना को कारित करने का प्रथम दृष्टया कोई उद्देश्य रहा हो, यह अभियोजन द्वारा स्पष्ट नहीं किया गया है तथा प्रार्थी/अभियुक्त दिनांक 21-07-2023 से जिला कारागार में निरुद्ध है। अतः मामले के समस्त तथ्यों एवं परिस्थितियों को दृष्टिगत रखते हुए प्रार्थी अभियुक्त को जमानत पर रिहा किये जाने के पर्याप्त आधार है तथा जमानत प्रार्थना पत्र स्वीकार किये जाने योग्य है।

तदनुसार प्रार्थी/अभियुक्त **शरीफ अहमद** की ओर से प्रस्तुत जमानत प्रार्थना पत्र स्वीकार किया जाता है। प्रार्थी/अभियुक्त द्वारा रु.75,000/-का व्यक्तिगत बंधपत्र व समान धनराशि की दो जमानतें, सम्बन्धित न्यायालय की सन्तुष्टि पर दाखिल करने पर निम्न शर्तों के अधीन जमानत पर रिहा किया जाये-

- 1- प्रार्थी/अभियुक्त स्वयं अथवा अधिवक्ता के माध्यम से उपस्थित रहेगा ।
- 2- प्रार्थी/अभियुक्त अभियोजन साक्ष्य में किसी प्रकार का हस्तक्षेप नहीं करेगा ।
- 3- प्रार्थी/अभियुक्त विचारण में सहयोग करेगा और अनावश्यक स्थगन नहीं लेगा

दिनांक 01-08-2023

(अचल सचदेव)

सत्र न्यायाधीश,

रामपुर।

J.O.Code-UP1878

Annexure R-4/2

**आवश्यक / अतिमहत्वपूर्ण**  
**कार्यालय जिलाधिकारी, रामपुर।**

पत्रांक- 266 / दै0आ0

दिनांक- 17 अगस्त, 2023

विषय:-

**बाढ़ / अतिवृष्टि / जलप्लावन के दृष्टिगत आवश्यक कार्यवाही एवं राहत एवं बचाव कार्य सुनिश्चित करने के सम्बन्ध में।**

1. समस्त उप जिलाधिकारी / तहसीलदार, जनपद रामपुर।
2. समस्त खण्ड विकास अधिकारी, रामपुर।
3. खान अधिकारी, रामपुर।

विगत दिनों जनपद में हुई वर्षा एवं पहाड़ी क्षेत्र में हो रही अत्याधिक वर्षा के कारण नदियों का जल स्तर बढ़ गया है जिसके प्रभावस्वरूप गहरे स्थानों, तालाबों, गड्ढों एवं विशेष रूप से ईट भट्टा संचालकों द्वारा पथर के लिए खोदे गये गड्ढों में पानी भरे होने के कारण पूर्व में कई जनहानि हो चुकी है जिसके दृष्टिगत जिलाधिकारी महोदय द्वारा प्रत्येक तहसील के प्रत्येक ग्राम में जन जागरूकता अभियान चलाये जाने के निर्देश दिये गये हैं तथा राहत आयुक्त महोदय द्वारा भी बाढ़ ग्रस्त क्षेत्रों में 'राहत चौपाल' का आयोजन कर जन सामान्य को जागरूक करने के निर्देश दिये गये हैं जिसके परिणामस्वरूप जनहानि की घटनाओं पर एकाएक अंकुश लगाया जाना सम्भव हो सका था, परन्तु विगत दो-तीन दिनों से पुनः नदियों, तालाबों व गहरे गड्ढों में डूबने से हुई जनहानि की घटनाएं प्रकाश में आयी है। ऐसा प्रतीत होता है कि आपके द्वारा ग्रामीण क्षेत्रों में इस हेतु चलाये जा रहे जन जागरूकता अभियान व 'राहत चौपाल' जैसे कार्यक्रमों पर अपेक्षित ध्यान नहीं दिया जा रहा है।

अतः उपरोक्त के दृष्टिगत जनहानि रोकने के लिए यह आवश्यक है कि ग्राम लेखपाल, ग्राम पंचायत अधिकारी व ग्राम प्रधान के माध्यम से पुनः जन-जागरूकता अभियान प्रभावी तौर पर पुनः चलाते हुए सर्वसामान्य से अपील की जाये कि वह अपने बच्चों को सतर्क दृष्टि बनाये रखें और उनको ऐसे स्थानों पर न जाने दें ताकि नदियों, तालाबों व गहरे गड्ढों में डूबने से होने वाली जनहानियों पर प्रभावी अंकुश लगाया जा सके। ऐसी घटनाओं को रोकने लिए अन्य जो भी अन्य सुरक्षात्मक उपाय हैं उनको भी लागू कराना सुनिश्चित किया जाय।

पुनश्च: आपको निर्देशित किया जाता है कि उपरोक्तानुसार कार्यवाही सुनिश्चित करायी जाय। साथ ही जन जागरूकता अभियान सघन रूप से चलाते हुए इसका व्यापक प्रचार-प्रसार कराया जाये।

( हेम सिंह )

अपर जिलाधिकारी (वि0/रा0)  
रामपुर।

पत्रांक एवं दिनांक उपरोक्तानुसार

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

1. जिलाधिकारी महोदय, रामपुर की सेवा में सादर अवलोकनार्थ प्रेषित।
2. मुख्य विकास अधिकारी महोदय, रामपुर की सेवा में सादर सूचनार्थ प्रेषित।
3. जिला सूचना अधिकारी, रामपुर को अर्द्धशासकीय पत्र प्रति संलग्न कर प्रचार-प्रसार हेतु प्रेषित।

अपर जिलाधिकारी (वि0/रा0)  
रामपुर।

Court No. - 72**Annexure R-4/3**

Case :- APPLICATION U/S 528 BNSS No. - 8387 of 2025

**Applicant :-** Sharif Ahamad**Opposite Party :-** State of U.P. and Another**Counsel for Applicant :-** Rajesh Kumar Mishra**Counsel for Opposite Party :-** G.A.**Hon'ble Sanjay Kumar Pachori, J.**

Heard Shri Rajesh Kumar Mishra, learned counsel for the applicant and Shri Alok Mishra, learned A.G.A. for the State.

The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the applicant to quash the entire proceedings of criminal case No. 3713 of 2024 (State Vs. Sharif and others) arising out of case crime No. 154 of 2023, under Section 304, I.P.C., Police Station- Shahbad, District Rampur as well as cognizance/summoning order dated 8.5.2024, pending in the court of Chief Judicial Magistrate, Rampur.

Learned counsel for the applicant submits that the first information report dated 19.7.2023 has been lodged on the basis of false and frivolous allegations with ulterior motive and only to harass the present applicant. It is further submitted that owner of the brick kiln is the son of the present applicant and the applicant is owner of the land and valid permission has been granted in favour of the present applicant by the revenue authorities. It is further submitted that as per allegation of F.I.R., five children have drown in the water in the raining season in the brick kiln. It is further submitted that there is no pre-summoning evidence with regard to offence, as defined under Section 299, I.P.C. punishable under Section 304, I.P.C. against the applicant.

Prima facie, matter requires consideration.

Learned A.G.A. has accepted notice on behalf of opposite party No. 1.

Issue notice to opposite party no.2 returnable at an early date.

Learned A.G.A. as well as opposite party no. 2 may file their counter affidavits within three weeks. Rejoinder affidavit may be filed within one week thereafter.

List after eight weeks.

Until further orders of this Court, further proceedings of the aforesaid case shall remain stayed against the applicant.

**Order Date :- 24.3.2025**

T. Sinha

संदर्भ सं०- 427462 / सी-7 / वायु-2170 / 2024

 दिनांक- 28-4-24

पंजीकृत

सेवा में,

**Annexure R-4/4**

मैसर्स शमा ब्रिक वर्क्स,  
 गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद,  
 जनपद रामपुर।  
 मो०-0591 2485594

यह कि मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर द्वारा ईट का उत्पादन का कार्य करते हुए उपरोक्त वर्णित स्थल पर कार्यरत है, जो कि वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1981 यथासंशोधित की धारा-2 (के०) के अन्तर्गत एक औद्योगिक संयंत्र है।

यह कि ईट भट्टा मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर की चिमनी से जनित उत्सर्जकों के अनुश्रवण हेतु चिमनी पर स्थापित लैंडर, प्लेटफार्म, पोर्टहॉल क्षतिग्रस्त अवस्था में पाये गये।

यह कि कार्यालय अभिलेखानुसार उक्त ईट भट्टे को पूर्व में राज्य बोर्ड के ओ०सी०एम०एम०एस० पोर्टल के ऑनलाइन संदर्भ संख्या-221525 / यू०पी०पी०सी०बी० / मुरादाबाद(यू०पी०पी०सी०बी० आर०ओ०) / सी०टी०ओ० / बोथ / रामपुर / 2024 दिनांक 19.09.2024 के माध्यम से सहमति निर्गत की गयी जिसकी वैधता अवधि दिनांक 31.07.2029 तक है। ईट भट्टा निरीक्षण के समय जल छिड़का की व्यवस्था, पैड रोड एवं हरित पट्टिका विकसित नहीं पायी गयी, जिससे स्पष्ट है कि ईट भट्टे द्वारा सहमति आदेश में निहित शर्तों का अक्षरशः अनुपालन होता नहीं पाया गया।

यह कि ईट भट्टा जिग-जैग पद्धति / हाई ड्राफ्ट पद्धति पर संचालित नहीं पाया गया और न ही ईट भट्टे द्वारा बी०के०टी० पद्धति नवीन में परिवर्तन हेतु तकनीकी विवरण सहित प्रस्ताव राज्य बोर्ड के समक्ष प्रस्तुत किया है।

अतः उपरोक्त तथ्यों के दृष्टिगत राज्य बोर्ड को प्राप्त प्रदत्त शक्तियों के अधीन ईट भट्टा मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर के विरुद्ध वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1981 की धारा 31 ए के अन्तर्गत उक्त ईट भट्टे के विरुद्ध निम्नानुसार कारण बताओ नोटिस जारी किये जाते हैं:-

- i. यह कि क्यों न उद्योग मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर के संचालन को तत्काल प्रभाव से बन्द कर दिये जाए।
- ii. यह कि क्यों न सक्षम अधिकारियों से यह अपेक्षा की जाये कि मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर के संचालन से सम्बद्ध समस्त विद्युत कनेक्शनों एवं जल आपूर्ति कनेक्शन को तत्काल प्रभाव से रोक दिया जाए।
- iii. यह कि क्यों न उद्योग मैसर्स शमा ब्रिक वर्क्स, गाटा सं०-498, ग्राम गहनी, तहसील शाहबाद, जनपद रामपुर को राज्य बोर्ड के ओ०सी०एम०एम०एस० पोर्टल के ऑनलाइन संदर्भ संख्या-221525 / यू०पी०पी०सी०बी० / मुरादाबाद(यू०पी०पी०सी०बी०आर०ओ०) / सी०टी०ओ० / बोथ / रामपुर / 2024 दिनांक 19.09.2024 के माध्यम से जारी सहमति को तत्काल प्रभाव से खण्डित कर दिया जाए।

मुख्य पर्यावरण अधिकारी, वृत्त-7

.....क०प०३०



संदर्भ सां-1127788/सी-7/176-217 0/2020

दिनांक- 12/5/25  
पंजीकृत

सेवा में,

**Annexure R-4/5**

मै0 शमा ब्रिक वर्क्स,  
गाटा सं0-498, ग्राम-गहनी, तहसील-शाहबाद,  
जनपद-रामपुर।

**विषय** - माननीय राष्ट्रीय हरित अधिकरण द्वारा ओ0ए0 संख्या-18/2025 Kadir Aahmad Vs. State Of UP and Ors. में पारित आदेश दिनांक 24.01.2025 में पारित आदेशों के अनुपालन हेतु पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने के संबंध में।

यह कि माननीय राष्ट्रीय हरित अधिकरण द्वारा ओ0ए0 संख्या-18/2025 Kadir Aahmad Vs. State Of UP and Ors. में पारित आदेश दिनांक 24.01.2025 के सुसंगत अंश निम्नवत् है-

".....Learned counsel for the applicant points out that Respondents Nos. 4 and 5 dug the pits in violation of the OM dated 24.06.2023 issued by the Ministry of Environment, Forest and Climate Change, which sets the limits for borrowing/excavation activity, provides for the restoration of the borrowed/excavated pit by the project proponent, and fences all around the pit.

Learned counsel for the applicant submits that those directions contained in the O.M. were not complied with, consequently, 5 children had drowned in the illegally dug up pit which was filled with rainwater when they were playing in the field and got confused that the rainwater filled pit was a normal agricultural field filled with rainwater. The depth of the pit was around 9 feet. In this regard, he has also placed reliance upon the newspaper reports filed as annexure A/1. ...."

यह कि माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा ओ0ए0 सं0-18/2025 (आई0ए0 नं0 33/2025) कादिर अहमद बनाम स्टेट ऑफ यू0पी0 व अन्य में पारित आदेश दिनांक 24.01.2025 के क्रम में आपके ईट भट्टे मै0 शमा ब्रिक वर्क्स, गाटा सं0-498, ग्राम-गहनी, तहसील-शाहबाद, जनपद-रामपुर का संयुक्त निरीक्षण उ0प्र0 प्रदूषण नियंत्रण बोर्ड, खान अधिकारी, रामपुर एवं उपजिलाधिकारी, तहसील-शाहबाद, रामपुर द्वारा दिनांक 07.03.2025 को किया गया। उक्त संयुक्त निरीक्षण में ईट भट्टा संचालित पाया गया तथा बोर्ड के पत्र दिनांक 19.09.2024 द्वारा सशर्त सहमति निर्गत की गयी है जिसका वैधता दिनांक 31.07.2029 तक है।

यह कि उक्त प्रकरण में उप जिलाधिकारी शाहबाद के पत्र संख्या- 515 S.T.दिनांक 02.05.2025 द्वारा लेखपाल रामपुर द्वारा पूर्व में दिनांक 19.07.2023 को हस्ताक्षरित स्थल निरीक्षण आख्या प्रेषित की गयी है जिसके अनुसार ग्राम-गहनी व गदमरपट्टी टीकासिंह के क्षेत्रवासियों द्वारा शरीफ के भट्टे के पास बने गड्ढे में भरे हुए पानी में बच्चों के डूबने के सम्बन्ध में प्राप्त सूचना पर उप जिलाधिकारी, रामपुर, खनन अधिकारी, रामपुर, राजस्व निरीक्षक द्वारा गाटा संख्या-494 रकवा 0.9300 हे0, गाटा संख्या-496 रकवा 0.454 हे0 एवं गाटा संख्या-497, रकवा 0.464 पर शरीफ अहमद पुत्र शब्बीर हसन का भट्टा है तथा गाटा संख्या-494 रकवा 0.9300 हेक्ट0 के आंशिक भाग में 18 मीटर लम्बा 20 मीटर चौड़ा एवं 4.2 मीटर गहरा गड्ढा पाया गया। लेखपाल की उक्त रिपोर्ट में वर्णित है कि यह कहना उचित होगा कि उक्त गहराई खनन मानकों से अधिक है।

यह कि पर्यावरण, वन एवं जलवायु परिवर्तन विभाग उ0प्र0 शासन के शासनादेश दिनांक 01.05.2020 द्वारा प्रदेश के अन्तर्गत आच्छादित ईट भट्टों द्वारा 02 मीटर की गहराई तक मिट्टी का खनन किये जाने पर पर्यावरणीय स्वीकृति की अनिवार्यता से छूट प्रदान की गयी है। उक्त को दृष्टिगत रखते हुए प्रश्नगत प्रकरण में ईट भट्टे मैसर्स शमा ब्रिक वर्क्स, गाटा सं0-498, ग्राम-गहनी, तहसील-शाहबाद, जनपद-रामपुर द्वारा गाटा संख्या-494 रकवा 0.9300 हेक्ट0 पर 02 मीटर से अधिक की खुदाई किये जाने के दृष्टिगत 18 मीटर x 20 मीटर x 2.2 मीटर अर्थात् 792 घनमीटर अवैध खनन किया गया है।

.....कू0पू0उ0

यह कि माननीय राष्ट्रीय हरित अधिकरण द्वारा ओ0ए0 संख्या-360/2015 National Green Tribunal Bar Association Vs. Virendra Singh (State of Gujrat) & Ors. में पारित आदेश दिनांक 26.02.2021 के अनुपालन में केन्द्रीय प्रदूषण नियंत्रण बोर्ड 11.06.2021 द्वारा पर्यावरण (संरक्षण), अधिनियम, 1986 की धारा-5 के अन्तर्गत Development of mechanism for assessment and recovery of compensation हेतु निर्देशित किया गया है।

उक्त निर्देशों के अनुक्रम में केन्द्रीय प्रदूषण नियंत्रण बोर्ड नई दिल्ली द्वारा अवैध खनन हेतु पर्यावरणीय क्षतिपूर्ति के सम्बन्ध में तैयार की गयी मागदर्शिका दिनांक 29.01.2020 शीर्षक Recommendation on scale of compensation to deal with the cases of illegal sand mining में वर्णित Approach-2 के अनुसार पर्यावरणीय क्षतिपूर्ति की गणना हेतु निम्नलिखित सूत्र निर्धारित किया गया है:-

$$EC = D \times (1 + RF + DF)$$

Where,

D- Market Value of illegally mined material,

RF-Risk factor,

DF- Deterrence factor

यह कि अवैध खनन हेतु बाजार मूल्य के सम्बन्ध में खनन विभाग से सूचना प्राप्त न होने के दृष्टिगत क्षेत्रीय कार्यालय उ0प्र0 प्रदूषण नियंत्रण बोर्ड, मुरादाबाद द्वारा जनपद मुरादाबाद के अन्तर्गत विभिन्न ठेकेदारों से बाजार मूल्य के सम्बन्ध में सूचना प्राप्त की गयी जिसके अनुसार एक घनमीटर मिट्टी का औसत बाजार मूल्य रू0-150/- है। उक्त के अतिरिक्त ईट भट्ठे द्वारा किये गये अवैध खनन हेतु किसी भी प्रकार की अनुमति प्राप्त नहीं की गयी है अतः Risk factor एवं Deterrence factor की अधिकतम मान क्रमशः 01 एवं 01 के अनुरूप लिया गया है।

यह कि उक्तानुसार केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा अवैध खनन हेतु पर्यावरणीय क्षतिपूर्ति के सम्बन्ध में तैयार की गयी मागदर्शिका दिनांक 29.01.2020 में वर्णित Approach-2 के अनुसार पर्यावरणीय क्षतिपूर्ति की गणना निम्नवत् है:-

$$EC = 150 \times (1 + 1 + 1)$$

$$EC = Rs. 450 \text{ per Cubic meter.}$$

EC (for 792 cubic meter illegal mining) = Rs. 3,56,440/- (Rs. Three Lacs Fifty Six Thousand Four Hundred Forty only)

अतः उक्त को दृष्टिगत रखते हुए माननीय राष्ट्रीय हरित अधिकरण द्वारा ओ0ए0 संख्या-18/2025 (आई0ए0 नं0 33/2025) कादिर अहमद बनाम स्टेट ऑफ यू0पी0 व अन्य में पारित आदेश दिनांक 24.01.2025 में पारित आदेशों के अनुपालन में जनपद रामपुर में किये गये अवैध मिट्टी के खनन हेतु सक्षम अधिकारी के अनुमोदनोपरांत रू0-3,56,400/- (रू0-तीन लाख छप्पन हजार चार सौ मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु निम्नानुसार कारण बताओ नोटिस जारी किया जाता है:-

“यह कि ग्राम खाता चिन्तामन, तहसील-मिलक जनपद रामपुर की गाटा संख्या-494, रकवा 0.9300 हेक्टर पर बिना सक्षम अधिकारी की अनुमति से 18x20x2.2 घनमीटर (792 घनमीटर) का खनन किये जाने के दृष्टिगत क्यों न मैसर्स शमा ब्रिक वर्क्स, गाटा सं0-498, ग्राम-गहनी, तहसील-शाहबाद, जनपद-रामपुर के विरुद्ध रू0-3,56,400/- (रू0-तीन लाख छप्पन हजार चार सौ मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित कर दी जाए।”

आपको निर्देशित किया जाता है कि उक्त निर्देशों के सम्बन्ध में अपना स्पष्टीकरण 15 दिनों के अन्दर बोर्ड मुख्यालय प्रेषित करना सुनिश्चित करें। निर्धारित समयवधि में स्पष्टीकरण प्राप्त न होने अथवा संतोषजनक उत्तर प्राप्त न होने की दशा में उक्त निर्देशों की पुष्टि करते हुए आपके विरुद्ध उक्तानुसार पर्यावरणीय क्षतिपूर्ति अधिरोपित कर दी जाएगी जिसका सम्पूर्ण उत्तरदायित्व स्वयं आपका होगा।

भवदीय,

मुख्य पर्यावरण अधिकारी, वृत्त-7

प्रतिलिपि:-

1. जिलाधिकारी रामपुर को सूचनार्थ सादर प्रेषित।
2. जिला खनन अधिकारी रामपुर को सूचनार्थ सादर प्रेषित।
3. वरिष्ठ पुलिस अधीक्षक रामपुर को सूचनार्थ सादर प्रेषित।
4. क्षेत्रीय अधिकारी उ0प्र0 प्रदूषण नियंत्रण बोर्ड, मुरादाबाद को इस निर्देश के साथ कि उक्त कारण बताओ नोटिस की प्रति सम्बन्धित को तत्काल प्राप्त कराते हुए पावती सहित ससमय उक्त कारण बताओ नोटिस के निस्तारण के सम्बन्ध में निरीक्षण आख्या बोर्ड मुख्यालय प्रेषित करना सुनिश्चित करें।

मुख्य पर्यावरण अधिकारी, वृत्त-7

The Chairman/Member Secretary  
Uttar Pradesh Pollution Control Board,  
Lucknow TC/12V Vibhuti Khand  
Gomtinagar Lucknow 226010

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Subject : Reply of show cause notice no-H27788/C-7-  
वायु-2170/2025 dated 02-05-2025 in  
reference of OA NO-18/2025, Kadeer  
Ahmad Versus State of UP & others, order  
dated 24-01-2022 of National Green  
Tribunal.

Pointwise reply of the aforesaid show cause notice  
by the replier is as follows:-

1. That Shama Brick Works Village Gehni Tehsil  
Shahabad District - Rampur UP is a proprietorship  
firm having consolidated consent from 17-09-2024  
to 31-07-2029 issued on 19-09-2024 further more  
earlier consolidated consent was issued on 16-12-  
2020 which was valid from 10-12-2020 to 31-07-  
2024 thus the aforesaid replier, has continuous  
consent for its operation from 10-12-2019 to 31-07-  
2029.
2. That allegedly five children had drowned in the pit  
dug in violation of the OM dated 24.06.2023 issued  
by Ministry of Environment Forest and Climate  
Change for the reason of aforesaid alleged  
happening for the purpose of getting compensation

21/2/23/315/4

Application No. 18/2025 in the name and styled Kadeer Ahmad and others Versus State of UP others, in which the replier has received a notice from Hon'ble National Green Tribunal New Delhi, issued on 03.02-2025 fixing date of appearance on 06-05-2025 which is further fixed on 10-09-2025.

3. That the aforesaid Original application before the National Green Tribunal, U.P. Pollution Control Board, has been arrayed as respondent No. 2.
4. That in the notice under reply there is no mention of flouting any provision either contained in Air Pollution Act 1981 or Water Pollution Act-1974 or any other environmental laws.
5. That a brief story of unfortunate death of five children has been narrated in the show cause notice if it is taken in Toto this matter related to department mine and geology it is not related any way to the Uttar Pradesh Pollution Control Board and in respect of this matter FIR has been already lodged with the Police Station - Kotwali Shahabad at Case Crime No. 0154 /2023 under section 304 IPC in which Hon'ble Allahabad High Court Stayed the proceeding of the case No. 3713/2024 State Versus Shareef and others.

*Augment*

- 161
- 24
6. That as soon as the notice from National Green Tribunal New Delhi has served upon Uttar Pradesh Pollution Control Board, the Pollution Control Board issued the aforesaid show cause notice against the replier as a retaliation and without application of mind.
  7. That in the aforesaid show cause notice there is no whisper of causing any environmental damage cause by the replier.
  8. That in the aforesaid show cause notice it is stated that Shama Bricks Works was inspected by Lekhpal concerned on 19-07-2023 in the aforesaid inspection it was allegedly found that digging/ extraction was found against the norms that is more than two meters.

In pursuant to Mines and Minerals (Development and Regulation) Act 1957, the Uttar Pradesh Government made a rule "The Uttar Pradesh Minor and Mineral (Concession ) Rules 2021 " incorporating Section 3 which explains "that for the purpose of this rule digging and extraction of ordinary clay, ordinary earth for making bricks and pottery shall not be treated as mining operations.

Provided that pit created by such digging or extraction should not deeper than two meters."

*Am 31/8/26*

aforsaid Rules provides a complete chapter VII under heading "Contravention, Offense and Penalties" so far as the alleged inspection report dated 19-07-2023 Lekhpal is concerned it must have been sent to Directorate of Geology and Mining Uttar Pradesh and District - Officers of the District Rampur, even though the District - Administration permitted to deposit royalty form the aforsaid replier and issued further Brick Kiln certificate on 09-12-2024 which is valid till 30-09-2025 earlier year also was Brick Kiln Certificate was issued which was valid from 04-01-2023 to 30-09-2023 copies of Certificate was issued by Directorate of Geology and Mining of Uttar Pradesh dated 03-05-2024 and 09-12-2024 and receipt of deposition of royalty dated 09-12-2024 are collectively annexed here with this reply.

9. That it is relevant to state here in this reply that the issuance of Brick Kiln Certificate for consecutive two years and receiving the royalty itself shows and proves that there was no contravention of " the Mine and Mineral (Development and Regulation) Act 1957 and " The Uttar Pradesh Mineral (Concession) Rules

21/2/23 31226

2021" as amended by the notification dated 30-10-2023. 163  
26

10. That in case of any contravention of Rules relating to the Mines Department, the Directorate of Geology and Mining Uttar Pradesh, could not issue in any circumstances, Brick Kiln Certificate having validity upto 30-09-2025 and District Administration could not permit the replier to deposit royalty.
11. That is also in a paragraph of aforesaid show cause notice it is referred a guideline dated 29-01-2020 with heading "Recommendation on scale of compensation to deal with the cases of illegal sand Mining," itself shows that this scale of compensation is related with the case of illegal sand mining it is not related to digging or extraction of ordinary clay, ordinary earth for making bricks and pottery under Section 3 of the Uttar Pradesh Minor Mineral (Concession) Rule 2021 as amended in the year 2023.
12. That it is also noticable that the matter is related purely with the contravention of the Rule of Geology of Mining Uttar Pradesh Lucknow yet has not made party (Respondent) in Original Application No. 18 of

7  
12/11/2024

2025 titled as Kadeer Ahmad and others versus State of U.P. and others.

13. That issuance of show cause notice for imposition of environmental compensation against the replier is arbitrary and bad in law, and beyond the jurisdiction of the Uttar Pradesh Pollution Control Board.

14. That it is expedient in the interest of justice in the light of the aforesaid pointwise reply that the show cause notice dated 02-05-2025 bearing reference No. H27788/C-7/वाच्य -2170/2025 be cancelled /withdrawn as it is issued just after receiving notice issued by the National Green Tribunal without application of mind.

श्री/म/श्री/म/श्री/म  
16-5-25  
On behalf of

M/s Shama Brick Works

Copy to-

1. The Chief environment officer U.P. Pollution Control Board, Circle -7.
2. Regional officer, Regional office, Rampur, Uttar Pradesh Pollution Control Board.

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,****PRINCIPAL BENCH, NEW DELHI****Original Application No. 18 Of 2025****IN THE MATTER OF:****KADIR AHMAD & ORS.**

..Applicants

**Versus****STATE OF UTTAR PRADESH & ORS.**

..Respondents

**VAKALATNAMA**

KNOW ALL to whom these present shall come that We, the above named Respondent No. 5, do hereby appoint **SHRI NIRMAL KUMAR AMBASTHA & MS. ASHMITA BISARYA** (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

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

To take execution proceedings.

The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

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

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this \_\_\_ day of May, 2025.

Accepted subject to the terms of fees.



*Nirmal*  
[NIRMAL KUMAR AMBASTHA]  
(D-1708/2007)

*Ashmita*  
[ASHMITA BISARYA]  
(MP-1533/2009)

Advocates,  
90, Lawyers' Chamber,  
Supreme Court, New Delhi.  
Cell No. +91 98 99 368 041

कृत शमा ब्रक

सलीम अकतर  
प्रोपराइटर

[SALEEM AKHTAR]

Proprietor

FOR M/S SHAMA BRICKS WORKS

Respondent No. 5

**PRINCIPAL BENCH, NEW DELHI****Original Application No. 18 Of 2025****IN THE MATTER OF:****KADIR AHMAD & ORS.**

..Applicants

**Versus****STATE OF UTTAR PRADESH & ORS.**

..Respondents

**VAKALATNAMA**

KNOW ALL to whom these present shall come that We, the above named Respondent No. 6, do hereby appoint **SHRI NIRMAL KUMAR AMBASTHA & MS. ASHMITA BISARYA** (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

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

To take execution proceedings.

The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

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

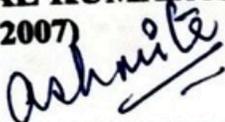
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And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this \_\_\_ day of May, 2025.

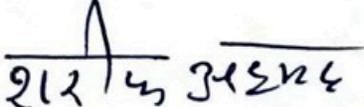
Accepted subject to the terms of fees.

  
[NIRMAL KUMAR AMBASTHA]  
(D-1708/2007)

  
[ASHMITA BISARYA]  
(MP-1533/2009)

Advocates,  
90, Lawyers' Chamber,  
Supreme Court, New Delhi.  
Cell No. +91 98 99 368 041





[SHARIF AHMAD]  
Respondent No. 6

167

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Nirmal Ambastha &lt;nirmalambastha@gmail.com&gt;



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**Service of Reply in OA 182025 for Respondent Nos. 4 and 5**

1 message

**Nirmal Ambastha** <nirmalambastha@gmail.com>

10 September 2025 at 23:47

To: "rkhuranalegal@gmail.com" &lt;rkhuranalegal@gmail.com&gt;, advjain25@gmail.com

Dear Sir,

Please find attached herewith copy of the reply to the caption OA being filed on behalf o the respondent Nos. 4 and 5.

Regards,

Nirmal Kumar Ambastha,  
Advocate-on-Record,  
Supreme Court of India,  
90, Lawyers' Chamber, A. K. Sen Block,  
Supreme Court of India,  
New Delhi - 110 001  
Cell Nos. - +91 9899 368041, +91 9868 568041

**Reply Sharif Ahamad.pdf**

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