

N.D.H.:17.02.2025

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

ORIGINAL APPLICATION NO. 582 OF 2024

IN THE MATTER OF:

RAKESH KUMAR

..... APPLICANT

VERSUS

UNION OF INDIA & OTHERS

... RESPONDENTS

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Place: New Delhi

Date: 14.02.2025

Filed by:-



(GAURAV AGARWAL)

Advocate for Respondent No. 51

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**REPLY ON BEHALF OF RESPONDENT NO.51-
M/S SHRI BALAJI CONSTRUCTIONS**

1. That the present OA is filed by the Applicant seeking a prayer for issuance of directions of the Respondents to convert their units at Hisar, Haryana to PNG/CNG as file instead of the other category of fuel used currently. This Hon'ble Tribunal considering the issue involved in the case directed issuance of notice by order dated 21.05.2024 and connected this mater with OA No. 687 of 2023.
2. That pursuant to the order dated 21.05.2024 the instant OA was listed on 14.08.2024 when this Tribunal considered a report of HSPCB at annexure R-1 of the OA that there are total of 126 units in area and out of which only 8 have converted to PNG/CNG/ Hence, by order date 16.09.2024 this Tribunal directed for impleadment of the said units as the counsel for the Applicant sought directions for the said 118 units to be shifted to PNG/CNG.
3. That subsequent to the said impleadment of Respondent at serial no. 51, said answering Respondent by order dated 26.11.2024, it was granted time to file their reply. Hence, the following reply is filed herein as under.

4. That the answering Respondent is a government contractor and undertakes projects to construct roads in Haryana. As per the terms of tender the answering Respondent is qualified to apply only on condition that the bidder is in possession of working batch type hot mix plant on the date of tender and should be within 50 kms of the road put to tender and in case it is not within 50 kms of radial distance an unconditional bank guarantee is to be of Rs. 1 cr to be provided and will be released only when the plant is installed within the 50 kms radial distance. In case of failure the said bank guarantee stands forfeited. A true copy of the relevant part of the conditions of tender providing Instructions/ Special Qualification Requirements dated nil is **ANNEXURE R-1**
5. That, therefore, projects undertaken by the answering Respondent is only in nearby areas as for the type of work the he is engaged in, it is not reasonable or appropriate for him to undertake construction projects at a faraway distance. Therefore, for the said reason, it is required that the type of fuel required for its operation should be such which is portable in nature. The fuel suggested by the Applicant, i.e., Piped Natural Gas (PNG) is of a nature which would not be possible for the answering Respondent to utilize in their operation as the plant herein is required to keep shifting as per the tender and re-install accordingly and the fuel source which is required for it's operation should be of such a nature which can be carried along, making the complete operation mobile.
6. That it also becomes pertinent to mention that as per the instructions of the Public Works Department, radial distance of

50 Km shall be measured from the centre of the starting and ending point of road work put to tender. Thus, the plant is not constant on any location for long, hence, the plant has to be located within the required distance to be eligible for tender and for work.

7. That the answering Respondent is well versed with the legal and environmental compliances which are required to be fulfilled for engaging in the said industry. That pursuant to establishment the answering Respondent obtained Consent to Operate (CTO) with effect from 13.04.2023 with a validity up till 31.03.2033. A true copy of the Consent to Operate (CTO) dated 16.04.2023 is **ANNEXURE R-2.**
8. That as per Consent to Operate (CTO) of the answering Respondent, it is allowed to use as fuel Electricity and Diesel. The answering Respondent is not utilizing coal as stated in the said Original Application. The answering Respondent has not been utilizing any fuel type in contravention to the CTO. The primary grievance of the Applicant of air pollution due to use of coal or fossil fuel is ill founded as against the answering Respondent. The answering Respondent is operating on electricity which itself is the cleanest type of fuel there is no reason for it to shift to PNG/CNG.
9. That in case of Babubhai Ramubhai Saini v. CPCB this Tribunal has directed for closure of the coal gasifiers industries and units operating with help of coal. The Supreme Court in case of Aditya Dubey (minor) directed to switching the units to PNG or cleaner fuels other than coal. Even other directions and order pertains to

the closure of units operating on coal or shifting from coal to cleaner fuel. However, the Respondent herein is not utilizing coal as fuel and due to the nature of the operation carried out it is not feasible to shift to PNG, hence, it is operating on electricity or diesel as permitted by CTO.

10. That apart from the aforesaid the Hot Mix Plant is generally operated for only 3-4 months in a year as in the colder weather and rainy season weather it is not feasible to operate the plant. The allegation against the answering Respondent to be contributing to rising air pollution during the winter season is incorrect. As the mix prepared for road construction get cool very fast during the winters, the plant is generally not in operation at all. Also, the said plant is installed out of the National Capital Region and is installed at least 1 Km from village habitation. All the said facts make it abundantly clear that the Plant in question is not functioning in violation of the environmental norms and is well within the benchmarks of the permissions it has so far acquired in accordance with the law established.
11. That it is lastly submitted that the answering Respondent has always complied and followed each and every rule and law scrupulously. However, the answering Respondent states that in the event any further direction, if any is passed by this Tribunal, the answering Respondent shall be obliged to follow the same as well. It is lastly submitted that considering the fact of compliance by the answering Respondent and the fact that the answering Respondent is a source of livelihood to huge section of society who are directly and indirectly engaged with the answering

Respondent, this Tribunal may be pleased to dismiss the O.A. with heavy cost to the Applicant.

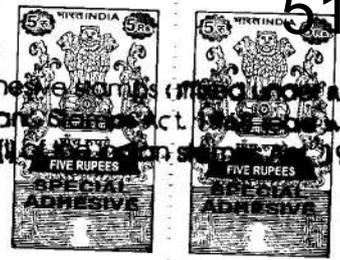
Vinod Kumar
Authorized Signatory, Shri Balaji Constructions
Respondent

Through



(GAURAV AGARWAL)
Advocate for Respondent No.51

GRV LEGAL
Advocates and Legal Consultants
O-703, Aditya Mega City,
Vaibhav Khand, Indirapuram,
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PRINCIPAL BENCH, NEW DELHI
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IN THE MATTER OF:

RAKESH KUMARAPPLICANT

VERSUS

UNION OF INDIA & OTHERSRESPONDENTS

AFFIDAVIT

I, VINOD KUMAR, aged about 42 years, S/o Shri Kuldeep Singh, R/o Village Chuli Bagrian, Chuli Bagarian (8) Hisar, Haryana-125052, do hereby state on solemn affirmation as under:

1. That the deponent is the Proprietor of the answering Respondent in the present Original Application as such I am well conversant with the facts and circumstances of the present case and hence, competent to swear this affidavit.
2. That I have gone through the accompanying Reply from para 1 to 11 and day that the contents thereof are true and correct to the best of my knowledge and belief and I believe the same to be true.
3. That the Annexure R-1 to ^{R-2} the reply are true copy of the documents.

Solemnly affirmed on this 10th day of February, 2025 at Hisar, Haryana.

[Signature]
DEPONENT

VERIFICATION

Verified at Hisar, Haryana on this 10th day of February, 2025 that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

[Signature]
DEPONENT

ATTESTED

[Signature]
Notary Public, Hisar

10 FEB 2025



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10 FEB 2025

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No. 31013 Dt. Rs. 150/-
Sold to. *श्री. सुनील कुमार अग्रवाल*
For. *श्री. सुनील कुमार अग्रवाल*
R/o.
Through. *श्री. सुनील*

Virender Kumar (Stamp Vendor)
Jindal Chowk HISAR



DNIT Name : Special Repair/Improvement ...

Haryana Engineering Works Portal

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Public Works Department

39. Instructions / Special Qualification Requirements (If any)

Instructions/ Special Qualification Requirements for Road Works

(i) (For works of any value involving bituminous work of DBM and /or BC irrespective of amount of work)

Each bidder must demonstrate (Submit proof) of the ownership of Batch Type Hot Mix Plant for the bids of the works where there is a provision of Batch Type Hot Mix Plant in the BOQ. The Batch Type Hot Mix Plant should be in possession of the bidder on the date of the tender and should be in workable condition. The Batch Type Hot Mix Plant should be within a radial distance of 50 kms. This 50 kms distance shall be measured from the center of the starting and ending point of road work put to tender. The bidder shall submit a key-map showing the distance of location of Batch Type Hot Mix Plant to the center of starting and ending point of the road work put to tender.

In case the agency does not possess the Batch Type Hot Mix Plant within a radial distance of 50 kms then the agency shall furnish unconditional Bank Guarantee of Rs. 1.00 Cr. which shall be released after the installation of Batch Type Hot Mix Plant within a radial distance of 50 kms.

In case the bidder does not install Batch Type Hot Mix Plant within a radial distance of 50 kms, when the plant is required for execution of work, the Bank Guarantee shall be forfeited.

(For composite works upto Rs. 5.00 Crore with provision of bituminous works of BM and / or PC only).

Each bidder must demonstrate (Submit proof) of the ownership of Drum Type / Batch Type Hot Mix Plant for the bids of the works where there is a provision of Drum Type Hot Mix Plant in the BOQ. The Drum Type / Batch Type Hot Mix Plant (in workable condition) should be in possession of the bidder on the date of tender and the bidder shall submit proof of ownership of Drum Type / Batch Type Hot Mix Plant. The Drum Type / Batch Type Hot Mix Plant should be within a radial distance of 50 kms. This 50 kms distance shall be measured from the center of the starting and ending point of road work put to tender. The bidder shall submit a key-map showing the distance of location of Drum Type / Batch Type Hot Mix Plant to the center of starting and ending point of the road work put to tender.

In case the agency does not possess the Drum Type / Batch Type Hot Mix Plant within a radial distance of 50 kms, then the agency shall furnish unconditional Bank Guarantee of Rs. 25.00 Lacs which shall be released after the installation of Drum Type / Batch Type Hot Mix Plant within a radial distance of 50 kms as stated above.

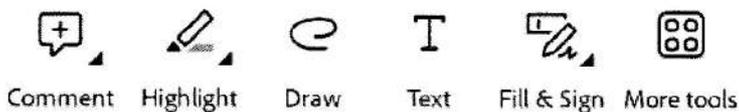
In case the bidder does not install Drum Type / Batch Type Hot Mix Plant within a radial distance of 50 kms, when the plant is required for execution of work, the Bank Guarantee shall be forfeited.

The Drum Type / Batch Type Hot Mix Plant should have suitable arrangements for mixing RAP.

(ii) Each bidder must demonstrate (Submit proof) the availability (either owned or leased) of concrete batches plant and fixed form concrete paver where the work involves cement concrete pavement costing less than Rs. 5.00 Crores and slip form paver where the work involves cement concrete pavement costing Rs. 5.00 Crores and above

(iii) Non submission of any of the above as required shall amount to declaration of tender as non-responsive.

Further, for execution of road works we may add following conditions in technical specification of works/ follow these conditions and prepare DNIT accordingly





HARYANA STATE POLLUTION CONTROL BOARD

**Bays B-7-8, Near Vishwas Sr.Sec. School, E-II,
Hisar Ph. 01662-250891(O) Email:-
hspcbrohr@gmail.com
E-mail: hspcb@hry.nic.in**



No. HSPCB/Consent/ : 313122323HISCTOA35389854

Dated:16/04/2023

To.

M/s :SHRI BALAJI CONSTRUCTIONS
VILLAGE KANWARI, TEHSIL HANSI, HISAR

Subject: Grant of consent to operate to M/s SHRI BALAJI CONSTRUCTIONS.

Please refer to your application no. 35389854 received on dated 2023-03-23 in regional office Hisar. With reference to your above application for consent to operate, M/s SHRI BALAJI CONSTRUCTIONS is here by granted consent as per following specification/Terms and conditions.

Consent Under	AIR
Period of consent	13/04/2023 - 31/03/2033
Industry Type	Hot mix plants
Category	ORANGE
Investment(In Lakh)	224.66
Total Land Area(Sq. meter)	9105.0
Total Builtup Area(Sq. meter)	125.0
Quantity of effluent	
1. Trade	0.0 KL/Day
2. Domestic	1.5 KL/Day
Number of outlets	1.0
Mode of discharge	
1. Domestic	septic tank with soak pit
2. Trade	
Domestic Effluent Parameters	
1. NA	
Trade Effluent Parameters	
1. NA	
Number of stacks	1
Height of stack	
1. STACK OF HMP	20 MTR
Emission parameters	
1. SPM	150 mg/m ³
Product Details	
1. Bitumenous Mix	1400 Metric Tonnes/day

Capacity of boiler	
1. NA	Ton/hr
Type of Furnace	
1. NA	
Type of Fuel	
1. Electricity	100 Kilowatt/day
2. Diesel	0.5 KL/day
Raw Material Details	
Rori, Bazri, Bitumen	1400 Metric Tonnes/Day

Regional Officer, Hissar
Haryana State Pollution Control Board.

Terms and conditions

1. The applicants shall maintain good house keeping both within factory and in the premises. All hose pipelines valves, storage tanks etc. shall be leak proof. In plant allowable pollutants levels, if specified by State Board should be met strictly.
2. The applicant/company shall comply with and carry out directive/orders issued by the Board in this consent order at all subsequent times without negligence of his /its part. The applicant/company shall be liable for such legal action against him as per provision of the law/act in case of violation of any order/directives. Issued at any time and or non compliance of the terms and conditions of his consent order.
3. The applicant shall make an application for grant of consent at least 90 days before the date of expiry of this consent.
4. Necessary fee as prescribed for obtaining renewal consent shall be paid by the applicant alongwith the consent application.
5. If due to any technological improvement or otherwise this Board is of opinion that all or any of the conditions referred to above required variation (including the change of any control equipment either in whole or in part) this Board shall after giving the applicant an opportunity of being heard vary all or such condition and there upon the applicant shall be bound to comply with the conditions so varied.
6. The industry shall provide adequate arrangement for fighting the accidental leakages, discharge of any pollutants gas/liquids from the vessels, mechanical equipment etc. which are likely to cause environment pollution.
7. The industry shall comply noise pollution (Regulation and control) Rules, 2000.
8. The industry shall comply all the direction/Rules/Instructions as may be issued by the MOEF/CPCB/HSPCB from time to time.
9. The industry shall ensure that various characteristics of the effluents remain within the tolerance limits as specified in EPA Standard and as amended from time to time and at no time the concentration of any characteristics should exceed these limits for discharge.
10. The industry would immediately submit the revised application to the Board in the event of any change in the raw material in process, mode of treatment/discharge of effluent. In case of change of process at any stage during the consent period, the industry shall submit fresh consent application alongwith the consent to operate fee, if found due, which may be on any account and that shall be paid by the industry and the industry would immediately submit the

consent application to the Board in the event of any change during the year in the raw material, quantity, quality of the effluent, mode of discharge, treatment facilities etc.

11. The officer/official of the Board shall reserve the right to access for the inspection of the industry in connection with the various process and the treatment facilities. The consent to operate is subject to review by the Board at any time.
12. Permissible limits for any pollutants mentioned in the consent to operate order should not exceed the concentration permitted in the effluent by the Board.
13. The industry shall pay the balance fee, in case it is found due from the industry at any time later on.
14. If the industry fails to adhere to any of the conditions of this consent to operate order, the consent to operate so granted shall automatically lapse.
15. If the industry is closed temporarily at its own, they shall inform the Board and obtain permission before restart of the unit.
16. The industry shall comply all the Directions/ Rules/Instructions issued from time to time by the Board.

Specific Conditions :

1. The unit will operate PCD that is APCM and , maintained logbook.
2. Unit will apply for the renewal of the CTO 90 days before the expiration of this CTO
3. The unit will take all necessary clearances from all the concerned departments/agencies.
4. The unit will abide by the directions/guidelines of HSPCB/CPCB/ any court decision/ direction of any competent authority.
5. Unit will submit the air emission Analysis report within 90 days from the date of this CTO granted.
6. The unit will make stringent compliance of the HMP notification dated 15.10.2010/ direction of any competent authority.
7. The unit will not use any illegal fuel.
8. Unit will take permission of competent authority for groundwater extraction.
9. The unit will take HW authorization if applicable as per Board policy dated 02.11.2018.

Digitally signed by SHAKTI SINGH
Date: 2023.04.16 12:52:49
+05'30'

Regional Officer, Hissar

Haryana State Pollution Control Board.

//TRUE COPY//