

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

OA No.332/2022

**IN THE MATTER OF:-**

Ashok Kumar & Ors.

.....Applicant

Versus

State of Haryana

.....Respondent

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FILED BY: -

Place: Yamuna Nagar

Dated: 17.9.20122



Regional Officer, HSPCB, Yamuna Nagar

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IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A. No.332/2022

**IN THE MATTER OF: -**

Ashok Kumar & Ors. ....Applicant

Versus

State of Haryana .....Respondent

**REPORT ON BEHALF OF HARYANA STATE  
POLLUTION CONTROL BOARD IN  
COMPLIANCE OF ORDERS DATED 11.05.2022.**

**MOST RESPECTFULLY SHOWETH:-**

1. The Hon'ble NGT vide orders dated 11.05.2022 passed the following directions:-

*"1. The grievance raised in the present letter petition sent by Mr. Ashok Kumar and other residents of Village Bhagwanpur, Tehsil Jagadhari, District Yamuna Nagar is apprehended contamination of ground water by chemical industry established in Abadi (residential area) near Hanuman Mandir in village Bhaganpur, Tehsil Jagadhari, District Yamuna Nagar which is statedly being run in clandestine manner without displaying any board containing its name or other particulars with its gate remaining closed during day time but it's product being transported through vehicles in the night.*

*2. In view of the averments made in the application, it would be appropriate to have a factual and action taken*



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*report from a Joint Committee comprising of State Ground Water Authority, State PCB and Deputy Commissioner, Yamuna Nagar. State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within two 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."*

2. That on 13.7.2022, the Dy. Commissioner, Yamuna Nagar nominated the concerned SDM as his representative. As per directions of Hon'ble NGT a team of the following Officers was constituted:-
  - I. Sh. Sushil Kumar, HCS, SDM, Jagadhri (Representative of Deputy Commissioner, Yamuna Nagar).
  - II. Sh. Pankaj Mehla, Chief Hydrologist, HWRA, Panchkula.
  - III. Sh. Nirmal Kumar, the then Regional Officer, HSPCB, Yamuna Nagar.
  - IV. Sh. Naresh Kumar, AEE, HSPCB, Yamuna Nagar.
3. That industrial unit under the complaint is M/s CHEMWOOD INDUSTRIES Village Bhagwanpur, Kharwan Road, Tehsil Jagadhri, District Yamuna Nagar. The team of the Officers as mentioned in preceding para visited the unit in question on 25.07.2022 and 16.8.2022. The complainant Sh. Ashok Kumar was present during



inspection of the Unit on 25.7.2022. The Unit was found non-operational on both dates of Inspection. The photographs taken on 25.07.2022 and 16.8.2022 are annexed herewith as ANNEXURE R-1 (Colly).

4. That apart from the factual status as found on 25.07.2022, following facts are relevant to be placed on record:

- (i) The unit in question obtained consent from the Haryana State Pollution Control Board for establishing unit of manufacturing of synthetic resins. The consent was valid from 20.12.2018 to 19.12.2023.
- (ii) Some original applications were filed before this Hon'ble Tribunal and issue under consideration in those original application was that whether units manufacturing formaldehyde and its different resins can operate without requisite Environment Clearance as per Environment Impact Assessment (EIA) Notification dated 14.9.2006.
- (iii) This Hon'ble Tribunal vide order dated 28.11.2019 passed in OA No.840/2019 (Ayush Garg V/s. UOI & Ors.) filed against M/s Om Chem, Yamuna Nagar, Haryana, passed the following directions:

*"3. Without commenting upon the issue of proceedings before the Appellate Authority on*



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*the subject of 'Consent to Establish', the action could certainly be taken for absence of EC by SEIAA under the Environment (Protection) Act, 1986. Regional Officer of MoEF&CC at Chandigarh or SEIAA or CPCB can certainly exercise jurisdiction under Section 5 of the Environment (Protection) Act, 1986 for stopping illegal operation of manufacturing activities in violation of requirement of EC forthwith. Let such action be taken in accordance with law. Let SEIAA, Haryana furnish an action taken report in the matter within one month after coordinating with concerned authorities by e-mail at judicial-ngt@gov.in."*

- (iv) In view of the aforesaid order of this Hon'ble Tribunal, show cause notice was issued to all similarly situated Units including unit in question also. Further, the Chairman, Haryana State Pollution Control Board, recommended the closure directions under Section 5 of the Environment Protection Act, 1986. Finally, closure order dated 6.8.2020 was issued by the Secretary, Govt. of Haryana, Environment and Climate Change Department. Copy of Closure Order dated 6.8.2020 passed by Secretary, Govt. of Haryana, Environment and Climate Change Department is annexed herewith as ANNEXURE

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R-2. The plant and machinery of the unit were sealed on 17.9.2020.

(v) The Haryana State Pollution Control Board vide order dated 25.9.2020 revoked/cancelled the consent granted to the unit in question.

(vi) A representation was received from all Haryana formaldehyde manufacturing association, Yamuna Nagar dated 23.10.2020 addressed to Addl. Chief Secretary to Govt. of Haryana, Department of Environment and Climate Change, Chandigarh requesting to allow such formaldehyde units to operate and give sufficient time reasonable to obtain the Environmental clearance form MoEF&CC and SEIAA on the basis of parity that same decision was taken by State of Rajasthan in similar case. Keeping in view all relevant facts, Govt. of Haryana vide order dated 10.11.2020 decided to allow these units to continue their operation for a period of 6 months without invoking any legal action against the procedural laps occurred, with the condition that these units will apply for environmental clearance within a period of 60 days from the date of issuance of this communication.  
After expiry of this six months period, the unit was re-sealed on 19.5.2021.

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(vii) OA No.287/2020 (Dastak NGO V/s Synochem Organics Pvt. Ltd. & Ors.) was filed challenging order dated 10.11.2020 passed by the Govt. of Haryana. One more Original Application No.298/2020 (Vineet Nagar V/s. CGWA & Ors.) filed before this Hon'ble Tribunal against operation of industrial units of the private Respondents in the State of Haryana, Rajasthan, UP and Punjab manufacturing formaldehyde and its different resins without requisite environmental clearance. These three Original Applications were disposed of vide respective orders dated 3.6.2021. This Hon'ble Tribunal held that such units cannot be permitted to run without obtaining Environment Clearance. Copy of orders dated 3.6.2021 passed in OA No.840/2019, OA No.287/2020 and OA No.298/2020 are annexure herewith as **ANNEXURE R-3**, **ANNEXURE R-4** and **ANNEXURE R-5** respectively.

(viii) Some formaldehydes units including the unit in question have challenged the order(s) dated 3.6.2021 passed by this Hon'ble Tribunal by way of their respective Civil Appeals. The unit in question has filed Civil Appeal No.4908/2021. The case status as updated on website of Hon'ble

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vide order dated 23.8.2021 has stayed the orders passed by this Hon'ble Tribunal and challenged in said Appeal. Copy of order dated 23.8.2021 passed by Hon'ble Supreme Court of India in CA No.4908/2021 is annexed herewith as ANNEXURE R-7.

5. That the unit has applied for Environment Clearance before the MoEF &CC and same is pending for consideration. The Haryana State Pollution Control Board will not grant consent to the unit in question without obtaining Environment Clearance by the Unit.
6. That the partners of the unit have submitted an affidavit dated 16.8.2022 explaining the process involved during operation of the unit. Further, it has been undertaken that they will operate the plant only after getting Environment Clearance and CTO and in compliance of various conditions of Environment Clearance and in compliance of applicable Environmental Laws. Copy of affidavit dated 16.8.2022 is annexed herewith as ANNEXURE R-8.
7. That the Haryana State Pollution Control Board will not permit the Unit to run without obtaining Environment Clearance from the MoEF &CC and Consent to Operate from the Board.



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8. The Haryana State Pollution Control Board has filed prosecution case for past violations made by the Unit in question before Special Environmental Court, Kurukshetra, Haryana, on 25.5.2022.

The report is submitted for kind consideration please.

It is undertaken to comply with the directions passed by Hon'ble Tribunal.



Virender Singh Punia, RO,  
HSPCB, Yamuna Nagar

Dated: 17.09.2022

Place: Yamuna Nagar

ANNEXURE R-1 (Colly)





N 30°12'20.22510" (LAT)

E 77°22'28.85060" (LONG)

Altitude: 309 yd a.s.l

7/25/22, 4:24 PM

Location provider: Fused

Kharwan Dadupur Road

Yamunanagar 135101

HR

India



30°2'23.80380" (LAT)

E 7°21'29.00140" (LONG)

Altitude: 307 yd a.s.l

8/16/22, 12:15 PM

Location provider: Fused

No street

Yamunanagar 135101

HR

India





N 30°12'22.07970" (LAT)

E 77°22'27.95290" (LONG)

Altitude: 309 yd a.s.l

7/25/22, 4:31 PM

Location provider: Fused

Kharwan Dadupur Road

Yamunanagar 135101

HR

India





HARYANA GOVERNMENT :  
ENVIRONMENT DEPARTMENT  
ORDER

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Whereas Regional Officer, Yamuna Nagar vide his letter No. HSPCB/YR/2020/5229 dated 19.03.2020 has intimated that the project/activity of M/s Chem Wood Industries, Village Bhagwanpur, Kharwan Road, Jagadhri, Yamunanagar falls under section 5 (f) i.e. "Synthetic organic Chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)" of schedule appended with the EIA Notification dated 14<sup>th</sup> September, 2006, requiring prior Environmental Clearance before establishment. But the above said units has established their plant & machinery and operating without obtaining prior Environmental Clearance in violation of the provisions of EIA Notification 2006.

Whereas Show Cause Notice for closure under section 5 of EP Act, 1986 was issued to the unit by Regional Officer, Yamuna Nagar for the above said violation vide letter no. HSPCB/YR/2019/17420 dated 10.06.2019. But the reply of the unit was found unsatisfactory.

Whereas in the matter of O.A. No. 840 of 2019 titled as Ayush Garg V/s Union of India, Hon'ble NGT issued order dated 28.11.2019 in case of a similar unit directing that action could certainly be taken for absence of EC under section 5 of the Environmental Protection Act, 1986 for stopping illegal operation of manufacturing activities in violation of requirement of EC.

Whereas, the Chairman, Haryana State Pollution Control Board has recommended vide his letter No. HSPCB/HWM/41-292/2020/511 dated 21.05.2020 to issue the closure direction under section 5 of the EP Act, 1986 against the above said violations.

Therefore, in exercise of powers conferred under section 5 of Environment (Protection) Act 1986, it is hereby ordered that manufacturing activity of dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates of the above said unit be stopped immediately.

Dated:- 06.08.2020

**Shekhar Vidyarthi**  
Secretary to Govt. Haryana,  
Environment & Climate Change Department.

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Endst. No. 16/02/2020- 3 Env.

Dated:- 11.08.2020

A copy is forwarded to the Chairman, Haryana State Pollution Control Board, C-11 Sector-6 Panchkula w.r.t. their letter No. HSPCB/HWM/41-292/2020/511 dated 21.05.2020.

*Kamal Dew*  
Superintendent, Environment,  
for Additional Chief Secretary to Govt. Haryana,  
Environment and Climate Change Department.

Endst. No. 16/02/2020- 3 Env.

Dated:- 11.08.2020

A copy is forwarded to Executive Engineer, UHBVNL, Yamunanagar with the request to disconnect of Electric supply of the above said unit.

*-Sd-*  
Superintendent, Environment,  
for Additional Chief Secretary to Govt. Haryana,  
Environment and Climate Change Department.

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Annexure - R/3

Item No. 06

Court No. 1

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

(By Video Conferencing)

Original Application No. 840/2019  
(I.A. No. 52/2021)

(With report dated 18.12.2020)

Ayush Garg

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 03.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Rahul Choudhary, Advocate

Respondent: Mr. Anil Grover, Senior AAG with Mr. Rahul Khurana,  
Advocate for State of Haryana and HSCP  
Mr. Shiv Mangal Sharma and Mr. Saurabh Rajpal, Advocates for R-5

**ORDER**

1. A factual and action taken report was sought from a joint Committee of Haryana State Pollution Control Board (State PCB) and the State Environment Impact Assessment Authority (SEIAA), Haryana with reference to the allegation of illegal operation of manufacturing unit by M/s Om Chem at Village Kurali, Sabapur Road, Tehsil Bilaspur, District Yamunanagar, Haryana. According to the Applicant, formaldehyde is a hazardous chemical which was being used releasing Volatile Organic Compounds (VOCs) in violation of Hazardous Waste (Management and Transboundary Movement) Rules, 2016.

2. The matter was considered on 28.11.2019 in light of the report filed by the State Environment Impact Assessment Authority (SEIAA), Haryana on 15.10.2019. It was observed:

*“2. Accordingly, a report has been filed by SEIAA, Haryana on 15.10.2019 to the effect that there is no Environmental Clearance and thus operation of the unit is illegal. Notice for revocation of ‘Consent to Establish’ was issued by the SPCB but the same was stayed on 13.09.2019 by the Appellate Authority.*

*3. Without commenting upon the issue of proceedings before the Appellate Authority on the subject of ‘Consent to Establish’, the action could certainly be taken for absence of EC by SEIAA under the Environment (Protection) Act, 1986. Regional Officer of MoEF&CC at Chandigarh or SEIAA or CPCB can certainly exercise jurisdiction under Section 5 of the Environment (Protection) Act, 1986 **for stopping illegal operation of manufacturing activities in violation of requirement of EC forthwith.** Let such action be taken in accordance with law. Let SEIAA, Haryana furnish an action taken report in the matter within one month after coordinating with concerned authorities by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).”*

3. The matter was thereafter considered on 10.08.2020 in the light of report of the SEIAA, Haryana dated 27.12.2019 that the activities of the unit have been directed to be stopped.

4. Accordingly, the Tribunal directed unless valid Environmental Clearance (EC) and other statutory clearances taken, the Unit may not be allowed to function. It was also directed that State PCB may assess and recover compensation for illegal operation of the units on ‘Polluter Pays’ principle. Operative part of the order is quoted below:-

*“1&2..xxx.....xxx.....xxx*

*3. In view of the above, the SEIAA filed its report dated 27.12.2019 to the effect that a decision was taken to stop the activities of the unit. However, there was nothing to show that actual stopping of such activities was effective. The applicant has filed an application on 03.08.2020 to the effect that unit was still functioning. During the hearing, learned Counsel for the State Pollution Control Board states that on 07.08.2020 the functioning of the unit has been stopped.*

4. In view of the above, we direct the District Magistrate, Yamunanagar and the State PCB to ensure that unless a valid Environmental Clearance (EC) and other statutory clearances are available, the unit may not be allowed to function. The State PCB will be nodal agency for compliance. State PCB may also assess and recover compensation for illegal operation of the unit on 'Polluter Pays' principle, following due process of law. Compliance report be filed before the next date by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

5. Accordingly, the State PCB has filed its report on 18.12.2020 as follows:-

*"That the Unit M/s Om Chem Village Kurali, Tehsil Bilaspur, Yamuna Nagar has been closed by the Board vide order dated 07.08.2020 and same was complied on dated 08.08.2020. The Environmental compensation of Rs 49,40,000/- (Forty Nine Lakh forty thousand, only) has been imposed on the unit vide order dated 24.11.2020."*

6. In view of above, no further direction appears to be necessary except that the State PCB may ensure that the unit does not re-start functioning without requisite statutory clearance. We have also noted the stand of the private respondents in connected matter being OA 287/2020 that their activities are bonafide and except for technical violation which they are remedying by seeking EC, they have consent from State PCB and are compliant with environment norms. The authorities may verify and act as per law. The MoEF&CC may also consider the matter accordingly.

The application is disposed of.

In view of order in the main matter, I.A. No. 52/2021 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

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M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 03, 2021  
Original Application No. 840/2019  
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Annexure - R/4

Item No. 07

Court No. 1

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

(By Video Conferencing)

Original Application No. 287/2020  
(I.A. No. 10/2021)

(With report dated 03.03.2021)

Dastak N.G.O.

Applicant

Versus

Synochem Organics Pvt. Ltd. & Ors.

Respondent(s)

Date of hearing: 03.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Dr. S.S. Hooda, Advocate

Respondent: Mr. Anil Grover, Senior AAG with Mr. Rahul Khurana, Advocate  
for State of Haryana and HSPCB  
Ms. Sunita Bhardwaj, Advocate for MoEF&CC  
Mr. A.K. Prasad, Advocate for CGWA  
Mr. Sunil Chadha, Senior Advocate with Mr. Akshay Chadha,  
Advocate for R-6  
Mr. Pardeep Gupta, Advocate for R-1  
Mr. Shiv Mangal Sharma and Mr. Sourabh Rajpal, Advocate for R-3,5&7  
Mr. Ashu Jain, Advocate

**ORDER**

1. This application seeks quashing of the order of State of Haryana dated 10.11.2020 allowing manufacturers of formaldehyde, requiring prior Environmental Clearance (EC), to operate for six months without EC, subject to making application for EC within 60 days. The applicant submits that requirement of prior EC is mandatory. There is no jurisdiction with the State to exempt the same. Reference has been made to an order of this Tribunal dated 28.11.2019 in *O.A. No. 840/2019, Ayush Garg v. Union of India & Ors.* to the effect that consent to establish

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to such establishments is liable to be removed. Accordingly, closure order was passed by the State PCB but thereafter the impugned order has been passed by the State of Haryana. It is further stated that the industries are using ground water of approximately 6 Lakhs litres per day without requisite permission of the Ground Water Authority. There is also non-compliance of Manufacture, Storage, and Import of Hazardous Chemicals Rules, 1989. No requisite safety measures have been allotted. There has been incidents of damage to the crops, soil and ground water for which no adequate compensation has been recovered. TDS of the water has been reduced to almost zero by use of Hydrochloric Acid (33%) and pH level has increased. Untreated effluents are dumped back into the ground water through reverse borewells. In the condensation process, excess steam is discharged, using chimney adding to the air pollution. There is no mechanism to check leaching of methanol from underground tanks. This is one of the causes of cancer. As per statistics, 39% of national deaths from cancer are taking place in the State of Haryana.

2. The matter last considered on 9.12.2020 and finding *prima-facie* merit in the case of the applicant, the contesting respondents were required to show cause why impugned order dated 10.11.2020 passed by the State of Haryana be not quashed. Operative of the part of the order is as follows:-

“1...xxx.....xxx.....xxx

2. *We prima facie find the impugned order to be without jurisdiction. Requirement of prior environmental clearance cannot be dispensed with. This legal position has been recently reiterated in Alembic Pharmaceuticals Ltd. v. Rohit Prajapati & Ors., 2020 SCC Online 347. Learned Counsel for Respondent Nos. 1 and 6 have put in appearance without notice and have relied upon specific condition in the Notification dated 14.09.2006 to the effect that prior EC is not required where such prior EC is obtained by the industrial area,*

where a unit is set up. There is no merit in the submission as there is nothing to show that such prior EC has been obtained by the industrial area in question.

3. Accordingly, let the contesting respondents show cause why the impugned order be not quashed by their response by email before the next date. The applicant may provide a set of papers and a copy of this order to all the contesting respondents and file an affidavit of service within one week.”

3. Accordingly, the State of Haryana has filed an action taken report dated 03.03.2021 through the Secretary, Environment *inter-alia* stating as follows:-

“3. That for the purpose of environmental protection certain restriction and prohibition on new projects and activities, or on the expansion or modernization of the existing project or activities based on their potential environmental impact were imposed vide S.O. 1533 dated 14.09.2006 by MoEF, GOI. under schedule to the aforementioned notification, the process of manufacturing of Formaldehyde is covered under provision 5(f) which requires prior Environmental Clearance (EC) from the competent authorities State Environment Impact Assessment Authority(SEIAA)/MoEF & CC, GOI, before establishment and operation of such units, besides other mandatory clearances as applicable.

4. That 15 formaldehyde units (list attached at Annexure — R/1) were issued consent to establish and consent to operate by Haryana State Pollution Control Board at different times which were later revoked by the HSPCB for violating provision 5(f) of schedule to EIA Notification 2006 on the ground that no prior environmental clearance was obtained before establishment and operation of these units.

5. That a representation was received from all Haryana formaldehyde manufacturing association, Yamunanagar dated 23.10.2020 addressed to Additional Chief Secretary to Govt. of Haryana department of Environment and Climate Change, Chandigarh requesting to allow such formaldehyde units to operate and give sufficient time reasonable to obtain the Environmental Clearance from MoEF & CC and SEIAA on the basis of parity that same decision was taken by State of Rajasthan in similar case (Annexure —R/2). The copy of order of Rajasthan State Pollution Control Board was annexed with aforementioned representation.

6. That keeping in view the fact that units were established with the requisite consent from Haryana State Pollution Control Board and were operating with the necessary pollution control measures, as prescribed by Board, along with the investment in plant and machinery incurred by the individual units in establishing their plants, possible stock of raw material used for production, the case was referred to Government of Haryana by Haryana State Pollution Control Board for granting interim relief to

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*these units for obtaining environmental clearance from the appropriate authority.*

7. *The units were granted interim relief on basis of the fact that notification dated 14.09.2006 is being re-drafted by MoEF & CC and the zero draft has been circulated to all the States and other Stake holders for comments. The finalization and publication of revised notification is likely to take some time and that window for accepting application seeking environmental clearance is not kept open at present by the MoEF & CC.*

*Further, it is to mention here specifically that from the facts and circumstances of the given case, it can easily be inferred that the industries were operating in good faith with valid CTE/CTOs granted by Haryana State Pollution Control Board. Alongside it was admitted by Haryana State Pollution Control Board that the units in question were posing any pollution hazards and that only procedural laps was the deficiency against these units.*

8. *That keeping in view all the aforementioned facts, Government of Haryana vide order No. 16/14/2020-3Env. dated 11.11.2020 (Annexure—R/3) decided to allow these units to continue their operation for a period of 6 months without invoking any legal action against the procedural laps occurred, with the condition that these units will apply for environmental clearance within a period of 60 days from the date of issuance of this communication.”*

4. Reply has also been filed on behalf of the contesting Respondents Nos. 3, 5 and 7 which is in identical terms. It is stated that the contesting respondents have now sought EC in violation category. It is also stated that Central Government has delegated powers to the Haryana Government vide Notification dated 10.02.1988 which enables the State to exempt units from seeking EC and thus order dated 10.11.2020 of the State of Haryana is valid. The point of requirement of EIA was never raised for about 9 years during which the private respondents have functioned which shows that the Authorities themselves were not aware about this requirement. The private respondents were merely given breathing time to comply with the law. The said units are not causing any pollution and even if prior EC is not

taken, Principle of Proportionalities applies as held in *Alembic Chemicals v Rohit Prajapati*<sup>1</sup>.

5. We have heard learned counsel for the parties and with their assistance perused the records.

6. While the period of operation of the impugned order is over, we have gone into the matter on merits in view of contest by the private respondents.

7. It is clear from the stand of the State itself that prior EC is required under EIA Notification dated 14.09.2006 (Entry 5(f) of the Schedule. Once it is so there is no justification to permit function of such units in violation of mandate of law. In *Alembic Chemicals v Rohit Prajapati & Ors.*, 2020 SCC Online 347, the Hon'ble Supreme Court has made it clear that prior EC requirement cannot be dispensed with. While it is true that having regard to the fact situation therein particularly grant of EC later, the units were not closed and instead were required to pay compensation for the period the units functioned without prior EC, it does not mean that in absence of prior EC the units can be allowed to function by paying compensation. We thus hold that without prior EC the units cannot be allowed to operate. The State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation. Same view has been taken in *O.A. No. 840/2019, Ayush Garg v. UOI & Ors.* which has been dealt with by a separate order today.

8. As regards the stand of the private respondents that the State has delegated power under section 3(3) of the Environment (Protection) Act,

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<sup>1</sup>2020 SCC OnLine SC 347

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which implies that the State could exempt EIA requirement, neither any such delegation is shown nor the State claims to have such power or to have exercised such power. A statement has been made on behalf of the private respondents as well as State that the units now stand closed. Learned Counsel for the private respondents also submitted that their units have been functioning in a bonafide manner without causing pollution. Though they did not have EC only for want of knowledge of such requirement, they had requisite consents to establish and operate which have been renewed from time to time. They wish to comply with law and have also applied for EC.

9. We are of the view that since prior EC is statutory mandate, the same must be complied. We have no doubt that the stand of the private respondents will be duly considered by the concerned regulatory authorities, including the MoEF&CC on merits and in accordance with law but till compliance of statutory mandate, the units cannot be allowed to function. For past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process.

The application is disposed of.

In view of order in the main matter, I.A. No. 10/2021 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

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M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 03, 2021  
Original Application No. 287/2020  
A

Annexure - R/5

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Item No. 08

Court No. 1

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

(By Video Conferencing)

Original Application No. 298/2020

Vineet Nagar

Applicant

Versus

Central Ground Water Authority & Ors.

Respondent(s)

Date of hearing: 03.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Vineet Nagar, Applicant in person

**ORDER**

1. Prayer in this application is against operation of industrial units of the private respondents in the States of Haryana, Rajasthan, UP and Punjab manufacturing formaldehyde and its different resins (including melamine formaldehyde, urea formaldehyde and phenol formaldehyde without requisite EC).
2. We have dealt with matter by separate orders today in O.A. No. 840/2019, *Ayush Garg v. UOI & Ors.* and O.A. No. 287/2020, *Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors.* in relation to some of such units operating in Haryana after hearing the State and the industrial units in question. It has been held that in absence of Environmental Clearance under Entry 5(f) of the EIA Notification dated 14.09.2006, such Units cannot be allowed to operate. Relevant extract from order in O.A. No. 287/2020, *Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors.* is reproduced below:

“7. It is clear from the stand of the State itself that prior EC is required under EIA Notification dated 14.09.2006 (Entry 5(f) of the Schedule. Once it is so there is no justification to permit function of such units in violation of mandate of law. In *Alembic Chemicals v Rohit Prajapati & Ors.*, 2020 SCC Online 347, the Hon’ble Supreme Court has made it clear that prior EC requirement cannot be dispensed with. While it is true that having regard to the fact situation therein particularly grant of EC later, the units were not closed and instead were required to pay compensation for the period the units functioned without prior EC, it does not mean that in absence of prior EC the units can be allowed to function by paying compensation. We thus hold that without prior EC the units cannot be allowed to operate. The State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation. Same view has been taken in O.A. No. 840/2019, *Ayush Garg v. UOI & Ors.* which has been dealt with by a separate order today.

8. As regards the stand of the private respondents that the State has delegated power under section 3(3) of the Environment (Protection) Act, which implies that the State could exempt EIA requirement, neither any such delegation is shown nor the State claims to have such power or to have exercised such power. A statement has been made on behalf of the private respondents as well as State that the units now stand closed. Learned Counsel for the private respondents also submitted that their units have been functioning in a bonafide manner without causing pollution. Though they did not have EC only for want of knowledge of such requirement, they had requisite consents to establish and operate which have been renewed from time to time. They wish to comply with law and have also applied for EC.

9. We are of the view that since prior EC is statutory mandate, the same must be complied. We have no doubt that the stand of the private respondents will be duly considered by the concerned regulatory authorities, including the MoEF&CC on merits and in accordance with law but till compliance of statutory mandate, the units cannot be allowed to function. For past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process.”

3. The above principle has to be followed in all other States where such units are functioning without prior EC. In the present application grievance is also against similar units functioning in the States of Rajasthan, UP and Punjab or any other State, in addition to Haryana for which above order has been passed. This needs to be checked by

concerned statutory authorities and remedial action taken, following due process of law.

4. Accordingly, we dispose of this application with a direction to MoEF&CC, CPCB and Chief Secretaries, SEIAAs, PCBs/PCCs of all States/UTs to ensure compliance of law, following due process. They may issue appropriate directions in the matter.

A copy of this order be forwarded to the MoEF&CC, CPCB and Chief Secretaries, SEIAAs and PCBs/PCCs of all States/UTs by e-mail to facilitate compliance of the above order.

Since we have not found it necessary to issue notice, having regard to the nature of the order, we give liberty to the any party to move this Tribunal in case they are aggrieved.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

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Answer - R/6

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Case Type	Number	Year	
Select		2022	Submit

Diary No.- 19234 - 2021

GURUJI OVERSEAS vs. VINEET NAGAR

Case Details

Diary No.	19234/2021 Filed on 18-08-2021 10:29 AM [SECTION: XVII]	PENDING
Case No.	C.A. No. 004908 - / 2021 Registered on 21-08-2021 (Verified On 21-08-2021)	
Present/Last Listed On	20-09-2022 [HON'BLE MS. JUSTICE INDIRA BANERJEE and HON'BLE MR. JUSTICE M.M. SUNDRESH] [CL.NO. : 2]	
Status Stage	PENDING (Motion Hearing [DIRECTION MATTERS]) List along with case (Connected matters), List On (Date) (22-03-2022), Top of the board-Ord dt:09-03-2022	
Tentatively case may be listed on (likely to be listed on)	20-09-2022 (Computer generated)	
Category	1503-Appeal Against Orders Of Statutory Bodies : Tribunals	
Act		
Petitioner(s)	1 GURUJI OVERSEAS THROUGH ITS PARTNER KHAJURI ROAD, VILLAGE JATHLANA, RADAUR , , HARYANA 2 CHEMWOOD INDUSTRIES VILLAGE BHAGWANPUR, KHARWAN ROAD, JAGADHIR , , HARYANA	
Respondent(s)	1 VINEET NAGAR 124, JUNEDPUR, G.B. NAGAR, GREATER NOIDA , , UTTAR PRADESH 2 CENTRAL GROUND WATER AUTHORITY THROUGH ITS CHAIRMAN THROUGH ITS CHAIRMAN BHUJAL BHAWAN, NHI-IV ,FARIDABAD , HARYANA 3 RAJASTHAN POLLUTION CONTROL BOARD THROUGH ITS CHAIRMAN THROUGH ITS CHAIRMAN 4. JHATANA INSTITUTIONAL AREA, JHALANA DOONGRI JAIPUR , RAJASTHAN 4 HARYANA STATE POLLUTION CONTROL BOARD THROUGH ITS CHAIRMAN THROUGH ITS CHAIRMAN C-11, SECTOR-6. PANCHKULA .PANCHKULA * , HARYANA 5 PUNJAB POLLUTION CONTROL BOARD THROUGH ITS CHAIRMAN THROUGH ITS CHAIRMAN VATAVARAN BHAWAN, NABHA ROAD, PATIALA .PATIALA , PUNJAB 6 UTTAR PRADESH POLLUTION CONTROL BOARD THROUGH ITS CHAIRMAN THROUGH ITS CHAIRMAN BUILDING NO. TC-12V, VIBHUTI KHAND, GOMTI NAGAR ,LUCKNOW , UTTAR PRADESH 7 STATE OF RAJASTHAN THROUGH ITS CHIEF SECRETARY THROUGH ITS CHIEF SECRETARY 1ST FLOOR, MAIN BUILDING, GOVERNMENT SECRETARIAT ,JAIPUR , RAJASTHAN 8 STATE OF HARYANA THROUGH ITS CHIEF SECRETARY THROUGH ITS CHIEF SECRETARY 4TH FLOOR, HARYANA CIVIL SECRETARIAT SECTOR-1, CHANDIGARH , , HARYANA 9 MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE THROUGH ITS SECRETARY THROUGH ITS SECRETARY INDIRA PARYAVARAN BHAWAN, JOR BAGH ROAD ,NEW DELHI , DELHI 10 CENTRAL POLLUTION CONTROL BOARD THROUGH ITS SECRETARY THROUGH ITS SECRETARY PARIVESH BHAWAN, EAST ARJUN NAGAR ,NEW DELHI , DELHI 11 D.C INDUSTRIES THROUGH ITS MANAGER THROUGH ITS MANAGER G1-613 RIICO INDUSTRIAL AREA, KHUSHKERA , , RAJASTHAN 12 NEETU SOLVENTS THROUGH ITS MANAGER F-88, KHUSHKERA INDUSTRIAL ESTATE, BHIWADI ,ALWAR , RAJASTHAN	

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- 13 TOPNOTCH TRADING CORPORATION PVT LTD THROUGH ITS MANAGER  
THROUGH ITS MANAGER F-626, RIICO INDUSTRIAL AREA, KHUSHKERA ,ALWAR , RAJASTHAN
- 14 DIPIN CHEMICALS PVT. LTD.  
E-50A, RIICO INDUSTRIAL AREA, BHIWADI ,ALWAR , RAJASTHAN
- 15 DEE BEE ORGANICS PVT LTD THROUGH ITS DIRECTOR  
THROUGH ITS DIRECTOR PLOT NO.F 937 TO 939, PHASE-3, RIICO INDUSTRIAL AREA, BHIWADI  
,ALWAR , RAJASTHAN
- 16 SUCHEM ORGANICS PVT LTD  
PLOT NO. G-1/787-788, PHASE 2, RIICO INDUSTRIAL AREA, BHIWADI ,ALWAR , RAJASTHAN
- 17 SB POLYCHEM PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER PLOT NO. H-304 RIICO INDUSTRIAL AREA, BHIWADI ,ALWAR , RAJASTHAN
- 18 SHRI RAMKRIPA ORGANICS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER PLOT NO. F476, RIICO INDUSTRIAL AREA CHOPANKI, BHIWADI ,ALWAR ,  
RAJASTHAN
- 19 VECHEM ORGANICS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER B-825A, PHASE-2, INDUSTRIAL AREA, BHIWADI ,ALWAR , RAJASTHAN
- 20 DECHAM PLASTICS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER E-527, RIICO INDUSTRIAL AREA, BHIWADI ,ALWAR , RAJASTHAN
- 21 PINE LAMINATES PVT LTD.  
A-526A, INDUSTRIAL AREA, CHOPANKI, BHIWADI ,ALWAR , RAJASTHAN
- 22 MANGLAM CHEMICALS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER R 3-4 PARSAKHERA INDUSTRIAL AREA ,BAREILLY , UTTAR PRADESH
- 23 GORAKHNATH FORMULATION PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER C8, UPSIDC INDUSTRIAL AREA, KHALILABAD , , UTTAR PRADESH
- 24 SUBHAM POLYCHEM PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER KHASRA NO. 1261, VILLAGE GOYALA, DEVA ROAD, DHAWA , , UTTAR  
PRADESH
- 25 ASHOKA DRUGS AND CHEMICALS THROUGH ITS MANAGER  
THROUGH ITS MANAGER VILLAGE BHAWANPUR, BARWALA ROAD, DERABASSI ,MOHALI , PUNJAB
- 26 SURBHEE POLYMERS (P) LIMITED THROUGH ITS MANAGER  
THROUGH ITS MANAGER PLOT NO. C21, FOCAL POINT, DERABASSI ,SAS NAGAR , PUNJAB
- 27 POWER CHEM PLAST LIMITED  
PLOT NO. C25, FOCAL POINT DERABASSI ,SAS NAGAR , PUNJAB
- 28 TRIGUN ORGANICS THROUGH ITS MANAGER  
THROUGH ITS MANAGER VILL TOFFANPUR, DERABASSI ,MOHALI , PUNJAB
- 29 M/S GAYATRI INDUSTRIES THROUGH ITS PARTNER  
THROUGH ITS PARTNER PLOT NO. 83, SECTOR-1, PHASE-1, IGC, HSIIDC SAHA ,AMBALA , HARYANA
- 30 BANKE BIHARI OVERSEAS PVT. LTD. THROUGH ITS DIRECTOR  
THROUGH ITS DIRECTOR 2KMS STONE, SAMPLA BERI ROAD, ISMAILA, 11-B, SAMPLA, ROHTAK ,  
DISTRICT: 124501 ,ROHTAK , HARYANA
- 31 G.B OVERSEAS PVT. LTD. THROUGH ITS DIRECTOR  
THROUGH ITS DIRECTOR 45KM STONE, DELHI ROHTAK ROAD, TEK CHAND INDUSTRIAL COMPLEX,  
VILLAGE ROHAD , , OTHER
- 32 JRS INDUSTRIES  
ALIPUR KHALSA ROAD, VIL KOHAND, GHARAUNDA , , HARYANA
- 33 NMR PHYROCHEM PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER PUNDRI KAIMAL ROAD, VIL PUNDRI, GHARAUNDA , , HARYANA
- 34 PAHWA PLASTIC PVT LTD THROUGH ITS MANAGER  
THROUGH ITS MANAGER VILLAGE KHARAWAR ,ROHTAK , HARYANA
- 35 TARU VIKAS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER 2, LADSOLI ,SONIPAT , HARYANA
- 36 TESTWELL PLASTCHEM PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER PLOT NO. 56, HSIJDC, KUNDLI ,SONIPAT , HARYANA
- 37 SITAL ORGANICS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER 2, GT ROAD, BEGHAN ,SONIPAT , HARYANA
- 38 APCOLITE POLYMERS PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER 42, APPCOLITE NH 8, DHARUHERA ,REWARI , HARYANA
- 39 SANDCHEM INDIA LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER PLOT NO. 43-44, HUDA INDUSTRIAL AREA, DHARUHERA ,REWARI ,  
HARYANA

40 DIPIN CHEMICALS PVT LTD THROUGH ITS MANAGER  
THROUGH ITS MANAGER VILLAGE BILASPUR, PATAUDI ROAD, BILASPUR ,GURGAON , HARYANA

41 GLOVE PANEL INDUSTRIES PVT LTD. THROUGH ITS MANAGER  
THROUGH ITS MANAGER INDUSTRIAL AREA PHASE-1, YAMUNANAGAR , , HARYANA

42 SANWARIA POLYMER INDUSTRIES PRIVATE LIMITED THROUGH ITS DIRECTOR  
THROUGH ITS DIRECTOR (EARLIER JAI BHARAT POLYMER AND CHEMICALS) PLOT NO. 211, HSIDC,  
INDUSTRIAL ESTATE, MANAKPUR, JAGADHRI , , HARYANA

Pet. Advocate(s)      TARUN GUPTA

Resp. Advocate(s)      PRADEEP MISRA[R-6]  
SANJAY KUMAR VISEN[R-4]  
TAHIR ASHRAF SIDDIQUI[R-10]  
S. K. VERMA[R-3]  
GURMEET SINGH MAKKER[R-9]  
RAMESHWAR PRASAD GOYAL[R-1]

U/Section

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Annexure-R/7

ITEM NO.14+54

Court 7 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4795/2021

PAHWA PLASTICS PVT LTD. & ANR.

Appellant(s)

VERSUS

DASTAK NGO & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.99756/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.99755/2021-EX-PARTE STAY )

WITH

CA NO. 4902-4903/2021 (XVII)  
(IA No.102652/2021-Exemption from filing C/C of the impugned judgment and I.A. No.102651/2021-Ex-Parte stay)

CA NO. 4908/2021 (XVII)  
IA No.103049/2021-Exemption from filing C/C of the impugned judgment and IA No.103048-Ex-Parte Stay)

Date : 23-08-2021 This appeal was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Nidhesh Gupta, Sr. Adv.  
Mr. Tarun Gupta, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

CA NOS. 4795 AND 4902-4903 OF 2021

Appeals are admitted.

There will be stay of operation of the judgment and order

impugned, until further orders.

Signature Not Verified  
Digitally signed by  
SUNIL KUMAR  
Date: 2024.08.23  
15:52:02 IST  
Reason

CA NO. 4908 OF 2021

Issue notice returnable in two weeks.

Dasti service, in addition, is permitted.

The impugned order has apparently been passed without giving the affected parties including the appellants herein, an opportunity of hearing. There will, accordingly, be an ad interim stay of operation of the impugned order and consequential orders.

(GULSHAN KUMAR ARORA)  
AR-CUM-PS

(MATHEW ABRAHAM)  
COURT MASTER (NSH)



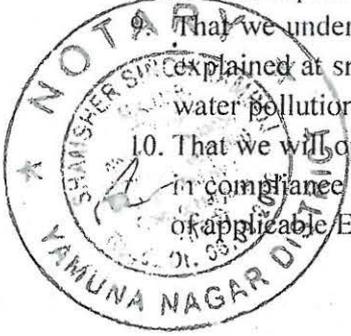
H 235882

## Affidavit

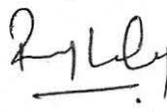
We, Raghav Garg S/o Dr. Ashok Garg R/o H.No. 462/2, Puran Vihar, Jagadhri, Distt. Yamuna Nagar and Archit Garg & Varnit Gart sons of Sanjay Garg R/o Severa, Kaulagarh Road, Dehradoun and Neeraj bansal s/o Mr. Pawan Bansal R/o H.No. 1944, Sector 17, Jagadhri, Huda, Jagadhri Partners of M/s Chemwood Industries, village Bhagwanpur, Jagadhri, Distt. Yamuna Nagar hereby submit that

1. That, we have obtained CTE from HSPCB vide no 313282118YAMCTE5784449 date 20/12/2018 for manufacturing of Formaldehyde.
2. That our product is covered at sr no. 5f of Schedule of EIA Notification so requires environment clearance
3. That HSPCB refused our CTO for want of Environment Clearance.
4. That earlier we have applied for environment clearance vide application no. IA/HR/IND2/149179/2020 dated 12th October 2020 but the application wasn't considered because of it being a violation case as established without EC
5. That now our application for Environment Clearance has been accepted by MOEFCC vide proposal no. IA/HR/IND3/204922/2021, and public hearing has already been conducted.

- 6. That the entire process of our unit be carried out in closed chambers and there will be no water pollution except R.O. Reject and for the same ETP has been installed and treated water from ETP will be used back in process . We will be having 12-15 workers/employee for the operation of plant and have provided septic tank for domestic effluent generated from toilet.
- 7. That We have installed one baby boiler (diesel fired) that will be used for 3-4 hours for initiating the process and will not be required thereafter till the time the plant is running . Shut down of plant will be after approx 3 months after which boiler will be reused for initiation of process again. Apart from this only DG acts as alternate source of power which is fully acoustically enclosed to avoid any noise pollution to ambient environment.
- 8. That we undertake that there will be no air pollution from operation of our plant other than as explained at sr no 7.



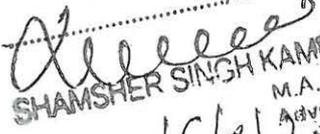
- 9. That we undertake that there will be no water pollution from our plant other than as explained at sr. no 6. We also undertake that there will be no ground or underground water pollution due to operation and activities of our plant .
- 10. That we will operate the plant only after getting Environment Clearance and CTO and in compliance of various conditions of Environmental Clearance and in compliance of applicable Environmental Laws.

Archt gary     
**DEPONENT**

Verification: Verified that the contents of the above said affidavit are true and correct to the best of our knowledge and belief and nothing has been concealed therein.

Verified at Jagadhri  
 Dated: 16-08-2022

Archt gary     
**DEPONENT**

ATTESTED  
  
 SHAMSHER SINGH KAMBOJ  
 M.A., LL.B  
 Advocate  
 16/8/2022  
 NOTARY, JAGADHRI  
 YAMUNA NAGAR