

Jammu and Kashmir Pollution Control Committee

Parivesh Bhavan, Forest Complex || Silk Factory Road
Transport Nagar, Jammu, 180 006 || Rajbagh, Srinagar, 190 008

Tel - 0191-2476927; mail - membersecretaryjkspcb@gmail.com

**The Consultant Judicial,
Hon'ble National Green Tribunal,
Principal Bench,
New Delhi.**

No: JKPCC/NGT/OA 364/ 3444-45

Date:- 01-07-2024

**Sub:- Report on behalf of Jammu and Kashmir Pollution Control Committee
pursuant to Hon'ble National Green Tribunal Order dated 10-04-2024
passed in OA No. 364/2024 titled "M/s Koka Brick Kiln, Rangeen Versus
Union Territory of Jammu and Kashmir & Ors"**

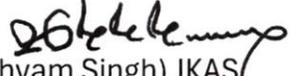
Sir,

In compliance to the directions of Hon'ble National Green Tribunal, Principal Bench, New Delhi dated 10-04-2024. The reply / response of the J&K Pollution Control Committee is enclosed herewith.

It is therefore, requested that the reply / response may kindly be taken on record and placed before the Hon'ble NGT for consideration.

Your faithfully,

Encl:- As Above


(Ghanshyam Singh) JKAS
Member Secretary 1.7.24
J&K PCC

Copy to the:-

- 1) Sh. Parth Awasthi, Government Standing Counsel for UT of Jammu and Kashmir, New Delhi for information and necessary action.

**Before the Hon'ble National Green Tribunal
Principal Bench, New Delhi**

Original Application No. **364/2024**

IN THE MATTER OF

**“M/s Koka Brick Kiln, Rangeen Versus Union
Territory of Jammu and Kashmir & Ors.”**

Report on behalf of Jammu and Kashmir Pollution Control Committee pursuant to Hon'ble National Green Tribunal Order dated 10-04-2024 passed in OA No. 364/2024 titled “M/s Koka Brick Kiln, Rangeen Versus Union Territory of Jammu and Kashmir & Ors”

Background of the Case :

The brief facts of the case are that unit namely, M/s Koka Brick Kiln Kultreh, Budgam was commissioned by the project proponent in the year 2017 without consent from the J&K pollution Control Committee and accordingly, closure of the brick kiln was ordered by the J&K PCC vide Closure Order No. 52 of 2018 dated 10-09-2018 (**copy of the order is appended as Annexure-1**). Subsequently, the unit holder applied for consent to operate to the J&K PCC through the online application 3546494 dated 10-02-2023. The Consent application of the unit holder was considered and rejected by the J&K PCC in light of the directions of Hon'ble NGT dated 14-07-2023 in OA No. 594 /2022 titled Syed Riyaz V/s UT of J&K & Ors. The rejection order was conveyed to the unit holder vide this office letter No. PCC/DO/Bud/569-70 dated 13-09-2023 (**copy of the letter is appended as Annexure-2**)

Status in the matter is as under:-

The Hon'ble National Green Tribunal vide its order dated 14-07-2023 in OA 594/2022 titled Syed Riyaz V/s UT of Jammu and Kashmir directed is as under:-

“State PCB is directed to take action in accordance with rules and ensure that brick kilns must be brought within the ambit of the consent conditions and brick kiln which are in operation without the consent of State Pollution Control Board, must be taken seriously and action be initiated in accordance with the law. However, orders of the High Court be complied with as applicable. We also direct that, no new brick kiln or expansion of existing unit be permitted

till J & K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms.”

In view of the above, the J&K PCC refused the Consent to Establish (Fresh) in the following 37 cases:

#	Appl. ID	Appl. Name	Location	District	Appl Date	Consent For	Status
1	3538649	Modern Brick Kiln	Village Nowbugh	Budgam	09-07-2023	CTO (Fresh)	Refused
2	3561994	Zainuddin Sakhi brick	Shoolipora	Budgam	10-07-2023	CTE (Fresh)	Refused
3	3510697	Habib Brick Kiln	Summerbugh B K Pora	Budgam	29-03-2023	CTO (Fresh)	Refused
4	3835584	Red Rose Brick Kiln	Ichkoot	Budgam	21-06-2023	CTO (Fresh)	Refused
5	3638920	Alamdar Brick Kiln	Saratpora batpora	Budgam	13-03-2023	CTO (Fresh)	Refused
6	3767792	Al Mehdi Brick Kiln	Chattergam Chadoora	Budgam	06-05-2023	CTO (Fresh)	Refused
7	3462846	Irfan Brick Kiln	Ichgam	Budgam	08-02-2023	CTO (Fresh)	Refused
8	3728857	Muslim Brick Kiln	Parisabad	Budgam	19-08-2023	CTO (Fresh)	Refused
9	3529242	Imperial Brick Kiln	Gariend Khurd	Budgam	15-02-2023	CTO (Fresh)	Refused
10	3132579	Max Brick Kiln	Bugam Nowbugh	Budgam	17-02-2023	CTO(Fresh)	Refused
11	3642237	Hydrop Brick Kiln	Mullshulla Beerwah	Budgam	22-03-2023	CTO (Fresh)	Refused
12	3428726	Sam Brick Kiln	Rangeen Kuleth Chadoora	Budgam	01-03-2023	CTE (Fresh)	Refused
13	4167181	Ghulam Rasool Brick Kiln	Punch gund Beerwah	Budgam	13-11-2023	CTO (Fresh)	Refused
14	3880681	M. Amin Brick Kiln	Heawedar	Budgam	19-06-2023	CTO (Fresh)	Refused
15	3802211	Bismillah Brick Kiln	Parisabadpora	Budgam	27-05-2023	CTO (Fresh)	Refused
16	3631900	Mustaq Brick Kiln	Mamgund Beerwah	Budgam	11-03-2023	CTO (Fresh)	Refused
17	3557875	Jehlum Brick Kiln	beharampora Chadoora	Budgam	21-02-2023	CTO (Fresh)	Refused
18	3521948	New Royal Brick Kiln	Mudibal Chadoora	Budgam	24-02-2023	CTO (Fresh)	Refused
19	4251406	Bhat Brick Kiln	Bonhama Beerwah	Budgam	05-12-2023	CTE (Fresh)	Refused
20	2172643	Wani Brick Kiln	Banhuma Beerwah	Budgam	09-02-2023	CTE (Fresh)	Refused
21	3524105	Haji Brick Kiln	Snear Rangeen Kuleth	Budgam	06-03-2023	CTE (Fresh)	Refused

22	3507834	Sheikh ul Alam Brick Kiln	Rangeen Kuleth	Budgam	02-02-2023	CTO (Fresh)	Refused
23	3564977	Royal Brick Kiln	Chak e Dewan Lachmand Beerwah	Budgam	05-04-2023	CTO (Fresh)	Refused
24	3546494	Koka Brick Kiln	Rangeen Kuleth Chadoora	Budgam	23-02-2023	CTO (Fresh)	Refused
25	3527045	Remani Brick Kiln	Rangeen Kuleth Chadoora	Budgam	07-03-2023	CTE (Fresh)	Refused
26	3911923	Aftab Brick Kiln	Mulashulla Beerwah	Budgam	08-07-2023	CTE (Fresh)	Refused
27	3481580	F M Brick Kiln	Rangeen Kuleth Chadoora	Budgam	02-03-2023	CTE (Fresh)	Refused
28	2090550	Alamdard Brick Kiln	Baharampora Chadoora	Budgam	02-01-2023	CTO (Fresh)	Refused
29	3529150	Sayara Brick Kiln	Gariend Khurd	Budgam	08-06-2023	CTO (Fresh)	Refused
30	2589241	Dilber Brick Kiln	Nowbugh Chadoora	Budgam	08-02-2023	CTO (Fresh)	Refused
31	3708992	Mir Brick Kiln	Utligam Beerwah	Budgam	19-05-2023	CTE (Fresh)	Refused
32	3926558	Syed Mustafa Brick Kiln	Basipora Parisabad	Budgam	23-02-2023	CTE (Fresh)	Refused
33	2611334	Alamdard Brick Kiln	Nowbugh Chadoora	Budgam	15-03-2023	CTO (Fresh)	Refused
34	3616503	New Arafat Brick Kiln	Qanongopora Chadoora	Budgam	01-06-2023	CTO (Fresh)	Refused
35	3481431	Alamdard Brick Kiln	Rangeen Kuleth Chadoora	Budgam	20-10-2023	CTE (Fresh)	Refused
36	2860312	Max Brick Kiln	Bapat Beerwah	Budgam	08-06-2023	CTO (Fresh)	Refused
37	3377678	Al Hayat Brick Kiln	Rangeen Kuleth Chadoora	Budgam	02-03-2023	CTE (Fresh)	Refused

M/s Koka Brick Kiln approached the Hon'ble High Court of Jammu and Kashmir by filing a writ petition no. 2759/2023 the titled Koka Brick Kilns vs UT of J&K & Ors. The aforesaid writ petition was clubbed with another petition No. 2873/2023 titled Al-Mehdi Brick kiln V/s UT of J&K & Ors.

The Single Bench of Hon'ble High Court of Jammu and Kashmir disposed off the composite writ petition vide its order dated 18-12-2023 with the following directions: -

"... In view of aforesaid facts and circumstances of the case, I find that it would be appropriate for the petitioners to approach National Green Tribunal for clarification/modifications, if they desire so. These petitions are, accordingly, disposed of"

Thereafter, the unit holder approached the Hon'ble NGT through the medium of Original Application No. 364/2024 titled M/s Koka Brick Kiln Rangeen V/s UT of J&K & Ors. The Hon'ble NGT vide its order dated 10-04-2024 issued the following directions: -

1. "In this original application, Applicant has questioned the order/communication of the Jammu & Kashmir Pollution Control Committee (J&KPCC) rejecting the case of the Applicant for consent. Submission of learned Counsel for the Applicant is that aggrieved with the said rejection, a common Writ Petition being WP (C) No. 2759/2023 was filed before the High Court of J&K and the High Court vide its order dated 18.12.2023 has directed the Applicant to seek clarification in the matter from the NGT.
2. Hence, the present OA has been filed with the prayer to clarify and direct the J&KPCC that the order of the NGT does not come in the way of J&KPCC to issue consent to such existing brick kilns which met the norms. Further submission of Counsel for the Applicant is that since the Applicant, brick kiln being in existence fulfilling the norms as per the J&KPCC report, is entitled to the consent."

At the same time some other brick kiln owners also approached the Hon'ble High Court of J&K, initially, before the single bench (Writ Court) and subsequently before the Division Bench of the Hon'ble High Court of Jammu & Kashmir and Ladakh. In the petition titled M/s Bismillah Brick Kiln Versus UT of J&K & Ors, the Hon'ble High Court vide its order dated 26-02-2024 (**copy of the order of Hon'ble High Court of Jammu & Kashmir and Ladakh is appended as Annexure-3**) issued the following directions which were reiterated in the orders passed on the subsequent petitions filed by the other brick kiln owners.

"Accordingly, we remit the matter to the respondents, more particularly respondent No. 5 to examine the claim of the petitioner as to whether it was already in existence without consent and was operating, in which event the authorities will pass appropriate orders for its compliance with the norms failing which the respondent authorities will be at liberty to take stringent action permitted under law. However, it is ultimately found that there was no such brick kiln operating since 2014 and he is seeking consent to start new brick kiln in which event, the embargo placed by NGT in para 5 will come into play and no such consent case be given till the JKPC ensures, compliance and availability of carrying capacity to maintain Ambient Air quality norms as directed by NGT.

With the above observations, the present appeal is allowed by setting aside the order of LD. Single Judge”.

In compliance to the aforesaid directions of the Hon'ble High Court of Jammu and Kashmir relevant record was examined by the J&K PCC and following principles /criteria was adopted for deciding the claim of the petitioners as to whether these units were already in existence without consent and were operating or the brick kilns were not already operating and are seeking consent to start new brick kiln. In both the different situations actions has to be taken by the J&K PCC.

Accordingly, at least one of the following criteria / documents have been considered necessary for verification and as a proof of existence of brick kiln.

- 1) Brick Kilns License issued by the Competent Authority
- 2) In Principle Approval of the JK Pollution Control Committee
- 3) Consent of JKPCB / PCC granted but not renewed
- 4) Closure order of JKSPCB / JKPCC, if issued
- 5) Court cases / Sub-judice matter

In order to verify the contention of the counsel and claim of the applicant before the Hon'ble NGT ***that the applicant brick kiln being in existence fulfilling the norms as per the J&K PCC report is entitled to the consent***, a report in the matter has been obtained from Regional Director, PCC, Kashmir. As per the report of Regional Director, PCC, Kashmir, brick kiln does not qualify the siting criteria as laid down for establishment of brick kilns after 01-01-2010 w.r.t residential area which is reported at a distance of 400 meters only against prescribed limits of 500 meters before July 2021 and 01 Km after July 2021 (***copy of the Operational Guidelines of Brick Kilns issued vide Circular No. 117-JKPCC of 2021 dated 15-07-2021 is appended as Annexure-4***)

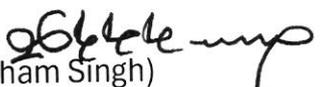
That the case of Koka Brick kiln has been examined in light of the position explained above and the status is as follows:

- 1) The Brick Kiln has applied on 10-02-2023 and thereafter, it has to be examined *viz-a-viz* the siting criteria notified by the Brick Kiln vide order No. 117-JKPCC of 2021 dated 15-07-2021 and order of Ministry of Environment, Forest and Climate Change, GoI Notification No. GSR-143 (E) dated 22-02-2022 read with GSR No. 895 (E) dated 15-12-2023 (***copies enclosed as Annexure-5***).
- 2) Brick kiln does not qualify the siting criteria as laid down for establishment of brick kilns after 01-01-2010 w.r.t residential area which is reported at a distance of 400 meters only against prescribed limits of 01 Km.

- 3) There are 20 brick kilns already in existence within the radius of 01 Km of the site of the brick kiln of the petitioner and therefore, it does not meet the conditions stipulated in the MoEFCC Notification GSR 143 (E) dated 22-02-2022 regarding clustering of kilns in an area.

In view of the above position, M/s Koka Brick Kiln does not qualify for grant of Consent to Establish (Fresh) and Consent to Operate (Fresh).

In the premises, it is therefore, respectfully prayed that the report may kindly be taken on record before the Hon'ble National Green Tribunal for consideration.


(Ghansham Singh)
Member Secretary 1.7.24
J&K PCC

Government of Jammu and Kashmir
J&K State Pollution Control Board
Srinagar

Winter Office: November-April

Praveesh Bhawan, Gladhi,
Transport Nagar, Narwal,
Jammu. (J&K) 180006.
Ph./Fax. 0191-2476925

Summer Office: May-October

Sheikh-ul-Alam Campus,
Behind Govt. Silk Factory,
Rajbagh, Srinagar (J&K) 190008
Ph./Fax. 0194-2311165.

email: membersecretaryjkspcb@gmail.com

ORDER NO: 52 of 2018
Dated : 10-09-2018

Whereas, no activity having bearing on environment can be taken in hand without prior consent of the Pollution Control Board, warranted under Section 25/26 and Section 21 of the Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act, 1981 respectively.

Whereas, Brick Kilns indicated in **Annexure A** to this order are currently in operation in violation of above stated laws that too bereft of adequate pollution control devices/ measures.

Whereas, Brick Kiln owners as reflected in the **Annexure A** failed to submit the mandatory Environmental Clearance for obtaining brick earth for manufacturing of Bricks, besides to taking measures to meet the requirements of laws governing environmental protection.

Whereas, the unit holders were accordingly served with repeated notices, particularly final notice dated 09-04-2018, calling upon them there under to show reasons as to why legal action including closure of their units be not taken.

Whereas, the unit holders have failed to show any response to the final notices, besides failing to take measures to meet the requirements of laws governing environmental protection.

Whereas, the units in question cannot be allowed to run un-authorizedly with above status and to the detriment of human health and environment.

Now therefore in exercise of powers vested in the J & K State Pollution Control Board under **Section 31 (A)** of the Air (Prevention and Control of Pollution) Act, 1981, immediate closure of **Brick Kilns as referred in the Annexure**, is hereby ordered and in this behalf the:-

- i). Deputy Commissioner/ District Magistrate, **Budgam** is directed to get the **Brick kilns reflected in Annexure** closed immediately.
- ii). Director Consumer Affairs & Public Distribution Dept. for cancelling the Licence, if granted to any of the Brick Kilns as annexed with this order.
- iii). Prop. M/s
is directed to cease the operation of the unit forthwith.

Encl. **Annexure 'A'**

Sd/-
Chairman

No:-SPCB/LSJ/529/2016/239-274

Dated:- 10/09/2018.

Copy to the following for information and immediate compliance:-

- i). Deputy Commissioner/ District Magistrate **Budgam**.
- ii). Regional Director, State Pollution Control Board, Kashmir.
- iii). Director, Consumer Affairs & Public Distribution Dept., Kashmir.
- v). Prop. M/s _____

10/9/18
B. K. Bhawan
Member Secretary

g/c

ANNEXURE 'A' to Closure order No. 52 dt. 10-09-2018.

S. No.	Name of Brick Kiln	Name of the Proprietor	Location.
1	M/s Samco Brick Kiln	Mehraj U Din	Gadsathoo
2	M/s Mohd amin Brick Kiln	Mohammad Amin	Heewadar
3	M/s Noor Brick Kiln	Noor Mohammad	Deji Malik Gund
4	Shah Brick Kiln	Mehraj U Din Shah	Sehpora
5	M/s Dar Brick Kiln	Bilal Ahmad Mir	Nowbagh
6	M/s Zeeshan Brick Kiln	Ghulam Mohammad Wani	Nowbagh
7	M/s Brick No. 711 Brick Kiln	Mohd. Yousuf Mir	Nowbagh
8	M/s Brick No. 131 Brick Kiln	Zulfiqar Mustafa Ganie	Nowbagh
9	M/s Brick PK2 Brick Kiln	Feroz Ahmad Dev	Nowbagh
10	M/s Brick No. D65 Brick Kiln	Mohammad Ismiel Ganie	Nowbagh
11	M/s Max Brick Kiln	Riyaz Ahmad Ganie	Nowbagh
12	M/s Nagraad Brick Kiln 777	Shabir Ahmad Rather	Nowbagh
13	M/s Parvaiz Ahmad Ganiee Brick Kiln	Parvaiz Ahmad Ganie	Nowbagh
14	M/s Brick No. D11 Brick Kiln	Ghulam Mohammad Dar	Nowbagh
15	M/s Koka Brick Kiln K11	Sartaj Ahmad Kika	Kultreh
16	M/s Brick No. 5H Brick Kiln	Fida Hussain Rather	Behrampora
17	M/s Jehlum Brick Kiln 407	Abdul Hamid Mir	Behrampora
18	M/s Modern Brick Kiln 17T	Waliyat Hussain Rather	Kultreh
19	M/s Brick No. 37 D Brick Kiln	Shabir Ahmad Mir	Kultreh
20	M/s Iqbal Brick Kiln 1BK	Mohammad Isaq Rather	Bahrampora
21	M/s Syed Jaffar Brick Kiln G11	Ali Mohammad Dar	Bahrampora
22	M/s Bhat Brick Kiln 171	Bilal Ahmad Ganie	Nowbugh
23	M/s Brick No. 191 Brick Kiln	Bilal Ahmad Mir	Baghihyder Kralcheck
24	M/s Brick No. 191 Brick Kiln	Gulam Mohammad Dar	Baghihyder Kralcheck
25	M/s Brick No. 71D Brick Kiln	Fayaz Ahmad Bhat	Baghihyder Kralcheck
26	M/s Mehdi Brick Kiln	Nazir Ahmad	Chattergam B.K.Pora
27	M/s Nath Brick Kiln	Gulzar Ahmad	Chattergam B.K.Pora
28	M/s Habib Brick Kiln	Habib Ullah	Seerbagh
29	M/s New Kohinoor Brick Kiln	Mohammad Sultan Guroo	Ralkshalina
30	M/s Sharjah Brick Kiln	Sonaullah	Rakshalina
31	M/S Shah-i-hamdan Brick Kiln	Ghulam Hassan	Bagh Sahkooor Shah
32	M/s Zahoor Brick Kiln	Zahoor Ahmad Nath	Shalina

Government of Jammu & Kashmir

District Office Pollution Control Committee, Budgam

Mr. Sartaj Ahmad Koka
S/o. Abdul Ahad Koka
R/o. Zanipora B.K Pora

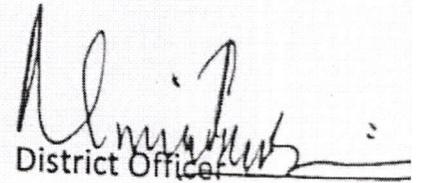
Prop:-M/s .Koka Brick Kiln
Rangeen Kultreh Chadoora

No:-PCC/Do/Bud/ 569-70

Dated.13-9-2023

Subject:-Rejection of JK OCMMS Application No.3546494 for issuance of Consent to Operate fresh CTO(F) in favour of M/s. .Koka Brick Kiln Rangeen Kultreh Chadoora.

Regarding the subject cited above, it is inform you that your on line application has been rejected by the competent authority, in the light of Hon,ble N G T directions vide Order Dated 14-07-2023 in O A.NO. 594-2022 titled Syed Riyaz Vs.UT of J & K and others.


District Officer

13/9/23

JKPCC, Budgam

Copy to:-

1-Regional Director JKPCC kmr .for information please.

Sr. No.8
Suppl. List.

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

LPA No.39/2024 IN
[WP(C) No.3361/2023]

M/S BISMILLAH BRICK KILN ...Appellant(s)/Petitioner(s)

Through: Mr. Asif Ahmad Bhat, Advocate

Vs.

UNION TERRITORY OF J AND K AND ...Respondent(s)
ORS. (FOREST AND ECOLOGY)

Through: Mr. Syed Musaib, Dy. AG

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

O R D E R (ORAL)

26-02-2024

N.KOTISWAR SINGH-CJ

CM No.810/2024

Appearance as above.

This is an application filed by Mr. Asif Ahmad Bhat, learned counsel for the applicant, seeking dispensation of the court to file certified copy of the impugned order.

In view of grounds urged in the application and the submissions made at Bar, same is allowed and the applicant is exempted from filing the certified copy of the impugned order till such time the same shall become available.

Application **disposed of.**

LPA No.39/2024 IN
[WP(C) No.3361/2023]

01. Heard Mr. Asif Ahmad Bhat, learned counsel for the appellant as also Mr. Syed Musaib, learned Dy. Advocate General, appearing on behalf of respondents.
02. The present petition has been preferred against the order dated 29.12.2023 passed by the learned Single Judge in WP (C) No.3361/2023 titled **M/S Bismillah Brick Kiln Versus UT of J&K and others**, by which the appellant-petitioner is seeking a direction to consider his case for grant of consent to operate his Brick Kiln Unit, so rejected by the learned Single Judge with liberty to petitioner-appellant to approach the National Green Tribunal (for short "NGT") for clarification/modification of the order passed by the NGT in Original Application No.594/2022 on 14.07.2023.
03. It is the case of the appellant-petitioner that he had installed his Brick Kiln Unit under Registration No.576-87/W/The/Bd/14 dated 29-01-2014 at Parisabad Budgam, which came to be set up with due permission required under law prevailing at that relevant point of time for the establishment/operation of the Brick Kiln.
04. It is also the case of the petitioner that he had adopted all changing technologies to combat pollution as advised by the regulatory bodies especially J&K PCB and now PCC i.e., from movable chimney to fixed and from bulls trench to High draft Zig-Zag Technology.
05. Accordingly, thereafter the petitioners applied for grant of consent to operate/establish the unit before the respondent No.6 vide online application No.3802211 which was pending consideration by the

authorities. However, during the pendency of the said application certain developments took place with issuance of direction by the NGT which resulted in issuance of notification No:GSR/143€ dated 22nd February 2022 by Government of India (GOI) Ministry of Environment and Forests under which, it was made mandatory for the Brick Kiln owners to obtain Environmental Clearance (EC) from State Environment Impact Assessment Authority (SEIAA) for excavating brick earth for manufacturing of the bricks.

06. According to the petitioner, though the petitioner has setup his brick kiln Unit at the specified place in the year 2014 and complied with all the norms, and hence applied for fresh consent to operate the said unit.

07. According to the petitioner, prior to applying to Respondent Committee, also applied to SEIAA for grant of EC with all requisite documents but the State Government of that time constituted District Environment Impact Assessment Authority (DEIAA) at each District level for considering the case of EC of Brick Kiln. Though the SEIAA transferred the cases to concerned DEIAAS, but only DEIAAS in Jammu Division granted Environmental Clearances which were accordingly granted consent by the JKPCC. However, the case of the petitioners' along with others for Environment Clearance in Kashmir Valley remained undecided.

08. Accordingly, because of the inaction on part of respondents, the petitioner approached this Court by filling the writ petition bearing

WP (C) No.3361/2023 which was ultimately dismissed by the learned Single Judge. While dismissing the same, the learned Single Judge made the following observations in para 4, 5, 6 and 7 which are reproduced herein below:-

“.....4. Mr. Syed Musaib, learned Dy. AG, submits that the petitioner has applied for consent to establish/operate Brick Kilns before respondent-Board//Committee. It is further submits that while the application of the petitioner was under consideration, the National Green Tribunal, Principal Bench, New Delhi, in a petition - OA No. 594/2022 titled Syed Riyaz v. UT of J& and Ors, has directed to take action in accordance with rules and ensure that brick kilns, which are in operation without the consent of J&K Pollution Control Board, must be taken serious and action be initiated and no new brick kiln be permitted to operate. In view of directions of the NGT, he submits that no new consent to operate is being granted to any new brick kiln unit.

5. The National Green Tribunal (GGT) in its order dated 14.07.2023, while considering the grievance with regard to unauthorized operation of near about 200 Brick Kilns in District Budgam, who are operational without NOC/renewal of licence, has directed as under:-

“4. The conclusion of the report is that the kilns are operative without consent order from the State PCB. It is reported that some of the brick kilns have been closed but still are in operation but steps have been taken by the State PCB in accordance with rules.

5. State PCB is directed to take action in accordance with rules and ensure that brick kilns must be brought within the ambit of the consent conditions and brick kiln which are in operation without the consent of State Pollution Control Board, must be taken seriously and action be initiated in accordance with the law. However, orders of the High Court be complied with as applicable. We also direct that, no new brick kiln or expansion of existing unit be permitted till J&K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms.”

6. Though the petitioner claim that his Brick Kiln is in operation, but there is nothing on record to show the consent to establish or operate in his favour.

7. In view of aforesaid facts and circumstances of the case, I find that it would be appropriate for the petitioner to approach National Green Tribunal for clarification/modification, if he desires so. This petition is, accordingly, **disposed of.**”

09. While dismissing the WP (C) No.3361/2023, the learned Single Judge made the observation to the effect that while pending consideration of the application of the petitioners, the NGT in Original Application No.594/2022 titled **Syed Riyaz versus Union Territory of J&K and others**, had directed to take action in accordance with rules and ensure that Brick Kiln which are in operation without the consent of State Pollution Control Board, must be taken seriously and action be initiated in accordance with law and no new Brick Kiln or expansion of existing Unit be permitted till J&K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms.
10. Learned Single Judge further observed that though the petitioner claims that his Brick Kiln is in operation, there was nothing on record to show the consent to establish or operate in his favour and accordingly, held that it would be more appropriate for the petitioner to approach National Green Tribunal for clarification/modification, if he desires so.
11. It has been submitted by the learned counsel for the appellant-petitioner that in the affidavit in opposition filed by the respondents, the respondents had stated that the application of the petitioner was processed and as a matter of procedure the proposed sites of the Brick

Kiln of the petitioner was inspected by the district officer concerned and while the application of the petitioner were under consideration, the order came to be passed by the National Green Tribunal and since no new consent can be granted in favour of the petitioners in view of direction of National Green Tribunal, the case of the petitioner could not be considered in his favour.

12. It was the specific plea of the respondents that had there been no embargo placed by the NGT over the establishment or expansion of the Brick Kiln, the application of the petitioner seeking consent from the respondents would have been issued in his favour on merits, provided he fulfilled the requisite conditions/guidelines mandatory for establishments/operation of a Brick Kiln.

13. In the present case before us, Mr. Syed Musaib, learned Dy. AG, appearing on behalf of respondents has taken a similar plea. In fact, he has also referred to a decision rendered by this Court in PIL No.22/2016 in which this Court passed the order on 20.10.2021 which placed certain conditions on the operation of the Brick Kilns and following directions came to be issued as mentioned in para 19 of the said order which is reproduced herein:-

“.....19. In view of the aforesaid facts and circumstances, all the above three applications stands disposed of with the following directions:

(a) That the brick kiln owners may be permitted to operate their brick kilns within the prohibited area provided they possess a valid licence which stand renewed for the relevant period subject to their furnishing an undertaking on affidavit that they shall use furnaces which will not cause smoke hazard such as oil fired/ electrical furnaces or those which are run on fuel which

do not emit smoke and further that they would not operate their brick kiln during the winter season from 1st November every year to 31st March next year.

(b) It will be open for the authorities to keep a constant vigil upon the brick kilns so as they may not violate the terms and conditions of the license or the undertaking failing which appropriate legal action shall immediately be taken against them”.

14. Accordingly, it has been submitted by Mr. Musab, learned Dy. AG, appearing for the respondents that in view of directions issued by NGT as well as by this Court in PIL No.22/2016, the question of granting any consent to petitioner does not arise and as such, the finding of the learned Single Judge does not suffer from any infirmity and petitioner will be at liberty to approach NGT for clarification/modification, so advised as held by the learned Single Judge.

15. We have heard the learned counsel for the parties and perused the materials on record.

16. Coming to the direction of this Court in PIL No.22/2016, on perusal of the said order, what is evident is that this Court had directed close monitoring so that the Brick Kilns are allowed to operate only on possession of valid license and also to ensure that these do not cause smoke hazard and that they do not operate their Brick Kiln during the winter season from 1st November every year to 31st March next year and this Court also enjoined upon the respondent authorities to keep a constant vigil upon the Brick Kilns so that they do not violate the

terms and conditions of the license or the undertaking. The said order however does not indicate that the consent cannot be granted.

17. Coming to the order passed by the NGT, it will be apt to reproduce relevant paras Nos. 4 and 5 of the order passed by the NGT which are as under:-

4. The conclusion of the report is that the Kilns are operative without consent order from the State PCB. It is reported that some of the brick kiln have been closed but still are in operation but steps have been taken by the State PCB in accordance with rules.

5. State PCB is directed to take action in accordance with rules and ensure that brick kilns must be brought within the ambit of the consent conditions and brick kiln which are in operation without the consent of the State Pollution Control Board, must be taken seriously and action be initiated in accordance with the law. However, orders of the High Court be complied with as applicable. We also direct that, no new brick kiln or expansion of existing unit be permitted till J&K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms.

18. Perusal of the aforesaid directions issued by the NGT would make it clear that the NGT was cognizant of two situations. Firstly, those Brick Kilns which were operating without consent from State Pollution Control Board, and those seeking to establish new Brick Kilns.

19. As far as the existing ones are concerned, the State Pollution Control Board was directed to take actions in terms of rules and ensure that Brick Kilns are brought within the ambit of the consent conditions. It was also directed that Brick Kilns which are in operation without the consent of State Pollution Control Board must be taken seriously and action be initiated in accordance with law.

20. The other aspect of the aforesaid direction issued by the NGT was that no new Brick Kiln or expansion of existing Unit be permitted till J&K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms.
21. From the above, what we can understand is that the NGT was cognizant of existing Brick Kilns but which were operating without conforming to the relevant rules and norms and without obtaining consent to operate in connection with which, the authorities were directed to take appropriate action in that regard. However, there was no specific direction given by the NGT that those Brick Kilns which are running without the consent must be closed down.
22. It appears from a reading of para 5 as referred to above, that the respondent authorities were to ensure compliance with the ambient air quality norms and for which they had to take necessary action. In other words, if the existing Brick Kilns fail to take necessary steps for compliance with the norms, the authority would take stringent action which may also include closing down of Brick Kiln Unit.
23. However, as far as the establishment of new Brick Kilns is concerned, an embargo was placed by the NGT till J&K PCB ensures compliance availability of carrying capacity to maintain ambient air quality norms is ensured.
24. In the present case, what we have noted from the pleadings is that the petitioner claims to have established his Brick Kiln Unit in the year 2014 without consent. In other words, he has been operating the Brick

kiln, though without obtaining consent for which he had sought consent to operate. It appears that it is not the case for establishment of a new Brick Kiln unit by the petitioner. However, we are not making any conclusive finding as regards this, which the authorities can certainly examine so that in the event it is found that the appellant/petitioner's Brick Unit was already in existence since the year 2014 though without consent and without complying with the norms, the authorities would be required to examine the same and pass appropriate orders to make the unit compliant with the norms and rules and regulations. However, if the authorities on examining find that no such Brick Kiln was operating but he is seeking merely to establish a new, the embargo placed by the NGT will come into play and no consent can be given for establishment of new Brick Kiln.

25. We have made these observations in light of the pleadings made by the respondents in their affidavit of opposition before the learned Single Judge in para 2 as referred to above.

26. Accordingly, we remit the matter to the respondents, more particularly, respondent No.5 to examine the claim of the petitioner as to whether it was already in existence without consent and was operating, in which event, the authorities will pass appropriate orders for its compliance with the norms failing which, the respondent authorities will be at liberty to take stringent action permitted under law. However, if it is ultimately found that there was no such Brick Kiln operating since 2014 and he is seeking consent to start new Brick

Kiln Unit, in which event, the embargo placed by the NGT in para 5 will come into play and no such consent can be given till J&K PCB ensures compliance and availability of carrying capacity to maintain ambient air quality norms as directed by the NGT.

27. With the above observations, the present appeal is allowed by setting aside the order of the learned Single Judge.

28. Disposed of.

(WASIM SADIQ NARGAL)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
26-02-2024
Shameem H.

LPA No.39/2024 IN
[WP(C) No.3361/2023]



Winter office: November-April
Parivesh Bhawan, Gladhi,
Transport Nagar, Narwal,
Jammu. (J&K) 180006.
Ph./Fax. 0191-2476925

Government of Jammu and Kashmir
J&K Pollution Control Committee
Jammu

Summer Office: May-October
Sheikh-ul-Alam Campus,
Behind Govt. Silk Factory,
Rajbagh, Srinagar (J&K) 190008
Ph./Fax. 0194-2311165.

Email: membersecretaryjkspcb@gmail.com

CIRCULAR No. 117 -JKPCC of 2021
D A T E D :- 15 -07-2021

Subject :- Operational Guidelines for Brick Kilns in J&K.

Government of Jammu and Kashmir vide S.O. 138 dt.19.04.2021 issued by Department of Mining Govt. of J&K, notified that the **clause (vii) of Rule 2** of the Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of illegal Mining **Rules, 2016, (SRO 105 dt. 31-03-2016)** shall be substituted by the following, namely:-

- (vii) "**Brick earth**" means earth used for making bricks and shall include all types of earths used for construction of dams, canals, roads, rail embankments and other identical purposes.

Provided that the extraction of brick earth in any area up to 02 (two) hectares and up to a depth of 02 (two) meters for making bricks in Brick Kilns shall be declared as non-mining activity."

2(A) Consent to Operate :

In light of above, the **Consent to Operate (Fresh) / Consent to Operate (Renewal)** under **Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974** for Brick Kiln(s) shall be processed by the JK Pollution Control Committee through on line portal (www.jkocmms.nic.in) for which the project proponent has to submit the following:-

- i) Copy of previous Consent to **Establish/Operate (Fresh)**.
- ii) Copy of Brick Kiln Licence issued by competent authority in vogue.
- iii) Applicable consent fee through online mode.
- iv) Google imagery / KMZ file of the unit along with geo-tagged boundaries of the area from where brick earth is being / to be excavated.
- v) Revenue papers of land from where brick earth is being / has to be extracted as raw material for bricks.
- vi) Photographs of the PCDs / PCMs with date and duly labeled with name of Brick Kiln.

Following conditions shall be complied by Brick Kiln owners before seeking Consent to Operate (Fresh / Renewal):

- a) The unit holder has to comply with general terms and conditions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and ensure activity specific compliance of environmental standards as per the Environment (Protection) Act, 1986 and amendments made thereof. The unit holder shall adopt all safeguards to protect the environment by adopting the following :-
- Complete metaling and paving of roads with bricks within the premises of brick kiln.
 - A permanent system in place for **regular sprinkling of water on roads** within and on the periphery, to control fugitive dust emissions.
 - Installation of requisite **Emission Control Devices** as prescribed for brick kiln.
 - Measures to prevent accumulation of fine dust all around the brick kiln.
- b) Unit Holder must have planted the fast growing broad leaved **trees in three rows around the unit** at a gap of **3 meters from plant to plant with 2 meters gap in between** rows in a staggered manner in periphery of brick kiln to develop green / shelter belt, and as per the directions of **Hon'ble High Court** order dt. **20-4-2018** in **PIL No. 16/2017** titled **Nadeem Rafiq V/s Govt. of J&K & Ors.**
- c) Unit Holder must display the name of Brick Kiln, license number and Consent to Operate order number in big legible bold letters on the **stack at height of 15 m**, the same should be visible from a distance of **50 m from the stack.**
- d) Unit holder must display details on a **display board (6' x 4')** at the entry of the unit, reflecting name and address of brick kiln, license number, Consent Order number and details of **Emission Control Devices** and **Pollution Control Measures** and fuel used, written in big legible bold letters.
- e) Unit Holder must adopt **clean fuel** for baking of bricks **and under no circumstances, the use of waste plastic or used tyre as a fuel shall be allowed.** The fuel must always be stored under proper shed / coverage to prevent any escape of Particulate Matter.
- f) Brick Kilns shall have requisite **Pollution Control Device i.e Fixed Chimney with height given below or more height and gravitational settling Chambers with port hole, platform and ladder** arrangement for monitoring of emissions, further ensuring that emissions standard prescribed for **SPM < 750 mg/m³** are maintained at all the time.

S. No.	Production capacity of Brick kiln	Required stack (Chimney) height
i)	Upto 30000 Bricks / day	30 m
ii)	> 30000 Bricks / day	33 m

2 (B) Consent to Establish for New Brick Kilns :

Consent to Establish (Fresh) under *Air (Prevention and Control of Pollution) Act, 1981* and *Water (Prevention and Control of Pollution) Act, 1974* for Brick Kiln(s) shall be processed by the JK Pollution Control Committee through on line portal (www.jkocmms.nic.in) for the new brick kilns for which the project proponent has to submit the following:-

- i) Detailed Project Report containing all required proposed Pollution Control Devices / Pollution Control Measures.
- ii) Applicable consent fee through online mode.
- iii) Google imagery / KMZ file of the area where brick kiln has to be established along with geo-tagged boundaries of the area from where brick earth has to be excavated.
- iv) Site Plan.
- v) Revenue papers of land where brick kiln is to be established and earth has to be extracted as raw material for bricks.

3. Siting Criteria :

The siting criteria for the brick kilns already under operation shall be applicable as per guidelines issued vide no. **SPCB/PS/MS/10/BK/2813-20** dt. **31.03.2010** with **abstract** given below, with addition of fresh siting criteria for brick kilns to be established after **July 2021**:-

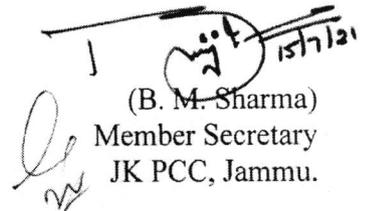
<i>Brick Kilns operating with Consent to Establish / Operate prior to 01.01.2010</i>			<i>For Brick kilns operating with consent to establish / operate after 01/01/2010 upto July 2021</i>	<i>Siting criteria for establishment of new brick kilns after July 2021</i>
S. No.	Siting Parameters*	Brick kilns with permanent fixed stack as on date.	Brick kilns with permanent fixed stack as on date	With permanent fixed stack
i)	Distance from national / State highway / District road	45 m	100 m	100 m
ii)	Municipal limits of Jammu, Srinagar and other local Cities	200 m	1 km	2 km
iii)	Nearest Residential Area / Abadi / Health Care Establishments / Educational Institution and Controlled area	150 m	500 m	1 km
iv)	Forest land	150 m	150 m	1 km
v)	Approved water scheme of 20 KLD or a spring/lake and other water bodies whose waster is used for drinking purposes	500 m	1 km	1 km
vi)	National Park / Protected Areas / Tourist Spot (Complex/Resorts)	1 km	1 km	1 km
vii)	Orchards / Abi-awal / Saffron fields	50 m	500 m	1 km

Definitions* :

- **Residential Area / abadi:-** 20 or more revenue recorded houses within radius of 150 m / 500 m / 1km, respectively shall constitute residential area.
 - **Controlled area:-** An area under permanent occupation of Defence / Belt Forces.
 - **Health Care Establishment:-** Means Primary Health Centre or above establishment/s of Health and Medical Education Department or recognized private HCF with minimum of 10 beds.
 - **Approved water supply:-** The approved water supply of more than 20 KLD where system for treatment of water for drinking purposes is involved in open or a spring/lake used for drinking purposes. Tubewells/Overhead tanks / covered reservoirs/rivers are not covered under this.
 - **Educational Institution:-** Govt. Primary school or above or Govt. recognized private school.
 - **Orchard / Abi-awal / Saffron fields:-** Land use of more than 10 kanals shall only be considered as Orchard / Saffron field / Abi-awal, Un-irrigated land should not be covered under this.
 - All distances referred in siting criteria shall be aerial / crow fly distances.
 - All the parameters should be measured from center of the stack and distance measured should reflect aerial distance.
4. No brick kilns shall be allowed within 8 km radius of Srinagar Airport as per the directions of Hon'ble High Court dt. 24-12-2019.
 5. No brick kiln shall be allowed to operate within notified **Eco-sensitive Zone** as per directions for ESZ by Hon'ble Supreme Court of India and the Govt. Notifications.
 6. Brick kiln owner should submit the Revenue papers of area from where brick earth is to be excavated duly certified by competent Revenue authority that total area of land is less than **2 ha** with maximum allowed depth of **2 meters** for excavation.
 7. Brick Kiln owner should also submit the detailed earth excavation plan for the area from where earth is to be excavated with complete re-habitation plan for the excavated area, using organic waste and the top soil stored before excavation.
 8. Brick Kiln owner should shift preferably to any clean technology with stack of required height as per standards to achieve the permissible standards as revised by Govt. from time to time.
 9. New brick kiln shall be allowed to be established at a minimum distance of **1.0 km** from any existing and operating brick kiln to avoid clustering of kilns in an area.

As approved by the Competent Authority.

Encl:- SO 138 dt. 19th April 2021.


 (B. M. Sharma)
 Member Secretary
 JK PCC, Jammu.

No:- PCB/T/C/Circular/BK/2021/697-705
 Dated:- 15-07-2021

Copy for information and necessary action to the:-

- i) Regional Director, Pollution Control Committee Jammu / Kashmir.
- ii) Sh. M. M. Shah (Legal Advisor), JKPCC, Jammu / Srinagar.
- iii) Dr. Bilques Ara I/c Scientist 'C', JKPCC, Srinagar.
- iv) Sh. A. K. Gupta, Asstt. Environmental Engineer, JKPCC, Jammu
- v) Sh. _____, Divisional Officers, JKPCC _____ Jammu / Kashmir.
- vi) PA to Chairman for information of the Chairman, JKPCC Jammu.
- vii) I/c website JKPCC Jammu for uploading on the website.
- viii) Office file.

GOVERNMENT OF JAMMU AND KASHMIR
DEPARTMENT OF MINING
Civil Secretariat, Jammu

Notification

Jammu, 19th of April 2021

S.O. 139.-In exercise of the powers conferred by section 15 read with section 23C of the Mines & Minerals (Development & Regulation) Act, 1957 (Central Act No.67 of 1957), the Government hereby directs that the clause (vii) of rule 2 of the Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals and Prevention of Illegal Mining Rules, 2016; shall be substituted by the following; namely:-

“(vii) **“Brick earth”** means earth used for making bricks and shall include all types of earths used for construction of dams, canals, roads, rail embankments and other identical purposes:

Provided that the extraction of brick earth in an area up to 02 (two) hectares and up to a depth of 02 (two) meters for making bricks in Brick Kilns shall be declared as non-mining activity.”

By order of the Government of Jammu and Kashmir.

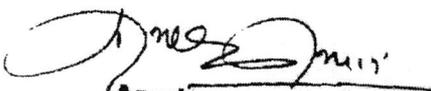
Sd/-

(Manoj Kumar Dwivedi) IAS,
Commissioner/Secretary to the Government

No: MNG/Crusher/15/2021

Dated: 19.04.2021

1. All Financial Commissioners.
- 2-35 2. Director General of Police, J&K.
3. Principal Secretary to the Lieutenant Governor.
4. All Principal Secretaries to the Government.
5. Principal Resident Commissioner, J&K Government, New Delhi.
6. Chief Electoral Officer, J&K.
7. All Commissioner/Secretaries to the Government.
8. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
9. Divisional Commissioner, Jammu/Kashmir.
10. Director General, J&K Institute of Management, Public Administration and Rural Development.
11. Chairman, J&K Special Tribunal.
12. All Heads of Departments/Managing Directors.
13. All Deputy Commissioners.
14. Director, Information, J&K.
15. Secretary, J&K Public Service Commission.
16. Director Estates, J&K.
17. Director, Archives, Archaeology and Museums, J&K.
18. Director, Geology and Mining, J&K.
19. Director, Panchayati Raj, J&K.
20. Secretary, J&K Services Selection Board.
21. General Manager, Government Press, Jammu/ Srinagar.
22. Private Secretary to the Hon'ble Lieutenant Governor.
23. Private Secretary to the Chief Secretary.
24. Private Secretary to Commissioner/Secretary to the Government, Mining Department/GAD.
25. Incharge Website, Mining/GAD.
26. Government Order file/Stock file.


(Aamir A. Rather), 19.04
Under Secretary to the Government

टिप्पण : मूल नियम भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (i) में तारीख 19 नवंबर, 1986 के का.आ. 844 (अ) द्वारा प्रकाशित किए गए थे और 04 अक्टूबर, 2021 की अधिसूचना सा.का.नि. 724 (अ) द्वारा अंतिम बार संशोधित किए थे।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 22nd February, 2022

G.S.R. 143(E).—In exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules further to amend the Environment (Protection) Rules, 1986, namely:—

1. Short Title and commencement: -

- (1) These rules may be called the Environment (Protection) Amendment Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl. No. 74, the following entry shall be substituted, namely: -

74	Brick Kilns	Particulate matter in stack emission	250 mg/Nm ³
		Minimum stack height (Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	14 m (at least 7.5m from loading platform)
		- Kiln capacity equal or more than 30,000 bricks per day	16 m (at least 8.5m from loading platform)
		Minimum stack height (Other than Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	24 m
		- Kiln capacity equal or more than 30,000 bricks per day	27 m

Notes :

1. All new brick kilns shall be allowed only with zig-zag technology or vertical shaft or use of Piped Natural Gas as fuel in brick making and shall comply to these standards as stipulated in this notification.
2. The existing brick kilns which are not following zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making shall be converted to zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making within a period of (a) one year in case of kilns located within ten kilometre radius of non-attainment cities as defined by Central Pollution Control Board (b) two years for other areas. Further, in cases where Central Pollution Control Board/State Pollution Control Boards/Pollution Control Committees has separately laid down timelines for conversion, such orders shall prevail.
3. All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.
4. Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid down by the Central Pollution Control Board for monitoring of emissions.
5. Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:

$$PM \text{ (normalized)} = (PM \text{ (measured)} \times 4\%) / (\% \text{ of } CO_2 \text{ measured in stack}), \text{ no normalization in case } CO_2 \text{ measured } \geq 4\%.$$
 Stack height (in metre) shall also be calculated by formula $H=14Q^{0.3}$ (where Q is SO₂ emission rate in kg/hr), and the maximum of two shall apply.

6. Brick kilns should be established at a minimum distance of 0.8 kilometre from habitation and fruit orchards. State Pollution Control Boards/Pollution Control Committees may make siting criteria stringent considering proximity to habitation, population density, water bodies, sensitive receptors, etc.
7. Brick kilns should be established at a minimum distance of one kilometre from an existing brick kiln to avoid clustering of kilns in an area.
8. Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribed by concerned State Pollution Control Boards/Pollution Control Committees.
9. The ash generated in the brick kilns shall be fully utilized in-house in brick making.
10. All necessary approvals from the concerned authorities including mining department of the concerned State or Union Territory shall be obtained for extracting the soil to be used for brick making in the brick kiln.
11. The brick kiln owners shall ensure that the road utilized for transporting raw materials or bricks are paved roads.
12. Vehicles shall be covered during transportation of raw material/bricks”.

[F. No. Q-15017/35/2007-CPW]

NARESH PAL GANGAWAR, Addl. Secy.

Note : The principle rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number S.O. 844(E), dated the 19th November, 1986 and lastly amended *vide* number G.S.R. 724(E), dated the 04th October, 2021.

परंतु उस दशा में, जहां वायु क्वालिटी प्रबंधन आयोग/केंद्रीय प्रदूषण नियंत्रण बोर्ड/राज्य प्रदूषण नियंत्रण बोर्ड/प्रदूषण नियंत्रण समिति ने पृथक् रूप से अधिक कठोर सन्नियम/समय-सीमा जारी की है, ऐसे आदेश अभिभावी होंगे।”

[फा.सं. क्यू-15017/35/2007-सीपीडब्ल्यू]

नरेश पाल गंगवार, अपर सचिव

टिप्पण : मूल नियम भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (i) में सं. का.आ. 844(अ), तारीख 19 नवंबर, 1986 द्वारा प्रकाशित किए गए थे और उनका अंतिम संशोधन अधिसूचना सं. सा.का.नि. 414(अ), तारीख 5 जून, 2023 द्वारा किया गया था।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION

New Delhi, the 15th December, 2023

G.S.R. 895(E).—In exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) act, 1986 (29 of 1986) the Central Government hereby makes the following rules further to amend the Environment (Protection) Rules, 1986, namely: -

1. Short title and commencement.— (1) These rules may be called the Environment (Protection) Sixth Amendment Rules, 2023.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Environment (Protection) Rules, 1986, in the SCHEDULE-I, in entry at Sl. No. 74, for note no. 2, the following entry shall be substituted, namely: -

"2. *The existing brick kilns which are not following zig-zag technology or vertical shaft or use piped natural gas as fuel in brick making shall be converted to zig-zag technology or vertical shaft or use piped natural gas as fuel in brick making within a period of :*

(a) *one year w.e.f. 23.02.2023 in case of kilns located within ten kilometers radius of non-attainment cities; except those located in million plus population cities, NCR districts, and critically & severally polluted areas as categorized by CPCB;*

(b) *one year w.e.f. 23.02.2024 in case of other kilns.*

Provided that in case where Commission for Air Quality Management / Central Pollution Control Board / State Pollution Control Board / Pollution Control Committee has separately issued more stringent Norms/ timelimes, such orders shall prevail. "

[F. No. Q-15017/35/2007-CPW]

NARESH PAL GANGWAR, Addl. Secy.

Note: The principle rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number S.O. 844 (E) dated the 19th November 1986 and last amended, vide notification number G.S.R. 414(E) dated the 05th June, 2023.