

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 802 OF 2024**

IN THE MATTER OF:

DEEPAM GARG URF DUGA & ORS.

...APPLICANT

VERSUS

STATE OF U.P. & ORS.

.....RESPONDENT(S)

INDEX

S. NO.	PARTICULARS	PAGE NO.
1.	Affidavit on behalf of U.P. Pollution Control Board	1-6
2.	ANNEXURE 1: A copy of the Status/ Action Taken Report Joint Committee Report	7-14
3.	ANNEXURE 2: A copy of the order dated 25.10.2018	15
4.	ANNEXURE 3: A copy of order dated 23.09.2013 passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No. 4295/2011, M/s Manoj Mini Rice Mill and Anr. versus State of U.P. and Ors.	16-17
5.	ANNEXURE 4: A copy of order dated 28.11.2018 passed by this Hon'ble Tribunal in MA No. 1024/2017 in OA No. 64/2016 titled as Gopeshwar Nath	18-21

	Chaturvedi versus U.P. Pollution Control Board & Others	
6.	ANNEXURE 5: A copy of letter no. 638/OG-263/2024 dated 27.09.2024	22-25
7.	ANNEXURE 6: A copy of cancellation order dated 07.10.2024	26

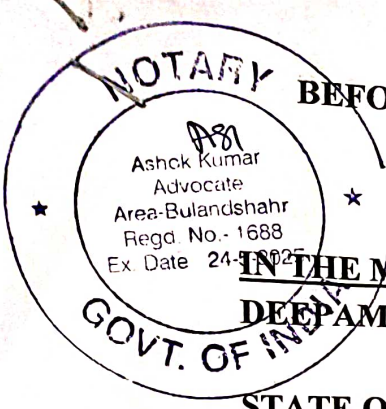
THROUGH

DATE: 17.10.2024

PLACE: NEW DELHI



**STHAVI ASTHANA
ADVOCATE FOR UPPCB
C1/131 MOTI BAGH, SHANTI PATH,
NEW DELHI-110021
(M): 9711116034
(E): STHAVIASTHANA@GMAIL.COM**



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO.802 OF 2024

IN THE MATTER OF:

DEEPA GARG URF DUGA AND ORS.APPLICANTS
VERSUS

STATE OF UP

.....RESPONDENT

Status/Action Taken Report on behalf of the Uttar Pradesh Pollution Control Board in compliance with the order dated 22.08.2024 passed by the Hon'ble Nation Green Tribunal, Principal Bench, New Delhi

I SAPNA SRIVASTAVA D/o Shri SHYAM BEHARI aged about 59 years, R/o C-6 Mitradweep Apartments, 38 I.P. Extension Patparganj, Delhi do hereby solemnly affirm and state as under:

1. That I am Regional Officer of Uttar Pradesh Pollution Control Board (hereinafter "UPPCB"), from August-21. I say that I am fully conversant with the facts of the case as per office records.

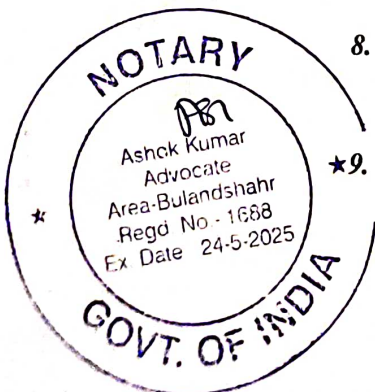
I am competent and have been authorized to swear the present Affidavit.

2. That this Hon'ble Nation Green Tribunal, Principal Bench, New Delhi (hereinafter "Hon'ble Tribunal") vide its order dated 22.08.2024 in the captioned matter has passed the following directions:

".....7. However, since the matter required investigation into facts, we find it appropriate to direct District Administration and Statutory Regulator to look into the matter, collect relevant information and if finds applicability of Air Act, 1981 in the case in hand and any violation thereof, to take appropriate remedial preventive and prohibitive action in accordance with law.

8. Accordingly, we constitute a Joint Committee comprising District Magistrate, Bulandshahr and Uttar Pradesh Pollution Control Board

9. Said Committee shall collect relevant information and after examination of factual details shall find out whether the activities of alleged violator comes within the purview of Air Act, 1981 and if so whether there is any violation of



Deepee

provisions of the Air Act, 1981 and if they find any violation thereof, would take appropriate preventive, punitive, prohibitive and remedial action in accordance with law against the violator within two months.

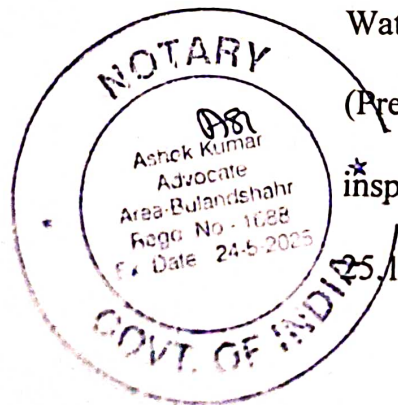
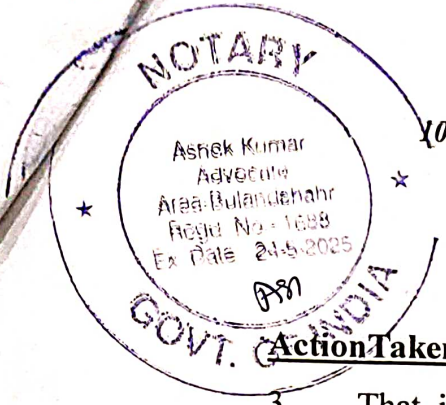
10. A Compliance Report shall be submitted with Registrar General of this Tribunal within two months who if finds necessary that any further order is required, shall place the matter before the Bench”

Action Taken: -

3. That in pursuance to the order dated 22.08.2024 passed by this Hon'ble Tribunal, a joint committee comprising Sub Divisional Magistrate, Bulandshahr and Regional Officer, UPPCB, Bulandshahr has inspected the site on 26.09.2024 and observed that Shri Rajesh Kumar S/o Shri Jaishankar Prasad, manufactured steel cupboards, beds and boxes behind his residential complex near Mohalla Chauvela Panch, Ward No. 13, Rajni Public School, Purana Gate. The committee found that the unit is operational and in production. The sound intensity of the production activity of the unit was monitored/measured using a Noise monitoring instrument and it was observed that the intensity of sound generated by the production activity was more than the permissible standards for noise pollution. The Joint Committee report is being annexed herewith as **Annexure-1**.

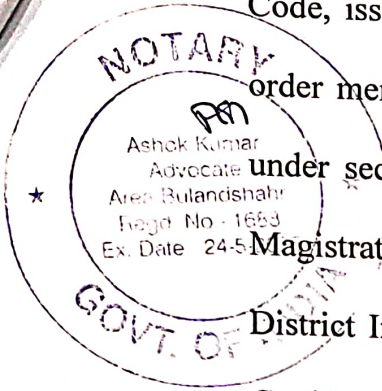
4. That a Joint Committee has also found that the unit, in question, was established and operating in a residential area without obtaining No Objection Certificate and valid Consent from UPPCB under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. During the inspection, the unit representative showed a copy of the order dated 25.10.2018 passed in Suit No. 00170/2018 Government versus

Depru



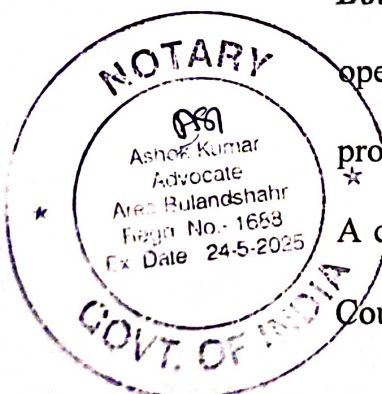
28

Rajesh Kumar, filed under Section 133 of Criminal Procedure Code, issued by the office of Sub-District Magistrate, Dibai. This order mentioned that the grievance against the said unit was filed under section 133(1) Cr.P.C. before the office of Sub Divisional Magistrate Dibai. In order dated 25.10.2018, it is observed that U.P.



District Industries Center, Bulandshahr has issued a No Objection Certificate to the unit regarding pollution and mentioned that steel furniture manufacturing has been listed as a non-polluting unit. On the basis of No Objection Certificate issued by U.P. District Industries Centre Bulandshahr, Sub-District Magistrate, Dibai disposed of the complaint filed under section 133 (1) Cr.P.C. vide order dated 25.10.2018. A copy of order dated 25.10.2018 is annexed herewith as **Annexure-2**. Further, the Committee, during inspection, also noted that Shri Rajesh Kumar was operating the unit on the basis of the NOC issued by the District Industries Centre in its favour.

5. That the Joint Committee perused the order dated 23.09.2013 passed by the Hon'ble Supreme Court in *Special Leave Petition (Civil) No. 4295/2011, M/s Manoj Mini Rice Mill and Anr. versus State of U.P. and Ors.* and order dated 28.11.2018 passed by this Hon'ble Tribunal in *MA No. 1024/2017 in OA No. 64/2016 titled as Gopeshwar Nath Chaturvedi versus U.P. Pollution Control Board & Others*. The Committee noted that the establishment and operation of the unit in a residential area was in violation of the provisions of the environmental laws and abovementioned orders.



A copy of order dated 23.09.2013 passed by the Hon'ble Supreme Court in *Special Leave Petition (Civil) No. 4295/2011, M/s Manoj*

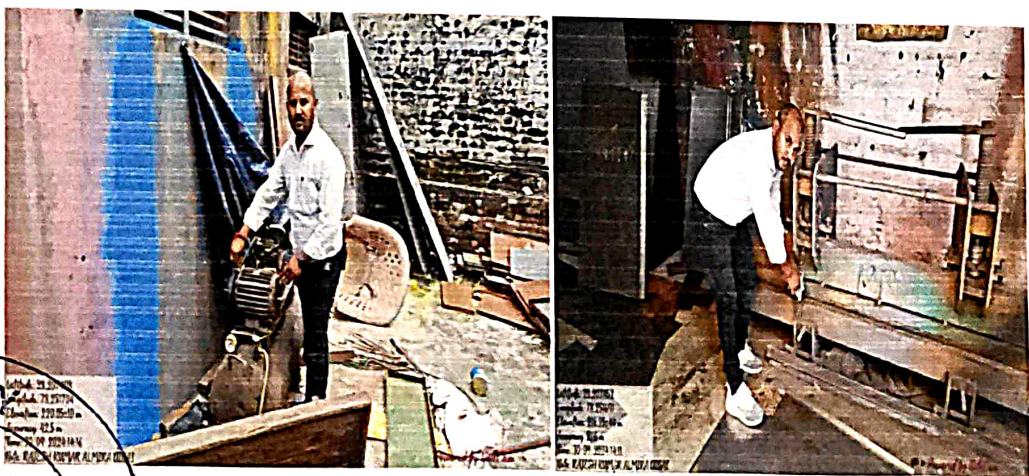
✓
Deepa

Mini Rice Mill and Anr. ²⁹ versus State of U.P. and Ors. is annexed herewith as **Annexure-3**.

A copy of order dated 28.11.2018 passed by this Hon'ble Tribunal in MA No. 1024/2017 in OA No. 64/2016 titled as Gopeshwar Nath Chaturvedi versus U.P. Pollution Control Board & Others is annexed herewith as **Annexure-4**.

That accordingly, instructions were issued by the District Magistrate Bulandshahr vide letter no. 638/OG-263/2024 dated 27.09.2024 to seal the unit and cancel the No Objection Certificate issued by the Deputy Commissioner of Industries, District Industries Promotion and Entrepreneurship Development Center, Bulandshahr to the unit. A copy of letter no. 638/OG-263/2024 dated 27.09.2024 is annexed herewith as **Annexure-5**.

- 6. That in pursuance to these instructions, the unit was closed and sealed on 30.09.2024 by a joint team of Assistant Scientific Officer, Junior Engineer, UPPCB, Bulandshahr and Nayab Tehsildar, Tehsil Dibai. Photographs of the sealing of molding and spray-painting machine of the unit are given below:



That further, the power supply of the unit has been disconnected by the Electricity Distribution Section, Dibai. The No Objection

Saper

NOTARY
 Ashok Kumar
 Advocate
 Area-Bulandshahr
 Regd. No. 1648
 Ex. Date 24.5.2024
 GOVT. OF INDIA

NOTARY
 Ashok Kumar
 Advocate
 Area-Bulandshahr
 Regd. No. 1648
 Ex. Date 24.5.2024
 GOVT. OF INDIA

NOTARY

Ashok Kumar
Advocate
Area-Bulandshahr
Regd. No. 1659
Ex. Date 24-5-2023

GOVT. OF U.P.

Certificate issued to the unit by the District Industries Promotion and Entrepreneurship Development Center, Bulandshahr has also been cancelled on 07.10.2024. A copy of cancellation order dated 07.10.2024 is being annexed herewith as **Annexure-6**.

8: That the above additional response of Uttar Pradesh Pollution Control Board is submitted before Hon'ble Tribunal for kind perusal and consideration.

[Signature]
DEPONENT

VERIFICATION:

Verified at Bulandshahr on this 14th day of October, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

[Signature]
DEPONENT

NOTARY

Ashok Kumar
Advocate
Area-Bulandshahr
Regd. No. 1659
Ex. Date 24-5-2023

GOVT. OF U.P.

ATTESTED

[Signature]
ASHOK KUMAR
Notary (Public)
Bulandshahr (U.P.)

14/10/2024

ANNEXURE 1

In compliance of Hon'ble Nation Green Tribunal orders dated 22-08-2024 in O.A. No. 802/2024 Deepam Garg Urf Durga and Ors. V/s State of Uttar Pradesh

Status/Action Taken Report

The Hon'ble NGT passed an order dated 22-08-2024 in O.A. No. 802/2024 Deepam Garg Urf Durga and Ors. V/s State of Uttar Pradesh, the operative portion reads as under:

"...7. However, since the matter required investigation into facts, we find it appropriate to direct District Administration and Statutory Regulator to look into the matter, collect relevant information and if finds applicability of Air Act, 1981 in the case in hand and any violation thereof, to take appropriate remedial preventive and prohibitive action in accordance with law.

8. Accordingly, we constitute a Joint Committee comprising District Magistrate, Bulandshahr and Uttar Pradesh Pollution Control Board

9. Said Committee shall collect relevant information and after examination of factual details shall find out whether the activities of alleged violator comes within the purview of Air Act, 1981 and if so whether there is any violation of provisions of the Air Act, 1981 and if they find any violation thereof, would take appropriate preventive, punitive, prohibitive and remedial action in accordance with law against the violator within two months.

10. A Compliance Report shall be submitted with Registrar General of this Tribunal within two months who if finds necessary that any further order is required, shall place the matter before the Bench"

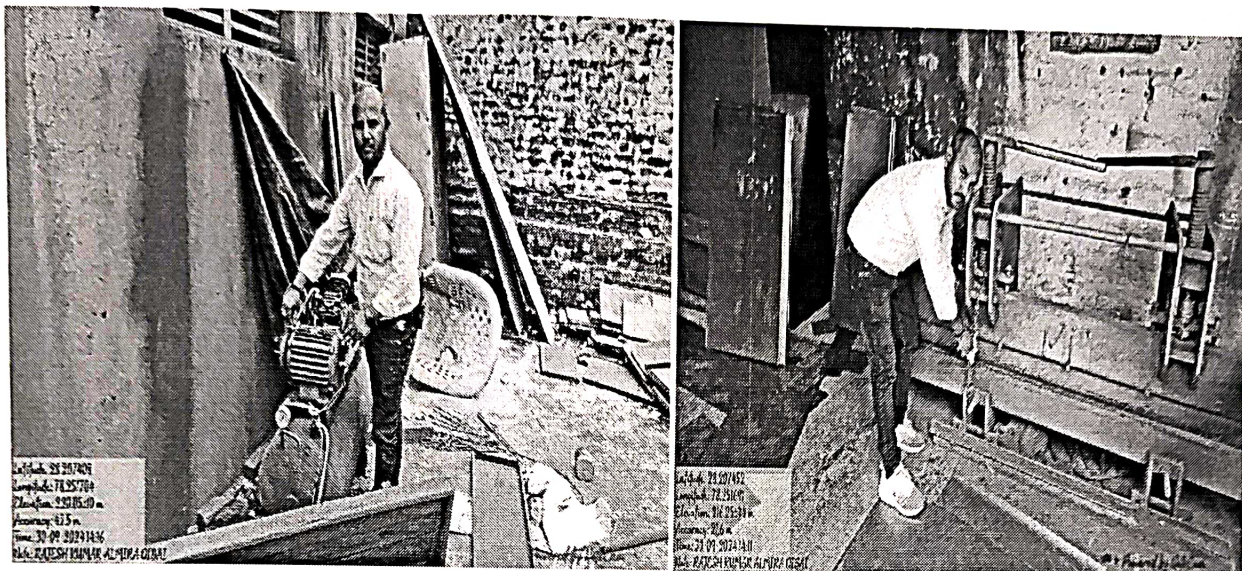
Background:-

1. The Hon'ble NGT passed the above order on 22-08-2024 in O.A. No. 802/2024 on the complaint of Shri Deepam Garg and others (applicant in OA) resident of Mohalla Chouvelapench, Ward No.13, Rajni Public School, Purana Gate, Dibai, District Bulandshahr, alleging that one Shri Rajesh Kumar, s/o Shri Jai Shankar Prasad, has a residential house in front of the house of the complainants and that the back portion of his house (Shri Rajesh Kumar) is being used for fabrication of Steel Almirah, bed, box etc.. The complaint mentioned that Shri Rajesh Kumar used to carry out spray painting activity causing damage to environment and creating a health hazard to the local residents through air pollution and noise pollution. Complainant has said that several complaints were made to various authorities but unit is still continuing operations. (Annexure – 1)

Action Taken: -

2. In pursuance to the orders dated 22-08-2024 of Hon'ble Tribunal, the District Magistrate, Bulandshahr constituted a joint committee comprising Sub Divisional Magistrate, Bulandshahr and Regional Officer, UP Pollution Control Board, Bulandshahr vide letter number 605/OG/263/2024 dated 11/09/2024, to investigate the matter in detail including compliances under provisions of environmental acts and to take remedial action as per rules.
3. Accordingly, the joint committee inspected the site on 26/09/2024 and observed that Shri Rajesh Kumar, s/o Shri Jaishankar Prasad, manufactured steel cupboards, beds and boxes behind his residential complex near Mohalla Chauvela Panch, Ward No. 13, Rajni Public School, Purana Gate. The committee found the unit operational and in production. The sound intensity of the production activity of the unit was monitored/measured using a Noise monitoring instrument and it was observed that the intensity of sound generated by the production activity was more than the permissible standards for noise pollution (**Annexure - 2**).
4. The Committee also noted that the unit was established and was operating in a residential area without obtaining a No Objection Certificate and Water and Air consent from UP Pollution Control Board under Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981. During the inspection, the unit representative showed a copy of the order dated 25/10/2018 passed in suit number 00170/2018 Government vs Rajesh Kumar, filed under section 133 of Criminal Procedure Code, issued by the office of Sub-District Magistrate, Dibai. This order mentioned that the grievance against the said unit was filed under section 133(1) CrPC before the office of Sub Divisional Magistrate Dibai. In this order dated 25/10/2018, it is denoted that UP District Industries Center, Bulandshahr has issued a No Objection Certificate to the unit regarding pollution and mentioned that steel furniture manufacturing has been listed as a non-polluting unit. On the basis of No objection Certificate issued by UP District Industries Centre Bulandshahr, Sub-District Magistrate, Dibai disposed of the complaint filed under section 133 (1) CrPC through order dated 25/10/2018 **Annexure-3**. The Committee, during inspection, noted that Shri Rajesh Kumar was operating the unit on the basis of the NOC issued by the District Industries Centre.
5. The Committee perused the orders dated 13/09/2013 of the Hon'ble Supreme Court in Special Leave Petition (Civil) no(s) 1295/2011 M/s Manoj Mini Rice Mill and Anr Vs State of U.P. and orders dated 28/11/2018 of Hon'ble NGT in OA No. 64/2016 and M.A. No. 1024/2017 (Gopeshwar Nath Chaturvedi V/s UP Pollution Control Board & Others). The Committee noted that the establishment and operation of the unit in a residential area was in violation of the provisions of the environmental laws and these court orders. Accordingly, instructions were issued by the District Magistrate Bulandshahr vide letter no. 638/OG-263/2024 dated 27/09/2024 to seal the unit and cancel the No objection Certificate issued to the unit by the Deputy Commissioner of Industries, District Industries Promotion and

Entrepreneurship Development Center, Bulandshahr. In pursuance to these instructions, the unit was closed and sealed on 30/09/2024 by a joint team of Assistant Scientific Officer, Junior Engineer, UP Pollution Control Board, Bulandshahr and Nayab Tehsildar, Tehsil Dibai. Photographs of the sealing of molding and spray-painting machine of the unit are given below:



6. Further, the power supply of the unit has been disconnected by the Electricity Distribution Section, Dibai. The No objection certificate issued to the unit by the District Industries Promotion and Entrepreneurship Development Center, Bulandshahr has also been cancelled. (Annexure-4)

7. The Committee submits this report along with the enclosures.

Sapna
 (Sapna Srivastava)
 Regional Officer
 UP Pollution Control Board
 Bulandshahr, U.P.

Kamlesh
 (Kamlesh Kumar Goel)
 Sub Divisional Magistrate, Dibai
 Bulandshahr, U.P.

b
 NTO

कार्यालय

जिलाधिव

बुलन्दशहर।

पत्रांक: 605/06-263/24

दिनांक: 11/09/24

कार्यालय आदेश

मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में श्री दीपम गर्ग उर्फ दुर्गा एवं अन्य, निवासी-मौहल्ला चौवेलापेंच, वार्ड नं0-13, राजेन्द्र पब्लिक स्कूल, पुराना गेट, डिबाई, जनपद बुलन्दशहर के घर के सामने श्री राजेश कुमार पुत्र श्री जयशंकर प्रसाद का आवासीय घर है। श्री राजेश कुमार द्वारा आवासीय घर के पिछले हिस्से में स्टील अलमारी, बेड एवं बॉक्स का निर्माण किये जाने होने वाले वायु एवं ध्वनि प्रदूषण से स्थानीय निवासियों के स्वास्थ्य को नुकसान होने एवं स्प्रे पेन्टिंग गतिविधि किये जाने से पर्यावरण को नुकसान होने सम्बन्धी शिकायत की गई है। तत्कम में ओ0ए0 नं0-802/2024 दीपम गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू0पी0 के अन्तर्गत मा0 राष्ट्रीय हरित अधिकरण द्वारा दिनांक 22.08.2024 को संयुक्त समिति के माध्यम से शिकायत के संदर्भ में नियमानुसार उपचारात्मक कार्यवाही किये जाने के आदेशों के अनुपालन में निम्न अधिकारियों की समिति का गठन किया जाताहै:-

1. उप जिलाधिकारी, डिबाई, जनपद बुलन्दशहर।
2. क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, बुलन्दशहर।

उक्त समिति मा0 राष्ट्रीय हरित अधिकरण द्वारा जारी आदेशों के अनुपालन में प्रश्नगत प्रकरण की पर्यावरणीय अधिनियमों के अनुपालन की जाँच करते हुये नियमानुसार यथाआवश्यक कार्यवाही करते हुये आख्या अधोहस्ताक्षरी को एक सप्ताह के अन्दर प्रस्तुत किया जाना सुनिश्चित करें, जिससे कि ससमय कार्यवाही की आख्या मा0 राष्ट्रीय हरित अधिकरण को प्रस्तुत की जा सके।

(वन्द्र प्रकाश सिंह)
जिलाधिकारी
बुलन्दशहर

पृष्ठांकन सं0-

प्रतिलिपि-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. अपर जिलाधिकारी (वि0/रा0), बुलन्दशहर।
2. सम्बन्धित अधिकारियों को अनुपालनार्थ।

दिनांक:-

11.9.24
जिलाधिकारी
बुलन्दशहर

Item No.05

Court No. 2

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

Original Application No.802/2024

Deepam Garg Urf Duga and Ors.

Applicants

Versus

State of UP

Respondent

Date of hearing: 22.08.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): None

ORDER

1. This Original Application under Section 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') in exercise of *suo-moto* jurisdiction in view of the law laid down by Supreme Court in *Municipal Corporation of Greater Mumbai Versus Ankita Sinha and Others*, has been registered on a letter petition dated 27.10.2023 sent by Deepam Garg and others resident of Mohalla Chouvelapench, Ward No.13, Rajendra Public School, Purana Gate, Dibai, District Bulandshahr.

2. Complainants have stated that one Rajesh Kumar son of Jai Shankar Prasad has residential house in front of house of the complainants and the back portion of the house of Rajesh is being used by him for fabrication of Steel Almirah, bed, box etc., wherein he used to carry out spray printing activity causing damage to environment and

creating health hazard to the local residents by causing air pollution as also noise pollution. He has said that several complaint were made to various authorities who also took action for shifting/closing of the unit which is in the residential area but unit is still continuing.

3. The record appended to the complaint also shows that proceedings under Section 133 Criminal Procedure Code, 1973 were initiated against Rajesh Kumar in case No.00170 of 2018, registered under Section 133 Cr.P.C. but vide order dated 25.10.2018, Sub Divisional Magistrate, Dibai dropped the proceedings after recording findings that Rajesh Kumar, proponent has Consent/No Objection Certificates from the concerned authorities and District Industrial Centre has issued no objection certificate with endorsement that the functioning of the unit does not results in any pollution.

4. Complaint basically is relating to violation of Air Act, 1981 which prohibits establishment or operation of any industrial plant in air pollution control area unless previous consent of Pollution Control Board has been obtained.

5. The term "industrial plant" has been defined in Section 2(k) which reads as under ("*industrial plant*" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere;)

6. Nothing has been shown in the complaint which may include the activities of alleged violator within the term "industrial plant".

7. However, since the matter required investigation into facts, we find it appropriate to direct District Administration and Statutory Regulator to look into the matter, collect relevant information and if finds applicability of Air Act , 1981 in the case in hand and any violation

thereof, to take appropriate remedial preventive and prohibitive action in accordance with law.

8. Accordingly, we constitute a Joint Committee comprising District Magistrate, Bulandshahr and Uttar Pradesh Pollution Control Board.

9. Said Committee shall collect relevant information and after examination of factual details shall find out whether the activities of alleged violator comes within the purview of Air Act, 1981 and if so whether there is any violation of provisions of the Air Act, 1981 and if they find any violation thereof, would take appropriate preventive, punitive, prohibitive and remedial action in accordance with law against the violator within two months.

10. A Compliance Report shall be submitted with Registrar General of this Tribunal within two months who if finds necessary that any further order is required, shall place the matter before the Bench.

11. With the above observations/directions this Original Application is disposed of.

12. A copy of this order be forwarded to District Magistrate, Bulandshahr and UPPCB by e-mail for compliance.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 22, 2024
Original Application No.802/2024
M

Annexure-II

दूरभाष : 05732-233879

फैक्स : 05732-233879

ई-मेल : robulandshahar@uppcb.in

क्षेत्रीय कार्यालय

उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड,
Uttar Pradesh Pollution Control Board
ग्रमुनापुरम (MMR मॉल के पीछे), बुलन्दशहर-203001

संदर्भ :

दिनांक :

Noise Monitoring Report

1. Scope of Monitoring - Noise level (dB(A)Leq.)
 2. Date of monitoring - 26.09.2024
 3. Monitoring place - M/s Rajesh kumar S/o Shri jai Shankar Prasad
 Unit, Mohalla chauvelapench, ward No.13, Rajni
 Public School near old gate, Dibai, Bulandshahr.
 4. Monitoring conducted by - Aashif Khan (Attendant)
 5. Monitoring distance from source - 10m
 6. Monitoring Duration - 01 min 09 sec

Noise Level (db)	
L(A)eq	72.6
LAFmax	87.4
LAFmin	51.5
LAE	96.1
Standard L(A)eq	65.0

Nishu
Attendant / J.R.F.

Jai Shankar
A.S.O. CHANDRA
Assistant Scientific Officer
U.P. Pollution Control Board
Bulandshahr

Abhishek
R.O.
Regional Officer
U.P. Pollution Control Board
Bulandshahr

नकल आदेश दिनांक- 25/10/18



डल:- मेरठ, जनपद:- बुलन्द शहर, तहसील:- डिबाई
न्यायालय उपजिलाधिकारी
वाद संख्या:- 00170/2018

सरकार बनाम राजेश कुमार

कंप्यूटरीकृत वाद संख्या :- T201811170700170

अंतर्गत धारा:- 133, दण्ड प्रक्रिया संहिता

आदेश तिथि:- 25/10/2018

अंतिम आदेश

निर्णय

विपक्षी प्रथम पक्ष राजेश कुमार पुत्र श्री जयशंकर प्रसाद निवासी मौ० महादेव कस्बा डिबाई के विरुद्ध थानाध्यक्ष डिबाई द्वारा तहसील दिवस प्रार्थना पत्र संख्या 30074918000220 पर दिनांक अन्तर्गत धारा- 133द०प्र०स० की रिपोर्ट प्रस्तुत की जिसमें कहा गया कि विपक्षी ने राजेश कुमार उपरोक्त ने अपने मकान के पास व मकान के पीछले हिस्से को लोहे की अलमारी व लोहे के बैड व लोहे के सन्दूक आदि बनाता है तथा उन पर स्त्रे करता है जिसके कारण उक्त स्थल से वायु प्रदूषण व ध्वनी प्रदूषण पैदा होता है व आस पास के मकानों में रह रहने वाले व्यक्तियों की आँखों में जलन व ध्वनी प्रदूषण आदि से लोगों ने एलर्जी व अन्य बीमारियों का खतरा होने का आरोप लगाया गया है। उक्त सम्बन्ध में नगर पालिका डिबाई के द्वारा भी नोटिस दिया है परन्तु राजेश कुमार उपरोक्त के द्वारा अपने आवासीय भू उपयोग में चल रही टीन उधौंग को बन्द कराकर विपक्षी के विरुद्ध कानूनी कार्यवाही करायी जाये।

मैंने पत्रावली का अवलोकन किया विपक्षी के विद्वान अधिवक्ताओं के तर्कों को सुना। पत्रावली पर उपलब्ध साक्ष्य के रूप में कार्यालय नगर पालिका परिशद डिबाई का नोटिस दिनांक 8.2.2018 को निरस्तीकरण पत्र व अनुमति प्रमाण पत्र की छया प्रति एवं उद्योग निदेशालय, उ०प्र० जिला उद्योग केन्द्र बुलन्दशहर द्वारा जारी प्रदूषण अनापत्ति प्रमाण पत्र तथा विवादित स्थल से सटे हुये मकान मालिकों के अनापत्ति शपथ पत्र प्रस्तुत किये हैं। एवं जिला उद्योग केन्द्र अनापत्ति प्रमाण पत्र में स्टैल फर्नीचर को प्रदूषण रहित अंकित किया गया है। मैं उपरोक्त साक्ष्यों से संतुष्ट हूँ। अतः नोटिस अन्तर्गत धारा 133(1) दण्डप्र०स० दिनांक 06.7.2018 वापस लिया जाना न्यायोचित प्रतीत होता है।

आदेश

अतः आदेश हुआ कि नोटिस अन्तर्गत धारा 133(1)द०प्र०स० दिनांक 06.7.2018 वापस लिया जाता है। वाद की कार्यवाही समाप्त की जाती है। पत्रावली बाद आवश्यक कार्यवाही दाखिल दफ्तर हो।

दिनांक-25.10.2018

~~उपजिला न्यायाधीश
डिबाई~~

देवदत्त शर्मा 46/

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ITEM NO.41

COURT NO.2

SECTION XI

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

Petition(s) for Special Leave to Appeal (Civil) No(s).4295/2011

(From the judgement and order dated 26/11/2010 in CMWP No.33870/2010 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

M/S MANOJ MINI RICE MILL & ANR

Petitioner(s)

VERSUS

STATE OF U.P.& ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 23/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

Mr. Bimal Roy Jad, Adv.

Mr. V.K. Singh, Adv.

For Respondent(s)

Ms. Shobha Dikshit, Sr.Adv.

(State of UP)

Mr. Pawan Shree Aggrawal, Adv.

Mr. Abhishek Chaudhary ,Adv

UP Pollution Control

Mr. Pradeep Misra,Adv.

Board

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against order dated 26.11.2010 passed by the Division Bench of the Allahabad High Court dismissing the writ petition filed by the petitioners against the closure of petitioner No.1 M/s. Manoj Mini Rice Mill.

It is not in dispute that the rice mill was being operated by the petitioner in a residential area and that too without obtaining consent under Section 26 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 and without getting the land use changed from residential to commercial/industrial.

Shri Bimal Roy Jad, learned counsel for the petitioners made strenuous efforts to convince us that the High Court committed an error by dismissing the writ petition ignoring that a number of similar industrial units are operating at Mirzapur and petitioner No.1 alone has been singled out for a discriminatory treatment but we are not felt impressed. The doctrine of equality embodied in Article 14 of the Constitution mandates the State not to discriminate among similarly situate persons but this does not mean that a mandamus can be issued to a public authority for perpetuation of illegality or illegal action.

At this stage, learned counsel for the petitioners made a request that his clients may be permitted to withdraw the special leave petition.

Though belated, we accept the request of the learned counsel and dismiss the special leave petition as withdrawn.

While dismissing the special leave petition, we consider it necessary to observe that the Government of Uttar Pradesh and its officers as also the Uttar Pradesh Pollution Control Board shall take active and effective steps for implementation of the directions given by the High Court in Writ Petition No. 34957 of 2003 - Srimati Mithilesh Jain v. State of U.P. and others and order passed in P.I.L. Writ Petition No.15432/2010 Smt. Indira Singh v. State of U.P. and others and ensure that all commercial and industrial activities including running of polluting industries in the residential areas of Mirzapur are stopped and the polluting industries are shifted out of the residential areas without any delay.

A copy of this order be sent to the Chief Secretary to the Government of Uttar Pradesh for ensuring compliance of the directions given by the High Court in Srimati Mithilesh Jain's case and Smt. Indira Singh's case.

| (Parveen Kr.Chawla)

| Court Master

| | (Phoolan Wati Arora)

| | Court Master

Item Nos. 1 to 4

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 64/2016
(M.A. No. 1024/2017)

With

Original Application No. 473/2016

With

Original Application No. 518/2018

M.A. Nos. 1243/2018 & 1244/2018

With

Original Application No. 910/2018

Gopeshwar Nath Chaturvedi

Applicant(s)

Versus

U.P. Pollution Control Board & Ors.

Respondent(s)

With

Kantanath Chaturvedi

Applicant(s)

Versus

U.P. Pollution Control Board & Ors.

Respondent(s)

With

Harish Garg

Applicant(s)

Versus

U.P. State Pollution Control Board & Ors.

Respondent(s)

With

Kunj Bihari Bhardwaj

Applicant(s)

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 28.11.2018

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

Mr. Rahul Kumar, Advocate
Ms. Savitri Pandey, Advocate
Mr. I.K. Kapila, Advocate

For Respondent (s):

Mr. Rajkumar, Advocate
Mr. Amit Tiwari, Advocate
Mr. Pradeep Misra, Advocate
Mr. S.K. Bhomicharya, Advocate
Mr. Sarthak Chaturvedi, Advocate
Mr. Rahul Khurana and Mr. Dinesh Agarwal,
Advocates

ORDER

1. The issue in these applications is compliance of the order of the Hon'ble Supreme Court dated 23.09.2013 in SLP (Civil) No. (s) 4295/2011-M/s. Manoj Mini Rice Mill & Anr. Vs. State of U.P. & Ors, directing the implementation of the order of Division Bench of the Allahabad High Court, dated 13.08.2003 in Smt. Mithlesh Jain Vs. State of U.P. & Others (2003(6) AWC 4742, directing the industrial activities in residential areas to be shifted from such areas for protection of environment.
2. On 06.04.2018, the matter was considered by this Tribunal. It was noted that the units working at Mathura in residential area had agreed to shift and from some had actually shifted. The Pollution Control Board had refused consent to operate to many of the units. However, since it was stated on behalf of the applicant that some of the units were still operating, the District Administration, Mathura was directed not to allow the units, which did not have consent to operate or those who were not complying with the environmental norms to operate. The District Administration was to disconnect the electricity and water supply and file a status report.
3. Accordingly, status report has been filed on 26.04.2018 by the District Magistrate, Mathura to the effect that out of 77 units which were operating, consent to operate had been declined to 26 units. Electricity and water supply connection of all the 77 units were disconnected. Further, affidavit was filed in response to an application filed by the units for permission to operate stating that in spite of furnishing of an undertaking to shift, switch over to ZLD and not to use cyanide, the units were acting in breach of the undertaking. The ETPs were non- functional. The untreated effluent was being discharged in river Yamuna through open storm water drain. The units are of red category, as per classification by the CPCB. The use of cyanide based technology was prohibited by CPCB, vide order dated 18.08.2017. Such units cannot, thus, be allowed to operate as was the prayed by the said units claiming that they were compliant.
4. We have heard the learned counsel for the parties.
5. Learned counsel for the applicants submitted that even though the administration claims to have closed the units and disconnected the water and electricity, some of the units are still illegally functioning. The list of such units

has been filed in O. A. No. 910 of 2018. In these circumstances, Sh. I. K. Kapila, learned counsel for some of the applicant in the said matter has handed over a format of undertaking, prescribed in proceedings in the Hon'ble Supreme Court to deal with an identical situation in M. C. Mehta Vs. UOI & Ors. WP(C) No. 4677 of 1985,(2004)6 SCC 588. Undertaking is, inter-alia, as follows:

5. *"That, I/We seek restoration of electricity/water connection/desealing of the said premises of the purpose of:*
 - (i) *Removal of Machinery and other related items of industrial activity being carried out in the premises.*
 - (ii) *That I will inform in writing to the DCI(Policy) in Department of industries details of disposal of machinery with self-attested documents within 7 days of desealing of my premises by the SDM. Para 5 is modifying the language as may be applicable to the fact situation.*
 - (iii) *I intent to shift my plant and machinery to the new place in conforming industrial area as located at..... And a self-attested photocopy of the documents as proof of ownership and rent receipt etc is enclosed.*
6. *That, I/.We undertake not to carry out any activity in the existing premises after it desealed and this premises will be used only in a conforming manner."*

6. Learned counsel for the State of UP as well as learned counsel for UPPCB supported the above stand of such an undertaking being required for restoring the electricity/water connection in respect of the said units.

7. Learned counsel for the State/UPPCB also submit that the industries have been shifted to Jai Singh Pura which is also known as Guar Kendra which is an industrial area as per applicable master plan. It has been further stated that out of 77 units 7 units were not found at the location/address, 50 units have been shifted/ closed and 20 units were though consent was rejected and appeals against refusal of consent were dismissed. The said units have filed O. A. NO. 518 of 2018.

8. In view of the above, we pass the following orders:

- (i) The application- O. A. NO. 518 of 2018 is dismissed.
- (ii) Any unit out of 77 units in question, seeking restoration of water /electricity connection/ desealing will be required to furnish an undertaking in terms of para 5 herein above to the extent applicable in a fact situation, before the District Administration..
- (iii) The UPPCB and all other concerned statutory authorities will ensure that there is no violation of environment laws at Jai Singh Pura industrial area. In this regard, a Joint Inspection be carried out of the said

area by the representatives of the UPPCB and CPCB within one month from now. The deficiencies found, if any, may be addressed to the satisfaction of the CPCB. This area should have proper infrastructural facilities like CETP, TSDF, as required under the law.

(iv) It is made clear that if any DG set is operating to facilitate any of the above units, such DG sets may be seized by the District Administration on 'Precautionary Principal'.

(v) If unit which is operating in the residential area, the Administration may dis-mantle the tank and machinery may be removed.

9. Even though the present application referred to the units at Mathura, order of the Hon'ble Supreme Court dated 23-09-2013 was for the entire State of Uttar Pradesh. To give effect to the said order, it is essential that the State of UP and UPPCB take further steps for other parts of the State and the report in this regard is furnished to this Tribunal within three months.

10. All these applications i.e. O.A. 64/2016(M. A. NO. 1024/2017), O.A. NO. 473/2016, O.A. No. 518/2018(M. A. NO. 1243/2018 & .A. NO. 1244/2018) and O.A. No. 910/2018 are disposed of, except for consideration of the report which may be furnished.

11. List the matter for consideration of the report in 2nd week of May, 2019 and same may be treated as a separate matter.

Adarsh Kumar Goel, CP

Raghuvendra S. Rathore, JM

S.P. Wangdi, JM

K. Ramakrishnan, JM

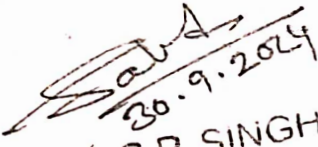
Dr. Nagin Nanda, EM

November 28, 2018

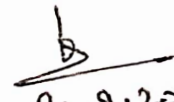
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मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 नं0-802/2024 दीपम गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू0पी0 के अन्तर्गत पारित आदेशों के अनुपालन में इकाई की सीलिंग सम्बन्धी आख्या।

मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 नं0-802/2024 दीपम गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू0पी0 के अन्तर्गत पारित आदेश दिनांक 22.08.2024 के अनुपालन में जिलाधिकारी महोदय द्वारा निर्गत आदेश पत्रांक-638/ओजी-263/2024 दिनांक 27.09.2024 के अनुपालन में मै0 श्री राजेश कुमार (ए) ना (अपराधिकार) का गठित समिति द्वारा आज दिनांक 30.9.2024 को निरीक्षण किया गया एवं इकाई के संचालन को बन्द कराया गया। इकाई प्रतिनिधि के रूप में श्री राजेश कुमार फोन नं0-976107897 उपस्थित थे। सर्वेक्षण के दौरान इकाई के संचालन को रोके जाने हेतु मशीनरी को सील किया गया।


30.9.2024
S.P. SINGH
Junior Engineer
U.P. Pollution Control Board
Bulandshahr


20/9/2024
GEETESH CHANDRA
Assistant Scientific Officer
U.P. Pollution Control Board
Bulandshahr


30.9.2024
N.T
Dibeet Tansil

सुमन शर्मा
राजेश कुमार
30-9-2024

कार्यालय

जिलाधिकारी

बुलन्दशहर।

पत्रांक: 638/09-263/24

दिनांक: 27/09/24

1. उप जिलाधिकारी,
डिबाई,
जनपद बुलन्दशहर।
2. क्षेत्रीय अधिकारी,
उ0प्र0 प्रदूषण नियंत्रण बोर्ड,
बुलन्दशहर।

मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 सं0-802/2024 दीपम गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू0पी0 के अन्तर्गत मा0 अधिकरण द्वारा पारित आदेश दिनांक 22.08.2024 के अनुपालन में नियमानुसार उपचारात्मक कार्यवाही एवं पर्यावरणीय अधिनियमों की जाँच करते हुये यथाआवश्यक कार्यवाही करने हेतु समिति का गठन किया गया था। शिकायती स्थल के किये गये संयुक्त निरीक्षण के उपरान्त क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, बुलन्दशहर द्वारा प्रस्तुत आख्या द्वारा अवगत कराया गया है कि श्री राजेश कुमार पुत्र श्री जयशंकर प्रसाद द्वारा मौहल्ला चौवेलापेंच, वार्ड नं0-13, रजनी पब्लिक स्कूल, पुराना गेट के निकट आवासीय परिसर में स्टील अलमारी, बेड एवं बॉक्स का निर्माण भू-प्रयोग के विरुद्ध किया जा रहा है। इकाई द्वारा पर्यावरणीय अधिनियमों का अनुपालन सुनिश्चित नहीं किया जा रहा है।

अतः निर्देशित किया जाता है कि मा0 अधिकरण द्वारा पारित आदेश के अनुपालन में उक्त इकाई की बन्दी सुनिश्चित कराते हुये आख्या अधोहस्ताक्षरी को 02 दिवस के भीतर प्रस्तुत करना सुनिश्चित करें।

Ch 27.9.24
(वन्द प्रकाश सिंह)
जिलाधिकारी
बुलन्दशहर

पृष्ठांकन सं0-

दिनांक:-

प्रतिलिपि-उपायुक्त उद्योग, जिला उद्योग प्रोत्साहन तथा उद्यमिता विकास केन्द्र, बुलन्दशहर को इस निर्देश के साथ प्रेषित कि प्रश्नगत इकाई को जारी प्रदूषण अनापत्ति प्रमाण पत्र को निरस्त करते हुये अधोहस्ताक्षरी एवं उ0प्र0 प्रदूषण नियंत्रण बोर्ड, बुलन्दशहर को अवगत कराना सुनिश्चित करें।

/
जिलाधिकारी
बुलन्दशहर

OFFICE OF THE
EXECUTIVE ENGINEER
PASCHIMANCHAL VIDHUT VITRAN NIGAM Ltd.
ELECTRICITY DISTRIBUTION DIVISION
DEBAI (BULANDSHAHR)
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पश्चिमांचल विद्युत वितरण निगम लि०
विद्युत वितरण खण्ड
डिबाई जिला बुलन्दशहर

Phone No./Fax. 05734-264238

पत्रांक:- 3412

/वि०वि०ख०/डिबाई/

दिनांक...०१/१०/२५

विषय:-मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ०ए० सं० 802/2024 दीपम गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू०पी० के अन्तर्गत मा० अधिकरण द्वारा पारित आदेश दिनांक 22.08.2024 के अनुपालन के सम्बन्ध में।

क्षेत्रीय कार्यालय,
उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड,
एफ-9 यमुनापुरम (एम०एम०आर० मॉल के पीछे)
बुलन्दशहर।

उपरोक्त विषयक आपके कार्यालय पत्रांक 649/06-263/2024 दिनांक 30.09.2024 के अनुपालन में आपको अवगत कराना है कि श्री राजीव कुमार पुत्र श्री जयशंकर प्रसाद, निवासी मौ० चौबेला पेच डिबाई का विद्युत कनेक्शन को विच्छेदित कर दिया गया है।

संलग्नक:- संयोजन विच्छेदन की स्लिप संलग्न।

पत्रांक:- 3412

/वि०वि०ख०/डिबाई/

दिनांक...०१/१०/२५

अधिशायी अभियन्ता

प्रतिलिपि:-

✓1. जिलाधिकारी महोदय, बुलन्दशहर।

939/E.D.12

सुधीर उदयशंकर सिंह

अध्यक्ष, जिलाधिकारी कार्यालय

कृपे जिलाधिकारी

१११५

अधिशायी अभियन्ता

38



पश्चिमांचल विद्युत वितरण निगम लि०
कार्यालय अधिशासी अभियन्ता
विद्युत वितरण खण्ड - डिबाई, बुलन्दशहर

25

क्रमांक 1308.....

दिनांक

संयोजन विच्छेदन सूचना

1. उपभोक्ता का नाम व पता : 21 जीव पुष्पा
2. बुक सं०/संयोजन सं० : 53 ज प 21 अ 2 52-119
3. श्रेणी : LM2 ID 3162980896
4. क्षमता : 2 kWh

महोदय आपका विद्युत संयोजन आज दिनांक को विद्युत बकाया
रु माह के लेजर के अनुसार बिल न जमा होने के
कारण अस्थाई प्रकार से काट दिया गया है। आप अपना बिल मय काटने/जोड़ने का शुल्क
600.00/1100.00 के साथ विद्युत उपकेन्द्र / विद्युत कार्यालय में जमा करना सुनिश्चित
करें। 7505917077

संयोजन विच्छेदन के
समय मीटर रीडिंग

कै०डब्ल्यू०एच०
(kwh)

नोट :- बिना उक्त बिल जमा यदि आपका विद्युत संयोजन चलता पाया गया तो आपके
विरुद्ध विद्युत अधिनियम 2003 की धारा 138 बी० के अन्तर्गत पुलिस थाने में मुकदमा
पंजीकृत कराया जायेगा। अतः बिल जमा करना सुनिश्चित करें व कार्यवाही से बचें।

टिप्पणी बिल 30/9/24

उत्तरांचल राज्य

(Signature)

उपभोक्ता

लाइन कर्मचारी

अवर अभियन्ता

Annexure -IV

पंजीकृत

कार्यालय उपायुक्त उद्योग, जिला उद्योग प्रोत्साहन तथा उद्यमिता विकास केन्द्र, बुलन्दशहर।

पत्रांक

/जिउप्रोतउविके-बु0शहर/विविध/2024-25/दिनांक:

मै0 शर्मा फर्नीचर ट्रेडर्स एण्ड रिपेयर्स,
मौ0 महादेव चौबेला पेच, डिबाई,
बुलन्दशहर।

कृपया जिलाधिकारी महोदय के कार्यालय पत्रांक 638/ओए-263/24, दिनांक 27.09.2024 के द्वारा दिये गये निर्देशों के द्वारा मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 सं0-802/2024 दीपक गर्ग उर्फ दुर्गा व अन्य बनाम स्टेट ऑफ यू0पी0 के अन्तर्गत मा0 अधिकरण द्वारा पारित आदेश दिनांक 22.08.2024 के अनुपालन में नियमानुसार उपचारात्मक कार्यवाही एवं पर्यावरणीय अधिनियमों की जांच हेतु समिति का गठन किया गया था, जिसमें क्षेत्रीय अधिकारी, उ0प्र0 राज्य प्रदूषण नियंत्रण बोर्ड बुलन्दशहर की आख्यानुसार श्री राजेश कुमार पुत्र श्री जयशंकर प्रसाद द्वारा मौ0 चौबेला पेंच, वार्ड नं0-13, रजनी पब्लिक स्कूल पुराना गेट के निकट आवासीय परिसर में स्टील अलमारी, बेड एवं बॉक्स का निर्माण भू-प्रयोग के विरुद्ध किया जाने के कारण आपके द्वारा पर्यावरणीय अधिनियमों का अनुपालन सुनिश्चित नहीं किया जा रहा है। उपरोक्त के कम में जिलाधिकारी महोदय द्वारा आपकी इकाई के पक्ष में जारी की गई प्रदूषण अनापत्ति प्रमाण पत्र को निरस्त करने हेतु निर्देशित किया गया है।

उपरोक्त निर्देशों के अनुपालन में तथा क्षेत्रीय अधिकारी, उ0प्र0 राज्य प्रदूषण नियंत्रण बोर्ड की आख्या के कम में आपके द्वारा पर्यावरणीय अधिनियमों का अनुपालन सुनिश्चित न किये जाने के फलस्वरूप आपके पक्ष में इस कार्यालय के पत्रांक 317 दिनांक 18.04.2024 के द्वारा जारी की गई अप्रदूषणकारी अनापत्ति प्रमाण-पत्र को तत्काल प्रभाव से निरस्त किया जाता है तथा आपको निर्देशित किया जाता है कि आप सभी सम्बंधित विभागों से समुचित अनापत्तियां तथा अभिलेख पूर्ण होने के उपरांत ही अपना उत्पादन प्रारम्भ करना सुनिश्चित करें।

उपायुक्त उद्योग

जिला उद्योग प्रोत्साहन तथा उद्यमिता विकास केन्द्र,

बुलन्दशहर।

पृष्ठांकन संख्या 991 (2)

/उपरोक्त तददिनांक: 07/10/2024

प्रतिलिपि-

1. जिलाधिकारी महोदय बुलन्दशहर के कृपया सादर सूचनार्थ प्रेषित।
2. क्षेत्रीय अधिकारी, उ0प्र0 राज्य प्रदूषण नियंत्रण बोर्ड, बुलन्दशहर को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

उपायुक्त उद्योग

जिला उद्योग प्रोत्साहन तथा उद्यमिता विकास केन्द्र,

बुलन्दशहर।