

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 06/2022**

IN THE MATTER OF:

PRABHAKAR RAI & ORS.

.... APPLICANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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1.	Response on behalf of Respondent No. 3, Central Pollution Control Board (CPCB) in compliance to Hon'ble NGT order dated 06.02.2024 in Appeal No. 06/2022, Prabhakar Rai & Ors. Vs. Union of India & Ors.	
2.	Annexure- I: A copy of Hon'ble NGT order dated 06.02.2024.	



(Vijay Prakash Yadav)
Scientist F, CPCB
Parivesh Bhawan, East Arjun Nagar
Delhi- 110032

Place: Delhi
Dated: 26.04.2024

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APPEAL NO. 06 OF 2022**

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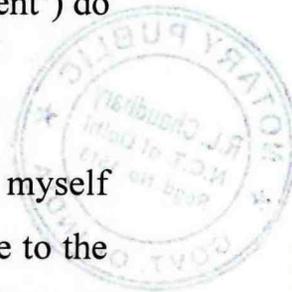
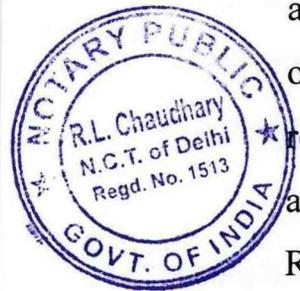
...RESPONDENTS

**RESPONSE ON BEHALF OF RESPONDENT No. 3, CENTRAL
POLLUTION CONTROL BOARD AS PER ORDER DATED 06.02.2024**

I, Vijay Prakash Yadav, S/o Shri Ramashraya Yadav, aged about 58 years currently working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, the Respondent No. 3 in the above matter (hereinafter referred to as 'CPCB' or 'Answering Respondent') do hereby state as follows:

1. That I, in capacity of Scientist 'F' of CPCB, have made myself acquainted with the facts and circumstances of the instant case due to the official capacity as mentioned above and on the basis of available records, I am well versed with the facts and circumstances of the matter and as such competent & authorized to submit this reply on behalf of Respondent No. 03.

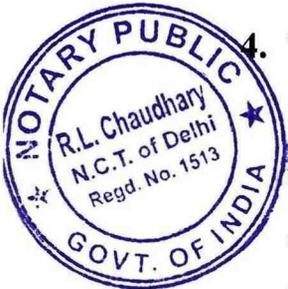
2. That, Hon'ble NGT vide its order dated 03.04.2023 constituted a Joint Committee comprising of representatives of Regional Office of Ministry of Environment, Forest & Climate Change (hereinafter referred to



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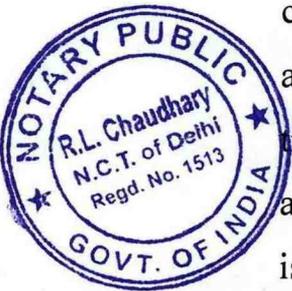
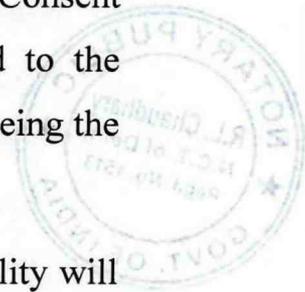
as 'MoEF&CC') at Lucknow, CPCB, State Environment Impact Assessment Authority (hereinafter referred to as 'SEIAA'), Uttar Pradesh, Uttar Pradesh Pollution Control Board (hereinafter referred to as 'UPPCB'), Chief Medical Officer, Deoria and District Magistrate, Deoria and directed it to undertake the requisite visits, carry out the rapid Environment Impact Assessment of the proposed Common Bio-Medical Waste Treatment and Disposal Facility (hereinafter referred to as 'CBWTF'), look into the grievances of the applicants, hear the Project Proponent and verify the factual position and specifically address questions and submit its Report with its observations, recommendations and suggestions regarding remedial measures within one month.

3. That, in compliance of Hon'ble NGT's order dated 03.04.2023, the Joint Committee so constituted, visited the proposed site of M/s J.K.N. Purvanchal CBWTF Works, at Khasra No. 1006, Village- Paharpur, Post-Gotha Rasoolpur, District-Deoria, Uttar Pradesh (hereinafter referred as "the facility") on 17.05.2023 and carried out the joint inspection.
4. That, based on the site visit and joint inspection carried out on 17.05.2023, report of the Joint Committee was filed on 07.08.2023 before this Hon'ble Tribunal by UPPCB. The said Report includes observations of the Committee covering all aspects as directed by this Hon'ble Tribunal's vide its order dated 03.04.2023 and objections to same was filed by Project Proponent (Respondent No. 5) vide e-mail dated 12.10.2023 before this Hon'ble Tribunal.
5. That, on 06.02.2024, this Hon'ble Tribunal was pleased to inter-alia pass an order directing the Answering respondent to file its response. The relevant portion of the order is reproduced below:



"...3. In view of the facts and circumstances of the case we consider response of SEIAA, Uttar Pradesh, CPCB and UPPCB to the observations made in the report of the Joint Committee to be essential for just and proper adjudication of the question involved in the case..."

6. That, in the Joint Committee's report it is mentioned that State Environmental Impact Assessment Authority (SEIAA) granted Environmental Clearance (EC) on 03.12.2021 to the facility for proposed CBWTF project with area of 5800m² (1.43 acre), one rotary kiln incinerator of capacity 250 kg/hr, one autoclave with capacity of 850 kg/batch, one shredder with capacity 150 kg/hr, one ETP with capacity 10 KLD, one sharp pit with capacity 200 litre and one Ash pit with capacity of 10 m³. In this regard, it is humbly submitted that SEIAA or MoEF&CC as the case may be, are the authority for grant of Environmental Clearance. It is also mentioned in the report that Consent to Establish (hereinafter referred to as 'CTE') is also granted to the facility on 05.03.2021 by Uttar Pradesh Pollution Control Board being the prescribed authority for State of Uttar Pradesh.
7. That, further, it was reported by the Joint Committee that the facility will cater districts namely Deoria, Maharajganj, Kushinagar and Gorakhpur and will cover 267 healthcare facilities, 20,345 number of beds and can treat approx. 7629.375 kg/day of biomedical waste. The Joint Committee also submitted its observation on location of the proposed CBWTF which is located at approx. 67 km (aerial distance) distance from nearest CBWTF located in district Sant Kabir Nagar and approx. 119 km distance from district Ghazipur. According to the survey of the area conducted by revenue department, Health and wellness centre is 46 m from the main gate of the proposed facility. Poultry farms are approx. 313 m and 371 m

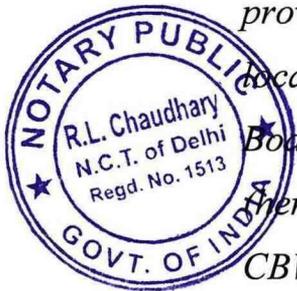


from the boundary wall. One temple is also located within 100 m from the main gate of project. Two ponds are situated within 340 m and 352 m from the proposed facility. Beside 213 houses with around 1067 peoples are staying within 500 m from the proposed facility. In this regard, it is humbly submitted that location criteria of CBWTF has been outlined under Revised Guidelines for Common Bio-medical Waste Treatment Facility issued on December 21, 2016 by the Answering Respondent, which is as follows:

“As far as possible, CBWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMW Rules (i.e., within 48 hours). Also, the location of the CBWTF should be in conformity to the CRZ Norms and other provisions notified under the Environment (Protection) Act, 1986. The location shall be decided in consultation with the State Pollution Control Board (hereafter referred to as ‘SPCB’)/ Pollution Control Committee (hereafter referred to as ‘PCC’). The location criteria for development of a CBWTF are as follows:

(a) *CBWTF shall preferably be developed in a notified industrial area without any requirement of buffer zone (or)*

(b) *CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (hereinafter referred to as BAT) by the*



proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity. If SPCB/PCC is not in a position to resolve the issue relating to buffer zone while selecting the site for CBWTFs, in such a case, SPCBs/PCCs may refer the matter to CPCB.”

9. That, the Joint Committee also observed that the Project Proponent i.e. M/s J.K.N. Purvanchal CBWTF Works installed Oxygen plant (bottling) in same site with same name which was setup during COVID-19 Pandemic and was found operational during the visit. The Project Proponent also obtained CTE on 27.05.2021 and Consent to Operate on 30.12.2021 from UPPCB . In this regard, it is humbly submitted that CTE for setting up of the said oxygen bottling plant was granted to M/s J.K.N. Purvanchal CBWTF Works by UPPCB. Hence, need no comments from this Answering Respondent.

10. That, Joint Committee has submitted its report wherein it has been reported that Wellness Centre is at 46 meters (from main gate of the CBWTF site); two Poultry Farms at 313 meters and 371 meters (from boundary wall of the CBWTF site); two ponds at 340 meters and 352 meters (from boundary wall of CBWTF site); one temple at 100 meters (from main gate of CBWTF site) and 213 houses with around 1,067 people within 500 meters form the CBWTF site. These fall within recommended buffer zone of 500 meters stipulated under CPCB guidelines for CBWTFs. It is humbly submitted that operation of CBWTF may have adverse environmental impact in case the CBWTF is not operated in



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environmentally safe manner. The Joint Committee has also reported that the Project Proponent has informed that significant land patch is available with close proximity of the proposed site under reference which may require to be used for CBWTF, if necessary. Municipalities or Corporations, Urban Local Bodies and Gram Panchayats have mandate to provide or allocate suitable land for development of CBWTF in their respective jurisdictions as per the guidelines of Central Pollution Control Board, as stipulated under Schedule III of Biomedical Waste Management Rules, 2016.

11. That, in view of the aforementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass such or further orders as it may deem fit in the given circumstances of the case.



(Vijay Prakash Yadav)
Scientist 'F', CPCB



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PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 06/2022**

IN THE MATTER OF:

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AFFIDAVIT

I, Vijay Prakash Yadav, Son of Ramashraya Yadav, aged 58 years, having office as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, do hereby solemnly affirm, declare on oath and state as under:-

1. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
2. That the contents of reply are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over to me and are not repeated herein for the sake of brevity.



DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
निदेशक/ Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
(Ministry of Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

I, Vijay Prakash Yadav, working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032, the respondent No. 3 herein does hereby verify that the contents of the above paragraphs are true and correct to the best of my knowledge, information and belief.

26 APR 2024

Verified at New Delhi on this the..... Day of April, 2024.



ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA

26 APR 2024

26 APR 2024



DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 (Mo Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032




Item No. 8

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Appeal no. 06/2022

(I.A. No. 29/2022)

Prabhakar Rai & Ors.

...Appellants

Versus

Union of India & Ors.

...Respondents

Date of hearing: 06.02.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Appellant: Mr. Abhishek Yadav Advocate for Appellant.(Through VC)

Respondents: Mr. Gi. Gi. C. George and Mr. Dheeraj Singh, Advocates for Respondent No. 1, 6 & 7.

Ms. Isha Arora, Advocate for respondent no. 3-CPCB (through VC).

Mr. Daleep Dhyani, Advocate for respondent no. 4-UPPCB (Through VC)

Mr. Amit Shukla, Advocate for Respondent No. 5-Project Proponent.

Appeal under Section 16 of the National Green Tribunal Act, 2010.**ORDER**

1. Vide order dated 03.04.2023 a Joint Committee was constituted to look into and report about the environmental aspects as mentioned therein.
2. Report of the Joint Committee was filed vide email dated 07.08.2023 and objections to the report of the Joint Committee was filed by the Project Proponent vide email dated 12.10.2023.

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3. In view of the facts and circumstances of the case we consider response of SEIAA, Uttar Pradesh, CPCB and UPPCB to the observations made in the report of the Joint Committee to be essential for just and proper adjudication of the question involved in the case. UPPCB is also directed to provide information about other CBWTF established in residential area and also as to adverse environmental impact of the same if any reported.

4. Learned Counsel for the respondent no. 3-CPCB and respondent no. 4-UPPCB seek time to file their response.

5. Response by respondent no. 3-CPCB and respondent no. 4-UPPCB be filed within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

6. None has appeared for respondent no. 2.

7. Respondent no. 2/Learned Counsel for the respondent no. 2 be informed about the date of hearing fixed hereinafter and be required to file its response as directed above.

8. List for further consideration on 15.03.2024.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 06th, 2024
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