

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi**

Original Application No. 174/2022

Dharmendra Kumar Singh

Applicant

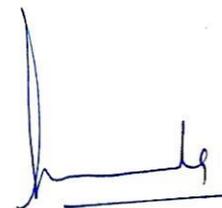
Vs.

Union of India & Ors

Respondents

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2.	Annexure-I: A copy of order dated 21.10.2022 passed by Hon'ble Tribunal in O.A. No. 174/2022 and copy of notice dated 01.11.2022 issued to CPCB.	



(S.K. Gupta)
Scientist-E

Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi- 110032

Date: 23.11.2022

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.174/2022**

IN THE MATTER OF:

Dharmendra Kumar Singh

Applicant

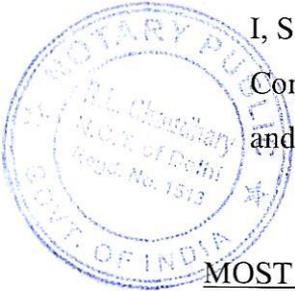
Versus

Union of India & Ors.

Respondent(s)

**RESPONSE/ REPLY ON BEHALF OF RESPONDENT NO. 2, CENTRAL
POLLUTION CONTROL BOARD, PARIVESH BHAWAN, EAST ARJUN
NAGAR, DELHI-110032**

I, S. K. Gupta, S/o Late Shri B.L. Gupta, aged 59 yrs., Scientist 'E', Central Pollution Control Board, Pariversh Bhawan, East Arjun Nagar, Delhi do hereby solemnly affirm and declare as under:-



MOST RESPECTFULLY SHOWETH:

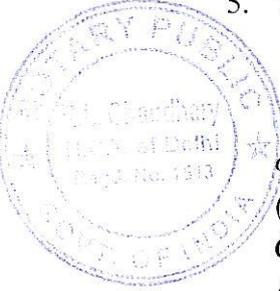
1. That in view of the order dated 21.10.2022 of Hon'ble NGT in the above titled matter, the present short submission is being filed for your kind perusal and consideration.
2. That in the present petition, the applicant is seeking appropriate directions and proper action against the regarding operation of brick klin by Respondent no. 8 M/S Aakansha Int Bhatta at Sarni, Koth, Sikandarpur, Balia, Uttar Pradesh and Respondent no. 9 M/S Ashok Kumar Sharma Int Bhatta, Phalपुरa, Koth, Sikandarpur, Balia, Uttar Pradesh in residential area in violation of the environmental norms.
3. That Hon'ble NGT, Principal Bench vide its order dated 12.07.2022 had constituted a joint committee comprising of representatives of CPCB, State PCB, U.P. and District Magistrate, Ballia for site visit of two Brick Kilns in Phulpur, Koth, Sikandarpur, Ballia, U.P. and verification of factual position regarding compliance

with environmental norms in all relevant particulars including siting criteria, MoEF&CC Notification, 2022 and other rules/ regulations governing establishment of the brick kiln and take remedial action in accordance with law by following due process.

4. That in compliance of Hon'ble NGT directives, Joint Committee comprising of SDM, Balia, representatives of CPCB and UPPCB visited the site on 30.08.2022 and submitted the report before Hon'ble NGT on 23.09.2022. During hearing on 21.10.2022, the Hon'ble NGT passed the order and relevant portion is reproduced as below:

"..Notice of the application be also issued to respondents no. 1 to 7 for requiring them to file their reply/response to the averments made in the application and observations made in the report of the Joint Committee...."

5. That vide order dated 12.07.2022, this Hon'ble Tribunal had observed:



"...It is evident from the report that (i) application was submitted by the owner of respondent no. 8- M/s Aakansha Int Bhatta for obtaining consent under Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 which was approved by the Regional Office, Azamgarh but an affidavit dated 10.05.2022 has been submitted by the owner stating that the said brick kiln will not be operated in future due to unavailability of soil and poor economic condition and (ii) that respondent no. 9-M/s Ashok Kumar Singh Int Bhatta is now run by M/s Pragati brick kiln which had submitted CTO application which was allowed and CTO was granted vide order dated 13.05.2022...."

" 7. We find contradiction in the Inspection Report dated 10.10.2000 and Report of the Joint Committee dated 03.06.2022 regarding location of the brick kiln M/s Ashok Kumar Singh Int Bhatta which is now being run by M/s Pragati brick kiln is the material one going to the root of the matter and therefore requiring due verification of the factual ground realities by another Committee.

8. In view of above, we consider it appropriate to constitute Joint Committee comprising of representative of CPCB, State PCB and District Magistrate, Balia and direct the same to meet within one month, undertake site visit and verify the factual position regarding compliance with environmental norms in all relevant particulars including siting criteria, MoEF Guidelines, 2022 and other rules/ regulations

governing establishment of the brick kiln and take remedial action in accordance with law by following due process. The State PCB will be the Nodal agency for coordination and compliance.

9. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF....”

6. Observations made in Report of the Joint Committee:

A. M/s Pragati Brick Kiln (formerly M/s Ashok Kumar Int Bhatta)

- a. M/s Pragati Brick Kiln was operated during 2000 to 2010 in the name of M/s GBS Brick Kiln Udyog. Further, the said Brick Kiln was sold and renamed as M/s Ashok Kumar IntBhatta and operated during 25.03.2010 to 03.12.2021. The said brick kiln was again sold to ShriVyas Singh and renamed as M/s Pragati Brick Kiln. The said brick kiln established since 2000 accordance with the prevailing ZillaParidshad's guideline. The Uttar Pradesh State Pollution Control Board (UPPCB) has issued No Objection Certificate (NOC) for establishment on 10.10.2000.
- b. The said brick kiln was operated without Consent to Operate (CTO) till 18.05.2022. The brick kiln was applied for CTO on 06.05.2022 and CTO was granted by UPPCB on 19.05.2022, which was revoked vide letter dated 13.07.2022, in compliance of Hon'ble NGT order dated 12.07.2022 in the matter.
- c. During Inspection the brick kiln was found non-operational due to rainy season. Brick kiln was based on natural draft using coal as fuel and did not provided adequate monitoring facilities.

B. M/s AakanshaIntBhatta:

- a. M/s Aakansha Brick Kiln was operated from 2000 to 2003 in the name of M/s Khan and Ansari Bricks Works. Further, the said Brick Kiln was sold and renamed as M/s Raj Brick Udyog and operated during 2004--2011. The said brick kiln was again sold to ShriSamarsenBahadur Singh Singh and presently, the said brick kiln was acquired by Ms.Geeta Singh and changed its name as M/s AakanshaIntBhatta. The said brick kiln established since 2000 accordance with the prevailing ZillaParidshad's guideline. The SPCB has issued NOC for establishment on 10.10.2000.
- b. The brick kiln was operated without CTO since 2000. It is informed by the representative of brick kiln, that they will not operate brick kiln and it will demolish in future.
- c. During Inspection the brick kiln was found non-operational. Brick kilns was based on natural draft using coal as fuel and did not provided adequate monitoring facilities.

Recommendations made in Joint Committee Report:

A. M/s Pragati Brick Kiln (formerly M/s Ashok Kumar IntBhatta)

- a. Environmental compensation may be imposed by SPCB on brick kilns operating without CTO.
- b. The Brick kiln should install adequate monitoring facilities and also install flow meters on borewell and submit action plan to UPPCB for conversion into zig-zag technology/ vertical shaft/ use of PNG as per MoEF&CC notification dated 22.02.2022.

B. M/s AakanshaIntBhatta:

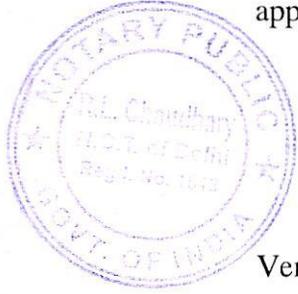
- a. Brick kiln representative may demolish the brick kiln at the earliest in presence of District Administration and SPCB.

The above mentioned both brick kilns were established since 2000 accordance with the prevailing Zilla Paridshad's guideline. It is submitted that the Uttar Pradesh Brick Kilns (Siting Criteria for Establishment) Rules, 2012 was notified on 27.06.2012 for new brick kilns in the State of Uttar Pradesh.

It is mentioned in the Point No. 7 of said Siting norms of UPPCB that a brick kiln which was established/ operated previously but not being operative in the last season, want to operate or change the name/ ownership and have valid consent under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974, may operate the same if it informs in writing to the State Pollution Control Board but shall be bound to comply with all the conditions subject to which consent was granted.

7. That Hon'ble Supreme Court in Civil Appeal Diary No. 18213/2021; NCR brick Kilns Association Vs. CPCB and others, vide its orders dated 08.04.2022, 06.05.2022 and 13.05.2022 has clearly mentioned that only those brick kilns will be allowed to operate which have valid Consent to Operate (CTO), production capacity mentioned in the CTO, based on zig-zag, having adequate monitoring facilities i.e. platform of 4 feet by 6 feet size with porthole of 4 to 5 inches diameter and ladder for conducting monitoring, and fulfillment of Notification dated 22.02.2022 for Brick Kilns.

In this regard, it is submitted that SPCBs are the regulatory agencies for ensuring the compliance of siting criteria and conditions laid down in the Notification issued by the MoEF&CC dated 22.02.2022 for Emission Standards for Brick Kilns, including the implementation of the Hon'ble Supreme Court directives. It is further submitted that SPCBs may carry out regular inspections of brick kilns for verifying compliance of the Hon'ble Supreme Court directives and may take appropriate action against the non-complying brick kilns.

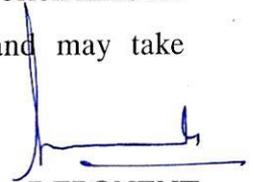


Verification

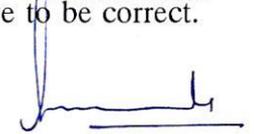
Verified that the contents of the above affidavit are true and correct to my knowledge and based on information derived from official records which I believe to be correct. No part of it is false and nothing has been concealed therein.

Delhi

Dated: 23rd November, 2022

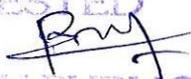

DEPONENT

एस.के. गुप्ता/S.K. Gupta
वैज्ञानिक "ई" / Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032


DEPONENT

एस.के. गुप्ता/S.K. Gupta
वैज्ञानिक "ई" / Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032

ATTESTED


NOTARY PUBLIC
GOVT. OF INDIA

23 NOV 2022

Item No.02

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No. 174/2022

Dharmendra Kumar Singh

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 21.10.2022

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

Applicant: Mr. Gaurav Kumar Bansal, Advocate.

Respondents: Mr. Pradeep Mishra and Mr. Daleep Dhyani, Advocates for respondent no. 4.

Mr. Viresh Kumar and Mr. Siddharth Krishna Diwivedi, Advocates for respondents no.-8 & 9.

Application under Section 14 of the National Green Tribunal Act, 2010.

ORDER

1. Grievance of the applicant Mr. Dharmendra Kumar Singh is regarding operation of brick klin by Respondent no. 8 M/S Aakansha Int Bhatta at Sarni, Koth, Sikandarpur, Balia, Uttar Pradesh and Respondent no. 9 M/S Ashok Kumar Sharma Int Bhatta, Phalpura, Koth, Sikandarpur, Balia, Uttar Pradesh in residential area in violation of the environmental norms.

2. Vide order dated 07.03.2022, this Tribunal constituted the Joint Committee comprising of State PCB and District Magistrate-Balia and directed the same to submit factual and action taken report within two months.

3. In compliance thereof, factual and action taken report of the Joint Committee was submitted vide email dated 03.06.2022.

4. Vide order dated 12.07.2022, this Tribunal further constituted a Joint Committee comprising of representative of CPCB, State PCB and District Magistrate, Balia and directed the same to meet within one month, undertake site visit and verify the factual position regarding compliance with environmental norms in all relevant particulars including siting criteria, MoEF Guidelines, 2022 and other rules/ regulations governing establishment of the brick kiln and take remedial action in accordance with law by following due process. .
5. In compliance thereof the report of the Joint Committee has been filed by Mr. Kalika Singh, Regional Officer, UPPCB, Azamgarh vide letter dated 23.09.2022 through email dated 23.09.2022.
6. Mr. Viresh Kumar and Mr. Siddharth Krishna Diwivedi, Advocates have appeared on behalf of respondents no. 8 and 9 and seek time to file reply/response on their behalf.
7. Reply/response on behalf of respondents no. 8 and 9 be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
8. Notice of the application be also issued to respondents no. 1 to 7 for requiring them to file their reply/response to the averments made in the application and observations made in the report of the Joint Committee by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
9. List the matter for further consideration on 25.11.2022.

10. In the meanwhile, both the brick kilns shall not be allowed to operate and District Magistrate and Superintendent of Police, Balia shall take requisite steps to ensure that both the brick kilns do not illegally operate in any manner.

11. A copy of this order be forwarded to the District Magistrate, Balia and the Superintendent of Police, Balia by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 21, 2022
AG

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI

Original Application No. 174 of 2022

Dharmendra Kumar Singh Vs. Union of India & Ors.

To,

1. **Union of India,**
Through its Secretary,
Ministry of Environment, Forests and Climate Change,
Paryavaran Bhawan, Jorbagh,
New Delhi-110003
Email: secy-moef@nic.in (RESPONDENT NO.1)
2. **Central Pollution Control Board**
Through its Member Secretary,
Paryavaran Bhawan,
East Arjun Nagar, Delhi-110032
Email: mscb.cpcb@nic.in (RESPONDENT NO.2)
3. **State of Uttar Pradesh**
Through Chief Secretary,
Secretariat Office, Lucknow, Uttar Pradesh
Email: cs-up@nic.in (RESPONDENT NO.3)
4. **Uttar Pradesh State Pollution Control Board**
Through Member Secretary,
Vibhuti Khand, Lucknow-10, U.P.-226010
Email: ms@uppcb.in (RESPONDENT NO.4)
5. **Regional Officer**
Uttar Pradesh State Pollution Control Board,
Regional office, Jairampur Mavroad,
Azamgarh, Uttar Pradesh-276001
Email: ceo3@uppcb.in (RESPONDENT NO.5)
6. **District Magistrate, Balia,**
District Magistrate office, Balia,
Uttar Pradesh-277001
Email: dmbal@nic.in (RESPONDENT NO.6)
7. **District Mining Officer, Balia,**
Near Stadium, District Magistrate Office,
Civil Line, Balia, Uttar Pradesh-277001
Email: minesofficerbalia@gmail.com (RESPONDENT NO.7)

NOTICE

Whereas the above titled Application was listed before the Tribunal on 21.10.2022 (copy of order, petition & report are enclosed), when the Tribunal inter-alia passed the following order (reproduced relevant extracts only):-

"6. Mr. Viresh Kumar and Mr. Siddharth Krishna Dwivedi, Advocates have appeared on behalf of respondents no. 8 and 9 and seek time to file reply/response on their behalf.

8. Notice of the application be also issued to respondents no. 1 to 7 for requiring them to file their reply/response to the averments made in the application and observations made in the report of the Joint Committee by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

9. List the matter for further consideration on 25.11.2022."

2. Now, take further notice that the above matter will be listed for further consideration before the Hon'ble Tribunal on 25th November, 2022, at **Faridkot House, Copernicus Marg, New Delhi-110001** through physical hearing (with hybrid option), when you may appear before the Hon'ble Tribunal either in person or by a pleader duly instructed, and file replies/responses, as per directions of the Hon'ble Tribunal vide Order dated 21.10.2022.

3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.

4. Given under my hand and the seal of this Tribunal, on this 01st November, 2022.

Note: (For Orders, Cause Lists & other information, please visit our website www.greentribunal.gov.in)

Consultant (Judicial), NGT

