

Item No.10

Court No. 1

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

Original Application No. 497/2022

Sunny Yadav

Applicant

Versus

State of U.P.

Respondent

Date of hearing: 22.04.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Arvind Kumar, Adv. for UPPCB (Through VC)
Mr. S.P. Singh, Senior Advocate with Ms. Divya Singhvi & Mr. C. Kanan,
Adv. for R - 1 to 3

ORDER

1. In this Original Application, registered on the basis of the letter petition, sent by one of the resident of the Punjabi Colony, District Mainpuri, Uttar Pradesh, the complaint is against illegal operation of the three brick kilns namely, (i) Dayal Brick Kiln, Nagriya, District Mainpuri; (ii) Shiv Brick Kiln, Ghitoli, District Mainpuri and (iii) Govind Brick Kiln and Tiles, Devmai, District Mainpuri. The Tribunal had constituted the Joint Committee and had called for the report from the Joint Committee.

2. The report of the Joint Committee filed on 07.01.2023 reflects the following position in respect of compliance/violations by the above three brick kilns:-

“3.0. Inspection and Monitoring of Joint Committee:

Committee carried out the inspection of these three brick kilns namely , i) M/s Dayal Brick and Tiles, Nagariya, District Mainpuri, (ii) M/s Shiv Ent Bhatta, Ghitoli, District Mainpuri and (iii) M/s Govind Brick Works, Devamai, District Mainpuri on 29.11.2022. During inspection only representative of brick kilns proponent was present. The applicant was informed to associate with joint

committee and connected telephonically by UPPCB but applicant did not associate with joint committee. Copy of communication with applicant is annexed as **Annexure-2**. Brick kilns wise salient observations and recommendations of inspection team are as below:

3.1_ Inspection of M/s Dayal Brick and Tiles:
3.1 _1.Observation:

1. M /s Dayal Brick and Tiles is located at Village Nagariya, Post Dharau, District Nlainpuri and owned by Sh. Lalit Verma.
2. The brick kiln is operational with valid consent granted since 08.01.2002 by UPPCB, copy of the consent in enclosed as **Annexure-3**.
3. The brick kiln has granted consent with installed capacity 20,000 bricks/day under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 by UPPCB which is valid up-to 31.07.2025
4. As per receipt of mining fee submitted to Directorate of Geology and Mining, Uttar Pradesh, 1.345 hectare land is allotted to brick kilns for mining in Financial Year 2022-23. Copy of receipt is enclosed as **Annexure-4**.
5. During visit the brick kiln was found non-operational and it is informed that firing will start from January 2023.
6. The brick kiln is based on zig-zag technology with installed ID fan.
7. The brick kiln does not have adequate stack monitoring facility i.e., proper platform, porthole and ladder.
8. Coal is being used as fuel for brick kiln firing and was stored in open covered with tarpaulin.
9. Internal roads within the premise of brick kilns were unpaved and causing fugitive emission while movement of vehicle.
10. Green belt is developed only two side of brick kiln and remaining two side of brick kiln have no green belt.
11. The brick kiln has one bore well for meeting requirement of manufacturing of green bricks. No flowmeter is installed at borewell and no permission from CGWA has been obtained for the same.
12. As per Lekhpal report, distance of habitation, Orchid, Schools, Petrol Pump, other nearest brick kiln, and National/ State Highway from brick kiln is as bellow:

S.N.	Parameter	Distance	
1.	Nearest habitation as village	North	Village-Lahra Mahuan 1500 m
		South	Village Mahmood Nagar, 600 m
		East	Village-Nagariya 300 m
		West	Village-Dharau,600 m
2.	Nearest Orchid	No orchid	
3.	Nearest Brick kilns	Shiv parbha Eant Udhyog 3 km	
4.	Nearest School	Suditi Global Academy 300 m	
		Pt. Lakhpati Rai Jr. High School 120 m	

5.	Nearest Petrol Pump	Shanti filling station 2 K.m.
6.	Nearest State Highway	600 meter Devi Dharak bypass'

13. It is also observed that residential houses have been also constructed near brick kiln premise.

3.2. Inspection of M/s Govind Brick Works:

3.2.1.Observation:

1. M/s Govind Brick Works is located at Village Devamai, District Mainpuri and owned by Sh. Sunil Kumar Verma.
2. The brick kiln is operational with valid consent granted since 16.03.2005 by UPPCB, copy of the consent in enclosed as **Annexure-5**.
3. The brick kiln has granted consent with installed capacity 22,000 bricks/day under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 by UPPCB which is valid up-to 31.07.2024.
4. As per receipt of mining fee submitted to Directorate of Geology and Mining, Uttar Pradesh, 0.8138 hectare land is allotted to brick kilns for mining in Financial Year 2022-23. Copy of receipt is enclosed as **Annexure-6**.
5. During visit the brick kiln was found non-operational and it is informed that firing will start from January 2023.
6. The brick kiln is based on zig-zag technology with installed ID fan.
7. The brick kiln does not have adequate •stack monitoring facility i.e., proper platform, porthole and ladder.
8. Coal is being used as fuel for brick kiln firing and was stored in open covered with tarpaulin.
9. Internal roads within the premise of brick kilns were unpaved and causing fugitive emission while movement 6f vehicle.
10. No proper green belt is developed around the brick kilns.
11. The brick kiln has one borewell for meeting requirement of manufacturing of green bricks. No flowmeter is installed at borewell and no permission from CGWA has been obtained for the same.
12. As per Lekhpal report, distance of habitation, Orchid, Schools, Petrol Pump, other nearest brick kiln, and National/ State Highway from brick kiln is as bellow:

S.N .	Parameter	Distance	
1.	Nearest habitation as village	North	Village-Kodar 400 m
		South	Village- Paij, 270 m
		East	Village-Devamai 600 m
		West	VillageKapurpur,1300m

2.	Nearest Orchid	No orchid
3.	Nearest Brick kilns	JSB Brick Field 2.2 km
4.	Nearest School	Primary School Devamai 700 m Maan Singh primary school 800 m
5.	Nearest Petrol Pump	Sohan filling station 3.6 K.m.
6.	Nearest State Highway	2.9 Km Mainpuri Shikohabad Marg

13. It is also observed that residential houses have been also constructed near brick kiln premise.

3.3. Inspection of M/s Shiv Ent Bhatta:

3.3.1.Observation:

1. M/s Shiv Ent Bhatta is located at Village Ghिताुलि, District Mainpuri and owned by Sh. Mamta Verma.
2. The brick kiln is operational with valid consent granted since 08.01.2002 by UPPCB, copy of the consent is enclosed as **Annexure-7**.
3. The brick kiln has granted consent with installed capacity 22,000 bricks/day under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 by UPPCB which is valid up-to 31.07.2024.
4. As per receipt of mining fee submitted to Directorate of Geology and Mining, Uttar Pradesh, 2.1750 hectare land is allotted to brick kilns for mining in Financial Year 2022-23. Copy of receipt is enclosed as **Annexure-8**.
5. During visit the brick kiln was found non-operational and it is informed that firing will start from January 2023.
6. The brick kiln is based on zig-zag technology with installed ID fan.
7. The brick kiln does not have adequate stack monitoring facility i.e., proper platform, porthole and ladder.
8. Coal is being used as fuel for brick kiln firing and was stored in open covered with tarpaulin.
9. Internal roads within the premise of brick kilns as well as link road were unpaved and causing fugitive emission while movement of vehicle.
10. No proper green belt is developed around the brick kilns.
11. The brick kiln has one borewell for meeting requirement of manufacturing of green bricks. No flowmeter is installed at borewell and no permission from CGWA has been obtained for the same.
12. As per Lekhpal report, distance of habitation, Orchid, Schools, Petrol Pump, other nearest brick kiln, and National/ State Highway from brick kiln is as bellow:

S.N.	Parameter	Distance	
1.	Nearest habita as village	North	Village-Sindhpur 1500 m
		South	Village Ghिताुलि, 875 m

		East	Village-Kaderahar 1600 m
		West	Village Jaswantpur Nagar, 1200 m
2.	Nearest Orchid	No orchid	
3.	Nearst Brick kilns	M/s Yadav Brick Field 400 meters	
4.	Nearest School	Pury Madhyamik Vidyalaya Jaswantpur 570 m Primary School Madhupuri 640 meters Samrath Prithviraj Chauhan Mahavidyalaya Ghirauni- 590 meters	
5.	Nearest Petrol Pump	Jasvantpur filling station 1 K.m.	
6.	Nearest State Highway	315 meter	

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3. The Joint Committee has made following recommendations:-

“4.0. Recommendation:

1. All the three brick kilns are established on or before 2005 based on applicable siting guideline of Jila Panchayat (Copy of guideline is enclosed as **Annexure-9**) and thereafter obtained consent under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 Act from UPPCB. However, these brick kilns are not meeting the new siting criteria **p**rescribed through the guideline notified by State of Uttar Pradesh on 2012
(Copy of notification is enclosed as Annexure-10).As per CPCB,while renewing the consent of brick kilns, siting criteria notified by State of Uttar Pradesh on 2012 should be verified and complied.
2. These brick kilns should not be allowed to operate without:
 - a) Providing adequate stack emission monitoring facility.
 - b) Obtaining NOC from State Ground water Department.
3. All the three brick kilns should have pucca road within the premise for vehicle movement to prevent fugitive dust emission. Link road for brick kiln namely M/s Shiv Ent Bhatta should be paved.
4. All three brick kilns should develop proper green belt as per consent to minimize dust emission.
5. Water sprinklers are required to be deployed for prevention of fugitive emission.
6. Fuel should be stored under proper shed to prevent fugitive emission.

7. *Flow meter should be installed at borewell for better water Management.*
 8. *Environmental monitoring report which includes ambient air quality, stack emission monitoring required to submitted by Project Proponent on bi-monthly basis while in operation.”*
4. After the report, brick kilns took stand that the recommendations made by the Joint Committee were complied with, except for the issue relating to obtaining permission from CGWA, therefore, Tribunal by order dated 12.02.2024 had directed the Joint Committee to carry out fresh inspection and submit report in respect of compliance status by these three brick kilns.
5. In pursuance to the above direction, the Joint Committee has filed fresh report on 12.04.2024 reflecting the compliance/non-compliance by the above brick kilns as under:-

“2.1. Inspection of M/s Dayal Brick and Tiles:

2.1.2. Compliance Status on the recommendation made by the committee vide inspection dated 29.11.2022, submitted to Hon'ble NGT on 07.01.2023:

S. N.	Committee recommendation	Compliance Status
1.	<i>The unit should comply with the applicable Siting criteria of the state.</i>	<i>As per Lekhpal report, Unit is presently non-complying w.r.t. Jila Panchayat Siting guideline. Copy of Lekpal report is annexed as Annexure-4.</i>
2.	<i>Providing adequate stack emission monitoring facility.</i>	Complied, <i>Stackmonitoring facility with Platform, ladder and portholes has been installed. Kindly refer Photograph No-1.</i>
3.	<i>Obtaining NOC from State Ground water Department for bore well.</i>	Complied, <i>copy of registration of State Ground water Department is enclosed as Annexure-5.</i>
4.	<i>All the three brick kilns should have pucca road within the premise for vehicle movement to prevent fugitive dust emission</i>	Non-compliance, <i>kindly refer Photograph No-2.</i>

5.	All three brick kilns should develop proper green belt as per consent to minimize dust emission.	Partially complied, Unit has done plantation but Plantation area is in not as per consent (i.e. minimum 33% of total area). Kindly refer Photograph No-3. Needs to be increase the plantation around the brick kiln.
6.	Water sprinklers are required to be deployed for prevention of fugitive emission.	Complied, Water sprinkling facilities has been done through tanker for water sprinkling around the brick kiln. Kindly refer Photograph No-4.
7.	Fuel should be stored under proper shed to prevent fugitive emission	Partially complied, Fuel has been covered with tarpaulin. Kindly refer Photograph No-5.
8.	Flow meter should be installed at borewell for better water Management.	Complied, Flow meter at borewell has been installed. Kindly refer Photograph No-6.
9.	Environmental monitoring report which includes ambient air quality, stack emission monitoring required to submitted by Project Proponent on bi-monthly basis while in operation.	Partially complied, Stack Monitoring has been carried out by unit through M/s Fare Labs Private Limited, Gurugram on 12.03.2024 and the monitoring report is provided by representative of brick kiln Copy of the stack monitoring report is annexed as Annexure-6. Ambient air quality monitoring was not done by unit.

2.2. Inspection of M/s Govind Brick Works:

2.2.2.Compliance Status on the recommendation made by the committee vide inspection dated 29.11.2022, submitted to Hon'ble NGT on 07.01.2023:

S.N.	Committee recommendation	Compliance Status
1.	The unit should comply with the applicable Siting criteria of the state.	As per Lekhpal report, Unit is complying w.r.t. Jila Panchayat Siting guideline. Copy of Lekpal report is annexed as Annexure-10.
2.	Providing adequate stack emission monitoring facility.	Complied, Stackmonitoring facility with Platform, ladder and portholes has been installed. Kindly refer Photograph No-7.
3.	Obtaining NOC from State Ground water Department for bore well.	Complied, copy of registration of State Ground water Department is enclosed as Annexure-11.

4.	All the three brick kilns should have pucca road within the premise for vehicle movement to prevent fugitive dust emission.	Non-compliance , kindly refer Photograph No-11 .
5.	All three brick kilns should develop proper green belt as per consent to minimize dust emission.	Partially complied , Unit has done plantation but Plantation area is in not as per consent (i.e. minimum 33% of total area). Kindly refer Photograph No-12 . Needs to be increase the plantation around the brick kiln.
6.	Water sprinklers are required to be deployed for prevention of fugitive emission.	Complied , Water sprinkling facilities has been done through tanker around the brick kiln. Kindly refer Photograph No-13 .
7.	Fuel should be stored under proper shed to prevent fugitive emission.	Partially complied , Fuel has been covered with tarpaulin. Kindly refer Photograph No-14 .
8.	Flow meter should be installed at borewell for better water Management.	Complied , Flowmeter at borewell has been installed. Kindly refer Photograph No-15 .
9.	Environmental monitoring report which includes ambient air quality, stack emission monitoring required to submitted by Project Proponent on bi-monthly basis while in operation.	Partially complied , Stack Monitoring has been carried out by unit through M/s Fare Labs Private Limited, Gurugram on 12.03.2024 and the monitoring report is provided by representative of brick kiln Copy of the stack monitoring report is annexed as Annexure-12 . Ambient air quality monitoring was not done by unit.

2.3. Inspection of M/s Shiv Ent Bhatta:

2.3.2. Compliance Status on the recommendation made by the committee vide inspection dated 29.11.2022, submitted to Hon'ble NGT on 07.01.2023:

S.N	Committee recommendation	Compliance Status
1.	The unit should comply with the applicable Siting criteria of the state.	As per Lekhpal report, Unit is complying w.r.t. Jila Panchayat Siting guideline. Copy of Lekpal report is annexed as Annexure-16 .
2.	Providing adequate stack emission monitoring facility.	Complied , Stackmonitoring facility with Platform, ladder and portholes has been installed. Kindly refer Photograph No-13 .
3.	Obtaining NOC from State Ground water Department for bore well.	Complied , copy of registration of State Ground water Department is enclosed as Annexure-17 .

4.	<i>The brick kilns should have pucca road within the premise as well as link road for vehicle movement to prevent fugitive dust emission.</i>	Non-compliance , kindly refer Photograph No-14 .
5.	<i>All three brick kilns should develop proper green belt as per consent to minimize dust emission.</i>	Partially complied , Unit has done plantation but Plantation area is in not as per consent (i.e. minimum 33% of total area). Kindly refer Photograph No-15 . Needs to be increase the plantation around the brick kiln.
6.	<i>Water sprinklers are required to be deployed for prevention of fugitive emission.</i>	Complied , Water sprinkling facilities has been done through tanker around the brick kiln. Kindly refer Photograph No-16 .
7.	<i>Fuel should be stored under proper shed to prevent fugitive emission.</i>	Partially complied , Fuel has been covered with tarpaulin. Kindly refer Photograph No-17 .
8.	<i>Flow meter should be installed at borewell for better water Management.</i>	Complied , Flowmeter at borewell has been installed. Kindly refer Photograph No-18 .
9.	<i>Environmental monitoring report which includes ambient air quality, stack emission monitoring required to submitted by Project Proponent on bi-monthly basis while in operation.</i>	Partially complied , Stack Monitoring has been carried out by unit through M/s Fare Labs Private Limited, Gurugram on 12.03.2024 and the monitoring report is provided by representative of brick kiln Copy of the stack monitoring report is annexed as Annexure-18 . Ambient air quality monitoring was not done by unit.

6. The above fresh report reveals that still full compliance has not been made. The plantation as per the consent has not been carried out. There is partial non-compliance in respect of storing fuel under proper shed. The brick kilns have been found to be non-compliant in respect of having pucca road within the premises for vehicular movement. It is noticed that the consent order itself contains the condition of bringing minimum 33% of available open land under green cover/plantation to ensure adequate plantation and green belt within the premises. Right from inception, this consent condition is being violated. No action taken by the UPPCB for non-compliance of the consent condition is on record. The report further reveals that for extraction of ground water, permission

has subsequently been obtained. Hence, for earlier violation, if any, action is to be taken.

7. Learned Counsel appearing for UPPCB has fairly admitted that the UPPCB has option to take action of imposition of EC, passing of closure order and prosecution in case of violation. He submits that now appropriate action will be taken for the violations of the norms and non-compliance of the consent condition within two months.

8. Let the action taken report be filed by the Member Secretary, UPPCB within three months before the Registrar General of the Tribunal 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 and if found necessary, the matter may be listed before the Bench.

9. The original application is accordingly disposed of.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

April 22, 2024
Original Application No. 497/2022
SN