

Item Nos. 06 to 08

Court No. 2

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

Original Application No. 537/2022

Mukesh Kumar Chouhan

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

WITH

Original Application No. 426/2023

Surender Singh Chouhan

Applicant

Versus

State of U.P.& Ors.

Respondents

WITH

Original Application No. 457/2023

S.S Singh

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondents

Date of hearing: 13.05.2025

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

Applicants: None for the Applicant.

Respondents: Ms. Priyanka Swami, Advocate for respondent no. 1.
Mr. Pradeep Misra Advocate for respondent no. 2.
Mr. Gi. Gi. C. George for respondents no. 4.

Mr. Shlok Chandra and Mr. Sankalp Sharma, Advocates for respondent no. 5 and 6 (through VC).
Mr. Chirag Rathi, Advocate for respondent no. 7 (through VC).
Ms. Vishakha Panchal, Proxy Counsel for Mr. Ashish, Advocate for respondent no. 8.
Mr. Saurabh Balwani, Advocate for respondent no. 10 (through VC).

ORDER

1. The grievance in the present applications registered on letter petitions are that J.K. Cement, M/s Mangalam Cement and other companies are getting clinker, required by them for manufacture of cement, transported to Harduaganj Railway station near village Satha District Aligarh. During loading/unloading, clinker evaporates causing damage to the environment, grave harm to wildlife and posing serious health hazards to local residents.

2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee comprising of representative of CPCB, State PCB, and District Magistrate, Aligarh with direction to verify the factual position and submit its report and in compliance thereof, report of the Joint Committee was filed vide email dated 01.12.2022.

3. In the course of hearing State of Uttar Pradesh, UPPCB, District Magistrate, Aligarh, North Central Railway, M/s. J.K. Cement, M/s. Mangalam Cement, M/s. Vision Next Road Logistics Pvt. Ltd. and M/s. P & P Exim Pvt. Ltd. were impleaded as respondents.

4. Reports/Replies were filed by the respondents. Arguments were heard and order was reserved on 03.04.2024 but on 25.09.2024 the cases were relisted for further hearing as on going through the material placed on record presence of the Railway Board and CPCB was considered to be essential for just and proper adjudication of the environmental questions involved and additional reply/report regarding status of work and also adequacy thereof for control/abatement of environmental pollution was

also considered to be necessary. Railway Board and CPCB were impleaded as respondent no. 9 and 10. Reply dated 06.11.2024 was filed by the CPCB but no response has been filed by the Railway Board. Additional report was filed by DRM, North Central Railways vide email dated 17.12.2024. However, learned Counsel for respondents no. 4 and 9 sought time for filing additional report and guidelines issued by the railway board. Additional report dated 12.03.2025 was filed by DRM, North Central Railway vide email dated 12.03.2025 but copies of guidelines issued by the Railway Board were not filed. In its additional report filed vide email dated 12.03.2025 respondent no. 4 has mentioned the work of approach road and high mast tower to be under progress mentioning tentative date for completion of sanctioned work to be April 2025. Respondent no. 4 has admitted that approach road to Harduaganj road is still unpaved. In its reply respondent no. 4 has also mentioned that about 600 plants have been planted at Harduaganj road and more trees are to be planted. Respondents no. 4 and 9 are directed to file additional response and copy of guidelines issued by railway board at least one week before the next date of hearing fixed.

5. Vide order dated 20.03.2024 respondents no. 5 to 8 were directed to file their responses with respect to plantation, CSR activities in the area of the railway good-shed and other remedial measures. Additional responses were filed by respondents no. 5 and 6 on 30.03.2024 but additional responses were not filed by respondents no. 7 and 8. None appeared for respondents no. 5 and 8 on 19.03.2025 on which date costs of Rs. 25,000/- each was imposed on them while giving them opportunity to file additional response. Costs has been deposited by respondent no. 5 and response dated 11.04.2025 has been filed by respondent no. 5 vide email dated 01.05.2025. However, costs have not been deposited by respondent no. 8.

6. Respondent no. 8 has filed application under Section 22 of the

National Green Tribunal Practices and Procedure Rules, 2011 dated 17.04.2025 for review of order dated 19.03.2025.

7. The application has been filed on the grounds that respondent no. 8- M/S P&P EXIM Pvt. Ltd. had filed its reply on 25.08.2023 and after hearing arguments, the matter was reserved for judgment by this Tribunal vide order dated 03.04.2024. Respondent no. 8- M/S P&P EXIM Pvt. Ltd. received vide email dated 08.04.2025 copy of order dated 19.03.2025 imposing costs. Respondent no. 8- M/S P&P EXIM Pvt. Ltd. did not receive any notice or copy of original applications of the other two matters namely *O.A No. 426 of 2023, Surender Singh Chouhan vs. State of U.P.& Ors.* and *O.A No. 457/2023, S.S Singh vs. State of U.P.& Ors.* Respondent no. 8 diligently pursued the matter and stopped attending the hearing after the matter was reserved for judgment vide order dated 03.04.2024 and Respondent No. 8 was not aware of the proceedings pending in above mentioned two other matters. Respondent No. 8 has accordingly prayed for waiver of the costs.

8. Respondent no. 8 has not appeared before this Tribunal today through duly authorized counsel and only Ms. Vishakha Panchal, Proxy Counsel for Mr. Ashish, Advocate for respondent no. 8 has appeared as proxy counsel for counsel engaged by respondent no. 8.

9. Even though strictly speaking, proxy counsel is not required to be heard unless specifically authorized in this regard yet we have heard the proxy counsel and we have also gone through the application for review filed by respondent no. 8.

10. In the present case arguments were heard and the judgment was reserved vide order dated 02.11.2023 but thereafter, the matter was relisted for hearing vide order dated 06.02.2024. Thereafter, the arguments were heard and the Judgment was reserved on 03.04.2024 but the matter was relisted for further hearing on 25.09.2024. Thereafter the matter came

up for hearing on 07.11.2024, 19.12.2024 and 19.03.2025. Respondent no. 8 was required to appear after relisting of the matter but respondent no. 8 did not appear. Presence of respondent no. 8 was necessary for just and proper adjudication of the questions involved and its non-appearance had the effect of causing unnecessary adjournment and delaying appropriate resolution of the environmental issues involved in the case on which costs were imposed on respondent no. 8 for the reasons mentioned in the order. The order imposing costs does not suffer from any error of law. No new material has been brought to the notice of this Tribunal requiring a modification of above said order. There is no other sufficient ground for review. Consequently, no ground for review of order dated 19.03.2025 and waiver of costs is made out and the application for review is dismissed.

11. Respondent no. 8 is directed to deposit the costs within one month, failing which, NGT Bar Association, Principal Bench, New Delhi will be entitled to recover the same by filing an execution application under Section 25 of the National Green Tribunal Act, 2010.

12. In the course of hearing an official of respondent no. 4 join through video mobile phone call and had shown the railway goods-yard. In the video partial sheet covering could be seen but the number of plants alleged to have been planted were not visible. Respondent no. 4 is directed to file video clips in pen drive covering the railway goods-yard and also loading/unloading of clinker and its transportation in support of its claim regarding compliance with the environmental norms. The same be filed at least one week before the next date of hearing fixed.

13. Additional responses be filed by respondents no. 5, 6, 7 and 8 mentioning in detail the quantity transported, the number of vehicles used, remedial measures adopted for prevention and control/abatement of

environmental pollution.

14. List on 25.07.2025 for final hearing.

15. A copy of this order be sent to Secretary, National Green Tribunal Bar Association for information.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 13th, 2025
Original Application No. 537/2022
& connected matters
AB