

Item No.08

Court No.02

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

Original Application No.650/2023

Aditya Rai

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 05.07.2024

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

Applicant: None

Respondent: Ms. Sthavi Asthana, Advocate for UPPCB

ORDER

1. This Original Application under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') has been registered in exercise of *suo-moto* jurisdiction on a letter petition dated 20.07.2023, sent by Aditya Rai son of late Chandra Sekhar Rai resident of village and post Rajnoli, Tehsil and Police Station Dhanghata, District Sant Kabir Nagar.

2. Complainant had said that in village Naghara, M/s Mahadev Brick Field, a brick kiln is operating in violation of environmental norms and without complying with requisite Statutory Provisions, causing damaged to environment in area. It is further said that Brick kiln was established in violation of siting criteria prescribed in Uttar Pradesh Brick Kilns (Siting Criteria for Establishment Rules, 2012) and a closure order was

issued by Uttar Pradesh State Pollution Control Board (hereinafter referred to as '**UPPCB**') on 09.05.2023 but despite thereof, brick kiln is illegally operating in collusion with authorities.

3. Applicant filed a Public Interest Litigation being *Writ Petition No.1228/2022, Aditya Rai Vs. State of Uttar Pradesh* in Allahabad High Court, which was decided by a Division Bench of Allahabad High Court vide judgment dated 20.07.2023, permitting applicant to make a detailed representation to District Magistrate and he was directed to act in accordance with law on the said representation.

4. This Tribunal took cognizance of the complaint on 08.01.2024 and being *prima-facie* satisfied that averments made in the letter petition give rise to a substantial question relating to environment out of implementation of enactments specified in Schedule-I of NGT Act, 2010, found it appropriate to obtain a factual report for which it constituted a Joint Committee comprising UPPCB and District Magistrate, Sant Kabir Nagar. Committee was required to verify the facts and submit a Factual Report within two months.

5. Further Tribunal also impleaded following as respondents:

- i. State of UP through District Magistrate, Sant Kabir Nagar
- ii. UPPCB through its Member Secretary
- iii. M/s Mahadev Brick-field (JSY Marka) village Naghara, Tehsil and Police Station Dhanghata, District Sant Kabir Nagar.

6. Registry was directed to issue notices to the said respondents and respondents were permitted to file their responses within two months.

7. Joint Committee submitted its report dated 18.03.2024 stating that site was visited on 13.03.2024 and it found that laying of bricks and

firing of kilns has not started at the said brick kiln. Representative of brick kiln was instructed by Joint Committee not to operate the brick kiln without consent from UPPCB. It is also stated that closure order was passed by UPPCB on 09.05.2023 and pursuant thereto brick kiln was closed by UPPCB with the help of district administration, Sant Kabir Nagar on 29.05.2023. Thus, finding of Committee is that the brick kiln is lying closed. The findings of Committee are reproduced as under:

“The committee found that the mining of the clay as well as laying and firing of the bricks in the brick kiln has been closed by the brick kiln owner in the current ent bhattha season. The committee is in opinion to oversee the ent bhattha from time to time so that the ent bhattha may not be operated without prior CTO of the Stater Board.”

8. Reply dated 19.03.2024 was also filed by UPPCB reiterating facts that a closure order was issued on 09.05.2023 under Section 31(A) of Air (Prevention and Control of Pollution) Act, 1981.

9. In compliance of Tribunal's order dated 03.11.2023, site of brick kiln was inspected by Joint Committee on 13.03.2024, when brick kiln was found closed.

10. Report and reply, above mentioned, were considered by Tribunal on 22.03.2024 but apprehending that brick kiln still may reoperate, Tribunal issued notice to respondent 3 as to why it be not directed to relocate brick kiln or in case of failure to demolish the same.

11. Today none has appeared on behalf of respondent 3. No reply has been filed.

12. Response dated 28.06.2024 has been filed by Regional Officer, UPPCB, Basti stating that again site was inspected on 14.06.2024 and 26.06.2024 and the brick kiln was found closed. It also stated that under Section 31(A) of Air Act, 1981, power of giving directions has been

conferred upon UPPCB which included directions for closure but there is no power authorizing UPPCB to direct relocation or demolition of any industrial unit.

13. Since, complaint was only to the extent that brick kiln, despite closure order, is operating, but that has not been found correct and on repeated inspections brick kiln has been found closed, and there is no activity which may suggest operation of brick kiln at any moment, we do not find that any further order is required to be passed in the matter.

14. Accordingly, this Original Application is disposed of.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 05, 2024
Original Application No.650/2023
M