

Item No. 07

Court No. 1

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

Original Application No. 273/2022
(I.A. No. 292/2023, I.A. No. 638/2023 & I.A. No. 878/2023)

Gyanendra Pandey

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 21.12.2023

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

Amicus Curiae: Ms. Mansi Chahal, Adv. (Amicus Curiae)

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Adv. for UPPCB (Through VC)
Mr. Sumeer Sodhi & Mr. Yash Gupta, Adv. for R - 8 (Through VC)
Mr. Dhruv Tamta & Mr. Nishchay Dutt, Ads. for R - 9 to 11, 14, 16, 17,
22, 23, 25, 28, 35 & 38
Mr. Qayam-ud-din, Adv. for R - 12, 14, 20, 24, 25 to 28, 30, 32, 35, 36,
38 & 41

ORDER

1. This original application was registered on the basis of the letter petition sent by Mr. Gyanendra Pandey resident of Raipurganj, Tehsil Laharpur, District Sitapur, Uttar Pradesh with allegation that there were approximately 280 brick kilns operational in Sitapur District, out of which 42 were operating illegally without valid consent.

2. The Tribunal by order dated 27.04.2022, after considering the seriousness of the allegation, had formed a joint Committee and had called for the factual and action taken report. The report filed by the joint Committee vide letter dated 06.09.2022 was considered by the Tribunal in the proceedings dated 29.09.2022, wherein the Tribunal had issued notice to all 44 project proponents through the District Magistrate, Sitapur. The

application for impleadment was allowed and 44 project proponents (brick kilns) were impleaded.

3. Thereafter, considering the violation by these brick kiln operators, the Tribunal by order dated 19.01.2023 had restrained these 44 brick kilns from operating until further orders.

4. IA No. 638/2023 has been filed by Respondent No. 8 for dismissal of the OA on the ground that the letter petitioner had made an attempt to demand money for withdrawal of OA for which FIR has been lodged. Sufficient supporting material in respect of the allegation has been enclosed along with IA No. 638/2023.

5. The OA involves serious issue in respect of illegal operation of brick kilns in District Sitapur. Therefore, in the circumstances of the case, we partly allow IA No. 638/2023 and relieve the applicant and take up the matter in *suo motu* exercise of power which is permissible in terms of judgement of Hon'ble Supreme Court in the matter of "*Municipal Corporation of Greater Mumbai vs. Ankita Sinha & Ors.*" reported in 2021 SCC Online SC 897.

6. Having regard to the issue involved, we appoint Ms. Mansi Chahal, Advocate as Amicus Curiae to assist the Tribunal in this matter.

7. Another IA being IA No. 878/2023 has been filed on behalf of Respondent No. 8, M/s. Kunwar Ent Udhyog seeking permission to file the additional documents. IA has not been opposed and even otherwise having regard to limited prayer made in the IA, the IA No. 878/2023 is allowed and additional documents are taken on record.

8. In IA No. 292/2023 filed on behalf of Respondent No. 8, the prayer is for modification of order dated 19.01.2023 on the ground that Respondent No. 8 has been granted CTO by UPPCB.

9. Learned Counsel appearing for UPPCB seeks one week's time to obtain instructions in respect of plea taken in the IA and file reply, if required.

10. The report on behalf of UPPCB dated 20.12.2023 has been filed which discloses that the action taken by UPPCB as follows:-

“3. In pursuant to the closure order issued under section-31A of Air (Prevention and Control of Pollution) Act, 1981 against the 44 defaulter Brick Kilns of District-Sitapur, the UPPCB has taken further following action against them:

I. That during the inspection dated 18.05.2022, 21.05.2022, 25.05.2022, 26.05.2022 and 27.05.2022 the 31 brick kilns found operational and 13 Brick Kilns were found closed in compliance of the closure orders. The action taken against them is given below;

<i>a. Environmental Compensation Imposed</i>	<i>-</i>	<i>31</i>
<i>b. Prosecution filed</i>	<i>-</i>	<i>24</i>
<i>c. Prosecution Proceeding Under Process</i>	<i>-</i>	<i>07</i>

*It is evident from the perusal of the above that out of 31 brick kiln the prosecution has been filed against the 24 Brick Kilns and the prosecution proceeding against the rest 7 Brick Kilns in under process. The details of action taken against the Brick Kilns is being annexed herewith as **Annexure No.-2** to this response.*

xxxxxx.....xxx

*5. That further it is submitted that the answering respondent no.-02 UPPCB on regular basis get inspected the all 44 Brick Kilns on dated 27.10.2023, 28.10.2023 & 20.11.2023 as mentioned in the list. In the said inspections all brick kilns were found closed. The inspection reports of 44 Brick Kilns are being annexed herewith as **Annexure No.-3** to this response.”*

11. The chart annexure 2 filed along with the report reveals that the environmental compensation has been imposed against as many as 31

units but nothing has been pointed out to show in respect of recovery of environmental compensation. Hence, the Counsel for the UPPCB is directed to disclose the steps taken by competent officer of the UPPCB for recovery of environmental compensation imposed.

12. Let the fresh report in terms of above direction be filed by UPPCB within three weeks 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.

13. The fee of learned Amicus Curiae is fixed at Rs. 15,000/- per appearance which will be paid by the UPPCB from the amount lying deposited in the environmental compensation fund.

14. List the matter on 12.02.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

December 21, 2023
Original Application No. 273/2022
DV.