

ITEM NO.49+52

COURT NO.16

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**CIVIL APPEAL Diary No(s). 18213/2021**

(Arising out of impugned final judgment and order dated 17-02-2021  
in OA No. 1016/2019 passed by the National Green Tribunal)

NCR BRICK KILN ASSOCIATION

Petitioner(s)

VERSUS

CENTRAL POLLUTION CONTROL BOARD &amp; ORS.

Respondent(s)

IA No. 113626/2021 - AMENDMENT IN CAUSE TITLE  
IA No. 113624/2021 - APPLICATION FOR TAKING ON RECORD  
IA No. 167370/2022 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 13898/2023 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 176106/2022 - CLARIFICATION/DIRECTION  
IA No. 25284/2023 - CLARIFICATION/DIRECTION  
IA No. 25311/2023 - CLARIFICATION/DIRECTION  
IA No. 103803/2021 - EX-PARTE STAY  
IA No. 103804/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 42892/2022 - EXEMPTION FROM FILING O.T.  
IA No. 100876/2022 - EXEMPTION FROM FILING O.T.  
IA No. 10731/2023 - EXEMPTION FROM FILING O.T.  
IA No. 186593/2022 - EXEMPTION FROM FILING O.T.  
IA No. 42890/2022 - INTERVENTION APPLICATION  
IA No. 170476/2022 - INTERVENTION APPLICATION  
IA No. 67159/2022 - INTERVENTION APPLICATION  
IA No. 186591/2022 - INTERVENTION APPLICATION  
IA No. 25300/2023 - INTERVENTION/IMPLEADMENT  
IA No. 7992/2023 - MODIFICATION OF COURT ORDER  
IA No. 28742/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 100875/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 10727/2023 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 52090/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 44650/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 103800/2021 - PERMISSION TO FILE APPEAL)

WITH

Diary No(s). 20331/2021 (XVII)

IA No. 174452/2022 - CLARIFICATION/DIRECTION

IA No. 174447/2022 - CLARIFICATION/DIRECTION

IA No. 104689/2022 - CLARIFICATION/DIRECTION  
 IA No. 100750/2022 - CLARIFICATION/DIRECTION  
 IA No. 126087/2021 - EX-PARTE STAY  
 IA No. 126088/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
 IA No. 126086/2021 - PERMISSION TO FILE APPEAL)

Diary No(s). 7535/2021 (XVII)

IA No. 124597/2021 - EX-PARTE STAY  
 IA No. 75241/2022 - EXEMPTION FROM FILING AFFIDAVIT  
 IA No. 75405/2022 - EXEMPTION FROM FILING AFFIDAVIT  
 IA No. 124600/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
 IA No. 75399/2022 - EXEMPTION FROM FILING O.T.  
 IA No. 75242/2022 - EXEMPTION FROM FILING O.T.  
 IA No. 75398/2022 - MODIFICATION  
 IA No. 75238/2022 - MODIFICATION OF COURT ORDER  
 IA No. 124595/2021 - PERMISSION TO FILE APPEAL)

Diary No(s). 7670/2021 (XVII)

IA No. 85897/2022 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 85895/2022 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 126800/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
 IA No. 126797/2021 - PERMISSION TO FILE APPEAL  
 IA No. 126798/2021 - STAY APPLICATION)

Diary No(s). 7667/2021 (XVII)

IA No. 99973/2022 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 130615/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
 IA No. 99975/2022 - EXEMPTION FROM FILING O.T.  
 IA No. 67910/2022 - EXEMPTION FROM FILING O.T.  
 IA No. 67909/2022 - MODIFICATION OF COURT ORDER  
 IA No. 130614/2021 - PERMISSION TO FILE APPEAL  
 IA No. 130617/2021 - STAY APPLICATION)

Diary No(s). 23486/2021 (XVII)

IA No. 136286/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
 IA No. 136288/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES  
 IA No. 136287/2021 - PERMISSION TO FILE APPEAL)

Diary No(s). 11747/2022 (XVII)

IA No. 14518/2023 - CLARIFICATION/DIRECTION  
 IA No. 68236/2022 - EX-PARTE STAY  
 IA No. 68237/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 81168/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 68235/2022 - PERMISSION TO FILE APPEAL)

W.P.(C) No. 367/2022 (X)

IA No. 73683/2022 - EXEMPTION FROM FILING O.T.  
IA No. 167394/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 6643-6644/2022 (XVII)

IA No. 82183/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 82179/2022 - GRANT OF INTERIM RELIEF)  
C.A. No. 5787/2022 (XVII)

IA No. 179024/2022 - CLARIFICATION/DIRECTION  
IA No. 100488/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 100490/2022 - EXEMPTION FROM FILING O.T.  
IA No. 100487/2022 - STAY APPLICATION)

CONMT.PET.(C) No. 733/2023

FOR ADMISSION and IA No.40734/2023-EXEMPTION FROM FILING O.T. )

Date : 27-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH  
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s)

Mr. Nidhesh Gupta, Sr. Adv.  
Ms. Pallavi Singh, Adv.  
Ms. Japneet Kaur, Adv.  
Ms. Vriti Gujral, Adv.  
Mr. G. Balaji, AOR

Mr. Neeraj Kumar Jain, Sr. Adv.  
Mr. Ankit Jain, Adv.  
Mr. Sanjay Singh, Adv.  
Mr Subodh Gupta, Adv.

Mr. S P Singh Sr.adv, Adv.  
Ms. Divya Singhvi, Adv.  
Mr. Narendra Kumar Goyal, Adv.  
Mr. Vipin Kumar Saxena, Adv.  
Mr. Ashutosh Chaturvedi, Adv.  
Mr. Vipin Sandu, Adv.  
Mr. Ajit Kumar Pathak, Adv.  
Mr. Jeetendra Kumar, Adv.

Mr. Kajal Rani, Adv.  
 Mr. Kunwar Siddharth Singh, Adv.  
 Mr. Chandrakant Sukumar Sarkar, Adv.  
 Mr. Ikshit Singhal, Adv.  
 Mr. Rajiv Kumar, Adv.  
 M/S. Mukesh Kumar Singh And Co., AOR

Mr. Sanjay Rathi, Adv.  
 Ms. Megha Gaur, Adv.  
 Mr. Ekansh Bansal, Adv.  
 Mr. Vibhav Mishra, Adv.  
 Mr. Parmanand Gaur, AOR

Mr. Umang Shankar, AOR

Ms. Mohini Priya, AOR

Mr. Varinder Kumar Sharma, AOR  
 Mr. Yugal Kishor Prasad, Adv.  
 Mr. Shantanu Sharma, Adv.  
 Ms. Parul Sharma, Adv.  
 Mr. Bishan Dass, Adv.  
 Mr. Bikash Chandra, Adv.  
 Mr. Dharmpal Saini, Adv.  
 Mr. Jay Prakash Yadav, Adv.  
 Mr. Pramod Kumar Singh, Adv.  
 Mr. R. D. Rathore, Adv.  
 Mr. Dinesh Mohan Sinha, Adv.  
 Mr. Jitendra Kumar Sah, Adv.

Mr. Abhinav S. Raghuvanshi, AOR

Ms. Manisha Ambwani, AOR  
 Mr. Pallav Sisodia, Sr. Adv.  
 Mr. Shashank Bajpai, Adv.  
 Ms. Vidula Mehrotra, Adv.  
 Mr. Utsav Saxena, Adv.  
 Mr. Shubhankar Singh, Adv.  
 Mr. Kaveesh Nair, Adv.  
 Mr. Aashna Mehra, Adv.  
 Ms. Aashna Mehra, Adv.  
 Mr. Supragya Ram Mishra, Adv.  
 Ms. Supragya Mishra, Adv.

Mr. Rohan Thawani, Adv.  
 Ms. Pooja Dhar, AOR  
 Mr. Mantavya Sharma, Adv.

Mr. Sumit Kumar, Adv.  
 Mr. Avinash Mishra, Adv.

For Respondent(s)

Mrs. Swarupama Chaturvedi, AOR  
Ms. Saumya Kapoor, Adv.

Mr. Pradeep Misra, AOR  
Mr. Daleep Dhyani, Adv.  
Mr. Suraj Singh, Adv.  
Mr. Manoj Kumar Sharma, Adv.

Mr. Azmat Hayat Amanullah, AOR  
Mr. Nishant Awana, Adv.

Ms. Aparna Rohatgi Jain, Adv.  
Mr. Mahesh Kasana, Adv.  
Mr. S. K. Verma, AOR

Mr. B.k.satija, A.A.G.  
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Mr. Lokesh Sinhal, Sr. A.A.G.  
Mr. Rahul Khurana, Adv.  
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Mr. Samar Vijay Singh, AOR  
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Mr. Akhileshwar Jha, Adv.  
Ms. Niharika Dewivedi, Adv.  
Ms. Shweta Sand, Adv.  
Ms. Yamini Sharma, Adv.  
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Mr. Pramod Kumar Singh, Adv.  
Mr. Kundan Lal, Adv.

Mr. Deepankar, Adv.  
Mr. Umang Tripathi, Adv.  
Mr. Karunesh Kumar Shukla

Mr. Kailash Prashad Pandey, AOR  
Mr. Rajnish Kumar Jha, AOR  
Mr. Varinder Kumar Sharma, AOR

UPON hearing the counsel the Court made the following

O R D E R

Learned counsel for the appellants have submitted that Brick Kilns in the concerned States start functioning from 1<sup>st</sup> of March of every year. Now as the 1<sup>st</sup> of March is approaching after two days, they would require urgent orders as have been granted for the previous years.

Reference has been made to two orders passed on 08.04.2022 and 13.05.2022 by which this Court had permitted the Brick Kilns in the concerned States to function for the year 2022 subject to certain terms and conditions laid down in those two orders. They have prayed for similar directions for the year 2023 also.

Learned Counsel appearing for the Central Pollution Control Board (CPCB) submits that upon applications being made by the respective Brick Kilns owners to the State Pollution Control Boards (SPCB), the SPCBs after due verification make their recommendation to the CPCB and thereafter CPCB after due verification grant clearance to the units which are all compliant and in case of any defects the same are to be removed and thereafter fresh consideration is made for such units.

Learned Counsel further pointed out that an affidavit was filed on last Thursday i.e. 23.02.2023 along with which list of all Brick Kilns is attached with comments against each of the Brick Kilns whether it is fully compliant or not. All those Brick Kilns which have defects, the same have also been mentioned therein. She further submits that the CPCB has no problem in all compliant Brick Kilns to start functioning from 1<sup>st</sup> March 2023. She further submits that a supplementary affidavit has been filed today which contains a revised list of the compliance status as some of the Brick Kilns in the meantime have removed the minor defects earlier existing. She further submits that any other Brick Kiln for which defects have been pointed out if the same are removed and they approach afresh through their respective SPCBs, their applications would also be considered in accordance with law at the earliest and appropriate orders would be issued so that they may start functioning after they are found to be fully compliant. Such compliance has to be tested on the basis of Notification dated 22<sup>nd</sup> February 2022 and the orders passed by this Court.

In view of the above, similar directions as contained in orders dated 08.04.2022 and 13.05.2022 would be applicable for the year 2023 also and all Brick Kilns which are found to be fully compliant by the CPCB may start their functioning strictly in accordance with the terms and conditions laid down in the above-mentioned two orders.

We further provide that all those Brick Kilns where defects have been pointed out may remove the defects and approach the SPCBs for reconsideration of their cases which would be appropriately considered by the SPCBs and CPCB in accordance with law with expediency.

It has also been pointed out by the learned counsel for the appellants that in the list provided by the CPCB in the affidavit filed on 23.02.2023 there are some factual errors which needs to be corrected. In this respect, the respective Brick Kilns may move appropriate application(s) before CPCB pointing out the errors which would be duly considered by the CPCB expeditiously and appropriate orders would be passed within a week from the date of receipt of the application(s) after due verification of facts.

List the matters for final disposal as agreed by the learned counsel for the parties, on 14<sup>th</sup> March 2023. In the meantime, pleadings may be completed.

CONMT.PET.(C) No.733/2023

List on 14<sup>th</sup> March 2023.

(DEEPAK JOSHI)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
COURT MASTER (NSH)