

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi**

Original Application No. 329/2022

Pardeep Kumar

Applicant

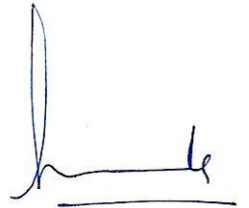
Versus

Central Pollution Control Board & Ors.

Respondent(s)

INDEX

S. No.	Particulars	Page No.
1.	Response/Reply on behalf of Respondent No. 1, Central Pollution Control Board in compliance to the Hon'ble NGT order dated 03.08.2022 in O.A. No. 329/2022, Pardeep Kumar Vs Central Pollution Control Board & Ors.	
2.	Annexure-I: A copy of order dated 03.08.2022 passed by Hon'ble Tribunal in O.A. No. 329/2022.	



(S.K. Gupta)

Scientist-E

Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi- 110032

Date: 23.11.2022

Place: Delhi

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No.329/2022

IN THE MATTER OF:

Pardeep Kumar

Applicant

Versus

Central Pollution Control Board & Ors.

Respondent(s)

RESPONSE/REPLY ON BEHALF OF RESPONDENT NO 1, CENTRAL POLLUTION CONTROL BOARD, PARIVESH BHAWAN, EAST ARJUN NAGAR, DELHI-110032

I, S. K. Gupta, S/o Late Shri B.L. Gupta, aged 59 yrs., Scientist 'E', Central Pollution Control Board, Pariversh Bhawan, East Arjun Nagar, Delhi do hereby solemnly affirm and declare as under:-

MOST RESPECTFULLY SHOWETH:

1. That in view of the order dated 03.08.2022 of Hon'ble NGT in the above titled matter, the present short submission is being filed for your kind perusal and consideration.
2. That in the present petition, the applicant is seeking appropriate directions and proper action against the brick kilns namely; i) M/s Navbharat Brick Field, Bamnoli, Khasra No-1 to 46, Village Bamnoli, Shamli District, Uttar Pradesh, and ii) M/s Shiv Brick Field, Bamnoli, Khasra No-278, Village Bamnoli, Kandhla, Kairana, Shamli District, Uttar Pradesh, which are operating in the vicinity of the applicant in violation of The Uttar Pradesh Brick Kilns Criteria (Siting Criteria for Establishment Rules, 2011) Act, which are causing air, water and soil pollution and which in turn causing many health hazards. Applicant also claims that both kilns are within the 1 km radius from the residential area, within 100-meter radius from the main district road and are using inappropriate fuel for burning of bricks. As on date, kilns are not operating with zig-

zag pattern and violating environmental laws, rules and regulation set up by State and Central Government along with respective Pollution Control Boards.

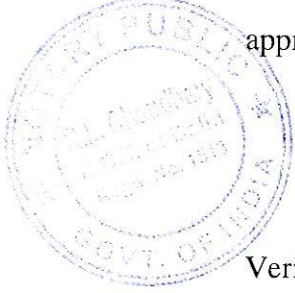
3. That Hon'ble NGT vide order dated 11.05.2022 had constituted a Joint Committee of State PCB and District Magistrate Shamli and directed the committee to verify the factual position and sought an action taken report which may inter-alia include compliance of notification of MoEF&CC dated 22.02.2022 and the other order passed by the Hon'ble Supreme Court vide dated 07.03.2022 in Civil Appeal Diary No. 18213/2021; NCR brick Kilns Association Vs CPCB and others. Subsequent there to, a compliance report was filed vide letter dated 30.07.2022 by the U.P. Pollution Control Board. Hon'ble Tribunal vide order dated 03.08.2022 further observed:

“...The State PCB is directed to take appropriate remedial action including closure of the brick kilns, imposition and realization of the environmental compensation and prosecution of the proprietors by following due process of law and submit further Action Taken...”

“...Notice, alongwith the application and report of the Joint Committee be issued to the respondents no. 1, 2, 4 and 5 requiring them to file their response/reply to the allegations made in the application/observations made in the report of the Joint Committee...”

4. That in the light of above observation, it is humbly submitted that above mentioned both brick kilns are operating in violation of The Uttar Pradesh Brick Kilns Criteria (Siting Criteria for Establishment Rules, 2011) Act, in vicinity of the applicant, which are causing air, water and soil pollution and which in turn causing many health hazards.
5. That Hon'ble Supreme Court in Civil Appeal Diary No. 18213/2021; NCR brick Kilns Association Vs. CPCB and others, vide its orders dated 08.04.2022, 06.05.2022 and 13.05.2022 has clearly mentioned that only those brick kilns will be allowed to operate which have valid Consent to Operate (CTO), production capacity mentioned in the CTO, based on zig-zag, having adequate monitoring facilities i.e. platform of 4 feet by 6 feet size with porthole of 4 to 5 inches diameter and ladder for conducting monitoring, and fulfillment of Notification dated 22.02.2022 for Brick Kilns.

In this regard, it is submitted that SPCBs are the regulatory agencies for ensuring the compliance of siting criteria and conditions laid down in the Notification issued by the MoEF&CC dated 22.02.2022 for Emission Standards for Brick Kilns, including the implementation of the Hon'ble Supreme Court directives. It is further submitted that SPCBs may carry out regular inspections of brick kilns for verifying compliance of the Hon'ble Supreme Court directives and may take appropriate action against the non-complying brick kilns.



Verification

Verified that the contents of the above affidavit are true and correct to the best of my knowledge and based on information derived from official records which I believe to be correct.

No part of it is false and nothing has been concealed therein.

Delhi

Dated: 23rd November, 2022

DEPONENT

एस.के. गुप्ता/S.K. Gupta
वैज्ञानिक "ई" / Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032

DEPONENT

एस.के. गुप्ता/S.K. Gupta
वैज्ञानिक "ई" / Scientist "E"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली/Delhi-110032

ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA

23 NOV 2022

Item No.02

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)
Original Application No.329/2022

Pardeep Kumar

...Applicant

Versus

Central Pollution Control Board
& Ors.

...Respondents

Date of hearing: 03.08.2022

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

Applicant: Mr. Vinay Godara, Advocate.

Respondent: Mr. Utsav Sharma, Regional Officer, UPPCB.
Mr. Pradeep Mishra, Advocate for UPPCB.

Application under Section 14 and 15 of the National Green Tribunal Act, 2010.

ORDER

1. The applicant has filed the present application under Sections 14 and 15 of the National Green Tribunal Act 2010 on the averments that respondents no. 4 and 5 brick kilns are being run in violation of the Uttar Pradesh Brick Kilns Criteria (Siting Criteria for Establishment Rules, 2011). Both the brick kilns are located within one km radius from the residential area and 100 meters radius from the main District road and are using inappropriate fuel for burning of bricks besides banned substances like rubber, plastic etc. They are still not operating with zig zag pattern and are flouting all the norms, rules and regulations. No multi-layer and multi-storey 10 meters green belt has been constructed. Due to running on old traditional method i.e. Bull trenching Kiln firing method, these brick kilns are emitting black colour smoke with poisonous gases along with soot which gets deposited on clothes, roofs, plants and are causing severe air, water and soil pollution

creating respiratory problems for the inhabitants of the area. The applicant made complaints to the concerned authorities but no action has been taken.

2. Vide order dated 11.05.2022, this Tribunal constituted the Joint Committee comprising of State PCB and District Magistrate, Shamli and directed the same to submit factual and action taken report within two months.

3. In compliance thereof, the Joint Committee visited the brick kilns on 02.06.2022 and has submitted report vide E-mail dated 30.07.2022. The relevant part of the report is extracted hereunder:-

“3.0 JOINT INSPECTION OF M/s NAVBHARAT BRICK FIELD, VILL. BAMNOLI (UNCHA GAON), BLOCK KANDHLA, DISTT. SHAMLI

In compliance to said orders of the Hon'ble NGT dated 11.05.2022, a joint team of officials from UPPCB, and District Administration, Shamli visited the Brick Kiln on dated 02.06.2022.

A: General Information : M/s Navbharat Brick Field, Vill. Bamnoli (Uncha Gaon), Block Kandhla, District Shamli

1.	Date of Inspection:	02.06.2022
2.	Name of the unit with complete postal address	M/s Navbharat Brick Field, Vill. Bamnoli (Uncha Gaon), Block Kandhla, District Shamli
3.	Geo Co-ordinates Latitude and longitude (in Decimal format only)	Latitude – 29.351518 Longitude- 77.234117
4.	Year of commissioning	2010
5.	Production Capacity	Red Bricks 9 Lac Nos. per cycle
6.	Raw Material	Sand, Soil and Water
7.	Consent status & its Validity with date Air Consent Water consent	Air Consent valid up to 31.12.2017 Water consent valid up to 31.12.2017 (Annexure-1)
8.	Operational status during visit	Operational
9.	Water Consumption	As per Brick Kiln representative : Domestic – 2 KLD Process – 5 KLD
10.	Effluent Generation	Domestic – 1.5 KLD Industrial – 0.0 KLD
11.	Stack Height	30 M. high from ground level
12.	Zig-Zag Status (Rectangular shape/Zig- Zag brick setting/ID Fan	Rectangular in Shape, ID Fan installed Brick setting not found in Zig-Zag pattern

13.	Fuel used	Wood & Coal
14.	Kiln distance from habitation (>0.8 km), Orchards (>0.8 km), Existing brick kiln(s) (>1 km)	Vill. Uncha Gaon Distance 650 M. Existing Brick Kiln Distance 730 M.
15.	Fugitive Dust emission control measures	Not found
16.	In-house utilization of ash in brick making	No
17.	Necessary approvals for extracting soil	YES
18.	Paving of Roads	NO

3.1 Observations during the visit on 02.06.2022 by the joint team of UPPCB and District Administration, Shamli:

➤ **General**

1. The Brick Kiln M/s Navbharat Brick Field, Vill. Bamnoli (Uncha Gaon), Block Kandhla, District Shamli found operational and was engaged in producing Red Bricks 9.00 Lacs per cycle by using Sand, Soil and Water as Raw Material.
2. Brick kiln found operational with Induced Draught with 30 M. high vertical stack and rectangular in shape. At the time of inspection, it is found that the raw bricks filling pattern was not in Zig-zag technique.

➤ **Compliance status under Water (Prevention & Control of Pollution) Act, 1974**

1. Brick kiln had valid Water consent to operate upto dated 31.12.2017 from UPPCB. During joint committee visit, brick kiln found operational without having valid consent to operate.
2. At the time of inspection, Brick Kiln representative intimated that total water consumption is about 7.0 KLD, out of that 2.0 KLD water used in domestic purposes which is being disposed through septic tank, rest 5.0 KLD water used for sprinkling/raw bricks moulding etc.
3. At the time of inspection, no arrangement found for fugitive dust control.

➤ **Compliance status under Air (Prevention & Control of Pollution) Act, 1981**

1. Brick kiln had valid Air consent to operate upto dated 31.12.2017 from UPPCB. During joint committee visit, brick kiln found operational without having valid consent to operate.
2. Earlier during visit on dated 27.04.2019, brick kiln found operational. As brick kiln found non-complying the provision of Air (Prevention & Control of Pollution) Act 1981 as amended, recommendation for closure sent to head office, UPPCB, Lucknow vide office letter no. 142/C/Brick/MZR/2019 dated 29.04.2019. In response closure direction issued by UPPCB under section 31A of Air (Prevention & Control of Pollution) Act 1981 as amended vide letter no. H36726/C-3/Vayu-373/M.Nagar/ 2019 dated 31.05.2019 which is effective till now. Copy enclosed as **Annexure-2**. Further, environmental compensation of Rs. 4,06,250/- has been also imposed

vide letter no. H44054/C-3/ Vayu-373/M.Nagar/2019 dated 21.11.2019. Copy enclosed as **Annexure-3**. As per the office record, no information is available regarding deposition of environmental compensation.

3. As per the Hon'ble NGT order, during joint committee inspection on dated 02.06.2022 brick kiln found operational, for ensuring the compliance of provisions of Air (Prevention & Control of Pollution) Act 1981 as amended, joint committee sealed I.D. Fan and filled the firing chamber with water so that operation of brick kiln may be stopped. Onsite report is enclosed as **Annexure-4**.

4. As ladder and platform not found adequate enough, stack monitoring can not be done during joint committee visit.

5. As brick kiln found non-complying of Notification of MoEF&CC dated 22.02.2022 and the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others, recommendation for prosecution under Air (Prevention & Control of Pollution) Act 1981 as amended of Section 39, imposition of Environmental Compensation amounting Rs. 6,87,500/- and recovery of earlier imposed E.C. amount Rs. 4,06,250/- as land revenue has been sent to Head Office UPPCB, Lucknow vide office letter no. 274/C/Brick/Shamli/2022 dated 10.06.2022. Copy enclosed as **Annexure-5**.

3.3 CONCLUSIONS

a. Brick kiln found violating the provision of Air (Prevention & Control of Pollution) Act 1981 as amended again and again during the visits.

b. Brick kiln non-complying of Notification of MoEF&CC dated 22.02.2022 and the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others.

c. Brick kiln found non-complying the closure order issued by UPPCB dated 31.05.2019.

3.4 RECOMMENDATIONS FOR M/s NAVBHARAT BRICK FIELD, VILL. BAMNOLI (UNCHA GAON), BLOCK KANDHLA, DISTT. SHAMLI

Based on the present joint visit on 02.06.2022, following are recommended for compliance:

a. Brick kiln shall ensure not to resume its production in compliance of Air (Prevention & Control of Pollution) Act 1981 as amended till the next order from UPPCB,

b. Brick kiln shall ensure the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others.

c. Brick kiln shall ensure closure direction issued by UPPCB on dated 31.05.2019.

d. Brick kiln shall ensure to submit Environmental Compensation of Rs. 4,06,250/-.

e. Brick kiln shall ensure the compliance of further orders issued by the UPPCB.

4.0 JOINT INSPECTION OF M/s SHIV BRICK FIELD (FORMERLY M/s. CHAUDHARY BRICK FIELD), VILL. ASADPUR JIDANA, BLOCK KANDHLA, DISTRICT SHAMLI.

In compliance to said orders of the Hon'ble NGT dated 11.05.2022, a joint team of officials from UPPCB, and District Administration, Shamli visited the Brick Kiln on dated 02.06.2022.

A: General Information : M/s Shiv Brick Field (Formerly M/s. Chaudhary Brick Field), Vill. Asadpur Jidana, Block Kandhla, District Shamli.

1.	Date of Inspection:	02.06.2022
2.	Name of the unit with complete postal address	M/s Shiv Brick Field (Formerly M/s. Chaudhary Brick Field), Vill. Asadpur Jidana, Block Kandhla, District Shamli.
3.	Geo Co-ordinates Latitude and longitude (in Decimal format only)	Latitude – 29.345844 Longitude- 77.237975
4.	Year of commissioning	2010
5.	Production Capacity	Red Bricks 8 Lac Nos. per cycle
6.	Raw Material	Sand, Soil and Water
7.	Consent status & its Validity with date Air Consent Water consent	Air Consent valid up to 31.07.2025 Water consent valid up to 31.07.2025 (Annexure-6)
8.	Operational status during visit	Operational
9.	Water Consumption	As per Brick Kiln representative : Domestic – 2 KLD Process – 5 KLD
10.	Effluent Generation	Domestic – 1.5 KLD Industrial – 0.0 KLD
11.	Stack Height	30 M. high from ground level
12.	Zig-Zag Status (Rectangular shape/Zig-Zag brick setting/ID Fan	Rectangular in Shape, ID Fan installed Brick setting found in Zig-Zag pattern
13.	Fuel used	Wood & Coal
14.	Kiln distance from habitation (>0.8 km), Orchards (>0.8 km), Existing brick kiln(s) (>1 km)	Vill. Asadpur Jidana Distance 500 M. Existing Brick Kiln Distance 730 M.
15.	Fugitive Dust emission control measures	Not found
16.	In-house utilization of ash in brick making	No
17.	Necessary approvals for extracting soil	Yes
18.	Paving of Roads	No

4.1 Observations during the visit on 02.06.2022 by the joint team of UPPCB and District Administration, Shamli:

➤ **General**

1. *The Brick Kiln M/s M/s Shiv Brick Field (Formerly M/s. Chaudhary Brick Field), Vill. Asadpur Jidana, Block Kandhla, District Shamli found operational and was engaged in producing Red Bricks 8.00 Lacs per cycle by using Sand, Soil and Water as Raw Material.*
2. *Brick kiln found operational with Induced Draught with 30 M. high vertical stack and rectangular in shape and raw bricks filling pattern was in Zig-zag technique.*

➤ **Compliance status under Water (Prevention & Control of Pollution) Act, 1974**

1. *Brick kiln had valid Water consent to operate upto dated 31.07.2025 from UPPCB. During joint committee visit, brick kiln found operational.*
2. *At the time of inspection, Brick Kiln representative intimated that total water consumption is about 7.0 KLD, out of that 2.0 KLD water used in domestic purposes which is being disposed through septic tank, rest 5.0 KLD water used for sprinkling/raw bricks moulding etc.*
3. *At the time of inspection, no arrangement found for fugitive dust control.*

➤ **Compliance status under Air (Prevention & Control of Pollution) Act, 1981**

1. *Brick kiln had valid Air consent to operate upto dated 31.07.2025 from UPPCB. During joint committee visit, brick kiln found operational.*
2. *As per the Hon'ble NGT order, during joint committee inspection on dated 02.06.2022 brick kiln found operational, for ensuring the compliance of provisions of Air (Prevention & Control of Pollution) Act 1981 as amended, joint committee sealed I.D. Fan and filled the firing chamber with water so that operation of brick kiln may be stopped. Onsite report is enclosed as **Annexure-7**.*
3. *As ladder and platform not found adequate enough, stack monitoring can not be done during joint committee visit.*
4. *As brick kiln found non-complying of Notification of MoEF&CC dated 22.02.2022 and the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others, recommendation for under Air (Prevention & Control of Pollution) Act 1981 as amended of Section 31A and imposition of Environmental Compensation amounting Rs. 6,87,500/- has been sent to Head Office UPPCB, Lucknow vide office letter no. 278/C/Brick/Shamli/2022 dated 10.06.2022. Copy enclosed as **Annexure-8**.*

3.3 CONCLUSIONS

- a. *Brick kiln non-complying of Notification of MoEF&CC dated 22.02.2022 and the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others.*

3.4 RECOMMENDATIONS FOR M/s. SHIV BRICK FIELD (FORMERLY M/s. CHAUDHARY BRICK FIELD), VILL. ASADPUR JIDANA, BLOCK KANDHLA, DISTRICT SHAMLI

Based on the present joint visit on 02.06.2022, following are recommended for compliance:

- a. Brick kiln shall ensure not to resume its production in compliance of Air (Prevention & Control of Pollution) Act 1981 as amended till the next order from UPPCB.*
- b. Brick kiln shall ensure the order of Hon'ble Supreme Court of India dated 07.03.2022 in Civil Appeal Diary No. 18213/2021 titled as NCR Brick Kiln Association Vs Central Pollution Control Board & Others.*
- c. Brick kiln shall ensure the compliance of further orders issued by the UPPCB."*

4. We have gone through the report. In the report it has been mentioned that both the brick kilns are not complying with environmental laws/norms. M/s Navbharat Brick Field, Village Bamnoli (Uncha Gaon), Block Kandhla, District Shamli was found operational despite closure order dated 31.05.2019 issued by UPPCB. Even though environmental compensation of Rs. 406250/- was imposed on above said brick kiln vide order dated 21.07.2019 but no effective steps appear to have been taken for recovery of the same. In the report of the Joint Committee, it has been mentioned that recommendations have been made by Regional Officer, Uttar Pradesh Pollution Control Board (UPPCB) to State Pollution Control Board for imposition of environmental compensation of Rs. 6,87,500/- each on both the brick kilns. In the report, it has also been mentioned that the Joint Committee sealed ID fan and filled the firing chamber with water so that operation of the brick kiln may be stopped. The State PCB would have taken proper measures for compliance with the environmental laws/norms rather than filling firing chamber with water. It also appears that no effective action has been taken by State PCB against the brick kilns for violations of the rules, regulations and environmental norms in compliance with the directions issued by this Tribunal and also directions issued by Hon'ble Supreme Court and the brick kilns have been allowed to operate illegally without requisite compliance. The State PCB is directed to take appropriate remedial action including closure of the brick kilns, imposition and realization of the environmental compensation and prosecution of the proprietors by following due process of law and submit further Action Taken

Report within two months 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.

5. Notice, alongwith the application and report of the Joint Committee be issued to the respondents no. 1, 2, 4 and 5 requiring them to file their response/reply to the allegations made in the application/observations made in the report of the Joint Committee within two month at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

6. List for further consideration on 28.11.2022.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

August 03, 2022
AG