

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI
ORIGINAL APPLICATION. No. 287 /2020**

IN THE MATTER OF:

DASTAK N.G.O. THROUGH ITS PRESIDENT ...APPLICANT

VERSUS

SYNOCHEM ORGANICS PVT. LTD. AND ORS. ...RESPONDENT(S)


**COUNTER AFFIDAVIT / REPLY ON BEHALF OF RESPONDENT NO. 9
/ CENTRAL GROUND WATER AUTHORITY**

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Through:

FILED BY:


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Date: 22.04.2021

Place: Noida

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 287 OF 2020

IN THE MATTER OF:

DASTAK N.G.O.

THROUGH ITS PRESIDENT

...APPLICANT

VERSUS

SYNOCHEM ORGANICS PVT.

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...RESPONDENTS

COUNTER AFFIDAVIT / REPLY ON BEHALF OF
RESPONDENT NO. 9 / CENTRAL GROUND WATER
AUTHORITY

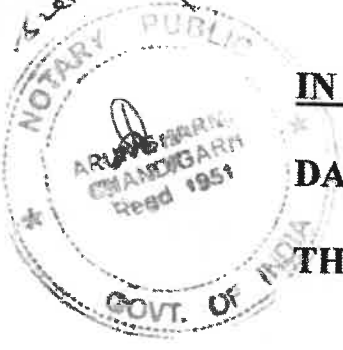
I, Anoop Nagar, S/o Late Sh. Ravindra Nath Nagar, Aged about 59 years, employed as Regional Director, Central Ground Water Board, NWR Chandigarh, do hereby solemnly affirm and declare as under:

1. That I am duly authorized and competent to swear this affidavit on and on behalf of Central Ground Water Authority, Ministry of Jal Shakti, New Delhi in the above matter.

2. That I have read and understood order dated 09.12.2020 passed by the Hon'ble NGT and filing this Counter Affidavit in compliance of direction passed by the Hon'ble Tribunal.

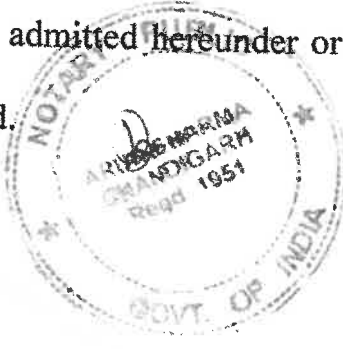
3. That the contents of the original application that have not been specifically admitted hereunder or are matter of record be deemed denied.

Serial No 246
19/9/2021



Anoop Nagar

Anoop Nagar
Regional Director
Central Ground Water Board
North Western Region, Plot No. 3B
Bhujal Bawan, Sector-27A, Chandigarh



4. That the deponent craves liberty to raise additional submission or file additional affidavits in case need arises during the course of arguments.

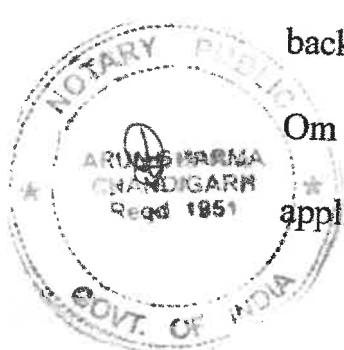
BRIEF SUBMISSIONS:

5. That the applicant under his application has sought directions from this Hon'ble Tribunal to constitute a committee to inspect the respondent industries and report the violations of environmental norms; to quash the impugned order dated 10.11.2020 passed by the State of Haryana; to direct closure of respondent industries running without EC, without NOC from CGWA and without compliance of manufacture, storage and import of hazardous chemical rules; to direct respondent industries to pay compensation for restitution and restoration of environment including the ground water resources to its original pristine state; to impose punitive damages upon respondent industries for past pollution caused by them in terms of polluter pays principle; and to pass such other orders as deem fit and proper in the interest of justice.

6. It is submitted that except for Goyal Overseas (Respondent No. 6) and Om Chem (Respondent No. 7), no respondent industrial unit has applied for NOC from CGWA. Goyal Overseas had submitted its application on 02.12.2020 vide application no. 21-4/3178/HR/IND/2020, which was referred back on 11.12.2020 and no reply has been received so far. Om Chem had submitted its application its application vide application no. 21-4/3267/HR/IND/2020 on 31.12.2020.

[Handwritten Signature]

Andap Nagar
Regional Director
Central Ground Water Board
North Western Region, Plot No. 3B
Bhujal Enclave, Sector-27A, Chandigarh



7. It is further submitted that all the Respondent industries are illegally extracting ground water without any permission / NOC from CGWA as per CGWA guidelines.

8. It is also pertinent to mention that regulation of Ground Water and Issuing/Renewal of NOC to the project proponents in the State of Haryana is no longer within the purview of CGWA. The Haryana Water Resources (Conservation, Regulation and Management) Authority has been constituted separately by the Government of Haryana and has been entrusted for the regulation and management of ground water resources and issuing of NOCs for ground water abstraction in the State of Haryana and the said department is now operational.

PARA WISE REPLY:

9. The contents of Para 1 to 3 and 4 (a) does not warrant any reply from the answering respondent.

10. The contents of Para 4 (b) and 4 (c) does not pertain to CGWA and as such does not warrant any reply from the answering respondent.

11. In reply to averments in 4 (d) it is submitted that proper inspection would be required to assess the quantum and source. However, it is pertinent to mention that except for Goyal Overseas (Respondent No. 6) and Om Chem (Respondent No,7), no other respondent industrial unit has applied for NOC from CGWA. Goyal Overseas (Respondent No. 6) had submitted its application on 02.12.2020 vides Application No. 21-4/3178/HR/IND/2020, which was referred back on 11.12.2020 and no reply has been received

As per

Ancop Nagar
Regional Director

Central Ground Water Board

North Western Region, Plot No. 3B

Bhujai Bhawan, Sector-27A, Chandigarh



so far. Om Chem (Respondent No. 7), has on 31.12.2020 submitted its application vide Application No. 21-4/3267/HR/IND/2020.

It is also pertinent to mention that regulation of Ground Water and Issuing/Renewal of NOC to the project proponents in the State of Haryana is no longer within the purview of CGWA. The Haryana Water Resources (Conservation, Regulation and Management) Authority has been constituted separately by the Government of Haryana and has been entrusted for the regulation and management of ground water resources and issuing of NOCs for ground water abstraction in the State of Haryana and the said department is now operational.

12. The contents of Para 4 (e) does not pertain to CGWA and as such does not warrant any reply from the answering respondent.

13. The contents of Para 4 (f) are not substantiated with any supportive information and would require proper investigation. The respondent industries will counter the averments to the satisfaction of this Hon'ble Tribunal and in case the respondent industries are found to be causing the alleged damage, they shall be liable for action in accordance with the provisions under section 15 of the Environment (Protection) Act, 1986 or as may deem fit to this Hon'ble Tribunal.

14. The contents of Para 4 (g) are not pertaining to the answering respondent.



Anoop Nagar
Regional Director
Central Ground Water Board
North Western Region, Plot 1
Bhujal Bhawan, Sector-27A, Chandigarh



15. In reply to the contents of Para 4 (h) it is submitted that under the provisions of section 15 of the National Green Tribunal Act, 2010., the tribunal may, by and order, provide:

- a) Relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the schedule -I (Including accident occurring while handling any hazardous substances);
- b) For restitution of property damaged;
- c) For restitution of the environment for such area or areas, as the tribunal may think fit.

It is pertinent to mention that under section 15 (3) of the NGT Act, 2010, no application for grant of any compensation or relief or restitution of property or environment under section 15 shall be entertained by the tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose.

It is submitted that a Provision of penalty for unauthorized acts is provided in The Haryana Water Resources (Conservation, Regulation and Management) Authority Act, 2020.



Anoop Nagar
Regional Director
Central Ground Water Board
North Western Region, Plot No. 3B
Bhujal Bhawan, Sector-27A, Chandigarh



It is further submitted that in case of ambiguity or absence of provisions, CGWA guidelines which has Pan-India applicability may be referred by State Ground Water Authorities, which provide the following -

“Extraction of ground water for commercial use by industries, infrastructure units and mining projects without a valid No Objection Certificate from appropriate authority shall be considered illegal and such entities shall be liable to pay environmental compensation for the quantum of ground water so extracted. The norms prescribed by Central Pollution Control Boards (CPCB) shall be utilized for calculating the environmental compensation as below:

$$EC_{GW} = \text{Ground water consumption per day} \times \text{Environmental Compensation rate (ECR}_{GW}) \times \text{No. of days} \times \text{Deterrence factor}$$

Where ground water consumption is in m³/day and ECR_{GW} in Rs. /cum

Rated of Environmental Compensation (ECR_{GW}) for various types of users in different categories of assessment units are given in the guidelines. The deferent factors based on the duration of illegal ground water extraction are levied to compensate for the losses and environmental damages as provided in the guidelines. If there is no metering arrangement in the Industry/Project, to assess water consumption, it is proposed by CPCB to estimate consumption on the basis of consent conditions imposed by SPCB/PCC.”

16. The contents of Para 4 (i) are not pertaining to the answering respondent.


Anoop Nagar
Regional Director

Central Ground Water Board
North Western Region, Plot No. 3B
Bhujal Bhawan, Sector-27A, Chandigarh



17. The contents of Para 4 (j) does not warrant any reply from the answering respondent.
18. The contents of Para 5 (i), (iii), (iv) and (v) does not warrant any reply from the answering respondent.
19. In reply to Para 5 (ii) , it is respectfully submitted that Haryana Water Resources (Conservation, Regulation And Management) Authority Act, 2020 has been enforced and the respondent industries are liable to take permission/NOC from the Haryana Water Resources (Conservation, Regulation and Management) Authority for abstracting ground water.
20. The contents of Para 6 (A), (B), (C), (E), (F) does not pertain to the answering respondent and Para 6(G) does not warrant any reply from the answering respondent.
21. In reply to Para 6 (D), it is respectfully submitted that NOC has not been granted to any of the respondent industries by CGWA.
22. The contents of Para 7 and 8 are matter of record and does not warrant any reply from the answering respondent.

It is respectfully submitted that the application may kindly be disposed with orders / directions as deemed fit and proper in the facts and circumstances of this case. The answering respondent may kindly be exempted from personal appearance



[Handwritten Signature]

DEPONENT

Regional Director
Central Ground Water Board
North Western Region, Plot No. 3B
Bhujal Bhawan, Sector-27A, Chandigarh

VERIFICATION:

Verified at Chandigarh, on this...^{16th}..... day of April, 2021,
that the contents of the above affidavit are true and correct to
my knowledge. No part of it is false and nothing material has
been concealed there from.

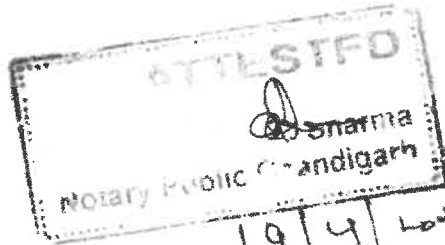


[Handwritten Signature]

DEPONENT

Ancon Nagar,
Regional Director
Central Ground Water Board
North Western Region, Plot No. 3B
Bhujar Bhasan, Sector-27A, Chandigarh

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19/4/2021
19 APR 2021



**VAKALATNAMA
BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

Appeal/Original Application No. 287 of 2020

IN THE MATTER OF:

Dastak N.G.O. Through its President

.....APPLICANT

VERSUS

Synochem Organics Pvt. Ltd & Ors

...RESPONDENT


KNOW ALL to whom these presents shall come that **I, Anoop Nagar Aged about, 58 years S/o Late Shri R.N. Nagar Working as Regional Director having office at Bhujal Bhawan, Plot No. 3-B, sector-27A, Chandigarh 160019.** The above named do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him:-

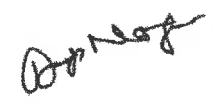
To act, appear and plead in the above-noted case in this Tribunal in which the same may be tried or heard subject to payment of fees by CGWB. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other applications/petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages. To file and take back documents to admit and/or deny the documents of opposite party. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money AND cheques towards compensation, grant receipts thereof and to do all other lawful acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. And I/We the undersigned do hereby agree to ratify and confirm all lawful acts done by the Advocate or his substitute authorized by Tribunal in the matter as my/our own acts, as if done by me/us to all intents and purposes. And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid in terms of M/o law & Justice OMs/Orders/guidelines, to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Tribunal. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same unless it is erroneously settled and if the case prolongs for more than 3 years the fee shall be regulated in accordance with the guidelines of M/o Law & Justice issued from time to time.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 16th day of march, 2021.

Accepted subject to the terms of fees prescribed by M/o Law & Justice for cases in NGT.


ARDHENDUMAULI KUMAR PRASAD
Senior Central Government Standing Counsel
A-52, Sector 17-A, NOIDA, U.P. 201301
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E-Mail: mail@ardhendumauli.com


CLIENT
Anoop Nagar
Regional Director
Central Ground Water Board
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Bhujal Bhawan, Sector-27A, Chandigarh

4/22/2021 Ardhendumauli Mail - Reply on Behalf of CGWA (R-9) - O.A. No. 287 of 2020 : Dastak N.G.O. Through Its President Versus Synoch...

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Ardhendumauli Prasad <mail@ardhendumauli.com>

Reply on Behalf of CGWA (R-9) - O.A. No. 287 of 2020 : Dastak N.G.O. Through Its President Versus Synochem Organics Pvt. Ltd. and Ors.

1 message

Chambers of Mr. Ardhendumauli Kr. Prasad <mail@ardhendumauli.com> Thu, Apr 22, 2021 at 2:49 PM
To: sshooda65@gmail.com, guptaadvocates@yahoo.com, mlc_ca@rediffmail.com, hspcbho@gmail.com, vijaivardhan@hry.nic.in, m.yadav@gov.in, ccb.cpcb@nic.in

Sir/Ma'am,

Please find attached reply to be filed on behalf of CGWA (Respondent No. 9) in the above captioned matter.
Kindly treat this as an effective service.

FOR:


Mr. Ardhendumauli Kumar Prasad
Advocate on Record
Supreme Court of India

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 **Reply - CGWA - O.A No. 287 of 2020.pdf**
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