

Item Nos. 04 & 05

Court No. 1

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

Original Application No. 550/2019
With
Original Application No. 792/2019
(With Report dated 19.11.2019)

Rajbeer Singh

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 26.11.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): None

For Respondent(s): Mr. Pradeep Misra, Advocate for UPPCB

ORDER

1. On 13.08.2019, following order was passed:

“Allegation in this letter, which has been treated as an application, is against illegal operation of brick kilns in District Baghpat, U.P. where 600 brick kilns are illegally operating. All the brick kilns are located within 50 to 500 meters East or West of the village habitations resulting in Cancer and Asthma to 40% inhabitants. The applicant has relied upon a news item dated 08.12.2018 in Amar Ujala referring to a statement by District Magistrate and other news items in support of the allegation.

Let the District Magistrate, Baghpat and Uttar Pradesh Pollution Control Board (UPPCB) look into the matter and take appropriate action in accordance with law and furnish a factual and action taken report to this Tribunal within one month from the date of receipt of copy of this order by e-mail at judicial-ngt@gov.in. The UPPCB will be the nodal agency for coordination and compliance.”

2. Accordingly, report has been filed by the joint Committee on 19.11.2019 that 43 brick kilns were inspected. 482 more brick kilns were in existence. The siting criteria was laid down under the Uttar Pradesh Brick Kiln (Siting Criteria for establishment) Rules, 2012.

Though it is stated that siting norms will apply to kilns established after 2012, the report does not show how many brick kilns existed prior to 2012. Compliance of air quality norms is also not mentioned. It is undisputed that unit set up after 2012, in violation of laid down siting criteria, cannot be allowed to continue. With regard to others, this Tribunal has already held vide order dated 10.07.2019, in *Review Application No. 34/2019, Bhag Singh vs Union of India & Ors.*, that the siting criteria can be invoked for future while renewing the Consent to Operate. No vested right is created by mere establishment. If such establishment affects public health and environment, consent to operate may not be renewed, having regard to the environmental status. The SPCB has also to have regard to the carrying capacity of the area to sustain activity of brick kilns while renewing consent to operate in the light of 'Precautionary' and 'Sustainable Development' principles of the environment act. All that is required for assessing the carrying capacity is the existing air quality and the anticipated impact of the permitted activity, which can be done by the SPCB itself from time to time.

3. In view of above, let further action be taken and compliance report filed within two months by e-mail at judicial-ngt@gov.in.

List again on 02.03.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 26, 2019
Original Application No. 550/2019
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DV

