

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH NEW DELHI

ORIGINAL APPLICATION NO. 608 OF 2016
(UNDER SECTION 14 READ WITH SECTIONS 15 AND 18(1)
OF THE NATIONAL GREEN TRIBUNAL ACT, 2010)

IN THE MATTER OF:

Anil Kumar

Applicant

VERSUS

UNION OF INDIA

Respondent

INDEX

S.No	Particular	Page No.
1.	Memo of Parties	1
2.	Original Application alongwith Affidavit	2-15

Filed BY:-

Nishant Gautam

Nishant Gautam
(Triumph Legal)

Advocate for the Applicant
202, 2th Floor, Nilgiri Apartment,
9-Barakhamba Road, New Delhi-110001

Mo. No. 0882614896

New Delhi

Dated: 5-11-2016

Sumit Kumar
5th Nov 2016 at
L.A (T)
20/11/16

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH NEW DELHI
ORIGINAL APPLICATION NO. OF 2016
(UNDER SECTION 14 READ WITH SECTIONS 15 AND 18(1) OF THE
NATIONAL GREEN TRIBUNAL ACT, 2010)

Memo of Parties

IN THE MATTER OF:

Anil Kumar

S/o, Rameshwar Prasad

R/o, Village:- Ambehta Shekha,

Tehsil:- Deoband, District:- Saharanpur

....Applicant

Versus

1. **Union of India**

Through Secretary

Ministry of Environment and Forest

Paryavaran Bhawan, CGO Complex

Lodhi Road, New Delhi-110003

2. **Government of State of Uttar Pradesh**

Through Secretary

Room No.- 305, (Third Floor)

Lal Bahadur Shastri Bhawan, Lucknow

3. **Central Pollution Control Board**

Through Chairman

Parivesh Bhawan,

CBD-cum-Office Complex

East Arjun Nagar, Delhi- 110032

4. **Uttar Pradesh Pollution Control Board**

Through the Chairman

Vibhuti Khand, Gomti Nagar,

Lucknow-226 010

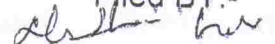
5. **Sugarcane Development Department,
Uttar Pradesh.**

17 New Beery Road, Dalibagh

Lucknow

....Respondent

Filed BY:-



Nishant Gautam

(Triumph Legal)

Advocate for the Applicant

202, 2th Floor, Nilgiri Apartment,

9-Barakhamba Road, New Delhi-110001

New Delhi

Dated: 5-11-2016

2

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH NEW DELHI

ORIGINAL APPLICATION NO. OF 2016
(UNDER SECTION 14 READ WITH SECTIONS 15 AND 18(1) OF
THE NATIONAL GREEN TRIBUNAL ACT, 2010)

IN THE MATTER OF:

Anil Kumar

Applicant

VERSUS

UNION OF INDIA

Respondent

TO,
THE HON'BLE CHAIRMAN AND HIS COMPANION HON'BLE
MEMBERS OF THE HON'BLE NATIONAL GREEN TRIBUNAL,
NEW DELHI

THE HUMBLE APPLICATION OF THE
APPLICANT ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The address of the Applicant is given above for the service of notices of this Application.
2. The addresses of the Respondents are given above for the service of notices of this Application.
3. That the applicant is an inhabitant and a concerned citizen, who is aggrieved by the unregulated and uncontrolled environmental pollution, de-gradation and damage being caused by the operation of the Kohlus situated in western Uttar Pradesh.

3

4. That the applicant has no personal or vested interest in the present original application and is simply filling the same in order to bring to the notice of this Hon'ble Tribunal the need to take notice of and make attempts to regulate the otherwise unregulated Kohlu industry, which is responsible for vast amounts of Air as well as water pollution, which creates hazardous environment pollutant for the public at large.

5. The applicant seeks (i) direction to be issued to the respondents to conduct environmental impact assessment study relating to the operations of kohlus and their impact on the environment due to non compliance of pollution laws. (ii) direct the respondent to mandate the installation of anti pollution control devices as may be prescribed/mandated by the Central Pollution Control Board/Uttar Pradesh Pollution Control Board or any other such competent authority for the establishment and operation of the kohlus. (iii) direct the respondents to prepare guidelines/Laws for the establishment, operations, regulation and supervision of kohlus.

Jurisdiction:

6. That the present application is with in the jurisdiction of this Hon'ble Tribunal as it is pursuant to the condition specified under section 14, 15, 18(a) of the National Green Tribunal, Act, 2012.

Limitation

4

7. That the present application is being filed within the period of limitation as the same pertains to a continuing and ongoing cause of action.

Facts

8. It is submitted that the sugar cane industry/sector in India has been analysed and studied only from an economic point of view inasmuch as the committee under the Chairmanship of Dr C Rangarajan, which submitted report to the Prime Minister on 10.10.2012, did the last thorough study of the aforesaid industry.
9. By and large, the said industry is regulated by the sugarcane control order, 1966, the Uttar Pradesh control order, 1966 and U.P. Sugarcane (Regulation of supply and purchase) Act 1953, U.P. Sugarcane (Regulation of supply and purchase) Rules 1954, U.P. Sugarcane (Regulation of supply and purchase) Order 1954, U.P. Sugarcane and Gur licensing order 1962, U.P. Khandsari Sugar (Levy) Order 1975, U.P. Khandsari Sugar Manufacturer Licensing Order 1967, The Sugar (Regulation of Production) Act 1961, The Sugar (Regulation of Production) Rules 1962 (Central), The Gur (Regulation of use) Order 1968 (Central), The Gur (Control) Order 1994.
10. In the state of Uttar Pradesh, Sugar is produced by the sugar mills through the 'hydraulic Process' and by the Kohlu's

through 'open pan process'. Both the mills as also the crusher draw their raw material from sugar cane growers in the form of sugar cane.

11. That there are various norms and measures which needs to be followed by the sugar mills in order to work efficiently with less or no damage to the environment and to minimize the level of pollution and further more, it is submitted that no comprehensive study or research was conducted by the CPCB/UPPCB or any other competent authority to assess the environmental damage and damage to the eco system by the operation of the Kohlus and khandsaris manufacturing process.
12. That according to the bonding policy of Uttar Pradesh Sugarcane Development Department, each year total production of sugarcane is crushed by sugar mills and Kolhu crushers, which manufacture Jaggery, Khandsari, Raab etc. in the ratio of almost 50:50%. Bonding policy of last 4 years shows that sugar mills are being allotted around 50-55% of total production of sugarcane and rest is sold to the Kolhu crushers, khandsaris and etc. A copy of the Bonding Policy as given by the letter dated 11.08.2012 is annexed hereto as **Annexure A-1.**
13. The aforesaid ratio has been consistently maintained even in the subsequent policy letters dated 30.06.2014, 24.06.2015,

28.06.2013 and 29.07.2016. A copy of the Bonding Policy as given by letters dated 30.06.2014, 24.06.2015, 28.06.2013 and 29.07.2016 are annexed hereto as **Annexure A-2**.

14. In light of the aforementioned fact that even though inasmuch as 45% of total sugarcane production is crushed by the Kolhu industry and other allied industry, it is all the more surprising that there is no regulating body or controlling authority to monitor these Kolhu crushers and there is no check on the pollution created by them.
15. That there are approximately 5000 kolhu's functioning in western and central UP itself which works on an average of 180 days in a season. In one season around 900 Lac Qtls. Of cane is crushed by Kolhus which burns around 225 Lac Qtls. Of fuel at a temperature of 180°C , generating around 787 lac Qtls. Of fuel gas (mass) this in turn generates 3.82 lac Qtls. of Ash per season.
16. The combustion process of fuels in Kolhu crushers are uncontrolled as there are no energy saving and pollution control equipment installed in Kolhu crushers. The fuel gases emitted from Kolhu crushers are emitted at very low height and at a very high temperature and comprises of large quantities of hazardous gases like CO and CO₂ etc.
17. That in addition to these gases, due to burning of rubber and its allied products in Kolhus, dioxins, chlorines etc. are also

7
emitted in huge quantities and these are very harmful to humans. The hazardous gases emitted from kolhus are virtually at ground level hence, results in increase of SPM levels in the near by atmosphere and causes ill health to habitat.

18. That these gases are at very high temperature, which results in high intensity of heat addition into the atmosphere causing warming of a given area. The Jaggery produced in Kolhus may also not be hygienic and suitable for human consumption due to addition of large number of chemicals. Copies of photographs depicting the pollution caused by kolhu operations as well as due to burning of sugarcane waste in various districts of Uttar Pradesh are annexed hereto as **Annexure A-3.**

19. Due to the grave environmental impact of the operation of Kohlus, without any guidelines and/or law and/or control by the State and/or the Uttar Pradesh Pollution Control Department and/or Central Pollution Control Board, the Applicant herein submitted applications seeking information under the RTI Act, 2005 requesting the Central Pollution Control Board, Uttar Pradesh Pollution Control Board and the Cane Commissioner, State of U.P. regarding guidelines for approval, their operation and the pollution control devices prescribed/mandated by Central Pollution Control Board/ Uttar Pradesh Pollution Control Board, for the last five years with a

8

specific request to spell out, the steps taken by the Central Pollution Control Board/ Uttar Pradesh Pollution Control Board in the last five years to mitigate environmental damage caused by installation and operation of the Kohlus on human life. True copies of the RTI Applications dated 17.09.2016 sent to CPCB/UPPCB and the Cane Commissioner State of Uttar Pradesh are annexed hereto as **Annexure A-4(Colly)**.

20. That the Central Pollution Control Board vide its reply dated 23.09.2016 stated that Central Pollution Control Board has neither conducted any research/study for assessing environmental pollution created by the operation of Kohlus nor has developed any specific environmental standard for them and therefore, no information is available at Central Pollution Control Board asked by you in your RTI. Copy of the reply dated 23.09.2016 received from office of the Central Pollution Control Board is annexed hereto as **Annexure A-5**.
21. The office of the Cane Commissioner, State of Uttar Pradesh in its Reply dated 20.10.2016 stated that (a) the office of the Cane Commissioner does not assimilate any information on vertical crusher (Kohlus), (b) No licence is required for the operation of Kohlu's; (c) Kohlus are free from any control. True copy of the Reply dated 20.10.2006 received from the office of the Cane Commissioner is annexed hereto as **Annexure A-6**.

- 9
22. In the said reply, the office of the Cane Commissioner has also stated that only the power crushers are given licences, wherein only the power crusher crushed a maximum of 2.6% of the total cane produced in the State of Uttar Pradesh in a given year.
23. The Uttar Pradesh Pollution Control Board, State of Uttar Pradesh in its Reply dated 20.10.2016 stated that a) as per the office report no request for installation of Kohlus had been submitted in last 5 Years. b) as per the office report no consent has been given for installation of Kohlus in last 5 years, c) as per the office report there has been no show cause notice or prosecution ordered against the kohlus in last 5 years. True copy of the Reply dated 20.10.2006 received from the UPPCB is annexed hereto as **Annexure A-7**.
24. That the aforesaid kohlu operations are being carried out indiscriminately and unchecked and are causing large-scale environmental degradation, as most small and medium enterprises have at-least one such kohlu operation, thus contributing to pollution across the spectrum.
25. That the indiscriminate kohlu operations have caused the air quality to degrade to dangerous levels, especially in the immediate vicinity, thereby causing risk and harm to all those to operate the same, as well as all other nearby persons.
26. That the same is also responsible for damaging the ecosystem as the large amount of smoke produced also

10

causes dangerous health complications in all avian life also inhabiting the affected area.

27. That it is trite to state that untreated, unfiltered and unregulated emissions from such kohlu operations ought not to be permitted as the same are toxic and cause harm to all affected persons in the area, the flora and fauna and also have adverse impact on the biodiversity of the area.
28. That from the above, it is clear that almost 40% of the sugar cane produced in the state of U.P. is crushed by the Kohlu's operators without any control and/or licence and/or guidelines relating to any anti pollution control devices/mechanism which should be used/complied with by the Kohlu's operators. There is no mechanism/law under which the pollution control board can take some steps to mitigate the environmental degradation caused by the illegal operation of these kohlus, therefore the Applicant is left with no other option but to file the present application on the following, amongst other;

Grounds

- A. Because even though inasmuch as 40% of total sugarcane production is allotted to the Kohlu industry and other allied industry, it is all the more surprising that there is no regulating body or controlling authority to monitor these Kohlu crushers and there is no check on the pollution created by them.
- B. Because there are approximately 5000 kolhu's functioning in western and central UP itself which works on an average of

11

180 days in a season. In one season around 900 Lac Qtls. Of cane is crushed by Kolhus which burns around 225 Lac Qtls. Of fuel at a temperature of 180°C , generating around 787 lac Qtls. Of fuel gas (mass) this in turn generates 3.82 lac Qtls. Of Ash per season.

- C. Because the combustion process of fuels in Kolhu crushers are uncontrolled as there are no energy saving and pollution control equipment installed in Kolhu crushers. The fuel gases emitted from Kolhu crushers are emitted at very low height and at a very high temperature and comprises of large quantities of hazardous gases like CO and CO₂ etc.
- D. Because in addition to these gases, due to burning of rubber and its allied products in Kolhus, dioxins, chlorines etc. are also emitted in huge quantities and these are very harmful to humans. The hazardous gases emitted from kolhus are virtually at ground level hence, results in increase of SPM levels in the near by atmosphere and causes ill health to habitat.
- E. Because these gases are at very high temperature which results in high intensity of heat addition into the atmosphere causing warming of a given area. The Jaggery produced in Kolhus may also not be hygienic and not suitable for human consumption due to addition of large number of chemicals.

- F. Because as per the prevalent policy no anti pollution control devices are prescribed/ Mandated by CPCB for the establishments and operations of Kohlus.
- G. Because no steps have been taken to mitigate the environmental damage caused by the installation and operation of the Kohlus.
- H. Because the installation and operation of the Kohlus is causing large scales environmental degradation/ damage to the eco system.
- I. Because there is no environmental impact assessment study conducted in the aforesaid industry, the industry players are operating with a free hand and as per their whims and fancies, to the detriment of the environment, as well as the public at large.
- J. Because the lack of an effective prosecution/sanction system as well as lack of punitive action is propelling the aforesaid industry into a further uncontrolled state, with no regard for the environmental consequences of their actions.
- K. Because the respondents themselves have admitted that they had not conducted any research or any study for assessing the environmental pollution created by these Kohlus and also it had not developed any specific environmental standards for them.

- 13
- L. Because there is indiscriminate and unchecked pollution caused by kohlu operations as well as due to burning of sugarcane waste in Uttar Pradesh which needs to be curbed/investigated at the earliest.
 - M. Because the kohlu operations are being carried out indiscriminately and unchecked and are causing large-scale environmental degradation, as most small and medium enterprises have at-least one such kohlu operation, thus contributing to pollution across the spectrum.
 - N. Because the indiscriminate kohlu operations have caused the air quality to degrade to dangerous levels, especially in the immediate vicinity, thereby causing risk and harm to all those to operate the same, as well as all other nearby persons.
 - O. Because the untreated, unfiltered and unregulated emissions from such kohlu operations ought not to be permitted as the same are toxic and cause harm to all affected persons in the area, the flora and fauna and also have adverse impact on the biodiversity of the area.

INTERIM RELIEF

It is most respectfully submitted that in light of the facts and circumstances above, this Hon'ble Tribunal may be pleased to stay the operation of kohlu units operating in the State of Uttar Pradesh during the pendency of the present application, or in

14
the alternative till an effective regulatory mechanism is framed
and implemented by the CPCB/UPPCB.

PRAYER:-

It is most respectfully submitted that in light of the facts and
circumstances above, this Hon'ble Tribunal may be pleased to:

- (a) Direct the respondent No. 1 to 4 to conduct environmental
impact assessment study relating to the operations of kohlus
and their impact on the environment due unavailability of any
law.
- (b) Direct the respondent No.1-4 to mandate the installation of
anti pollution control devices as may be prescribed/mandated
by the Central Pollution Control Board/ Uttar Pradesh Pollution
Control Board or any other such competent authority for the
establishment and operation of the kohlus.
- (c) Direct the respondent No.1-5 to prepare guidelines/Laws for
the establishment, operations, regulation and supervision of
kohlus.
- (d) Pass any other order which this court may deem fit and proper.

Filed BY:-

Nishant Gautam
Nishant Gautam
(Triumph Legal)

Advocate for the Applicant
202, 2th Floor, Nilgiri Apartment,
9-Barakhamba Road, New Delhi-110001

New Delhi
Dated: 5-11-2016

AT NEW DELHI
ORIGINAL APPLICATION NO. OF 2016

IN THE MATTER OF:

Sh. ANIL KUMAR

Applicant

Versus

UNION OF INDIA

Respondents

AFFIDAVIT

I, Anil Kumar S/o Rameshwar Prasad R/o Village:- Ambehta Shekha, Tehsil:- Deoband, District:- Saharanpur, do hereby solemnly affirm and declare as under:-

1. That I am the Applicant in the abovementioned matter, fully conversant with the facts and circumstances of the case, as such I am competent to swear to this affidavit.
2. That the accompanying Original Application has been drafted by me and the contents of the same are true and correct to my knowledge and no part of it is false and nothing material has been concealed there from.

Annexures are the true copy of their respective original.

I solemnly swear that the contents of this affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed there from.



5 NOV 2016

अनिल कुमार
DEPONENT

VERIFICATION:

Verified at New Delhi on this ____ day of November, 2016
that the contents of the present affidavit are true and correct
and nothing material has been concealed there from.

I solemnly swear that the contents of this affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed there from.

Oath Commissioner, New Delhi

अनिल कुमार
DEPONENT

- 5 NOV 2016