

# **Nirmal Tripathi vs The Sub Divisional Magistrate on 31 May, 2023**

**Author: Adarsh Kumar Goel**

**Bench: Adarsh Kumar Goel**

Item Nos. 01 & 06

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

(BY HYBRID MODE)

Execution Application No. 17/2023

IN

Original Application No. 207/2023

WITH

Execution Application No. 18/2023

IN

Original Application No. 208/2023

Nirmal Kumar Tripathi

Applicant

Versus

Uttar Pradesh Pollution Control Board & Ors.

Respondent(s)

WITH

Original Application No. 368/2023

Nirmal Tripathi

Applicant

Versus

Sub Divisional Magistrate, Deoria & Ors.

Respondent(s)

WITH

Original Application No. 369/2023

Smriti Tripathi

Applicant

Versus

Uttar Pradesh Pollution Control Board & Ors.

Respondent(s)

WITH  
Original Application No. 407/2023

WITH  
Original Application No. 409/2023

Nirmal Tripathi

Applicant

Versus

District Magistrate, Deoria & Ors.

Respondent(s)

1

Date of hearing: 31.05.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Nirmal Kumar Tripathi, Applicant in Person in E.A 17- 18/2023, OA 368/2023 & OA 407/2023

Ms. Smriti Tripathi, Applicant in Person in OA 369/2023 & OA 409/2023

#### ORDER

1. These six matters are being taken up together as in four matters Nirmal Tripathi is common Applicant while in remaining two his minor daughter Smriti Tripathi is the common Applicant. When so many issues are raised by same person, cautious approach is required to safeguard against any possible lack of bonafides. At the same time, we are dealing with the merits.

Execution Application Nos. 17/2023 & 18/2023

2. These applications seek enforcement of common order of this Tribunal dated 06.04.2023 disposing of OAs 207 and 208/2023 alleging violations of environmental norms by Jai Bajrang Brick Industry, Bajrang Brick Industry, Basdila, District Deoria, UP and M/s Saraswati Brick Field, Khoraram Bambaiya Tola, District Deoria, UP. The matters were disposed of with the observation that the State PCB and District Magistrate, Deoria matter may first look into the same and taken action as per law. It is now stated that the matter is not being looked into.

3. We have heard the Applicant in person. Documents annexed to the application show that the District Magistrate, forwarded the order of this Tribunal to the Regional Officer (RO) of the State

PCB and Additional Chief Officer of the District Panchayat for further action. Thereafter, Additional Chief Officer of the District Panchayat wrote a letter to RO that the brick kilns were operating without consent from the State PCB.

4. In view of the above, let the State PCB file an action taken report with the Registrar General of this Tribunal within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If any further direction appears to be necessary, the Registrar General, NGT may place the matter before the Bench for further direction.

Subject to the above, E. A. Nos. 17 and 18/2023 are disposed of. A copy of this order be forwarded to the State PCB for compliance by email.

The applicant may furnish a set of papers to the State PCB and file affidavit of service within one week.

Original Application No. 368/2023

5. Grievance in this application is against illegal construction in and encroachment of green belt and agricultural land in water logged area, the park and other open area within the regulated area of Deoria city in UP. The area is said to be under the over bridge at Gorakhpur road, opposite the house of Dr. D.M. Gupta.

6. We have considered the matter. The particulars in the application are not adequate to enable the Tribunal to deal with the matter. We thus consider it appropriate to direct that the matter may be looked into and appropriate action taken in accordance with law by the District Magistrate, Deoria in coordination with any other concerned Department or Authority.

The application is disposed of.

A copy of this order be forwarded to the District Magistrate, Deoria for compliance by email.

The applicant may furnish a set of papers to the District Magistrate, Deoria and file an affidavit of service within one week. Original Application No. 369/2023

7. Grievance in this application is against is pollution caused in the course of construction of a drain in Deoria. We have considered the matter. The particulars in the application are not adequate. We thus consider it appropriate to direct that the matter may be looked into and appropriate action taken in accordance with law by the District Magistrate, Deoria in coordination with any other concerned Department or Authority.

The application is disposed of.

A copy of this order be forwarded to the District Magistrate, Deoria for compliance by email.

The applicant may furnish a set of papers to the District Magistrate, Deoria and file an affidavit of service within one week. Original Application No. 407/2023

8. Grievance in this application is against operation of 375 brick kilns in District Deoria. The said brick kilns are emitting black smoke and are located close to sensitive establishments. No action is taken against pollution caused by the said brick kilns due to influence of higher level officers. The applicant has filed list of all the brick kilns in question. It is stated that in many cases there are no consents from the State PCB.

9. As per Rule 14 of the National Green Tribunal (Practices and Procedures) Rules, 2011, the application has to be based on a single cause of action and an omnibus application against large number of entities cannot be entertained, without impleading the said affected entities as parties.

10. However, in the interest of justice, we consider it appropriate to direct the State PCB and District Magistrate, Deoria to look into the matter and take such remedial action as may be found necessary in accordance with law and file an action taken report with the Registrar General of this Tribunal within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If any further direction appears to be necessary, the Registrar General, NGT may place the matter before the Bench for further direction.

Subject to above, the application is disposed of. A copy of this order be forwarded to the State PCB and District Magistrate, Deoria for compliance by email.

The applicant may furnish a set of papers to the State PCB and District Magistrate, Deoria and file an affidavit of service within one week.

Original Application No. 407/2023

11. Grievance in this application is against failure to scientifically manage the solid waste. It is also stated that there is water pollution and encroachment in Deoria Nagar Palika Parishad. Garbage is being dumped into the drain. The drain is being encroached from Kotwali crossing to Jalkal Road and Sabji Mandi. Certain other locations are also mentioned.

12. We are of view that the issue can be first looked into by Nagar Palika Parishad, Deoria and action taken in accordance with law. An action taken report be filed with the Registrar General of this Tribunal within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If any further direction appears to be necessary, the Registrar General, NGT may place the matter before the Bench for further direction.

The application is disposed of.

A copy of this order be forwarded to the Nagar Palika Parishad, Deoria for compliance by email.

The applicant may furnish a set of papers to the Nagar Palika Parishad, Deoria and file an affidavit of service within one week.

Adarsh Kumar Goel, CP Sudhir Agarwal, JM Dr. A. Senthil Vel, EM May 31, 2023 EA Nos. 17/2023 and 18/2023 and other connected matters A