

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A. NO. 1038/2018

IN THE MATTER OF:-

'THE ASIAN AGE' AUTHORED BY SANJAY KAW TITLED "
CPCB" TO RANK INDUSTRIAL UNITS ON POLLUTION LEVEL"

APPLICANT

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P.K. GUPTA
SCIENTIST 'E'

CENTRAL POLLUTION CONTROL BOARD
PARIVESH BHAWAN, EAST ARJUN NAGAR,
DELHI- 110032

PLACE: - DELHI

DATED: - 01.11.2019



CPCB, Delhi

Status Report in compliance of Hon'ble NGT orders dated 10.7.2019 & 23.8.2019 in the matter of O.A. No. 1038/2018 based on the news item published in 'The Asian Age' dated 6/12/2018 authored by Sanjay Kaw titled 'CPCB to rank industrial units on pollution levels'

1.0 Background:

Hon'ble NGT has passed an order, dated 13/12/2018, in the matter of O.A. No. 1038/2018 based on the news item published in 'The Asian Age' dated 6/12/2018 authored by Sanjay Kaw titled 'CPCB to rank industrial units on pollution levels'. In this context, the following directions have been issued by Hon'ble NGT to SPCBs/PCCs, CPCB and MoEF&CC (**Annexure-I**):

1. "...We direct the SPCBs/Committees to finalise the time bound action plans with regard to identified polluted industrial clusters in accordance with the revised norms laid down by the CPCB to restore environmental quality with in norms. Such action plan be finalised within three months from the date of receipt of copy of this order.
2. The action plan may thereafter be looked into by CPCB and steps taken for implementation so as to ensure that all the industrial clusters comply with laid down parameters as per the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981. The CPCB will be the Nodal agency.
3. CPCB will forward Assessment Report for 100 areas carried out during 2017-2018 to MoEF&CC before 28/02/2019 for appropriate action.
4. CPCB may serve the copy of the said order to all the SPCBs and the Committees who may furnish the same to the concerned Chief Secretaries.
5. MoEF&CC may take necessary steps on its part based on CPCB report for 100 areas mentioned above in accordance with law. The report on the action taken by CPCB and MoEF&CC may be furnished to the Tribunal before 31/05/2019..."

In view of above order, CPCB filed (**Annexure- II**) action taken report to the Hon'ble NGT on 30/5/2019 informing that CEPI Score report is under consideration of MoEF&CC. Subsequently Hon'ble NGT vide order dated 10/7/2019 (**Annexure-III**) directed as follow:

- i. CPCB in coordination with all State PCBs/PCCs to take steps in exercise of statutory powers to prohibit operation of polluting activities in the CPAs and SPAs within three months and furnish compliance report to the Tribunal.

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mk

- ii. CPCB in coordination with the State PCBs may make assessment of compensation to be recovered from the polluting units for the period of last five years, taking into account the cost of restoration and cost of damage to public health and environment and the deterrence element.

Interim Environmental Compensation be recovered at the scale adopted by the Tribunal in case of Vapi industrial area

- a. Large Scale Industries - Rs. One Crore each
 - b. Medium Scale Industries - Rs. Fifty Lakhs each
 - c. Small Scale Industries - Rs. Twenty-Five Lakhs each
- iii. No further industrial activities or expansion be allowed with regard to red and orange category units till the said PIAs are brought within the prescribed parameters or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms.
 - iv. CPCB with the assistance of SPCB/PCCs or other experts, to compile information with regard to polluted industrial areas based on water pollution norms separately, air pollution norms separately and other pollution norm separately and notify such information on public domain within three months. On completing this exercise, action against identified individual polluters may be initiated on the same pattern as above.

MoEF&CC in review application (RA No. 44/2019) submitted to the Hon'ble NGT mentioned that CEPI assessment report and protocol are under consideration. Based on the submissions of review application of MoEF&CC and interim application of CPCB the Hon'ble NGT issued orders dated 23/8/2019 (**Annexure-IV**) as below:

- i. Prohibiting the polluting activity, initiating prosecution and assessing & recovering compensation has to be taken only against the non-complying Red & Orange category industries. If any unit is complaint with the norms, such unit is not affected.
- ii. There is no absolute bar for establishment/expansion of Red and Orange category industries in the CPAs/SPAs, being set up if they are found to be viable.
- iii. The MoEF&CC can forthwith devise an appropriate mechanism to ensure that new legitimate activity or expansion can take place after due precautions are taken in the areas in question by Red and Orange category of units.

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2.0 Action taken by CPCB

Actions taken for complying Hon'ble NGT orders in the matter of OA No. 1038/2018 are as follows:

- Since CEPI report including CEPI score, industrial areas covered under CPA & SPA, list of critical pollutants in CPA & SPA etc. is under consideration of MoEF&CC, CPCB requested MoEF&CC vide letter dated 9/9/2019 seeking approval to share the information with SPCBs (**Annexure V**).
- To comply point no. (i) to (iii) of order dated 10/7/2109, CPCB requested all concerned SPCBs/PCCs vide letter dated 23/9/2019, to ensure that environmental surveillance mechanism is in place particularly in polluted industrial areas and steps taken against polluting activities not-complying with prescribed norms (**Annexure-VI**). Further, CPCB requested all concerned SPCBs/PCCs vide letter dated 25/10/2019, to provide the updated status on the action taken for compliance of Hon'ble NGT Order (**Annexure-VII**).
- To comply point no. (iv) of the order dated 10/7/2019, CPCB compiled information with regard to polluted industrial areas based on water pollution norms separately, air pollution norms separately and ground water pollution norm separately and the list was submitted to MoEF&CC on 26/9/2019 for consideration and approval.
- To comply point no. (iii) of the order dated 23/8/2019, CPCB has requested MoEF&CC vide letters dated 13/9/2019 and 3/10/2019 to devise an appropriate mechanism to ensure that new legitimate activity or expansion can take place after due precautions are taken in the areas in question by Red and Orange category of units and circulate to SPCBs/PCCs for implementation (**Annexure-VIII & IX**).
- MoEF&CC vide letter dated 9/10/2019 asked CPCB to hold a consultation meeting with stakeholders to finalise mechanism. Accordingly, a meeting was organised with concerned stakeholders to consult draft mechanism prepared by MoEF&CC for environmental management of Critically Polluted Areas (CPAs) and Severely Polluted Areas (SPAs) and consideration of projects listed in Red & Orange categories in those areas. The minutes of the meeting along with mechanism evolved after consultation with stakeholders were sent to MoEF&CC vide letter dated 18/10/2019 for necessary action.
- MoEF&CC vide letter dated 24/10/2019 asked CPCB to share the mechanism with the State /UT Govts. and SPCB/PCCs for implementation (**Annexure-X**). Accordingly, CPCB vide letter dated 25/10/2019 communicated the mechanism to the concerned State /UT Govts. and SPCB/PCCs for necessary action (**Annexure-XI**).

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MoEF&CC also asked CPCB that report regarding CEPI and EPI assessment study may be put up to Ministry for further deliberation, which has been done (Annexure-XII).

PK
Gupta

(P.K. Gupta)

SC. E.

Item No. 05

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 1038/2018

**News item published in "The Asian Age" Authored by Sanjay Kaw
Titled
"CPCB to rank industrial units on pollution levels"**

Date of hearing: 13.12.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. The matter has been taken up on the basis of news item titled "CPCB to rank industrial units on pollution levels" authored by Mr. Sanjay Kaw published in the Asian Age dated 06.12.2018. Out of 88 identified industrial clusters, 43 industrial clusters in 16 States having Comprehensive Environmental Pollution Index (CEPI) score of 70 and above were identified as Critically Polluted Areas (CPAs). Further, 32 industrial clusters with CEPI scores between 60 and 70 were categorized as Seriously Polluted Areas (SPAs), and this was based on evaluation of CEPI carried out in the year 2009-10. In a later evaluation, the number of identified polluted industrial clusters went up to 100 in the year 2017-18.

2. CEPI is based on evaluation of environmental parameters including ambient air, surface water and health related statistics. Based on such study, directions have been issued by the Central Pollution Control Board (CPCB) under Section 18(1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 for installation of Continuous Ambient Air Quality Monitoring Stations (CAAQMS) and

Real Time Water Quality Monitoring Stations (RTWQMS) at various locations.

3. Revised CEPI (2016) is comprised of the following components:

Component A	Scale of Industrial Activity	20 marks
Component B	Status of Ambient Env. Quality (Air/SW/GW)	50 Marks
Component C	Health related statistics	10 Marks
Component D	Compliance status of industries	20 Marks

4. As per direction of CPCB dated 26.04.2016, addressed to the State Pollution Control Boards (SPCBs), the SPCBs are required to take steps to ensure prevention, control and abatement of pollution in critically polluted industrial clusters by installing Environmental Quality Monitoring Systems for which purpose action plan in respect of monitoring mechanism are to be evolved, in the manner stated in the said order. Forty Three (43) Critically Polluted Areas and 32 Severely Polluted Areas were identified based on CEPI criteria in the Year 2009 are as follows:

S.No.	Name of States	Clusters with CEPI >70 (43 Critically polluted Areas)	Clusters with CEPI 60-70 (32 Severely polluted areas)
1.	Andhra Pradesh	Vishakhapatnam (70.82)	Vijayawada (60.57)
2.	Bihar	---	West Singhbhum (67.30)
3.	Chhattisgarh	Korba (83.00)	Raipur (65.45)
4.	Delhi	Najafgarh-Drain Basin (79.54) including Anand Parbat, Naraina, Okhla, Wazirpur	---
5.	Gujarat	Ankleshwar (88.50), Vapi (88.09), Ahmedabad (75.28), Vatva (74.77),	Vadodara (66.91), Rajkot (66.76)

		Bhavnagar (70.99), Junagarh (70.82)	
6.	Haryana	Faridabad (77.07), Panipat (71.99)	---
7.	Himachal Pradesh	---	Baddi (69.07), Kala Amb (68.77), Parwanoo (63.83)
8.	Jharkhand	Dhanbad (78.63)	Jamshedpur (66.06), Saraikela (65.38), Ramgarh (65.11), Bada jamtara (64.47)
9.	Karnataka	Mangalore (73.68), Bhadravati (72.33)	Raichur (68.07), Bidar (67.64), Pinia (65.11)
10.	Kerala	Greater Kochin (75.08)	---
11.	Madhya Pradesh	Indore (71.26)	Dewas (68.77), Nagda-ratlam (66.67), Pitampur (65.09)
12.	Maharashtra	Chandrapur (83.88), Dombivalli (78.41), Aurangabad (77.44), Navi Mumbai (73.77), Tarapur (72.01)	Nashik (69.25), Chembur (69.19), Pimpri - Chinchwad (66.06)
13.	Orissa	Angul Talchar (82.09), IB-Valley (74.00) Jharsugula (73.34)	Pardeep (69.26)
14.	Punjab	Ludhiana (81.66), Mandi Govindgarh (75.08)	Batala (68.59), Jalandhar (64.98)
15.	Rajasthan	Bhiwadi (82.91), Jodhpur (75.19), Pali (73.73)	Jaipur (66.82)
16.	Tamil Nadu	Vellore-North Arcot (81.79), Cuddalore (77.45), Manali (76.32), Coimbatore(72.38)	Tirupur(68.38), Mettur (66.98)
17.	Telangana	Patancheru- Bollaram (70.07)	---
18.	Uttar Pradesh	Ghaziabad (87.37), Singrauli (81.73), Noida (78.90), Kanpur (78.09), Agra (76.48), Varanasi-Mirjapur (73.79)	Moradabad (64.71), Aligarh (63.83), Ferozabad (60.51)
19.	Uttarakhand	---	Haridwar (61.01)

20.	West Bengal	Haldia (75.43), Howrah (74.84), Asansole (70.20)	Durgapur (68.26)	”
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5. Purpose of economic development in any region is to provide opportunities for improved living by removing poverty and unemployment. While industrial development invariably creates more jobs in any region, such development has to be sustainable and compliant with the norms of environment. In absence of this awakening or tendency for monitoring, industrialization has led to environmental degradation on account of industrial pollution. It is imperative to ensure that steps are taken to check such pollution to uphold statutory norms. Adequate and effective pollution control methods are necessary.

6. Dust, smoke, fume and toxic gas emissions occur as a result of highly polluting industries such as thermal power plants, coal mines, cement, sponge iron, steel and ferrow alloys, petroleum and chemicals unless right technology is used and precaution taken. Industry specific clusters have not only become hazardous but also cause irreparable damage to our ecology and environment, often breaching the environment's carrying capacity, adversely affecting public health.

7. In *Karnataka Industrial Areas Development Board vs. C. Kenchappa & Ors*¹, the Hon'ble Supreme Court observed, as guiding rules for Sustainable Development, that humanity must take no more from nature than man can replenish and that people must adopt lifestyles and development paths that work within the nature's limit. In *Vellore Citizens Welfare Forum Vs. Union of India*², the Hon'ble Supreme Court recognized the Precautionary Principle and explained that environmental measures by the State Government and the

¹ (2006) 6 SSC 383

² AIR 1996 SC 2715

statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

8. This Tribunal has applied the same principles in deciding matters³ before it in terms of Section 20 of the National Green Tribunal Act 2010.

9. In view of above, we direct the SPCBs/ Committees to finalize the time bound action plans with regard to identified polluted industrial clusters in accordance with the revised norms laid down by the CPCB to restore environmental qualities within norms. Such action plan be finalized within three months from the date of receipt of copy of this order. In case of any left- out/missed areas in addition to 100 areas also, SPCBs should undertake CEPI assessment and formulate action plans.

10. The action plan may thereafter be looked into by the CPCB and steps taken for implementation so as to ensure that all the industrial clusters comply with laid down parameters as per the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981. The CPCB will be the Nodal agency. Meanwhile, CPCB will forward Assessment Report for 100 areas carried out during 2017-2018 to MoEF & CC before 28.02.2019 for appropriate action.

11. Needless to say that it will be open to the SPCBs/Committees and CPCB to take coercive measures including recovery of compensation for the damage to the environment on 'Polluter Pays' principle as well as also to direct taking of such precautionary

³ Aditya N. Prasad & Ors. Vs. Union of India & Ors., Original Application No. 147/2016, Order dated 01.11.2018; We the People, Th. Gen. Secretary Vs Union of India & Ors. Original Application No. 214/2017, Order dated 01.11.2018; Westend Green Farms Society Vs. Union of India & Ors., Original Application No. 400 of 2017, Order dated 02.11.2018; Saloni Ailawadi Vs Union of India & Ors, Original Application No. 509/2015, Order dated 16.11.2018; Shantanu Sharma Vs Union of India & Ors, Original Application No. 117/2014, Order dated 20.11.2018; Dr. Arun Kumar Sharma Vs. Ministry of Environment, Forest and Climate Change & Anr., Original Application No. 312 of 2016, Order dated 26.11.2018.

measures as may be necessary on the basis of 'Precautionary principle'.

12. CPCB may serve copy of this order on all the SPCBs and the Committees who may furnish the same to the concerned Chief Secretaries. Ministry of Environment, Forest and Climate Change (MoEF&CC) may take necessary steps on its part based on CPCB Report for 100 areas mentioned above in accordance with law. The Report on the action taken by the CPCB and MoEF&CC in the matter may be furnished to this Tribunal by e-mail at [ngt.filing@gmail.com](mailto:negt.filing@gmail.com) before 31.05.2019. Copies of this order be sent by e-mail to CPCB and MoEF&CC for compliance.

13. The action plan to be prepared in the States may be done by the Committee constituted by the Chief Secretary within one month from today as several Departments may be involved in the exercise. The final preparation of the action plan including its execution may be overseen by the Chief Secretary of the concerned State, along with the other connected major environmental issues of the States, such as pollution of river stretches, non-attainment cities in terms of air quality and solid waste management, utilization of treated sewage, covered by order of this Tribunal dated 20.09.2018 in Original Application No. 673/2018, News Item Published in 'The Hindu' authored by Shri. Jacob Koshy titled "More river stretches are now critically polluted: CPCB", order dated 08.10.2018 in Original Application No. 681/2018, News Item Published In 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15", order dated 20.08.2018 in Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and order dated 27.11.2018 in Original Application No. 148/2016, Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation &

Ors. The Chief Secretary will take meetings on all these issues once in three months (quarterly) and will forward Report to NGT by e-mail.

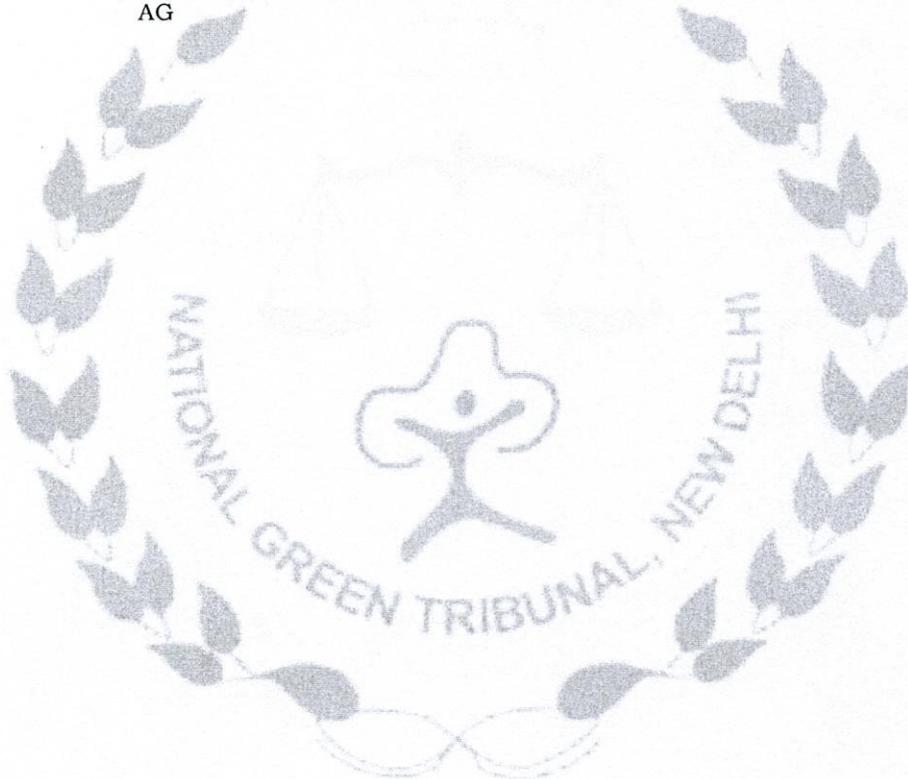
14. List for consideration of report of MoEF&CC and the CPCB on 08.07.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 13, 2018
Original Application No. 1038/2018
AG



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
O.A. NO. 1038/2018

IN THE MATTER OF:-

'THE ASIAN AGE' AUTHORED BY SANJAY KAW TITLED "CPCB" TO RANK INDUSTRIAL UNITS ON POLLUTION LEVEL"

APPLICANT

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2.	ANNEXURE- I COPY OF HON'BLE NGT ORDER DATED 13.12.2018	


P.K. GUPTA
SCIENTIST 'E'
CENTRAL POLLUTION CONTROL BOARD
PARIVESH BHAWAN, EAST ARJUN NAGAR,
DELHI- 110032

PLACE: - DELHI
DATED: - 30.05.2019

①

CPCB
DELHI-110 032

Status Report in compliance of Hon'ble NGT (Principal Bench, New Delhi) order dated 13/12/2018 in the matter of O.A. No. 1038/2018 based on the news item published in 'The Asian Age' authored by Sanjay Kaw titled "CPCB to rank industrial units on pollution level"

1.0 Background

Hon'ble NGT has passed an order, dated 13/12/2018, in the matter of O.A. No. 1038/2018 based on the news item published in 'The Asian Age' dated 6/12/2018 authored by Sanjay Kaw titled 'CPCB to rank industrial units on pollution levels'. In this context, the following directions have been issued by Hon'ble NGT to the SPCBs/PCCs, CPCB and MoEF&CC:

"...We direct the SPCBs/Committees to finalise the time bound action plans with regard to identified polluted industrial clusters in accordance with the revised norms laid down by the CPCB to restore environmental quality with in norms. Such action plan be finalised within three months from the date of receipt of copy of this order.

The action plan may thereafter be looked into by CPCB and steps taken for implementation so as to ensure that all the industrial clusters comply with laid down parameters as per the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981. The CPCB will be the Nodal agency.

CPCB will forward Assessment Report for 100 areas carried out during 2017-2018 to MoEF&CC before 28/02/2019 for appropriate action.

CPCB may serve the copy of the said order to all the SPCBs and the Committees who may furnish the same to the concerned Chief Secretaries.

MoEF&CC may take necessary steps on its part based on CPCB report for 100 areas mentioned above in accordance with law. The report on the action taken by CPCB and MoEF&CC may be furnished to the Tribunal before 31/05/2019..."



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2.0 Action taken by CPCB

In view of above directions, details about the action taken by CPCB are as follow:

- i. Copy of the said order dated 13/12/2018 was served to all SPCBs/PCCs vide CPCB letter of 20/12/2018, with a request to furnish the same to the concerned Chief Secretaries for necessary action and compliance.
- ii. CPCB, with concurrence of MoEF&CC carried out the environmental quality monitoring in 100 industrial clusters/areas located in 21 states across the country for CEPI evaluation based on the revised CEPI-2016 by engaging the services of four approved laboratories for carrying out environmental quality monitoring.
- iii. Thereafter, CPCB has undertaken the process of analysing the monitoring reports for identifying critical pollutants in the respective Polluted Industrial Areas (PIAs). As evaluation of CEPI scores needs additional information namely, industrial sources/pollution control facilities and health/hospital data of the industrial clusters, the concerned SPCBs/PCCs were requested to provide the information as per the formats. In this regard CPCB has followed up with all the concerned 21 SPCBs/PCCs, through letters/e-mails/phone/video conferencing, for obtaining the information. The information from this comprehensive exercise and consultative process were collected and analysed by CPCB. Thereafter, CEPI scores for all 100 PIAs were evaluated and submitted to MoEF&CC on 11/1/2019, though for few PIAs complete information was not available.
- iv. Subsequently, MoEF&CC requested the concerned Principal Secretaries on 22/2/2019 to provide requisite additional information immediately so as to complete the process of evaluating CEPI scores. Further, on the basis of additional information received from the

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concerned SPCBs/PCC, CPCB updated the CEPI scores and submitted the same to MoEF&CC on 10/4/2019 for consideration & appropriate action.

- v. During a meeting conducted by MoEF&CC with CPCB on 15/4/2019, CPCB was requested to prepare a protocol to be followed by the SPCBs/PCCs for improvement of environmental quality in the identified critically/severely PIAs. Accordingly, CPCB prepared the protocol and proposed/submitted the same to MoEF&CC, vide CPCB letter dated 17/5/2019 for consideration & appropriate action.


(P.K. Gupta)
Additional Director

Item No. 05

Court No. 1

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

Original Application No. 1038/2018

News item published in "The Asian Age" Authored by Sanjay Kaw
Titled "CPCB to rank industrial units on pollution levels"

Date of hearing: 10.07.2019

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

For Applicant(s): NONE

For Respondent (s): Mr. Pradeep Misra, Advocate for UPPCB
Mr. TVS Raghavendra Sreyas, Advocate for APPCB
Mr. Dhanajay Baijal, Advocate for TSPCB
Mr. Jogy Scaria, Advocate for KSPCB
Ms. Sakshi Popli, Advocate for DPCC
Mr. Rajkumar, Advocate for CPCB

ORDER

- The issue for consideration is the remedial action against the polluting industries in the identified polluting industrial clusters. The Tribunal, vide order dated 13.12.2018, treated the news item published in "The Asian Age" dated 06.12.2018 authored by Mr. Sanjay Kaw titled "CPCB to rank industrial units on pollution levels" as an application in view of substantial question of environment which could be dealt with by the Tribunal under Sections 14, 15 and 20 of the National Green Tribunal Act, 2010.
- We may note the background of the issue briefly. The Central Pollution Control Board (CPCB) in exercise of its statutory functions under the Air (Prevention and Control of Pollution) Act, 1981 (the Air

Act), the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act) and the Environment (Protection) Act, 1986 (the EPA Act) carried out the physical study of the industrial clusters in the country with reference to the Comprehensive Environmental Pollution Index (CEPI) which includes weightages on nature of pollutants, ambient pollutant concentrations, receptors (number of people affected) and additional high risk element. On the basis of the study jointly carried out by the CPCB and State PCBs in 2009-10, 88 industrial clusters were notified as Polluted Industrial Areas (PIAs). These PIAs were ranked as 'critically polluted area' (CPA), 'severely polluted area' (SPA) and 'other polluted areas' (OPAs), depending upon the CEPI scores of each of these industrial areas. Where the CEPI score crossed 70, the areas are designated as CPAs, where the index was between 60-70, they are designated as SPAs and those below 60 as OPAs. As per the CPCB's monitoring of industrial clusters based on CEPI-2009, 43 industrial clusters in 16 cities were identified as CPAs and 32 were identified as SPAs. The CPAs and SPAs were to bring the pollution levels within the norms by formulating and implementing an action plan with short term and long term measures within one year or more. New units in the said areas were prohibited but such ban was later on lifted.

3. In 2016, the criterion for determining CEPI was revised. CPCB revised its CEPI criteria and laid out components which included, scale of industrial activity, scale of exceedance of environmental quality (level of exposure), health related statistics and compliance status of industries.
4. On 26.04.2016, the CPCB issued directions under Section 18 of the Air Act and the Water Act to the SPCB of Andhra Pradesh, Telangana,

Uttar Pradesh, Karnataka, Punjab, Jharkhand, Haryana, Gujarat, Govt. of NCT Delhi, Tamil Nadu, Maharashtra, Madhya Pradesh, Rajasthan, Chhattisgarh, West Bengal, Kerala, requiring continuous environmental quality monitoring in all CPAs and SPAs, installation of Continuous Ambient Air Quality Monitoring Stations (CAAQMS), Continuous Water Quality Monitoring Stations (CWQMS) for CEPI score evaluation as per revised formulae and to formulate their action plans before 15.06.2016. The polluting sources were required to be notified in public domain on websites, environmental quality data was also to be placed in public domain, State Governments were to notify the scaled maps of the industrial areas. The object of placing such data in public domain was to give warning for bringing the pollution levels within the prescribed limits. The polluted clusters were to be kept in mind for permitting setting up of further industries or expanding of the existing industries.

5. Based on the CEPI-2016 criterion, CPCB carried out further monitoring in the year 2017-18 where it was found that number of identified polluted industrial clusters went up to 100. The said number includes 38 critically polluted, 31 severely polluted and remaining 31 as other polluted areas.
6. The Tribunal vide order dated 13.12.2018 directed all the State Pollution Control Boards/Committees (PCCs) to finalize time bound action plans within three months so as to bring all polluted industrial clusters within the safe parameters under the provisions of the Air Act and the Water Act. The SPCBs and CPCB were free to take coercive measures, including recovery of compensation for damages to the environment on 'Polluter Pays' principle and also to adopt precautionary measures on 'Precautionary' principle. The CPCB was

directed to serve a copy of the above mentioned order to all the SPCBs who were to furnish the same to the respective Chief Secretaries of the States for necessary action. The MoEF&CC was directed to take steps on the basis of report of the CPCB. Action taken reports were to be furnished by the CPCB and the MoEF&CC to this Tribunal before 31.05.2019. In the States, action plans were to be prepared by Committees headed by the Chief Secretaries.

7. Ill effects of industrial pollution on the environment and public health are well acknowledged. This has made it necessary to strictly apply the principles of 'Sustainable Development' and permit any activity to be carried out without degrading the environment. The statutory scheme under the Air Act, the Water Act and the EPA Act provides for standards for air and water quality which must be maintained and violation thereof is a criminal offence¹. Any violation has to be visited with stopping of polluting activity, prosecution and compensation for restoration of environment. Accordingly, in the order dated 13.12.2018 this Tribunal observed:

"5. Purpose of economic development in any region is to provide opportunities for improved living by removing poverty and unemployment. While industrial development invariably creates more jobs in any region, such development has to be sustainable and compliant with the norms of environment. In absence of this awakening or tendency for monitoring, industrialization has led to environmental degradation on account of industrial pollution. It is imperative to ensure that steps are taken to check such pollution to uphold statutory norms. Adequate and effective pollution control methods are necessary.

6. Dust, smoke, fume and toxic gas emissions occur as a result of highly polluting industries such as thermal power plants, coal mines, cement, sponge iron, steel and ferrow alloys, petroleum and chemicals unless right technology is used and precaution taken. Industry specific clusters have not only become hazardous but

¹ Section 7 read with Section 15 of the EPA Act, Section 24 read with Section 41 and Section 45A of the Water Act, Section 21 and Section 22 read with Section 37 of the Air Act.

also cause irreparable damage to our ecology and environment, often breaching the environment's carrying capacity, adversely affecting public health.

7. In *Karnataka Industrial Areas Development Board vs. C. Kenchappa & Ors*², the Hon'ble Supreme Court observed, as guiding rules for Sustainable Development, that humanity must take no more from nature than man can replenish and that people must adopt lifestyles and development paths that work within the nature's limit. In *Vellore Citizens Welfare Forum Vs. Union of India*, the Hon'ble Supreme Court recognized the Precautionary Principle and explained that environmental measures by the State Government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

8. This Tribunal has applied the same principles in deciding matters before it in terms of Section 20 of the National Green Tribunal Act 2010.

13. The action plan to be prepared in the States may be done by the Committee constituted by the Chief Secretary within one month from today as several Departments may be involved in the exercise. The final preparation of the action plan including its execution may be overseen by the Chief Secretary of the concerned State, along with the other connected major environmental issues of the States, such as pollution of river stretches, non-attainment cities in terms of air quality and solid waste management, utilization of treated sewage, covered by order of this Tribunal dated 20.09.2018 in Original Application No. 673/2018, News Item Published in 'The Hindu' authored by Shri. Jacob Koshy titled "More river stretches are now critically polluted: CPCB", order dated 08.10.2018 in Original Application No. 681/2018, News Item Published In 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15", order dated 20.08.2018 in Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and order dated 27.11.2018 in Original Application No. 148/2016, Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors. The Chief Secretary will take meetings on all these issues once in three months (quarterly) and will forward Report to NGT by e-mail."

8. We may also note that on 16.01.2019, while considering the issue of compliance of Solid Waste Management Rules, 2016 and other Waste Management Rules in O.A. No. 606/2018, Compliance of MSW Rules, 2016, the Tribunal required the presence of the Chief Secretaries in

² (2006) 6 SSC 383

person after monitoring the subjects mentioned in the said order which included polluted industrial clusters.

9. Accordingly, the Chief Secretaries appeared before this Tribunal and filed their respective versions on the subject. They have been asked to take necessary steps to enforce the environment norms and furnish periodical reports to this Tribunal. The directions include monitoring of important environmental issues including the issue of polluted industrial clusters by a Central Monitoring Committee with representatives from the Central Government and the Chief Secretaries of the States, undertaking carrying capacity study of the areas where violation of environmental norms is established, training programme of the officers concerned with the enforcement of the environmental norms, preparation of annual environmental plan for the country giving status of gaps in compliance of environmental norms.³ The Tribunal noted the private studies which may need to be verified assessing the number of deaths and diseases from pollution⁴:

"38. Death attributable to pollution to be 2.51 million in 2015, highest in the world. Air pollution, the number of deaths in India from ambient air pollution was 1.09 million, while deaths from household air pollution from solid fuels were 0.97 million. In the case of water pollution, 0.5 million deaths were caused by unsafe water source, while unsafe sanitation caused 0.32 million deaths. Deaths from air pollution were a result of diseases such as heart disease, stroke, lung cancer, and chronic obstructive pulmonary disease (COPD). Pollution has been responsible for the most non-communicable disease deaths. India ranks a dismal 110 of 149 countries on the Sustainable Development Index. With rapid urbanization, the country is facing massive waste management challenge. Over 377 million urban people live in 7,935 towns and cities and generate 62 million tonnes of municipal solid waste per annum. Only 43 million tonnes (MT) of the waste is collected, 11.9 MT is treated and 31 MT is dumped in landfill sites. An alarming 80% of India's surface water is polluted. Indian cities generate 10 billion gallons or 38 billion litres of municipal waste water every day, out of which only 29% of it is treated.

40. In case extent of convictions for the environment related offences do not correspond to the extent of crime, paradigm shift in

³ O.A 606/2018, order dated 17.05.2019, at para 27

⁴ *ibid*

policies and strategies for implementation of law may need to be considered. Similarly, the mechanism for recovery of compensation may need to be revised on that pattern. Such review of policy cannot be left to the Local Bodies or the Pollution Control Boards but has to be at highest level in the State and further review at the national level. As noted in some of the studies, the ranking of the country in compliance of environmental norms needs to be brought to respectable higher position which may be possible only if there is change in policies and strategies for implementation of necessary norms at every level in right direction. The scale of compensation needs to be suitably revised so that the same is deterrent and adequate to meet the cost of reversing the pollution."

10. Some of the States have also filed their reports in the present proceedings apart from the reports of the Chief Secretaries mentioned above. Further, a report has also been filed by the CPCB. According to the CPCB report, order dated 13.12.2018 stands served to all the State PCBs and the PCCs. The CPCB with the concurrence of MoEF&CC carried out environmental quality monitoring in 21 States across the country in respect of the said 100 industrial clusters based on the revised CEPI-2016, by engaging the services of approved laboratories. The said reports have been analysed. Further information has been sought from the State PCBs/ PCCs. Comprehensive exercise and consultative process has been undertaken and CEPI scores of all the 100 Polluted Industrial Areas (PIAs) were submitted to MoEF&CC on 11.01.2019 and the MoEF&CC replied in letter dated 25.02.2019 that there are some gaps in the information. Further information relating to such gaps were sought from the States by the MoEF&CC. Thereafter, updated CEPI scores for all 100 PIAs have been submitted by CPCB to MoEF&CC on 10.04.2019. The CPCB has also prepared a protocol and submitted the same to the MoEF&CC on 17.05.2019 for consideration and appropriate action.

11. During the hearing today, a copy of the letter dated 17.05.2019 was handed over by the Learned Counsel for the CPCB, indicating the

latest CEPI scores for 100 polluted industrial areas/clusters monitored during 2018. The said scores are as follows:

The CEPI Scores in descending order for Industrial Areas/Clusters monitored during 2018

Sl. No.	Name of Polluted Industrial Areas (PIAs)	Air	Water	Land	* CEPI Score	# Status of Environment
1.	Tarapur(Maharashtra)	72.00	89.00	59.25	93.69	Ac_Wc_Ls
2.	Najafgarh-Drain basin including Anand Parbat, Naraina, Okhla, Wazirpur(Delhi)	85.25	86.00	55.75	92.65	Ac_Wc_Ls
3.	Mathura(Uttar Pradesh)	86.00	81.00	45.00	91.10	Ac_Wc_Ln
4.	Kanpur(Uttar Pradesh)	66.00	85.00	45.00	89.46	Ac_Wc_Ln
5.	Vadodara(Gujarat)	82.00	80.75	48.75	89.09	Ac_Wc_Ln
6.	Moradabad(Uttar Pradesh)	76.00	71.50	68.75	87.80	Ac_Wc_Lc
7.	Varanasi-Mirzapur(Uttar Pradesh)	67.50	80.00	39.63	85.35	Ac_Wc_Ln
8.	Bulandsahar-Khurza(Uttar Pradesh)	79.50	76.00	36.75	85.23	Ac_Wc_Ln
9.	Gurgaon(Haryana)	70.00	80.00	36.75	85.15	Ac_Wc_Ln
10.	Manali (Tamil Nadu)	59.75	72.25	71.75	84.15	As_Wc_Lc
11.	Panipat(Haryana)	66.00	72.75	60.00	83.54	Ac_Wc_Lc
12.	Firozabad(Uttar Pradesh)	76.00	72.00	32.50	81.62	Ac_Wc_Ln
13.	Udham Singh Nagar (Uttarakhand)	33.00	79.50	26.00	81.26	An_Wc_Ln
14.	Jodhpur (Rajasthan)	67.00	66.00	65.00	81.16	Ac_Wc_Lc
15.	Palf (Rajasthan)	66.00	65.00	65.50	80.48	Ac_Wc_Lc
16.	Ankleshwar (Gujarat)	72.00	57.50	51.00	80.21	Ac_Ws_Ls
17.	Gajraula Area(Uttar Pradesh)	71.00	70.00	45.00	80.14	Ac_Wc_Ln
18.	Vapi (Gujarat)	66.00	75.00	30.00	79.95	Ac_Wc_Ln
19.	Siltara Industrial Area (Chhattisgarh)	76.00	51.75	31.75	79.94	Ac_Ws_Ln
20.	Bhiwadi (Rajasthan)	66.50	71.00	44.75	79.63	Ac_Wc_Ln
21.	Vellore -North Arcot (Tamil Nadu)	49.00	75.00	35.75	79.38	An_Wc_Ln
22.	Sanganer Industrial Area (Rajasthan)	65.00	71.88	39.50	79.10	Ac_Wc_Ln
23.	Byrnihat (Assam)	67.00	70.50	39.50	78.31	Ac_Wc_Ln
24.	Peenya(Karnataka)	41.00	66.00	70.00	78.12	An_Wc_Lc
25.	Jaipur (Rajasthan)	61.88	71.88	31.75	77.40	Ac_Wc_Ln
26.	Surat (Gujarat)	46.00	68.25	56.00	76.43	An_Wc_Ls
27.	Chandrapur (Maharashtra)	75.00	23.75	23.75	76.41	Ac_Wn_Ln
28.	Agra(Uttar Pradesh)	60.00	66.88	47.00	76.22	Ac_Wc_Ln
29.	Pattancheru Bollaram	56.00	70.00	32.25	75.42	As_Wc_Ln

	(Telangana)					
30.	Jalandhar (Punjab)	53.50	66.88	44.50	74.76	As_Wc_Ln
31.	Ludhiana (Punjab)	53.50	71.00	16.00	73.48	As_Wc_Ln
32.	Tiruppur (Tamil Nadu)	33.00	65.00	64.00	72.39	An_Wc_Lc
33.	Ghaziabad(Uttar Pradesh)	57.50	66.00	32.25	72.30	As_Wc_Ln
34.	Mettur (Tamil Nadu)	41.25	19.38	69.38	71.82	An_Wn_Lc
35.	KIADB Industrial Area, Jigini, Anekal (Bengaluru)	52.00	66.00	28.25	70.99	As_Wc_Ln
36.	Vatva(Gujarat)	57.00	66.00	25.50	70.94	As_Wc_Ln
37.	Raipur (Chhattisgarh)	67.00	45.75	25.00	70.77	Ac_Wn_Ln
38.	Rajkot(Gujarat)	51.75	61.50	45.75	70.62	As_Wc_Ln
39.	Aurangabad(Maharashtra)	45.00	65.38	28.75	69.85	An_Wc_Ln
40.	Dombivali (Maharashtra)	62.00	63.50	27.25	69.67	Ac_Wc_Ln
41.	Nashik(Maharashtra)	56.50	60.00	42.00	69.49	As_Wc_Ln
42.	Batala (Punjab)	63.00	62.75	25.50	68.92	Ac_Wc_Ln
43.	Nojda(Uttar Pradesh)	59.75	62.75	27.00	68.76	As_Wc_Ln
44.	Baddi(Himachal Pradesh)	63.00	63.75	19.75	68.26	Ac_Wc_Ln
45.	Vijayawada(Andhra Pradesh)	60.50	49.25	38.75	68.04	Ac_Wn_Ln
46.	Bandel (West Bengal)	59.50	47.00	42.75	67.64	As_Wn_Ln
47.	Ramgarh(Jharkhand)	56.75	50.00	46.25	66.75	As_Ws_Ln
48.	Kukatpally (Telangana)	43.75	61.00	32.00	66.46	An_Wc_Ln
49.	Ib-Valley (Orissa)	48.75	59.00	36.75	66.35	An_Ws_Ln
50.	Tuticorin (Tamil Nadu)	29.75	46.00	61.00	66.34	An_Wn_Lc
51.	Navi Mumbai(Maharashtra)	56.00	63.00	16.00	66.32	As_Wc_Ln
52.	Meerut(Uttar Pradesh)	52.00	65.00	6.00	66.09	As_Wc_Ln
53.	Parwanoo(Himachal Pradesh)	19.00	61.88	53.75	65.77	An_Wc_Ls
54.	Kala Amb(Himachal Pradesh)	17.00	64.00	27.75	65.70	An_Wc_Ln
55.	Bidar(Karnataka)	31.00	60.00	45.50	65.64	An_Wc_Ln
56.	Durgapur (West Bengal)	62.50	43.50	18.75	65.56	Ac_Wn_Ln
57.	Aligarh(Uttar Pradesh)	56.25	61.88	11.88	64.42	As_Wc_Ln
58.	Hajipur(Bihar)	57.50	41.13	39.25	64.36	As_Wn_Ln
59.	Hazaribagh(Jharkhand)	61.00	20.00	41.00	64.20	Ac_Wn_Ln
60.	Coimbatore (Tamil Nadu)	47.25	53.75	45.25	63.64	An_Ws_Ln
61.	Singrauli (UP & MP)	45.00	57.25	27.75	62.59	An_Ws_Ln
62.	Cuddalore (Tamil Nadu)	25.00	58.25	41.25	62.56	An_Ws_Ln
63.	Faridabad(Haryana)	55.25	53.75	28.75	62.17	As_Ws_Ln
64.	Bhavnagar (Gujarat)	61.00	15.50	15.50	61.94	Ac_Wn_Ln
65.	Howrah (West Bengal)	60.50	20.00	16.00	61.76	Ac_Wn_Ln
66.	Paradeep (Orissa)	43.00	57.50	17.00	60.61	An_Ws_Ln
67.	Erode (Tamil Nadu)	34.13	47.00	52.75	60.33	An_Wn_Ls
68.	Saraikela (Jharkhand)	57.75	17.50	34.00	60.26	As_Wn_Ln

69.	Kattedan(Telangana)	42.25	50.75	45.25	60.17	An_Ws_Ln
70.	Dhanbad(Jharkhand)	43.00	57.50	12.50	59.78	An_Ws_Ln
71.	Indore(Madhya Pradesh)	18.50	56.88	20.75	58.53	An_Ws_Ln
72.	Bhadravati(Karnataka)	45.00	52.00	30.00	58.48	An_Ws_Ln
73.	Mandideep (Madhya Pradesh)	56.00	55.25	10.00	58.43	As_Ws_Ln
74.	Mangalore(Karnataka)	15.00	54.50	54.25	58.20	An_Ws_Ls
75.	Barajamda(Jharkhand)	51.88	25.63	46.75	57.64	As_Wn_Ln
76.	Korba (Chhattisgarh)	43.75	17.75	54.00	57.57	An_Wn_Ls
77.	Ahmedabad(Gujarat)	53.50	48.50	16.00	57.11	As_Wn_Ln
78.	Haridwar (Uttarakhand)	50.75	52.38	13.75	55.70	As_Ws_Ln
79.	Asansol (West Bengal)	54.00	16.25	13.75	55.03	As_Wn_Ln
80.	Chembur(Maharashtra)	52.25	50.75	10.00	54.67	As_Ws_Ln
81.	Morbi (Gujarat)	51.00	47.25	14.00	54.24	As_Wn_Ln
82.	Manḁi Govindgarh (Punjab)	23.75	53.75	1.50	53.91	An_Ws_Ln
83.	Raichur(Karnataka)	32.75	47.88	32.50	53.42	An_Wn_Ln
84.	West Singhbhum(Jharkhand)	51.88	25.88	11.25	53.28	As_Wn_Ln
85.	Greater Kochin (Kerala)	47.38	35.88	29.50	52.94	An_Wn_Ln
86.	Pimpri-Chinchwad(Maharashtra)	52.00	6.25	5.25	52.16	As_Wn_Ln
87.	Gwalior (Madhya Pradesh)	50.00	43.13	7.75	51.67	As_Wn_Ln
88.	Junagarh (Gujarat)	47.00	25.00	35.00	51.64	An_Wn_Ln
89.	Jajpur (Orissa)	43.50	26.25	41.25	49.62	An_Wn_Ln
90.	Nagda -Ratlam (Madhya Pradesh)	12.00	47.00	28.00	48.78	An_Wn_Ln
91.	Jamshedpur(Jharkhand)	46.00	19.25	20.25	48.10	An_Wn_Ln
92.	Mahad(Maharashtra)	41.00	35.75	29.00	47.12	An_Wn_Ln
93.	Bhillai-Durg (Chhattisgarh)	43.00	32.75	19.75	46.69	An_Wn_Ln
94.	Angul Talchar (Orissa)	44.75	13.25	23.00	46.43	An_Wn_Ln
95.	Haldia (West Bengal)	45.00	35.00	3.75	45.72	An_Wn_Ln
96.	Vishakhapatam (Andhra Pradesh)	27.25	12.75	42.75	44.74	An_Wn_Ln
97.	Dewas (Madhya Pradesh)	28.00	31.63	31.75	37.79	An_Wn_Ln
98.	Jharsuguda (Orissa)	36.00	21.50	8.75	37.20	An_Wn_Ln
99.	Digboi (Assam)	23.50	25.25	6.50	26.39	An_Wn_Ln
100.	Pithampur (Madhya Pradesh)	13.50	19.50	6.75	20.23	An_Wn_Ln

12. Question for consideration is whether mere making of action plans obviates the requirement of enforcing the law. Continued polluting activities are criminal offences under the law of the land. The rule of law requires prohibiting such activities to safeguard the environment and the innocent victims⁵.
13. The answer has to be in the negative. Once the industrial clusters have been notified as polluting, while action plans may certainly be prepared, the polluting activity, which is a criminal offence, cannot be allowed to be continued. The essence of rule of law is that no activity which is against the law is allowed to continue and the person violating the law is punished according to law.⁷ Thus merely requiring improvement does not obviate the need for punishing the law violators/polluters; stopping polluting activity and recovering compensation for the damage already caused so as to recover the cost of restoration⁸ is the mandate of law. This having not been done, the Tribunal is under a duty to direct the statutory regulators to perform their functions and take steps forthwith for stopping polluting activities, initiating prosecutions against the polluters and assessing and recovering compensation from such identified polluters at least for five years which is the period specified under Section 15(3) of the National Green Tribunal Act, 2010.

⁵ Under Section 5 of the EPA Act, Section 31A of the Air Act and Section 33A of the Water Act, the power of Board to give directions includes the power to direct the closure, prohibition or regulation of any industry, operation or process; or the stoppage or regulation of the supply of electricity or water or any other service.

⁶ [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(18\)30261-4/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(18)30261-4/fulltext) stating 1.24 million deaths in India in 2017, which were 12.5% of the total deaths, were attributable to air pollution, including 0.67 million from ambient particulate matter pollution and 0.48 million from household air pollution.

⁷ Goa Foundation Vs. Union of India and Ors., (2014) 6 SCC 590, at para 72-75, the Supreme Court noted the power that rests with the Pollution Control Board under Section 31 A of the Air Act and Section 33 A of the Water Act and directed that the authorities should take stringent actions in line with these power in cases of polluting industries.

⁸ Tirupur Dyeing Factory Owners Association Vs. Noyyal River Ayacutdars Protection Association & Ors., (2009) 9 SCC 737, in paras 26, 27, 33 & 34, the Supreme Court emphasis on developmental activities to be such that it does not compromises with the ability of the future generation to meet their needs and in this regard, authorities are to take into consideration the macro effect of wide-scale land and environmental degradation caused by absence of remedial measures.

14. We reiterate that economic development is not to be at the cost of health of the public and in violation of law of the land. Unless the polluting industries tackle the problem they have created, their operations have to be stopped/suspended.⁹ Reference may be made to the judgement in the case of *Indian Council for Enviro Legal Action & Ors. Vs. Union of India & Ors.*¹⁰:

"Respondents 4 to 8 have earned the dubious distinction of being categorised as "rogue industries". They have inflicted untold misery upon the poor, unsuspecting villagers, de-spoiling their land, their water sources and their environment – all in pursuance of their private profit. They have forfeited all claims of any consideration by this Court. Accordingly, we herewith order the closure of all plants and factories of Respondents 4 to 8 located in Bichhri village. The RPCB is directed to seal all factories/units/plants of the said respondents forthwith."

15. We may note that this Tribunal has dealt with cases of industrial pollution and exercising its jurisdiction under Sections 14, 15 and 20 of the NGT Act, 2010 directed the regulatory authorities to prohibit polluting activities, prosecute the polluters and assess and recover compensation. In the case of Morbi Industrial Cluster¹¹, which ranks at 81 based on its CEPI score, (where air pollution is critical though overall index places it in OPA), the Tribunal noted the air quality as shown in the inspection report furnished in the said case, to be as follows:

"Ambient Air Quality Status: As per National Green Tribunal committee report average ambient air quality (7 Stations) monitored PM10 = 552.66 µg/m³, PM2.5 = 289.61 µg / m³, SO₂ = 152.81 µg / m³. Compared to that, Average ambient air quality monitored (4 Stations) in last 3 months (Aug- 18 to Nov-18) is PM10 = 199.1 µg / m³,

⁹ M.C Mehta (Badkhal and Surajkund Lakes Matters) vs. Union of India & Ors., (1997) 3 SCC 715 at para 10 & 11, where the Supreme Court prohibited any construction activities around the said lakes on account of precautionary principle to protect these lakes; Vellore Citizens Welfare Forum Vs. Union of India & Ors., (1996) 5 SCC 647 at para 9, where the Supreme Court discussed the rights guaranteed under Article 21 of the Constitution of India and directed that all tanneries which have not obtained the consents will be not reopened and that no new tanneries will be permitted to be open in the prohibited area.

¹⁰ (1996) 3 SCC 212 at para 70.

¹¹ Order dated 06.03.2019 in Original Application No. 20/2017 (WZ), Babubhai Ramubhai Saini Vs. Gujarat Pollution Control Board & Ors.

PM2.5 = 60.6 µg /m3. Though not meeting with standards, this shows improvement in air quality of Morbi-Wankner Region.”

16. Since the industries in the said area were operating in violation of Air Act, having adverse consequences on health and environment, applying the Sustainable Development and Precautionary principles, the Tribunal directed the GPCB to close all the coal gasifier industries and take steps for prosecution of such industries which violated the law and recover compensation for the damage to the public health to be assessed by a Joint Committee of GPCB, CPCB and NEERI, taking into account the cost of restoration of the environment and the element of deterrence.¹²

17. The Tribunal observed:

“ 22. Purpose of economic development in any region is to provide opportunities for improved living by removing poverty and unemployment. While industrial development invariably creates more jobs in any region, such development has to be sustainable and compliant with the norms of environment. In absence of this awakening or tendency for monitoring, industrialization has led to environmental degradation on account of industrial pollution. It is imperative to ensure that steps are taken to check such pollution to uphold statutory norms. Adequate and effective pollution control methods are necessary.

23. We may also note that as per data compiled by the CPCB Morbi Wankner is one of the polluted industrial clusters. Vide order dated 13.12.2018 in Original Application No. 1038/2018, this Tribunal considered the subject matter of critically polluted industrial clusters and directed preparation of action plans by the respective States for remedying the situation.

24. Even though, this area is polluted but not ‘critically polluted’, the same may not be covered by the said order, but the fact remains that there is high amount of pollution as shown by the latest report of the GPCB quoted above in para no. 13. PM10 is equal to 552.66 and PM2.5 is equal to 289.61. Stringent

¹² Order dated 06.03.2019 in Original Application No. 20/2017 (WZ), Babubhai Ramubhai Saini Vs. Gujarat Pollution Control Board & Ors.

measures are, thus, required in the interest of protection of environment and public health.

25. Accordingly, we allow the applications and direct the GPCB to close all coal gasifiers industries and units operating with the help of coal gasifiers without prejudice to such units switching over to non-coal gasifiers or PNG or technology consistent with the above report. The GPCB must initiate immediate steps for prosecution of the industries which have operated in violation of law and recover compensation for causing damage to the environment and public health. This amount may be assessed by a Committee with representatives of CPCB, GPCB and NEERI. The CPCB will be the nodal agency for coordination and compliance. The Committee may suggest restoration plan.”
18. The Tribunal also considered the case of pollution in the Taloja industrial area¹³ which finds mention under the title ‘Navi Mumbai’ at rank 51 based on its CEPI score. High level of pollution was found on the basis of joint inspection conducted by the CPCB and the Maharashtra PCB dated 02.01.2018, as the CETP was not functioning properly. The Maharashtra State PCB gave notice to 92 industries for closure. Apart from requiring the CETP operators to deposit a sum of Rs. 10 crores as compensation, steps were required to be taken to remedy the pollution. The Tribunal held that only option was to permit only such industries to function which had stand alone ETP and are fully compliant with the norms and to close the industries which were non-compliant.¹⁴
19. The Tribunal directed as follows:

“13. In view of above undisputed position that pollution is still continuing, the only option is to shut down the industries which are source of pollution till remedial action is taken. Learned Counsel for the MIDC as well as MPCB are unable to provide any other solution. It is made clear that mere fact that MIDC has assigned the work to a contractor does not absolve MDIC of its responsibility of operating CETP as per norms.

¹³ O.A No. 125/2018, Arvind Pundalik Mhatre v. Ministry of Environment and Forest & Climate Change & Ors.

¹⁴ O.A No. 125/2018, Arvind Pundalik Mhatre Vs. Ministry of Environment and Forest & Climate Change & Ors., order dated 09.04.2019

14. Accordingly, we direct the MPCB to forthwith suspend the Consent to Operate to the industries in the area not meeting the norms and permit them to operate only after remedial steps are taken. Steps in this direction be taken within two weeks from today. Whether a particular industry is complying or not complying with the norms is the matter to be decided by the MPCB in accordance with law. Action taken report be furnished to the Committee and the Committee may take a final call in the matter, in case of any surviving issue."

20. Taking cognizance of the untreated effluents being discharged by textile units in Tronica city, Loni area, Ghaziabad, the Tribunal in *Rashid Ali Warsi Vs. UPSIDC & Ors.*¹⁵, directed closure of 53 units until the time CETP was made functional, Thereafter, vide order dated 13.11.2018, the Tribunal allowed operation of only those units which were later found to be achieving the norms.

21. The Tribunal in the case of *M.C Mehta vs. Union of India & Ors.*¹⁶ dealt with the issues regarding continuous illegal discharge of untreated sewer and industrial effluents in Ganga and its tributaries and the connecting drains, apart from the dumping of solid waste, hazardous waste, plastic waste, muck and other wastes. The Tribunal after noting that leather industries at Jajmau, Banthar and Unnao were discharging untreated effluents in the river Ganga, directed that activities of such industries must be straightaway closed till they comply with the norms.¹⁷

22. In view of water pollution caused by absence/dysfunctional CETPs/ETPs/STPs, the Tribunal has, in the case of *Aryavart Foundation Vs. M/s Vapi Green Enviro Ltd. & Ors.*¹⁸, directed all defaulting industries, other than green and white category, connected

¹⁵ Order dated 25.05.2018

¹⁶ O.A 200/2014, order dated 14.05.2019

¹⁷ *Ibid* at Para 16 & 17

¹⁸ O.A 95/2018, order dated 11.01.2019

with CETP, to make deposits with the CPCB towards interim environmental compensation, pending assessment of actual compensation and further action ¹⁹, on the following scale:

- (i) Large Industries – Rs. 1 crore each
- (ii) Medium Industries – Rs. 50 Lakhs each
- (iii) Small Industries – Rs. 25 Lakhs each

23. In the present case, in view of massive exercise already done by CPCB, it is not necessary to require any further verification about the existence of pollution in the said PIAs. The Tribunal can direct that the polluting activities cannot be allowed to continue till adequate measures are taken as the Tribunal is bound to apply the 'Sustainable Development'²⁰, 'Precautionary'²¹ and 'Polluter Pays'²² principle under Section 20 of the National Green Tribunal Act, 2010 to protect the environment and the victims. The statutory regulatory bodies can be required to straightaway identify the particular industrial units in the said PIAs that are causing pollution, particularly those units which fall under the red and orange category and take action against them by way of closing the polluting activity, initiating prosecution and assessing and recovering compensation. Pending such assessment, interim compensation may be recovered on the scale adopted by this Tribunal in the case of Vapi industrial area²³.

¹⁹ Para 55, of O.A 95/2018, order dated 11.01.2019

²⁰ M.C Mehta Vs. Union of India (1997) 2 SCC 353, where the Supreme Court of India held – The development of industry is essential for the economy of the country, but at the same time the environment and the ecosystems have to be protected. The pollution created as a consequence of development must be commensurate with the carrying capacity of our ecosystem.

²¹ M.C Mehta vs. Union of India & Ors., (2009) 6 SCC 142, at para 23, 30 & 46, the Supreme Court addressed the issue of wide threat to forest ecology vis-à-vis the mining activities in the Aravalli hills and explained that it is important to evoke the precautionary principle to impose complete ban on mining in the Aravalli Range in state of Haryana.

²² Indian Council for Enviro Legal Action & Ors. Vs. Union of India & Ors., (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum Vs. Union of India & Ors. (1996) 5 SCC 647 Para 12-18 – holding that "Polluter Pay" principle is 'accepted principle and part of environmental law of the country, even without specific statute. M.C Mehta Vs. Union of India & Ors., W.P (C) No. 13029/2015 order dated 24.10.2017 of the Supreme Court of India., O.A 95/2018, order dated 11.01.2019 & O.A No. 593/2017, order dated 03.08.2018: The Tribunal directed CPCB to take penal action against those accountable for failure in setting up CETPs/STPs/STPs and to recover compensation for damage to the environment,

²³ *Supra* 15

24. CPCB has compiled data of industrial clusters which are polluting in terms of air, water and other norms together. Under the law, even air pollution or water pollution or other pollution, are independent offences. The sustainable development and precautionary principle require any polluting activity to be prohibited and compensation recovered for damage caused from polluters. If there is air pollution, actionable under the Air Act, even if there is no violation of Water Act or EPA Act, such pollution cannot be ignored. There has to be prosecution, stopping of polluting activity and recovery of compensation for restoration of the environment. We have seen that even when norms of air, water and other pollution are being violated, prosecution, stopping of polluting activities and recovery of compensation is not taking place for which there is no justification. Likewise action to prohibit polluting activity, initiating prosecution and recovery of compensation is required not merely for the PIAs based on violation of norms under all the heads, but also for areas where air, water or other pollution is found individually. Thus areas not covered by PIAs are also required to be governed by our directions for enforcing the law by way of stopping polluting activity and taking other steps. The fact that such pollution is taking place is evidenced by there being acknowledged pollution in the form of 351 polluted river stretches²⁴ and 102 non-attainment cities²⁵.

25. CPCB must compile data of polluted industrial areas not confined to more than one parameters as is now being done, but also with respect to polluted areas based on water, air or other pollution individually. Compiling data for categorizing areas as polluted areas based on water pollution alone, or air pollution or other pollution

²⁴ O.A. 673/2018, News Item Published in 'The Hindu' authored by Shri. Jacob Koshy titled "More river stretches are now critically polluted: CPCB", Order dated 20.09.2018

²⁵ O.A. 681/2018, News Item Published In 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15" order dated 08.10.2018

alone may be a step in the right direction. Let this be now done in the next three months, with the assistance of State PCBs/PCCs or other experts. In this regard we may note that dealing with the industrial water pollution, this Tribunal directed the CPCB to compile its monitoring report with reference to 97 CETPs installed in different states as this was linked to 100 PIAs also.²⁶

26. Needless to state that there is no right to carry on business in violation of pollution norms and right of statutory authorities is coupled with duty. Such right, does not carry any unlimited discretion of not taking action when pollution norms are violated.

27. In view of the material compiled by the CPCB, with the assistance of SPCBs/PCCs, in respect of polluted industrial areas, where action is not being taken by statutory authorities, the Tribunal has to exercise its jurisdiction of directing performance of statutory functions and duties by the State boards/committees, following similar direction by the Apex Court²⁷.

28. Accordingly, we direct the CPCB in coordination with all State PCBs/PCCs to take steps in exercise of statutory powers under the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974, Environment (Protection) Act, 1986 or any other law to prohibit operation of polluting activities in the said CPAs and SPAs within three months and furnish a compliance report to this Tribunal. The Central Pollution Control Board, in coordination with the State Boards/PCBs may make

²⁶ O.A No. 593/2017, order dated 19.02.2019, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.

²⁷ M.C Mehta (Calcutta Tanneries' Matter) Vs. Union of India & Ors., (1997) 2 SCC 411, at para 17, the Supreme Court directed the Board to take action against defaulting tanneries which, including those which had not complied with the conditions under Water Act as mentioned in their consents. In M.C Mehta Vs. Union of India & Ors., (2004) 6 SCC 588, paras 37,48, 517 69, the Supreme Court passed direction on closure of industrial units which were illegally operating and were in violation of the Master Plan.

assessment of compensation to be recovered from the said polluting units for the period of last 5 years, taking into account the cost of restoration and cost of damage to the public health and environment and the deterrence element. The scale of deterrence may be related to the period and the frequency of defaults. Such other factors as may be found relevant may also be taken into account. No further industrial activities or expansion be allowed with regard to 'red' and 'orange' category units till the said areas are brought within the prescribed parameters or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms. Pending assessment of compensation, interim compensation be recovered at the scale adopted by this Tribunal in the case of Vapi Industrial area as mentioned in para 22 above.

29. We further direct CPCB, with the assistance of SPCBs/PCCs or other experts, to compile information with regard to polluted industrial areas based on water pollution norms separately, air pollution norms separately and other pollution norm separately and notify such information on public domain within three months. On completing this exercise, action against identified individual polluters may be initiated on the same pattern on which direction have been issued in para 28 and furnish a report to this Tribunal in this regard also, before the next date.

30. We direct the MoEF&CC to take steps for enforcement of action plan for improvement of the situation.

31. We may also mention that hearing individual industrial unit is not considered necessary for passing the above order as the CPCB/State

PCBs must exercise their respective statutory powers by following the procedure prescribed under the statute even without intervention of this Tribunal. The Tribunal is only requiring such statutory bodies to perform their duties to uphold the law without going into an individual case²⁸. Direction is with reference to data compiled, or to be compiled, by the said bodies only.

32. It is made clear that white and green or non-polluting industries which are not causing any pollution will not be affected by this order except that the parameters thereof may be monitored with a view to see that under the garb of label of white/green or otherwise, the polluting activity is not continued.

33. We direct that the CPCB will be at liberty to have an appropriate panel of Experts to augment its capacity, in case the available manpower is found to be inadequate to execute the above order and for this purpose utilise the environment funds available under the environmental compensation head. In this regard, reference may also be made to order dated 22.01.2019, of this Tribunal in O.A No. 101/2019, *Central Pollution Control Board Vs. Assam State Pollution Control Board & Ors.* which enables CPCB to utilise the environment fund for the purpose.

34. Let a compliance report be filed by the CPCB after three months but before the next date by email on judicial-ngt@gov.in.

List for further consideration on 05.11.2019.

²⁸ M.C Mehta Vs. Union of India & Ors., (2001) 3 SCC 756, at para 8, the Supreme Court repeated the stand that in re M.C Mehta Vs. Union of India (1998) 6 SCC 63, the Court had passed directions to all bus operators in Delhi to make a shift from diesel and other fuels to CNG, the Supreme Court's directions are all *in rem* and not *in personam*.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 10, 2019
Original Application No. 1038/2018
AK



Item Nos. 03 & 04

Court No. 1

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

I.A. No. 479/2019
IN
Original Application No. 1038/2018
WITH
Review Application No. 44/2019
IN
Original Application No. 1038/2018

News item published in "The Asian Age" Authored by Sanjay Kaw
Titled

"CPCB to rank industrial units on pollution levels"

WITH

Union of India

Applicant(s)

Versus

News item published in "The Asian Age" Authored
by Sanjay Kaw Titled "CPCB to rank industrial units
on pollution levels"

Respondent(s)

Date of hearing : 19.08.2019

Date of uploading of order : 23.08.2019

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

For Applicants in the Review
Application and the I.A. :

Mr. Rajkumar, Advocate for CPCB
Mr. Attin Shankar Rastogi and Ms.
Suman Kharb, Advocates for
MoEF&CC

ORDER

1. This order will dispose of Review Application No. 44/2019 filed by the Ministry of Environment, Forest and Climate Change (MoEF&CC) for

review of the order of this Tribunal dated 10.07.2019 and I.A. No. 479/2019 filed by the Central Pollution Control Board (CPCB) for clarification of the said order.

2. Order dated 10.07.2019 dealt with the issue of remedial action against polluting industries in the identified polluting industrial clusters. The CPCB had carried out study of industrial clusters in the country with reference to the Comprehensive Environmental Pollution Index (CEPI) which includes weightages on nature of pollutants, ambient pollutant concentrations, receptors (number of people affected) and additional high-risk element. On the basis of the above study in 2009-10, 88 industrial clusters were notified as Polluted Industrial Areas (PIAs). These PIAs were ranked as 'critically polluted area' (CPA), 'severely polluted area' (SPA) and 'other polluted areas' (OPAs), depending upon the CEPI scores of each of these industrial areas. The CEPI criteria was revised in 2016 and, based on the CEPI-2016 criteria, CPCB carried out further monitoring in the year 2017-18 where it was found that number of identified polluted industrial clusters went up to 100. The said number includes 38 critically polluted, 31 severely polluted and remaining 31 as other polluted areas.
3. The Tribunal vide order dated 13.12.2018 directed all the State Pollution Control Boards (SPCBs)/Committees (PCCs) to finalize time bound action plans within three months so as to bring all polluted industrial clusters within the safe parameters under the provisions of

the Air Act and the Water Act. The SPCBs and CPCB were free to take coercive measures, including recovery of compensation for damages to the environment on 'Polluter Pays' principle and also to adopt precautionary measures on 'Precautionary' principle. The CPCB was directed to serve a copy of the above mentioned order to all the SPCBs who were to furnish the same to the respective Chief Secretaries of the States for necessary action. The MoEF&CC was directed to take steps on the basis of report of the CPCB. Action taken reports were to be furnished by the CPCB and the MoEF&CC to this Tribunal before 31.05.2019. In the States, action plans were to be prepared by Committees headed by the Chief Secretaries.

4. The matter was thereafter considered on 10.07.2019. From the letter dated 17.05.2019 produced during the hearing, the Tribunal noted the CEPI Score for 100 PIAs monitored during 2018 and held that while strategies may be worked out for reducing the pollution load in the industrial clusters in question, the statutory regulators must perform their functions in the light of 'sustainable development' and 'precautionary' principle of stopping polluting activities and taking other coercive measures. It was observed:

"23. In the present case, in view of massive exercise already done by CPCB, it is not necessary to require any further verification about the existence of pollution in the said PIAs. The Tribunal can direct that the polluting activities cannot be allowed to continue till adequate measures are taken as the Tribunal is bound to apply the 'Sustainable Development'¹,

¹ M.C Mehta Vs. Union of India (1997) 2 SCC 353, where the Supreme Court of India held – The development of industry is essential for the economy of the country, but at the same time the environment and the ecosystems have to be protected. The pollution created as a consequence of development must be commensurate with the carrying capacity of our ecosystem.

'Precautionary'² and 'Polluter Pays'³ principle under Section 20 of the National Green Tribunal Act, 2010 to protect the environment and the victims. The statutory regulatory bodies can be required to straightaway identify the particular industrial units in the said PIAs that are causing pollution, particularly those units which fall under the red and orange category and take action against them by way of closing the polluting activity, initiating prosecution and assessing and recovering compensation. Pending such assessment, interim compensation may be recovered on the scale adopted by this Tribunal in the case of Vapi industrial area⁴.

24. CPCB has compiled data of industrial clusters which are polluting in terms of air, water and other norms together. Under the law, even air pollution or water pollution or other pollution, are independent offences. The sustainable development and precautionary principle require any polluting activity to be prohibited and compensation recovered for damage caused from polluters. If there is air pollution, actionable under the Air Act, even if there is no violation of Water Act or EPA Act, such pollution cannot be ignored. There has to be prosecution, stopping of polluting activity and recovery of compensation for restoration of the environment. We have seen that even when norms of air, water and other pollution are being violated, prosecution, stopping of polluting activities and recovery of compensation is not taking place for which there is no justification. Likewise action to prohibit polluting activity, initiating prosecution and recovery of compensation is required not merely for the PIAs based on violation of norms under all the heads, but also for areas where air, water or other pollution is found individually. Thus areas not covered by PIAs are also required to be governed by our directions for enforcing the law by way of stopping polluting activity and taking other steps. The fact that such pollution is taking place is evidenced by there being acknowledged pollution in the form of 351 polluted river stretches⁵ and 102 non-attainment cities⁶.

² M.C Mehta vs. Union of India & Ors., (2009) 6 SCC 142, at para 23, 30 & 46, the Supreme Court addressed the issue of wide threat to forest ecology vis-à-vis the mining activities in the Aravalli hills and explained that it is important to evoke the precautionary principle to impose complete ban on mining in the Aravalli Range in state of Haryana.

³ Indian Council for Enviro Legal Action & Ors. Vs. Union of India & Ors., (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum Vs. Union of India & Ors. (1996) 5 SCC 647 Para 12-18 – holding that “Polluter Pay” principle is ‘accepted principle and part of environmental law of the country, even without specific statute. M.C Mehta Vs. Union of India & Ors., W.P (C) No. 13029/2015 order dated 24.10.2017 of the Supreme Court of India., O.A 95/2018, order dated 11.01.2019 & O.A No. 593/2017, order dated 03.08.2018: The Tribunal directed CPCB to take penal action against those accountable for failure in setting up CETPs/STPs/STPs and to recover compensation for damage to the environment,

⁴ *Supra* 15

⁵ O.A. 673/2018, News Item Published in ‘The Hindu’ authored by Shri. Jacob Koshy titled “More river stretches are now critically polluted: CPCB”, Order dated 20.09.2018

⁶ O.A. 681/2018, News Item Published In ‘The Times of India’ Authored by Shri. Vishwa Mohan Titled “NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15” order dated 08.10.2018

25. CPCB must compile data of polluted industrial areas not confined to more than one parameters as is now being done, but also with respect to polluted areas based on water, air or other pollution individually. Compiling data for categorizing areas as polluted areas based on water pollution alone, or air pollution or other pollution alone may be a step in the right direction. Let this be now done in the next three months, with the assistance of State PCBs/PCCs or other experts. In this regard we may note that dealing with the industrial water pollution, this Tribunal directed the CPCB to compile its monitoring report with reference to 97 CETPs installed in different states as this was linked to 100 PIAs also.⁷

26. Needless to state that there is no right to carry on business in violation of pollution norms and right of statutory authorities is coupled with duty. Such right, does not carry any unlimited discretion of not taking action when pollution norms are violated.

27. In view of the material compiled by the CPCB, with the assistance of SPCBs/PCCs, in respect of polluted industrial areas, where action is not being taken by statutory authorities, the Tribunal has to exercise its jurisdiction of directing performance of statutory functions and duties by the State boards/committees, following similar direction by the Apex Court⁸.”

5. In the light of above findings, the Tribunal in its order dated 10.07.2019 directed:

“28. Accordingly, we direct the CPCB in coordination with all State PCBs/PCCs to take steps in exercise of statutory powers under the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974, Environment (Protection) Act, 1986 or any other law to prohibit operation of polluting activities in the said CPAs and SPAs within three months and furnish a compliance report to this Tribunal. The Central Pollution Control Board, in coordination with the State Boards/PCBs may make assessment of compensation to be recovered from the said polluting units for the period of last 5 years, taking into account the cost of

⁷ O.A No. 593/2017, order dated 19.02.2019, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.

⁸ M.C Mehta (Calcutta Tanneries' Matter) Vs. Union of India & Ors., (1997) 2 SCC 411, at para 17, the Supreme Court directed the Board to take action against defaulting tanneries which, including those which had not complied with the conditions under Water Act as mentioned in their consents. In M.C Mehta Vs. Union of India & Ors., (2004) 6 SCC 588, paras 37,48, 517 69, the Supreme Court passed direction on closure of industrial units which were illegally operating and were in violation of the Master Plan.

restoration and cost of damage to the public health and environment and the deterrence element. The scale of deterrence may be related to the period and the frequency of defaults. Such other factors as may be found relevant may also be taken into account. No further industrial activities or expansion be allowed with regard to 'red' and 'orange' category units till the said areas are brought within the prescribed parameters or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms. Pending assessment of compensation, interim compensation be recovered at the scale adopted by this Tribunal in the case of Vapi Industrial area as mentioned in para 22 above.

29. We further direct CPCB, with the assistance of SPCBs/PCCs or other experts, to compile information with regard to polluted industrial areas based on water pollution norms separately, air pollution norms separately and other pollution norm separately and notify such information on public domain within three months. On completing this exercise, action against identified individual polluters may be initiated on the same pattern on which direction have been issued in para 28 and furnish a report to this Tribunal in this regard also, before the next date.

30. We direct the MoEF&CC to take steps for enforcement of action plan for improvement of the situation.

...

32. It is made clear that white and green or non-polluting industries which are not causing any pollution will not be affected by this order except that the parameters thereof may be monitored with a view to see that under the garb of label of white/green or otherwise, the polluting activity is not continued."

6. We have heard learned Counsel for the MoEF&CC and the CPCB in support of their review application and application for clarification respectively.
7. Case of the MoEF&CC in seeking review is that the MoEF&CC is yet to take a final view in the matter of protocol to be followed by the States/UTs for implementation of the action plan for environmental improvement of CPAs after considering the report of the CPCB, as noted in para 10 of the order dated 10.07.2019. Current CEPI

framework may need to be reviewed. CEPI score is to be used as a warning tool for formulating an action plan to restore environment quality. MoEF&CC will require six months for policy framework and one year for implementation and till then ban on expansion/setting up new industries may be kept in abeyance.

8. Case of CPCB in seeking clarification is that certain SPCBs/PCCs are not clear whether even compliant 'red' and 'orange' industries are to stop their operations and whether non-industrial 'red' and 'orange' category projects of public utility are also to be prohibited. Further, the units which have sought consent to establish (CTE) by abating the pollution or where EC and CTE is already granted are to be covered by order of this Tribunal. Industrial Associations have represented that compliant industries should not be affected and those who have already paid compensation should not be required to pay compensation again. CEPI score does not reflect contribution of individual sectors such as industrial, vehicular, generator sets, municipal and other solid wastes etc. separately which exercise was required to be undertaken.
9. We have given due consideration to the submissions. As regards the plea of MoEF&CC that CEPI policy framework will be finalized and implemented in six months and one year, we are of the view that the order of the Tribunal does not in any manner debar the MoEF&CC to take the proposed steps. However, pendency of such steps can be no justification for not enforcing the existing pollution norms and

applying the 'Sustainable' 'Precautionary' and 'Polluter Pays' principles on the basis of data available.

10. What the Tribunal has directed is *inter alia* to "identify the particular industrial units in the said PIAs that are causing pollution, particularly those units which fall under the 'red' and 'orange' category and take action against them by way of closing the polluting activity, initiating prosecution and assessing and recovering compensation"⁹. No ground whatsoever has been shown to review the said direction. Further direction of the Tribunal is that "No further industrial activities or expansion be allowed with regard to 'red' and 'orange' category units till the said areas are brought within the prescribed parameters or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms."¹⁰ Objection to this direction is that there may be 'red' or 'orange' category units which may not in any manner add to the pollution. If it is so, all that is required is to determine viability of such units on 'Precautionary' principle by an appropriate mechanism. Reasons for doing so are that the area as per data available is polluted and 'red' and 'orange' category have higher potential for pollution. There is no absolute bar to such units being set up if they are found to be viable. This clarification should take care of any possible apprehension that the order of the Tribunal will obstruct any legitimate industrial activity. The MoEF&CC can forthwith devise an appropriate mechanism to ensure that new

⁹ Para 23

¹⁰ Para 28

legitimate activity or expansion can take place after due precautions are taken in the areas in question by 'red' and 'orange' category of units.

11. Coming to the apprehension of the CPCB, it is clear from paras 28 and 32 of the order reproduced above that action has to be taken only against polluting activities. If any unit is compliant with the norms, such unit is not affected. There is no basis for apprehension that compensation may have to be paid twice. The provisions of Air Act, Water Act and EPA Act and the rules or other environment norms are to be enforced not only against the industrial units but also against every polluting activity whether the same has already been set up or is yet to be set up in terms of provisions of the law in question. This being the undisputed legal position, no further clarification remains necessary.

The applications stand disposed of accordingly.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 19, 2019
I.A. No. 479/2019 In O.A. No. 1038/2018
With
Review Application No. 44/2019 In O.A. No. 1038/2018
DV



CPCB/IPC-VII/CEPI/2019 1175

Dated: 09/09/2019

To

The Joint Secretary,
(CP Division)
Ministry of Environment, Forest
& Climate Change
Indira Paryavaran Bhavan,
Aliganj, Jor Bagh Road,
New Delhi-110003

Sub: Hon'ble NGT Order dated 10.7.2019 and 23.8.2019 in OA No. 1038/2018 related to Comprehensive Environmental Pollution Index (CEPI) of 100 polluted industrial areas

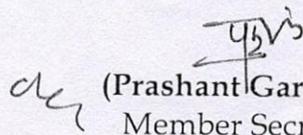
Madam,

This has reference to Hon'ble NGT Order dated 10.7.2019 and 23.8.2019 in OA No. 1038/2018 related to Comprehensive Environmental Pollution Index (CEPI) of 100 polluted industrial areas.

In this regard, many representations/RTI applications are being received from SPCBs, Industrial Associations etc., requesting details such as CEPI scores, boundaries of industrial areas covered under CPA & SPA, list of critical pollutants in CPA&SPA, monitoring report, CEPI calculation sheet etc.

As the CEPI report is under consideration of MoEFCC, it may please be advised, if CPCB can share the information on CEPI with SPCBs.

Yours faithfully,


(Prashant Gargava)
Member Secretary

Copy to:

1. Shri Yogendra Pal Singh
Additional Director
Ministry of Environment,
Forest and Climate Change
2nd Floor, Vayu Wing
Indira Paryavaran Bhawan
Jor Bagh, New Delhi-110 003

2. PS to CCB

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत
दिनांक 11/09/2019

Speed Post

CPCB/IPC-VII/CEPI/NGT Order/2019

September 23, 2019

To

The Member Secretaries
(List of SPCBs/PCC)

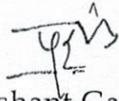
Sub: Actions to be taken for complying directions of Hon'ble NGT Order dated 10/7/2019 in the matter of OA No. 1038/2018-reg.

Sir,

This has reference to Hon'ble NGT Order, dated 10.7.2019 in the matter of OA No. 1038/2018.

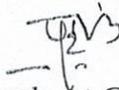
While CEPI Report prepared by CPCB is under consideration of MoEF&CC, SPCBs/PCCs shall ensure that environmental surveillance mechanism is in place particularly in Polluted Industrial Areas and steps taken against polluting activities not-complying with prescribed norms.

The action taken report may be provided by 5.10.2019.


(Prashant Gargava)
Member Secretary

Copy to:

The Joint Secretary (CP Division)
Ministry of Environment, Forest
& Climate Change
Indira Paryavaran Bhawan,
Jorbagh Road,
Ali Ganj, Lodi Colony
New Delhi-110 013


(Prashant Gargava)

M/F

List of SPCBs/PCC

<p>1. The Member Secretary, Haryana State Pollution Control Board C-11, Sector – 6, Panchkula (Haryana)</p>	<p>2. The Member Secretary, H. P. State Environment Protection & Pollution Control Board Him Bhawan, Phase-III, Shimla-171 009, Himachal Pradesh</p>
<p>3. The Member Secretary, Punjab Pollution Control Board Vatavaran bhawan, Nabha Road, Patiala 147001, Punjab</p>	<p>4. The Member Secretary, Uttar Pradesh Pollution Control Board TC-12V, VibhuthiKhand, Gomti Nagar, Lucknow 226010, U.P.</p>
<p>5. The Member Secretary, Uttarakhand Environment Protection & Pollution Control Board 29/20, Nemi Road, Dehradun, Uttrakhand</p>	<p>6. The Member Secretary, Delhi Pollution Control Committee 4th Floor, ISBT Building, Kashmiri Gate, New Delhi-110006</p>
<p>7. The Member Secretary, Madhya Pradesh Pollution Control Board Paryavaran Parisar, E-5, Arera Colony, Bhopal 463016, Madhya Pradesh</p>	<p>8. The Member Secretary, Rajasthan Pollution Control Board A-4, Institutional Area, Jhalana Doongri, Jaipur-302 004, Rajasthan</p>
<p>9. The Member Secretary, Andhra Pradesh Pollution Control Board, Paryavaran Bhawan, A-III, Industrial Estate, Sanath Nagar, Hyderabad - 500 018, Andhra Pradesh</p>	<p>10. The Member Secretary, Karnataka State Pollution Control Board 4th& 5th Floor, Parisara Bhawan, No. 49, Church Street, Bangalore - 560 001, Karnataka</p>
<p>11. The Member Secretary, Tamil Nadu Pollution Control Board, No. 76, Mount Salai, Guindy, Chennai- 600 032</p>	<p>12. The Member Secretary, Telangana State Pollution Control Board A-3, Industrial Estate, Sanath Nagar, Hyderabad</p>
<p>13. The Member Secretary, Gujarat Pollution Control Board Sector 10-A, Gandhi Nagar 382043, Gujarat</p>	<p>14. The Member Secretary, Maharashtra Pollution Control Board, Kalpataru Points, 3-4th floors, Opp. Cine Planet, Sion Circle Sion (E), Mumbai-400 022</p>
<p>15. The Member Secretary, Jharkhand State Pollution Control Board T.A. Building, HEC, P.O. Dhurwa, Ranchi – 834 004</p>	<p>16. The Member Secretary, West Bengal Pollution Control Board Paribesh Bhavan, 10-A, Block LA, Sector III, Salt Lake City, Kolkata - 700 091</p>

<p>17. The Member Secretary, Pollution Control Board Assam Maniram Dewan Rd, Anuradha, Railway Colony, Bamunimaidam, Guwahati, Assam- 781021</p>	<p>18. The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No. NS-B/2 Patliputra Industrial Area, Patliputra, Patna(Bihar)-800 023</p>
<p>19. The Member Secretary State Pollution Control Board, Odisha, Paribesh Bhawan, A/118, Nilakantha Nagar, Unit-VIII, Bhubaneswar- 751012, Odisha</p>	<p>20. The Member Secretary Chhattisgarh Environment Conservation Board Paryavas Bhavan, North Block Sector-19, Naya Raipur (C.G.) - 492002.</p>
<p>21. The Member Secretary Kerala State Pollution Control Board Plamoodu Jn., Pattom Palace, Trivandrum 695004, Kerala</p>	



Annexure-VII

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

Hon'ble NGT Matter
Time bound

CPCB/IPC-VII/CEPI/NGT Order/2019 8135-8154

October 25th, 2019

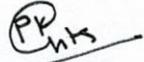
To

The Member Secretary
(List of SPCBs/PCCs)

Sub: Actions to be taken for complying directions of Hon'ble NGT Order dated 10/7/2019 in the matter of OA No. 1038/2018-reg.

Sir,

With reference to CPCB letter even no. dated 23/9/2019, please inform the updated status on the action taken for compliance of Hon'ble NGT order dated 10/7/2019, in the matter of O.A No. 1038/2018, by 30.10.2019 (E-mail: ipc7.cpcb@gov.in)


(P. K. Gupta)
DH: IPC-VII

olc

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत.....
दिनांक 28/10/19

52

List of SPCBs/PCCs

1. The Member Secretary Andhra Pradesh State Pollution Control Board D.No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalmvari Street, Kasturibaipet, Vijayawada- 520010	2. The Member Secretary Maharashtra State Pollution Control Board Kalpataru Point, 3 rd & 4 th floors Sion Matunga Scheme Road No. 6 Opp. Cine Planet, Sion Circle, Sion(E), Mumbai 400 022 Maharashtra
3. The Member Secretary Assam State Pollution Control Board Bamunimaidan, Guwahati – 781021 Assam	4. The Member Secretary Madhya Pradesh State Pollution Control Board Paryavaran Parisar, E-5 Arera Colony Bhopal – 462016 Madhya Pradesh
5. The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No.N-B/2, Patliputra Industrial Area Patna-800023	6. The Member Secretary Odisha State Pollution Control Board Paribesh Bhawan A-118, Nilakanta Nagar, Unit –VIII, Bhubaneshwar – 751012. Odisha
7. The Member Secretary Chhattisgarh Environment Conservation Board Paryavas Bhawan, North Block Sector-19 Naya Raipur – 492 099 Chhattisgarh	8. The Member Secretary Punjab State Pollution Control Board Nabha Road, ITI Rd, Adarsh Nagar, Prem Nagar, Patiala - 147001. Punjab
9. The Member Secretary Delhi Pollution Control Committee 4 th floor, ISBT Building, Kashmeri Gate, Delhi - 110006. Delhi	10. The Member Secretary Rajasthan State Pollution Control Board A-4 Institutional Area, Jhalane Dungri Jaipur – 302004. Rajasthan
11. The Member Secretary Gujarat State Pollution Control Board Sector 10-A, Gandhi Nagar – 382043 Gujarat	12. The Member Secretary Tamil Nadu State Pollution Control Board No. 76, Mount Salai, Guindy, Chennai - 600032. Tamil Nadu
13. The Member Secretary Haryana State Pollution Control Board C-11, Sector 6, Panchkula, Haryana 134109 Haryana	14. The Member Secretary Telangana State Pollution Control Board Paryavaran Bhavan A-3, Industrial Estate, Sanath Nagar, Hyderabad – 500 018. Telangana
15. The Member Secretary Himachal Pradesh State Pollution Control Board Paryavaran Bhavan, Phase III, New Shimla – 171009 Himachal Pradesh	16. The Member Secretary Uttarakhand Environment Protection & Pollution Control Board 29/20, Nemi Road, Dehradun – 248001. Uttarakhand
17. The Member Secretary Jharkhand State Pollution Control Board T.A Building, HEC Campus, P.O. Dhurwa Ranchi – 834004 Jharkhand	18. The Member Secretary Uttar Pradesh State Pollution Control Board 3 rd floor, PICUP Bhavan, Vibhuti Khand, Gomti Nagar, Lucknow – 226010. Uttar Pradesh
19. The Member Secretary Karnataka State Pollution Control Board Parisara Bhavan, 4 th & 5 th floors Church Street, Bangalore – 560 001 Karnataka	20. The Member Secretary West Bengal State Pollution Control Board Paribesh Bhavan Building, No.10-A, Block –LA, Sector 3, Salt Lake City, Kolkata – 700 091. West Bengal
21. The Member Secretary Kerala State Pollution Control Board Plamoodu Junction, Pattam Palace P.O. Thiruvananthapuram – 695004 Kerala	

F.No. MSCB/03/2017/

1215

September 13, 2019

To

Mrs. Geeta Menon,
Joint Secretary,
Ministry of Env. Forest & Climate Change,
Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road
New Delhi-110003

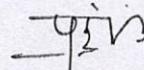
Sub: Hon'ble NGT Order in the matter of "CPCB to rank industrial Units on pollution levels" dated 23.08.2019 - O.A. No.1038/2018 with review application No.44/2019 & I.A. No.479/2019.

Madam,

Kind attention is invited to Hon'ble NGT Order dated 23.08.2019 in O.A. No.1038/2018, wherein MoEF&CC has been asked "to devise an appropriate mechanism to ensure that new legitimate activity or expansion can take place after due precautions are taken in the areas in question by 'red' and 'orange' category of units".

In this context, Chairman, Gujarat State Pollution Control Board has requested for expeditious release of guidelines by Central Government so that State Pollution Control Boards may comply with the orders of the Hon'ble NGT (copy of letter enclosed). Other State Pollution Control Boards have also been requesting CPCB for seeking details of critically and severely polluted areas, index scores, extent of area under each industrial cluster, etc. As the CEPI report prepared by Central Pollution is still under consideration of MoEF&CC, CPCB may kindly be advised further course of action in the matter.

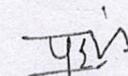
Yours faithfully,


(Prashant Gargava)
Member Secretary

Encls: As above.

Copy for information to:

Mrs. Nidhi Khare,
Joint Secretary,
Ministry of Env. Forest & Climate Change,
Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road
New Delhi-110003


(Prashant Gargava)
Member Secretary

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत.....
दिनांक..... 2/09/2019

ग. पी. सिंह परिहार भा.प्र.से.
अध्यक्ष



सत्यमेव जयते

केन्द्रीय प्रदूषण नियंत्रण बोर्ड

CENTRAL POLLUTION CONTROL BOARD

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

D.O.No.CPCB/IPC-VII/CEPI/NGT Order/2019
Dated 03rd October 2019

Sir,

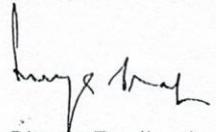
Kind attention is invited to orders of Hon'ble NGT in OA No.1038 of 2018, dated 23.08.2019 asking MoEFCC to devise an appropriate mechanism to ensure that new legitimate activity or expansion can take place after due precautions are taken in areas (industrial clusters being considered for evaluation of CEPI) in question by Red and Orange category of units.

The matter is coming up again for hearing before the Hon'ble NGT on 5th November 2019. Therefore, an early action by MoEFCC would be appropriate. It may be mentioned that State Boards are seeking directions from CPCB for further follow-up action on orders of Hon'ble NGT and that SPCBs can be advised only after instructions from MoEFCC in the matter are available. A copy of representation from Gujarat SPCB is enclosed for kind perusal.

It is requested that appropriate instructions in the matter may kindly be issued.

Kind regards

Yours sincerely,


(S.P. Singh Parihar)
27/10/19

To:

Shri C.K.Mishra
Secretary,
Ministry of Environment, Forest & Climate Change
Indira Paryavaran Bhawan, Aliganj, Jorbagh Road,
New Delhi-110003

Encl:a/a



'परिवेश भवन, सी.बी.डी.-कम-आफिस कॉम्प्लैक्स, पूर्वी अर्जुन नगर, दिल्ली-110032

'Parivesh Bhawan' East Arjun Nagar, Delhi-110 032 India

PHONE: 22307233, TEL./ FAX: +91-11-22304948

e-mail: ccb.cpcb@nic.in, Website : cpcb.nic.in

No. Q-16017/38/2018-CPA
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE
(CP Division)

1st Floor, Agni Block,
Indira Paryavaran Bhawan,
Jor Bagh Road,
Aliganj, New Delhi-110003

Dated: 24th October, 2019

To,

Member Secretary

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

Subject: - Compliance of Hon'ble NGT order dated 19.08.2019 (published on 23.08.2019) in O. A. No. 1038 2018 – reg.

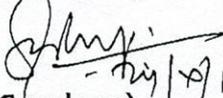
Sir,

Please refer to your letter No. CPCB/IPC-VII/CEPI/NGT/2019 dated 18.10.2019 regarding the subject mentioned as above. In this context, find enclosed herewith the mechanism for environmental management of Critically and Severely Polluted Areas and consideration of activities/projects in such areas in compliance of directions issued by Hon'ble National Green Tribunal on 19.08.2019 (published on 23.08.2019) in O. A. No. 1038 2018. The enclosed Mechanism may be shared with the State/UT Governments and SPCB/PCCs for implementation. However, the report regarding CEPI and EPI assessment study done by CPCB may be put up to the Ministry for further deliberation.

This issues with the approval of the Competent Authority.

Encl: as above

Your Faithfully


- 24/10/19.
(Sundeep)

Director/Scientist 'F'

Email: sundeep.moef@gmail.com

Phone/Fax:011-24695339

DR-IPC-VI
- 24/10/19
25/10

Mechanism evolved after consultation with stakeholders for new activities/ expansion by Red & Orange Category of industries in Critically/ Severely Polluted areas

A. Environmental Management of CPAs and SPAs

Protocol to be followed by the State Pollution Control Boards (SPCBs)/ Pollution Control Committees(PCCs) For improvement of environmental quality in the Critically Polluted Areas (CPAs) and Severely Polluted areas(SPAs)

- i. The CEPI score assessment done by CPCB may be used as warning tool by the State Governments, SPCBs and other concerned to understand the severity of pollution existing in the area and to formulate appropriate action plan.
- ii. The State Govts. / Union Territories / SPCBs/PCCs may finalize the time bound action plans within three months for the identified CPAs and SPAs to restore environment quality within norms. Short term and long term action points have to be formulated with time frames of up to one year and more than one year, as may be required, respectively.
- iii. The action plan may be prepared by a committee constituted by Chief Secretary. Representative of industries association may be included in the committee constituted. The final preparation of action plan including its execution may be overseen by the Chief Secretary of the concerned state. The same may shall be submitted to CPCB for consideration & approval.
- iv. While preparing action plans, the committee constituted by the Chief Secretary shall follow the directions, issued by CPCB under section 18(1) (b) of the Water (Prevention & Control of pollution) Act, 1974 and the Air (Prevention & Control of pollution) Act,1981 on 26.04.2016, which include (i) environmental quality monitoring in all CPAs, (ii) installation of continuous ambient air quality monitoring stations/ Strengthening of manual monitoring stations (iii) installation of continuous water quality monitoring stations, (iv) application of revised CEPI version and (v) action plan & monitoring. Long term and short term action plans, along with sector and region wise action points, should be defined clearly with time lines and responsible implementing agencies. Additionally, Source apportionment Studies may be conducted to ascertain contribution from sources including industries for planning actions.
- v. The progress of implementation of action points may be reviewed by district and State Level Monitoring Committees, quarterly. It would be ensured that there is no slippage either in terms of time frame or the activities to be completed relating to the action plan. In case of delay/ inefficiency in implementation of action plan, the concerned State

Government will take appropriate action against the responsible authorities, implementing agencies, industries, etc. under the provisions of relevant acts/laws.

- vi. The SPCBs/PCCs may undertake environmental quality monitoring for evaluating CEPI in the critically and severely polluted areas falling under their jurisdiction through an outside third party recognized agency (laboratory) under Environment (Protection) Act, 1986 and accredited under NABL. The frequency of monitoring may be twice in a year i.e. pre- monsoon season and post-monsoon season.
 - vii. The action plans prepared for the CPAs/SPAs, environmental quality monitoring data, evaluated CEPI scores (as per revised CEPI-2016 concept) and progress reports of committee meetings to be placed in public domain through their respective State Govts. / UTs / SPCBs / PCCs websites. CPCB may also review the progress of implementation of action plans of CPAs/ SPAs on a quarterly basis.
 - viii. In case CEPI scores of a particular CPA continue to be in critical category for a year, MoEF&CC may review the action plans with the concerned State Govt. / Union territory and impose additional safeguards such as revising the time limits for implementation of action points, supplementary action points and may recommend penal action against the authorities responsible for implementation of action plan for environmental management of CPAs/SPAs.
 - ix. CPCB may also carry out re-assessment of CEPI scores in CPAs, with concurrence of MoEF&CC and report outcome for further consideration and decision by MoEF&CC
 - x. Carrying capacity study of the each of the area may be carried out by State Govts. / Union Territories /SPCBs/PCCs based on the protocols prepared by CPCB.
- B. Consideration of proposals for grant of Environmental clearance for new and expansion activities listed in 'Red' and 'Orange' Categories located in Critically Polluted Areas and Severely Polluted areas:**
- i. Any project or activity specified in Category B1 will be appraised at the Central Level, if located in whole or in part within 5 km from the boundary of Critically Polluted Areas or Severely Polluted Areas. However, Category B2 projects shall be considered at state level stipulating Environmental Clearance conditions as applicable for the Category 'B1' project/activities.

- ii. Proposals located in CPAs and SPAs may be examined by the sectoral Expert Appraisal Committee (EAC) during scoping/appraisal based on the CEPI scores of Air/Water/Land Environment as published by CPCB from time to time. In such proposals, appropriate mitigation measures for the environment possessing higher CEPI score may be made by EAC in the form of recommendations/ decision. These recommendations may be explicitly mentioned in the Terms of Reference/Environmental Clearance letter and to be ensured by the member secretary concerned.
- iii. SPCBs/PCCs may prescribe following additional conditions, deemed fit for grant Consent to establish (CTE)/Consent to Operate (CTO) to those projects/activities of Red/Orange Categories located in CPAs/SPAs which are not covered under the provisions of the EIA Notification, 2006.

Environment	Mitigation Measures
Air	<p><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> i. Stack emission levels should be stringent than the existing standards in terms of the identified critical pollutants. ii. CEMS may be installed in all large/medium red category industries (air polluting) and connected to SPCB and CPCB server. iii. Effective fugitive emission control measures should be imposed in the process, transportation, packing etc. iv. Transportation of materials by rail/conveyor belt, wherever feasible. v. Encourage use of cleaner fuels (pet coke/ furnace oil/LSHS may be avoided). vi. Best Available Technology may be used. For example, usage of EAF/SAF/IF in place of Cupola furnace. Usage of Supercritical technology in place of sub-critical technology. vii. Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever feasible. viii. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc.

	<p>ix. Assessment of carrying capacity of transportation load on roads inside the industrial premises. If the roads required to be widened, shall be prescribed as a condition.</p>
Water	<p><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> i. Reuse/recycle of treated wastewater, wherever feasible. ii. Continuous monitoring of effluent quality/quantity in large and medium Red Category Industries (water polluting). iii. A detailed water harvesting plan may be submitted by the project proponent iv. Zero liquid discharge wherever techno-economically feasible. v. In case, domestic waste water generation is more than 10 KLD, the industry may install STP.
Land	<p><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> i. Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever, feasible for new projects. ii. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc. iii. Dumping of waste (fly ash, slag, red mud, etc.) may be permitted only at designated locations approved by SPCBs/ PCCs. iv. More stringent norms for management of hazardous waste. The waste generated should be preferably utilized in co-processing.
Other Condition(Additional):	<ul style="list-style-type: none"> i. Monitoring of compliance of EC conditions may be submitted with third party audit every year. ii. The % of the CER may be at least 1.5 times the slabs given in the OM dated 01.05.2018 for SPA and 2 times for CPA in case of Environmental Clearance.

Fwd: Letter No Q-16017/38/2018-CPA

From : Member Secretary <mscb.cpcb@gov.in>
Subject : Fwd: Letter No Q-16017/38/2018-CPA
To : PK GUPTA ADDITIONAL DIRECTOR <pkgupta.cpcb@nic.in>

Thu, Oct 24, 2019 05:48 PM

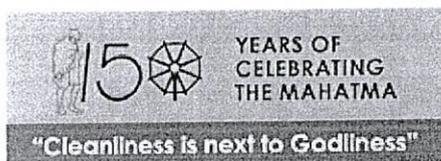
1 attachment

From: "sundee moef" <sundee.moef@gmail.com>
To: "Member Secretary" <mscb.cpcb@nic.in>
Sent: Thursday, October 24, 2019 5:44:02 PM
Subject: Letter No Q-16017/38/2018-CPA

Please find the attached document related to Compliance of Hon'ble NGT order dated 19.08.2019 in O.A. No. 1038 2018

--

with regards
Sundee
Scientist 'F' & Member Secretary (EAC-NCM)
A-106, Agni Tower,
Indira Paryavaran Bhawan, Aligunj
Jorbag, New Delhi - 110003
LL - +91 11 2469 5339



38 of 2018-10242019165206.pdf
154 KB

Fwd: Compliance of Hon'ble NGT order dated 19.08.2019 in O.A. 1038 of 2018

From : Member Secretary <mscb.cpcb@gov.in> Thu, Oct 24, 2019 05:48 PM
Subject : Fwd: Compliance of Hon'ble NGT order dated 19.08.2019 in O.A. 1038 of 2018 1 attachment
To : PK GUPTA ADDITIONAL DIRECTOR <pkgupta.cpcb@nic.in>

From: "bandyo piyali" <bandyo.piyali@gmail.com>
To: yogendra78@nic.in, "Member Secretary" <mscb.cpcb@nic.in>, "PK GUPTA ADDITIONAL DIRECTOR" <pkgupta.cpcb@nic.in>, "takpa jigmet" <takpa.jigmet@gov.in>, "susan george" <susan.george@nic.in>, "sundee moef" <sundee.moef@gmail.com>
Sent: Thursday, October 24, 2019 5:39:47 PM
Subject: Compliance of Hon'ble NGT order dated 19.08.2019 in O.A. 1038 of 2018

Sir,
Please find enclosed the mechanism for environmental management of CPAs/ SPAs and consideration of activities /projects in such areas in compliance to aforesaid order of Hon'ble NGT.

with regards

Piyali Bandyopadhyay
Project Scientist



— **CEPI mechanism.pdf**
2 MB



CPCB/IPC-VII/CEPI/NGT/2019 8114-8134

To

The Chief Secretary of concerned State/UT Govts.

(List as provided)

Sub: Mechanism for environmental management of Critically and Severely Polluted Areas and consideration of activities/projects in such areas in compliance to Hon'ble NGT order dated 23/8/2019 in the matter of O.A. No 1038/2018-reg.

Sir,

With reference to the Hon'ble NGT order dated 23/8/2019 in the matter of O.A. No 1038/2018, based on environmental quality monitoring (CEPI) carried out by CPCB during 2017-18, it is directed that

"...There is no absolute bar to such units being setup if they are found to be viable. This clarification should take care of any possible apprehension that the order of the tribunal will obstruct any legitimate industrial activity. MoEF&CC can forthwith devise an appropriate mechanism to ensure that new legitimate activity or expansion can take place after due precautions are taken in the areas in question by Red and Orange category of units".

Accordingly, MoEF&CC has prepared a mechanism and directed CPCB to share with the State/UT Governments and SPCBs/PCCs for implementation. In this regard, I am directed to communicate the mechanism for information and necessary action, please (copy enclosed).

Yours faithfully,

(P.K. Gupta)

AD& Div. Head, IPC-VII

Encl: As above

Copy to:

1. The Member Secretary, Concerned SPCBs/PCCs : for information and n/a, please.
2. The Director Department of Environment Concerned State/UT Govts. : for information and n/a, please.
3. The Joint Secretary CP Division (Water) Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhavan, Aliganj, JorBagh Road, New Delhi-110003 : for information, please.
4. The Regional Directors, CPCB : for information, please.
5. PS to CCB : for information of CCB, please.
6. PS to MS : for information of MS, please.

(P.K. Gupta)

F. N Singh o/c
दिनांक 28/10/19

63

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032

Parivesh Bhawan, East Arjun Nagar, Delhi-110032

दूरभाष/Tel : 43102030, 22305792, वेबसाइट/Website : www.cpcb.nic.in

Mechanism evolved after consultation with stakeholders for new activities/ expansion by Red & Orange Category of industries in Critically/ Severely Polluted areas

A. Environmental Management of CPAs and SPAs

Protocol to be followed by the State Pollution Control Boards (SPCBs)/ Pollution Control Committees(PCCs) For improvement of environmental quality in the Critically Polluted Areas (CPAs) and Severely Polluted areas(SPAs)

- i. The CEPI score assessment done by CPCB may be used as warning tool by the State Governments, SPCBs and other concerned to understand the severity of pollution existing in the area and to formulate appropriate action plan.
- ii. The State Govts. / Union Territories / SPCBs/PCCs may finalize the time bound action plans within three months for the identified CPAs and SPAs to restore environment quality within norms. Short term and long term action points have to be formulated with time frames of up to one year and more than one year, as may be required, respectively.
- iii. The action plan may be prepared by a committee constituted by Chief Secretary. Representative of industries association may be included in the committee constituted. The final preparation of action plan including its execution may be overseen by the Chief Secretary of the concerned state. The same may shall be submitted to CPCB for consideration & approval.
- iv. While preparing action plans, the committee constituted by the Chief Secretary shall follow the directions, issued by CPCB under section 18(1) (b) of the Water (Prevention & Control of pollution) Act, 1974 and the Air (Prevention & Control of pollution) Act,1981 on 26.04.2016, which include (i) environmental quality monitoring in all CPAs, (ii) installation of continuous ambient air quality monitoring stations/ Strengthening of manual monitoring stations (iii) installation of continuous water quality monitoring stations, (iv) application of revised CEPI version and (v) action plan & monitoring. Long term and short term action plans, along with sector and region wise action points, should be defined clearly with time lines and responsible implementing agencies. Additionally, Source apportionment Studies may be conducted to ascertain contribution from sources including industries for planning actions.
- v. The progress of implementation of action points may be reviewed by district and State Level Monitoring Committees, quarterly. It would be ensured that there is no slippage either in terms of time frame or the activities to be completed relating to the action plan. In case of delay/ inefficiency in implementation of action plan, the concerned State

Government will take appropriate action against the responsible authorities, implementing agencies, industries, etc. under the provisions of relevant acts/laws.

- vi. The SPCBs/PCCs may undertake environmental quality monitoring for evaluating CEPI in the critically and severely polluted areas falling under their jurisdiction through an outside third party recognized agency (laboratory) under Environment (Protection) Act, 1986 and accredited under NABL. The frequency of monitoring may be twice in a year i.e. pre- monsoon season and post-monsoon season.
 - vii. The action plans prepared for the CPAs/SPAs, environmental quality monitoring data, evaluated CEPI scores (as per revised CEPI-2016 concept) and progress reports of committee meetings to be placed in public domain through their respective State Govts. / UTs / SPCBs / PCCs websites. CPCB may also review the progress of implementation of action plans of CPAs/ SPAs on a quarterly basis.
 - viii. In case CEPI scores of a particular CPA continue to be in critical category for a year, MoEF&CC may review the action plans with the concerned State Govt. / Union territory and impose additional safeguards such as revising the time limits for implementation of action points, supplementary action points and may recommend penal action against the authorities responsible for implementation of action plan for environmental management of CPAs/SPAs.
 - ix. CPCB may also carry out re-assessment of CEPI scores in CPAs, with concurrence of MoEF&CC and report outcome for further consideration and decision by MoEF&CC
 - x. Carrying capacity study of the each of the area may be carried out by State Govts. /Union Territories /SPCBs/PCCs based on the protocols prepared by CPCB.
- B. Consideration of proposals for grant of Environmental clearance for new and expansion activities listed in 'Red' and 'Orange' Categories located in Critically Polluted Areas and Severely Polluted areas:**
- i. Any project or activity specified in Category B1 will be appraised at the Central Level, if located in whole or in part within 5 km from the boundary of Critically Polluted Areas or Severely Polluted Areas. However, Category B2 projects shall be considered at state level stipulating Environmental Clearance conditions as applicable for the Category 'B1' project/activities.

- ii. Proposals located in CPAs and SPAs may be examined by the sectoral Expert Appraisal Committee (EAC) during scoping/appraisal based on the CEPI scores of Air/Water/Land Environment as published by CPCB from time to time. In such proposals, appropriate mitigation measures for the environment possessing higher CEPI score may be made by EAC in the form of recommendations/ decision. These recommendations may be explicitly mentioned in the Terms of Reference/Environmental Clearance letter and to be ensured by the member secretary concerned.
- iii. SPCBs/PCCs may prescribe following additional conditions, deemed fit for grant Consent to establish (CTE)/Consent to Operate (CTO) to those projects/activities of Red/Orange Categories located in CPAs/SPAs which are not covered under the provisions of the EIA Notification, 2006.

Environment	Mitigation Measures
Air	<p data-bbox="571 779 981 813"><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> <li data-bbox="571 813 1347 884">i. Stack emission levels should be stringent than the existing standards in terms of the identified critical pollutants. <li data-bbox="571 913 1347 1019">ii. CEMS may be installed in all large/medium red category industries (air polluting) and connected to SPCB and CPCB server. <li data-bbox="571 1048 1347 1120">iii. Effective fugitive emission control measures should be imposed in the process, transportation, packing etc. <li data-bbox="571 1149 1347 1220">iv. Transportation of materials by rail/conveyor belt, wherever feasible. <li data-bbox="571 1249 1347 1321">v. Encourage use of cleaner fuels (pet coke/ furnace oil/LSHS may be avoided). <li data-bbox="571 1350 1347 1489">vi. Best Available Technology may be used. For example, usage of EAF/SAF/IF in place of Cupola furnace. Usage of Supercritical technology in place of sub-critical technology. <li data-bbox="571 1518 1347 1624">vii. Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever feasible. <li data-bbox="571 1624 1347 1729">viii. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc.

	ix. Assessment of carrying capacity of transportation load on roads inside the industrial premises. If the roads required to be widened, shall be prescribed as a condition.
Water	<p><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> i. Reuse/recycle of treated wastewater, wherever feasible. ii. Continuous monitoring of effluent quality/quantity in large and medium Red Category Industries (water polluting). iii. A detailed water harvesting plan may be submitted by the project proponent iv. Zero liquid discharge wherever techno-economically feasible. v. In case, domestic waste water generation is more than 10 KLD, the industry may install STP.
Land	<p><u>Stipulation of conditions such as:</u></p> <ul style="list-style-type: none"> i. Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever, feasible for new projects. ii. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc. iii. Dumping of waste (fly ash, slag, red mud, etc.) may be permitted only at designated locations approved by SPCBs/ PCCs. iv. More stringent norms for management of hazardous waste. The waste generated should be preferably utilized in co-processing.
Other Condition(Additional):	<ul style="list-style-type: none"> i. Monitoring of compliance of EC conditions may be submitted with third party audit every year. ii. The % of the CER may be at least 1.5 times the slabs given in the OM dated 01.05.2018 for SPA and 2 times for CPA in case of Environmental Clearance.

CPCB/IPC-VII/CEPI/NGT/

1484

October 25, 2019

To,

Shri Sundeep
Director /Scientist 'F'
CP Division
Ministry of Environment, Forest & Climate Change
1st Floor, Agni Block
Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj
New Delhi-110 003

Sub: compliance of Hon'ble NGT order dated 23.08.2019 in OA No. 1038/2018-reg.

Sir,

This has reference to MoEF&CC letter No. Q-16017/38/2018-CPA, dated 24/10/2019, wherein it is requested to put up CEPI and EPI assessment study done by CPCB to the Ministry for further deliberation. In this regard, it is to state that the detailed CEPI report and EPI reports were already submitted to MoEF&CC on 10/4/2019 and 26/9/2019, respectively for consideration and approval of MoEF&CC (copy enclosed for ready reference).

Yours faithfully,

0/e



(P. K. Gupta)

Div. Head, IPC-VII

Encl: As above

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत... 11/10/19
दिनांक... 25/10/19