

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

O.A. NO. 25/2019

In the matter of:

Abdul Farukh

...Applicant

Versus

Govt. of NCT of Delhi & Others

...Respondents

NDOH:- 19.11.2019

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Filed by:

(Delhi Pollution Control Committee)
Respondent

New Delhi:
Dated: 16.11.2019

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

Original Application No. 25/2019

①

In the matter of:

Abdul Farukh

...Applicant

Versus

Govt. of NCT of Delhi.

...Respondents

**ACTION TAKEN REPORT ON BEHALF OF DELHI
POLLUTION CONTROL COMMITTEE WITH RESPECT TO
ORDER DATED 30.10.2019.**

1. That this Hon'ble Tribunal took up the above referred matter on 30.10.2019 and pleased to adjourned for 19.11.2019.
2. That it is most respectfully submitted that in order to comply with the orders of Hon'ble NGT, a meeting was held on the directions of the Chief Secretary, Delhi, in the office of the Divisional Commissioner on 09.11.2019 with all the District Magistrates and the officials of Delhi Jal Board. The following decisions were taken in the meeting:-
 - (i) Delhi Jal Board shall provide the list of 16524 illegal bore wells to the concerned DM.
 - (ii) The concerned DM after receiving the list from DJB shall ensure the sealing of bore wells. Also, they will initiate the prosecution proceedings against all the illegal bore well owners.
 - (iii) The DJB shall also provide the list of units to DPCC alongwith the vital information i.e. capacity of the motor installed with the bore

wells etc. After receiving the same, DPCC shall calculate the quantum of EDC to be imposed upon bore well owners and pass the necessary orders. (2)

(iv) EDC amount shall be recovered by the concerned SDM, after DPCC issues the recovery certificate.

3. A meeting was also taken by Chief Secretary, GNCTD with officials of from Delhi Jal Board, DPCC and Revenue Department on 15.11.2019 wherein the following decisions were taken :-

- (i) Delhi Jal Board shall give the complete list of 19154 illegal bore wells to District Magistrate (HQ) who shall prepare district wise list and send the same to concerned DMs for sealing of illegal bore wells and prosecution of their owners.
- (ii) Since, most of illegal bore wells are concentrated in three districts, SDMs from other districts shall also be deployed by constituting appropriate no. of teams under the supervision of SDMs so that all these illegal bore wells could sealed by expeditiously. Necessary orders for constituting the teams shall be issued by Revenue Department immediately.
- (iii) The prosecution proceedings should also be initiated against the owners of illegal bore wells under Environmental Protection Act by the District Magistrate before the designated court as notified by Hon'ble High Court of Delhi.
- (iv) DPCC shall ensure the levying of Environmental Damage Compensation upon owners of illegal bore wells and send a copy to concerned SDM so that EDC could be recovered by

them. Copy of minutes of meeting dated 15.11.2019 is enclosed
herewith as Annexure-I.

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4. That it is most respectfully submitted that for the calculation of Environmental Damage Compensation in respect of these illegal bore wells, DPCC shall be following formula as per the orders dated 28.08.2019 of Hon'ble NGT in the Original Application No. 593/2017 titled as "Paryavaran Suraksha Samiti & Anr. Vs UoI & Ors as given below :-

4.5 Formula for Environmental Compensation for illegal extraction of ground water

The committee decided that the formula should be based on water consumption (Pump Yield & Time duration) and rates for imposing Environmental Compensation for violation of illegal abstraction of ground water. The committee has proposed following formula for calculation of Environmental Compensation (ECGw):

EC_{GW} = Water consumption per day x Environmental Compensation rate for illegal extraction of ground water (ECR_{GW}) x No. of Days x Deterrent Factor

Where, water consumption is in m³/day and ECR_{GW} in Rs/m³

Yield of the pump varies based on the capacity/power of pump, water head etc. For reference purpose, yield of the pump may be assumed as given in Annexure-VI.

Time duration will be the period from which pump is operated illegally.

In case of illegal extraction of ground water, quantity of discharge as per the meter reading or as calculated with assumptions of yield and time may be used for calculation of ECGw.

4.6 Environmental Compensation Rate (ECR_{GW}) for illegal use of Ground Water:

The committee decided that the Environmental Compensation Rate (ECR_{GW}) for illegal extraction of ground water should increase with increase in water consumption as well as water scarcity in the area. Further, ECR_{GW} are kept relaxed for drinking and domestic use as compared to other uses, considering the basic need of human being.

As per CGWB, safe, semi-critical, critical and over-exploited areas are categorized from the ground water resources point of view (CGWB, 2017). List of safe, semi-critical, critical and over-exploited areas are available on the website of CGWB and

can be accessed from- <http://cgwanoc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.

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Environmental Compensation Rates (ECRG_w) for illegal use of ground water (ECRG_w) for various purposes such as drinking/domestic use, packaging units, mining and industrial sectors as finalized by the committee are given in tables below:

4.6.1 ECRG_w for Drinking and Domestic use:

Drinking and Domestic use means uses of ground water in households, institutional activity, hospitals, commercial complexes, townships etc.

S.No.	Area Category	Water Consumption (m ³ /day)			
		<2	2 to <5	5 to <25	25 & above
Environmental Compensation Rate (ECR _{GW}) in Rs./m ³					
1	Safe	4	6	8	10
2	Semi Critical	12	14	16	20
3	Critical	22	24	26	30
4	Over-Exploited	32	34	36	40

Note: -Minimum EC_{GW} shall not be less than Rs. 50,000/- (for institutional activity, commercial complexes, townships etc)

4.6.2 ECR_{GW} for Packaged Drinking Water Units

S.No.	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR _{GW}) in Rs./m ³					
1	Safe	12	18	24	30
2	Semi critical	24	36	48	60
3	Critical	36	48	66	90
4	Over-exploited	48	72	96	120

Note :-Minimum EC_{GW} shall not be less than Rs 1,00,000/-

4.6.3 ECR_{GW} for Mining, Infrastructure and Dewatering Projects

S.No.	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR _{GW}) in Rs./m ³					
1	Safe	15	21	30	40
2	Semi critical	30	45	60	75
3	Critical	45	60	85	115
4	Over-exploited	60	90	120	150

Note :-Minimum EC_{GW} shall not be less than Rs 1,00,000/-

4.6.4 ECR_{GW} for Industrial Units

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S.No.	Area Category	Water Consumption (m^3/day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR_{GW}) in Rs./m^3					
1	Safe	20	30	40	50
2	Semi critical	40	60	80	100
3	Critical	60	80	110	150
4	Over-exploited	80	120	160	200
Minimum EC_{GW}=Rs 1,00,000/-					

4.8 Recommendations

The committee has given following recommendations:

- The minimum Environmental Compensation for illegal extraction of ground water for domestic purpose will be Rs. 10,000, for institutional/commercial use will be 50,000 and for other uses will be 1,00,000.
- In case of fixation of liability, it always lies with current owner of the premises where illegal extraction is taking place.
- Time duration may be assumed to be one year in case where no evidence for period of installation of bore well could be established.
- For Drinking and Domestic use, where metering is not present but storage tank facility is available, minimum water consumption per day may be assumed as similar to the storage capacity of the tank.
- For industrial ground water use, where metering is not available, water consumption may be assumed as per the consent conditions. Further, where in case industry is operating without consent, water consumption may be calculated based on the plant capacity (on the 19 recommendation of SPCB/PCC, if required). SPCB/PCC may bring the issue of illegal extraction of ground water in industries in to the notice of CGWA for appropriate action by CGWA.

5. That, it is most respectfully submitted that actions plans have been prepared by Divisional Commissioner at District level. As per action plan all remaining bore wells are targeted to be sealed by 20th March, 2020. Further necessary action including prosecution and levying penalty as per "Polluter pays" Principle will also be initiated. 52 nos. of teams have been formed for sealing action which includes Revenue

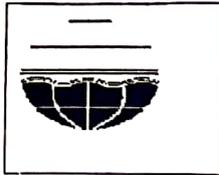
and DJB officials. Since 08.11.2019, 293 illegal bore wells have been sealed. A copy of action plan received from the office of Divisional Commissioner is enclosed herewith as Annexure-II.

The present status report may kindly be taken on record, as cause of action does not survive any more hence, matter may kindly be disposed off.


(Dr. Chandra Prakash)
Sr. Environmental Engineer

Annexure-1

NGT MATTER/ MOST URGENT



DELHI POLLUTION CONTROL COMMITTEE
DEPARTMENT OF ENVIRONMENT, (GOVT. OF NCT OF DELHI)
5th TH FLOOR, ISBT BUILDING, KASHMERE GATE, DELHI-6
visit us at : <http://dpcc.delhigovt.nic.in>

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F.NO. DPCC/NGT (CMC-II)2019/9603-9607

Dated: 16/11/19

Sub:- Minutes of meeting held on 15.11.2019 in the Conference Room of Chief Secretary at Delhi Secretariate regarding orders passed by Hon'ble NGT on 30.10.2019 in OA No. 25/2019 titled "Abdul Farukh Vs Govt. of NCT of Delhi"

Please find enclosed herewith minutes of the meeting held under Chairmanship of Chief Secretary, Delhi on 15.11.2019 in the Conference Room of Chief Secretary at Delhi Secretariate regarding orders passed by Hon'ble NGT on 30.10.2019 in OA No. 25/2019 titled "Abdul Farukh Vs Govt. of NCT of Delhi" .


(Dr. Chandra Prakash)
Incharge(CMC-II)

Encl: As above

To,

1. The Divisional Commissioner, Revenue Department, GNCTD, 5, Sham Nath Marg, Delhi-110054.
2. Chairman, Delhi Pollution Control Committee, GNCTD, 6th Level, Delhi Sectt. I.P. Estate, Delhi-110002
3. The Chief Executive Officer, Delhi Jal Board, GNCTD, Varunalaya Ph-II, Jhandewalan, Karol Bagh, New Delhi-110005

Copy to:-

1. OSD to Chief Secretary : For information pl.
2. PA to MS, DPCC- For information of MS, pl.

Minutes of meeting held on 15.11.2019 in the Conference Room of Chief Secretary at Delhi Secretariate regarding orders passed by Hon'ble NGT on 30.10.2019 in OA No. 25/2019 titled "Abdul Farukh Vs Govt. of NCT of Delhi"

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The list of participants is **annexed** herewith.

Member Secretary, DPCC apprised the Chief Secretary about the orders of Hon'ble NGT dated 30.10.2019 wherein Hon'ble NGT has directed the sealing of 16524 illegal bore wells. Also, Hon'ble NGT has directed that the owners of illegal bore wells should be prosecuted under the provisions of Environmental Protection Act. Also, Environmental Damage Compensation be imposed upon them, following the 'polluter pays' principle.

2. Member Secretary also informed the Chief Secretary that a meeting was also taken by Divisional Commissioner on 09.11.2019 on this subject wherein officials from Delhi Jal Board, DPCC and all the District Magistrates were present. During the meeting, directions were given by Divisional Commissioner to District Magistrates for ensuring the sealing of illegal bore wells and prosecution of the bore well owners. It was also decided that Environmental Damage Compensation upon bore well owners shall be imposed by DPCC.

3. Member Secretary, DPCC also apprised the Chief Secretary that a Special Environmental Court has been setup, designating the court of Addl. Chief Metropolitan Metropolitan Magistrate (Special Acts), Central, Tis Hazari to deal with cases involving issues of Environmental Pollution and Ecological Destruction and the same has been informed to Divisional Commissioner Office vide letter dated 15.11.2019.

The following directions were given by Chief Secretary :-

- (i) Delhi Jal Board shall give the complete list of 19154 illegal bore wells to District Magistrate (HQ) who shall prepare districtwise list and send

the same to concerned DMs for sealing of illegal bore wells and prosecution of their owners. (9)

- (ii) Since, most of illegal bore wells are concentrated in three districts, SDMs from other districts shall also be deployed by constituting appropriate no. of teams under the supervision of SDMs so that all these illegal bore wells could be sealed by 30.11.2019. Necessary orders for constituting of teams shall be issued by Revenue Department immediately.
- (iii) The prosecution proceedings should also be initiated against the owners of illegal bore wells under Environmental Protection Act by the District Magistrate before the designated court as notified by Hon'ble High Court of Delhi.
- (iv) DPCC shall ensure the levying of Environmental Damage Compensation upon owners of illegal bore wells and send a copy to concerned SDM so that EDC could be recovered by them.

The meeting ended with vote of thanks to the Chair.

Annexure - II

OFFICE OF THE DIVISIONAL COMMISSIONER
REVENUE DEPARTMENT:GOVT. OF NCT OF DELHI
5-SHAM NATH MARG : DELHI-110054

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No.F.PA/DC-II(HQ)/2019/

Dated:

To

The Member Secretary
Delhi Pollution Control Committee
ISBT, Delhi.

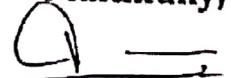
Sub: Action Taken Report regarding sealing of Borewells.

Sir,

In pursuance of NGT directions in OA No.25/2019 dated 30.10.2019, following actions have been taken by Revenue Department:-

1. Meetings at Chief Secretary, Divisional Commissioner and District Magistrates level were conducted in coordination with DPCC and Delhi Jal Board officials to chalk out action plan for sealing remaining borewells.
2. Action plans have been prepared at District level in consultation with DPCC & DJB. As per action plan all remaining borewells are targeted to be sealed by 20th March, 2020. Further necessary action including prosecution and levying penalty as per "Polluter pays" Principle will also be initiated.
3. 52 No. of teams have been formed for sealing action which includes Revenue and DJB officials.
4. Since 08.11.2019, 293 illegal borewells have been sealed and 104 no. of references have been sent to DPCC for levying penalty as per "Polluter Pays" Principle.

Yours faithfully,


16-11-19

(RAJBIR SINGH)
SDM-IV(HQ)

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