

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**O.A. No. 156/2023**  
**CENTRAL ZONE BENCH, BHOPAL**

**IN THE MATTER OF:**

**“NEWS CLIPPING PUBLISHED IN BHOPAL’S NEWSPAPER “NAV DUNIYA” DATED 12.10.2023 TITLED “AFTER INVESTING OF 500 CRORE RUPEES TO STOP THE DISCHARGE OF SEWAGE WATER IN THE POND”**

**INDEX**

<b>SR.</b>	<b>PARTICULARS</b>	<b>Annexure</b>	<b>PAGE</b>
1.	Factual and Action taken report as per the order dated 12/10/2023		1-13
2.	The photographs and Google Maps of the Joint committee inspection dated 26.12.2023	Annexure- I	14-20
3.	Order dated 11/08/2023 of Hon’ble NGT in the matter of OA 07/2018 (CZ) of “M. Y. Chaudhary Vs. Bhopal Municipal Corporation & Ors”	Annexure- II	21-110
4.	Bhopal Municipal Corporation vide letter no. 711 dated 28/11/2023, the imposition of EC and initiation of legal case is stayed by Hon’ble Supreme Court of India	Annexure- III	111-114
5.	Letter no. 2625 dated 26.12.2023 of MP PCB issued to Municipal Corporation, Bhopal.	Annexure -IV	115
6.	Municipal Corporation, Bhopal letter no. 21 dated 05/01/2024 has provided information regarding present OA	Annexure -V	116
7.	M P Housing Board letter no. 366 dated 22/02/2024.	Annexure -VI	117
8.	List of court cases on residential projects of Katara Hills area for violation of provisions of Water Act / EP Act.	Annexure -VII	118
9.	Vakalatnama		119

Date: 20.02.2024

Place: Bhopal

Submitted by MPPCB:-



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## FACTUAL & ACTION TAKEN REPORT

**Ref: Factual & Action taken report in compliance to the Hon'ble NGT order dated 02/11/2023 in the matter of OA 156/2023 (CZ) "News clipping published in bhopal's newspaper "nav duniya" dated 12.10.2023 titled "after investing of 500 crore rupees to stop the discharge of sewage water in the pond": -**

Hon'ble NGT issued following instructions on dated 02/11/2023 in the matter of OA 156/2023 (CZ) "News clipping published in bhopal's newspaper "nav duniya" dated 12.10.2023 titled "after investing of 500 crore rupees to stop the discharge of sewage water in the pond".

*"1. The discharge of untreated effluent and sewage is the principle cause of water pollution in the country as noted in the cases relating to pollution of rivers in Original Application 673/2018 similarly in the case of 100 polluter industrial cluster being dealt with by this Tribunal in O.A 1038/2018 water pollution found to be one of the factors polluting the industrial cluster. Official data of Central Pollution Control Board is to the effect that 351 river stretches in the country are polluted. It is well known causes of pollution of rivers and ponds are dumping of untreated sewage, industrial waste ,garbage, plastic waste, e-waste, Bio-Medical Waste, Municipal Solid Waste, diversion of river water, encroachments of catchment area and flood plains, overdrawal of ground water, river bank erosion on account of illegal sand mining. In spite of direction of installment of Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants 2 (CETPs), Sewage Treatment Plants (STPs) and adopting other anti pollution measures, satisfactory situation has not been achieved. Tuff governance is a need of our. If pollution does not stop the industry has to be stopped, if sewage dumping does not stop, local bodies have to made accountable and their heads are to be prosecuted. Steps have to be taken for awareness and public involvement. The issue for consideration is establishment and functioning of ETPs, CTPs & STPs to prevent untreated sewage*

*effluents being discharge in water bodies, including rivers and canals meeting such rivers or otherwise.*

*2. In spite of Water (Prevention and Control of Pollution) Act, 1974 we are faced with serious water pollution. The Hon'ble Supreme Court noted in (1988) 1 SCC 471 that the water pollution causes serious diseases including cholera and Typhoide. Water pollution could not be ignored and adequate measures for prevention and control are necessary. The News report in Nai Duniya Newspaper dated 12.10.2023 highlights the mis-utilisation of the funds and violation of environmental rules:*

*“2. As per the said report, in Bhopal capital of State of Madhya Pradesh, in last five years Rs. 500 crores have been spent in the name of strengthening of the sewerage network but still the sewage is flowing openly and the proper sewage system has not been set in place.*

*3. It has been stated that in Govindpura, Narela in North and Central legislative area even sewage pipeline has not been laid. It is stated that there is no sewerage network in 55% areas of the city and in these areas the sewage is directly flowing to river and lake.*

*4. The newspaper report states that though near the Bada Talab Sewage Treatment Plant (STP) has been constructed but the sewage is directly discharged in the Talab without treatment. The report also states that as per the existing population in each zone atleast two sewage 2 cleaning machines should be placed but presently, even one machine per zone is not available.”*

*3. The grievances raised are enumerated as follows:*

*1. There is open discharge of sewage in the open land or being discharge into the water body,*

*2. There is no sewage pipeline in the area Govindpura, Narela North and South Assembly area,*

3. *Approximately 50% of the houses are not connected with the sewage network and thus, the sewage water is being discharge into the water body or river.,*

4. *The complaints which are more than 2000 from April to September was not taken cognizance and no action has been taken by the Municipal Corporation,*

5. *There are shortages of sewage cleaning machines.*

6. *In the area of Arvind Vihar and Katara Hills the Sewage are directly discharged in the open land causing health hazard and main cause of several diseases.*

*XXX.....XXXX.....*  
*.....*

5. *The matter raised in the above reports highlights the serious violation of Water (Prevention and Control of Pollution) Act, 1974 and non-compliance of statutory rules. In view of the above, before taking further we deem it just and proper to call a factual and action taken report from the committee as follows:*

- (i) One representative from the Central Pollution Control Board.*
- (ii) One representative from the Water Works Department Bhopal*
- (iii) One representative from the State Pollution Control Board.*

6. *The committee is directed to visit the site and submit the factual and action taken report. We further direct that the State Pollution Control Board to monitor the violation of Water (Prevention and Control of Pollution) Act, 1974 and in case of violation and discharge of untreated water or sewage the environmental compensation @ as prescribed and as mentioned above in Original Application No. 606/2018 must be assessed and realized notices be issued to the Municipal Corporation or the authorities violating the rules. The action taken report must be filed within 30 days.”*

In compliance to the order of Hon'ble NGT dated 02/11/2023, a joint committee consisting of the following officials of the concerned department is constituted: -

- (i) Shri Brajesh Sharma, Regional Officer, RO, MPPCB Bhopal.
- (ii) Dr. Ranu Chouksey, Scientist C, CPCB, Bhopal
- (iii) Shri Mukesh Goyal, SDO, Water Works Department Bhopal

Apart from the officials, Shri Akhilesh Sharma, Assistant Engineer (C), Regional Office, MPPCB, Bhopal was present during the inspection. Joint committee on dated 26/12/2023 conducted a site visit of Govindpura, Narela North and South Assembly area, Arvind Vihar and Katara Hills locality. The Geographical locations, photographs and visual observations were recorded during inspection. The photographs and Google Maps are enclosed as **Annexure I**.

#### **A. FIELD OBSERVATION:**

1. During inspection, Joint Committee visited Zone 09, Narela, Bhopal. Shri Avinash Thakre, Assistant Engineer, BMC, Bhopal in charge engineer of the ward was present during visit.
2. As per Avinash Thakre, Assistant Engineer, BMC, Bhopal, 01 cleaning machine is available for ward no. 35, 36, 37, 38 and 69 in Zone 09 Narela, Bhopal.
3. This is a thickly populated area consisting of residential setup as well as commercial setup of market / restaurants / etc.
4. There is an old sewer network available in some part for sewage conveyance to different septic tanks placed in the respective house / colony. Pucca open drainage line also available along road side to which is having waste water from various activities from the nearby

adjacent locality.

5. Presently this area is not having centralized sewer system and terminal sewage treatment plant facility.
6. The drainage system in Zone 09 Narela, Bhopal area is having two major nallas namely (1) Chhola nalla and (2) Chandbad nalla.
7. The committee visited the Chhola nalla, near Bhopal railway station. The Chhola nalla meets patra nalla near Rajendra Nagar, Bhopal. Flow of waste water was observed in the Chhola nalla.
8. The Chandbad nalla which is also meeting Patra nalla near Rajendra Nagar, Bhopal. Waste water flow was observed in the Chandbad nalla.
9. The Joint Committee visited the patra nalla at village Kolua, Narela, Bhopal. This is a major nalla of this area. It emerges from the overflow of lower lake near Jahangirabad.
10. There is one sewage treatment plant constructed in AMRUT 1.0 to treat the sewage of Govindpura area, Chandbad area and Narela area.
11. Joint committee visited Maholi Damkheda STP. The capacity of this STP is 35 MLD. During inspection the STP was found in working condition. STP is equipped with online treated waste water quality measurement system and the parameters were found confirming the prescribed norms.
12. A well established Laboratory in the premises of STP is provided. Committee observed the records and samples of treated sewage is analyzed for prescribed parameters to check the STP function.
13. Presently Maholi Damkheda STP is designed for 35 MLD capacity whereas it is receiving approx 25-30% sewage. More area may be

covered by this operational STP.

14. The Patra nalla, Narela Jod nalla and Sundarnagar nalla waste water may be covered by Maholi Damkheda STP.
15. In Zone 15 Narela, Bhopal in-charge engineer Shri Ravi Singh Assistant Engineer, BMC, Bhopal, informed that there are 02 major nallas (1) Narela Jod nalla and (2) Sundarnagar nalla of Zone 15 covering the ward no 62, 63, 64, 66 and 70 of BMC, Bhopal. Committee visited the nallas.
16. Waste water flow was observed in both the nallas namely (1) Narela Jod nalla and (2) Sundarnagar nalla.
17. Sundarnagar nalla originated from Sundarnagar, Piplani, Govindpura, Bhopal.
18. Joint committee visited Katara Hills area. This area is newly developed area with residential colonies and commercial complexes. The area is not having centralized sewer network system. The residential colonies / houses / commercial complexes are having septic tanks and soak pit arrangements for sewage treatment.
19. One Katra nalla at Katara Hills is emerging from Laharpura Dam, Bhopal. Apart from the dam overflow, waste water from the open drains join this nalla. Flow of waste water observed in the nalla.
20. The above nallas are carrying the waste water from the various localities septic tank over flows, direct discharge from localities houses and various business and commercial activities. The waste water from open drains also ultimately join these nallas.

## **B. SIMILAR ISSUES OF SEWAGE GENERATION AND ITS TREATMENT OF BHOPAL CITY, ADDRESSED IN OTHER HON'BLE NGT CASES**

With reference to the Hon'ble NGT order dated 11/08/2023 in the matter of OA 07/2018 (CZ) of "M. Y. Chaudhary Vs. Bhopal Municipal Corporation and Others", the matter of sewage generation and its disposal through sewage treatment plants are discussed and the copy of the order issued by Hon'ble NGT in this regard is enclosed as **Annexure II**. In the order dated 11/08/2023 the points concerned with the sewage generation, treatment capacity and the gap are put up by Bhopal Municipal Corporation in the recent status of Bhopal city. The point no. 41 to 47 are defining the present and future sewage generation and its plan for treatment under AMRUT Scheme – 2.0. The points as per order are shown as under:

*41 Sh. KVS Chaudhary, Municipal Commissioner, BMC appeared on 24.07.2023 and informed that actual generation of sewage in Bhopal City is about 265 MLD, out of which only 204.5 MLD was being treated in various STPs installed and run by BMC. Hence, there is a gap of 60.5 MLD which shows that huge quantity of sewage (untreated) admittedly is being discharged, directly or indirectly, in the water bodies, polluting water and that is how mandate of Section 24 of Water Act, 1974 is being violated and breached with impunity by all the concerned authorities including BMC.*

42. *Sh. Neeraj Mandloi, Principal Secretary, Urban Development and Housing was also present. He sought two weeks' time to give a complete planning and timeline for execution and completion of upgradation/construction of STPs of required capacity so as to cover the entire quantity of sewage generation in Bhopal city for its treatment and ensured that no untreated sewage would be discharged in the water bodies thereafter. The time as required was allowed and that is how the matter has come up today.*
43. *A brief document has been filed yesterday i.e., 10.08.2023 stating that in accordance with Tribunal's order dated 10.11.2022, passed in OA 606/2018 In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environment issues wherein Tribunal though proposed to impose environment compensation of Rs. 3000 Crores but deferred the same after considering statement made by Chief Secretary of State of Madhya Pradesh that a provision by State of Madhya Pradesh has already been made of Rs. 9688 Crores to be kept in a ring fenced manner dedicated to bridge the gap in sewerage treatment in a phased manner. We are informed that as a matter of fact no such ring fenced account has been created and no amount has been kept separately therein till date.*
44. *For Bhopal Sewerage Scheme under Amrut-2.0, SWAP cost approved by State high Powered Screening Committee is*

*1009.80 Crores. It shows that complete work relating to sewage management will incur expenses of more than Rs. 1000 Crores.*

- 45. It is also said that currently 80 Sewage Treatment Plants (hereinafter referred to as 'STP') with total capacity of 204.50 MLD are operational out of which 7 STPs of 74 MLD, based on traditional technologies (oxidation pond and bio filter) need replacement. Therefore, current gap with future requirement and treatment along with with replacement requirement is 148 MLD.*
- 46. The above facts also show that to bridge the current sewage treatment gap of 60.5 MLD and future gap of 148 MLD, the city will spend or needs to spend Rs. 1009.80 Crores though in Tribunal's order dated 10.11.2022 in OA 606/2018, (supra), the sewage management expenses were calculated only at the rate of Rs. 2 Crore per MLD while BMC and State of Madhya Pradesh actually would incur more than Rs. 7 Crore per MLD.*
- 47. The plan for making good the above deficiency and treatment of sewage by installing/upgradation of requisite number of STPs of required capacity, given in the abovementioned document (signed by Executive Engineer, Sewage Department, Municipal Corporation Bhopal and Superintendent Engineer, Sewage Department, Municipal Corporation Bhopal on 07.08.2023) reads as under:*

“ *In accordance with NGT OA No.606/2018 order dated 10.11.2022, a fine of Rs. 3000 Cr. was deferred taking in to consideration that Madhya Pradesh has provisioned for Rs. 9688.00 Cr. in a ring-fenced manner dedicated to bridge the gap in sewerage treatment in a phased manner.*

*Under AMRUT 2.0., SWAP Cost approved by State High Powered Steering Committee (SHPSC) for Bhopal Sewerage scheme is Rs. 1009.80 Cr.*

*Present Sewerage Generation in Bhopal is 266-MLD. Currently 18 STPs of 204.50 ML.D are Operational in Bhopal for which 7 STPs of 74.00 MLD are based on traditional technologies (Oxidation Pond & Bio Filter) and need to be replaced. Therefore, current Gap with future requirement in treatment along with replacement required is 148 MLD.*

*Action plan for Bhopal Sewerage scheme under AMRUT 2.0 has been prepared for which DPR will be submitted by September 2023. To bridge the gap in treatment and replace old STPs, 10 STPs of overall capacity 148 MLD along with 14 pumping stations have been proposed. 700 km network and more than 50,000 house service connections are proposed to ensure no sewer nallas drain and pollute our major water bodies like Upper Lake, Lower Lake, Shahpura Lake and River Kaliyasot.*

*Tentative timeline for the project is as follows:*

<i>Sr. No.</i>	<i>Details</i>	<i>Timeline</i>
1.	<i>DPR Submission</i>	<i>September 2023</i>
2.	<i>DPR Approval</i>	<i>September 2023</i>
3.	<i>NIT Issue</i>	<i>September 2023</i>
4.	<i>Tender Awarded</i>	<i>December 2023</i>
5.	<i>Project Completion</i>	<i>3 Years from date of work order</i>

- As per the information provided by Bhopal Municipal Corporation vide letter no. 711 dated 28/11/2023, the imposition of Environmental Compensation and initiation of legal case is stayed by Hon'ble Supreme Court vide Case No. 47067/2023 dated 28/11/2023. The copy is enclosed as **Annexure III**.

### **C. ACTION TAKEN BY MPPCB**

- a. In references to the grievances raised in Hon'ble NGT order dated 02/11/2023, a letter was issued to Municipal Corporation, Bhopal, vide letter no. 2625 dated 26/12/2023. The copy is enclosed as **Annexure IV**. In this regard Municipal Corporation, Bhopal vide letter no. 21 dated 05/01/2024 has provided the information which is enclosed as **Annexure V**. The main points of the letter are mentioned as under:

No	Grievances	Reply
1.	There is open discharge of sewage in the open land or being discharge into the water body.	The overflow of septic tanks and waste water generated from various other activities in these localities flows in open drain and ultimately flows in to nalla.
2.	There is no sewage pipeline in the area Govindpura, Narela North and South Assembly area.	Sewer lines are laid down previously in Govindpura, North and south Narela assembly area. Sewage is collected in to septic tanks and soak pits and time to time cleaned with sewerage machines. The area is taken under AMRUT-2.0 scheme for laying of sewer line and construction of STP.
3.	Approximately 50% of the houses are not connected with the sewage network and thus, the sewage water is being discharge into the water body or river.	Presently there are 115000 houses connected with sewer network in AMRUT – 1.0 scheme. Another 115000 houses are proposed to connect with sewer network under AMRUT – 2.0 scheme.
4.	The complaints which are more than 2000 from April to September was not taken cognizance and no action has been taken by the Municipal Corporation.	From 01/01/2023 to 15/12/2023 total 21858 complaints are received and out of which 21136 are resolved.
5.	There is shortage of sewage cleaning machines.	There are total 41 sewerage cleaning machines are available with BMC, which are distributed amongst 21 wards of Bhopal city. Apart from this, 05 sewerage cleaning machines are deployed by private agencies. Under AMRUT-1.0 scheme, the sewerage cleaning is carried out by contractor with his 05 machines.
6.	In the area of Arvind Vihar and Katara Hills the Sewage are directly discharged in the	In Arvind Vihar, M P Housing Board has laid down the sewer network which is old and having overflows from

open land causing health hazard and main cause of several diseases.	damage line. The builders and colonizers have provided septic tanks in Katara hills area. BMC is not having any sewer line in this area.
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- b. A letter is issued to M P Housing Board for repairing of sewer network of Arvind Vihar Colony vide letter no. 366 dated 22/02/2024. Copy is enclosed as **Annexure VI**.
- c. MPPCB has filed 05 court cases on residential projects of Katara Hills area for violation of provisions of Water Act / EP Act. The list is enclosed as **Annexure VII**.

### Recommendations:

1. The laying of sewer network for the area of Govindpura, Narela North and South assembly, Arvind Vihar and Katara Hills should be covered under AMRUT Scheme – 2.0.
2. The existing damaged sewer line should be identified and repaired by concerned agencies.
3. The septic tanks and sewer network should be cleaned on periodic manner so that condition of over flow shouldn't arise.
4. The sewage treatment plant of Maholi Damkheda is having treatment capacity of 35 MLD. Arrangement should be made so that the Patra nalla, Narela Jod nalla and Sundarnagar nalla waste water may be covered by Maholi Damkheda STP.



**Brajesh Sharma,  
Regional Officer,  
RO, MPPCB Bhopal**



**Dr. Ranu Chouksey,  
Scientist C,  
CPCB, Bhopal**



**Mukesh Goyal,  
SDO,  
Water Works  
Department Bhopal**

## Inspection Photographs of OA 156/2023 (CZ)

On dated 26.12.2023



Chhola Nalla



Chhola Nalla



Chandbad Nalla



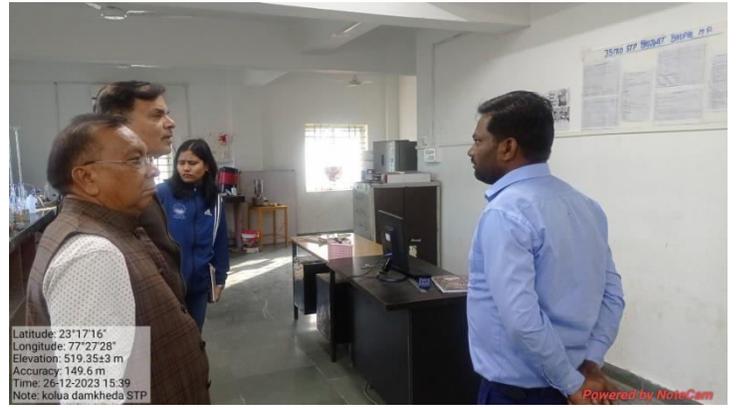
Patra Nalla



Patra Nalla near Bhanpur bridge



Maholi Damkheda STP



### Laboratory of Maholi Damkheda STP



Narela Jod Nalla



Sundarnagar Nalla



Katara Hills

### Google Earth Map of Chhola Nalla, Bhopal



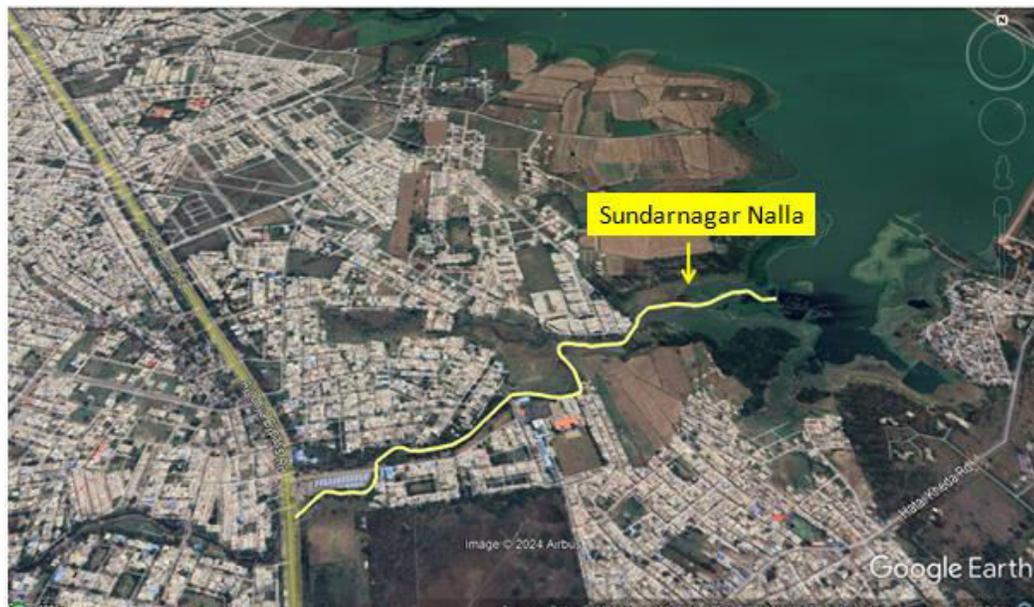
### Google Earth Map of Chandbad Nalla, Bhopal



### Google Earth Map of Patra Nalla, Bhopal



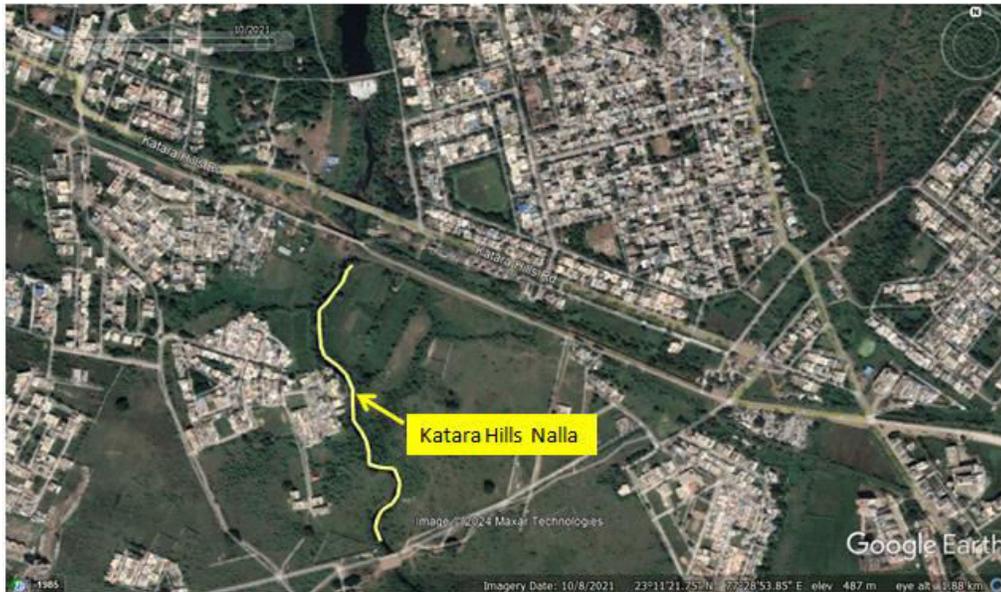
### Google Earth Map of Sundarnagar Nalla, Bhopal



## Google Earth Map of Narela Jod Nalla, Bhopal



## Google Earth Map of Katara Hills Nalla, Bhopal



Item No.03

**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.07/2018(CZ)

M.Y. Chaudhary

Applicant(s)

Versus

Bhopal Municipal Corporation & Others

Respondent(s)

Date of hearing: 11.08.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s):  
Counsel  
Mr. Sachin K. Verma, Advocate for Standing  
State of M.P. and BMC  
Ms. Parul Bhadoria, Advocate for MPPCB  
Mr. Neeraj Mandloi, Principal Secretary, Urban  
Development and Housing  
Mr. Frank Noble, Commissioner, BMC  
Mr. Brajesh Sharma, RO, MPPCB, Bhopal

**ORDER**

1. This Original Application (hereinafter referred to as '**OA**') under Sections 14, 15 and 18 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') has been preferred by M.Y. Chaudhary claiming himself to be a Journalist and a person concerned with environmental causes, alleging that there is indiscreet flow of sewage including municipal and bio-medical waste, being directly discharged in Nawab Siddique Hasan Khan Talab, Ward No. 09 from the hospitals located

on Taj-Ul-Masjid Road, city of Bhopal. On account of the aforesaid illegal and unauthorized discharge of municipal and bio-medical waste in water body, it is getting degraded resulting in water pollution in utter violation of the provisions of Water (Prevention and Control) Act, 1974 (hereinafter referred to as '**Water Act, 1974**'). Not only this, the aforesaid water body is part of a system of three water bodies, two others being Motia Talab and Munshi Hussain Khan Talab which are also getting affected by pollution due to run off and leachate being discharged in Nawab Siddique Hasan Khan Talab. Residents of the area are suffering from diseases due to water pollution being caused by dumping of bio-medical and municipal waste by respondent hospitals in the above water bodies.

2. Applicant has impleaded respondents 4 to 15 which are various medical facilities and hospitals, said to be responsible for discharging bio-medical and municipal solid waste in the above-mentioned water bodies.

3. Nawab Siddique Hasan Khan Talab is located in the hub of Bhopal Municipal Area near Taj-Ul-Masjid. It is adjacent to one of the biggest and historic mosques of the city. More than fifteen medical facilities in the area are functioning which all are indiscreetly dumping their bio-medical and municipal solid waste in water bodies. The revenue record show that these water bodies are of historic importance and marked as historic places. No dumping of solid waste is permissible and any such activity is in utter defiance of the provisions of Solid Waste Management Rules, 2016 (hereinafter referred to as '**SWM Rules, 2016**') read with Water Act 1974 but neither any action has been taken by the concerned Regulatory authorities against the said proponents nor Bhopal Municipal Corporation (hereinafter referred to as '**BMC**') has made any arrangement of processing/treatment/disposal of the above waste and sewerage in scientific manner before discharging the same in the water bodies.

4. This Tribunal noticed above complaint in its order dated 09.06.2020 and found it appropriate to obtain a factual report by constituting a Joint Committee comprising Collector, Bhopal; Chief Medical Officer, Bhopal and Madhya Pradesh Pollution Control Board (hereinafter referred to as 'MPPCB').

5. Pursuant to order dated 09.06.2020, a factual report was submitted by Joint Committee after making physical inspection of site on 24.06.2020. Inspection report broadly confirmed the complaint made by applicant. The observations of Joint Committee as contained in its report, read as under:

“निरीक्षण किये जाने पर निम्नानुसार अवलोकन पाया गया।

- मोतिया तालाब रोड़ के किनारे स्थित चिकित्सा संस्थानों का आकस्मिक निरीक्षण किये जाने पर लगभग अधिकांशतः संस्थानों द्वारा उनके यहाँ Hospital Activities से उत्पन्न होने वाले दूषित जल के उपचार हेतु दूषित जल उपचार संयंत्र की स्थापना की गई है एवं शेष संस्थानों में डिस्इन्फेक्शन सिस्टम की व्यवस्था है। संस्थानों से उत्पन्न होने वाले उपचारित दूषित जल का निस्सारण ड्रेनेज के साथ म्यूनििसिपल सीवर पाईप लाईन में (संस्थान के सामने फुटपाथ के नीचे स्थित सीवर लाईन) में निस्सारित किया जाता है। जो कि मोतिया तालाब रोड़ के किनारे स्थित चिकित्सा संस्थानों के सामने की ओर फुटपाथ के नीचे स्थापित है। निरीक्षण के समय नगर निगम अधिकारी के द्वारा बताया गया कि उक्त म्यूनििसिपल सीवर पाईप लाईन सीधे आगे जाकर तीन मोहरों की ओर से आगे स्थित कोलुआ पंप हाऊस में छोड़ा जाता है एवं वहां पपिंग कर अंततः मोहाली दामखेड़ा एस.टी.पी. में उपचार हेतु जाता है। अस्पतालों के सामने एवं पृथक स्टार्म वॉटर ड्रेन भी है जो समस्त अस्पतालों के सामने से होकर अंततः सिद्दीक हसन खाँ तालाब तक जाती है। परंतु निरीक्षण के समय उक्त ड्रेनेज लाईन एल. बी.एस अस्पताल के निकट आगे की ओर सूखी पाई गई। ( फोटोग्राफ संलग्न)
- निरीक्षण के दौरान अस्पतालों के सामने सड़क के दूसरी ओर स्थित मोतिया तालाब का ओवरफ्लो (मोतिया तालाब ब्रिज रोड़ के नीचे की ओर से) रोड़ झरने के रूप में नीचे गिरता है। (फोटोग्राफ संलग्न) । जो कि आगे जाकर नाली के माध्यम से सिद्दीक हसन खाँ तालाब में मिलता है। **उक्त जल में अत्याधिक दुगन्ध व्याप्त थी।** मोतिया तालाब के अपरट्रीम में स्थित रहवासी क्षेत्र से उक्त जल बहकर मोतिया तालाब में आता है एवं ओवरफ्लो द्वारा बहकर सिद्दीक हसन खाँ तालाब में मिलता है। कार्यालय द्वारा मोतिया तालाब का ओवरफ्लो जल नमूना एवं जल नाली के माध्यम से सिद्दीक हसन खाँ तालाब में मिलने के पश्चात् का जल नमूना एकत्रीकरण किया गया। निरीक्षण के दौरान सिद्दीक हसन खाँ तालाब में मछलियां भी देखी गई। (जल नमूने की विश्लेषण रिपोर्ट संलग्न) ।
- माननीय अधिकरण के निर्देशानुसार गठित दल द्वारा चिकित्सा संस्थानों के पीछे स्थित नवाब सिद्दीक हसन खाँ तालाब के किनारे स्थित रहवासी कॉलोनी-ताज कॉलोनी एवं अशोक कॉलोनी के निरीक्षण के दौरान वहां के रहवासियों द्वारा (श्री अशोक ताज कॉलोनी निवासी, मो. रईस, श्री नईम खाँ, श्री कमर- अशोक कॉलोनी निवासी) द्वारा बताया गया कि यहाँ अस्पतालों द्वारा किसी प्रकार का बायोमेडिकल वेस्ट नहीं फेंका जाता एवं रहवासी घरों से नगरीय कचरे के एकत्रीकरण हेतु प्रतिदिन सुबह नगर निगम के वाहन द्वारा कचरा उठाया जाता है। किंतु **दिन में कॉलोनी रहवासियों द्वारा घरेलू कचरा प्रायः तालाब के किनारे फेंक दिया जाता है।** निरीक्षण दल द्वारा अवलोकन किये जाने पर उक्त घरेलू कचरे में किसी भी प्रकार का बायोमेडिकल वेस्ट नहीं पाया गया ।  
निष्कर्ष:-

1. उपरोक्त किये गये संयुक्त निरीक्षण के आधार पर मोतिया तालाब रोड़ के निकट स्थित चिकित्सा संस्थानों से उत्पन्न बायोमेडिकल वेस्ट एवं म्यूनिसिपल सॉलिड वेस्ट की कोई समस्या परिलक्षित नहीं हुई एवं संस्थानों द्वारा बायोमेडिकल वेस्ट का डिस्पोजल बोर्ड से प्राधिकृत ऐजेंसीज (सी.बी.डब्ल्यू.टी. एफ) के माध्यम से एवं म्यूनिसिपल सॉलिड वेस्ट का निपटान नगर निगम, भोपाल के माध्यम से किया जा रहा है।
2. सिद्दीक हसन खाँ तालाब के निकट स्थित अधिकांशतः चिकित्सा संस्थानों द्वारा उनके संस्थान से Hospital Activities के दौरान उत्पन्न होने वाले दूषित जल के उपचार हेतु दूषित जल उपचार संयंत्र स्थापित किये गये है। संस्थानों से उत्पन्न ड्रेनेज को म्यूनिसिपल सीवर लाईन के माध्यम से निस्सारित किया जाता है। जिसका अंततः मोहाली दामखेड़ा स्थित सीवेज ट्रीटमेंट प्लांट (एस.टी.पी.) में उपचार किया जा रहा है।
3. चिकित्सा संस्थानों के पीछे की ओर स्थित सिद्दीक हसन खाँ तालाब में मुख्यतः मोतिया तालाब का ओवरफ्लो एवं सिद्दीक हसन खाँ तालाब के निकट स्थित रहवासी क्षेत्र-ताज कॉलोनी एवं अशोक कॉलोनी के रहवासियों द्वारा उनका घरेलू जल-मल नालियों के माध्यम से सीधे सिद्दीक हसन खाँ तालाब में मिलना पाया गया।
4. अतः समस्या म्यूनिसिपल सीवेज प्रबंधन से संबंधित होने के कारण नगर निगम के कार्यक्षेत्र के अंतर्गत आती है। उक्त संबंध में नगर निगम, भोपाल से मोतिया तालाब में आने वाले एवं उससे ओवरफ्लो होने वाले दूषित जल, तथा सिद्दीक हसन खाँ तालाब के निकट रहवासी बस्तियों से मल-जल व ठोस अपशिष्टों के सिद्दीक हसन खाँ तालाब में जाने की समस्या के निराकरण हेतु कार्यवाही अपेक्षित है।”

*“Following observations are found while inspection:*

- *On the surprise inspection of the medical institutions located on the banks of Motia Talab Road, most of the institutes have established a waste water treatment plant for the treatment of the contaminated water generated from the hospital activities and rest of the institutions having facility of disinfection system. The treated waste water generated from the institutes is discharged along with the drainage into the municipal sewer pipe line (sewer line located under the footpath in front of the institute) which is installed under the footpath in front of the medical institutions located on the side of Motia Talab Road. Municipal Corporation Officer told at the time of inspection, that the said municipal sewer pipe line goes straight ahead and is discharged from three seals to the Kolua pump house and after pumping, it finally reaches Mohali Damkheda STP for treatment. There is also a separate storm water drain in front of the hospitals, which passes in front of all the hospitals and finally goes to Siddiq Hasan Khan talab. The said drainage line in the front side of BS Hospital was found dry during inspection. (photograph enclosed)*
- *The overflow of Motia Talab located on the other side of the road in front of the hospitals (downstream of Motia Talab Bridge Road) falls down in the form of a road waterfall. It was noticed during inspection (photograph enclosed) which meets in Siddiq Hasan Khan talab through the drain. **The above said water was full of smell. The said water flows from the residential area situated in the upper stream of Motia Talab and flows into Motia Talab through the overflow and merges in Siddiq Hasan Khan Talab.** The office collected the overflow water sample of Motia Talab and the water sample collected through the water drain after merging in Siddiq Hasan Khan Talab. Fishes*

were seen in Siddiq Hasan Khan talab during the inspection. (Analysis report of water sample is enclosed).

- *The inspection of residential areas - Taj Colony and Ashok Colony situated on the banks of Nawab Siddiq Hasan Khan Talab behind the Medical Institutes done by the inspection committee constituted according to instructions of the Hon'ble Tribunal. The residents of the above colonies (Mr. Ashok Taj Colony resident, Mohd. Raees, Mr. Naeem Khan, Mr. Qamar- resident of Ashok Colony) told that no biomedical waste is thrown here by the hospitals and the household garbage is collected by the vehicle of Municipal Corporation on daily basis. The household garbage is generally thrown on the banks of the talab by the residents of the colony in daytime. No biomedical waste was found in the said household garbage during observation by the inspection team.*

**Conclusion:**

1. *Based on the above joint inspection, no problem of biomedical waste and municipal solid waste generated from the medical institutions located near Motia Talab Road was reflected and the disposal of biomedical waste is being done by the authorized agencies (CBWTF) by Board and disposal of municipal solid waste is being done through Municipal Corporation, Bhopal.*
2. *Water treatment plants have established by the most of the medical institutions located near Siddiq Hasan Khan talab for the treatment of contaminated water generated during their hospital activities. The drainage generated from the institutions is discharged through municipal sewer line which is finally being treated at the Sewage Treatment Plant (STP) located at Damkheda, Mohali.*
3. *The overflow of Motia Talab and domestic waste & sewage of the residential areas of Taj Colony and Ashok Colony (adjacent to Siddiq Hasan Khan talab) has found merged directly into Siddiq Hasan Khan Talab through drains situated behind the medical institutions.*
4. *Therefore, the **problem being related to municipal sewage management** comes under the purview of the Municipal Corporation. In this regard, **action may be taken by Municipal Corporation, Bhopal to solve the problem of contaminated water overflowing which is coming from Bhopal to Motia Talab and merger of sewage & solid waste into Siddiq Hasan Khan Talab by residential colonies situated nearby.** Plan of BMC for the same is attached for perusal.”*

(English translation by Tribunal)

6. Above report was considered by Tribunal on 24.09.2020. The observations made in the report were noticed in para 2 as under:

- “i. *The untreated water of the hospitals as alleged are discharged in the drainage of the municipal sewer pipeline which is situated in front of the hospitals below the footpath.*

- ii. ***It was informed by the officers of the Nagar Nigam that this municipal sewer line is connected with the pump house but the Committee has not visited and not inspected the site as to whether actually untreated water is being pumped or not.***
- iii. ***It is further reported that in front of the hospitals there is separate storm water drain which goes towards Siddique Hasan Pond which means the untreated water is being discharged in the ponds.***
- iv. ***The untreated water is directly over-flowed and automatically discharged under the Motia Talab Bridge.***
- v. ***The officers found that the untreated water which is being discharged directly was of bad smell.***
- vi. *The untreated water of residential area and the above-mentioned untreated water coming from the upper stream comes to Motia Talab and thereafter by way of overflow it is discharged Hasan Khan Pond.*
- vii. ***It is further reported that the solid waste of residential area is directly thrown into the ponds even during the day time.***
- viii. *It is further reported that the bio-medical waste is being disposed by the authorised agency CBWTF and municipal solid waste is disposed by the Nagar Nigam Bhopal.*
- ix. *The untreated water/ sewage water of residential colonies of Taj Colony and Ashok Colony is directly being discharged in the Siddique Hasan Khan Pond.*
- x. ***This is in the capital city of Bhopal that untreated water of the hospitals are being discharged in the municipal sewer line and it is alleged that it is being treated though there is no proof that this untreated water are being discharged through channelize way and being treated.***
- xi. *No action has been taken by the municipal corporation for the passage of untreated water, management of the untreated sewage water or to treat this water.”*

7. Tribunal said that the report is half-hearted and no clear picture was given as to what is the procedure for treatment of bio-medical waste, solid waste or untreated sewage water; report was more concerned with the working condition of BMC and Nagar Nigam with regard to solid waste and liquid waste; and photographs appended to report show encroachment in water bodies and ponds.

8. Tribunal directed BMC to survey land according to revenue record, measure entire area, demarcate and if there is encroachment, remove the same in accordance with law. Tribunal also referred to Principal Bench's order dated 21.05.2020 in **OA 148 of 2016, Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Others** in detail and observed that India is endowed with extraordinarily diverse and distinctive traditional water bodies found in different parts of the country, commonly known as ponds, tanks, lakes, vayalgams, ahars, bawdies, talabs and others. They play an important role in maintaining and restoring ecological balance. They act as sources of drinking water, recharge groundwater, control floods, support biodiversity, and provide livelihood opportunities to a large number of people. Currently, a major water crisis is being faced by India where 100 million people are on the frontline of a nationwide water crisis and many major cities are facing acute water shortage. The situation will worsen as United Nations and Niti Ayog reports say that the demand for water will reach twice the available supply and 40 per cent of India's population will not have access to clean drinking water by 2030. One of the reasons is our increasing negligence and lack of conservation of water bodies. Since independence, government has taken control over water bodies and water supply. With a colonial mindset, authorities move further and further away in the quest of water supply, emphasizing more on network, infrastructure and construction of dams. This, over the time, has led to the neglect of water bodies and catchments areas. As a result, we have started valuing land more than water. In the last few decades, water bodies have been under continuous and unrelenting stress, caused primarily by rapid urbanization and unplanned growth. Encroachment of water bodies has been identified as a major cause of flash floods in Mumbai (2005), Uttarakhand (2013), Jammu and Kashmir (2014) and Chennai (2015). Further, water bodies are being polluted by untreated effluents and

sewage that are continuously being dumped into them. Across the country, 86 water bodies are critically polluted, having a chemical oxygen demand or COD concentration of more than 250 mg/l, which is the discharge standard for a polluting source such as Sewage Treatment Plants (hereinafter referred to as '**STP**') and Industrial Effluent Treatment Plants (hereinafter referred to as '**ETP**'). In urban India, number of water bodies is declining rapidly. For example, in 1990s, Bangalore had 262 lakes. Now, only 10 hold waters. Similarly, in 2001, 137 lakes were listed in Ahmedabad. However, by 2012, 65 were already destroyed and built upon. Hyderabad is another example. In the last 12 years, it has lost 3,245 hectares of its wetlands. The decline in both, the quality and quantity, of these water bodies is to the extent that their potential to render various economic and environmental services has reduced drastically. Although, there are sufficient policies and Acts for protection and restoration of water bodies, they remain insufficient and ineffective.

9. Realizing seriousness of the problem confronting water bodies, Centre had launched 'Repair, Renovation and Restoration of Water Bodies' Scheme' in 2005 with the objectives of comprehensive improvement and restoration of traditional water bodies. These included increase in tank storage capacity, ground water recharge, increased availability of drinking water, improvement of catchment areas of tank commands and others. However, in this regard, not much has been seen on the ground. It is of utmost importance for meeting rising demand for water augmentation, improving the health of water bodies as they provide various ecosystem services that are required to manage micro climate, biodiversity and nutrient cycling.

10. Tribunal observed that action needs to be taken towards:

- “1. *Attaining sustainability. Thus, emphasis on long-term goals, operation and maintenance should be included along with the allocation of budget.*
2. *Success of the lakes should be tested on all three fronts namely economic, environmental and social. Many studies point that a deliberate effort has to be made on the social front for which better publicity of the environmental benefits of the project and enhancing environmental awareness, especially among the local community is required.*
3. *Encouraging local people to collaborate with other stakeholders to successfully utilise resources and ensure the protection and conservation of water bodies.*
4. *Traditionally, water was seen as a responsibility of citizens and the community collectively took the responsibility of not only building but also of maintaining the water bodies. This needs to be brought back into the system.*
5. *Thus, an integrated approach taking into account the long-term sustainability, starting from the planning stage where looking at every water body along with its catchment, is required.*

11. The natural source of air, water and soil cannot be utilized, if the utilization results in irreversible damage to environment. There has been accelerated degradation of the environment primarily on account of lack of effective enforcement of environmental laws and non-compliance with statutory norms. It has been repeatedly held by the Supreme Court that the right to live is a fundamental right under Article 21 of the Constitution and it includes the right to enjoyment of pollution free water and air for full enjoyment of life. The definition of sustainable development which gave more than three decades back still holds goods. The phrase covers the development that meets the need of the present without compromising the availability of future generation to meet their own needs. Sustainable development means the type or extent of development that can take place and which can be sustained by nature /ecology with or without mitigation. In these matters the required standards now is that the risk of harm to the environment or to human health is to be decided in public interest

according to a reasonable person test. Life, public health and ecology has priority over unemployment and loss of revenue.

12. The report and the other original applications pending in this Tribunal reveals that the Municipal Corporation/Nagar Nigam Bhopal is not properly functioning and in various colonies untreated sewage water is being discharged in the water bodies causing pollution and health hazard to the public.

13. There is a provision and direction that the hospitals must have ETP and in violation of the conditions the environmental compensation is required to be calculated and imposed according to the Principle of Polluter Pays.

14. Having observed above, Tribunal found it appropriate to constitute another Committee comprising representative of Central Pollution Control Board (hereinafter referred to as '**CPCB**') and representative from MPPCB and directed them to visit the site and calculate environmental compensation for discharging untreated water into the water bodies and throwing municipal waste into the ponds and submit report. BMC was also directed to take remedial measures to ensure that no untreated sewage water is discharged into the water bodies and there must be solid waste management as per rules. No solid waste should be thrown in open place or water bodies.

15. Pursuant to order dated 24.09.2020, newly constituted Joint Committee submitted report after visiting the site and making inspection on 08.10.2020. It assessed environmental compensation taking number of day of violations from the date of direction issued to CPCB/MPPCB and recommended environmental compensation of Rs. 155.55 Lakhs for discharge of untreated sewage/untreated water treatment and Rs. 111.11

Lakhs towards dumping of solid waste illegally in water bodies and open land. Joint Committee's recommendations with regard to methodology of computation of environment compensation are as under:

**“Estimation of Environmental Compensation (EC):-**

**1. Methodology for estimation of EC for discharge of untreated/partially treated sewage**

*Under Hon'ble NGT order dated 24.9.2020 in O.A. 7/2018 (M Y Chaudhary Vs BMC & Others) under Para 6 the following formulas for the estimation of EC for untreated/partially treated sewage discharge are given as:*

$$\mathbf{EC (Lacs Rs.) = [17.5 \{Total Sewage Generation - Installed Treatment Capacity\} + 55.5 \{Total Sewage Generation - Operational Capacity\}] + 0.2(Sewage Generation - Operational Capacity) \times N + Marginal Cost of Environmental Externality \times (Total Sewage Generation - Operational Capacity) \times N}$$

*Where; N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority. Quantity of Sewage is in MLD”*

**2. Methodology for estimation of EC to be Levied on Concerned Individual/Authority for Improper Solid Waste management:**

*Under Hon'ble NGT order dated 24.9.2020 in O.A. 7/2018 (M Y Chaudhary Vs BMC & Others) under Para 6 the following formulas for the estimation of EC to be Levied on Concerned Individual/Authority for Improper Solid Waste management is given as:*

$$\mathbf{EC (Lacs Rs.) = 2.4 (Waste Generation - Waste Disposed as per the Rules) + 0.02 (Waste Generation - Waste Disposed as per the Rules) \times N + Marginal Cost of Environmental Externality \times (Waste Generation - Waste Disposed as per the Rules) \times N}$$

*The committee after study of the guidelines and order draw out the following parameters for assessment of the environment compensation:*

1. Total Sewage Generation.
2. Installed Treatment Capacity.
3. Operational Capacity.
4. N= Number of days from the day of Joint inspection of Collector Bhopal/ Chief Medical Officer/ MPPCB upto 19.10.2020 (the date of this report submission by the joint committee in compliance of Hon'ble Tribunal order dated 24.9.2020 in O.A. No. 07/2018 (CZ))

5. Marginal Cost of Environmental Externality.

6. Solid Waste Generation.

7. Solid Waste Disposal.

8. Solid Waste Management Capacity Gap.

The information required for the assessment of the environment compensation is as follows:

1. The Following information was received by the Nagar Nigam (office Letter No. 920 Nagar Yantri/Sewage Proko/Nagar Nigam/Bhopal Dated 15.10.2020), (Nagar Palika Nigam Bhopal, Letter No. 59/BMC/2020, Dated 14/10/2020). Copy of the Nagar Nigam letters is enclosed as Annexure — II.

**Sewage/ Untreated Water:-**

- **Total Sewage Generation of Taj Colony and Ashok Colony = 0.3 MLD.**
- **Total Sewage mix in Nawab Siddiqui Hussain Khan Talab from Motia Talab= 0.45 MLD.**
- **Total Sewage mix in Nawab Siddiqui Hussain Khan Talab from Taj Colony, Ashok Colony, Motia Pond and other area = 0.75 MLD.**
- **Installed Treatment Facility = Nil**
- **Installed Operational Capacity = Nil**

**Solid Waste:**

- **Total Solid Waste Generation of Taj Colony and Ashok Colony = (5.4 + 0.60) = 6 TPD.**
- **Total Solid Waste Disposal of Taj Colony and Ashok Colony = (4.30 + 0.45) = 4.75 TPD.**

2. N= The number of days for untreated sewage water discharge was calculated from

- i. Date of first joint inspection of Collector Bhopal, Chief Medical Officer & MPPCB in the Tribunal O.A. 07/2018 (CZ) order dated 9.6.2020 i.e. 11/07/2020.
- ii. To the date of this report submission by the joint committee in compliance of Hon'ble Tribunal order dated 24.9.2020 in O.A. No. 07/2018 (CZ) i.e. 19/10/ 2020.
- iii. The number of days of untreated sewage water discharge is 101 days (from 11.7.2020 to 19.10.2020).

**3. Marginal Cost of Environmental Externality for untreated discharge of sewage:**

As per the guidelines of CPCB for calculation of environmental compensation for "Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority" and the Marginal Cost of Environmental Externality is taken as minimum 0.05 and maximum 0.10 for sewage up to 200 MLD. Hence for calculation of

the environmental compensation Marginal Cost of Environmental Externality is taken as **0.05 Lacs/day**.

4. The earlier report of joint committee consisting Collector Bhopal, Chief Medical Officer & MPPCB, constituted in compliance of Hon'ble National Green Tribunal order dated 9.6.2020 in O.A. 7/2018 (CZ) stated that most of the hospitals situated near Nawab Siddique Hasan Khan Talab has installed Effluent Treatment Plant (ETP) and rest of the nearby Institutes has a system of disinfection. The treated effluent of institutions is discharge in the municipal sewer pipe line. This municipal sewer pipe line is further connected to the Kolua pump house. The sewage pumped from Kolua pump house to Moholi Damkheda STP for treatment. The Biomedical Waste is disposed by Common Biomedical Waste Treatment facility authorized by MPPCB. **The sewage of the Taj colony, Ashok colony and over flow of Motiya Talab is found to be mixed in the Nawab Siddique Hasan Khan Talab.**

**5. Marginal Cost of Environmental Externality for improper solid waste management:**

As per the guidelines CPCB for calculation of environmental compensation for "Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management" and the Marginal Cost of Environmental Externality is taken as minimum 0.01 and maximum 0.05 for Solid Waste Management Capacity Gap up to 200 TPD. Hence for calculation of the environmental compensation Marginal Cost of Environmental Externality is taken as **0.01 Lacs/day**.

6. Photographs of the site visit dated 08.10.2020 are enclosed as Annexure — III.

**Calculations of Environmental Compensation (EC):-**

The committee calculates EC for Sewage/Untreated Water disposal. The details are as follows:

**1. Environmental Compensation (EC) for sewage/ Untreated Water treatment**

Calculation for EC to be levied for discharge of untreated/partial treated Sewage is as tabulated below:

1.	<b>Class</b>	<b>Other</b>
2.	<b>Sewage Generation (MID)</b>	<b>0.75 MLD</b>
3.	<b>Installed Treatment Capacity (MID)</b>	<b>0 MLD</b>
4.	<b>Operational Capacity (MID)</b>	<b>0 MLD</b>
5.	<b>Treatment Capacity Gap (MID)</b>	<b>0.75 MLD</b>
6.	<b>Calculated EC (capital cost component for STPs) in Lacs Rs.</b>	<b>13.125 Lacs</b>
7.	<b>Calculated EC (capital cost component for Conveyance System) in Lacs Rs.</b>	<b>41.625 Lacs</b>
8.	<b>Calculated EC (Total capital cost component) in Lacs Rs.</b>	<b>54.75 Lacs</b>

9.	<b>Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)</b>	<b>Min- 100 Lacs Max- 1000 Lacs</b>
10.	<b>Final EC (Total Capital Cost Component) in Lacs Rs.</b>	<b>100 Lacs</b>
11.	<b>Calculated EC (O &amp; M Component in Lacs Rs./day</b>	<b>0.15 Lacs/Day</b>
12.	<b>Minimum and Maximum values of EC (O &amp; M Cost Component recommended by the Committee (Lacs Rs./day</b>	<b>Min- 0.5 Lacs/Day Max- 5 Lacs/Day</b>
13.	<b>Final EC (O &amp; M Component) in Lacs. Rs./Day</b>	<b>0.5 Lacs/Day</b>
14.	<b>Calculated Environmental Externality (Lacs Rs. Per Day)</b>	<b>0.00056 Lacs/Day</b>
15.	<b>Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)</b>	<b>Min- 0.05 Lacs/Day Max- 0.10 Lacs/Day</b>
16.	<b>Final Environmental Externality (Lacs Rs. Per Day)</b>	<b>0.05 Lacs/Day</b>

**EC (Lacs Rs.)** = 17.5(Total Sewage Generation -Installed Treatment Capacity) + 55.5(Total Sewage Generation-Operational Capacity) + 0.2 (Sewage Generation-Operational Capacity) x N + Marginal Cost of Environmental Externality x (Total Sewage Generation-Operational Capacity) X N

**EC (Lacs Rs.)** = Final EC (Total Capital Cost Component) in Lacs Rs. + Final EC (O & M Component) in Lacs. Rs. /Day X N (Days) + Final Environmental Externality (Lacs Rs. Per Day) X N (Days)

**EC (Lacs Rs.)** = 100 + (0.5 X 101) + (0.05 X 101)

**EC (Lacs Rs.)** = 100 + 50.5 + 5.05

**EC (Lacs Rs.)** = **155.55 Lacs**

## **2. Environmental Compensation (EC) for Solid Waste Management**

*EC to be levied for improper management of Municipal Solid Waste*

1.	<b>Class</b>	<b>Other</b>
2.	<b>Waste Generation (TPD)</b>	<b>06 TPD</b>
3.	<b>Waste Disposal as per Rules (TDP)</b>	<b>4.75 TPD</b>
4.	<b>Waste Management Capacity Gap (TPD)</b>	<b>1.25 TPD</b>
5.	<b>Calculated EC (capital cost component) in Lacs Rs.</b>	<b>03 Lacs</b>

6.	<b>Minimum and Maximum Values (Capital Cost Component) recommended by the committee Lacs Rs.</b>	<b>Min- 100 Lacs Max- 1000 Lacs</b>
7.	<b>Final EC (Capital Cost Component) in Lacs Rs.</b>	<b>100 Lacs</b>
8.	<b>Calculated EC (O &amp; M Component) in Lacs Rs./Day</b>	<b>0.025 Lacs/Day</b>
9.	<b>Minimum and Maximum values of EC (O &amp; M Cost Component) recommended by the Committee/Lacs Rs/day)</b>	<b>Min- 0.1 Lacs/Day Max- 1 Lacs/Day</b>
10.	<b>Final EC (O &amp; M Component) in Lacs Rs./Day</b>	<b>0.1 Lacs/Day</b>
11.	<b>Calculated Environmental Externality (Lacs Rs. Per Day)</b>	<b>0.0001875 Lacs/Day</b>
12.	<b>Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)</b>	<b>Min- 0.01 Lacs/Day Max- 0.05 Lacs/Day</b>
13.	<b>Final Environmental Externality (Lacs Rs. Per Day)</b>	<b>0.01 Lacs/Day</b>

**EC (Lacs Rs.) =**  $2.4$  (Waste Generation — Waste Disposed as per the Rules) +  $0.02$  (Waste Generation - Waste Disposed as per the Rules) x  $N$  + Marginal Cost of Environmental Externality x (Waste Generation — Waste Disposed as per the Rules) x  $N$

**EC (Lacs Rs.) =** Final EC (Capital Cost Component) in Lacs Rs. + Final EC (O & M Component) in Lacs Rs./Day x  $N$  (Day) + Final Environmental Externality (Lacs Rs. Per Day) x  $N$  (Day)

$EC$  (Lacs Rs.) =  $100 + (0.1 \times 101) + (0.01 \times 101)$

$EC$  (Lacs Rs.) =  $100 + 10.1 + 1.01$

**EC (Lacs Rs.) = 111.11 Lacs**

**Recommendations:**

The committee recommend to impose the EC on Bhopal Municipal Corporation; calculated by the committee in compliance of Hon'ble Tribunal order dated 24.9.2020 as

- i. Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/Authority = **Rs. 155.55 Lacs**
- ii. Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management= **Rs. 111.11 Lcs.**

16. This report was considered by Tribunal on 14.06.2021. MPPCB was directed to take remedial measures and proceed to realize environment compensation in accordance with law. Tribunal also observed that it is surprising that MPPCB is a statutory body and given statutory obligation to perform and also realize environment compensation from the authorities/persons who are violating environmental norms, despite that there is a report and computation of environment compensation, but MPPCB has failed to realize environment compensation from violators i.e., BMC.

17. Pursuant to order dated 14.06.2021, a status/action taken report dated 14.07.2021 was submitted by MPPCB stating that it had issued show cause notice on 23.06.2021 to BMC, where against BMC has submitted reply dated 06.07.2021 and further action is under consideration.

18. Later, it was brought to the notice of Tribunal by BMC that there is a lot of encroachment also which is causing discharge of sewage and dumping of municipal waste including bio-medical waste in the water bodies and these facts disclosed by BMC were considered by Tribunal in its order dated 02.12.2021. Tribunal found that three types of encroachments were pointed out by BMC:

- i. Encroachments in the nature of temporary structures
- ii. Structures which are permanent in nature; and
- iii. Encroachment of semi-permanent in nature.

19. It was stated before Tribunal that at two or three places identified by District Administration and BMC, provisions for rehabilitation have to be made which require two months' time for planning and issue of execution order. The stand taken by BMC was contradictory. Applicant stated that encroachments are on account of inaction/collusion of the authorities of

BMC and State administration. Consequently, this Tribunal formulated two issues, as under:

*“i. Discharge of untreated water into the water bodies Motia Talab/ Hasan Talab for which, it is submitted that more than 95 percent of work of channelizing drains has been completed and the STPs are going to be functional from last week of December, 2021.*

*It has further been submitted that the Nalla / drains which are discharging untreated water into the water body/lake are tapped and regularly monitored, so that the untreated water should be diverted towards the STP and to ensure that no untreated water should be discharged into the river/lake.*

*The learned counsel appearing for the State Pollution Control Board has submitted that notices have been issued to the violators of law for realisation of environmental compensation in accordance with law.*

*ii Second issue involved in this application is encroachment for which the necessary steps are being taken by the Municipal Corporation/Local Authorities/Administration and the provisions for rehabilitation are in progress.”*

20. Tribunal directed concerned authorities to take further action with regard to removal of encroachments in accordance with law after hearing all concerned parties and file an action taken Report.

21. BMC filed copy of recovery notices along with compilation of documents dated 28.02.2022 appending notices issued to various proponents/individual violators for payment of environment compensation and details of above notices are as under:

<b>Sr. no.</b>	<b>Name of the proponent</b>	<b>Date of the notice</b>	<b>Amount of environment compensation demanded</b>
1.	Kilkari Children Hospital	04.10.21	4.84 Lakh
2.	Sardar Patel Polyclinic and framesets	04.10.21	1.584 Lakh
3.	Nature Hospital and trauma center	04.10.21	4.84 Lakh
4.	Aram Clinic	04.10.21	0.475 Lakh
5.	Dr. Jayant Yadav	04.10.21	0.95 Lakh

6.	<i>Care and Smile Dental care</i>	04.10.21	0.475 Lakh
7.	<i>Astha Orthopedic Day care center</i>	04.10.21	0.95 Lakh
8.	<i>Nobal Diagnostic</i>	04.10.21	1.584 Lakh
9.	<i>Samdhan Pathology and Diagnostic and Digital X-Ray</i>	04.10.21	0.475 Lakh
10.	<i>Dr. Richa Diagnostic center</i>	04.10.21	0.95 Lakh
11.	<i>Air Horizon travels</i>	04.10.21	0.475 Lakh
12.	<i>Dr. Anil Balecha skin expert</i>	04.10.21	0.475 Lakh
13.	<i>High-tech care and laser center</i>	04.10.21	4.84 Lakh
14.	<i>Smile maker dental Clinic</i>	04.10.21	0.475 Lakh
15.	<i>Indian Bank</i>	04.10.21	0.95 Lakh
16.	<i>Shilpa Dodani</i>	04.10.21	0.475 Lakh
17.	<i>Hamidia Multi care Hospital</i>	04.10.21	4.84 Lakh
18.	<i>Banwari Laborites</i>	04.10.21	0.475 Lakh
19.	<i>Shubham Hospital</i>	04.10.21	4.84 Lakh
20.	<i>Bhopal Care hospital</i>	04.10.21	12.85 Lakh
21.	<i>ABM Multi Specialties Hospital</i>	04.10.21	12.85 Lakh
22.	<i>Silver Line Hospital</i>	04.10.21	9.683 Lakh
23.	<i>Dr. Paith Lab</i>	04.10.21	0.475 Lakh
24.	<i>Central Hospital</i>	04.10.21	4.84 Lakh
25.	<i>City care Hospital</i>	04.10.21	4.84 Lakh
26.	<i>Sanjivni D-care</i>	04.10.21	4.84 Lakh
27.	<i>Manas Blood bank</i>	04.10.21	0.475 Lakh
28.	<i>Unik Hospital</i>	04.10.21	6.426 Lakh
29.	<i>Arthroped lab and Clinic</i>	04.10.21	0.475 Lakh
30.	<i>Balaji Children Hospital</i>	04.10.21	4.841 Lakh
31.	<i>Parak pathology lab</i>	04.10.21	0.475 Lakh
32.	<i>Ishkripa Endoscopy</i>	04.10.21	3.17 Lakh
33.	<i>LBS Emergency Hospital</i>	04.10.21	16.11 Lakh
34.	<i>LBS Emergency Hospital</i>	04.10.21	19.37 Lakh

35.	<i>Richa Diagnostic</i>	<i>04.10.21</i>	<i>1.584 Lakh</i>
36.	<i>Ashirwaad Medical Shop</i>	<i>04.10.21</i>	<i>0.85 Lakh</i>
37.	<i>Yashoda Hospital</i>	<i>04.10.21</i>	<i>1.584 Lakh</i>
38.	<i>Dr. Tankwal Nose Neck Center</i>	<i>04.10.21</i>	<i>0.475 Lakh</i>
39.	<i>Paith Care Diagnostic</i>	<i>04.10.21</i>	<i>0.475 Lakh</i>
40.	<i>Dr. Lal Paith Lab</i>	<i>04.10.21</i>	<i>0.475 Lakh</i>
41.	<i>Paras Hospitals</i>	<i>04.10.21</i>	<i>5.105 Lakh</i>

22. The matter came up before Tribunal on 16.02.2022. Tribunal observed that City of Bhopal is proud of being a city of lakes, but the facts are that more than 41 nallas/passages/units are discharging untreated chemical sewage/polluted water into the pious lakes, which is largest source of water in the city of Bhopal. Encroachments, illegal constructions of residential and commercial establishments are another problem in addition to throwing of garbage and/or dumping them near open space of the lakes. Repeated directions were issued by Supreme Court and this Tribunal but despite that, in flagrant violation of laws of the land, polluted water in the form of sewage, hospital and household effluents and also solid waste continued to be discharged/thrown in the water bodies/lakes. Violation of law is not only by private persons but also due to failure of statutory bodies including local bodies and Regulatory authorities in taking adequate steps. There is a total lack of positive action or accountability which weakens the rule of law, as large scale violations go unaddressed despite repeated and multiple judicial orders. India is already suffering from one of the worst water crises in history and millions of lives and livelihood are under threat.

23. Learned Counsel appearing for Municipal Corporation informed of more than 227 encroachments identified and some of them were

permanent constructions, in addition to temporary and semi-permanent constructions.

24. Tribunal after taking cognizance of above statement, directed the authorities to take remedial actions but found during the course of hearing that authorities/Learned Counsels were shifting responsibility from one authority to another, though all the organs of administration were expected to protect State property as well as environment for the good of people. State officials are paid to do their legal duties and to protect interest of State. Negligence of those to whom public duties have been entrusted can never be allowed to cause public mischief.

25. In the report submitted by State Pollution Control Board, it is submitted that two nallas i.e., Idgah Hills and SBI nallahs have been intercepted now and diverted to STP Maholi Damkheda with the help of sewer line laid under 'Amrit Project' for treatment of waste water. Construction and completion of some other STPs are under progress, but the narration of facts in the application that more than 41 hospital units are continuously discharging their chemical water/effluents, could not be sufficiently explained by BMC.

26. Respondent No. 5, i.e., BMC, vide action taken report submitted that letters have been addressed to the authorities for rehabilitation and redevelopment for providing houses to slum dwellers living at Bhadbhada i.e. Upper Lake and further that agitation and representations are made by some organizations.

27. This Tribunal is not concerned with internal official correspondence of the authorities who are under a statutory obligation to achieve target and outcomes as enshrined in the Constitution wherein responsibility under Article 243-W is vested in the Municipalities, and the obligation

extends to public health, sanitation, conservancy and solid waste management. The onus to operate existing Common Effluent Treatment Plants (hereinafter referred to as '**CETP**') or management of solid and liquid wastes rests on Municipalities and/or local bodies. Given the aforesaid responsibility, Municipality cannot be permitted to shy away from discharging its onerous statutory duty.

28. Here, we find it useful to refer Supreme Court's judgment in ***Municipal Council, Ratlam vs. Shri Vardhichand & Ors., AIR 1980 SC 1622*** wherein referring to duties of Municipal Councils, under Section 123 of Madhya Pradesh Municipalities Act, 1961 (hereinafter referred to as '**MPM Act, 1961**'), Supreme Court held that duty of municipality for cleansing of public streets, places and sewer and all places not being private property, disposal of feacal solid waste by preparation of compost mineral form a part of a mandatory provision since Section 123 is mandatory. It was also held that neither the plea of financial inability can absolve Municipality from performing its statutory functions since Section 123 of MPM Act, 1961 has no saving clause nor Municipality can be allowed to run away from its principal duty of preserving public health by paving financial inability. Court also observed that where people's health is involved, Court will not sit idle and allow a Municipal Body to become a statutory mockery. Law will relentlessly be enforced. The Officers in charge even the elected representatives will have to face the penalty of the law if what Constitution and follow-up legislation direct them to do are defied or denied wrongfully. The wages of violation is punishment, corporate and personal.

29. In the above case, citizens of Ward No. 12, New Road, Ratlam town filed an application under Section 133 Cr.P.C. before Magistrate, complaining that Municipality has failed to meet its basic obligation like

provision of sanitary facilities on the roads, public conveniences for slum dwellers who were using road for that purpose, and prevention of discharge from nearby Alcohol Plant of malodorous fluids into public street etc., therefore, to prevent such nuisance which is affecting health of people, Magistrate must issue direction to Municipality to construct drain pipes, stop discharge of industrial effluent and take all steps to check nuisance caused by the above statutory failure of duties. Magistrate accepted the contention and issued necessary direction which was found unjustified by Sessions Court but High Court upheld the view taken by Magistrate. That is how, the matter was brought before Supreme Court by Municipal Council, Ratlam but Supreme Court affirmed the view taken by Magistrate and High Court and dismissed Appeal making observation as noted above.

30. Having observed as above, this Tribunal directed the authorities concerned to do their duties sincerely, fairly and to protect State land from further encroachment, remove encroachment in accordance with law and further not to allow discharge of untreated sewage/household/chemical effluents into water bodies and prevent discharge of sewage and chemical effluents into lake like Bada Talab/Chhota Talab/Motia Talab and many other water bodies situated in the heart of Bhopal city. Concerned authorities were also directed to take remedial action and file action taken report.

31. Pursuant to order dated 16.02.2022, an action taken Report was filed by MPPCB giving details of action taken, as under:

*“1. Officials of MPPCB had inspected 15 hospitals located near Hasan Siddiqui Talab on dated 17 .07 .2021. **08 out of 15 hospitals have been found violating the provisions of Water (Prevention and Pollution Control) Act, 1974** in reference to which notices were issued to the violators on dated 23.08.2021. Imposition of **environmental compensation has been carried out on these 08 nos. of hospitals which were found continuously violating the provisions of Water (Prevention***

**and Pollution Control) Act, 1974 as per inspection dated 19.01.2022. Details of Environmental Compensation is as under-**

<b>S.No.</b>	<b>Hospital Name</b>	<b>Environmental Compensation (Rs. in Lakh)</b>
1.	Nishat Hospital, 42, Opp. Motia Talab, Taiul Masiid, Bhopal	92500/-
2.	Unique Hospital, 77, Opp. Motia Talab, Taiul Masiid, Bhopal	92500/-
3.	Balarii Children Hospital, 75, Opp. Motia Talab, Tajul Maslid, Bhopal	38250/-
4.	ABM Hospital, Opp. Motia Talab, Tajul Masiid, Bhopal	138750/-
5.	ABM Hospital, Opp. Motia Talab, Tajul Masiid, Bhopal	138750/-
6.	Sanjeevani Day Care Centre, Opp. Motia Talab, Tajul Masjid, Bhopal	34687/-
7.	Sanjeevani Day Care Centre, Opp. Motia Talab, Tajul Masjid, Bhopal	462500/-
8.	Central Hospital & Research Centre 77, Opp. Motia Talab, Tajul Masiid, Bhopal	138750/-

2. Regional office MP Pollution Control Board, Bhopal inspected the municipal area Bhopal on dated 12.07.2021, 17.07.2021 & 20.07.2021 and **observed non compliance of Solid Waste Management Rules, 2016, discharge of untreated sewage in water bodies & non commissioning of STPs within the time limit.** Hence MP Pollution Control Board Bhopal imposed environmental compensation vide letter dated 27.12.2021. Details of Environmental Compensation is as under-

<b>Non Compliance</b>									
ULB Name	District	Rule 22 of SWM Rules, 2016		Legacy waste disposal Compensation (Rs in Lakh)	Bioremediation of drains		Commencement of STP installation		Total (Rs in Lakhs)
		S.No of Non-Compliance	Compensation in (Rs. in Lakh)		No of drains	Compensation (Rs. in Lakh)	No of STPs	Compensation (Rs. in Lakh)	
Bhopal	Bhopal	9	60	0	66	1980	18	540	2580

3. Official of MPPCB and Bhopal Municipal Corporation, Bhopal further inspected the site on dated 27.01.2022. Under the AMRUT Project in Bhopal city, 35 drains have been fully intercepted and

diverted for treatment to STPs. 15 no. of drains have been connected to sewage network system which will be treated in STPs to be commissioned by March 2022. No discharge was observed in 07 drains and they were found dry. **About 18 drains will be connected sewage system under AMRUT (sewage) 2.0 Scheme of the Central Government at the earliest by the Bhopal Municipal Corporation.**

4. In Bhopal city, total 13 nos. of STPs are operational including 05 STPs setup under AMRUT project and 05 additional STPs are under-construction under AMRUT project.”

32. The matter was again considered by Tribunal on 28.02.2022. After going through the entire previous proceedings, Tribunal deprecated severely the authorities for failing to perform their statutory functions. The observations and directions issued by Tribunal as contained in para 21 to 26 of order dated 28.02.2022 are as under:

“21. We find the situation to be extremely unsatisfactory. There appears to utter neglect of constitutional obligation by the State Authorities, to the prejudice of environment and public health. **Dumping of bio-medical and other waste and discharge of untreated sewage into the water bodies is a great hazard to public health and crime under the law of the land. Such water may be consumed by human or other living beings and also used for irrigation, affecting food safety, apart from damaging the flora and fauna in the area, including the aquatic life.** Discharge of sewage is also blatant contempt of Supreme Court directions in Judgment dated 22.02.2017 in *Paryavaran Surakha Samiti vs. Union of India*, (2017) 5 SCC 326. Further, encroachments involve violation of statutory Rules, particularly Rule 4 of the Wetland (Conservation and Management) Rules, 2017. **There is also undoubted violation of Water (Prevention and Control of Pollution) Act, 1974, Environment (Protection) Act, 1986 and Rules framed, Madhya Pradesh Town and Country Planning Act, 1973, Madhya Pradesh Municipal Corporation Act, 1956 and Bhopal Master Plan 2005.** Any construction in catchment area upto 50 mtrs of the drain is illegal. The enforcement of Rule 4 for protecting the catchment area is not dependent on title to the property and even an owner is not permitted to raise construction in such ‘No Construction Zone’. The lawlessness prevailing, as depicted from undisputed documents and findings in the reports of the statutory authorities need to be remedied on war footing by stringent action with the involvement of higher authorities of the State so as to enforce rule of law and restore environment and protect public health. Measures to be taken may include management of sewage by way of treatment and reuse. Help of Industries, who may use treated sewage for industrial purposes, may also be explored on such pattern at some places. This may require laying of pipelines to connect treated sewage to the industrial area, if adequate treatment facilities are not otherwise available with the Corporation. **Demarcation of catchment area needs to be ensured with reference to the revenue record and**

summary action needs to be taken to remove encroachments and instead to develop green belts along the drains, lakes and the Wetland. Further, the lakes need to hold sufficient water and lake water quality has to be maintained at least which may allow aquatic life to thrive. This is constitutional obligation of the State. Since inter-departmental coordination issues arise and matter has remained neglected for long, including for about four years, inspite of pendency of the matter before the Tribunal, oversight and involvement of highest administrative authority in the State has become necessary.

22. Accordingly, **we direct the Chief Secretary, Madhya Pradesh to forthwith call a meeting** of concerned Departments particularly Public Health, Irrigation, Environment, Urban Development and Revenue Departments. The Environment Department can be the nodal agency, unless otherwise directed by the Chief Secretary. Apart from the said concerned Departments, the statutory regulators – the State PCB and State Wetland Authority may also be associated. The meeting may take cognizance of the grim situation and prepare a broad roadmap for the course of action to be adopted with stringent timelines, budgetary support and identified and accountable authorities for performing the tasks identified and also monitoring mechanism. **The joint Committee may ensure compliance of rule of law, protection of environment and public health and restoration of public assets from the encroachers, acting in collusion with concerned authorities, to the detriment of public interest.** It may be ensured that henceforth no illegal constructions take place, pending action against the past violations. Wherever found necessary, CCTV cameras be installed. Water quality of water bodies be restored by preventing dumping of waste and discharge of effluents/sewage. Water quality monitoring has to be on regular basis, exploring possibility to keep water bodies aerobic for maintenance of oxygen and for atleast Class ‘C’ Water Quality criteria. It is sad to note that Health providers appear to be spreading diseases by dumping biomedical waste in water bodies, as found by the statutory regulators in the reports filed before this Tribunal. Health care establishments need to have either captive social and liquid water management facilities or common facilities in accordance with Bio-Medical Waste Management Rules, 2016.

23. **We are also disappointed with the attitude so far adopted by the State PCB in not levying realistic compensation as per law laid down by the Hon’ble Supreme Court inter-alia in M. C. Mehta & Anr. v. Union of India, (1987) 1 SCC 395, Sterlite Industries (India) Ltd. v. Union of India, (2013) 4 SCC 575, Goel Ganga Developers India Pvt. Ltd. v UOI, (2018) 18 SCC 257 and Mantri Techzone Pvt. Ltd. V. Forward Foundation and Ors.(2019) SCC Online SC 322, para 43-47. The compensation must include element of deterrence with reference to the financial capacity of the violator, considering cost of restoration and other factors which in the present case have been ignored for reasons best known to the State PCB.** Wetland Authority appears to be disregarding its statutory obligation under Rule 4 of the Wetland Rules, 2017 of demarcating the wetland and maintaining the catchment area free of encroachment. Similar failures are patent on the part of the Municipal Corporation and other concerned authorities. We hope the statutory authorities will realize their constitutional and statutory obligations under the ‘Public Trust Doctrine’ of protecting the

*water bodies/lakes/wetlands in question and taking meaningful stringent action against the violators, including the hospitals who instead of providing health facilities have become source of destroying the health of a citizens and are not being made accountable for reasons best known to the authorities. The hospitals in question may be given last opportunity of compliance, failing which the consents granted to them may be cancelled and criminal cases registered against their managements, as per law.*

24. *Since, we are directing the statutory authorities to exercise their statutory powers following due process, we do not consider it necessary to issue notice to individual violators who have remedy of approaching this Tribunal by way of an Appeal or otherwise, if they are aggrieved. Various directions of this Tribunal have already been quoted in detail in earlier orders of this Tribunal and are not being repeated.*

25. *It is also made clear that public hearing to the encroachers has to be of summary nature in the form of written submissions and record which can be verified from the Revenue Department in a joint meeting of concerned authorities, followed by summary procedure with police help under the relevant statutory provisions, for protecting the assets of the State and protection of environment and public health.*

26. **The Chief Secretary, Madhya Pradesh may file a consolidated action taken report mentioning the steps taken by various authorities within three months** by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The report inter-alia may include the status of :-

- (i) *Sewage treatment and utilization, including in-situ remediation.*
- (ii) *Interception and diversion of sewage/ sullage drains to STP and returning completely treated water for recharging of water bodies to maintain water levels, maintaining water quality.*
- (iii) *Maintaining flood plain level of lakes free from any further encroachments and removing existing encroachments, as per directions given above, to enforce the law of the land.*
- (iv) *Regular Monitoring mechanism to oversee progress of execution in tandem with State Level Wetland Authority*
- (v) *Steps for mass awareness, involving citizens in conservation programme.”*

33. Pursuant to order dated 28.02.2022, an action taken Report/Compliance Report dated 22.07.2022 was filed by State of Madhya Pradesh, giving details of compliance status as under:

“3. The point wise status of the directions passed by the Hon’ble Tribunal vide its order dated 28.02.2022 are as follows:

**I. Sewage Treatment and utilization, including in situ remediation.**

The officials of the Bhopal Municipal Corporation have provided the information with respect to the above subject and the information provided by the officials are quoted below:

1. The sewage collection, treatment and disposal of Bhopal city is covered under AMRUT-1 (Sewage) project to prevent the sewage flow into the lake and river catchments.
2. The total cost of the AMRUT-1 Project is 442 crore and the works involves under this projects are renovation of existing sewerage system, laying of new sewer-line, construction of sewage pump house and sewage treatment plants.
3. The AMRUT-1 is mainly consisting of three projects based on the catchment area covered under the scheme. The details are as under:
  1. Shahpura Project
  2. Bhoj Wetland Project
  3. Kolar Project.

The details of work covered under the three projects are mentioned below in tabular form:

**1) Shahpura Project (Cost-135 Crore):-**

<b>No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>Location</b>	<b>Capacity</b>
01	Sewage Treatment Plant	04 nos.	a) Chaarlmaly	4.5 MLD
			b)Jamuniya cheer	3.5 MLD
			c) Neelbad	6.0 MLD
			d)Bansal Hospital	9.50 MLD
02	Sewage Pump House	13 nos.		
03	Sewerage Network	100 Km.		

**2) Bhoj Wetland Project (Cost-145 Crore):**

<b>No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>Location</b>	<b>Capacity</b>
01	Sewage Treatment Plant	03 nos.	a) Shrine Naala	5.0 MLD
			b)Professor Colony	2.0 MLD
			c)Maholi Dhamkheda	35 MLD
02	Sewage Pump House	06 nos.	-	-
03	Sewerage Network	52 Km.	-	-
04	Renovation of existing Sewage Pump House	15 nos.	-	-

**3) Kolar Project (Cost-162 Crore):**

<b>No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>Location</b>	<b>Capacity</b>
01	Sewage Treatment Plant	02 nos.	a) Sankhedi b)Maksi	32 MLD 20.50 MLD
02	Sewage Pump House	08 nos.	-	-
03	Sewerage Network	168 Km.	-	-

4. The work completed under the project includes the construction of 27 sewage pumping stations, renovation of 15 sewage pumping stations, construction of 9 sewage treatment plants and lying of sewerage of 320 Km length.
5. Presently 30000 households sewage connection with sewerage network are completed and 18000 houses sewage connection are under progress. In this way total 1,26,000 houses sewage connection with sewerage network.
6. **Approximately 45 percent of the Bhopal oily is covered under the sewerage network in which sewage is collected through sewerage system and conveyed to the corresponding STP.**
7. The remaining part of the Bhopal city will be covered under AMRUT-2.0 for which the work of DPR preparation is in progress. The cost of the DPR is 950 Crore.

The copy of the information provided by the Bhopal Municipal Corporation is marked and enclosed herewith as ANNEXURE-1

**II. Interception and diversion of sewage/Sullage drains to ST and returning completely treated water for recharging of water bodies to maintain water levels, maintaining water quality.**

The officials of the Bhopal Municipal Corporation (**ANNEXURE -I**) have provided the information with respect to the above subject and the information provided by the officials are quoted below:

1. The sewerage network is laid down in the various part of the Bhopal city to intercept the sewage flow before discharging into Upper lake, Lower lake, Siddiki Hasan Talab, Motia Talab, Baagh Munshi Hussain Talab, Shahpura Talab and river Kaliasot and diverted it to STPs.
2. **Out of 68 drains 57 numbers of drains are intercepted and diverted through sewage network to the STPs. Now remaining 11 drains will be intercepted under the AMRUT - 2.0 (Sewage) Scheme of the Central Government at the earliest in Bhopal city.**

3. Presently 17 nos. sewage treatment plants are operative. The details of existing STPs in RO Bhopal are marked and enclosed herewith as **ANNEXURE-II**
4. Sewage being treated as per the CPCB norms and treated water has utilized in flushing, gardening, agriculture purpose, fire brigade and road sweeping.

**III. Maintaining flood plain level of lakes free from encroachments and removing encroachments, as per directions given above, to enforce the law of the land.**

The officials of the State Wetland Authority & Bhopal Municipal Corporation have provided the information with respect to the above subject and the information provided by the officials are quoted below:

1. The flood plain levels of Upper lake as full tank level (FTL) and zone of influence (ZOI) are described in Environment Department, Government of Madhya Pradesh vide order dated 16/03/2022. The copy of the order dated 16/03/2022 is marked and enclosed herewith as ANNEXURE-III
2. As per information provided by Nagar Nigam Bhopal action is being taken to restrict any further encroachment by running anti encroachment drive time to time.
3. Nagar Nigam Bhopal has identified 227 nos. of encroachments in upper lake catchment area near Bhadbhada. For shifting these habitants from the present location, BMC has offered the houses in the "housing for all" scheme of the Government of India to these residents but they refused the offer by saying that the land belong to Waqf Board. BMC is pursuing with Waqf board and SDM T.T. Nagar to certify ownership of the disputed encroached land. The matter of removal of these encroachments by BMC and District Administration is in progress. The copy of correspondence with Waqf board and SDM T.T. Nagar Bhopal is marked and enclosed herewith as (ANNEXURE-1)

**IV. Regular monitoring mechanism to oversee the progress of execution in tandem with State Level Wetland Authority**

The officials of the State Wetland Authority & Bhopal Municipal Corporation have provided the information with respect to the above subject and the information provided by the officials are quoted below:-

1. To comply with the instructions of Hon'ble NGT, an interdepartmental Committee under the chairmanship of collector Bhopal is constituted by State This committee Will regularly review the progress of compliance of instructions given by Hon'ble NGT. The Committee has representation from Bhopal Nagar Nigam, State Wetland Authority, MPPCB, EPCO, Chief Medical Officer Bhopal District, Public Health Engineering. Department and SDMs of Bhopal District. The committee will work in tandem with the State Wetland Authority and Wetland Conservation Rules 2017. The copy of order Dated 09/03/2022 is marked and enclosed herewith as ANNEXURE-IV

2. *It is also submitted that to conserve and protect lakes and wetlands, GoMP Department of Environment has constituted District Wetland Conservation Committees. These committees will work under the overall guidance of State Wetland Authority.*
3. *GoMP has also issued a detailed order delineating the Bhoj wetland boundary, FTL and 50 meters boundary and defining the Zone of Influence. Based on these and as per the Wetland Rules and subsequent Guidelines issued by MoEF&CC, Prohibited, Regulated and Permitted activities have been identified and announced.*
4. *The Lake Conservation Cell of Municipal Corporation Bhopal, regularly monitoring and taking action to prevent encroachment within 50 meters from the FTL. Continuous cleaning of the lakes and removing of silt from drains, plantation around periphery of lake and operation of fountains to maintain the ecosystem of lake. The interdepartmental officers meeting organized on dated 08/07/2022 in the presence of Deputy Collector minutes of meeting is marked and enclosed herewith as ANNEXURE R-V.*

**V. Steps for mass citizens in awareness, involving citizens in conservation programme.**

*For creating mass awareness among the citizens towards the conservation of water bodies of state various activities are being performed. The details are quoted below:-*

1. *The water quality parameters of different water bodies of state are being displaying through LED display board at various locations of state by MPPCB for public observation. Water quality monitoring data are also available on web portal [www.mppcb.nic.in](http://www.mppcb.nic.in).*
2. *Special mass awareness programs are conducted to aware the public not to immerse the idols into the water bodies during Murti Visarjan occasion. Also as per the guidelines of CPCB separate ponds are constructed for immersion of idol during Murti Visarian to prevent the water pollution in water bodies.*
3. *MPPCB conducted special awareness program and exhibitions during festivals and melas organized on the banks of rivers.*
4. *Sign boards are placed along the periphery of water bodies for the mass awareness.”*

34. A similar report has been filed by Nagar Nigam Bhopal and State Wetland Authority.

35. Tribunal considered the matter on 25.07.2022. It observed that the authorities have identified 277 illegal encroachments but no effective

action has been taken either to remove encroachments or to prevent discharge of untreated water into water bodies.

36. We find from record that there was another **OA 77/2020(CZ), Aarya Shrivastava vs. Union of India & Others** which was being considered by Tribunal alongwith the present OA and issue of encroachment was involved in OA 77/2020 (*supra*). OA 77/2020 (CZ) was separated/detached by order dated 25.07.2022.

37. Now the issue remained to be considered in this matter is regarding discharge of untreated sewage/dumping of solid waste in various water bodies at Bhopal city.

38. On 09.11.2022, while considering this matter, Tribunal observed that there was a huge gap in generation and treatment capacity of sewage by STPs installed in the city of Bhopal. Tribunal directed MPPCB to realize environment compensation on the principles laid down by this Tribunal in various cases and further to assess (i) generation (ii) treatment capacity and (iii) gap in relation to the present status of sewage treatment and submit action taken report.

39. A status report was submitted on 19.07.2023 which was considered but Tribunal found that report did not give correct picture as also the date of which status was mentioned, was not given in the report. The report gave status/action taken as under:

- “1. As per the order of Hon’ble NGT dated 09/06/2020, joint committee of S.D.M. Bairagarh, CMHO, Bhopal, officer of Nagar Nigam, Bhopal and RO, MPPCB team on dated 11/07/2020. Joint inspection report was submitted to Hon’ble NGT. Copy is enclosed in Annexure- 01.*
- 2. As per the order of Hon’ble NGT dated 24/09/2020, a committee consisting of one representative of Central Pollution Control Board and one representative of Madhya Pradesh Pollution Control Board was constituted to visit the site and calculate environmental*

compensation for discharging untreated water into water bodies and throwing municipal waste in to ponds.

3. Accordingly **Environment Compensation of Rs. 155.55 Lacs was calculated for discharge of Untreated/Partially treated Sewage and for Improper Solid Waste Management Rs 111.11 Lacs was calculated. Copy is enclosed in Annexure-02.**
4. A surprise inspection of 15 Hospitals located nearby Nawab Siddique Hasan Khan Talab was conducted by Regional Office, MPPCB, Bhopal with respect to Hon'ble NGT order on dated 14/06/2021 & 15/07/2021. Inspection report is enclosed in Annexure-03.
5. **Out of 15 hospitals 08 hospitals were found non-complied of consent conditions and authorization as per the provisions of Water (Prevention & Control of Pollution) Act, 1974 and BMW Rules 2016.** Notices were issued to all non compliance hospitals. Copies are enclosed as Annexure-04.
6. Inspections of the drains reaching Nawab Hasan Siddique talab was conducted on dated 22/10/2021 & 17/11/2021. Inspection report is enclosed in Annexure-05. The main points of the report are as under:
  - i. The overflow drain of motia talab and the drain coming from hospital line was found dry.
  - ii. The work of laying of underground municipal sewer line was found completed.
  - iii. The work of interception and sewerage network around the residential area of Hasan Siddique talab was found completed.
  - iv. No discharge from the hospital to the open drain was observed.
7. The compliance inspection of 08 Hospitals was conducted on dated 18/01/2022. Inspection report is enclosed as Annexure-06. Environment Compensation was calculated and imposed on 08 Hospitals for non compliance.
8. **Environment Compensation by 08 Hospitals has been submitted to MPPCB.** The details are enclosed as Annexure-07.
9. Present status of sewerage system near Motia talab and Hasan Siddique talab provided by Nagar Nigam Bhopal is received from Nagar Nigam, Bhopal vide letter Dated 17/07/2023. Copy is enclosed as Annexure – 08. The details are as under:

**For Motia Talab**

- i. SBI drain and other drains are intercepted by laying of sewer line

- ii. *Sewage intercepted by laying RCC pipe line all around motial talab*
- iii. *Sewage intercepted near tajul masjid by laying RCC pipe line*

***For Hasan Siddique and Bag Munshi Khan talab***

- i. *Sewage of Taj colony and Ashok Colony near Hasan Siddique talab sewage is intercepted by RCC pipe line.*
- ii. *Sewage near Sahajanabad thana, Bag Munshi talab is intercepted by RCC pipe line.*
- iii. *Sewage near Lal masjid, Bag Munshi talab is intercepted by RCC pipe line.*

10. *The sewage water collected through the sewer system reaches to Maholi Damkheda Sewage treatment plant of 35 MLD capacity. Presently STP is operational.*

11. *The drains of the nearby area of Motia talab and Hasan Siddique talab are connected with the sewer system.”*

40. Tribunal directed Municipal Commissioner, BMC and Principal Secretary/Additional Chief Secretary, Urban Development to remain present to give correct picture on next date.

41. Sh. KVS Chaudhary, Municipal Commissioner, BMC appeared on 24.07.2023 and informed that actual generation of sewage in Bhopal City is about 265 MLD, out of which only 204.5 MLD was being treated in various STPs installed and run by BMC. Hence, there is a gap of 60.5 MLD which shows that huge quantity of sewage (untreated) admittedly is being discharged, directly or indirectly, in the water bodies, polluting water and that is how mandate of Section 24 of Water Act, 1974 is being violated and breached with impunity by all the concerned authorities including BMC.

42. Sh. Neeraj Mandloi, Principal Secretary, Urban Development and Housing was also present. He sought two weeks' time to give a complete planning and timeline for execution and completion of upgradation/construction of STPs of required capacity so as to cover the entire quantity of sewage generation in Bhopal city for its treatment and

ensured that no untreated sewage would be discharged in the water bodies thereafter. The time as required was allowed and that is how the matter has come up today.

43. A brief document has been filed yesterday i.e., 10.08.2023 stating that in accordance with Tribunal's order dated 10.11.2022, passed in **OA 606/2018 In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environment issues** wherein Tribunal though proposed to impose environment compensation of Rs. 3000 Crores but deferred the same after considering statement made by Chief Secretary of State of Madhya Pradesh that a provision by State of Madhya Pradesh has already been made of Rs. 9688 Crores to be kept in a ring fenced manner dedicated to bridge the gap in sewerage treatment in a phased manner. We are informed that as a matter of fact no such ring fenced account has been created and no amount has been kept separately therein till date.

44. For Bhopal Sewerage Scheme under Amrut-2.0, SWAP cost approved by State high Powered Screening Committee is 1009.80 Crores. It shows that complete work relating to sewage management will incur expenses of more than Rs. 1000 Crores.

45. It is also said that currently 80 Sewage Treatment Plants (hereinafter referred to as '**STP**') with total capacity of 204.50 MLD are operational out of which 7 STPs of 74 MLD, based on traditional technologies (oxidation pond and bio filter) need replacement. Therefore, current gap with future requirement and treatment alongwith with replacement requirement is 148 MLD.

46. The above facts also show that to bridge the current sewage treatment gap of 60.5 MLD and future gap of 148 MLD, the city will spend or needs to spend Rs. 1009.80 Crores though in Tribunal's order dated

10.11.2022 in **OA 606/2018, (supra)**, the sewage management expenses were calculated only at the rate of Rs. 2 Crore per MLD while BMC and State of Madhya Pradesh actually would incur more than Rs. 7 Crore per MLD.

47. The plan for making good the above deficiency and treatment of sewage by installing/upgradation of requisite number of STPs of required capacity, given in the abovementioned document (signed by Executive Engineer, Sewage Department, Municipal Corporation Bhopal and Superintendent Engineer, Sewage Department, Municipal Corporation Bhopal on 07.08.2023) reads as under:

*“In accordance with NGT OA No.606/2018 order dated 10.11.2022, a fine of Rs. 3000 Cr. was deferred taking in to consideration that Madhya Pradesh has provisioned for Rs. 9688.00 Cr. in a ring-fenced manner dedicated to bridge the gap in sewerage treatment in a phased manner.*

*Under AMRUT 2.0., SWAP Cost approved by State High Powered Steering Committee (SHPSC) for Bhopal Sewerage scheme is Rs. 1009.80 Cr.*

***Present Sewerage Generation in Bhopal is 266-MLD. Currently 18 STPs of 204.50 ML.D are Operational in Bhopal for which 7 STPs of 74.00 MLD are based on traditional technologies (Oxidation Pond & Bio Filter) and need to be replaced. Therefore, current Gap with future requirement in treatment along with replacement required is 148 MLD.***

*Action plan for Bhopal Sewerage scheme under AMRUT 2.0 has been prepared for which DPR will be submitted by September 2023. **To bridge the gap in treatment and replace old STPs, 10 STPs of overall capacity 148 MLD along with 14 pumping stations have been proposed.** 700 km network and more than 50,000 house service connections are proposed to ensure no sewer nallas drain and pollute our major water bodies like Upper Lake, Lower Lake, Shahpura Lake and River Kaliyasot.*

***Tentative timeline for the project is as follows:***

<b>Sr. No.</b>	<b>Details</b>	<b>Timeline</b>
1.	DPR Submission	September 2023
2.	DPR Approval	September 2023
3.	NIT Issue	September 2023
4.	Tender Awarded	December 2023
<b>5.</b>	<b>Project Completion</b>	<b>3 Years from date of work order</b>

48. Sh. S.K. Verma, Learned Counsel appearing for State of Madhya Pradesh stated that Principal Secretary, Urban Development and Housing, has submitted this document dated 10.08.2023 which shows that upto December 2023, process of submission of DPR upto tender award shall be completed and thereafter completion of project of construction of STPs would take 3 years from the date of work order. Here, date of work order is infinity. In our view, this is gross laxity and negligence on the part of concerned authority.

49. The above plan clearly shows that even today no concrete time plan has been submitted. An attempt has been made to defer the matter for almost three and a half years and more without any commitment for completion of work and more so with an unwritten assurance that till the above projects are completed, respondents will continue to violate the provisions of Sections 24, 25 and 26 of Water Act, 1974 and Solid Waste Management Rules, 2016 by discharging untreated sewage in water bodies and dumping solid waste illegally therein.

50. Municipal Commissioner, Bhopal in virtual mode is also present but he is not able to give any other statement except what has been already submitted/stated above.

51. This attitude and stand of the respondents and in particular, BMC is highly condemnable. No one can claim immunity from legal consequences if not obeying mandate of law. There is a complete prohibition under Section 24 of discharging any polluted matter in any stream or well or sewer or on land. Section 24 of Water Act, 1974 is reproduced as under:

**“24. Prohibition on use of stream or well for disposal of polluting matter, etc.—**

*(1) Subject to the provisions of this section,—*

*(b) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [stream or well or sewer or on land]; or*

*(c) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.*

*(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—*

*(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;*

*(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;*

*(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;*

*(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.*

*(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.”*

52. The term ‘sewer’ and ‘streams’ are defined in Section 2(gg) and (j)

which read as under:

*“(gg) “**sewer**” means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;*

*(j)“**stream**” includes—*

*(i) river;*

*(ii) water course (whether flowing or for the time being dry);*

*(iii) inland water (whether natural or artificial);*

*(iv) sub-terranean waters;*

*(v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf”*

53. If any person violates or contravenes prohibition under Section 24, it is an offence under Section 43 of Water Act, 1974 and violator is liable to be punished with imprisonment for a term which shall not be less than 1 year and 6 months but which may extend to 6 years and with fine.

54. Contravention of Sections 25 and 26 is an offence under Section 44 of Water Act, 1974 which also provides similar period of imprisonment i.e., not less than one year and six months but which may extend to six years and with fine.

55. Section 45 provides for enhancement of penalty after previous conviction and if the contravention continues after previous conviction, imprisonment is provided for a period not less than two years but which extend to seven years and with fine.

56. The scheme of Water Act, 1974 shows that discharge of polluting material in stream or sewer or land etc. is taken to be a very serious matter and legislature has made very stringent provisions under the Act to deal with contravention, if any, of the prohibition contained in Sections 24, 25 and 26 of Water Act, 1974 are flouted or breached. The violation is an offence and none can be allowed to continue to commit offence for any length of time. In fact, such license cannot be given even for a day.

57. The present matter is pending since 2018. Orders were issued from time to time. At least from 24.09.2020, this Tribunal has directed BMC to take remedial action to ensure that no untreated sewage is discharged into

water bodies and solid waste management also to be carried out as per Rules. However, almost 3 years have passed but things have not improved and still violations are continuing. Discharge of municipal sewage effluent in the water bodies ultimately causes health hazards to the local residents and more often, effects poor people. Though for the cause of justice, law does not recognize difference between rich and poor since all are treated equal but looking to the social fabric, in the case of continuing pollution of water bodies by Municipal bodies, the masses which are normally affected are of lower rung since they do not have much options of a better life and lack of choice forces them to use whatever water is available in the water bodies and if it is polluted due to discharge of untreated municipal sewage, obviously, they are the class of the people who suffer a lot and larger in number.

58. It is not in dispute that BMC is a Statutory body, under Statutory obligation to act for the human well-being, perform Statutory functions of cleansing of sewers etc. and prohibition contained in Water Act, 1974 has to be complied with and observed by BMC also in words and spirit but in the present case, it is directly guilty of breach of statutory duty, public nuisance and active neglect. The manner in which BMC is functioning, ignoring its statutory obligations, breach statutory prohibitions, neglect the duties which are for the benefit of public health, is nothing but shows its functional irrelevance, lawlessness and neglect. It is not a case where BMC would be obliged to perform its statutory functions by not discharging municipal sewage in the water bodies and throwing solid waste unscientifically and illegally causing water pollution only when notices are issued in the present case. This obligation was laid upon Municipality and similar other bodies and persons as long back as in 1974 when Water Act, 1974 was enacted. If in the last more than 48 years, BMC could not make

arrangement for effective compliance of the provisions of Water Act, 1974, one can understand the level of negligence on the part of body corporate as also the officers responsible for its function. BMC cannot exculpate itself from its responsibility.

59. Similarly, Rules for management and handling of municipal solid waste were framed under Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**') initially in the year 2000 i.e., "**Municipal Solid Waste Management and Handling Rules, 2000**" substituted by **Solid Waste Management Rules, 2016**. Here also, more than 2 decades have passed but BMC has failed to manage and handle solid waste scientifically and in accordance with the provisions made under aforesaid Rules.

60. We may also point out that failure to comply provisions of EP Act, 1986 or the Rules made thereunder is also an offence under Section 15 of EP Act, 1986 which is punishable with imprisonment for a term which may extend to five years or with fine which may extend to Rs. 1 lakh or with both. Severe punishment is prescribed if the failure or contravention continues after conviction.

61. A Court of law or a Tribunal when under a statutory obligation to enforce rule of law cannot grant indulgence infinitum to anyone permitting contravention of statutory provisions continuously particularly when the matter relates to environment which directly affects people's health and right of clean environment enshrined under Article 21 of Constitution. An appropriate prohibitive action, punitive and fiscal, as permissible in law, has to be implemented and followed when such neglect continues for a long time, damaging environment in a larger way.

62. The stand taken by official respondents that gap in treatment of sewage will continue for year together and they have no option but to continue to discharge untreated sewage in the water bodies, mentioned above, and thereby continue to pollute water is nothing but a flagrant and adamant admission of continuing to commit offence under Sections 24 to 26 read with Sections 43 and 44 of Water Act, 1974 and Section 15 of EP Act, 1986 read with SWM Rules, 2016 which cannot be permitted by this Tribunal in any manner and any longer. No person howsoever high it is placed, can claim an immunity for operation of law and its execution and implementation. If anybody violates any statutory provision and commits an offence, he/she/it is liable to face prosecution and all other liabilities.

63. When the law protector becomes the law violators, how rule of law will be enforced, observed and executed. The basic principle of rule of law is to follow rule/law and not to break or violate it. For the negligence of those to whom public duties have been entrusted, common man cannot be allowed to suffer. At the instance of violator of law, no one can be allowed to cause public mischief. Public servants, if committing wrong in discharge of statutory functions and later on if it found not in accordance with law, within the knowledge of the officer concerned, then it cannot be said to be the work and duty of such officer within the definition of State Act.

64. Action and construction of Statute is not to encourage disregard of law. It is negation of the authority of State by public official, if it is doing an act not according to law or taking no action where Statute warrants a positive act. An action, specifically punitive, does lie for doing what the legislature has authorized if it is done negligently, carelessly and in violation of the law. Under our Constitution, sovereignty vests in the people. Every limb of the constitutional machinery is obliged to be people oriented. No functionary in exercise of Statutory power can claim

immunity, except to the extent protected by Statute itself. Public authorities acting in violation of constitutional or statutory provisions oppressively are accountable for their behaviour before authorities created under the statute like Commission or Courts entrusted with responsibility of maintaining rule of law. Each hierarchy in the Act is empowered to entertain a complaint by the consumer for value of the goods or services and compensation. Any act by any officer in violation of the rules is abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury. The servants of Government are also the servants of the people. Use of their power must always be subordinate to their duty of service. A public functionary if acts maliciously or oppressively and the exercise of power results in harassment and agony then it is not an exercise of power but its abuse. No law provides protection against it. He, who is responsible for it, must suffer it. Compensation or damages may arise even when the officer discharges his duty mala-fide and not in accordance with the guidelines, when it arises due to arbitrary or capricious behaviour then it loses its individual character and assumes social significance. Harassment of a common man by public authorities is socially abhorring and legally impermissible. It may harm him personally but the injury to society is far more grievous. Crime and corruption thrive and prosper in the society due to lack of public resistance. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it. Therefore the award of compensation for harassment by public authorities not only compensates the individual, satisfies him personally but helps in curing social evil. It may result in improving the work culture and help in changing the outlook.

65. Absence of arbitrary power is the first essential of rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. Rule of Law means that the decisions should be made by the application of known principles and rules, such decisions should be predictable and the citizens should know where he is. If decision is taken without any principle or without any rule, it is unpredictable and such decision is the anti-thesis of a decision taken in accordance with the Rule of Law. Even where there is no ministerial duty as above, and even where no recognised tort such as trespass, nuisance, or negligence is committed, public authorities or officers may be liable in damages for malicious, deliberate or injurious wrong-doing. There is thus a tort which has been called misfeasance in public office, and which includes malicious abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury.

66. An ordinary citizen or a common man is hardly equipped to match the might of the State or its instrumentalities. That is provided by the rule of law. It acts as a check on arbitrary and capricious exercise of power. Servants of Government are also servants of people and use of their power must always be subordinate to their duty of service. A public functionary if acts maliciously or oppressively and exercise of powers results in harassment and agony then it is not an exercise of power but its abuse. No law provides protection against it. He, who is responsible for it, must suffer it.

67. Statutory Rules are required to be observed. It is settled law that when the action of State or its instrumentalities is not as per the Rules or Regulations and supported by a Statute, Court must exercise its jurisdiction to declare such an act to be illegal and invalid.

68. A Constitution Bench of Supreme Court in **Sukhdev Singh & Others Vs. Bhagatram Sardar Singh Raghuvanshi & Another AIR 1975 SC 1331**, said:

*“The statutory authorities cannot deviate from the conditions of service. **Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations.** The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....**the element of public employment or service and the support of statute require observance of rules and regulations.** Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man’s rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to **observe the rules of natural justice and compliance with rules and regulations imposed by statute.**”*

(Emphasis added)

69. Therefore, it is evident that whenever any action of authority is in violation of provisions of Statute or action is constitutionally illegal, it cannot claim any sanctity in law, and there is no obligation on the part of Court to sanctify such an illegal act. Wherever Statutory provision is ignored, Court cannot be a silent spectator to such an illegal act, and it becomes solemn duty of Court to deal with the persons violating law with iron hands.

70. In view of the above, we are of the considered opinion that every statutory provision requires strict adherence, for the reason that Statute creates rights in favour of the citizens, and if any action is taken by the authorities *de hors* the same, it cannot be held to be a valid and cannot be enforced. As statutory provision creates legal rights and obligations for individuals, statutory authorities are under a legal obligation to give strict

adherence to the same and cannot take an action in contravention thereof, treating the same to be merely decoration pieces in his office.

71. Considering the matter in the light of the discussion, made above, we are clearly of the view that BMC and other authorities had violated environmental laws, in particular Water Act 1974 and EP Act 1986 read with SWM Rules 2016 and still violating the same. We are now under statutory obligation to take permissible action against violators which may include punitive proceedings and imposition of environmental compensation.

72. For imposition of environmental compensation, the question would be, how much it should be and the methodology of computation.

#### **Environmental Compensation for Violation - Past and Future**

73. It has been repeatedly held that if any person causes pollution of water, air etc., it is also liable to pay environmental compensation on the application of Principle of '**Polluter Pays**' which can be imposed by Tribunal upon such violators.

74. The compensation has to be determined holding proponents/violators liable to pay such compensation applying **Principle of 'Polluter Pays'**.

75. This principle was recognized as part of environmental law in India in ***Indian Council for Enviro-Legal Action vs. Union of India, (1996) 3 SCC 212***. Certain industries producing assets were dumping their waste. Even untreated waste water was allowed to flow freely polluting atmosphere and sub-terrain supply of water which ultimately caused darkening and dirtiness of wells and the streams water rendering it unfit for human consumption. Certain environmentalists' organizations broadly alleging

severe damage to villager's health, filed a Writ petition as PIL in 1989 before Supreme Court. By that time, some of the units were already closed. Referring to Article 48-A in Director Principle of State Policy and 51-A in the Fundamental duties of citizens, Supreme Court observed that said provisions say that State shall endeavor to protect and improve environment and to safeguard the forest and wildlife of the country. One of the fundamental duties of citizen says to protect and improve the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creature. **Proponent has established to operate its commercial unit contrary to law flouting norms provided by law, Statutory Regulator is bound to act and if it fails, a judicial forum can direct it to act in accordance with law.** Referring to Oleum Gas leak case, i.e., *M.C. Mehta vs. Union of India, (1987) 1 SCC 395*, Court observed in para 58 that the constitution bench held that **enterprise must be held strictly liable for causing such harm as a part of social cost of carrying on the hazardous or inherently dangerous activity.** Hazardous or inherently harmful activities for private profits can be tolerated only on the condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of carrying on of such hazardous or inherently dangerous activity, regardless of whether it is carried on carefully or not. Court also referred to its earlier decision in *Indian Council for Enviro Legal action vs. Union of India (1995) 3 SCC 77*, wherein PCB identified about 22 industries responsible for causing pollution by discharge of their effluent and a direction was issued by Court observing that they were responsible to compensate to farmers. It was the duty of State Government to ensure that this amount was recovered from the industries and paid to the farmers. In para 67 of the judgment, Court said that the **question of liability of respondent units to defray the costs of remedial measures can also be looked into**

**from another angle which has now come to be accepted universally as a sound principle, for example, ‘Polluter Pays’ principle.** On this aspect, Court further observed as under:

*“67. ...The **Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution.** Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The ‘Polluter Pays’ principle was promoted by the Organization for Economic Co-operation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialized society. Since then there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed.*

*Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ([1987] OJ C 328/1) makes it clear that **‘the cost of preventing and eliminating nuisances must in principle be borne by the polluter’**, and the polluter pays principle has now been incorporated into the European Community Treaty as part of the new Articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the Community, and that action is to be based on three principles: the need for preventative action; the need for environmental damage to be rectified at source; and that the polluter should pay.”*

76. Court further said that **according to the above principle of ‘Polluter Pays’, responsibility for repairing the damage is that of the offending industry.** Sections 3 and 5 of EP Act, 1986 empower Central Government to give directions and take measures for giving effect to this principle. It further said as under:

*“...In all the circumstances of the case, **we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986.** It is, of course, open to the Central*

*Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit.”*

77. The above principle has been followed in **Vellore Citizen Welfare Forum vs. Union of India, (1996) 5 SCC 647**. In para 25, direction no. 2 reads as under:

*2. The authority so constituted by the Central Government shall implement the “precautionary principle” and the “polluter pays” principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.*

78. In **Bittu Sehgal and Another vs. Union of India & Others (2001) 9 SCC 181**, referring the earlier judgments, Supreme Court has said that ‘Precautionary’ Principle and ‘Polluter Pays’ Principle have been accepted as part of the law of the land.

79. In **Research Foundation for Science vs. Union of India & Ors., (2005) 13 SCC 186**, in para 26 and 29, Court, on ‘Polluter Pays’ principle, has said as under:

*26. The liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter-pays principle. These principles are part of the environmental law of India. There is constitutional mandate to protect and improve the environment. In order to fulfill the constitutional mandate various legislations have been enacted with attempt to solve the problem of environmental degradation.*

*29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature*

*and extent of cost and the circumstances in which the principle will apply may differ from case to case.*

80. In ***Karnataka Industrial Areas Development Board vs. C. Kenchappa & Others (2006) 6 SCC 371***, principle of 'Polluter Pays' has been explained in detail referring to the earlier judgments in ***Indian Council for Enviro-Legal Action vs. Union of India (supra)*** and ***Vellore Citizen Welfare Forum (supra)***.

81. Thus, broad principles of environmental laws are given but the methodology for assessing/determining compensation is not provided in the Statute. Even Rules framed under NGT Act, 2010 are silent on this aspect. Issue of determination of environmental compensation is significant in the sense that it should be proportionate to or bears a reasonable nexus with the environmental damage and its remediation/restoration. Similarly, in case of compensation to be determined for a victim, it needs to co-relate to injury caused or damage suffered by such person as also cost incurred for treatment/remediation.

82. Taking into consideration multifarious situations, relating to violation of environmental laws, *vis-a-vis* different proponents, nature of cases involving violation of environmental laws can be categorized as under:

- (i) Where project/activities are carried out without obtaining requisite statutory permissions/consents/clearances/NOC etc., affecting environment and ecology. For example, Environmental Clearance under Environmental Impact Assessment Notification, 2006; Consent under Water Act, 1974 and Air Act, 1981; Authorisation under Solid Waste Management Rules, 2016 and other Rules; and NOC for extraction and use of ground water,

wherever applicable, and similar requirements under other Statutes.

- (ii) Where proponents have violated conditions imposed under Statutory Permissions, Consents, Clearances, NOC etc. affecting environment and ecology.
- (iii) Where proponents have carried out their activities, causing damage to environment and ecology by not following standards/norms regarding cleanliness/pollution of air, water etc.

83. The above categories are further sub-divided, i.e., where the polluters/violators are corporate bodies/organisations/associations and group of the people, in contradistinction, to individuals; and another category, the individuals themselves responsible for such pollution.

84. Further category among above classification is, where, besides pollution of environment, proponents/violators action also affect the community at large regarding its source of livelihood, health etc.

85. The next relevant aspect is, whether damage to environment is irreversible, permanent or is capable of wholly or partially restoration/remediation.

86. Determination/ computation/ assessment of environmental compensation must, not only conform the requirement of restoration/ remediation but should also take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of "being punitive". The idea is not only for restoration/remediation or to mitigate damage/loss to environment, but also to discourage people/proponents from indulging

in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment.

87. To impose appropriate 'environmental compensation' for causing harm to environment, besides other relevant factors as pointed out, one has to understand the kind and nature of 'Harmness cost'. This includes risk assessment. The concept of risk assessment will include human-health risk assessment and ecological risk assessment. U.S. Environmental Protection Agency has provided a guideline to understand harm caused to environment as well as people. For the purpose of human-health risk assessment, it comprised of three broad steps, namely, planning and problem formulation; effects and exposure assessment and risk categorization. The first part involves participation of stakeholders and others to get input; in the second aspect health effect of hazardous substances as well as likelihood and level of exposure to the pollutant are examined and the third step involves integration of effects and exposure assessment to determine risk.

88. Similarly, ecological risk assessment is an approach to determine risk of environmental harm by human activities. Here also, we can find answer following three major steps, i.e., problem codification; analysis of exposure and risk characterization. First part encompasses identification of risk and what needs to be protected. Second step insists upon crystallization of factors that are exposed, degree to exposure and whether exposure is likely or not to cause adverse ecological effects. Third step is comprised of two components, i.e., risk assessment and risk description.

89. In totality, problem is multi-fold and multi-angular. Solution is not straight but involves various shades and nuances and vary from case to case. Even Internationally, there is no thumb-rule to make assessment of

damage and loss caused to environment due to activities carried out individually or collectively by the people, and for remediation/restoration. Different considerations are applicable and have been applied.

90. In India, where commercial activities were carried out without obtaining statutory permissions/consents/clearance/NOC, Courts have determined, in some matters, compensation by fixing certain percentage of cost of project. In some cases, volume of business transactions, turnover, and magnitude of establishment of proponent have also been considered as guiding factors to determine environmental compensation.

91. Nature is extremely precious. It is difficult to price elements of nature like light, oxygen (air), water in different forms like rain, snow, vapour etc. When nature is exploited beyond its carrying capacity, results are harmful and dangerous. People do not understand the value of what nature has given free. Recently, in COVID-19 wave II, scarcity of oxygen proved its worth. In dreadful second phase of the above pandemic, any amount offered, in some cases, could not save life for want of oxygen. Further, damage to environment, sometimes do not reflect in individuals immediately and may take time but injury is there. In such cases, process of determination of compensation may be different.

92. In an article, 'The cost of pollution-Environmental Economics' by Linas Cekanavicius, 2011, it has been suggested, where commercial activities have been carried out without consent etc., and pollution standards have been violated, Total Pollution Cost (hereinafter referred to as **TPC**) can be applied. It combines the cost of abatement of environment pollution and cost of pollution induced environmental damage. The formula comes to **TPC(z)=AC(z)+ED(z)**, where **z** denotes the pollution level. Further, clean-up cost/remediation cost of pollution estimated to be

incurred by authorities can also be used to determine environmental compensation.

93. When there is collective violation, sometimes the issue arose about apportionment of cost. Where more than one violator is indulged, apportionment may not be equal since user's respective capacity to produce waste, contribution of different categories to overall costs etc. would be relevant. The element of economic benefit to company resulting from violation is also an important aspect to be considered, otherwise observations of Supreme Court that the amount of environmental compensation must be deterrent, will become obliterated. Article 14 of the Constitution says that unequal cannot be treated equally, and it has also to be taken care. Determination/assessment/computation of environmental compensation cannot be arbitrary. It must be founded on some objective and intelligible considerations and criteria. Simultaneously, Supreme Court also said that its calculations must be based on a principle which is simple and can be applied easily. In other words, it can be said that wherever Court finds it appropriate, expert's assessment can be sought but sometimes, experts also go by their own convictions and belief and fail to take into account judicial precedents which have advanced cause of environment by applying the Principles of 'Sustainable Development', 'Precautionary Approach' and 'Polluter Pays', etc.

94. Clean-up cost or TPC, may be a relevant factor to evaluate damage, but in the diverse conditions as available in this country, no single factor or formula may serve the purpose. Determination should be a quantitative estimation; the amount must be deterrent to polluter/violator and though there is some element of subjectivity but broadly assessment/computation must be founded on objective considerations. Appropriate compensation must be determined to cover not only the aspect of violation of law on the

part of polluter/violator but also damage to the environment, its remediation/restoration, loss to the community at large and other relevant factors like deterrence, element of penalty etc.

95. Committee in its reports has made certain recommendations determining environmental compensation under certain heads. The computation by Committee is based on certain formulas it has suggested. Applying principle of absolute liability, '**Polluter Pays**' alongwith 'Precautionary Principle' and 'Sustainable Development', it has to be seen whether proponents/violators are liable to pay environmental compensation as suggested by Committee and also to undergo other statutory sanctions provided in the Statutes including criminal prosecution, or computation of compensation requires some other method.

96. **CPCB Guidelines:** CPCB has suggested in a report methodology for assessment of environmental compensation which may be levied or imposed upon industrial establishments who are guilty of violation of environmental laws and have caused damage/degradation/loss to environment. It does not encompass individuals, statutory institutions and Government etc. Report is titled as "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" which was finalized in the meeting held on 27.03.2019. It shortlisted the incidents requiring an occasion for determining environmental compensation. Six such incidents, shortlisted, are:

***"Cases considered for levying Environmental Compensation (EC):***

- a) *Discharges in violation of consent conditions, mainly prescribed standards/consent limits.*
- b) *Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.*

- c) *Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.*
- d) *Accidental discharges lasting for short durations resulting into damage to the environment.*
- e) *Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment.*
- f) *Injection of treated/partially treated/ untreated effluents to ground water.”*

97. For the instances at items (a), (b) and (c), report says that ‘Pollution Index’ (hereinafter referred to as ‘**PI**’) would be used as a basis to levy environmental compensation. CPCB had already published Guidelines categorizing industries into Red, Orange, Green and White, based on the concept of **PI**. The **PI** is arrived after considering quantity and quality of emissions/effluents generated, types of hazardous waste generated and consumption of resources. **PI** of an industrial sector is a numerical number in the range of 0 to 100 and is represented as follows:

**PI=f** (Water Pollution Score, Air Pollution Score and HW Generation Score).

98. Since range of PI is 0 to 100, increase in value of PI denotes increasing degree of pollution hazard from industrial sector. Accordingly, report says, for determining environmental compensation in respect of cases covered by item (a), (b) and (c), it will apply following formula:

$$“EC = PI \times N \times R \times S \times LF$$

Where,

*EC is Environmental Compensation in Rs.*

*PI = **Pollution Index of industrial sector***

*N = Number of days of violation took place*

*R = A factor in Rupees (₹) for EC*

*S = Factor for scale of operation*

*LF = Location factor”*

99. The formula incorporates anticipated severity of environmental pollution in terms of PI, duration of violation in terms of number of days, scale of operation in terms of micro and small/medium/large industry and location in terms of proximity to the large habitations. A note is also given under the aforesaid formula and it reads as under:

“Note:

- a. The **industrial sectors** have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.
- b. *N*, number of days for which violation took place is the period between the day of violation observed/due date of direction’s compliance and the day of compliance verified by CPCB/SPCB/PCC.
- c. *R* is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider *R* as 250, as the Environmental Compensation in cases of violation.
- d. *S* could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.
- e. *LF*, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (*LF*) may be used:

**Table No. 1.1: Location Factor Values**

S. No	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

\*Population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

For notified Ecologically Sensitive areas, for beginning, LF may be assumed as 2.0. **However, for critically Polluted Areas, LF may be explored in future.**

- f. In any case, minimum Environmental Compensation shall be ₹ 5000/day.
- g. In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2 times on 1<sup>st</sup> repetition, 4 times on 2<sup>nd</sup> repetition and 8 times on further repetitions.
- h. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.
- i. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.

A sample calculation for Environmental Compensation (without deterrent factor) is given at Table No. 1.2. It can be noticed that for all instances, EC for Red, Orange, and Green category of industries varies from 3,750 to 60,000 ₹/day.

**Table No. 1.2: A sample calculation for Environmental Compensation**

<b>Industrial Category</b>	<b>Red</b>	<b>Orange</b>	<b>Green</b>
<b>Pollution Index (PI)</b>	60-100	41-59	21-40
<b>Average PI</b>	80	50	30
<b>R-Factor</b>	250		
<b>S-Factor</b>	0.5-1.5		
<b>L-Factor</b>	1.00-2.00		
<b>Environmental Compensation (₹/day)</b>	<b>10,000-60,000</b>	<b>6,250-37,500</b>	<b>5,000-22,500</b>

100. We find that **R** which is a factor in Rupees (₹) is taken to be 100 minimum and 500 maximum. It has suggested that R value be taken as average i.e., Rs. 250/-. On what basis, this minimum and maximum has been determined and why average is suggested, beyond any comprehension. We do not find any material in the above report which may throw light for taking value of R as above. Similarly, for determining value of S i.e., Factor for Scale of Operation from 0.5 to 1.5, we find no Guidelines as to on what basis, it has been determined and only on the size of the industry, divided in small, medium and large, the said factor has been prescribed. The note further says that minimum environmental compensation would be Rs. 5000/- per day. From table 1.2, we find that in the highest case i.e., large industry, depending on the level of PI, maximum environmental compensation would be Rs. 60,000/- per day and minimum Rs. 10,000/- per day. The above determination excludes the actual loss to the environment and cost of remediation including damage to *flora-fauna* and human beings. Moreover, classification of industries for industrial policy, or for some licensing purpose, banking purpose etc. would be wholly irrelevant for environment. A small industry may be capable of causing much more pollution than medium or even large

industry. For example, pollution caused by a brick kiln using coal as fuel may be much more than many medium category industries.

101. In respect of items (d), (e) and (f), report says that for determining environmental compensation, one has to consider the matters in two parts, one for providing immediate relief and another long term relief, such as remediation. In such cases, detailed investigations are required from Expert Institutions or Organizations, based on which environmental compensation will be decided. Second part of report is with regard to utilization of environmental compensation fund. For this purpose, report says that CPCB will finalize a scheme for utilization of fund for protection of environment. Certain schemes identified by CPCB for utilization of the said fund are mentioned in para 1.4.1, as under:

- a. Industrial Inspections for compliance verification.*
- b. Installation of Continuous water quality monitoring stations/Continuous ambient air quality monitoring stations for strengthening of existing monitoring network.*
- c. Preparation of Comprehensive Industry Documents on Industrial Sectors/clean technology.*
- d. Investigations of environmental damages, preparation of DPRs.*
- e. Remediation of contaminated sites.*
- f. Infrastructure augmentation of Urban Local Bodies (ULBs)/capacity building of SPCBs/PCCs.”*

102. All the above, except item (e), relate to establishment/infrastructure for monitoring/prevention of pollution which in fact is the statutory duty and function of officials of State PCB and CPCB. It appears that CPCB has attempted to utilize environment fund to meet expenses which is the responsibility of Government.

103. Chapter II of report deals with determination of environmental compensation for violations of **Graded Response Action Plan** (GRAP) in NCR. Here, a fixed amount of environmental compensation has been recommended in table 2.1, as under:

***“Table No. 2.1: Environmental Compensation to be levied on all violations***

**of Graded Response Action Plan (GRAP) in Delhi-NCR.**

<b>Activity</b>	<b>State Of Air Quality</b>	<b>Environmental Compensation</b>
<b>Industrial Emissions</b>	<i>Severe +/Emergency</i>	<i>Rs 1.0 Crore</i>
	<i>Severe</i>	<i>Rs 50 Lakh</i>
	<i>Very Poor</i>	<i>Rs 25 Lakh</i>
	<i>Moderate to Poor</i>	<i>Rs 10 Lakh</i>
<b>Vapour Recovery System (VRS) at Outlets of Oil Companies</b>		
<b>i. Not installed</b>	<i>Target Date</i>	<i>Rs 1.0 Crore</i>
<b>ii. Non-functional</b>	<i>Very poor to Severe +</i>	<i>Rs 50.0 Lakh</i>
	<i>Moderate to Poor</i>	<i>Rs 25.0 Lakh</i>
<b>Construction sites (Offending plot more than 20,000 Sq.m.)</b>	<i>Severe +/Emergency</i>	<i>Rs 1.0 Crore</i>
	<i>Severe</i>	<i>Rs 50 Lakh</i>
	<i>Very Poor</i>	<i>Rs 25 Lakh</i>
	<i>Moderate to Poor</i>	<i>Rs 10 Lakh</i>
<b>Solid waste/garbage dumping in Industrial Estates</b>	<i>Very poor to Severe +</i>	<i>Rs 25.0 Lakh</i>
	<i>Moderate to Poor</i>	<i>Rs 10.0 Lakh</i>
<b>Failure to water sprinkling on unpaved roads</b>		
<b>a) Hot-spots</b>	<i>Very poor to Severe +</i>	<i>Rs 25.0 Lakh</i>
<b>b) Other than Hot-spots</b>	<i>Very poor to Severe +</i>	<i>Rs 10.0 Lakh</i>

104. Chapter III considers determination of environmental compensation where a proponent has discharged pollutants in water bodies or failed to prevent discharge of pollutants in water bodies and also failed to implement Waste Management Rules. Laying down Guidelines for determination of environmental compensation in this category, report has referred to Tribunal’s order dated 06.12.2018 in **OA No. 125/2017 and MA No. 1337/2018, Court on its own motion vs. State of Karnataka**, stating as under:

*“Since failure of preventing the pollutants being discharged in water bodies (including lakes) and failure to implement solid and other waste management rules are too frequent and widespread, the **CPCB must lay down specific guidelines to deal with the same, throughout India, including the scale of compensation to be recovered from different individuals/authorities, in addition to or as alternative to prosecution. The scale may have slabs, depending on extent of pollution caused, economic viability, etc. Deterrent effect for repeated wrongs may also be provided.**”*

105. It is suggested that determination of environmental compensation in this category would have two components, (i) Cost saved/benefits achieved by the concerned individual/authority by not having proper waste/sewage managing system; and (ii) Cost to the environment (environmental externality) due to untreated/partially treated waste/sewage because insufficient capacity of waste/sewage management facility. It further says that Cost saved/benefits achieved would also include interest on capital cost of waste/sewage management facility, daily operation and maintenance (O & M) cost associated with the facility. The determination of environmental compensation, therefore, is suggested, applying following formula:

*“Therefore, generalized formula for Environmental Compensation may be described as:*

$$\begin{aligned}
 \text{EC} = & \text{Capital Cost Factor} \times \text{Marginal Average Capital Cost for} \\
 & \text{Establishment of Waste or Sewage Management or Treatment} \\
 & \text{Facility} \times (\text{Waste or Sewage Management or Treatment} \\
 & \text{Capacity Gap}) + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M} \\
 & \text{Cost} \times (\text{Waste or Sewage Management or Treatment Capacity} \\
 & \text{Gap}) \times \text{No. of Days for which facility was not available} + \\
 & \text{Environmental Externality}”
 \end{aligned}$$

106. Environmental externality has been placed in two categories (i) untreated/partially treated sewage discharge and (ii) improper municipal solid waste management and detailed in table 3.1 and 3.2, as under:

**“Table No. 3.1: Environmental externality for untreated/partially treated sewage discharge**

<b>Sewage Treatment Capacity Gap (MLD)</b>	<b>Marginal Cost of Environmental Externality (Rs. per MLD/day)</b>	<b>Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)</b>
<i>Up to 200</i>	<i>75</i>	<i>Min. 0.05, Max. 0.10</i>
<i>201-500</i>	<i>85</i>	<i>Min. 0.25, Max. 0.35</i>
<i>501 and above</i>	<i>90</i>	<i>Min. 0.60, Max. 0.80</i>

**Table No. 3.2: Environmental externality for improper municipal solid waste management**

<b>Municipal</b>	<b>Marginal Cost of</b>	<b>Minimum and Maximum</b>
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<b>Solid Waste Management Capacity Gap (TPD)</b>	<b>Environmental Externality (Rs. per ton per day)</b>	<b>value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)</b>
Up to 200	15	Min. 0.01, Max. 0.05
201-500	30	Min. 0.10, Max. 0.15
501-1000	35	Min. 0.25, Max. 0.3
1001-2000	40	Min. 0.50, Max. 0.60
Above 2000		Max. 0.80

107. CPCB has further recommended a fixed cap for minimum and maximum cost for capital and O & M component for environmental compensation in table 3.3 and 3.4, as under:

**“Table No. 3.3: Minimum and Maximum EC to be levied for untreated/partially treated sewage discharge**

<b>Class of the City/Town</b>	<b>Mega-City</b>	<b>Million-plus City</b>	<b>Class-I City/Town and others</b>
<b>Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)</b>	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000
<b>Minimum and Maximum values of EC (O&amp;M Cost Component) recommended by the Committee (Lacs Rs./day)</b>	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5

**Table No. 3.4: Minimum and Maximum EC to be levied for improper municipal solid waste management**

<b>Class of the City/Town</b>	<b>Mega-City</b>	<b>Million-plus City</b>	<b>Class-I City/Town and others</b>
<b>Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)</b>	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000
<b>Minimum and Maximum values of EC (O&amp;M Cost Component) recommended by the Committee (Lacs Rs./day)</b>	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0

108. Para 3.3 deals with the method of determining environmental compensation for damage/untreated/partially treated sewage by

concerned individual/authority. Under this head, CPCB has considered that for population above 1 Lakh, requirement of water supply, would be minimum 150 to 200 lpcd and 85% whereof would result in sewage generation. It takes capital cost for 1 MLD STP ranges from 0.63 Crores to 3 Crores and O & M cost around Rs. 30,000 per month. Consequently, it suggested to assume capital cost for STPs as Rs. 1.75 Crores/MLD (marginal average cost). Expected cost for conveyance system is assumed as Rs. 5.55 Crore/MLD and annual O& M as 10% of combined capital cost. Based on the above assumptions, Committee has recommended/suggested environmental compensation, to be levied on urban local bodies, by applying formula and here CPCB has suggested two formulas and any of them may be adopted:

***“EC= Capital Cost Factor × [Marginal Average Capital Cost for Treatment Facility × (Total Generation-Installed Capacity) + Marginal Average Capital Cost for Conveyance Facility × (Total Generation -Operational Capacity)] + O&M Cost Factor × Marginal Average O&M Cost × (Total Generation- Operational Capacity) × No. of Days for which facility was not available + Environmental Externality × No. of Days for which facility was not available***

*Alternatively;*

***EC (Lacs Rs.) = [17.5(Total Sewage Generation – Installed Treatment Capacity) + 55.5(Total Sewage Generation-Operational Capacity)] + 0.2(Sewage Generation-Operational Capacity) × N + Marginal Cost of Environmental Externality × (Total Sewage Generation-Operational Capacity) × N***

*Where; N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority*

*Quantity of Sewage is in MLD”*

109. Para 3.4 deals with the method of environmental compensation to be levied on concerned individual/authority for improper solid waste management, chargeable from urban local body based on the following formula:

***“EC = Capital Cost Factor × Marginal Average Cost for Waste***

***Management × (Per day waste generation-Per day waste disposed as per the Rules) + O&M Cost Factor × Marginal Average O&M Cost × (Per day waste generation-Per day waste disposed as per the Rules) × Number of days violation took place + Environmental Externality × N***

*Where;*

*Waste Quantity in tons per day (TPD)*

*N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority*

*Simplifying;*

***EC (Lacs Rs.) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation - Waste Disposed as per the Rules) × N + Marginal Cost of Environmental Externality × (Waste Generation-Waste Disposed as per the Rules) × N***

110. Here also certain assumed figures have been taken by CPCB. Report says that municipal solid waste generation is approximately 1.5 lakh MT/day in India as per MoHUA Report-2016. As per principles of Solid Waste Management Rules, 2016 and Plastic Waste Management Rules, 2016, total cost of municipal solid waste management in city/town includes cost for door to door collection, cost of segregation at source, cost for transportation in segregated manner, cost for processing of municipal solid waste and disposal through facility like composting bio-methanation, recycling, co-processing in cement kilns etc. It is estimated that total cost of processing and treatment of municipal solid waste for a city of population of 1 lakh and generating approximately 50 tons/day of municipal solid waste is Rs. 15.5 Crores which includes capital cost (one time) and Operational and Management cost for one year. Expenditure for subsequent years would be only 3.5 Crores/annum. For arriving per day waste generation, CPCB has referred to a survey conducted by Environment Protection Training Research Institute (EPTRI) which estimated that solid waste generated in small, medium and large cities and towns is about 0.1 kg (Class-III), 0.3-0.4 kg (Class-II) and 0.5 kg (Class-I)

per capita per day respectively. The Committee opined that 0.6 kg/day, 0.5 kg/day and 0.4 kg/day per capita waste generation may be assumed for mega-cities, million-plus UAs/towns and Class-I UA/Towns respectively for calculation of environmental compensation purposes.

111. Sample calculation of environmental compensation to be levied for improper management of municipal solid waste has been provided in table 3.6 which read as under:

**“Table No. 3.6: Sample calculation for EC to be levied for improper management of Municipal Solid Waste**

<i>City</i>	<i>Delhi</i>	<i>Agra</i>	<i>Gurugram</i>	<i>Ambala</i>
<i>Population (2011)</i>	<i>1,63,49,831</i>	<i>17,60,285</i>	<i>8,76,969</i>	<i>5,00,774</i>
<i>Class</i>	<i>Mega-City</i>	<i>Million-plus City</i>	<i>Class-I Town</i>	<i>Class-I Town</i>
<i>Waste Generation (kg. per person per day)</i>	<i>0.6</i>	<i>0.5</i>	<i>0.4</i>	<i>0.4</i>
<i>Waste Generation (TPD)</i>	<i>9809.90</i>	<i>880.14</i>	<i>350.79</i>	<i>200.31</i>
<i>Waste Disposal as per Rules (TPD) (assumed as 25% of waste generation for sample calculation)</i>	<i>2452.47</i>	<i>220.04</i>	<i>87.70</i>	<i>50.08</i>
<i>Waste Management Capacity Gap (TPD)</i>	<i>7357.42</i>	<i>660.11</i>	<i>263.09</i>	<i>150.23</i>
<i>Calculated EC (capital cost component) in Lacs. Rs.</i>	<i>17657.82</i>	<i>1584.26</i>	<i>631.42</i>	<i>360.56</i>
<i>Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)</i>	<i>Min. 1000 Max. 10000</i>	<i>Min. 500 Max. 5000</i>	<i>Min. 100 Max. 1000</i>	<i>Min. 100 Max. 1000</i>
<i>Final EC (capital cost component) in Lacs. Rs.</i>	<i>10000.00</i>	<i>1584.26</i>	<i>631.42</i>	<i>360.56</i>
<i>Calculated EC (O&amp;M Component) in Lacs. Rs./Day</i>	<i>147.15</i>	<i>13.20</i>	<i>5.26</i>	<i>3.00</i>
<i>Minimum and Maximum values of EC (O&amp;M Cost Component) recommended by the Committee (Lacs Rs./Day)</i>	<i>Min. 1.0 Max. 10.0</i>	<i>Min. 0.5 Max. 5.0</i>	<i>Min. 0.1 Max. 1.0</i>	<i>Min. 0.1 Max. 1.0</i>
<i>Final EC (O&amp;M Component) in Lacs. Rs./Day</i>	<i>10.00</i>	<i>5.00</i>	<i>1.00</i>	<i>1.00</i>
<i>Calculated Environmental Externality (Lacs Rs. Per Day)</i>	<i>2.58</i>	<i>0.18</i>	<i>0.03</i>	<i>0.02</i>
<i>Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)</i>	<i>Max. 0.80</i>	<i>Min. 0.25 Max. 0.35</i>	<i>Min. 0.01 Max. 0.05</i>	<i>Min. 0.01 Max. 0.05</i>
<i>Final Environmental Externality (Lacs Rs. per day)</i>	<i>0.80</i>	<i>0.25</i>	<i>0.03</i>	<i>0.02</i>

112. Chapter IV deals with determination/computation of environmental compensation in case of “illegal extraction of ground water” and for this purpose report has referred to Tribunal’s order dated 03.01.2019 passed in **OA No. 327/2018, Shailesh Singh vs. Central Ground Water Board & Ors.** The relevant extract of the order quoted in para 4.1 of the report is as under:

*“CPCB may constitute a mechanism to deal with individual cases of violation of norms, as existed prior to Notification of 12/12/2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per law.”*

113. Here, broadly, determination of environmental compensation refers to two major aspects i.e., illegal extraction of water as one aspect and illegal use of ground water as second aspect. For determination of environmental compensation for illegal extraction of ground water, formula suggested by Committee is:

$$\text{“}EC_{GW} = \text{Water Consumption per Day} \times \text{No. of Days} \times \text{Environmental Compensation Rate for illegal extraction of ground water (}ECR_{GW}\text{)”}$$

*Where water Consumption is in m<sup>3</sup>/day and ECR<sub>GW</sub> in Rs./m<sup>3</sup>*

*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 EC<sub>GW</sub>.”*

114. Depending on the category of the area for the purpose of ground water i.e., safe, semi-critical, critical and over-exploited and also the purpose for which ground water is used, determination of environmental compensation for illegal use of ground water, has been suggested differently for different purpose/use i.e., for drinking and domestic use; for

packaged drinking water units/for mining infrastructure and dewatering projects and for industrial units. Hence, all these aspects are separately given in paragraph 4.6.1, 4.6.2, 4.6.3 and 4.6.4 as under:

**“4.6.1 ECR<sub>GW</sub> for Drinking and Domestic use:**

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

Sl. No	Area Category	Water Consumption (m <sup>3</sup> /day)			
		<2	2 to <5	5 to <25	25 & above
		Environmental Compensation Rate (ECR <sub>GW</sub> ) in Rs./m <sup>3</sup>			
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
<b>Minimum EC<sub>GW</sub>=Rs 10,000/- (for households) and Rs. 50,000 (for institutional activity, commercial complexes, townships etc.)</b>					

**4.6.2 ECR<sub>GW</sub> for Packaged drinking water units:**

Sl. No	Area Category	Water Consumption (m <sup>3</sup> /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR <sub>GW</sub> ) in Rs./m <sup>3</sup>			
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
<b>Minimum EC<sub>GW</sub>=Rs 1,00,000/-</b>					

**4.6.3 ECR<sub>GW</sub> for Mining, Infrastructure and Dewatering Projects:**

Sl. No	Area Category	Water Consumption (m <sup>3</sup> /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR <sub>GW</sub> ) in Rs./m <sup>3</sup>			
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
<b>Minimum EC<sub>GW</sub>=Rs 1,00,000/-</b>					

**4.6.4 ECR<sub>GW</sub> for Industrial Units:**

Sl.	Area	Water Consumption (m <sup>3</sup> /day)
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No	Category	<200	200 to <1000	1000 to <5000	5000 & above
		<b>Environmental Compensation Rate (EC<sub>GW</sub>) in Rs./m<sup>3</sup></b>			
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
<b>Minimum EC<sub>GW</sub>=Rs 1,00,000/-</b>					

115. It is also recommended that minimum environmental compensation for illegal extraction of ground water would be Rs. 10,000/- if it is for domestic purposes, but in other matters, it would be Rs. 50,000/-.

116. These recommendations by CPCB have not been given in the form of a binding statutory provision. Even otherwise, we find that these are only broad suggestions, ignore several relevant aspects which have to be considered while determining environmental compensation in a given case, therefore, cannot be taken as readymade application to all situations for determining of environmental compensation. Moreover, on some aspects, there is no suggestion, but it is deferred.

117. We also find that some crucial relevant aspects, requiring application of principle of 'Polluter Pays', have not been considered in the above suggestions. CPCB has failed to consider that the purpose of determination/computation/assessment of environmental compensation and levy thereof, involve various factors like (i) cost of damage to environment, (ii) cost needed for restoration/remediation of damage caused to environment, (iii) element of deterrent/provincial, (iv) liability arising for violation of statutory mandatory law relating to environment namely requirement of consent, EC and NOC etc. It is not mere cost of item or subject but computation of something which situation has arisen by an act of proponents/violators due to violation of environmental law causing

damage to environment. The loss and its remedy involve complex of components.

118. Nature is precious. The elements of nature like air, water, light and soil in materialistic manner may not be priced appropriately and adequately. Most of the time, whenever price is determined, it may be extremely low or highly exorbitant meaning thereby disproportionate. Still, since some of the assets of nature are marketable, on that basis price may be determined but when such elements are damaged or degraded, restoration thereof, in effect is priceless. Many a times, it may be almost impracticable and improbable to recover and remediate damaged environment to its position as it was. Moreover, its cost might be very high. It also cannot be doubted that once there is pollution or damage to environment, it would affect adversely not only the environment but also inhabitants and all biological organisms. Damage is there, only degree may differ whether to the environment or to the inhabitants and other organisms. To find out simultaneously degree of damage and to ascertain the same in many cases may not be possible or practicable. For example, polluted air causes respiratory diseases but people do not get infected and starts reflection of the disease immediately but it takes some time. The time taken in reflection of injury on the person or body also differs from person to person depending upon his immunity and other health conditions. In some cases, damage to environment i.e., air pollution may be fatal to a person who already has respiratory problem. For some a minor inconvenience, minor injury to others, and some may not suffer to the extent of showing symptoms of any diseases at all. When we talk of environmental compensation for causing degradation to environment and for its restoration or remediation, it is not a formal or casual or symbolic amount which is required to be levied upon the violator. It is substantive

and adequate amount which must be levied for restoration of environment. CPCB, in determining values of fixed quotients and Rupees etc., has been very lenient as if only symbolically violator is to be held liable and it must pay a petty amount.

119. Statutory Regulators must realize that the amount is needed for remediation and restoration of damaged environment; enough to be deterrent, to provide adequate compensation where inhabitants are affected adversely and where violator has proceeded in violation of Environmental Laws relating to consents, clearances, permissions etc., to penalize him for such violation to prove to be a deterrent to him and others. Unfortunately, the above guidelines laid down by CPCB have not considered all these aspects and it appears that the same have been prepared in a very casual and formal manner.

120. In respect of computation of compensation for illegal extraction of ground water, CPCB has referred to Tribunal's order in ***Court on its own motion vs. State of Karnataka (supra)***, directing it to lay down guidelines to deal with the scale of compensation but has failed to consider that Tribunal has also observed that its scale may have slabs depending on extent of pollution caused, economic viability etc. and deterrent effect.

121. Statutory Regulators have also failed to consider that environmental compensation is not a kind of fee which may result in profiteering to violators and after adjusting a nominal amount of environmental compensation, a violator may find it profitable to continue with such violations. The objective of environmental compensation is that not only the loss and damage already caused, is made to recover and restore but also in future, the said violator may not repeat the kind of violation already committed and others also have a fear of not doing the same else similar

liability may be enforced upon them. Unless amount of compensation is more than maximum permissible profit arising from violation, the purpose of environmental compensation would always stand defeated.

122. Loss caused to surroundings of the environment, may also include *flora-fauna* and human beings. It is in this backdrop that in various matters when the issues were considered by Courts and Tribunal and found necessary to impose environmental compensation upon proponent/violator of environmental laws, they have followed different mechanisms. Sometimes, Committee's reports confirming violations have been referred but for quantum of compensation, directions have been issued in different ways. In some cases, CPCB guidelines have been applied while in many other, project cost has been made basis.

123. CPCB Guidelines have taken care of industries and municipal bodies. Its application in all cases irrespective of other relevant consideration may prove to be disastrous. Individuals, charitable, social or religious bodies, public sector and Government establishments etc., may, in given circumstances, justify a different approach. Further, there may be cases attracting aggravating factors or mitigating factors, for example, in national emergency, some activity got performed violating environmental norms or a proponent is resilient to any advice to adhere law to protect environment and so on. In fact, quantum of environmental compensation should have nexus with State's efforts for protection and preservation of environment and control of pollution. Compensation regime must be a deterrent to violators and incentivize eco-friendly proponents. No one should get profited by violating environmental laws and community should also not suffer for violation of environmental norms by defaulting proponents. There is no reason, if beside the aspects noticed above, the

computation process also incorporates the elements of inflation, quality of life, and economic prosperity.

124. In the context of “violation of disposal of Bio-Medical Waste” and “Non-compliance of Bio-Medical Waste Management Rules, 2016” and determination of environmental compensation for such violations, Tribunal in **OA No. 710/2017, Shailesh Singh vs. Sheela Hospital & Trauma Centre, Shahjahanpur & Others** and other connected matters, vide order dated 15.07.2019, accepted report of CPCB, and said:

*“10. The compensation regime suggested by the CPCB may be adopted. It will be open to the State PCBs/PCCs to adopt a higher scale of compensation, having regard to the problems faced in such States/UTs.*

*11. It is made clear that if even after two months the States/UTs are found to be non-compliant, the compensation will be liable to be recovered from the said States/UTs at the rate of Rs. 1 Crore per month till the non-compliance continues.”*

125. The above recommendations i.e., in para 10, Tribunal said that compensation regime suggested by the CPCB may be adopted. It will be **open to the State PCBs/PCCs to adopt a higher scale of compensation, having regard to the problems faced in such States/UTs.** It further says that if State Governments and UTs still remain non-complying for two months, compensation will be recovered at the rate of Rs. One Crore per month till non-compliance continues.

126. In respect of solid waste, sewage effluent, ground water extraction etc., Tribunal in **OA No. 593/2017, Paryavaran Suraksha Samiti and another vs. Union of India and others**, vide order dated 28.08.2019 has said in para 16, that as regards environmental compensation regime fixed vide CPCB guidelines for industrial units, GRAP, solid waste, sewage and ground water is accepted as an interim measure. Tribunal further observed that recovery of compensation on ‘Polluter Pays’ principle is a part of enforcement strategy but not a substitute for compliance. It directed all

States/UTs to enforce compensation regime latest w.e.f. 01.04.2020 and made it clear that it is not condoning any past violations. Tribunal directed to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies failing which the concerned States/UTs themselves must pay the requisite amount of compensation.

127. In the matter of illegal mining causing damage to environment, methodology for determining environmental compensation was examined in **OA No. 360/2015, National Green Tribunal Bar Association vs. Virender Singh (State of Gujarat)** and other connected matters decided on 26.02.2021. Here a report was submitted by CPCB on 30.01.2020, placing on record recommendations made by Committee comprising:

- i.) Dr Purnamita Dasgupta, Professor, IEG, Delhi,
- ii.) Dr K.S. Kavi Kumar, Professor, MSE, Chennai,
- iii.) Dr. Yogesh Dubey, Associate Professor, IIFM, Bhopal,
- iv.) Shri Sundeep, Director, MoEF&CC, Delhi and
- v.) Shri A. Sudhakar, Additional Director, CPCB, Delhi.

128. Report was considered by Tribunal vide order dated 17.08.2020. Report said:

- “8. *The Committee considered two approaches:*  
**(I) Approach 1: Direct Compensation based on the market value of extraction, adjusted for ecological damages.**  
**(II) Approach 2: Computing a Simplified NPV for ecological damages.**
9. *In the first approach, the criteria adopted is:*
- *Exceedance Factor (EF).*
  - *Risk Factor (RF).*
  - *Deterrence Factor (DF).*
10. *Approach 1 is demonstrated by Table 1 as follows:*

<b>Table No. 01: Approach 1</b>				
<i>Permitted Quantity (in MT or</i>	<i>Total Extraction (in MT or</i>	<i>Excess Extraction (in MT or</i>	<i>Exceedance in Extraction:</i>	<i>Compensation Charge</i>

$m^3$ )	$m^3$ )	$m^3$ )		(in Rs.)
X	Y	Z=Y-X	Z/X	$D * (1+RF+DF)$ Where $D=Z \times$ Market Value of the material per MT-or- $m^3$
				DF = 0.3 if Z/X = 0.11 to 0.40 DF = 0.6 if Z/X = 0.41 to 0.70 DF = 1 if Z/X $\geq$ 0.71
				RF = 0.25, 0.50. 0.75, 1.00 (as per table 2)

11. Approach 2 is demonstrated by following formula:  
 “Total Benefits (B)=Market Value of illegal extraction: D(refer Table 1)

Total Ecological Costs (C) = Market Value adjusted for risk factor:  
 $D * RF$  (refer Table 1).”

12. Final recommendation is as follows:

“Thus, it is recommended that the annual net present value (NPV) of the amount arrived at after taking the difference between the costs and the benefits through the use of the above approach, maybe calculated for a period of 5 years at a discount rate of 5% for mining which is in a severe ecological damage risk zone. **The rationale for levying this NPV is based on expert opinion that reversal and/or restoration of the ecological damages is usually not possible within a short period of time and rarely is it feasible to achieve 100% restoration, even if the sand deposition in the river basin is restored through flooding in subsequent years.** The negative externalities of the mining activity are therefore to be accounted for in this manner. Ideally, the worth of all such damages, including costs of those which can be restored should be charged. **However, till data on site-specific assessments becomes available, this approach may be adopted in the interim.** In situations where the risk categorization charged. However, till data on site-specific assessments becomes available, this approach may be adopted in the interim. In situations where the risk categorisation is unavailable or pending calculation, the following Discount Rates may be considered:

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor	0.25	0.50	0.75	1.0
Discount Rate	8%	7%	6%	5%

129. Here, in both the approaches, element of illegality committed by PP in carrying on mining was not considered at all. For example, if EC and/or

consent is not obtained. Similarly, cost of remediation/restoration was also not taken into consideration.

130. In some cases, compensation has been awarded by Tribunal on lump sum basis without referring to any methodology. For example: (i) ***in Ajay Kumar Negi vs. Union of India, OA No. 183/2013***, Rs. 5 Crores was imposed, (ii) in ***Naim Shariff vs. M/s. Das Offshore OA No. 15(THC) of 2016***, Rs. 25 Crores was imposed and (iii) in ***Hazira Macchimar Samiti vs. Union of India***, Rs. 25 Crores was imposed.

131. In ***Goa Foundation vs. Union of India & Others (2014)6SCC590***, Supreme Court relied on ***Samaj Parivartana Samudaya & Others vs. State of Karnataka & Others (2013)8SCC209*** and held that **ten per cent of the sale price** of iron ore during e-auction should be taken as compensation. To arrive at the above view, Court observed that this was an appropriate compensation given that mining could not completely stopped due to its contribution towards employment and revenue generation for the State. Further, Court directed to create a special purpose vehicle, i.e., “Goan Iron Ore Permanent Fund” for depositing above directed compensation and utilization of above fund for remediation of damage to environment.

132. In ***Goel Ganga Developers vs Union of India and Others, (2018)18SCC257***, Tribunal imposed Rs. 195 Crore compensation since project was executed without EC. Supreme Court made it Rs. **100 Crores or 10% of project cost whichever is higher**. Supreme Court also upheld Rs. 5 crores imposed by Tribunal vide order dated 27.09.2016. Thus, total amount exceeded even 10% of project cost.

133. In ***Mantri Techzone Private Limited vs. Forward Foundation & Others, (2019)18SCC494***, Supreme Court affirmed imposition of

environmental compensation by Tribunal, considering cost of the project, where there was violation regarding EC/consent and proponent proceeded with construction activities, violating provisions relating to EC/Consent. Tribunal determined environmental compensation at 5% and 3% of project cost of two builders. 5% of project cost was imposed where project proponent had raised illegal constructions while 3% was imposed where actual construction activity was not undertaken by project proponent and only preparatory steps were taken including excavation and deposition of huge earth by creating a hillock. Besides, Tribunal also directed for demolition and removal of debris from natural drain at the cost of project proponent.

134. In **Goa Foundation vs. Union of India & Others (supra)**, where illegal extraction of minerals was involved and in **Goel Ganga Developers India vs. Union of India (supra)**, where a construction project was carried out without EC in violation of EIA Notification, 2006, Supreme Court permitted computation of environmental compensation at 10% of the project cost. In fact, in **Goel Ganga (supra)** case, exemplary cost of Rs. 100 Crores were imposed, and Court said that developer would pay Rs. 100 Crores or 10% of project cost whichever is higher.

135. On the issue of assessment of compensation for damage to environment in the matter of illegal mining, recently Supreme Court in **Bajri Lease LOI holders Welfare Society vs. State of Rajasthan and others, SLP (Civil) No. 10584 of 2019** (order dated 11.11.2021) has said that compensation/penalty to be paid by those indulging in illegal sand mining, cannot be restricted to be value of illegally mined minerals. The cost of restoration of environment as well as the cost of ecological services should be part of compensation. 'Polluter Pays' principle as interpreted by this Court means that absolute liability for harm to the environment

extends not only to compensate victims of pollution but also cost of restoring environmental degradation. Remediation of damaged environment is part of the process of “Sustainable Development” and as such, the polluter is liable to pay the cost the individual sufferers as well as the cost of reversing the damaged ecology.

**ACTION IN PRESENT MATTER**

136. In the present case, the authorities of Madhya Pradesh, we find, repeatedly have violated and continuously contravening statutory provisions particularly related to Water Act, 1974 and Solid Waste Management Rules, 2016 read with Environment (Protection) Act, 1986 on various occasions and have not hesitated in violating orders passed by this Tribunal from time to time. Thereafter, this matter justify an order taking punitive action against the responsible officers besides levy of environmental compensation.

137. In **OA 606/2018, (supra)**, issue of solid as well as liquid waste management in entire State of Madhya Pradesh was examined by Tribunal. On 10.11.2022, when besides other officers, Chief Secretary of Madhya Pradesh was present, the gap in generation and processing of solid and liquid waste in the entire State of Madhya Pradesh was noticed by Tribunal in para 26 of the order as under:

**SUMMARY OF STATUS**

<b>A: <u>Solid Waste Management</u></b>				
<i>Quantity of waste generation in the State (in TPD)</i>	<i>Waste Processed (in TPD)</i>	<i>Gap in generation and Processing (in TPD)</i>	<i>Quantity of waste being disposed in landfills (in TPD)</i>	<i>Quantity of Legacy waste in the State (Tones)</i>
6562	6479	83	83	<ul style="list-style-type: none"> <li>33 lakh MT to be remediated (86 ULBs)</li> </ul>

				<ul style="list-style-type: none"> <li>• 50 lakh MT remediated by 50 ULBs</li> </ul>
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<b>B): Sewage Management</b>					
Quantity of sewage generation in the State (in MLD)	Utilization of Treatment capacity (in MLD)	Current Gap in treatment (in MLD)	Utilization of treated sewage in		
			Agriculture/ Horticulture purpose	Industrial purpose	Any other purpose
2183.7 (for urban population)	<ul style="list-style-type: none"> <li>• Treatment Capacity: 1311.99</li> <li>• Utilization: 696.03</li> </ul>	1487.73	214.01 MLD		

138. In para 27, Tribunal found that if we compute environment compensation on the entire quantity of gap found in State of Madhya Pradesh, we will have to order payment of environment compensation of at least Rs. 3000 Crores by State of Madhya Pradesh. Para 27 of order dated 10.11.2022 reads as under:

*“27. It is seen from the data presented by the Chief Secretary that there still exist gaps in management of solid and liquid waste. With reference to waste management status reflected in earlier CPCB report in 2020 (see para 21 and 22 above) analysed by the Tribunal vide order dated 30.11.2021, there is not much improvement. The Chief Secretary, Madhya Pradesh submits that there is improved governance on the subject and further initiatives are planned which will soon result in bridging the existing gaps in solid and liquid waste management. He submits that adequate funds are going to be allocated for the purpose, in the light of rate of compensation awarded in such cases. **On pattern of compensation awarded in respect of other States where gaps have been found in liquid and solid waste generation and management, compensation of Rs. 3000 crores may be liable to be levied on the State** but for reasons mentioned later, it does not appear to be necessary to do so.”*

139. Further, with regard to sewage management, Tribunal in para 35 to 43 observed as under:

*35. The data presented by the Chief Secretary shows gap of about 1500 MLD in generation and treatment of sewage. If sewage generated in rural areas is to be taken into account, the gap in generation and treatment is patent. Only treatment undertaken in rural areas is said to be by way of septic tanks and soak pits which*

may not be adequate considering issues of their maintenance, emptying and connectivity to fecal sludge/ sewage treatment systems. Appropriate further treatment of such waste has to be undertaken ensuring that no fecal contaminants are discharged into water streams/ponds/rivers.

**36. Gap in generation and treatment and utilisation of sewage has to be bridged. Compliance status of laid down standards at the outlets of STPs has to be ensured. Timeline for the establishing requisite treatment systems in terms of judgment of Hon'ble Supreme Court in Paryavaran Suraksha vs. Union of India, supra has long expired, speedy further action has to be ensured.**

37. As already noted and also observed in the judgement of the Hon'ble Supreme Court in Paryavaran Surakhsha, supra, quoted earlier, the matter falls in 11<sup>th</sup> and 12<sup>th</sup> Schedules to the Constitution. It is constitutional responsibility of the State and the Local Bodies to provide pollution free environment and to arrange necessary funds from contributors or others. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds or other resources such as land (sites for waste management) cannot be plea to deny such right. Such resources have to be found by the State by its policies and according due priority to the subject. Further, while there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext. Free ship or other policies involving State resources cannot take priority over basic need for hygiene and pollution free environment.

38. Sewage can be processed by cost-effective methods at least at several identified locations with least expenses. Decentralized and the prefabricated/modular treatment plants can be explored, apart from imposing condition of ZLD on industries, Group Housing Societies etc. Reduced load can be processed partly with the help of water using commercial establishments requiring water for their processes enforcing consent conditions in CTEs and CTOs whereby State's financial burden can be reduced.

39. In this context, the draft Notification of MoEF&CC dated 25.02.202210 etc. and the relevant part of the draft Notification in context of sewage and solid waste management is reproduced below:

**“xxx .....xxx.....xxx**  
**C. Management of sewage/waste water, Reuse and recycle of treated wastewater by dual plumbing system**

10. Dual Plumbing System shall be implemented - one for supplying fresh water for drinking, cooking and bathing etc. and another for supply of treated water for flushing.

11. Only treated water shall be used for flushing.

12. In no case, sewage or untreated waste water generated within the project area shall be discharged through storm water drains or otherwise into water bodies nor discharged/injected into the ground water by any mode.

13. Subject to Clause (3) of this notification, the project authority may opt or avail to common off-site treatment facility, as feasible, for treatment with reuse & recycle of corresponding quantity of treated water through the dual plumbing system for flushing and other non-potable use.

**A. For projects with built up area of 5,000 sq. mtrs. to 20,000 sq. mtrs. –**

i. In areas where there is no municipal sewage network,

a. Either Onsite Sewage Treatment Systems with capacity to treat 100% waste water may be installed with appropriate tertiary treatment system with disinfection for black & grey water. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

OR

b. In case of usage of septic tank, only black water shall be discharged in the septic tank. Grey water may be treated through natural treatment systems or other secondary treatment as feasible. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

The excess treated water should conform to the general discharge norms of CPCB/MoEF&CC.

ii. In areas where there is municipal sewage network

a. Either Onsite Sewage Treatment Systems with capacity to treat 100% waste water may be installed with appropriate tertiary treatment system with disinfection for black & grey water. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

OR

b. The project authority may opt to discharge only black water in such municipal sewage network subject to availability of trunk sewer line. For this purpose, two separate pipeline network– one for black water discharge and other for collection of grey water shall be installed. Grey water may be treated through natural treatment systems or other secondary treatment as feasible. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

**B. For projects involving built-up area of 20,000 sq. mts. or more –**

14. Subject to Clause (3) of this notification, Onsite Sewage Treatment Plant with capacity to treat 100% waste water generated within the project area through tertiary treatment shall be installed. Treated waste water shall be reused on site for landscape, flushing, HVAC, fire-fighting, and other end-uses.

15. *The adequacy of the Sewage Treatment Plant (STP) shall be certified by an independent expert and a report in this regard shall be submitted to the authorized agency.*

16. *Discharge of excess treated wastewater outside the premises, after treatment in STP, should meet the discharge standards as notified by CPCB/MoEF&CC from time to time.*

17. *Wastewater and treated water quantification system through metering/sub-metering shall be installed.*

18. *Sludge from the onsite sewage treatment shall be collected, conveyed and disposed as per the Central Public Health and Environmental Engineering Organization (CPHEEO) Manual, Ministry of Housing and Urban Affairs, on Sewerage and Sewage Treatment Systems.*

19. *Where Common Sewage Treatment Plant facility has been availed, it shall be ensured that treated waste water is recycled back to respective building for reuse.*

#### **D. Solid Waste Management**

20. *Subject to Clause (3) of this notification, onsite solid waste management facility should be developed and a formal contractual arrangement shall be ensured with authorized recyclers/concerned municipal agency for disposal of all non biodegradable waste.*

21. *Subject to Clause (3) of this notification, where there is no alternate arrangement for disposal of biodegradable waste, Organic waste composter/Vermiculture pit with a minimum capacity of 1.0 kg/ 150 sqm. of built-up area/day shall be installed & operated.”*

#### **Maintaining sources of clean water (rivers, storm water drains and water bodies – lakes, wetlands etc.) free from treated or untreated sewage, channelizing treated sewage for non potable purposes**

40. *We also find that sanctity and significance of natural storm water drains needs to be maintained. Storm water drains, if left unpolluted, can be source of drinking water for humans, birds, animals or aquatic life and discharge of sewage or even treated water which is not of standard of drinking water, seriously affects such drinking water resource adversely affecting their health. They are not to serve as sewage carrier. The Tribunal has comprehensively dealt with this issue on 03.08.2022 in OA No. 1002/2018, Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors. Thus, in the State, rivers, streams, ponds and lakes should be maintained for their pristine quality.*

41. *Efforts are also required on utilization of treated sewage such as by establishments like malls, industrial estates, automobile establishments, power plants, playgrounds, railways, bus stands, local bodies, universities etc. to save potable water for drinking. The treated sewage can be utilized for industrial/agricultural/other non-drinking uses like washing railway wagons/yards, buses, roads, water sprinkling and several such models reportedly exist. The State may contemplate with prospective plan to utilize treated sewage*

*extensively rather than discharging into natural water courses which are very precious.*

*42. As already observed, there is need for planning to prevent sewage (treated or untreated) entering the potable water resources. Instead, the same is to be suitably treated and channelized for non-potable purposes – agriculture, industrial or others. By way of illustration, we may refer to certain models which can be considered at appropriate locations. The same have been mentioned in order of this Tribunal dated 11.10.2022 in M.A. No. 43/2022 in OA No. 41/2020, Pushpendra Kumar vs. Nagarpanchayat, Kadaura & Ors., as follows:*

*“5. In this regard, we have drawn their attention to Seechewal Model, Karnal Technology of sewage treatment and zero discharge and manual on sewerage and sewage treatment systems- 2013 (chapter7), issued by the Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Urban Development, GoI, which provide for inexpensive and simple methods of treatment of waste water, its utilization for irrigation and other secondary purposes. The said models are briefly described as follows:-*

#### **Seechewal Model**

- Provides for use of treated waste water for irrigation in order to conserve precious surface freshwater and groundwater. The process involves passing waste water through four well for cleaning the waste water and thereafter use of such treated water for irrigation. The process can be undertaken by communities through collective approach.*

#### **Karnal Technology Of Sewage Treatment & Zero Discharge.**

- Involves growing trees/ plants on ridges with one meter wide and 50cm height and irrigated by treated effluent in furrow. The technique utilize sentire biomass present in wastewater and provides nutrient to soil and plants. By this method forest plants/ trees can be grown which can be used for firewood and timber. By this technique no chance of pathogen, heavy metals or organic compounds enter the food chain. Tree species like Eucalyptus, Leucaena can be grown.*

#### **Central Public Health & Environmental Engineering Organisation (CPHEEO)**

#### **Manual on Sewerage and Sewage Treatment Systems – 2013 (Chapter 7)**

- Provides various case studies of utilization of treated sewage and its reuse as cooling water in power plant, in airport, in petroleum refinery, fish culture (like at Mudiali, Kolkata), road washings, ground cooling, boilers and also in agriculture. In agriculture the suitability of treated sewage is dependent upon soil, salt tolerance of the crop,*

*intake of minerals and climate conditions. Sewage conforming to specified norms can be applied to selected species of food crops into soil by strip, basin or furrow irrigation. Sprinkler irrigation could be used with treated sewage. During rainy and non irrigating seasons, the treated sewage can be held in lagoons or undertaking irrigation in additional land/waste land including resorting to artificial recharge of ground water.”*

*The above models may help in planning that medium and small towns and the Rural areas need not focus on high cost technology in the first instance. Central Public Health and Environment Engineering Organization (CPHEEO), Ministry of Housing and Urban Affairs dealt with the matter in its instructions titled “Municipal Used Water Treatment Technology for Medium and Small Towns” in September 2022.*

**43. Restoration measures with respect to sewage management** need to include identification of sites for setting up of sewage treatment and utilization systems, upgrading systems/operations of existing sewage treatment facilities to ensure utilization of their full capacities, ensuring compliance of standards, including those of fecal coliform and setting up of proper fecal sewage and sludge management in rural areas. STPs need to have co-treatment facilities of septage rather than having isolated FSTPs. Guidelines of SBM - U 2.0 may be referred to in this respect. For urban areas, SBM-U 2.0 provides co-treatment of fecal sludge at STPs with sewage for which exclusive funding provisions are made under ring fenced accounts.”

140. In para 60, Tribunal recorded its reasons for not imposing environment compensation of Rs. 3000 crores upon State of Madhya Pradesh observing that Chief Secretary fairly stated that more than 9000 crores was already allocated on the subject, out of which 2366 crores stands ring fenced for ongoing sewerage project for 465 MLD and 7388 crores stand ring fenced for sewage treatment facilities. Tribunal also found that it was also stated by Chief Secretary that even if Government of India fails to comply with its commitment to Rs. 2731 crores which it has to pay as its share, State of Madhya Pradesh would abide by its commitment of 4657 Crore for treatment of waste water in a scientific manner. Tribunal observed that since State has made provision for 9688 crore in a ring fenced manner for waste water treatment, hence it does not appear to be a case for levy of compensation but State will be bound by this stand and allocation of fund and must make meaningful progress in the matter in

next six months. We reproduce para 60 of order dated 10.11.2022 as under:

*“60. The Chief Secretary Madhya Pradesh fairly accepts that there is gap of about 1500 MLD in sewage generation and treatment. In normal circumstances, the State would be liable to pay compensation of Rs. 3000 crore at the scale of compensation fixed in other States. However, it is pointed out that in Madhya Pradesh, already more than Rs. 9000 crores stands allocated on the subject. There are ongoing sewerage projects for 465 MLD for which amount of Rs 2366 crore stands ring-fenced. Further, amount of Rs 7388 crore stands ring-fenced for sewage treatment facilities which is approved by State cabinet under the AMRUT 2.0 and SBM 2.0 schemes. Out of the said amount, Rs 4657 crore is the State share while Rs 2731 crore is Government of India’s share, in a phased manner. It is submitted that even if GoI fails to comply with its commitment of Rs. 2731 crore, the State of Madhya Pradesh would abide by its commitment of Rs 4657 crore for the treatment of waste water in a scientific manner. Thus, the State has made provision for Rs. 9688 crores in a ring-fenced manner for wastewater treatment. In these circumstances, there does not appear to be a case for levy of compensation but the State will be bound by this stand and allocation of funds and must make meaningful progress in the matter in next six months.”*

141. More than 8 months have passed when order of 10.09.2022 was passed but still we find that situation has not improved at all. In fact, stand taken before us shows that only provision of Rs. 9688 Crore was made by State of Madhya Pradesh on paper but not a single penny has been deposited in a ring fenced account to be supervised by Chief Secretary.

142. Even for Bhopal City itself, sewage as admitted before us, scheme would cost more than Rs.1009 Crore which shows that there is a substantial gap in the actual availability of funds and the steps taken for implementation of the management system for liquid waste treatment. At the ground level what was the position a few years back is still continuing and nothing has improved.

143. Today, total gap is about 60.5 MLD which if we calculate as per the rates determined in various orders passed in **OA 606/2018 (supra)**, amount of compensation will come to **Rs. 121 Crores. This amount has**

**to be deposited by BMC with MPPCB towards environmental compensation for past violations.**

144. We cannot allow official respondents including State of Madhya Pradesh, BMC, Nagar Nigam and other concerned authorities to continue to violate environmental laws with impunity, continue to damage water bodies by discharging huge quantity of untreated sewage and dumping solid waste including bio medical waste in the water bodies, without any arrangement for its treatment, management and disposal in a scientific manner in accordance with law.

145. Law has to take its due course. Besides levy of environmental compensation, prosecution needs to be initiated for committing offence under Sections 43 and 44 of Water Act, 1974.

146. Respondent authorities are liable to pay environmental compensation not only for the offence/violation committed in past but also what it is continuing to commit in future.

147. In the entirety of facts and circumstances discussed above, **we direct that for past violations, environmental compensation of Rs. 121 Crores shall be paid by BMC with MPPCB within two months.**

148. For continuing violations i.e., by continuously discharging untreated municipal sewage in the water bodies besides dumping of solid waste in an unscientific manner causing pollution, BMC is liable to pay environmental compensation every month till remedial steps are taken by making requisite capacity STPs, operational, and management, handling and processing of solid waste is done in accordance with SWM Rules, 2016.

**Assessment of Environmental Compensation for Present and Future Violations:**

149. As stated by Shri Choudhary, Municipal Corporation that current generation of sewage is 265 MLD and treatment facility is available for 204.5 MLD meaning thereby it is gap of 60.5 MLD. Though in the affidavit, it is said that the current and future gap is 148 MLD which we have stated above but even if we go by the stand taken by Municipal Commissioner, on the admitted gap of 60.5 MLD, amount of compensation at the rate of Rs. 2 Crores per MLD will come to Rs. 120 Crores. Even if we take just one percent of the amount as Environmental compensation for a month it will come to Rs. 1.21 Crores.

150. We, therefore, direct that from September onwards after the end of every month, by next 7 days in the succeeding month, BMC shall deposit Rs. 1.21 Crores towards environmental compensation, for further non-compliance, with MPPCB till remedial steps are taken by stopping dumping of solid waste and discharging of untreated municipal sewage in water bodies.

151. The amount of Rs. 121 Crores shall be utilized for remediation, restoration and rejuvenation of damage already caused to the environment, including water bodies. For the purpose of remediation, restoration and rejuvenation, a plan shall be prepared for which we constitute a Committee comprising Integrated Regional Office, MoEF&CC at Bhopal, CPCB and MPPCB who shall prepare the plan within 2 months and the same shall be executed within 3 months thereafter. For monthly deposit of environmental compensation, the same shall be utilized in accordance with 6 monthly plan which shall be prepared at the end of every 6 months by the aforesaid Committee and executed within 2 months thereafter.

**PROSECUTION INITIATION BY MPPCB:**

152. Member Secretary, MPPCB must also take immediately steps for launching prosecution against erring/defaulting officers by continuing to commit offence under Section 43 read with 24 of Water Act, 1974 by filing appropriate application before concerned Criminal Court within one month.

153. Here, we find that Section 47 of Water Act, 1974 talks of offences by the companies and the persons incharge of and responsible to the company for the conduct and the business of the company as deemed guilty of the offence and to be proceeded against and punished.

154. In the present case, Commissioner BMC is incharge of BMC and responsible for its business, hence under Section 47 is directly responsible and deemed guilty of the offence, has to be prosecuted.

155. In order to take Commissioner BMC as responsible for prosecution, we find ourselves fortified from the judgment of Supreme Court in ***Karnataka State Pollution Control Board vs. B. Heera Naik and Others, (2020) 16 SCC 298*** wherein similar questions arose, firstly, “whether Municipal Corporation or Municipality can be said to be a company attracting Section 47 of Water Act, 1974”, and secondly, “whether Chief Municipal Officer or Commissioner of Municipal Corporation can be held to be responsible for prosecution”. Otherwise view taken by High Court was reversed by Supreme Court. After going through the provisions of Karnataka Municipal Corporations Act, 1976 and Karnataka Municipalities Act, 1964, Court observed that Section 47 of Water Act, 1974 is attracted and Commissioner and Chief Officers of Municipal Council are the Chief Executive Officers responsible for the business of

corporation and also incharge of the conduct of the corporation. We may reproduce para 19, 20, 21, 31 and 33 of the judgment as under:

*“19. Chapter VII of the Act, 1974 deals with penalties and procedure. Section 41, which provides for punishment and penalty begins with phrase “whoever fails to comply... “. Similarly, Section 42, which deals with penalty for certain acts also begins with the expression “whoever”. Similar expression is found in Sections 43, 44 and 45A, which begins with the word “whoever”. The Act, 1974, thus, envisages conviction of any person, who contravenes and violates the provisions of the Act.*

*20. City Municipal Council and City Municipal Corporation are created or incorporated by the State and entrusted with the Municipal functions. One of the main functions entrusted to the Corporation is to ensure clean environment to the residents, to control pollution in a Municipal area, which is one of the duties of the Municipal Council and the Corporation.*

*21. When an offence is committed by City Municipal Council or Corporation, whether they can be prosecuted under the Act, 1974 and what is the procedure for initiating proceeding for prosecution of such bodies? Section 47 of the Act, 1974 in this context is relevant. Section 47 contains a heading “offences by companies”. Section 47(1) is similar to Section 48. Whether the expression “companies” as used in Section 47 can include other corporate bodies including City Municipal Council and Corporation? The answer is to be found in the Explanation to Section 47, which provides as follows:*

*“Explanation. For the purposes of this section-*

*(a) “**company**” means any body corporate, and includes a firm or other association of individuals; and*

*(b) “**director**” in relation to a firm means a partner in the firm.”*

*31. We, thus, looking to the purpose and object of 1974 Act, are of the opinion that Section 47 can be resorted to for offences by body corporate and Karnataka State Pollution Control Board by filing a complaint before the Magistrate for taking cognizance of offence under Section 49 did not commit an error.*

*33. Section 49 embraces cognizance of all offences under the Act. Whether the offences are covered by Section 47 or 48 has no bearing on the power of the Court to take cognizance of an offence. Karnataka State Pollution Control Board has filed complaint for taking cognizance specifically referring to Section 49 of the 1974 Act. Thus, in event any offence is committed by anyone, its cognizance can be taken under Section 49. We, however, reiterate that offences by a body corporate are to be covered by Section 47, since in event offences by body corporates are not covered by Section 47, the benefit of Section 47(1) proviso shall not be available to those body corporates, which cannot be the intention of the Legislature. We, thus, conclude that offences by body corporate like City Municipal Council are covered under Section 49 treating it to be offence as by company as provided in Section 47.*

156. We may also observe that the cognizance can be taken by Magistrate of offence without insisting for sanction under Section 197 Cr.P.C. since Supreme Court in **V.C. Chinnappa Goudar vs. Karnataka State Pollution Control Board & Anr., (2015) 14 SCC 535** and **Noorulla Khan vs. Karnataka State Pollution Control Board & Anr., (2021) SCC OnLine SC 601** has held that Section 197 is not attracted for offences when prosecution is initiated under Water Act, 1974 against the public servants with reference to Sections 47 and 48 of Water Act, 1974.

157. In **Noorulla Khan (supra)**, Supreme Court while referring to **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** said that in the context of Section 48 of Water Act, 1974, Commissioner of Municipal Corporation or Chief Officers of Municipal Councils may not strictly be called heads of the departments but such officials would still come under the provisions of Section 47 of Water Act, 1974. The law laid down in **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** was summarized in para 11 of judgment in **Noorulla Khan (supra)** as under:

**“11.** *What emerges from these decisions of this Court is:*

- a. *If the violation of the provisions of the Water Act was at the hands of a Department, subject to the satisfaction of the requirements under Section 48 of the Water Act, “the Head of the Department” would be deemed to be guilty. This would of course be subject to the defences which are available to him to establish whether the offence in question was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*
- b. *By virtue of the decision of this Court in V.C. Chinnappa Goudar (Supra), because of deeming fiction under Section 48 of the Water Act, the protection under Section 197 of the Code would not be available and the matter ought to be considered de hors such protection.*
- c. *If the concerned public servant happens to be a Chief Officer or Commissioner of a Municipal Council or Town Panchayat, he cannot strictly be called “the Head of the Department of the Government”. Therefore, in terms of decision of this Court in B. Heera Naik (Supra), the matter would not come under Section 48*

*of the Water Act. But the matter would come directly under Section 47 of the Water Act. According to said decision, even in such cases, the deeming fiction available under Section 47 of the Water Act would dis-entitle the public servant from the protection under Section 197 of the Code.*

*d. If the offenders are other than public servants or where the principal offenders are corporate entities in private sectors, the question of protection under Section 197 would not arise.”*

158. In view of above, we direct Member Secretary, MPPCB or any other authority or officer authorized in this behalf under Section 49(1) of Water Act, 1974 to initiate prosecution of Commissioner, BMC for an offence under Section 43 read with Section 24 of Water Act, 1974.

159. The provisions of EP Act, 1986 are also *pari materia* with the provisions of Water Act, 1974 in as much as Sections 47 and 48 of Water Act, 1974 are similar to Sections 16 and 17 of EP Act, 1986.

160. However, under Section 19 of EP Act, 1986, Court can take cognizance on a complaint made by Central Government or any authority or officer authorized in this behalf by that Government.

161. We, therefore, direct MoEF&CC through Secretary or any other authority or officer authorized in this behalf to lodge complaint for criminal prosecution against Commissioner, BMC for committing offence under Section 15 read with SWM Rules, 2016 and Section 16 of EP Act, 1986.

162. Initial compliance Report shall be submitted before this Tribunal before Registrar, Central Zone Bench, Bhopal within 3 months and thereafter, periodical compliance Report shall be submitted on 6 monthly basis with the Registrar. The Registrar, if find necessary, may place the matter before the Bench for further orders, if any required.

163. With the above directions, this OA is partly allowed in the manner and in accordance with the directions issued as above.

164. A Copy of this order be sent to Integrated Regional Office, MoEF&CC at Bhopal, Secretary, MoEF&CC, CPCB, Member Secretary, MPPCB, Commissioner, BMC, Chief Secretary, State of Madhya Pradesh, Principal Secretary, Urban Development and Housing Department and Secretary, Environment Department by e-mail for information/compliance.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 11, 2023  
Original Application No.07/2018(CZ)  
N & R



कार्यालय नगर पालिक निगम भोपाल  
(आयुक्त कक्ष)



क्र...../आ.क./न.नि.भो/2023  
प्रति,

भोपाल, दिनांक.....

सदस्य सचिव,  
म.प्र. प्रदूषण नियंत्रण बोर्ड,  
भोपाल,

विषय :- मान. एन.जी.टी. सेंट्रल जोन भोपाल द्वारा प्रचलित प्रकरण क्र. 07/2018 में लगाई गई पर्यावरणीय क्षतिपूर्ति के विरुद्ध मान. उच्चतम न्यायालय द्वारा दायर अपील क्रमांक 7728 /2023 में दिये गये निर्णय के अनुपालन बावत् ।

- संदर्भ :- 1. आपका पत्र क्र 2784/विधि/NGT(CZ)/प्रनिबो/23 भोपाल, दिनांक 14/09/2023 ।  
2. संयुक्त संचालक (SBM) नगरीय प्रशासन एवं विकास म.प्र. भोपाल का पत्र क्रमांक 16718 दिनांक 27.09.2023  
3. इस कार्यालय का पत्र क्रमांक 208/आ.क./न.नि.भो./2023 भोपाल, दिनांक 23.10.2023

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उपरोक्त संदर्भित विषयांतर्गत लेख है कि मान. एन.जी.टी. सेंट्रल जोन भोपाल द्वारा प्रचलित प्रकरण क्रमांक OA 07/2018 (CZ) एम.वाय. चौधरी विरुद्ध नगर निगम भोपाल व अन्य में सुनवाई दिनांक 11/08/2023 को पारित आदेश के विरुद्ध नगर निगम भोपाल द्वारा मान. उच्चतम न्यायालय में डायरी क्र 47067/2023 रजिस्ट्रेशन सी.ए. नं 007728/2023 अनुसार अपील दायर की गई थी। मान. उच्चतम न्यायालय द्वारा दिनांक 28/11/2023 को प्रकरण की सुनवाई उपरांत दिये गये अंतरिम आदेश की प्रति अवलोकनार्थ एवं आवश्यक कार्यवाही हेतु आपकी ओर सादर सूचनार्थ प्रेषित है।  
संलग्न :- उपरोक्तानुसार

फ्रेंक नोबल ए.  
(आई.ए.एस.)

आयुक्त  
नगर पालिक निगम भोपाल,  
भोपाल, दिनांक 29/11/23

711  
पू.क्र...../आ.क./न.नि.भो/2023  
प्रतिलिपि :-

1. प्रमुख सचिव, नगरीय आवास एवं विकास विभाग की ओर निज सचिव के माध्यम से सूचनार्थ।
2. आयुक्त, नगरीय प्रशासन एवं विकास की ओर निज सचिव के माध्यम से सूचनार्थ।
3. क्षेत्रीय अधिकारी, म.प्र. प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर सूचनार्थ।

आयुक्त  
नगर पालिक निगम भोपाल

J.S. (Rayon)  
29/11/2023



क्षेत्रीय कार्यालय  
मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड  
पर्यावरण परिसर, ई-5, अरेरा कॉलोनी, भोपाल



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कृमांक 2409 /क्षेका/प्रनिबो/2023

भोपाल, दिनांक 29/11 /2023

प्रति,

डायरेक्टर पर्यावरण,  
(विधि),  
म.प्र.प्रदूषण नियंत्रण बोर्ड,  
भोपाल (म.प्र.)

विषय:- मा. न्यायालय सी.जे.एम कोर्ट भोपाल में प्रकरण पंजीयन के संबंध में।

संदर्भ:- बोर्ड/मुख्यालय भोपाल का पत्र क 2785/विधि/प्रनिबो/2023 भोपाल दिनांक 14.09.2023

उपरोक्त विषयांतर्गत लेख है कि संदर्भित पत्र के माध्यम से मान. राष्ट्रीय हरित अधिकरण बैंच भोपाल द्वारा ओ.ए. 07/2018 (श्री एम.वाय. चौधरी विरुद्ध नगर पालिक निगम भोपाल व अन्य में दिनांक 11.08.2023 को पारित निर्णय के पालनार्थ जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा-24 के उल्लंघन के कारण धारा जल अधिनियम 1974 की धारा-47 एवं 48 तथा पर्यावरण (संरक्षण) अधिनियम 1986 के तहत नगरीय ठोस अपशिष्ट नियम 2016 के उल्लंघन के कारण पर्यावरण (संरक्षण) अधिनियम 1986 की धारा 16 एवं 17 के तहत आयुक्त व अन्य के विरुद्ध वाद दायर करने की स्वीकृति प्रदान की गई है। प्रकरण मान. न्यायालय सी.जे.एम कोर्ट भोपाल में पंजीयन हेतु दस्तावेजों सहित बोर्ड की ओर से अधिवक्ता श्री रोहित शर्मा को सौंपे गये हैं। अधिवक्ता द्वारा उक्त प्रकरण पंजीकृत कराने हेतु मान. न्यायालय सी.जे.एम कोर्ट भोपाल में जमा किये गये है।

माननीय उच्चतम न्यायालय के सिविल अपील क (एस) 7728/2023 दिनांक 28.11.2023 के आदेशानुसार स्टे आदेश जारी किया गया है। आदेश की प्रति संलग्न कर आपके अवलोकनार्थ कृपया प्रेषित है।

(बृजेश शर्मा)  
क्षेत्रीय अधिकारी

पृ. कृमांक 2410 /क्षेका/प्रनिबो/2023 भोपाल, दिनांक 29/11 /2023  
प्रतिलिपि :-

1. श्री रोहित शर्मा, ई-05/43, अरेरा कॉलोनी, भोपाल की ओर आवश्यक कार्यवाही हेतु प्रेषित।

(बृजेश शर्मा)  
क्षेत्रीय अधिकारी

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7728/2023

BHOPAL MUNICIPAL CORPORATION

Appellant(s)

VERSUS

M.Y. CHAUDHARY & ORS.

Respondent(s)

(IA No.241138/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.241136/2023-STAY APPLICATION and IA No.241137/2023-EXEMPTION FROM FILING O.T.)

Date : 28-11-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Appellant(s) Mr. Balaji Srinivasan, AOR  
Mr. Vivek Chaudhary, Adv.  
Ms. Niti Richhariya, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Applications seeking exemption from filing certified copy of the impugned order and exemption from filing official translation are allowed.

Issue notice.

To be heard along with Civil Appeal No.6174/2023.

In the meanwhile, direction for payment of compensation issued against the appellant shall remain stayed and, therefore, no proceedings shall be initiated to recover the said amount. We,

never, make it clear that though we are staying the order directing payment of compensation, the other directions will have to be complied with by the appellant and an appropriate officer of

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the appellant shall file an affidavit of compliance before the next date of hearing.

For the time being, even the order directing prosecution of the appellant and its officer shall remain stayed.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)



क्षेत्रीय कार्यालय  
मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड  
पर्यावरण परिसर, ई-5, अरेरा कॉलोनी भोपाल (म.प्र.)



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क्रमांक 2625/क्षेका/प्रनिबो/  
प्रति,

भोपाल, दिनांक 26/12/2023

✓आयुक्त,  
नगर पालिका निगम,  
कुशाभाऊ ठाकरे सभागृह,  
भोपाल म.प्र.।

**विषय:-** माननीय एन.जी.टी. भोपाल बेंच द्वारा प्रकरण ओ.ए. 156/2023 (News article titled "After investing of 500 crore rupees to stop the discharge of sewage water in pond) के अंतर्गत पारित आदेश दिनांक 02.11.2023 के संबंध में जानकारी।

कृपया उपरोक्त विषयान्तर्गत माननीय एन.जी.टी. भोपाल बेंच द्वारा प्रचलित प्रकरण ओ.ए. 156/2023 में दिनांक 02.11.2023 के परिपेक्ष्य में भोपाल शहर में सीवरेज नेटवर्क की 55 प्रतिशत क्षेत्र में कमी बतायी गयी है तथा सीवेज सीधे तौर से नदी/तालाबों में मिलने का उल्लेख किया गया है। अतः उपरोक्त एन.जी.टी. के प्रकरण के संबंध में निम्नानुसार जानकारी प्रदान करावे:-

1. गोविन्दपुरा क्षेत्र तथा नरेला उत्तर एवं दक्षिण असेंबली एरिया में सीवेज पाईप लाईन की स्थिति।
2. अरविन्द विहार तथा कटारा हिल्स क्षेत्र में सीवेज सीधे खुले क्षेत्र में प्रवाहित हो रहा है। इस क्षेत्र की सीवरेज नेटवर्क की जानकारी।
3. कितने मकान सीवरेज सिस्टम से कनेक्ट है तथा कितने किये जाने शेष है।
4. सीवेज क्लीनिंग मशीनों की स्थिति जिसके अंतर्गत भोपाल शहर हेतु आवश्यक मशीन की संख्या तथा उपलब्ध मशीनों का विवरण।
5. वर्ष 2023 में सीवेज के संबंध में प्राप्त शिकायत की संख्या एवं निपटायी गई शिकायतों की संख्या।

कृपया उपरोक्तानुसार जानकारी 07 दिवस के भीतर कार्यालय को उपलब्ध कराने का कष्ट करें। जिससे जानकारी माननीय एन.जी.टी. के समक्ष निर्धारित समयावधि में प्रस्तुत की जा सकें।

o/c

(बृजेश शर्मा)  
क्षेत्रीय अधिकारी

पृ. क्रमांक 2626 /क्षेका/प्रनिबो/

भोपाल, दिनांक 26/12/2023

प्रतिलिपि:-

1. डायरेक्टर (विधि), म.प्र. प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर सूचनार्थ प्रेषित।

o/c

(बृजेश शर्मा)  
क्षेत्रीय अधिकारी



# कार्यालय नगर पालिक निगम भोपाल (सीवेज प्रकोष्ठ)

Annexure V

भोपाल दिनांक 5/11/2024

क्रमांक 21/सीवेज प्रकोष्ठ/2024  
प्रति,

क्षेत्रीय अधिकारी  
मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड,  
पर्यावरण परिसर ई-5 अरेरा कालोनी,  
भोपाल



विषय- माननीय एन.जी.टी. भोपाल बेंच द्वारा प्रकरण ओ.ए. 156/2023 (News article titled 'After investing of 500 crore rupees to stop the discharge of sewage water in pond') के अन्तर्गत पारित आदेश दिनांक 02.11.2023 के सम्बन्ध में जानकारी।  
सन्दर्भ- आपका पत्र क्रमांक 2625/क्षेका/प्रनियो/भोपाल दिनांक 26.12.2023

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उपरोक्त सदभित विषय में लेख है कि पत्र में बिन्दुवार चाही गई जानकारी का विवरण इस प्रकार है :-

क्र.	जानकारी का विवरण	उत्तर
1	गोविन्दपुरा क्षेत्र तथा नरेला उत्तर एवं दक्षिण असेंबली एरिया में सीवेज पाइप लाइन की स्थिति।	गोविन्दपुरा क्षेत्र तथा नरेला उत्तर एवं दक्षिण असेंबली एरिया में पूर्व से सीवेज पाइप लाइन डाली हुई है। जिनका सीवेज सेप्टिक टैंक एवं सोकपिट में इकट्ठा करके सीवेज मशीनों के माध्यम से समय समय पर क्लीनिंग की जाती है। इन क्षेत्रों में अमृत-2 सीवेज योजनांतर्गत सीवेज नेटवर्क बिछाया जाना, एस.टी.पी. एवं एस.पी.एच. निर्माण प्रस्तावित है।
2	अरविन्द विहार तथा कटारा हिल्स क्षेत्र में सीवेज सीवेज खुले क्षेत्र में प्रवाहित हो रहा है इस क्षेत्र की सीवेज नेटवर्क की जानकारी।	अरविन्द विहार में हाउसिंग बोर्ड द्वारा सीवेज नेटवर्क बिछाया गया है जो कि काफी वर्षों पुराना होने के कारण क्षतिग्रस्त है। कटारा हिल्स क्षेत्र में कॉलोनाईजरो/बिल्डरो द्वारा सीवेज नेटवर्क बिछाया गया है। जिनका संधारण कार्य कॉलोनाईजरो/बिल्डरो द्वारा किया जाता है। उक्त क्षेत्रों में नगर निगम का सीवेज नेटवर्क नहीं है।
3	कितने मकान सीवेज सिस्टम से कनेक्ट है तथा कितने किये जाने शेष है।	भोपाल शहर में अमृत-1 सीवेज योजना को सम्मिलित कर लगभग 1,15,000 भवनों को सीवेज नेटवर्क से जोड़ा गया है। अमृत-2 सीवेज योजनांतर्गत लगभग 1,15,000 भवनों को सीवेज नेटवर्क से जोड़ा जाना प्रस्तावित है। उक्त भवनों का सीवेज नेटवर्क वर्तमान में सेप्टिक टैंक/सोक पिट से जुड़ा है। इसके अतिरिक्त लगभग 2,50,000 भवनों को सीवेज नेटवर्क जो कि सेप्टिक टैंक एवं सोक पिट के माध्यम से जुड़े है।
4	सीवेज क्लीनिंग मशीनों की स्थिति जिसके अन्तर्गत भोपाल शहर हेतु आवश्यक मशीन की संख्या तथा उपलब्ध मशीनों का विवरण।	भोपाल शहर में सीवेज क्लीनिंग मशीनों कुल संख्या 41 है, जिन्हे कुल 21 जनों में जोनवार आवंटित किया गया है। इसके अतिरिक्त 05 सीवेज वाहनों को निजि संस्था द्वारा विभिन्न क्षेत्रों में कार्य किराया जाता है। अमृत-1 सीवेज परियोजना के अंतर्गत ठेकेदार द्वारा सीवेज संचालन संधारण के अंतर्गत कुल 05 सीवेज वाहनों से कार्य कराया जाता है।
5	वर्ष 2023 में सीवेज के संबंध में प्राप्त शिकायत की संख्या एवं निपटायी गई शिकायतों की संख्या।	वर्ष 2023 में दिनांक 01.04.2023 से 15.12.2023 तक सी.एम. हेल्पलाइन निगम कॉल सेन्टर में प्राप्त कुल शिकायतों की संख्या 21858 है। जिसमें से कुल 21136 शिकायतों को निराकृत किया गया है। उसके साथ ही अन्य माध्यमों से प्राप्त शिकायतों का निराकरण तत्समय किया जाता है।

*Sanjiv*  
आर.के. गुप्ता  
कार्यपालक संचालक (सीवेज)  
नगर निगम, भोपाल

*Santosh Kumar Gupta*  
अधीक्षक संचालक  
Superintending Engineer  
Municipal Corporation Bhopal

ABC  
B  
18/11/2024



क्षेत्रीय कार्यालय  
मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड  
पर्यावरण परिसर, ई-5, अरेरा कॉलोनी भोपाल (म.प्र.)



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क्रमांक 366 /क्षेका/प्रनिबो/फाइल नं. भोपाल, दिनांक 22 /02 /2024

प्रति,

आयुक्त,  
एम.पी. हाउसिंग बोर्ड,  
3-4 मंजिल, ब्लॉक-3,  
पर्यावास भवन, मदर टेरेसा मार्ग,  
भोपाल -462011

विषय:- माननीय एन.जी.टी. के प्रकरण क्र. 156/23 (सीजेड) के आदेश दिनांक 02/11/2023 अनुसार अरबिन्द विहार कॉलोनी के क्षतिग्रस्त सीवेज के सुधार के संबंध में।

कृपया उपरोक्त विषयान्तर्गत माननीय नेशनल ग्रीन ट्रिव्यूनल में प्रचलित प्रकरण क्र. 156/23 (सीजेड) के संबंध में पारित आदेश दिनांक 02.11.2023 का अवलोकन हो, आदेश की प्रति संलग्न है। प्राप्त आदेश में माननीय एन.जी.टी. द्वारा अरबिन्द विहार कॉलोनी तथा कटारा हिल्स क्षेत्र में सीवेज खुले क्षेत्र में बहाने के संबंध में जानकारी चाही है। इस संबंध में नगर निगम भोपाल से प्राप्त जानकारी अनुसार अरबिन्द विहार कॉलोनी में सीवेज नेटवर्क एम.पी. हाउसिंग बोर्ड द्वारा स्थापित किया जाना उल्लेखित किया है। उक्त सीवेज नेटवर्क क्षतिग्रस्त होने से क्षतिग्रस्त सीवेज का दूषित जल नालों के माध्यम से बहकर सतही जल गुणवत्ता को प्रभावित कर रहा है जोकि जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 24 का उल्लंघन है। इसमें संस्था के विरुद्ध वैधानिक कार्यवाही का प्रावधान है।

कृपया उपरोक्त के संबंध में लेख है कि तत्काल सीवेज को दुरस्त किया जावे एवं अरबिन्द विहार कॉलोनी के सीवेज हेतु उपयुक्त उपचार व्यवस्था संचालित की जावें। कृपया की गई कार्यवाही से 15 दिवस में सूचित करे ताकि तदनुसार जानकारी माननीय एन.जी.टी. के समक्ष प्रस्तुत की जा सकें।

संलग्न:- उपरोक्तानुसार।

(बृजेश शर्मा)  
क्षेत्रीय अधिकारी

## Annexure VII

1	RCT/3101441/2015	Lower Court	RO,MPPCB V/s Signature Builder and Colonizer, Bhopal	Case have been filed by Shri R.R.S. Sengar A.E., Against Signature Builder & colonizer Katara Hills, Bhopal Due to Violation of Act 25, 44 & 47 Water, 21,37 & 40 Air	12/5/2014	6/12/2023	23/01/2024	Argument
2	RCT/3101444/2015	Lower Court	RO,MPPCB V/s Signature Infrastructure, Katara Hills, Bhopal	Water (Prevention and Control of Pollution) Act 1974 Under Section 25,44,47,21,37,40	12/9/2014	6/12/2023	23/01/2024	Argument
3	<a href="#">RCT 346/2016</a>	Lower Court	MPPCB V/s M/s Signature Infrastructure (Signature City), Katara Hills, Bhopal	Prior Environmental Clearance and consent of the Board not obtained.	24/02/2015	5/1/2024	6/3/2024	Argument
4	RCT/2400357/2016	Lower Court	RO,MPPCB V/s Fortune Soumya Housing (Atlantis), Bhopal	Air (Prevention and control of Pollution) Act 1981, 15,16	24/02/2020	5/1/2024	6/3/2024	Argument
5	RCT 10194/2013	Lower Court	MPPCB V/s Mekar Real Venture Silver Estate Vertica (Real Ventures Housing Project), Katara, Bhopal	Violation of EIA Notification 2006, project started without taking prior consent of the Board.	1/11/2013	9/11/2023	9/2/2024	Argument

**VAKALATNAMA**  
[Rule 4(1) of the Rules framed under Advocates Act, 1961]  
**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**O.A. No. 156/2023**  
**CENTRAL ZONE BENCH, BHOPAL**

**IN THE MATTER OF:**

**IN RE: NEWS CLIPPING PUBLISHED IN BHOPAL'S NEWSPAPER "NAV DUNIYA" DATED 12.10.2023 TITLED "AFTER INVESTING OF 500 CRORE RUPEES TO STOP THE DISCHARGE OF SEWAGE WATER IN THE POND" VS. BHOPAL MUNICIPAL CORPORATION**

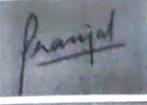
I/We/Appellant/Claimant/Petitioner or Defendant/Respondent/Non-Applicant named below do hereby appoint, engage, and authorize advocate(s) named below to appear, act and plead as aforesaid case proceedings which shall include application for restoration, setting aside of ex- party orders, corrections, modifications, review and recall of orders passed in these proceedings, in this court or any other court in which the same may be tried/ heard/proceeded and also in appellate. Revisional and executing court in respect of proceedings arising from this case/ proceedings as per agreed terms and conditions and authorize him/them to sign and file pleadings, appeals, cross objections, applications, affidavit or other documents as may be deemed necessary for the proper prosecution/defence of the case in all its stages and also agree to ratify and confirm act done by him/them as if done by me.

In witness whereof i/we do hereunto set my/our hand to the presents, the contents of which have been duly understood by me /us this **6th February 2024**.

**PARTICULARS OF EACH PARTY EXECUTING VAKALATNAMA**

Name & Fathers Name	Registered Address	E-Mail Add & Telephone (If any)	Status in case	Signature
<b>Brajesh Sharma, Regional Officer, MPPCB Regional Office Bhopal.</b>	E-5, Arera Colony, Paryavaran Parisar, Bhopal, Madhya Pradesh 462016	0755-2466392 romppcb_bpl@rediff.com	Officer-in-Charge	 <b>BRAJESH SHARMA</b> Regional Officer M.P. Pollution Control Board BHOPAL

Accepted

Name & Enrollment. No.	Address (If any) E-Mail Add.	Telephone (If any)	Full Signature
PARUL BHADORIA 1587-2012	parul.bhadoria04@gmail.com	8085977111	
PRANJAL PANDEY MP 2881-2021	advocatepranjalpandey@gmail.com	9340657120	
SHIVAM DWIVEDI MP 3857-2023	advshivamdwivedi20@gmail.com	8878471359	