

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SZ) CHENNAI**

Original Application No. 17 of 2021

BETWEEN

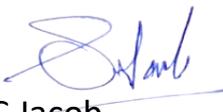
**VIPIN NATH AV & SINU C JACOB-----
APPLICANTS**

Versus

**M/s BHARAT PETROLEUM CORPORATION LIMITED AND OTHERS-----
RESPONDENTS**

***The documents submitted are true copies of their originals**


Vipin Nath A V
First Applicant


Sinu C Jacob
Second Applicant

Signature of Applicant

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SZ) CHENNAI**

Original Application No. 17 of 2021

BETWEEN

**VIPIN NATH AV & SINU C JACOB-----
APPLICANTS**

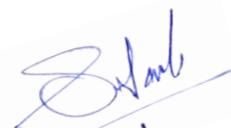
Versus

**M/s BHARAT PETROLEUM CORPORATION LIMITED AND OTHERS-----
RESPONDENTS**

Index

S. L	Description	Page No.
1	Rejoinder filed by the applicant to the objections submitted	1-9
1	Copy of the Notification No: G.O.(P) No. 106/2015/ID dated 23 rd July 2013 is produced herewith and marked as Annexure 1	10-18
2	Copy of the Environment Clearance document No. J-11011/32/90-IA. II. dated 20 th August 1991 is produced herewith and marked as Annexure 2	19-22
3	Copy of the compliance report on Environment Clearance document No. 03/HSE/ENV/202/04. dated 10.06.2021 is produced herewith and marked as Annexure 3	23-27
4	Copy of the office Memorandum No: F. No. 22-21/2020-IA-III dated 7 th July 2021 is produced herewith and marked as Annexure 4	28-36


Vipin Nath AV


Sinu C Jacob

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SZ) CHENNAI**

Original Application No. 17 of 2021

Between:

1. Vipin Nath A V

S/O N K Viswanathan
Ammencheril House, Kakkad Kara,
Mamala PO, Ernakulam Dist
Kerala – Pin – 682305
Mobile – 8589839590
Email: ammencherilvipinnath@gmail.com

2. Sinu C Jacob

Thondattil House
Kakkad Kara, Mamala PO, Ernakulam Dist
Kerala – Pin – 682305
Mobile – 8281492012
Email: sinujacob2012@gmail.com

AND

1. M/s Bharath Petroleum Corporation Limited

Rep. by its General Manager (Public Relations)
(Propylene Derivatives Petrochemical Project- PDPP)
Post Bag No. 2, Ambalamugal-
Ernakulam District, Kerala, Pin – 682302
Mob: +91 9967239420, 0484-2821402
Email – thomasg@bharatpetroleum.in

2. Ministry of Environment, Forest & Climate Change

Rep. by its Secretary
Indira Paryavaran Bhavan,
Jorbagh Road,
New Delhi - 110003
Mob: +91 11 24695262
Email – secy-moef@nic.in



3. Central Pollution Control Board

Rep. by its Member Secretary

'Parivesh Bhawan', East Arjun Nagar,
Shahdara, Delhi-110032

Tel: 011- 43102030

Email: mscb.cpcb@nic.in

4. Engineers India Limited

Rep. by its Company Secretary & Nodal Officer

El Bhavan, 1, Bhikaiji Cama Place,
New Delhi – 110 066, India

Tel: 011-26762855

Email: company.secretary@eil.co.in

5. Kerala State Pollution Control Board

Rep. by its Member Secretary

Pattom P.O., Thiruvananthapuram - 695 004

Email: ms.kspcb@gov.in

6. Petroleum and Explosives Safety Organization

Rep. by its Chief Controller of Explosives

A Block CGO Complex Fifth floor Seminary Hills
Nagpur-(Maharashtra) 440006

Phone: 7122510248

Email: explosives@explosives.gov.in

7. OIL INDUSTRY SAFETY DIRECTORATE

Rep. by its Executive Director

8th Floor, OI DB Bhawan, Plot No 2,
Sector-73, Noida Noida, Uttar Pradesh, 201301

Tel: 0120 - 2593800

Email: ED-Noida.oisd@gov.in,

8. DIRECTORATE OF FACTORIES & BOILERS

Rep. by its Director

Suraksha Bhavan
Kumarapuram, Medical College.P.O.
Thiruvananthapuram

Kerala- 695 011

Tel: +91-471-2441597, 2440974, +91-471-2441741

Email: directorate.fab@kerala.gov.in

.... Respondents



**REJOINDER FILED BY APPLICANT TO THE OBJECTION
SUBMITTED**

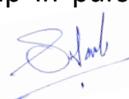
To,

**THE HON'BLE CHAIRMAN AND HIS COMPANION MEMNER OF THE NATIONAL GREEN
TRIBUNAL**

**HUMBLE APPLICATION SUBMITTED
BY THE APPLICANTS ABOVE NAMED**

1. The first applicant is **Mr. Vipin Nath A V**, residing Kakkad Kara, Ammencheril H, Near South Side of PDPP project, Mamala PO, Kerala and second applicant is **Mr. Sinu C Jacob**, residing Kakkad Kara, Thondattil H, Near South Side of PDPP project, Mamala PO, Kerala. The applicants are permanent residents at the above-mentioned address. The applicants are interested in the protection of the environment and the families living closer to the BPCL Petrochemical project (Kakkad Kara, South Side of PDPP). It is submitted that the present application has been seeking appropriate direction to **develop Green Belt and Buffer Zone** around the boundary in Kakkad Kara (South Side of PDPP project). I am filing the present rejoinder as filed against the objections submitted by the 1st respondent.

2. Based on our complaint against the 1st respondent, the inspection conducted by various statutory authorities clearly mentions the **absence of Green Belt and Buffer Zone around the project site**. Bharat Petroleum Corporation Limited also has a history of accidents (1984). At that time, even within a radius of two Kilometres, there were significant casualties. Many families now live in the area which should be considered as the buffer zone of 1st respondent project. If there are any major issues happen with this project, there is no doubt that the first to be affected will be the neighbours. Twenty-fourth standing committee on Petroleum and Natural Gas in the Lok Sabha (2017-2018) recommendation of the M.B. Lal Committee was to create a buffer zone around installations and regulating land use pattern around high-hazard petroleum installations. **The Committee understand that buffer zones around petroleum installations are an important aspect for maintenance of safety** and therefore, desire that there should be no let-up in pursuing the matter with the



States/UTs and the importance of creation of buffer zones should be impressed on them so that **M.B. Lal Committee recommendation regarding safety of high hazard installations is implemented without any further delay.** The M B Lal Committee report in the aftermath of fire accident of IOCL installation in Jaipur is a stark remainder of laxity in safety aspects in high hazard installations. According to the **Twenty Sixth Standing committee on Petroleum and Natural Gas** in the Lok Sabha (2018-2019), Action taken by the government on the recommendations contained in the Twenty Fourth Report (Sixteenth Lok Sabha) of the standing committee on Petroleum and Natural Gas on the subject safety, security and Environmental aspects in Petroleum sector. In this report it is stated that a communication was sent to all Chief Secretaries of States/UT in the matter wherein it was requested to issue appropriate instructions to the concerned authorities to make adequate provision under the relevant Acts and Rules to prohibit proliferation of unauthorized hutment, shops or residential houses within a band of at least 250-300 meters around the periphery of the Oil installation. Therefore, it is very important to maintain buffer zone around the project as soon as possible.

3. With respect to the dissent note by PESO regarding technical committee report, this means that licensing authority such as PESO do not have to concern about the safety of the people living nearby. With regards to the Individual report of PESO, it is stated that **M/s Bharat Petroleum Corporation Limited has already completed the recommendation of M B Lal committee as applicable to the refinery in the year 2016.** But “Why the crucial safety measure buffer zone has not implemented yet”?
4. 1st respondent has obtained various clearances and approvals from regulatory Govt bodies. The most significant of these is the Environment Clearance obtained from the 2nd respondent. M/s BPCL, Kochin has obtained Environment Clearance from Ministry vide **EC No J-11011/26/2013 -IA II(I)** dated **15th May, 2015** for manufacturing specialty petrochemical like Acrylic Acid, oxo Alcohols and Acrylates. According to the report of the Technical Committee comprising Ministry of

Environment, Forest and climatic Changes, it is clear that the project has been completed without space to develop the Green Belt around the boundary.

5. According to the 1st respondent, 33% of the land has been provided for Green Belt. But it is clear from the 3rd respondent inspection report (Central Pollution Control Board) in an around the boundary, there is absolutely no space to develop green belt in our area. With respect to the individual report of Central Pollution Control Board the map submitted to show the green belt development is misleading as it shows entire vacant site as green belt patch irrespective of the building, internal/peripheral roads, open scrap yards, clearance zone, under the high-tension power line etc. From the layout sketch submitted, is it obvious that the vacant areas in the project layout were clearly marked as **“for future facilities”**. Now these areas are now projected for Green Belt development.
6. Kerala State Pollution Control Board monitored the sound level several times based on the complaint due to unbearable sound from BPCL- PDPP and the report was submitted before National Green Tribunal. The Kerala State Pollution Control Board has sent notice to the 1st respondent several times. But for people who live nearby, it has become an endless experience. 56-60db is recorded in odd hours when monitored all the time.
7. According to Government of Kerala (Industrial Department) notification No: G.O.(P) No. 106/2015/ID the area of 51214.21 Ares allocated to Bharat Petroleum Corporation Limited was located was declared as **Industrial Area**. It is not mentioned anywhere whether the Green Belt or buffer zone required for an Industrial Area has been complied with or it should be provided by the industry. **The sound limit of 75db in environment Clearance condition is set only because the area is considered as an Industrial Area**. It is not clear on what reason this area was defined as an industrial area and also which criteria they were followed while declaring the area as Industrial Area and whether the area where a single industry is situated can be declared as an industrial area. However, the main concern of the public residing nearby is nothing but why they shall bear the consequences viz.



Noise, air, water pollution, lack of green belt and continuous lighting/emission from the flare stacks of such a polluting industry as explained through its report by the technical committee appointed by the State Pollution Control Board as per the direction of this Hon'ble Tribunal. After all the severe threat on safe and comfortable living of the public in the near vicinity is continuously questioned by the unit though a specific report is there from a committee that **sufficient Buffer zone shall be provided**. Copy of the Notification No: G.O.(P) No. 106/2015/ID dated 23rd July 2015 is produced herewith and marked as **Annexure 1**. Noise monitoring was conducted during several occasions where levels were recorded in exceeding concentrations than the standards stipulated for residential area, especially at night i.e., 45 dB(A) Leq). Therefore, I pray before the Hon'ble National Green Tribunal to cancel the status of Industrial Area allotted to this unit vide notification No: G.O.(P) No. 106/2015/ID

8. When Quantitative Risk Assessment (QRA) committee come to inspect, the committee could not consider or hear the problems of the people living nearby. Moreover, only the **risk assessment** has been done in this study and it is clear from the 1st respondent's repeated reply that PDPP has only recently been commissioned or in a commissioning stage.
9. As per the Environment Guidelines of Industry by EIA Division, MoEF&CC, GOI Petrochemical **Industries must have developed half a kilometre-wide Green Belt around the boundary limit. For the industries having odour problem it shall be one kilometre** (Ref: F.No. Tech/83/RTI(Online)/RDS/2020-21/602). With respect to my complaint against 1st respondent, CPCB official carried out site inspection and hearing in the presence of KSPCB officials on **23-10-2020**. The report prepared in this connection is submitted for further necessary actions and information. Document No: F. No. Tech/38/PC(Ker)/RDS/2020-21/Vol2/918 dated **December 03, 2020**. It is evident from the inspection around the project site, **proper green belt and Buffer Zone is not maintained around the project site**. It is also observed that there are several restrictions like **high-tension power lines, inadequate space inside the project location**, etc. The claim of BPCL representative, that 40 acres of land has been

earmarked for greenbelt and already 8000 tree saplings were planted could not be verified in the inspection. In the preliminary inspection report of CPCB states that, the **acquired land for PDPP project seems to be inadequate for developing green belt** around the project site mainly in Kakkad Kara. (South Side of PDPP project).

- 10.** With respect to our complaint regarding the Non compliances of EC conditions by BPCL, MoEFCC carried our site inspection inside the plant and found that Green Belt development is not satisfactory. Date of inspection **3rd November 2020**. Monitoring report **Part 1. EP/12.1/1/2015-16/KER**. In general, PA has taken steps for compliance of EC conditions and the status of compliance to the stipulated in the EC is Satisfactory except Green Belt Development. **Report date: 1st December 2020**. The 1st respondent obtained Environment Clearance from Ministry for the Expansion of capacity of Cochin Refinery from 4.5MMTPA to 7.5MMTPA vide document No. J-11011/32/90-IA. II. As per the document it is stated that **“Green belt of 500 meters wide as recommended by the consultants in their report should be developed and maintained (Point No. xvi)”**. Copy of the Environment Clearance document No. J-11011/32/90-IA. II. **dated 20th August 1991** is produced herewith and marked as **Annexure 2**. Compliance status of Environmental Clearance conditions for Capacity Expansion Project accorded by J-11011/32/90-IA. II. 500 meters green belt has been complied. But the Committee inspection report and the Central Pollution Control Board individual report highlight the absence of Green Belt around the project area. Copy of the compliance report on Environment Clearance document No. 03/HSE/ENV/202/04. **dated 10.06.2021** is produced herewith and marked as **Annexure 3**
- 11.** Central Pollution Control Board set the criteria for the industry to develop and maintain the green belt. As a member of technical committee, Central Pollution Control Board clearly states the absence of Green Belt around the boundary. Therefore, it is essential to develop Green Belt around the boundary in accordance with the guidelines of Central Pollution Control Board as set out in the Environment Clearance for the protection and safety of the people in the vicinity.



12. The Ministry of Environment Forest and Climatic Changes issues Standard Operating Procedure (SOP) deal with Environmental Violations include shut down projects that have failed to acquire environmental Clearance or non-compliance of the clearance they have received. The Standard Operating Procedure in the form on an office Memorandum as a result of order from the National Green Tribunal, which earlier this year directed the ministry to put in place penalties an SOP for green violations. Copy of the office Memorandum No: F. No. 22-21/2020-IA-III dated 7th July 2021 is produced herewith and marked as **Annexure 4**. In case of non-compliance with the conditions set out in the Environment Clearance, I hereby pray before the Hon'ble National Green Tribunal to cancel or revoke the Environment Clearance for Propylene Deratives Petrochemical Project obtained by the 1st respondent. **(Bharat Petroleum Corporation Limited)**

13. Continuous noise (Sound Pollution) is already identified by all the expert committee members. Therefore, urgent order is needed to stop all the activities of PDPP, the expansion project of IREP until all these violations are rectified and certified by experts.

14. It is clear that all these difficulties are due to the **lack of green belt and buffer zone** around the project. The same is made clear in the recommendation of the technical committee. Therefore, I request the Hon'ble National Green Tribunal to direct the 1st respondent to provide adequate Buffer Zone and develop green belt of 500 meter as per the Central Pollution Control Board guidelines.

15. Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.


Vipin Nath A V
First Applicant


Sinu C Jacob
Second Applicant

Signature of Applicant

VERIFICATION

We, Vipin Nath A V and Sinu C Jacob the applicants herein, do hereby verify that the contents of the above paragraphs are true to the best of my Knowledge and we have not suppressed any material fact.

Date: 15-09-2021

Place: Kakkad Kara, Mamala

1.......... 2..........
Vipin Nath A V **Sinu C Jacob**
Applicants

10

GOVERNMENT OF KERALA

Industries (B) Department

NOTIFICATION

G.O.(P) No.106/2015/ID. *Dated, Thiruvananthapuram, 23rd July, 2015*
7th Karkadakam, 1190.

S. R. O. No. 499/2015.—In exercise of the powers conferred by clause (f) of section 2 and section 5 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000) the Government of Kerala hereby declare an area of 51214.21 Ares of land as specified in Schedule II below at Puthencruz and Thiruvaniyoor Village of Kunnathunadu Taluk and Thiruvankulam Village of Kanayannur Taluk in Ernakulam District to be an Industrial area of the State and constitute a Single Window Clearance Board for the said area to be known as “Bharat Petroleum Corporation Limited Industrial Area Single Window Clearance Board” for the purpose of speedy issue of various licences, clearances or certificates required under the various State enactments for setting up of small scale industrial undertakings or industrial undertaking with the following members mentioned in the Schedule I below, namely:—

SCHEDULE I

- (a) The Principal Secretary to Government, Industries Department;
- (b) The District Collector, Ernakulam;
- (c) The Executive Director (Kochi Refinery), Bharat Petroleum Corporation Limited, Ambalamughal, Kochi;

- (d) The General Manager (Operations), Bharat Petroleum Corporation Limited, Kochi Refinery, Ambalamughal, Kochi (Designated Authority of the Industrial Area);
- (e) The Environmental Engineer, Kerala State Pollution Control Board, Ernakulam;
- (f) The District Officer, Electrical Inspectorate, Ernakulam;
- (g) The District Town Planner, Ernakulam;
- (h) The District Medical Officer (Health), Ernakulam;
- (i) The Executive Engineer, Electrical Division, Kerala State Electricity Board Ltd., Ernakulam;
- (j) The District Officer, Factories and Boilers Inspectorate, Ernakulam;
- (k) The Divisional Officer, Fire and Rescue Service, Ernakulam;
- (l) The Divisional Forest Officer, Ernakulam Division;
- (m) The District Labour Officer, Ernakulam;
- (n) The Deputy Commissioner, Commercial Taxes Department, Ernakulam;
- (o) The Executive Engineer, Public Health Division, Kerala Water Authority, Ernakulam.

Under sub-section (4) of section 5 of the said Act, Government hereby appoint the Principal Secretary to Government, Industries Department as the Chairman of the Board and the General Manager (Operations), Kochi Refinery, Bharat Petroleum Corporation Limited, Ambalamughal, Kochi as its Convener.

12

SCHEDULE II

District—Ernakulam.

Taluk—Kunnathunadu.

Village—Puthencruz.

<i>Sl. No.</i>	<i>Survey No.</i>	<i>Extent of land (in Ares)</i>
(1)	(2)	(3)
Block No.—37		
1	206	25080.42
Total		25080.42
Block No.—39		
1	112	15.95
2	113	73.46
3	121	1.24
4	122	0.22
5	123	2.20
6	126	6.00
7	128	133.50
8	129	155.04
9	130	282.45
10	131	258.30
11	132	304.86
12	133	143.60
13	134	227.25
14	135	143.08
15	136	78.40

(1)	(2)	(3)
16	137	42.30
17	138	372.45
18	144	231.20
19	145	221.70
20	146	136.30
21	147	223.80
22	148	221.75
23	151	29.60
24	157	35.72
25	158	354.75
26	159	156.45
27	160	260.53
28	161	125.66
29	164	143.99
30	167	22.00
31	168	25.50
32	173	27.25
33	174	375.34
34	175	12.30
35	176	158.40
36	177	125.50
37	180	12.00
38	185	71.80
39	186	253.13
40	187	66.60
41	188	186.70
42	189	157.58

14

(1)	(2)	(3)
43	190	161.48
44	191	123.15
45	192	123.50
46	193	203.80
47	194	190.35
48	195	308.15
49	196	253.20
50	197	297.25
51	201	335.40
52	203	2.63
53	207	279.59
54	208	60.56
55	209	341.60
56	210	428.66
57	211	136.33
58	212	6.91
59	214	54.60
60	215	63.74
61	231	293.30
62	232	245.60
63	233	201.60
64	234	394.33
65	235	206.05
66	236	274.50
67	240	596.90
68	241	187.15

15

(1)	(2)	(3)
69	242	347.22
70	243	395.29
71	244	309.31
72	245	63.85
73	247	18.92
74	248	152.23
75	249	220.55
76	250	186.16
77	251	223.45
78	252	425.55
79	253	231.20
80	254	244.90
81	255	729.50
82	256	926.93
83	257	255.71
84	258	444.40
85	259	516.42
86	260	0.10
87	261	2.42
88	262	4.36
89	263	13.28
90	311	149.05

16

(1)	(2)	(3)
91	312	24.70
92	313	47.16
93	314	108.35
Total		17687.19

*Taluk—Kunnathunadu.**Village—Thiruvaniyoor.*

<i>Sl. No.</i>	<i>Survey No.</i>	<i>Extent of land (in Ares)</i>
(1)	(2)	(3)
Block No.—39 & 40		
1	2	188.27
2	3	242.70
3	4	221.89
4	5	163.82
5	7	72.90
6	8	219.65
7	9	194.55
8	11	155.53
9	62	235.37
10	63	228.85
11	64	192.22
12	65	188.19
13	96	63.00

17

(1)	(2)	(3)
14	97	52.00
15	98	144.53
16	99	386.85
17	100	287.61
18	101	61.00
19	111	728.84
20	112	633.60
21	114	136.35
22	115	204.34
23	229	448.86
24	230	209.27
25	237	449.47
26	238	436.89
27	239	312.25
		Total 6858.80

Taluk—Kanayannur.

Village—Thiruvankulam

Sl. No.	Survey No.	Extent of land (in Ares)
(1)	(2)	(3)
Block No.—10		
1	142	3.99
2	145	3.95
3	148	12.72
4	150	2.20
5	154	63.04

18

(1)	(2)	(3)
6	155	20.96
7	156	18.20
8	174	10.05
9	175	2.32
10	242	219.00
11	243	1231.37
	Total	1587.80
	Grand Total	51214.21

By order of the Governor,

P. H. KURIAN,

Principal Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per clause (f) of section 2 and section 5 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000), Government may declare any area in the State to be an industrial area and constitute Single Window Clearance Board for the said area. Government have decided to declare the area of 51214.21 Ares of land in Puthencruz and Thiruvaniyoor Villages of Kunnathunadu Taluk and Thiruvankulam Village of Kanayannur Taluk in Ernakulam District to be an Industrial Area of the State and constitute a Single Window Clearance Board for the said area.

The notification is intended to achieve the above object.

10604
86.8.91

No. J-11011/32/90-IA.II
Government of India,
Ministry of Environment and Forests
(I.A.II Division)

New Delhi, the 20th August, 1991.

OFFICE MEMORANDUM

Subject:- Expansion of capacity of Cochin Refinery from 4.5 MMTPA to 7.5 MMTPA - Regarding Environmental clearance.

The undersigned is directed to refer to above proposal and to state that the environmental aspects of the proposal have been examined and the project is cleared from environmental angle subject to following stipulations :

- i. The project authorities must strictly adhere to the stipulations laid down by the State Pollution Control Board and the State Govt. and a comprehensive EIA report must be submitted within two months.
- ii. Any expansion of the plant, either with the existing product mix or new products can be taken up only with the prior approval of this Ministry.
- iii. The present policy of crude mix refining strategy of minimum 50% Indian crude including B.H. and 50% of imported crude should be maintained and implemented under normal conditions.
- iv. Sulphur recovery unit with more than 90 per cent sulphur recovery should be installed and commissioned before the expansion project is completed, and precautions for its continuous operation must be taken. Techno-economic feasibility study for additional stand-by 'S' recovery system may be initiated after the installation of first unit.
- v. Only LSHS should be used in boilers. The additional capacity for heaters, utility furnaces must be based on LSHS use only. Low NO_x burners should be used to avoid gaseous formation of NO_x.
- vi. The gaseous emissions from various process units should conform to the standards prescribed by the concerned authorities, from time to time. At no time the emission level should go beyond the stipulated standards. In the event of failure of any pollution control system adopted by the unit, the respective unit should be put out of operation immediately and should not be restarted until the control measures are rectified to achieve the desired efficiency.

- vii. Adequate number (a minimum of 7) of air quality monitoring stations should be set up in the down-wind direction as well as where maximum ground level concentration is anticipated. Stack emission should be monitored by setting up of a automatic stack monitoring unit. The data on stack emission should be submitted to the Station Pollution Control Board once in three months and to this Ministry once in six months, along with the statistical analysis. The air quality monitoring station should be selected on the basis of modelling exercise to represent the short-term ground level concentration.
- viii. Fugitive emissions should be regularly monitored and adequate provision should be made for the same.
- ix. Fugitive emission of HC from storage tanks should be minimized by adopting the following measures:
- a) Provision of Floating Roof Tanks for volatile products; provision of pumps
 - b) Replacement of gland packing by means of mechanic seals.
 - c) Use of submerged filling in product loading gantries.
- x. There should be no change in the stack design without the approval of the State Pollution Control Board. Alternate Pollution Control System and proper design in the stack should be provided to take care of excess emissions due to failure in any system of the plant.
- xi. Total raw water consumption (industrial as well as township) should not exceed the present level (i.e. 16,800 m³/day).
- xii. The project authorities must recycle waste-water to the maximum extent possible. The present practice of ETP effluent discharged into water logged areas should not be continued. The liquid effluent coming out of the plant should meet the stipulated standards and disposed through the channel only into the outfall point in Chitrapuzha river to be identified by the State Pollution Control Board. Flow of oil and grease into biological system should be avoided. Waste stream segregator should be installed before ETP.
- xiii. Adequate number of effluent quality (oil & grease, COD, BOD, Suspended Solids, phenols, sulphides, pH and Flow) monitoring stations must be set up in consultation with State Pollution Control Board.
- xiv. No oily sludge should be generated and stored as was being done in the past.

.....3/-

- 3 -

xv. The project authority should prepare a well-designed scheme for solid and hazardous wastes disposal generated from CRL, taking into account the suggestions made by consultants in the EIA report. The plan for disposal duly approved from the State Pollution Control Board should be submitted to the Ministry within six months and adequate space should be provided for it, as far as possible on the premises itself.

xvi. Green belt, 500 metres wide, as recommended by the consultants in their report should be developed and maintained. The treated effluent conforming to the standards should be used for green belt development. Detailed green belt development plan taking into account attenuation factors, soil characteristics etc. should be prepared and submitted to this Ministry within 6 months.

xvii. Relocate L.P.G. spheres so that risk due to these remains within the plant area.

xviii. A detailed risk analysis study based on Maximum Credible Accident analysis should be done and submitted to this Ministry once the process design/technology and lay-out is frozen. Based on this, a Disaster Management Plan has to be prepared and after approval by the concerned Nodal Agency, should be submitted to this Ministry within six months.

xix. Feasibility of using 20 tonner truck may be studied/assessed wherever road transport is being envisaged and report submitted to this Ministry in three months.

xx. The project authority must set up laboratory facilities for collection and analysis of samples under the supervision of competent technical personnel, who will directly report to the Chief Executive:

xxi. A separate Environmental Management Cell with suitably qualified people to carry out various functions should be set up under the control of Senior Executive, who will report directly to the Head of the organisation.

xxii. The funds earmarked for the environmental protection measures should not be diverted for other purposes and year-wise expenditure should be reported to this Ministry.

....4/-

- 4 -

2. The Ministry or any other competent authority may stipulate any further condition after reviewing the comprehensive impact assessment report or any other reports prepared by the project authorities.
3. The Ministry may revoke clearance, if implementation of the conditions is not satisfactory.
4. The above conditions will be enforced inter-alia along with the Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 along with their amendments.

(K.K. Jain)
Scientist 'SE'

The Secretary,
Department of Petroleum & Natural Gas,
Ministry of Petroleum & Chemicals,
Shastri Bhavan, New Delhi.

Copy to :

1. Chairman and Managing Director, Cochin Refinery Ltd., Ambalamugul, Post Bag No. 2, Cochin, Ernakulam (Kerala).
2. Chairman, Kerala Pollution Control Board, Kattakayam Bldg., T.C. 11/1672-1, Plammodu Junction, Thiruvananthapuram-Pattom P.O. Trivandrum - 695004.
3. Chairman, Central Pollution Control Board, Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, Shahdara, Delhi.
4. Chief Conservator of Forests (Central), Regional Office (SZ) 463, 1st Main, 3rd Block, 3rd Stage, Basaveswara Nagar, Bangalore-560007
5. Director (Regional Office Cell), Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi.
6. Adviser (Power & Energy), Planning Commission, Yojana Bhavan, New Delhi.
7. Adviser (PAD), Planning Commission, Yojana Bhavan, New Delhi
8. Secretary, Deptt. of Science, Technology and Environment, Govt. of Kerala, TG No. 13/1632, Azhikodan, Trivandrum-37
9. Jt. Secretary (Plan Finance), Dept. of Expenditure, North Block, New Delhi.
10. Guard file.
11. Monitoring file.
12. Record file.

(K.K. Jain)
Scientist 'SE'

Ep/12.1/33/KE

भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड
भारत सरकार का उपक्रम
कोच्चि रिफाइनरी



BHARAT PETROLEUM CORPORATION LIMITED
A Govt. of India Enterprise
Kochi Refinery

03/HSE/ENV/202/04
10.06.2021

To
The Additional Principal Chief conservator of Forests (C),
Ministry of Environment, Forest & Climate Change, 4th Floor, E&F Wings,
Kendriya sadan, Koramangala, Bangalore-560 034

Dear Sir,

Sub: Submission of Half yearly compliance report on Environmental Clearance issued by the Ministry of Environment, Forests and Climate Change (MoEF & CC).

Ref: EC No.J-11011/32/90-IA-II dated 20.8.1991 issued to our Project "Capacity expansion of M/s Bharat Petroleum Corporation Ltd, Kochi Refinery (Formerly Cochin Refineries Ltd.) from 4.5 to 7.5 MMTPA at Ambalamugal".

Please find enclosed the compliance reports on the various conditions laid down by MoEF & CC, pertaining to the half year period from 1st October 2020 to 31st March 2021 for the subject project.

The data on emission, ambient air, effluent, CREP recommendations, details of land balance, ground water usage, green belt, solid waste management, rain water harvesting, solar power generation and details of environment management cell being common to all the ECs granted in Kochi Refinery premises, the same are enclosed as part of EC for CEMP-II accorded vide MoEF&CC letter J-11011/369/2005-IA II (I) dated 2nd February 2006.

Thanking you
Very truly yours

For BPCL Kochi Refinery

Ramachandran. M.K
General Manager i/C (HSE)

Encl: 1. Six Monthly Compliance Report.
2. Annexure - I : Stack emission data

Cc:

- | | |
|--|---|
| 1. The Member Secretary
Central Pollution Control Board
Parivesh Bhawan
East Arjun Nagar
Delhi - 110 032 | 2. The Member Secretary
Kerala State Pollution Control Board
Plamoodu Junction
Pattom Palace
Thiruvananthapuram - 695 004 |
|--|---|

पोस्ट बैग नं: 2, अम्बलमुगल - 682 302, एरणाकुलम जिला, केरल, दूरभाष: 0484 - 2722061 - 69 फैक्स: 0484 - 2720961 / 2721094
पंजीकृत कार्यालय: भारत भवन, 4 & 6, करीमभाय रोड, वेल्ड ईस्टेट, पी. बी. नं. 688 मुंबई - 400 001

Post Bag No.: 2, Ambalamugal - 682 302, Ernakulam Dist., Kerala, Phone: 0484 - 2722061-69 Fax: 2720961 / 2721094
Registered Office: Bharat Bhavan, 4 & 6, Currimbhoy Road, Ballard Estate, P.B. No. 688, Mumbai - 400 001

Compliance status of Environmental Clearance conditions for Capacity Expansion Project accorded by J-11011/32/90-IA.II DTD.20/08/1991

Status of the project: Project commissioned in 1994

Sl. No.	Stipulations of MoEF & CC	Status as on 31.03.2021
1	The project authorities must strictly adhere to the stipulations laid down by the State Pollution Control Board and the State Government and a comprehensive EIA report must be submitted within two months.	Complied.
2	Any expansion of the plant, either with the existing product mix or new products can be taken up only with the prior approval of this Ministry.	Complied.
3	The present policy of crude mix refining strategy of minimum 50% Indian crude including B.H and 50% of imported crude should be maintained and implemented under normal conditions.	Capacity is 15.5 MMTPA and crude mix is chosen to improve the gross refining margin of the refinery within the consented conditions of production and emission/effluent norms.
4	Sulphur Recovery Unit with more than 90% Sulphur recovery should be installed and commissioned before the expansion project is completed and precautions for its continuous operation must be taken. Techno-economic feasibility study for additional stand –by 'S' recovery system may be initiated after the installation of first unit.	Sulphur Recovery Unit with more than 90% sulphur recovery commissioned during March 1995. Additional Sulphur Recovery units with newer technology and higher efficiency of 99.9% have been commissioned as part of DHDS / CEMP –II / IREP.
5	Only LSHS should be used in boilers. The additional capacity for heaters, utility furnace must be based on LSHS use only. Low NOx burners should be used to avoid gaseous formation of NOx.	Complied.
6	The gaseous emissions from various process units should conform to the standards prescribed by the concerned authorities from time to time. At no time the emission level should go beyond the stipulated standards. In the event of the failure of any pollution control system adopted by the unit, the respective unit should be put out of operation immediately and should not be restarted until the control measures are rectified to achieve the desired efficiency.	Complied

7	<p>Adequate number (a minimum of 7) of air quality monitoring stations should be set up in the down-wind direction as well as where maximum ground level concentration is anticipated. Stack emission should be monitoring by monitoring unit. The data on stack emission should be submitted to the State Pollution Control Board once in three months and to this Ministry once in six months along with the statistical analysis. The air quality monitoring stations should be selected on the basis of modelling exercise to represent the short term ground level construction.</p>	<p>As per letter No. J-11011/32/90-IA. II dated 19.05.1992. CRL was directed to put up 4 Nos. of AAQMS. Based on wind rose pattern at CRL and modelling exercise conducted, 3 AAQMS were found to be sufficient for monitoring the pollutants from CRL. KSPCB's approval was obtained to put up these 3 stations in CRL premises. 3 Nos. of AAQMS had been installed along with a Data Acquisition Centre and was commissioned in August 1997.</p> <p>Post CEMP- II project, commissioned in 2010 - 2011, BPCL KR has 5 AAQMS stations. The data from all the five AAQMS stations are being uploaded to CPCB servers.</p> <p>The data from AAQMS are being provided along with CEMP II clearance accorded vide MoEF&CC letter J-11011/369/2005-IA II (I) dated 2nd February 2006 to KSPCB and MoEF& CC as per the recommended time interval. Stack emission data attached as Annexure I.</p>
8	<p>Fugitive emissions should be regularly monitored and adequate provision should be made for the same.</p>	<p>Complied.</p>
9	<p>Fugitive emission of HC from storage tanks should be minimized by adopting the following measures:</p> <ol style="list-style-type: none"> Provision of Floating Roof Tanks for volatile products Replacement of gland packing of pumps by means of mechanical seals. Use of submerged filling in product loading gantries 	<p>Complied.</p> <p>All the pumps except pumps in heavy oil or water service are provided with mechanical seals.</p> <p>Complied.</p>
10	<p>There should be no change in the stack design without the approval of the State Pollution Control Board. Alternate Pollution Control System and proper design in the stack should be provided to take care of excess emissions due to failure in any system of the plant.</p>	<p>Complied</p>
11	<p>Total raw water consumption (industrial as well as township) should not exceed the present level (i.e.16800 m3/day).</p>	<p>Complied.</p> <p>Current consumption is within the revised figures as per latest consent.</p>

12	<p>The project authorities must recycle waste water to the maximum extent possible. The present practice of ETP effluent discharged into water logged areas should not be continued.</p> <p>The liquid effluent coming out of the plant should meet the stipulated standards and disposed through the channel only into the outfall point in Chitrapuzha river to be identified by the State Pollution Control Board. Flow of oil and grease into biological system should be avoided.</p> <p>Waste stream segregator should be installed before ETP.</p>	Complied.
13	Adequate number of effluent quality (oil & grease, COD, BOD, Suspended solids, phenols, sulphides, pH and flow) monitoring stations must be set up in consultation with State Pollution Control Board	Complied
14	No oily sludge should be generated and stored as was being done in the past.	As part of IREP project, BPCL-KR has commissioned a Delayed Coker Unit (DCU). Sludge generated is processed in this DCU.
15	The project authority should prepare a well designed scheme for solid and hazardous wastes disposal generated from BPCL – KR (formerly CRL) taking into account the suggestions made by consultants in the EIA report. The plan for disposal duly approved from the State Pollution Control Board should be submitted to the Ministry within six months and adequate space should be provided for it, as far as possible on the premises itself.	<p>Scheme for solid and hazardous waste disposal was approved by KSPCB. Scheme was subsequently submitted to MoEF &CC in March 1993.</p> <p>BPCL Kochi Refinery has implemented a scheme for recovery of oil from oily sludge. The oil recovery process consists of a series of physical separation processes. The oil recovered is reprocessed in the refinery process units. Bio remediation is carried out through The Energy and Resources Institute (TERI) suggested methods.</p> <p>Spent catalyst is disposed by either returning to the original supplier or selling to the recycler or is disposed in delayed Coker unit / approved agency for TSDF.</p> <p>ETP Chemical sludge is disposed in delayed Coker unit.</p> <p>Bio sludge from effluent treatment plant is used as manure.</p>

16	Green belt, 500 meters wide, as recommended by the consultants in their report should be developed and maintained. The treated effluent conforming to the standard should be used for green belt development plan taking into account attenuation factors, soil characteristics etc. should be prepared and submitted to this Ministry within 6 months.	Complied.
17	Relocate LPG spheres so that risk due to these remains within the plant area	Complied. As it was not feasible to relocate the LPG spheres, it had been desired by MoEF &CC to acquire land in the adjoining area where impact will be more. Accordingly, the adjoining land of 63 acres had been acquired by BPCL – KR (formerly CRL), that has been occupied by IOC, HPC and BPC area. Further, 70% of LPG storage is in mounted bullets.
18	A detailed risk analysis study based on Maximum Credible Accident Analysis should be done and submitted to this Ministry once the process design / technology and lay out is frozen. Based on this, a Disaster Management Plan has to be prepared and after approval by the concerned Nodal Agency, should be submitted to this Ministry within six months.	Risk analysis study had been conducted and was submitted to MoEF &CC in October 1991. Disaster Management Plan was submitted to MoEF &CC in February 1992.
19	Feasibility of using 20 tonner truck may be studied / assessed wherever road transport is being envisaged and report submitted to this Ministry in three months.	20 Tonner trucks are utilised wherever feasible.
20	The project authority must set up laboratory facilities for collection and analysis of samples under the supervision of competent technical personnel, who will directly report to the Chief Executive.	Complied
21	A Separate Environment Management Cell with suitably qualified people to carry out various functions should be set up under the control of Senior Executive, who will report directly to the Head of the organization.	Already exists.
22	The funds earmarked for the environmental protection measures should not be diverted for other purposes and year-wise expenditure should be reported this Ministry.	Complied with. An estimated amount of Rs.74/- crores have been spent during implementation of Capacity Expansion Project towards environmental protection measures.

F. No. 22-21/2020-IA.III

Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira ParyavaranBhawan
Jor Bagh Road, Aliganj
New Delhi – 110003
sujit.baju@gov.in

Date: 7th July, 2021

Office Memorandum

Subject: Standard Operating Procedure (SoP) for Identification and handling of violation cases under EIA Notification 2006 in compliance to order of Hon'ble National Green Tribunal in O.A. No.34/2020 WZ - Regarding.

The Ministry had issued a notification number S.O.804(E), dated the 14th March, 2017 detailing the process for grant of Terms of Reference and Environmental Clearance in respect of projects or activities which have started the work on site and/or expanded the production beyond the limit of Prior EC or changed the product mix without obtaining Prior EC under the EIA Notification, 2006.

2. This Notification was applicable for six months from the date of publication i.e. 14.03.2017 to 13.09.2017 and further based on court direction from 14.03.2018 to 13.04.2018.

3. Hon'ble NGT in Original Application No. 287 of 2020 in the matter of Dastak N.G.O. Vs Synochem Organics Pvt. Ltd. &Ors. and in applications pertaining to same subject matter in Original Application No. 298 of 2020 in Vineet Nagar Vs. Central Ground Water Authority &Ors., vide order dated 03.06.2021 held that "(...) **for past violations, the concerned authorities are free to take appropriate action in accordance with polluter pays principle, following due process**".

4. Further, the Hon'ble National Green Tribunal in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors., vide order dated 24.05.2021 has directed that "**...a proper SoP be laid down for grant of EC in such cases so as to address the gaps in binding law and practice being currently followed. The MoEF may also consider circulating such SoP to all SEIAAs in the country**".

5. Therefore, in compliance to the directions of the Hon'ble NGT a Standard Operating Procedure (SoP) for dealing with violation cases is required to be drawn. The Ministry is also seized of different categories of 'violation' cases which have been

pending for want of an approved structural/procedural framework based on 'Polluter Pays Principle' and 'Principle of Proportionality'. It is undoubtedly important that action under statutory provisions is taken against the defaulters/violators and a decision on the closure of the project or activity or otherwise is taken expeditiously.

6. In the light of the above directions of the Hon'ble Tribunal and the issues involved, the matter has accordingly been examined in detail in the Ministry. A detailed SoP has accordingly been framed and is outlined herein. The SoP is also guided by the observations / decisions of the Hon'ble Courts wherein principles of proportionality and polluters pay have been outlined.

7. Relevant Court Cases on the issue: It is noted that while deciding issues related to violations of the Environment Protection Act, 1986 on account of running the project/activity without prior environmental clearance or in excess of capacity allowed in such clearances, **the Hon'ble courts have, *inter-alia*, deliberated on various facets involving 'violation' cases and have enunciated principles of 'Proportionality' and 'Polluter Pays' in various decisions viz. Industrial Council for Enviro-Legal Action Vs Union of India (the Bichhri village industrial pollution case) (1996 SCC [3] 212); Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. (C.A. No. 1526 of 2016, order dated 1.4.2020) and Hindustan Copper Limited Vs Union of India in (W.P. (C) No. 2364 of 2014, order dated 28.11.2014).** The salient extracts of the judgements are as under:

Issue 1: Proposal for grant of Environmental Clearance in violation cases – to be considered on merits:

i. Hon'ble High Court of Jharkhand in the matter of Hindustan Copper Limited Vs Union of India in W.P. (C) No. 2364 of 2014, vide order dated 28.11.2014

Held: "(...) action for alleged violation would be an independent and separate proceeding and therefore, consideration of proposal for environment clearance cannot await initiation of action against the project proponent."

*"(...) the proposal of the petitioner company for **environmental clearance must be examined on its merits, independent of any proposed action for the alleged violation of the environmental laws.**"*

ii. Hon'ble Madras High Court in the matter of Puducherry Environment Protection Association Vs The Union of India in W.P. No. 11189 of 2017, vide order dated 13.10.2017

Held "27. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down only because of failure to obtain prior environmental clearance, even though the establishment may not otherwise be violating

SA

*pollution laws or the pollution, if any, can conveniently and effectively be checked. **The answer necessarily has to be in the negative.***

“29. It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms.”

Issue 2: Environmental Clearance – Prospective & not ex-post facto:

Hon’ble Supreme Court in the matter of Common Cause Vs Union of India in W.P. (C) No. 114 of 2014, vide order dated 2.8.2017

*Held: “(...) an EC will come into force **not earlier than the date of its grant.**”*

Issue 3: ‘Principles of Proportionality’ – to be applied:

Hon’ble Supreme Court in the matter of Alembic Pharmaceuticals Ltd. Vs Rohit Prajapati & Ors. in C.A. No. 1526 of 2016, vide order dated 1.4.2020

*Held: “(...) **this Court must take a balanced approach** which holds the industries to account for having operated without environmental clearances in the past without ordering a closure of operations. The directions of the NGT for the revocation of the ECs and for closure of the units do not accord **with the principle of proportionality**”*

**Issue 4: ‘Polluter pays’ principle &
&**

Issue 5: Costs for remedial measures implicit in Sections 3 & 5 of Environment (Protection) Act, 1986.

Hon’ble Supreme Court in the matter of Indian Council for Enviro- Legal Action Vs Union of India (the Bichhri village industrial pollution case) in (1996 SCC [3] 212)

Held:

*a) The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. The said powers will **include giving directions ...** and also the power to **impose the cost of remedial measures** on the offending industry and utilize the amount so recovered for carrying out remedial measures.....*

SA

b) **Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 5** which are couched in very wide and expansive language. Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the 'environment', which expression has been defined in very wide and expansive terms in Section 2 (a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct to carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry.

c) The question of liability of the respondents to defray the costs of remedial measures can also be looked into from accepted universally sound principle, viz., the "**Polluter Pays**" **Principle**. "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".

8. Legal provisions:

i. The Environment (Protection) Act, 1986 mandates the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution (reference sub-section (1) of Section 3 of Environment (Protection) Act, 1986). Further, clause (xiv) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 specifies that the measures stipulated under sub-section (1) of Section 3 of the Environment (Protection) Act 1986 includes 'such other matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act'.

ii. Further, notwithstanding anything contained in any other law but subject to the provisions of the Environment Protection Act, 1986, Section 5 of the Environment (Protection) Act, 1986, provides that the Central Government may, in the exercise of powers and performance of Central Government functions under the said Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

9. Definition of Violation and Non-compliance:

The Standard Operating Procedure (SoP) considers 'Violation' & 'Non-compliance' from the following perspective:



i. "Violation" means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or have expanded the production capacity and / or project area beyond the limit specified in the Environmental Clearance (Prior-EC) without obtaining Prior-EC or change of scope without prior approval from the Ministry.

ii. "Non-compliance" means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance accorded to the project.

10. Standard Operating Procedure – Guiding Principles:

i. Without prejudice to any other consequences, **action has to be initiated under section 15 read with section 19** of The Environment (Protection) Act, 1986 **against all violations.**

ii. Projects not allowable/permissible, for grant of EC, as per extant regulations: **To be demolished.**

iii. Projects allowable/permissible, if prior EC had been taken as per extant regulations: **To be closed until EC is granted (if no prior EC has been taken) or to revert to permitted production level (in case prior EC has been granted).**

iv. **Polluter pays:** Violators to pay for violation period - proportionate to the scale of project and extent of commercial transaction.

v. Setting up a mechanism for reporting of violation to the regulatory authority(ies).

11. SOP for dealing with the violation cases:

Step 1: Closure or Revision

Sl no.	Status of EC	Actions
1	If no prior EC has been taken	Order to close its operation
2.	If prior EC is available for existing/old unit	Order to revert the activity/production to permissible limits.
3.	If prior EC was not required for earlier production level but is now required	Restrict the activity/production to the extent to which prior EC was not required.

Step 2: Action under Environment (Projection) Act, 1986

Action under section 15 read with section 19 of the Environment (Protection) Act, 1986 shall be initiated against the violators.

SA

Step: 3: Appraisal under EIA Notification, 2006

The permissibility of the project shall be examined from the perspective of whether such activity/project was at all eligible for the grant of prior EC.

A. If not permissible:

i. The project shall be **ordered for the demolition/closure after issuing show cause notice and providing an opportunity of hearing.**

*Ex. If a red industry is functioning in a CRZ-I area which means that the activity was, in the first place, not permitted at the time of commencement of project. Therefore, the activity is not permissible and therefore it shall be **closed & demolished.***

ii. Respective regulatory authorities shall issue directions under section 5 of the Environment (Protection) Act, 1986 for such closure & demolition of the project/activity.

B. If permissible:

i. As per extant regulations at the time of scoping, if it is viewed that the project activity is otherwise permissible, Terms of Reference (TOR) shall be issued with directions to complete the impact assessment studies & submit Environmental Impact Assessment (EIA) report & Environmental Management Plan (EMP) in a time bound manner.

ii. Such cases of violation shall be subject to appropriate

(a) Damage Assessment

(b) Remedial Plan and

(c) Community Augmentation Plan by the Central level Sectoral Expert Appraisal Committees or State/Union Territory Level Expert Appraisal Committees, as the case may be.

iii. The Competent Authority shall issue directions to the project proponent, under section 5 of the Environment (Protection) Act, 1986 on case to case basis mandating payment of such amount (as may be determined based on Polluters Pay principle) and undertaking activities relating to Remedial Plan and Community Augmentation Plan (to restore environmental damage caused including its social aspects).

iv. Upon submission of the EIA & EMP report, the project shall be appraised by the Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, as if it was a new proposal. If, on examination of the EIA/EMP report, the project is considered permissible for operation as per extant regulations, the requisite Environmental Clearance shall be issued **which shall be effective from the date of issue.**

v. However, during appraisal after examination if it is found that even though the project may **be permissible but not environmentally sustainable in its present**

form/configuration/features then the project shall be directed to be **modified so that the project would be environmentally sustainable.**

vi. If, however, it is not considered appropriate to issue EC, the project shall be directed to be **demolished/ closed. If such proposal is a case of expansion, the project shall be directed to revert back to the extent of activity for which EC had been granted earlier or to revert back to the extent of activity for which EC was not required (as the case may be).**

vii. Central Sectoral Expert Appraisal Committees or the State/Union Territory Level Expert Appraisal Committees, as the case may be, may insist upon public hearing to be conducted for such categories of projects for which the EIA Notification 2006, as amended from time to time, requires the public hearing to be conducted.

viii. The project proponent will be required to **submit a bank guarantee equivalent to the amount of Remediation Plan and Natural & Community Resource Augmentation Plan with Central / the State Pollution Control Board (depending on whether it is appraised at Ministry or by SEIAA).** The quantification of such liability will be recommended by Expert Appraisal Committee and finalized by Regulatory Authority. The bank guarantee shall be deposited prior to the grant of environmental clearance and **will be released after successful implementation of the Remediation plan and Natural & Community Resource Augmentation Plan.**

Note - The activities, as per above clauses, shall be undertaken simultaneously wherever feasible. Environmental Clearance, if granted, to such projects or activities, after due appraisal of EIA/EMP report, **shall be effective only from the date of issuance of such clearance** and shall be subject to compliance of obligations towards Damage Assessment, Remedial Plan & Community Augmentation Plan, etc. finalized in each case.

12. Penalty provisions for Violation cases and applications:

a. For new projects:

- i. **Where operation has not commenced:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report; [Ex: Rs.1 lakh for project cost of Rs.1 Cr]
- ii. **Where operations have commenced without EC:** 1% of the total project cost incurred up to the date of filing of application along with EIA/EMP report **PLUS** 0.25% of the total turnover during the period of violation. [Ex: For Rs.100 Cr project cost and Rs.100 Cr total turnover, the penalty shall be Rs.1 Cr + Rs. 0.25 Cr = Rs.1.25 Cr]

SA

b. For expansion projects:

- i. **Where operation/production with expanded capacity has not commenced:**
1% of the project cost, attributable to the expansion, incurred up to the date of filing of application along with EIA/EMP report.
- ii. **Where operation/ production with expanded capacity have commenced:**
1% of the project cost (attributable to the expansion activity) incurred upto the date of filing of application along with EIA/EMP report PLUS 0.25% of the total turnover (attributable to the expanded activity/capacity) involved during the period of violation.

12.1. Without prejudice to obligation as per (a) & (b) above, where the project or activity is considered for appraisal as above & the project proponent fails to provide required information or requisite documents or complete the requisite study for the purpose of EIA/EMP reports or does not furnish such reports within such period, as specified by the appraisal committee, without reasonable cause, it shall be inferred that the project proponent is not serious enough and the project or activity shall be directed to be demolished / closed.

12.2. The percentage rates, as above, shall be halved if the project proponent *suo-moto* reports such violations without such violations coming to the knowledge of the Government either on inquiry or complaint.

12.3. The penalty, as above, shall be in addition to liability for carrying out various remedial measures which shall be worked out based on the damage assessment for quantifying the environmental damage caused due to unauthorized project activity [as per Step 3 enumerated above].

13. Identification of Violation cases:

With a view to protecting the environment and to expeditiously bring violators into a regulatory regime so as to prevent & control environment damage caused by such violation & to determine whether operation of such projects is permissible and to take action stipulated under Section 15 of the Environment (Protection) Act, 1986 for contravention of the provisions of the said Act, Rules, orders and directions, it is expedient to also identify the cases of violation, examine and appraise such projects so as to refrain them from causing further environmental damage and also to compensate for causing damage to the environment. Therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986, the Central Government hereby directs that:-

- i. State Pollution Control Boards & Union Territory Pollution Control Committees, before grant or renewal of Consents under Water(Prevention & Control of Pollution) Act, 1974 & Air (Prevention& Control of Pollution) Act, 1981, shall ensure that the project proponents applies for or possess valid Prior

Environmental Clearance in terms of extant EIA Notification and shall not grant or renew CTO (Consent to Operate) unless Environment Clearance (if applicable) has been obtained.

- ii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall identify cases of violation under their respective jurisdiction, report such cases to the Ministry or State/Union Territory Level Environmental Impact Assessment Authority, as the case may be and also revoke CTO, if granted to the unit after giving an opportunity of being heard.
 - iii. The Central Pollution Control Board, all State Pollution Control Boards and all Union Territory Pollution Control Committees shall expeditiously examine the references, received from public and other bodies, relating to violations and take necessary steps as per (ii) above.
14. This is issued with the approval of the Competent Authority.


(Dr. Sujit Kumar Bajpayee)
Joint Secretary (IA)

To

1. Chairperson/Member Secretary of Central Pollution Control Board
2. Chairperson/Member Secretaries of all the SEIAAs/SEACs
3. Chairman/Members of all the Expert Appraisal Committees
4. Chairman/Members of all the State Pollution Control Boards and Union Territory Pollution Control Committees

Copy for information:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS for Environment, Forest and Climate Change
3. PPS to Secretary(EF&CC)
4. PPS to AS(RS) / AS (RA)/ AS (UD)/ JS(JT) / JS (MP)/ JS (NPG)
5. All the officers of IA Division
6. Website of MoEF&CC/PARIVESH/Guard file

Copy (by email) also forwarded to the Registrar, NGT, in compliance to instruction given in O.A No. 34/2020 WZ in the matter of Tanaji B. Gambhire vs. Chief Secretary, Government of Maharashtra and ors.(order dated 24.05.2021).