

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 59 / 2019 (WZ)

BETWEEN

Sakharam Asaram Kale & Ors Applicant

Versus

The Regional Officer MPCB & Ors Respondent

AFFIDAVIT BY RESPONDENT NO. 05

M/S. MODERN ROAD MAKERS PVT. LTD.

**OBJECTIONS TO COMPUTATION BY MPCB OF
ENVIRONMENTAL DAMAGE ASSESSMENT
COMPENSATION TOWARDS RESTORATION COST**

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Filed by: **Mumbai, 26 June 2023**



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ABBREVIATIONS USED

Short	Full-form
AAQS	Ambient Air Quality System
BOT	Build-Operate-Transfer
CPCB	Central Pollution Control Board
CTE	'Consent to Establish'
CTO	'Consent to Operate'
MoEFCC	Ministry of Environment Forest and Climate Change, Government of India, New Delhi
MPCB	Maharashtra Pollution Control Board
MRMPL	Modern Road Makers Pvt. Ltd. - sub-contractor to NHAI
NGT	National Green Tribunal
NHAI	National Highways Authority of India
OA	Original Application
PM10	Particulate Matter less than 10 micron diameter PM10 : 10 μm \O (μm – micro-meter)
PM2.5	Particulate Matter less than 2.5 micron diameter
PM1.0	Particulate Matter less than 1 micron diameter
PP	Project Proponent - NHAI
RMC	Ready Mixed Concrete
RO	Regional Officer
SPM	Suspended Particulate Matters
SSI	Small Scale Industry

LIST OF PARTIES

BETWEEN

..... APPLICANTS

1. **Sakharam Asaram Kale**
2. **Prakash Ramchandra Achaare**

VERSUS

..... RESPONDENTS

1. **Regional Officer - Aurangabad**
Maharashtra Pollution Control Board
2. **National Highways Authority of India**
G-5 & 6, Sector-10, Dwarka, New Delhi- 110 075
3. **National Highways Authority of India**
Regional Office-Maharashtra, Navi Mumbai- 400614
4. **National Highways Authority of India**
Solapur- 413004
5. **Modern Road Makers Pvt. Ltd**
Project Sites at:
Khed, Murma, Sasewadi, Talewadi and Washi
Having Registered Office At- Office No-11th Floor/ 110
1, Hiranandani Knowledge Park, Technology Street, Hill
Side Avenue, Powai, Mumbai- 400076

LIST OF SEQUENTIAL EVENTS

Sr.	Date (y-m-d)	Activity / Particulars
		SITE-1 (KHED)
1.	2014/11/14	Consent to Establish (CTE)
2.	2015/01/29	Consent to Operate (CTO) valid up to 31/12/2015
3.	2016/02/23	Renewal of Consent to Operate granted for the validity period up to 31/12/2018
4.	2018/12/15	The Compliant made by Applicant
5.	2019/08/19	Application for Renewal of CTO
6.	2019/10/23	MPCB direction on the basis of the visit report of the Joint committee comprising a member of SEIAA & MPCB as per the Order passed by Hon'ble NGT in O.A. 59/2019.
7.	2019/10/31	MPCB letter to appear for personal hearing
8.	2019/11/04	Personal hearing by MPCB
9.	2019/11/05	Interim Orders issued by MPCB
10.	2019/11/20	Reply by Respondent industry to the interim directions along with compliance report
11.	2020/01/10	MPCB Site Visit Report
12.	2020/01/15	Present Status Report & Compliance Report as per NGT Order
13.	2020/02/18	MPCB Notice for Environmental Compensation
14.	2020/03/24	Representation submitted to MPCB by Appellant
15.	2022/05/06	Appeal to Appellant Authority

Sr.	Date (y-m-d)	Activity / Particulars
		SITE-2 (MURMA)
16.	2015/11/27	Consent to Establish (CTE)
17.	2016/10/14	Consent to Operate (CTO) valid up to 30/06/2016
18.	2019/05/07	Application for Renewal of CTO
19.	2019/08/24	A site visit by SRO MPCB Aurangabad
20.	2019/10/11	Joint Committee Inspection Report in OA No. 59/2019
21.	2019/10/24	Proposed directions issued by MPCB
22.	2019/11/04	Personal hearing by MPCB
23.	2019/11/05	Interim Orders issued by MPCB
24.	2019/11/14	NGT order in O.A. 59/2019 based on which MPCB to impose Environmental Compensation.
25.	2019/11/20	Reply by Respondent industry to the interim directions along with compliance report
26.	2019/11/28	Refusal of consent to operate by MPCB
27.	2020/01/14	Second Application for renewal of Consent to Operate
28.	2020/01/15	Report received from SRO MPCB Aurangabad
29.	2020/02/18	MPCB Notice for Environmental Compensation
30.	2020/03/05	Received MPCB notice for Environmental Compensation
31.	2020/03/24	Submission of Representation to Member Secretary MPCB
32.	2022/01/10	Letter to MPCB RO Aurangabad
33.	2022/05/06	Appeal to Appellant Authority

Sr.	Date (y-m-d)	Activity / Particulars
		SITE-3 (SASEWADI)
34.	-	Consent to Establish (CTE)
35.	2015/04/07	Consent to Operate for Crushed Stone Metal and Stone Dust granted by MPCB for the validity period up to 31/03/2018
36.	2015/11/26	CTO for Ready mix concrete granted for the validity period up to 31/11/2023
37.	2015/11/27	Consent to Operate (CTO) valid up to 31/12/2017
38.	2016/02/23	Renewal of Consent to Operate granted for the validity period up to 31/12/2018
39.	2018/09/10	Consent to Operate for crushed stone metal, stone dust, hot mix and wet mix granted for the validity period up to 31/12/2019
40.	2019/10/23	MPCB direction is based on the visit report of the Joint Committee comprising the member of SEIAA & MPCB as per the Order passed by Hon'ble NGT in O.A. 59/2019.
41.	2019/10/31	MPCB letter for personal hearing
42.	2019/11/04	Personal hearing by MPCB
43.	2019/11/05	Interim Orders issued by MPCB
44.	2019/11/14	NGT order in O.A. 59/2019 based on which MPCB impos Environmental Compensation
45.	2019/11/20	Reply by Respondent industry to the interim directions along with compliance report
46.	2020/01/14	Application for Renewal of CTO
47.	2020/01/15	Report received from SRO MPCB Aurangabad

Sr.	Date (y-m-d)	Activity / Particulars
48.	2022/05/06	Personal hearing by MPCB
49.	2020/02/18	MPCB Notice for Environmental Compensation
50.	2020/03/24	Representation submitted to MPCB
51.	2022/05/06	Appeal to Appellant Authority
		SITE-4 (TALEWADI)
52.	2015/10/07	Consent to Establish (CTE)
53.	2015/11/20	Consent to Establish granted for the hot and wet mix plant
54.	2015/11/20	Consent to Establish granted for Crushed Stone Metal
55.	2016/04/25	Consent to Operate (CTO) valid up to 31/10/2020
56.	2019/10/23	MPCB Proposed directions u/s 33A of Water (Prevention and Control of Pollution) Act, 1974 and u/s 31 A of Air (Prevention and Control of Pollution) Act, 1981
57.	2019/11/04	Personal hearing by MPCB
58.	2019/11/05	Interim Orders issued by MPCB
59.	2019/11/20	Compliance Report by Industry
60.	2020/02/18	MPCB Notice for Environmental Compensation
61.	2020/03/24	Representation submitted to MPCB by Appellant
62.	2022/05/06	Appeal to Appellant Authority
		SITE-5 (WASHI)
63.	2014/11/14	Consent to Establish (CTE)
64.	2016/02/23	Consent to Operate (CTO) valid up to 30/09/2016

Sr.	Date (y-m-d)	Activity / Particulars
65.	2017/03/20	Consent to Operate granted for the validity period up to 30/09/2024
66.	2019/08/19	Application for renewal of Consent to Operate
67.	2019/10/23	MPCB direction based on visit report of the Joint committee comprising the member of SEIAA & MPCB as per the Order passed by Hon'ble NGT in O.A. 59/2019.
68.	2019/11/04	Personal hearing by MPCB
69.	2019/11/05	Interim Orders issued by MPCB
70.	2019/11/20	Reply by Appellant industry to the interim directions along with compliance report
71.	2020/02/18	MPCB issued an Environmental Compensation of Rs. 5,31,250. This notice is not received by the Respondent.
72.	2020/03/24	Submission of Representation to Member Secretary MPCB by industry
73.	2022/05/06	Appeal to Appellant Authority

SYNOPSIS

1. M/s Modern Road Makers Pvt. Ltd. (MRMPL) Respondent No. 5 [hereafter referred to as Respondent] is engaged in Build-Operate-Transfer (BOT) work for the highway construction projects of National Highways Authority of India (NHAI) and the MRMPL operated crusher for crushed stone metal and operation of hot mix plants, wet mix plants and ready mix concrete for making the highway.

2. The OA 59/2019(WZ) is pending before Hon'ble Tribunal. In the meanwhile, MPCB issued directions to pay environmental compensation, invoking the 'Polluter Pays Principle'. [Ax. R1 to R5 ■]. It mentions Daily Order passed by Hon'ble Tribunal dated 14/11/2019, Interim Directions issued by MPCB, Report received from SRO MPCB Latur and approval received from authorities.

3. The Respondent had valid 'Consent to Operate' covering the period of operation and the principal PP, NHAI had EC. The Respondent piously implemented all the conditions of the Environmental Clearance granted to NHAI.

4. The present submission is filed against the Environmental Compensation calculated by MPCB. The EC imposed is summarised in the table below.

Sr.	Unit Name	Violation days	Environmental Compensation (Rs.)
1	Khed	93	5,81,250
2	Murma	73	4,56,250
3	Sasewadi	89	5,56,250
4	Talewadi	61	3,81,250
5	Washi	85	5,31,250

Total Rs.	401	25,06,250
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5. Respondent submitted say to MPCB through Representation but even after a continuous follow-up of the Respondent MPCB has not replied to the submission.

6. Respondent can file an appeal to Hon'ble Supreme Court u/s. 24 of the National Green Tribunal Act 2010 which would be heard as per CPC s.100 (2nd appeal on law point). Hence it is important that either MPCB as the technical body OR the Hon'ble Tribunal armed with Expert Member (Technical) should hear, consider and adjudicate the objections on merit while passing a speaking order.

7. Polluter pays principle was evolved in **Bicchhri case (H-acid industries in Rajasthan) and Vellore Citizens case (Tannery pollution)**. In both these cases, there were extensive on-site field study of identification of pollutants, pollution, sampling, analysis, quantification and exceedance of criteria pollutants, damage to environment and cost of treatment and remediation of damage done to environment. **[Ax. R6 ■]**. Nothing of this is done in this case. The 'polluter pays principle' is invoked therefore without any factual determination OR basis of pollution OR remediation cost.

8. Respondent is filling the objections to the computation and imposition of Environment Compensation as there is no merit in such imposition of Environment Compensation. The submissions are also made on the law points.

- a. The 'Polluter Pays Principle' is invoked without even identifying the pollutants and pollution that have done and damage to the environment.

- b. Pollutants are not identified. Exceedance of those pollutants was not determined against the Consent standards.
- c. No assessment of damage to the environment is even identified or done by MPCB.
- d. No cost is determined to remediate the damage done to the environment.
- e. MPCB has dispensed with its scientific and technical responsibility and obligation by using the clerical formula, which is irrelevant to this case.
- f. The formula used by MPCB is the one that was evolved out of the **OA 593/2017 "Paryavaran Suraksha Samiti & Anr Vs UOI"** dealt with by the **Principal Bench of Hon'ble NGT**. That case was on entirely different grounds **related to the establishment and functioning of ETP/CETP/STP** and there is no similarity whatsoever to the present case, as regards to nature of the industry, pollutants, pollution caused OR size/magnitude of the environmental issues.
- g. Stone Crusher Sr. No. 64 (Original Sr.no.73) and RMC Sr. No. 37 (Original Sr.no.72) fall in Table G-4: Final List of **Green Category of Industrial Sectors as per CPCB revised classification of the industrial Sectors dated 29/02/2016**. These are **SSI**. They have only probable air pollution, whereas the above-mentioned case was related to a HUGE generation of untreated sewage and sludge. There was no air pollution issue in the Paryavaran Suraksha matter.

SI No.	Orgni SI.No	Industry Sector	W1	W2	W	A1	A2	A	H	W+A +H	Revised Category	Remarks
37.	72	Ready mix cement concrete	-	-	-	10	-	10	-	25	G-G	PM emissions.
64.	73	Stone Crushers	-	-	-	20	-	20	-	50	R-O	Mainly air polluting, Air pollution score is normalized to 100.

- h. Municipal Corporations generating thousands of m³/day of sewage fall under the LARGE/RED Category.
- i. The formula considers doesn't consider the potency of the pollutant to damage the environment.
- j. The formula doesn't consider the environmental settings of the recipient environmental body.
- k. The CPCB has not issued directions to use this formula, en masse.
- l. There is no scientific basis OR backup data for this AND there is no legal sanctity as well.
- m. CPCB has issued a 'General Framework for Imposing Environmental Damage Compensation' in December 2022. **[Ax. R8 ■]** These are the latest and subsequent to the case-specific report AND general in nature. As such only these could have been used.

MOST RESPECTFULLY SUBMITTED

1. I, Nileshkumar A Pathak, Age 53 year, working as the Liaison Manager, am filing this affidavit for the answering **Respondent No. 5, Modern Road Makers Pvt. Ltd. (MRKPL) (hereafter referred to as Respondent)**. I have the knowledge, information, and authority to file this Affidavit in Reply. I have perused the Original Application and additional documents submitted by the applicant.

2. Maharashtra Pollution Control Board (MPCB), Respondent No.1 in the OA, imposed Environmental Compensations as per the table, by issuing directions to Modern Road Makers Pvt. Ltd.

Sr.	Unit Name	Violation days	Environmental Compensation (Rs.)
1	Khed	93	5,81,250
2	Murma	73	4,56,250
3	Sasewadi	89	5,56,250
4	Talewadi	61	3,81,250
5	Washi	85	5,31,250
	Total Rs.	401	25,06,250

3. Respondent has already answered all the allegations made by the Applicant in the OA by earlier affidavit. This reply is mainly against the illegal imposition of Environmental Compensation by the MPCB (Respondent no. 1).

4. The MPCB, while giving inadequate data, documents, and justification for imposing the environmental compensation simply stating the site visit of the SRO and the number of days of the violations without doing the site-specific and scientific of the caused pollution.

5. The justification given in the notice and affidavit is inadequate as the notice does not speak about under which Act and which section or provision/s, this Environmental Compensation was imposed, Also, it does not show various parameters that were sampled as per the provisions of the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control of Pollution) Act 1981, and Environment (Protection) Act 1986 and the parameters on which the pollution or environmental damage has been found.

6. The issued notice also does not clarify the qualitative ascertainment of damage, degree of violation against the specified standards of various parameters and the quantified approximate environmental alleged damage caused due to it; and the cost of restoration.

7. The environmental compensation has been assessed without taking cognizance of the submissions or reply made after a personal hearing by the Respondent where it was presented that the plants were non operative. This was confirmed by the Visit Report of MPCB Official. The MPCB also kept aside the reply by the Respondent to the interim directions issued on 05/11/2019 and the compliance report submitted along with it.

8. Therefore, the observation stated in the notice is unfounded especially when the Respondent has left no stone unturned in adopting all possible measures to strictly adhere to the existing pollution control norms. Also made compliance to the consent conditions and Environmental Clearance issued by MoEFCC to NHAI.

9. Respondent is aggrieved by NOTICE dated **18/02/2020**

of MPCB imposing Environmental Compensation. The Respondent made a representation to the Member Secretary-MPCB on **24/03/2020 [Ax. R7 ■]** requesting the review, to correct, do proper reassessment, and recalculation of the Environmental Compensation for **damage to the environment and cost towards restoration**, on the basis of the facts on site, lawful evidence sampling data to be collected.

10. However, no response has been received from the MPCB till date. Therefore, the Respondent filled an appeal before Hon'ble Appellate Authority of Maharashtra State u/s 28 and 31 of Water (P&CP) Act 1974 and Air (P&CP) Act 1981 respectively as and by way of this formal first statutory Appeal. Meanwhile, Respondent had submitted one additional letter to MPCB RO Aurangabad on 10/01/2022 regarding the clarification on the applicability of sections of the Water and Air Act used in issued environmental compensation notice.

11. MPCB does not mention the applicable sections of the Water (Prevention and Control of Pollution) Act 1974 or the Air (Prevention and Control of Pollution) Act 1981 in the issued notice of environmental compensation. But considering the provision of the appeal u/s. 31 of the Air (Prevention & Control of Pollution) Act, 1981 and u/s 28 Water (Prevention & Control of Pollution) Act, 1974 the said appeal was filed. This appeal was based on relevant important facts and various grounds as mentioned above in synopsis.

WRONGFUL COMPUTATION OF THE ENVIRONMENTAL COMPENSATION

12. As per the Order passed by Hon'ble National Green Tribunal in O.A. 59/2019 dated **14/11/2019** the MPCB

imposed the Environmental Compensation without any supporting document, assessment, determination, computation of the cost of restoration and study.

13. In an **additional Affidavit dated 24/02/2020** filed before the Hon'ble National Green Tribunal in which MPCB stated the period of violation of each unit along with the present status of each unit. Respondent submits that the plants were not functioning from long back. If the stone crusher, hot mix & wet mix plant, and RMC plant are not working, there is no emissions from it.

14. The Stone Crusher and Ready Mixed Concrete plant are under GREEN Category as per CPCB Classification of Industries. Only Hot Mix Plant is under ORANGE Category, as mentioned by the MPCB in their reply.

15. The terrain is barren land and assuming but not admitting, even if there were emissions, there was no damage to environment. There was no human settlement, ecologically sensitive area, or flora/fauna getting affected by the plant during the mentioned nonoperating period. The same can be seen reemphasized in the **Additional Affidavit dated 30/09/2020** filed before the Hon'ble National Green Tribunal by MPCB. It states that:

“..... All plant machinery of stone crusher, hot mix plant and RMC found dismantled by project proponent authority and at present land is open with fencing compound.”

16. Therefore, Respondent does not understand how the period of violation was calculated, as the plant remained shut even during the claimed period. The control equipment were installed and operative during the operation of the plants. As

can be seen from the Visit Report, the plants were closed and dismantled. Hence the presumption of pollution is incorrect. In fact, the MPCB gave the 'Consent to Operate' only after ascertaining that all the stipulations as made in the 'Consent to Establish' are complied with; which included all the control equipment and other conditions.

17. Respondent also submits that the formula used by the MPCB has its own serious defects. The above stated **additional Affidavit dated 24/02/2020** further puts light on the formula used by the MPCB to calculate the Environmental Compensation. It states:

"The Environment Compensation, PI- Pollution Index of Industrial Sector, N- No. of days of violation took place and R- A factor in Rupees for EC, S- factor for scale of operation, LF- Location Factor.

The details of the calculation of EC is as follows:
(e.g. calculations done for Sasewadishivar Unit)

PI = 50 as all the units fall in orange category as per CPCB Categorization
N = 89 (number of days of violation)
R = Rs.250
S = 0.5 as all units are small scale
LF = 1.00 as the units are located more than 10 km from the municipal boundary of the city/ town.
Hence EC=50×89×250×5×1=
Rs.5,56,250/-

18. MPCB says that it has calculated the Environmental Compensation as per the formula framed by CPCB. MPCB has calculated Environmental Compensation based on a formula evolved by CPCB in **O.A. 593/2017 "Paryavaran Suraksha Samiti v/s UoI"**. The above formula is stated to be accepted by Hon'ble NGT in that matter. However, the same has not

been approved and issued by formal statutory Gazette/Notified by MoEFCC under the formal Rules under any of the environmental Acts OR issued as and by way of formal statutory binding directions by CPCB to all State Pollution Control Boards u/s. 18.

19. The facts of OA 593/2017 were totally different. There is not even an iota of similarity between matter of installation and operation of ETP/CETP/STP with thousands of m³/day flow of effluent and SSI GREEN Category Stone Crusher / Ready Mixed Concrete plants.

20. There is no similarity between the facts, circumstances, activity, location, nature of the activity/product, type of emissions, pollutants, and its impact on surrounding environmental settings. As such the formula simply won't apply in the present case. This ought to have been considered by the MPCB before applying the formula ad-hoc, ad-valorem basis instead of modifying or applying it *mutatis mutandis* basis. MPCB is the technical board and as such this can't be blindly done by MPCB just because some over simplified formula is available.

21. MPCB used the formula prescribed by CPCB which is not related to the same type of industry, pollution load, or calculation basis. MPCB used the formula which is prescribed by CPCB in its report under **point no. 1.3 (page 3) i.e., Methodology for Assessing Environmental Compensation. [Ax. R9 ■]** Whereas said formula is applicable only to a, b & c type of case i.e.,

- 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 no 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.*

22. These units in the present case don't have any effluent OR hazardous waste. Type 'a' is not applicable in this case because Respondent has not produced the monitoring reports before Hon'ble Tribunal or service to Respondent. Also, this is not applicable to single-time monitoring activity. Type 'b' and 'c' are not related to this industrial activity therefore the applicability of 'b' and 'c' is also not possible.

Therefore, CPCB further submitted in its report:

"After considering various factors including the policy implementation issues, Committee has come up with the following formula for levying the Environmental Compensation in instances as mentioned at a, b and c including non-compliance of the environmental standards / violation of directions."

CPCB in its report also recommended that;

"To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986".

Whereas CPCB or even the MPCB never issued a direction to Respondent under the Environmental (Protection) Act 1986.

23. The used formula has one more major defect. It doesn't recognize or consider the quantitative degree of violation, environmental settings, potency of alleged pollution causing damage to the environment. **The formula used every time shall give the same answer for computation of damage,** which is totally indifferent of the pollutants, degree of violation, and potency of the pollutant to pollute or damage the environment. There is almost 50% uncertainty in

grab sample collection (as against the composite sample over the 24-hr period), the variation in source or grab sample results are totally ignored. Most importantly **no law evidence samples were ever collected as per s.21 of the Water Act or S.26 of the Air Act**. It is a mandatory statutory requirement by Acts.

24. The marks given to industries for categorization or classification have been used as factors for calculating fine, for which there is no scientific basis at all. The potential of industry AND the actual pollution caused are two entirely different issues. The RED/LARGE industry with proper control can have ZERO violation whereas ORANGE/GREEN / SSI can cause havoc by careless pollution. **It will be like marks/score given to height or weight or colour or caste of the person to compute the fine to be imposed for violation of traffic signal violation.** There is no scientific linkage of marks given for categorization, in determining environmentally damaging potency of the alleged polluting parameters, **or the actual damage caused to environment and cost of remediation.** The sustaining capacity of the environment at that location, which is barren land, has no locus in this formula.

25. Factor used in the formula have no research or study back-up data as to how that links the Environmental Compensation or damage caused to the environment, even approximately. As such the formula is based on the random facts selected which have remote relevance but no mathematical truth in arriving at the Rupee value of Environmental Compensation.

COMPLIANCES MADE BY THE RESPONDENT

26. The second important fact is MPCB has not considered the on-ground facts and the compliances made by the Respondent. The following points were missed by the MPCB while calculating the amount of damage done to the environment.

- i. **MPCB granted 'Consent to Establish' and then granted the 'Consent to Operate' ONLY WHEN all control measures and pollution control equipment were in place.**
- ii. The law evidence sample was not collected in accordance with the specific provision u/s 26 (2) of Air (Prevention and Control of Pollution) Act 1981 and u/s 21(2) of the Water (Prevention and Control of Pollution) Act 1974.
- iii. The alleged incremental pollution in Ambient Air Quality, due to the industry, was not monitored at site OR even calculated.
- iv. No stack emission checked or degree of violation against the prescribed standards is stated.
- v. **Industrial effluent quantity is NIL therefore there is no cause of pollution due to industrial effluent.**
- vi. **There was no hazardous waste anticipated OR generated from the Respondent industry.**
- vii. The data to be collected has to be representative of the **composite weighted sample over the period of time**, as specified in the standard. e.g., AAQS are for the period of 24 hr. AAQ data as per the standard itself is for the area and not for the industry in particular. **The random one-time measurement at a location can't**

be the basis to determine the contribution of pollution from industry. The location was at the roadside where there was other traffic too. Further, AAQS are not at all the prescribed standards in the 'Consent to Operate'.

- viii. The source data variation itself is over 200 to 300%, whereas the action and compensation are being calculated on YES/NO results, without there being any measurement, assessment, computation with regards to a number of parameters that exceeded the standards, degree of exceeding of standards, which is totally incorrect and is an injustice to industry and environment, both.
- ix. The operation of the plant is not throughout the day. It is only for few hours during the day, typically from 9 am to 5 pm during the day time.
- x. There are a large number of environmental heads of pollution and associated standards with it. e.g., in AAQS there are 12 criteria pollutants.
- xi. In effluent discharge standards, there are say at least 6 criteria pollutants in discharge standards.
- xii. The industry doesn't have gaseous emissions.
- xiii. What was measured was only Particulate Matter concentration in AAQ **and not the emissions from the plant**. Violation alleged is only in the case of SPM.
- xiv. However, the fact is ignored that the road leading to the industry is unpaved, under construction and SPM from that traffic is the main source of SPM in that area. This

fact is not disclosed or rather suppressed in the factual report by MPCB.

xv. **Effluent, Hazardous waste, and Noise pollution are not there in the industry.** Air emissions are there, which is in the form of Particulate Matter only. There were no emissions of SO₂, NO_x, HC, CO etc. monitored.

27. As regards the points raised by the MPCB in the interim directions, the Respondent submits that the compliances have been made which were submitted to the MPCB.

28. In light of all the above important points that have been overlooked while arriving at the calculations of the Environmental Compensation, it is absolutely necessary that exercise of environmental compliance and associated damage to the environment has to be done before fastening such a huge amount of compensation.

29. POLLUTERS SHOULD CERTAINLY PAY FOR THE COST OF RESTORATION OF ENVIRONMENT DUE TO POLLUTION. But the proper determination must be done before imposing such penalty or cost of Environmental Compensation. Whether Respondent has defaulted on environmental emission standards, which parameters, and to what extent also must be determined. Even assuming but without admitting any violation, the same approximate formula can't be applied merely because there was a violation on a count for a parameter within the degree of tolerance or uncertainty.

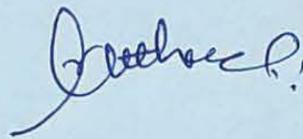
30. Needless to state, the cost of determination also shall be borne by the industry, but this essential step of determination can't be dispensed with.

30. Needless to state, the cost of determination also shall be borne by the industry, but this essential step of determination can't be dispensed with.

31. Considering the above submission Respondent urge that,

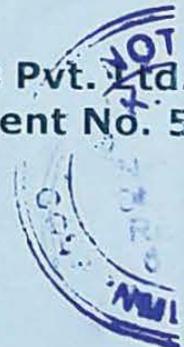
- A. Quash and set aside the order passed by MPCB which is arbitrary, without basis or power under the Act
- B. Quash and set aside the earlier calculations which neither have legal sanction nor technical soundness, basis, or established correlation.
- C. **Carry out the inspection of the site afresh and scientifically assess the damage to environment and cost towards remediation, if any, due to non-compliance on the part of the industry.**

Hon'ble Tribunal may pass the final order considering above submissions on merit AND so also on the law point.



Place: Mumbai
Date: 26 June 2023

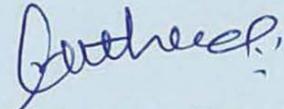
**Modern Road Makers Pvt. Ltd.
Respondent No. 5**



VERIFICATION

I, Nileshkumar A Pathak, aged about 53 years, authorized signatory of Modern Road Makers Pvt. Ltd., the Appellant herein, do hereby verify that the contents of paras above are believed to be true and correct and that I have not suppressed any material fact.

Place: Mumbai
Date: 26 June 2023

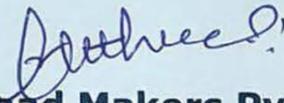


**Modern Road Makers Pvt. Ltd.
Respondent No.5**

AFFIDAVIT

I, Nileshkumar A Pathak, aged about 53 years, resident of Nadiad Gujrat do hereby state on solemn affirmation and oath that whatever I have stated above is true and correct.

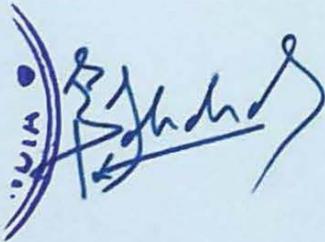
Place: Mumbai
Date: 26 June 2023



**Modern Road Makers Pvt. Ltd.
Respondent No.5**

Identified and filed by:

BEFORE ME



**BHUPENDRA K. PATEL
ADVOCATE & NOTARY
GOVT OF INDIA**

26 JUN 2023

SERIAL NO. 22362023
CERTIFICATE REG NO. 6120A
CENTRAL GOVERNMENT OF
INDIA
COMMISSION EXPIRES
ON D.T. 16/6/28



MAHARASHTRA POLLUTION CONTROL BOARD

Grams : PREPOLL

Tel. : (0240)2473462/63

Fax : (0240) 2473461



Regional Office :

Paryavaran Bhavan, Plot No. A -4/1, MIDC,
Chikalthana, Behind Dainik Lokpatra, Near
Seth Nandlal Dhoot Hospital,
Jalna Road, Aurangabad - 431210

RED/SSI. EIC No. AD-

Ax. R1.1

Consent No. MPCB/ROA/LG/GSMD/E-25/98/E/C- 270/1032

Date:- 14/11/2014

Consent to **Establish** under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974, under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorisation/Renewal of Authorisation under Rule 5 of the Hazardous Wastes (Management, Handling & Trans-boundry Movement) Rules, 2008. [To be referred as Water Act, Air Act and HW(MH&TM) Rules, respectively].

Consent is hereby granted to **M/s. Modern Road Makers Pvt. Ltd., Gat No. 264/1, At Khed, Tq. & Dist: Osmanabad.**

located in the area declared under the provisions of the Water Act/Air Act and Authorisation under the provisions of the HW (M&H) Rules and subject to the Rules and Orders that may be made and further subject to the following terms and conditions :

1. The Consent is granted for a period upto : **Commissioning of Unit or for 5 years whichever is earlier.**

(i) The validity of the authorisation granted under HW(M&H) Rules, 1989 and amendment Rules, 2003 will be upto above consent period after which the industry shall submit a fresh application for authorisation.

2. The Consent is valid for the manufacture of :

Sr.No.	Product	Maximum Quantity
1.	Crushed Stone Metal	30000 Brass/Year
2.	Ready Mix Concrete	3000 MT/M
3.	Hot Mix & Wet Mix	20000 MT/M (each)

3. CONDITIONS UNDER WATER ACT :

i) The daily quantity of trade effluent from the factory shall be Nil.

ii) The daily quantity of sewage effluent from the factory shall not exceed **0.4 M³**

iii) Trade Effluent :

Treatment : The applicant shall provide comprehensive treatment system consisting of primary/secondary and / or tertiary treatment as is warranted with reference to the effluent quality and operate and maintain the same continuously so as to achieve the quality of the effluent to the following standards :

1) pH	Between	--
2) Suspended Solids	Not to exceed	-- mg/l.
3) B.O.D. 3 days 27 °C	Not to exceed	-- mg/l.
4) C.O.D.	Not to exceed	-- mg/l.
5) Oil & Grease	Not to exceed	-- mg/l.
6) T.D.S.	Not to exceed	-- mg/l.
7) Chlorides	Not to exceed	-- mg/l.
8) Sulphates	Not to exceed	-- mg/l.



For Koshi
14/11/14

T.C.

: 2 :

- iv) Trade Effluent Disposal : --
- v) Sewage Effluent Treatment : The applicant shall provide comprehensive treatment system as is warranted with reference to effluent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards :

Suspended Solids	Not to exceed	100 mg/l.
B.O.D. 3 days 27 °C	Not to exceed	100 mg/l.

- vi) Sewage Effluent Disposal : Treated domestic effluent shall be allowed to soak into pit, which shall be got cleaned periodically & overflow thereof shall be used on land for gardening within the premises.

- vii) Non-Hazardous Solid Waste :

Type of Waste	Quantity	Treatment	Disposal
--	--	--	--

- viii) Other Conditions : --

4. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) & Cess Amendment Act, 2003 and Rules made thereunder (if applicable). The industry falls in -- category of the Cess Act and the rules made thereunder.

The daily water consumption for the following category is as under :

a) Domestic	0.5	CMD.
b) Industrial Processing (for mixing)		
i) Generating Bio-degradable Waste	2.0	CMD.
ii) Generating Non-bio-degradable Waste	--	CMD.
c) Industrial Cooling (for spraying)	3.0	CMD.
d) Gardening/Agriculture	--	CMD.

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the cess as specified under section 3 of the said Act.

5. CONDITIONS UNDER AIR ACT :

- i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to the generations and operate and maintain the same continuously so as to achieve the level of pollutants of the following standards :

Standards for Emission of Air Pollution :

i) SPM	Not to exceed	150 mg/N m ³
ii) SO ₂	Not to exceed	kg/day.

Control Equipments : The Suspended Particulate Matter contribution value at a distance of 40 meters from unit shall be less than 600 microgram/Nm³. This unit must also adopt the following pollution control measures.

- 1) Dust containment cum suppression system for the equipment.
- 2) Construction of wind breaking walls.
- 3) Construction of the metalled roads within the premises.
- 4) Regular cleaning and wetting of the ground within the premises.
- 5) Growing of a green belt along the periphery.



Handwritten signature and date: 19/11/11

(I) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

ii) The applicant shall observe the following fuel pattern :

Sr.No.	Type of Fuel	Quantity
1.	White Coal	1500 MT/M
2.	Diesel	1780 Ltr/day

iii) The applicant shall erect the chimney/s of the following specifications :

Sr.No.	Chimney attached to	Ht. in Mtrs.
1.	Hot Mix Plant	21 mtr.
2.	D.G. Set (750 KVA, 1000 KVA & 200 KVA)	3.5 mtr. each above roof.

Conditions for D.G. Set :

- 1) Industry should provide acoustic enclosure to control of noise. The acoustic enclosure/acoustic treatment of the room should be designed for minimum 25 dB(A) insertion loss or for the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB(A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
 - 2) Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
 - 3) Installation of DG Set must be strictly in compliance with recommend actions of DG Set manufacturer.
 - 4) A proper routine and preventive maintenance procedure for DG Set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use.
 - 5) The DG Set shall be operated only in case of power failure.
 - 6) The applicant should not cause any nuisance in the surrounding area due to operation of the DG Set.
- iv) The applicant shall provide ports in the chimney/s and facilities such as ladder, platform, etc. for monitoring the air emissions and same shall be opened for inspection to/and for use of the Board staff. The chimney/s vents attached to various sources of emission shall designated by numbers such as S-1, S-2, etc. and these shall be painted/displayed to facilitate identification.
- v) Whenever due to any accident or other unforeseen act or event, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith reported to Board, concerned Police Station, Office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.
- vi) Other conditions :
- 1) The industry shall not cause any nuisance to the surrounding area.
 - 2) The industry shall monitor the stack and/or ambient air quality regularly.
 - 3) The site shall be located at about 1.0 km. away from Solapur-Dhule National Highway and about 3.0 km. away from village Khed.

(469) *Woshi*
15/11/15



: 4 :

4) As per the Board's circular No. BO/RO(P&P)/TB/B-779 dated 06/07/2006, the indigenous varieties of trees like Bel, Shisham, Amla, Mango, Khair, Hingan, Palash, Champa, Bakul, Vad, Biba, Pimpal, Neem, Chivel, etc. shall be planted over 33% of the available open land.

6. CONDITIONS UNDER HW (MH&TM) RULES, 2008 & AMENDMENT RULES :

i) The applicant shall handle hazardous waste as specified below :

Sr.No.	Waste Category No.	Type of Waste	Quantity
--------	--------------------	---------------	----------

The industry shall not generate any hazardous waste.

ii) Treatment :-

ii) The authorisation is hereby granted to operate facility of collection, storage, transport and disposal of hazardous waste.

7. The applicant shall comply with the General Conditions as stipulated under Annexure-I enclosed.

8. The applicant shall obtain the Consent to Operate before starting of commercial production.

9. The capital investment of the plant is **Rs. 8.04 Cr. Only.**

(P.M. Joshi)
Regional Officer.

(When consent issuing authority is other than Member Secretary), state -

Name	:	P.M. Joshi.
Designation	:	Regional Officer.
Office Address	:	Regional Office, Maharashtra Pollution Control Board, Paryavaran Bhavan, Plot No. A-4/1, MIDC Area Chikalthana, Behind Daynik Lokpatra Near Seth Nandlal Dhoot Hospital, Jalna Road, Aurangabad-431 210.

To,

**M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 264/1, At Khed,
Tq. & Dist: Osmanabad.**

Copy submitted to :-

1. The Member Secretary, MPCB, Mumbai.

Copy f.w.cs. to :-

1. The Chief Accounts Officer, MPCB, Mumbai.

Consent fees of **Rs. 15100 + 15100 15100/-** received vide

D.D. No. **564413, 564412, 564414** dated **3/9/2014**

Drawn on **State Bank of India (all).**

Copy forwarded to :-

1. The Sub-Regional Officer, MPCB, **Latur.**

Copy to Cess Wing/Statistical Wing/Air Wing/HWMPH Wing, MPCB, Mumbai.

T.C.

[Handwritten Signature]

MAHARASHTRA POLLUTION CONTROL BOARD

Grams : PREPOLL

Tel. : (0240)2473462/63

Fax : (0240) 2473461



Regional Office :

Paryavaran Bhavan, Plot No. A -4/1, MIDC,
Chikalathana, Behind Dainik Lokpatra, Near
Seth Nandlal Dhoot Hospital,
Jalna Road, Aurangabad - 431210

RED/SSI. EIC No. AD-16151-14

Consent No. MPCB/ROA/LG/OSMD/E-25/98/O/C- 05/34/2015 Date:- 29/01/2015

Consent to **Operate** under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974, under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorisation/Renewal of Authorisation under Rule 5 of the Hazardous Wastes (Management, Handling & Trans-boundry Movement) Rules, 2008. [To be referred as Water Act, Air Act and HW(MH&TM) Rules, respectively].

Consent is hereby granted to **M/s. Modern Road Makers Pvt. Ltd., Gat No. 264/1, 263, 264/2, At Khed, Tq. & Dist: Osmanabad.**

located in the area declared under the provisions of the Water Act/Air Act and Authorisation under the provisions of the HW (M&H) Rules and subject to the Rules and Orders that may be made and further subject to the following terms and conditions :

1. The Consent is granted for a period upto : **31/12/2015.**
 - (i) The validity of the authorisation granted under HW(M&H) Rules, 1989 and amendment Rules, 2003 will be upto above consent period after which the industry shall submit a fresh application for authorisation.

2. The Consent is valid for the manufacture of :

Sr.No.	Product	Maximum Quantity
1.	Crushed Stone Metal	30000 Brass/Year
2.	Ready Mix Concrete	3000 MT/M
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5) Oil & Grease	Not to exceed	-- mg/l.
6) T.D.S.	Not to exceed	-- mg/l.
7) Chlorides	Not to exceed	-- mg/l.
8) Sulphates	Not to exceed	-- mg/l.

(Signature)
28/1/15

T.C.

(Signature)

:2:

- iv) Trade Effluent Disposal : --
- v) Sewage Effluent Treatment : The applicant shall provide comprehensive treatment system as is warranted with reference to effluent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards :

Suspended Solids	Not to exceed	100 mg/l.
B.O.D. 3 days 27 °C	Not to exceed	100 mg/l.

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- vii) Non-Hazardous Solid Waste :
- | Type of Waste | Quantity | Treatment | Disposal |
|---------------|----------|-----------|----------|
|---------------|----------|-----------|----------|

-- -- -- --

- viii) Other Conditions : --

4. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) & Cess Amendment Act, 2003 and Rules made thereunder (if applicable). The industry falls in -- category of the Cess Act and the rules made thereunder.

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- 5) Growing of a green belt along the periphery.

(409) *[Signature]*
28/1/15

: 3 :

(l) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

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- v) Whenever due to any accident or other unforeseen act or event, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith reported to Board, concerned Police Station, Office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.
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- 1) The industry shall not cause any nuisance to the surrounding area.
 - 2) The industry shall monitor the stack and/or ambient air quality regularly.
 - 3) The site shall be located at about 1.0 km. away from Solapur-Dhule National Highway and about 3.0 km. away from village Khed.

Q69
28/1/15

: 4 :

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i) The applicant shall handle hazardous waste as specified below :

Sr.No.	Waste Category No.	Type of Waste	Quantity
--------	--------------------	---------------	----------

The industry shall not generate any hazardous waste.

ii) Treatment :-

--

ii) The authorisation is hereby granted to operate facility of collection, storage, transport and disposal of hazardous waste.

7. The applicant shall comply with the General Conditions as stipulated under Annexure-I enclosed.

8. The capital investment of the plant is **Rs. 8.04 Cr. Only.**

(P.M. Joshi)
Regional Officer.

(When consent issuing authority is other than Member Secretary), state -

Name	:	P.M. Joshi.
Designation	:	Regional Officer.
Office Address	:	Regional Office, Maharashtra Pollution Control Board, Paryavaran Bhavan, Plot No. A-4/1, MIDC Area Chikalthana, Behind Daynik Lokpatra Near Seth Nandlal Dhoot Hospital, Jalna Road, Aurangabad-431 210.

To,

**M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 264/1, 263, 264/2, At Khed,
Tq. & Dist: Osmanabad.**

Copy submitted to :-

1. The Member Secretary, MPCB, Mumbai.

Copy f.w.cs. to :-

1. The Chief Accounts Officer, MPCB, Mumbai.

Consent fees of **Rs. 25100/-** received vide

D.D. No. **565279** dated **25/11/2014**

Drawn on **State Bank of India.**

Copy forwarded to :-

1. The Sub-Regional Officer, MPCB, **Latur.**

Copy to Cess Wing/Statistical Wing/Air Wing/HWMH Wing, MPCB, Mumbai.

T.C.

[Handwritten Signature]



Application for Consent/ Authorisation

Sir,
I/We hereby apply for*

1. Consent to Establish/Operate/Renewal of consent under section 25 and 26 of the Water (Prevention & Control of Pollution) Act, 1974 as amended.
2. Consent to Establish/Operate/Renewal of consent under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended.
3. Authorization/renewal of authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 in connection with my/our/existing/proposed/altered/ additional manufacturing/processing activity from the premises as per the details given below.

Consent Information

UAN No: MPCB-CONSENT-0000078708
Application submitted on: 19-08-2019

Industry Information

Consent To: Renewal (Normal)	IIN No.: 0	Submit to: SRO - Latur	
Type of Institution: Industry	Industry Type: O37 Hot mix plants	Category: Orange	Scale: S.S.I
EC Reqd. No	EC Obtained No	EC Ref. No. -	
Whether construction-buildup area is more than 20,000 sq.mtr.(Existing Expansion Unit)		No	

General Information

1. Name, designation, office address with Telephone/Fax numbers, e-mail of the Applicant Occupier/Industry/Institution / Local Body.

Name ajay p deshmkh	Address sr no 89 at washi tq. washi dist osmanabad
Designation director	Taluka washi
Area osmanabad	District Osmanabad
Telephone 7767809257	Fax NA
Email	Pan Number

T.C.

(Signature)

2. (a) Name and location of the industrial unit/premises for which the application is made (Give revenue Survey Number/Plot number name of Taluka and District, also telephone and fax number)

Industry name

Modern Road Makers Pvt Ltd

Location of Unit

Gat No. 264,263 At, Khed

Survey number/Plot Number

Gat No. 264,263 At, Khed

Taluka

OSMANABAD

District

Osmanabad

(b) Details of the planning permission obtained from the local body/Town and Country Planning authority/Metropolitan Development authority/ designated Authority.

Planning permission

Gram Panchyat, Khed

Planning Authority

Gram Panchyat, Khed

Name of the local body under whose jurisdiction the unit is located and Name of the licence issuing authority

Name of Local Body

Gram Panchyat, Khed

Name of the licence issuing authority

Gram Panchyat, Khed

3. Names, addresses with Telephone and Fax Number of Managing Director / Managing Partner and officer responsible for matters connected with pollution control and/or Hazardous waste disposal.

Name of Managing Director

Girish S. Gadikar

Telephone number

7767809257

Fax number

0

Officer responsible for day to day business

7

4. (a.) Are you registered Industrial unit ?

No

Registration number

270291203308

Date of registration

Sep 1, 2014

5. Gross capital investment of the unit without depreciation till the date of application (Cost of building, land, plant and machinery). (To be supported by an affidavit/undertaking on Rs.20/- stamp paper, annual report or certificate from a Chartered Accountant for proposed unit(s), give estimated figure)

Gross capital (in Lakh)

804.00

*** Verified**

CA Certificate

*** Terms**

1

*** Consent Fee**

25000.00

6. If the site is located near sea-shore/river bank/other water bodies/Highway, Indicate the crow fly distance and the name of the water body, if any.

Distance From	Distance(Km)	* Name
SH/NH	3.00	--NA--
River	0.00	--NA--
Human Habitation	0.00	--NA--
Religious Place	0.00	--NA--
Historical Place	0.00	--NA--
Creek/Sea	0.00	--NA--

6b. Enter Latitude and Longitude details of site

Latitude

0

Longitude

0

7. Does the location satisfy the Requirements Under relevant Central/State Govt. Notification such as Coastal Regulation Zone. Notification on Ecologically Fragile Area, Industrial Location policy, etc. If so, give details.

Location	Approved Industry Area	Sensitive Area	If Yes, Name Of Area	Industry Location with Reference to CRZ
0	No	No	0	A1

8. If the site is situated in notified industrial estate,

		Details
(a) Whether effluent collection, treatment and disposal system has been provided by the authority.	No	0
(b) Will the applicant utilize the system, if provided.	No	0
(c) If not provided, details of proposed arrangement.	0	

9.

(a) Total plot area (in square meter)	(b) Built up area and (in square meter)	(c) Area available for the use of treated sewage/ trade effluent for gardening/irrigation. (in square meter)
18000	5000	13000

10. Month and year of commissioning of the Unit.

2014-09-01

11. Number of workers and office staff

Workers	staff	Hrs. of shift	Weekly off
25	3	8	SUNDAY

12.

(a) Do you have a residential colony Within the premises in respect of Which the present application is Made ?	No	0	
(b) If yes, please state population staying			
Number of person staying	Water consumption	Sewage generation	Whether is STP provided?
0	0	0	No
(c) Indicate its location and distance with reference to plant site.			
Number of person staying	Water consumption		
0	0		

13. List of products and by-products Manufactured in tonnes/month, Kl/month or numbers/month with their types i.e.Dyes, drugs etc. (Give figures corresponding to maximum installed production capacity)

Products Name and Quantity

Product Name	UOM	Product Name	Existing	Consented	Proposed Revision	Total	Remarks
OTHERS	MT/M	Hot Mix	0	10000	0	10000	0
OTHERS	MT/M	Ready Mix Concrete	0	3000	0	3000	0

NA

--NA--

0

NA

14. List of raw materials and process chemicals with annual consumption corresponding to above stated production figures, in tonnes/month or kl/month or numbers/month.

Name of Raw Material	UOM	Quantity	Hazardous Waste	Hazardous Chemicals	Remarks
Damber	Kg/M	80000	No	No	0
Cement	MT/M	3	No	No	0

15. Description of process of manufacture for each of the products showing input, output, quality and quantity of solid, liquid and gaseous wastes, if any from each unit process.

NA

Part B : Waste Water aspects

16. Water consumption for different uses (m3/day)

Purpose	Consumption	Effluent Generation	Treatment	Remarks	Disposal	Remarks
Domestic Pourpose	0.5	0.4	Septic Tank & Soak Pit	NA	On Land for Gardening	NA
Water gets Polluted & Pollutants are Biodegradable	2	2	Primary + Secondary	NA	On Land for Gardening	NA
Water gets Polluted, Pollutants are not Biodegradable & Toxic	0	0	--NA--	NA	--NA--	NA
Industrial Cooling, spraying in mine pits or boiler feed	0	0	--NA--	NA	--NA--	NA
Others	0					

17. Source of water supply, Name of authority granting permission if applicable and quantity permitted.

Source of water supply	Name of authority granting permission	Quantity permitted
bore welll	Gram Panchyat, Khed	6

18. Quantity of waste water (effluent) generated (m3/day)

Domastic	Boiler Blowdown	Industrial	Cooling water blowdown
0.4	0	0	0
Process	DM Plants/Softening	Washing	Tail race discharge from
0	0	0	0

* 19. Water budget calculations accounting for difference between water consumption and effluent generated.

0

20. Present treatment of sewage/canteen effluent (Give sizes/capacities of treatment units).

Treatment unit	Size (mxm)	Retention time (hr)
0	0	0

21. Present treatment of trade effluent (Give sizes/capacities of treatment units) (A schematic diagram of the treatment scheme with inlet/outlet characteristics of each unit operation/process is to be provided. Include details of residue Management system (ETP sludges)

Capacity of ETP (m3/day)

0

Treatment unit	Size (mxm)	Retention time (hr)
0	0	0

22.

(i) Are sewage and trade effluents mixed together? No

If yes, state at which stage-Whether before, intermittently or after treatment. 0

23. Capacity of treated effluent sump, Guard Pond if any.

Capacity of treated effluent sump (m3) 0

Effluent sump/Guard pond details No 0

If yes, state at which stage-Whether before, intermittently or after treatment. No 0

24. Mode of disposal of treated effluent With respective quantity, m3/day

(i) into stream/river (name of river)	0	(ii) into creek/estuary (name of Creek/estuary)	0
(iii) into sea	0	(iv) into drain/sewer (owner of sewer)	0
(v) On land for irrigation on owned land/ase land. Specify cropped area.	0	(vi) Connected to CETP	0
(vii) Quantity of treated effluent reused/ recycled, m3/day Provide a location map of disposal arrangement indicating the outler(s) for sampling. Treated effluent reused / recycled (m3/day)	0		

25. (a) Quality of untreated/treated effluents (Specify pH and concentration of SS, BOD,COD and specific pollutants relevant to the industry. TDS to be reported for disposal on land or into stream/river.

Untreated Effluent

pH	0	
SS (mg/l)	0	
BOD (mg/l)	0	
COD (mg/l)	0	
TDS (mg/l)	0	
Specific pollutant if any	Name	Value
1	1	0

SS (mg/l) 0

BOD (mg/l) 0

COD (mg/l) 0

TDS (mg/l) 0

Specific pollutant if any	Name	Value
1	0	0

(b) Enclose a copy of the latest report of analysis from the laboratory approved by State Board/ Committee/Central Board/Central Government in the Ministry of Environment expected characteristics of the untreated/treated effluent

0

26. Fuel consumption

Fuel Type	UOM	Fuel Consumption TPD/LKD	Calorific value
Briquettes	MT/M	1500	0
Ash content	Sulphur content	Quantity	Other (specify)
0	0	1	0

27. (a) Details of stack (process & fuel stacks: D. G.)

(a) Stack number(s)	(b) Stack attached to	(c) Capacity	(d) Fuel Type
1	chimny	1	Diesel
(e) Fuel quantly (Kg/hr.)	(f) Material of construction	(g) Shape (round/rectangular)	(h) Height, m (above ground level)
150	MS	ROUND	10
(i) Diameter/Size, in meters	(j) Gas quantity, Nm ³ /hr.	(k) Gas temperature °C	(l) Exit gas velocity, m/sec.
0.5	0	0	0
(m) Control equipment preceding the stack	(n) Nature of pollutants likely to present in stack gases such as Cl ₂ , Nox, Sox TPM etc.	(o) Emissions control system provided	(p) In case of D.G. Set power generation capacity in KVA
0	0	0	0

27. (B) Whether any release of odoriferous compounds such as Mercaptans, Phorate etc. Are coming out from any storages or process house.

0

28. Do you have adequate facility for collection of samples of emissions in the form of port holes, platform, ladder/etc. As per Central Board Publication "Emission regulations Part-III" (December, 1985)

Port hole	No	Details	0
Platform	No	Details	0
Ladder	No	Details	0

29. Quality of treated flue gas emissions and process emissions. Quantity of treated flue gas emissions and process emissions.

Sr. No	Stack attached to	Parameter	Concentration mg/Nm ³	flow (Nm ³ /hr)
1	0	0	0	0

(Specify concentration of criteria pollutants and industry/process-specific pollutants stack-wise. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Government in the Ministry of Environment & Forests. For proposed unit furnish expected characteristics of the emissions..

0

Part - D: Hazardous Waste aspect

30. Information about Hazardous Waste Management as defined in Hazardous Waste (Management & Handling) Rules, 1989 as amended in Jan.,2000. Type/Category of Waste as per

Waste (Annually) Schedule I

Cat No	Type	Qty	UOM
NA		0	--NA--
Max	Method of collection	Method of reception	Method of storage
	NA	NA	NA
Method of transport	Method of treatment	Method of disposal	
NA	NA	NA	

Waste (Annually) Schedule II

31. Details about use of hazardous waste

Name of hazardous waste/Spent chemical	Quantity used/month	Party from whom purchased	Party to whom sold
NA	0	0	0

32.

a. Details about technical capability and equipments available with the applicant to handle the Hazardous Waste

0

b. Characteristics of hazardous waste(s) Specify concentration of relevant pollutants. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Govt. in the ministry of Environment & Forests. For proposed units furnish expected characteristics

0

33.

Copy of format of manifest/record Keeping practiced by the applicant.

0

34.

Details of self-monitoring (source and environment system)

0

35.

Are you using any imported hazardous waste. If yes, give details.

0

36.

Copy of actual user Registration/certificate obtained from State Pollution Control Board/Ministry of Environment & Forests, Government of India, for use of hazardous waste.

37.

Present treatment of hazardous waste, if any (give type and capacity of treatment units)

0

38. Quantity of hazardous waste disposal

(i) Within factory

0

(ii) Outside the factory (specify location and enclose copies of agreement.)

0

(iii) Through sale (enclosed documentary proof and copies of agreement.)

0

(iv) Outside state/Union Territory, if yes particulars of (1 & 3) above.

0

(v) Other (Specify)

0

Part - E: Additional information

39.

a. Do you have any proposals to upgrade the present system for treatment and disposal of effluent/emissions and/or hazardous waste.

0

b. If yes, give the details with time- schedule for the implementation and approximate expenditure to be incurred on it.

0

40.

Capital and recurring (O & M) expenditure on various aspect of environment protection such as effluent, emission, hazardous waste, solid waste, tree- plantation, monitoring, data acquisition etc. (give figures separately for items implemented/to be implemented).

0

41.

To which of the pollution control equipment, separate meters for recording consumption of electric energy are installed

0

42.

Which of the pollution control items are connected to D.G. Set (captive power source) to ensure their running in the event of normal power failure

0

43. Nature, quantity and method of disposal of non- hazardous solid waste generated separately from the process of manufacture and waste treatment. (Give details of area/capacity available in applicant's land)

Type	Quantity	UOM	Treatment	Disposal	Other Details
0	0	--NA--	0	0	0

0

(ii) Is the unit an isolated storage as defined under the MSIHC Rules ?

0

(iii) Indicate status of compliance of Rules 5,7,10,11,12,13 and 18 of the MSIHC Rules.

0

(iv) Has approval of site been obtained from the concerned authority?

0

(v) Has the unit prepared an off-site Emergency Plan? Is it updated ?

0

(vi) Has information on imports of chemicals been provided to the concerned authority?

0

(vii) Does the unit possess a policy under the PLI Act?

0

45. Brief details of tree plantation/green belt development within applicant's premises (in hectares)

Open Space Availability	Plantation Done On	Number of Trees Planted
1000 Square meter	500 Square meter(50 %)	200

46.

Information of schemes for waste Minimization, resource recovery and recycling - implemented and to be implemented, separately.

0

47.

(a) The applicant shall indicate whether Industry comes under Public Hearing, if so, the relevant documents such as EIA, EMP, Risk Analysis etc. shall be submitted, if so, the relevant documents enclosed shall be indicated accordingly.

0

(b) Any other additional information that the applicants desires to give

0

(c) Whether Environmental Statement submitted ? If submitted, give date of submission.

0

48.

I/We further declare that the information furnished above is correct to the best of my/our knowledge.

49.

I/We hereby submit that in case of any change from what is stated in this application in respect of raw materials, products, process of manufacture and treatment and/or disposal of effluent, emission, hazardous wastes etc. In quality and quantity; a fresh application for Consent/Authorization shall be made and until the grant of fresh Consent/Authorization no change shall be made.

50.

I/We undertake to furnish any other information within one month of its being called by the Board

Yours faithfully

Signature : Giresh S Gadikar

Name : Giresh S Gadikar

Additional Information

Air Pollution

Sr No.	Air Pollution Source	Pollutants	APCS Provided	Remark
1	Screen & Jaw	SPM	screen is covered by tin sheet & Water sprinkler	NA

Separate EM Provided	No	Other Emission Sources	na
Measures Proposed	NA	Foul Smell Coming Out	No
Air Sampling Facility Details	na		

D.G. Set Details

Description	Capacity(KVA)	Remarks
1	750	NA
2	2000	NA
3	1000	NA

Hazardous Waste Generation

Hazardous Waste	Quantity	UOM	Treatment	Disposal	Other Details
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CHWTSDF Details

Member of CHWTSDF	CHWTSDF Name	Remarks
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Cess Details

Cess Applicable	Cess Paid	If Yes, UpTo
No	No	Jan 1 1900 12:00:00:000AM

Legal Actions

Legal Action Taken	Legal Record Of Company	Legal Action Details	Remarks
No			

MAHARASHTRA POLLUTION CONTROL BOARD

Tel. : (0240) 2473461 / 62 / 63
 Email : roaurangabad@mpcb.gov.in
 sroaurangabad1@mpcb.gov.in



Regional Office :
 Paryavaran Bhavan,
 Plot No. A - 4/1, MIDC, Chikalthana,
 Near Dhoot Hospital, Jalna Road,
 Aurangabad - 431 210.

By R.P.A.D./FAX/HAND DELIVERY:

No. MPCB/ROA/ID/ /2019

To,

1911050004

M/s. Modern Road Makers Pvt. Ltd.,
 Gat No. 264/1, 263, 264/2, At Khed,
 Tq. & Dist: Osmanabad.

Date :- 05/11/2019

Sub:- **Interim Directions under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.**

Ref.:- 1) Proposed Direction issued by this office vide letter No. MPCB/ROA/PD/1910230005/2019 dated 23/10/2019.
 2) Personal hearing extended on 04/11/2019.

This refers to the Proposed Direction issued by this office vide letter referred above (1) and subsequent to the personal hearing extended on 04/11/2019. As agreed by your representative during the personal hearing, you are hereby directed to comply with the followings:

- 1) The project proponent as assured during personal hearing shall not operate Stone Crusher and RMC plant henceforth.
- 2) The project proponent shall install scrubbing system at Hot Mix Plant before restart of said plant.
- 3) The project proponent shall install water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant.
- 4) The project proponent shall repair the metallic road within premises before restart of said plant.
- 5) The project proponent shall do the adequate plantation before restart of said plant.
- 6) The project proponent shall submit Bank Guarantee of Rs. 1 Lakhs towards the compliance of above directions within 15 days period.

In case, you fail to comply with the above directions, the Board will have no any other option than to issue Closure Directions with disconnection of electricity and water supply of your unit, which may be noted.


 (A.D. Mohekar)
 Regional Officer-Aurangabad.

Copy submitted to :-

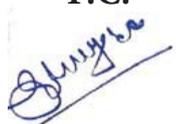
1. The Joint Director (APC), MPCB, Mumbai.
2. The Sr. Law Officer (P & L Div), MPCB, Mumbai.

Copy for information and necessary follow-up action to :

1. The Sub-Regional Officer, MPCB, Latur shall verify the operation status of above plant and as per number of days of non-compliance observed & calculate Environmental compensation and submit the office note of the same within 4 days period for onward submission for approval.

Copy to Master File, MPCB, Aurangabad.

T.C.



**MAHARASHTRA POLLUTION CONTROL BOARD
SUB-REGIONAL OFFICE, LATUR**

Tel. No. 02382-252672



Dev Towers, Opp. Tehsil Office,
Plot No. RL - 2045, Barshi Road,
Latur-413512

No. MPCB/SROND/TB- 14

Dtd. 15/01/2020

To,
The Regional Officer,
Regional Office, M. P. C. Board,
Aurangabad.

Sub- Present status report & compliance report as per NGT order dated 14.11.2019 in O A No 59/2019 in respect of M/s. Modern Road Makers Pvt. Ltd. Gat No 263, 264/1, 264/2, At Khed, Tal and Dist. Osmanabad.

Ref: 1. Visit paid on 10-01-2020 in accordance to Interim directions issued vide number MPCB/ROA/ID/1911050004/2019 dated 05-11-2019.
2. NGT order dated 14.11.2019 in OA No 59/2019
3. Field officer visit to unit dated 10-01-2020

Sir,

With reference to above subject matter submitting herewith the report of M/s. Modern Road Makers Pvt. Ltd. gat no 263, 264/1, 264/2 at Khed, Tal and Dist Osmanabad, as below-

- 1) During visit dated 10-01-2020 Stone crusher, Hot Mix and RMC plant was not found in operation. Industry official reported that plants are not operational due to non-requirement of product at dedicated project site and hence the interim directions noncompliance is still there as it is.
- 2) During visit the operational status of Plants as per the record produced by unit representative is re-verified also discussed with the representative and learnt that the plant is non-complied since 05-08-2019 to till the issuance of Interim direction to unit on 05-11-2019 i.e. 93 days are the violating days for calculation of Environmental compensation.
- 3) The Environmental Compensation calculated is Rs 5,81,250/- and is on the basis of formula:- $EC = PI \times N \times R \times S \times LF$

(PI = 50 as all the units falls in Orange category as per CPCB categorization, N = 93 Number of days violation, R = Rs 250, S = 0.5 as all units are small scale, LF = 1.00 as the units are located more than 10 km from municipal boundary of the city / town)

(EC = Environmental Compensation, 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)



TRUE COPY

T.C.

[Handwritten signature]

MAHARASHTRA POLLUTION CONTROL BOARD
SUB-REGIONAL OFFICE, LATUR



Dev Towers, Opp. Tahsil Office,
Plot No. RL - 2045, Barshi Road,
Latur-413512

INSPECTION REPORT

Name of Industry: M/s. Modern Road Makers Pvt Ltd.
Cpt No. 264/1, 263, 264/2, At Khed
Tal and Dist - Osmanabad.

Date of Visit : 10-01-2020.

Industry Officials: Mr. Nilkanth Jathar, Plant Incharge

Observations : Visit paid in accordance to Intels direction vide number MPCB/ROA/ID/1911050004/2019 dated 05-11-2019, following & NGT OA No. 59/2019, following observation were as made.

1) During visit stone crusher, Hot mix plant and RMC plant was not found in operation. Industry official reported that plants are not operational due to non-requirement of product at dedicated project site and the Intels direction non-compliance is still there as it is.

2) During visit the operational status of plants as per record produced by unit representative is re-verified also discussed with the representative and learnt that the plant is non-complied since 05-08-2019 to till the issuance of Intels direction to unit on 05-11-2019 i.e. 93 days are the violating days for calculation of Environmental Compensation.

3) The Environmental Compensation calculated is Rs. 5,81,250/- and is on the basis of formula

P.T.O.



EC = PI X N X R X S X LF which is given by RO office, Bulangabad and calculated as below.

(PI = 50 as all the units falls in Orange category as per CPCB categorization, N = 93 Number of days violation, R = Rs. 250, S = 0.5 as all units are small scale, LF = 1.00 as the units are located more than 10 km (approx) from municipal boundary of the city/town.

(EC = Environmental Compensation, 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)

4) The instructions are given as per Interim Direction to not to start the plant before fulfillment of Interim Direction.

5) This visit report has been made in presence of Mr. Nilkanth Jathar

(Signature)

(Nilkanth Jathar)
Plant Incharge

(Signature)

(Darsewad N.P.)
Field officer,
M.P.C.B. SRO, Latur

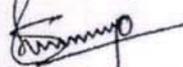


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- 4) The instructions are given as per Interim directions to not to start the plant before fulfilment of Interim directions.

D/a - Visit report copy

Yours Faithfully


Sub Regional Officer,
M. P. C. Board, Latur.

Copy submitted for information to-
Joint Director (APC), MP C Board, Mumbai.



T.C.



390-A

RETYPED

INSPECTION REPORT

Name of Industry : M/s. Modern Road Makers Pvt. Ltd.
Gat No. 264/1 ,263, 264/2, At Khed Tal and Dist – Osmanabad

Date of Visit : 10-01-2020

Industry Officials : Mr. Nilkanth Jathar, Plant Incharge

Observations : Visit paid in accordance to Interim Direction vide number MPCB/ROA/ID/1911050004/2019 dated 05-11-2019 and NGT OA No. 59/2019, following observations are made

1. During visit Stone crusher, Hot mix plant and RMC plant was not found in operation. Industry official reported that plants are not operational due to non-requirement of product at dedicated project site and the Interim direction non compliance is still there as it is.
2. During visit the operational status of plants as per record produced by unit representative is reverified also discussed with the representative and learnt that the plant is non-complied since 05-08-2019 to till the issuance of Interim direction to unit on 05-11-2019 i.e. 93 days are the violating days for calculation of Environmental Compensation.
3. The Environmental Compensation calculated is Rs. 5,81,250/- and is on the basis of formula $EC = PI \times N \times R \times S \times LF$ which is given by RO office, Aurangabad and calculated as below.
(PI = 50 as all the units falls in Orange category as per CPCB categorization, N = 93 Number of days violation, R = Rs. 250,

390-B

3 = 0.5 as all units are small scale, LF = 1.00 as the units are located more than 10 km (approx) from municipal boundary of the city/ town.

(EC = Environmental Compensation, 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)

4. The instructions are given as per Interim Direction to not to start the plant before fulfilment of Interim Direction.
5. This visit report has been made in presence of Mr. Nilkanth Jathar.

(Nilkanth Jathar)

Plant Incharge

(Darsewad N.P.)

Field officer
M.P.C.B. SRO,
Latur

MAHARASHTRA POLLUTION CONTROL BOARD

Tel.No. (0240) 2473462
Fax No. (0240) 2473461



Regional Office, Paryavaran Bhavan,
A-4/1, MIDC Area, Chikalthana,
Behind Daynik Lokpatra, Near Seth
Nandlal Dhoot Hospital, Jalna Road,
Aurangabad-431 210.

By FAX/R.P.A.D./HAND DELIVERY:

No. MPCB/ROA/DIREC/399/2020

Date:- 18/02/2020

To,
M/s.Modern Road Makers Pvt. Ltd.,
Gat No. 264/1, 263, 264/2, At Khed,
Tq. & Dist: Osmanabad.

NOTICE

Sub:- Environmental compensation by invoking the 'Polluter Pays' principal for air pollution control measures noncompliance reg...

- Ref:- 1) Order dated 14/11/2019 passed by the Hon'ble National Green Tribunal, in O.A. No. 59/2019.
2) Interim Directions issued by this office vide letter No MPCB/ROA/ID/1911050004/2019 Dt- 05.11.2019.
3) Report received from Sub-Regional Officer, MPCB, Latur dated-15.01.2020.
4) Approval received from Authorities for issuance of notice over telephone & SMS dated-18.02.2020.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi has passed an order on 14/11/2019 in O.A. No. 59/2019 filed by Sakharam Asaram Kale & Others v/s. The Regional Officer, M P C Board & Others for the reason of non-compliance of the Consent conditions issued by the M P C Board & Environmental Clearance issued by MoEF & CC.

Now, it is to inform you that the Sub-Regional Officer of the Board at Latur reported vide above reference (3) that you are operating hot mix plant and you have not installed scrubbing system at Hot Mix Plant, not provided water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant, not repaired the metallic road within premises and not done the adequate plantation in the premises and this noncompliance is observed from the recent visit dated-05.08.2019 of official of Sub Regional Office at Latur to your unit. So till the issuance of directions vide ref. 2) dated-05.11.2019 total number of days violations are 93 days.

In view of above you are hereby directed to pay an amount of Rs 5,81,250/- (Rs Five lacs eighty one thousand two hundred fifty only) **Environmental compensation** assessed on 'Polluter Pays' principal for air pollution control measures noncompliance and formula framed by CPCB for calculation of Environmental compensation. The Environmental compensation has been assessed on the record produced by Sub Regional Officer at Latur to comply with the order passed by the Hon'ble National Green Tribunal.

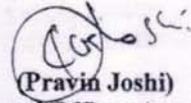
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T.C.

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The Environmental compensation of Rs 5,81,250/-may kindly be deposited in favor of Regional Officer, M P C Board, and Aurangabad at the earliest.


(Pravin Joshi)

Regional Officer-Aurangabad.

Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.

Copy to :

1. The Sub-Regional Officer, MPCB, Latur- for information and necessary follow-up.

18/11/20



T.C.

Sharma

MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0240-2473461

Fax : 0240-2473462

Email : roaurangabad@mpcb.gov.in

Visit At : <http://mpcb.gov.in>



Paryavaran Bhavan, A - 4/1, MIDC Area,
Chikalthana, Near Seth Nandlal Dhoot Hospital,
Jalna Road,
Aurangabad - 431210

Ax. R2.1

Green/SSI

Date: 27/11/2015

EIC No. AD-

Consent No: MPCB/SROA/ABD/LG/E-25/98/CC- 355/892/15

Consent to Establish under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundary Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

CONSENT is hereby granted to

M/s. Modern Road Maker Pvt. Ltd.,
Sr. No. 174, Village Murma,
Tal. Paithan Dist. Aurangabad.

located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW(M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

- The Consent to Establish is granted for a period up to: Commissioning of the unit OR Five years whichever is earlier.
- The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity
1	Ready Mix Concrete	30000 MT/M
(Without use of asbestos & any chemical process)		

3. CONDITIONS UNDER WATER ACT:

- The daily quantity of trade effluent from the factory shall be 0.3 M³
- The daily quantity of sewage effluent from the factory shall not exceed 2.5 M³

(iii) Trade Effluent :

Treatment: The applicant shall provide comprehensive treatment system consisting of primary / secondary and/or tertiary treatment as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of the treated effluent to the following standards:

(iv) Trade Effluent Disposal: -----Nil-----

- Sewage Effluent Treatment:** The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1) Suspended Solids Not to exceed 100 mg/l.



Shriya

(2) BOD 3 days 27o C. Not to exceed 100 mg/l.

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
	Nil	Nil			

(viii) **Other Conditions:** Industry should monitor effluent quality regularly.

4. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under

The daily water consumption for the following categories is as under:

(i) Domestic	...	2.0	CMD
(ii) Industrial Processing	...	0.5	CMD
(iii) Industrial Mixing	...	0.00	CMD
(iv) Cooling / Gardening	...	0.00	CMD

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

5. CONDITIONS UNDER AIR ACT:

(i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

(a) **Control Equipment :** Air pollution control equipments of adequate capacity shall be provided at all sources to limit the emissions.

(b) **Standards for Emissions of Air Pollutants :**

(i) SPM/TPM	Not to exceed	150 mg/Nm ³
(ii) SO ₂	Not to exceed	-- Kg/Day.

(c) **The applicant shall observe the following fuel pattern :-**

Sr.No.	Type of Fuel	Quantity
	Nil	

(d) **The applicant shall erect the chimney(s) of the following specifications :-**

Sr.No.	Chimney attached to	Height in Mtrs.
	Nil	

(e) **Other Conditions:**

- 1) The industry should not cause any nuisance in surrounding area.
- 2) The industry should monitor stack emissions and ambient air quality regularly.

6. CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDARY MOVEMENT) RULES, 2008 :



(i) The applicant shall handle hazardous wastes as specified below:

Sl.	Item No. as per Sch-I	Type of Waste	Quantity	Disposal
No any Haz waste generation				

(ii) Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.

7. Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by he applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipments provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. **The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.**
- viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as pre the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- ix. As inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
- xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the



- pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.
- xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.
8. The Capital investment of the industry is Rs.131.00 Lacks only.
9. Industry shall obtain the consent to Operate before commencement of production activity.
10. The Board reserves the right to revoke change Or alter the terms & conditions of this consent.

For and on behalf of the
Maharashtra Pollution Control Board

(A. N. Katole)
SRO Aurangabad



To,
M/s. Modern Road Maker Pvt. Ltd.,
Sr. No. 174, Village Murma,
Tal. Paithan Dist. Aurangabad.

Copy submitted to:

1. Regional Officer, Aurangabad.
2. Chief Account Officer, M.P.C. Board, Mumbai
3. Cess Department, M.P.C. Board, Mumbai.
4. Master file.

Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	15100/-	249404	29/09/2015	SBI Bank

MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0240-2473461/62/63

Fax : 0240-2473462

Email : roaurangabad@mpcb.gov.
in



Regional Office:

Paryavaran Bhavan, Plot No.A-4/1,MIDC
Chikalthana, Behind Dainik Lokpatra, Near Seth
Nandlal Dhoot Hospital Jalna Road,Aurangabad-
431210

Ax. R2.2

ORANGE/SSI

Date: 14/10/2016

Consent No: MPCB-16/1610000218

MPCB/ROA/ABD/E-25/98/E/O/C-735/519/2016

Consent to Operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundry Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

CONSENT is hereby granted to

M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 172 & 174, Village Murma,
Tq. Paithan,
Dist: Aurangabad.

Located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW (M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1)The Consent to Operate is granted for a period up to: 30/06/2019.

2)The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity	UOM
1	Crushed Stone Metal	30000	Brass/A
2	Hot Mix	20000	MT/M
3	Wet Mix	20000	MT/M
4	Ready Mix Concrete	30000	MT/M

3) CONDITIONS UNDER WATER ACT:

- The daily quantity of trade effluent from the factory shall be Nil
- The daily quantity of sewage effluent from the factory shall not exceed 1.5 M3.
- Trade Effluent : Nil
- Treatment: Nil
- Trade Effluent Disposal: NA
- Sewage Effluent Treatment: The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1) Suspended Solids Not to exceed 100 mg/l.

[Signature]
14/10

Page 1 of 6

T.C.

[Signature]

(2) BOD 3 days 27o C. Not to exceed 100 mg/l.

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
---------	---------------	----------	-----	-----------	----------

(viii) **Other Conditions:**

- 1) Industry should monitor effluent quality regularly.
- 2) The industry shall monitor the stack and ambient air quality regularly.
- 3) As per the board's circular no. BO/RO (P & P)/TB/B-779 dtd 06/07/2006, the indigenous varieties of trees like Bel, Shisham, Amla, Mango, Khair Hingan, Palash, Champa, Bakul, Vad, Biba, Pimpal, Neem, Chivel, etc. shall be planted over 33% of the available open land.

(4) The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under

The daily water consumption for the following categories is as under:

- | | | |
|---|-----|----------|
| (i) Domestic purpose | ... | 2.00 CMD |
| (ii) Water gets Polluted & Pollutants are Biodegradable | ... | 0.00 CMD |
| (iii) Water gets Polluted, Pollutants are not Biodegradable & Toxic | ... | 3.00 CMD |
| (iv) Industrial Cooling, spraying in mine pits or boiler feed | ... | 0.00 CMD |

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

(5) CONDITIONS UNDER AIR ACT:

- (i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

a. Control Equipment:

1. Industry shall provide dust collector of sufficient capacity to control the emissions.

b) *The suspended particulate matter contribution value at a distance of 3 to 10 meters from unit shall be less than 600 microgram/Nm³. These units must also adopt the following pollution control measures.*

1. *Dust containment cum suppression system for the equipments.*
2. *Construction of wind breaking walls.*
3. *Construction of the metalled roads within the premises.*
4. *Regular cleaning and wetting of the ground within the premises.*
5. *Growing of a green belt along the periphery.*



6. *Water sprinkling arrangement shall be provided and operated continuously.*

No stone crushing/hot mix activity will be allowed within 500 mtrs. From National Highway, 200 mtrs. From State Highway and 100 mtrs. From other roads such as major district road, other district road or village roads. Also crusher shall be located 500 mtrs. Away from human habitation.

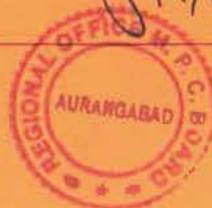
c) Control Equipment for Hot Mix Plant:-

1. *Drum mix machine shall be maintained with dust collector followed by scrubbing system of sufficient capacity to limit emissions.*
2. *Closed silo will be used for addition of cement in concrete making plant to avoid fugitive emission of particulate matter.*
3. *Water sprinkling arrangement at the vent (6 m height) is proposed for Hot Mix Plant before emitting flue gas through its vent with re-circulation system so as to avoid particulate matter emission.*
4. *Closed silo will be used for addition of dust at Wet Mix Macadam Plant to avoid fugitive emission of particulate matter.*
5. *Construction of the metallic roads within the premises.*
6. *Regular cleaning and wetting of the ground within the premises.*
7. *Growing of a green belt along the periphery.*

6. Conditions for D.G. Set

- a. *Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.*
- b. *Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.*
- c. *The industry shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise to less than 55 dB(A) during day time and 45 dB(A) during the night time. Day time is reckoned between 6 a.m. to 10 p.m and night time is reckoned between 10 p.m to 6 a.m.*
- d. *Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.*
- e. *Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.*
- f. *A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use*
- g. *D.G. Set shall be operated only in case of power failure*
- h. *The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.*

D. Singh
14/10



Standards for Stack Emissions:

- i) SPM --- Not to exceed 150µg/Nm³
 ii) SO₂ --- Not to exceed ---Kg/day

(i) **The applicant shall observe the following fuel pattern:-**

Sr. No.	Type Of Fuel	Quantity	UOM
1	LDO	280	Lit/Day.

(ii) **The applicant shall erect the chimney(s) of the following specifications:-**

Sr. No.	Chimney Attached To	Height in Mtrs.
1	Hot Mix Plant	11.
2	Scrubber	11
2	D.G. Set (750 KVA)	5 mtr.

- (iii) The applicant shall provide ports in the chimney(s) and facilities such as ladder, platform etc. for monitoring the air emissions and the same shall be open for inspection to/and for use of the Board's Staff. The chimney(s) vents attached to various sources of emission shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.
- (iv) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned in between 6 a.m. and 10 p.m. and night time is reckoned between 10 p.m. and 6 a.m.

(7) CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDARY MOVEMENT) RULES, 2008:

(i) The Industry shall handle hazardous wastes as specified below.

Sr. No.	Type Of Waste	Quantity	UOM	Disposal
The industry shall not generate any hazardous waste				

(ii) Treatment: - NIL

- a. Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.
- b. Industry shall obtain registration from CPCB as a re-refiner of Used oil having environmentally sound technology as per the provisions of Hazardous Waste (Management, Handling & Transboundary Movement) Rules 2008 before commencement of production.
- c. The unit has to display and maintain the data online outside the factory main gate in Marathi & English both on a 6'x4' display board in the



manner and the report of the compliance along with photograph shall be submitted to this office & concerned Regional Office/ Sub Regional Office.

- d. It shall be ensured that the Hazardous waste is handled, managed & disposed of strictly in accordance with the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 and shown & submitted to the Board as & when asked for.

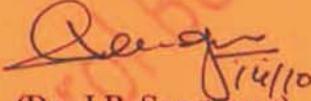
(8) Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipment's provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. **The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.**
- viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as per the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- ix. An inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
- xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.



- xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.
- 9) This Consent shall not be construed any relaxation from obtaining necessary No Objection Certificate from other Government Agencies as may deemed fit necessary.
- 10) The Capital investment of the industry is Rs. 845.50 Lakh Only.
- 11) The Board reserves the rights to add/amend/revoke any condition in this consent and the same shall be binding on the applicant .

For and On Behalf of the
Maharashtra Pollution Control Board.


(Dr. J.B. Sangewar)

Regional Officer, Aurangabad.

To,

M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 172 & 174, Village Murma, Tq. Paithan,
Dist: Aurangabad.



Copy submitted to :-

1. The Member Secretary, MPCB, Mumbai.

Copy f.w.cs. to :-

1. The Chief Accounts Officer, MPCB, Mumbai.

Copy forwarded to :-

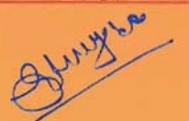
1. The Sub-Regional Officer, MPCB, Aurangabad.

Copy to Cess Wing/Statistical Wing/Air Wing/HWMH Wing, MPCB, Mumbai.

Copy to Master file.

Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	75100/-	688343	28/06/2016	S.B.I.



**Application for Consent/ Authorisation**

Sir,
I/We hereby apply for*

1. Consent to Establish/Operate/Renewal of consent under section 25 and 26 of the Water (Prevention & Control of Pollution) Act, 1974 as amended.
2. Consent to Establish/Operate/Renewal of consent under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended.
3. Authorization/renewal of authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 in connection with my/our/existing/proposed/altere/ additional manufacturing/processing activity from the premises as per the details given below.

Consent Information

UAN No: MPCB-CONSENT-0000072603
Application submitted on: 07-05-2019

Industry Information

Consent To: Renewal (Normal)	IIN No.: 0	Submit to: SRO - Aurangabad I	
Type of institution: Industry	Industry Type: 064 Stone crushers	Category: Orange	Scale: S.S.I
EC Reqd. No	EC Obtained No	EC Ref. No. -	
Whether construction-buildup area is more than 20,000 sq.mtr.(Existing Expansion Unit)		No	

General Information

1. Name, designation, office address with Telephone/Fax numbers, e-mail of the Applicant Occupier/Industry/Institution / Local Body.

Name Ravindra N Chore	Address Survey No.172,Vill.Murma
Designation GM	Taluka Paithana
Area Vill,Murma,Near Pachod.	District Aurangabad
Telephone 7767018267	Fax 0
Email npathak31@gmail.com	Pan Number AAACM3816F

2. (a) Name and location of the industrial unit/premises for which the application is made (Give revenue Survey Number/Plot number name of Taluka and District, also telephone and fax number)

Industry name
Modern Road Makers Pvt. Ltd.

Location of Unit
Village Murma

Survey number/Plot Number
Gat No. 172 & 174

T.C.

(b) Details of the planning permission obtained from the local body/Town and Country Planning authority/Metropolitan Development authority/ designated Authority.

Planning permission

Certificate of Incorporation

Planning Authority

Certificate of Incorporation

Name of the local body under whose jurisdiction the unit is located and Name of the licence issuing authority

Name of Local Body

Grampanchayat Murma

Name of the licence issuing authority

0

3. Names, addresses with Telephone and Fax Number of Managing Director / Managing Partner and officer responsible for matters connected with pollution control and/or Hazardous waste disposal.

Name of Managing Director

Ravindra N Chore

Telephone number

7767018267

Fax number

0

Officer responsible for day to day business

N. A. Pathak

4. (a.) Are you registered Industrial unit ?

No

Registration number

445203MH1994PTC077075

Date of registration

Mar 15, 1994

5. Gross capital investment of the unit without depreciation till the date of application (Cost of building, land, plant and machinery). (To be supported by an affidavit/undertaking on Rs.20/- stamp paper, annual report or certificate from a Chartered Accountant for proposed unit(s), give estimated figure)

Gross capital (in Lakh)

845.50

*** Verified**

CA Certificate

*** Terms**

1

*** Consent Fee**

25000.00

6. If the site is located near sea-shore/river bank/other water bodies/Highway, Indicate the crow fly distance and the name of the water body, if any.

Distance From

Distance From	Distance(Km)	* Name
SH/NH	4.00	Aurangabad-Solapur National Highway 211
River	40.00	Godavri
Human Habitation	3.00	
Religious Place	0.00	--NA--
Historical Place	0.00	--NA--
Creek/Sea	0.00	--NA--

6b. Enter Latitude and Longitude details of site

Latitude

0

Longitude

0

7. Does the location satisfy the Requirements Under relevant Central/State Govt. Notification such as Coastal Regulation Zone. Notification on Ecologically Fragile Area, Industrial Location policy, etc. If so, give details.

Location

0

Approved Industry Area

No

Sensitive Area

No

If Yes, Name Of Area

0

Industry Location with Reference to CRZ

8. If the site is situated in notified industrial estate,

Details

(a) Whether effluent collection, treatment and disposal system has been provided by the authority.	No	0
(b) Will the applicant utilize the system, if provided.	No	0
(c) If not provided, details of proposed arrangement.	0	

9.

(a) Total plot area (in square meter)	(b) Built up area and (in square meter)	(c) Area available for the use of treated sewage/ trade effluent for gardening/irrigation. (in square meter)
115582	33754	33754

10. Month and year of commissioning of the Unit.

2016-06-30

11. Number of workers and office staff

Workers	staff	Hrs. of shift	Weekly off
10	5	8	Sunday

12.

(a) Do you have a residential colony Within the premises in respect of Which the present application is Made ?	No	0	
(b) If yes, please state population staying			
Number of person staying	Water consumption	Sewage generation	Whether is STP provided?
0	0	0	No
(c) Indicate its location and distance with reference to plant site.			
Number of person staying	Water consumption		
0	0		

13. List of products and by-products Manufactured in tonnes/month, Kl/month or numbers/month with their types i.e.Dyes, drugs etc. (Give figures corresponding to maximum installed production capacity)

Products Name and Quantity

Product Name	UOM	Product Name	Existing	Consented	Proposed Revision	Total	Remarks
OTHERS	MT/M	Hot Mix	0	20000	0	20000	0
OTHERS	MT/M	Wet Mix	0	20000	0	20000	0
RMC	MT/M	Ready Mix	0	30000	0	30000	0
Stone Crushers	Brass/A	Crushed Stone Metal	0	30000	0	30000	0

Products Name and Quantity

Product Name	UOM	Quantity	Remarks
0	--NA--	0	0

14. List of raw materials and process chemicals with annual consumption corresponding to above stated production figures, in tonnes/month or kl/month or numbers/month.

Name of Raw Material	UOM	Quantity	Hazardous Waste	Hazardous Chemicals	Remarks
----------------------	-----	----------	-----------------	---------------------	---------

Rubble Stone Metal	Brass/A	31000	No	No	0
Bitumen & Khadi	MT/M	20500	No	No	0
Aggregates,Sand, Cement	MT/M	41000	No	No	0

15. Description of process of manufacture for each of the products showing input, output, quality and quantity of solid, liquid and gaseous wastes, if any from each unit process.

0

Part B : Waste Water aspects

16. Water consumption for different uses (m3/day)

Purpose	Consumption	Effluent Generation	Treatment	Remarks	Disposal	Remarks
Domestic Pourpose	2.0	1.5	Septic Tank & Soak Pit	0	On Land for Gardening	0
Water gets Polluted & Pollutants are Biodegradable	0	0	--NA--	0	--NA--	0
Water gets Polluted,Pollutants are not Biodegradable & Toxic	0	0	--NA--	0	--NA--	0
Industrial Cooling,spraying in mine pits or boiler feed	3.0	0	OTHERS	0	Others	0
Others	Gardening-0.5					

17. Source of water supply, Name of authority granting permission if applicable and quantity permitted.

Source of water supply	Name of authority granting permission	Qauntity permitted
Outsource Tanker	Outsource Tanker	2.0

18. Quantity of waste water (effluent) generated (m3/day)

Domastic	Boiler Blowdown	Industrial	Cooling water blowdown
0	0	0	0
Process	DM Plants/Softening	Washing	Tail race discharge from
0	0	0	0

* 19. Water budget calculations accounting for difference between water consumption and effluent generated.

0

20. Present treatment of sewage/canteen effluent (Give sizes/capacities of treatment units).

Capacity of STP (m3/day)

0

Treatment unit	Size (mxm)	Retention time (hr)
0	0	0

21. Present treatment of trade effluent (Give sizes/capacities of treatment units) (A schematic diagram of the treatment scheme with inlet/outlet characteristics of each unit operation/process is to be provided. Include details of residue Management system (ETP sludges)

Capacity of ETP (m3/day)

0

Treatment unit

Size (mxm)

Retention time (hr)

0

0

0

22.

(i) Are sewage and trade effluents mixed together?

No

If yes, state at which stage-Whether before, intermittently or after treatment.

0

23. Capacity of treated effluent sump, Guard Pond if any.

Capacity of treated effluent sump (m3) 0

Effluent sump/Guard pond details No

0

If yes, state at which stage-Whether before, intermittently or after treatment. No

0

24. Mode of disposal of treated effluent With respective quantity, m3/day

(i) into stream/river (name of river) 0

(iii) into sea 0

(v) On land for irrigation on owned land/ase land. Specify cropped area. 0

(vii) Quantity of treated effluent reused/ recycled, m3/day Provide a location map of disposal arrangement indicating the outler(s) for sampling. Treated effluent reused / recycled (m3/day) 0

(ii) into creek/estuary (name of Creek/estuary) 0

(iv) into drain/sewer (owner of sewer) 0

(vi) Connected to CETP 0

25. (a) Quality of untreated/treated effluents (Specify pH and concentration of SS, BOD,COD and specific pollutants relevant to the industry. TDS to be reported for disposal on land or into stream/river.

Untreated Effluent

pH 0

SS (mg/l) 0

BOD (mg/l) 0

COD (mg/l) 0

TDS (mg/l) 0

Specific pollutant if any **Name**

Value

1 0

0

Treated Effluent

pH 0

SS (mg/l) 0

BOD (mg/l) 0

COD (mg/l) 0

TDS (mg/l) 0

Specific pollutant if any	Name	Value
1	0	0

(b) Enclose a copy of the latest report of analysis from the laboratory approved by State Board/ Committee/Central Board/Central Government in the Ministry of Environment expected characteristics of the untreated/treated effluent

0

26. Fuel consumption

Fuel Type	UOM	Fuel Consumption TPD/LKD	Calorific value
LDO	Ltr/M	280	0
Ash content	Sulphur content	Quantity	Other (specify)
0	0	1	0

27. (a) Details of stack (process & fuel stacks: D. G.)

(a) Stack number(s)	(b) Stack attached to	(c) Capacity	(d) Fuel Type
1	Hot Mix Plant	160	LDO
(e) Fuel quantity (Kg/hr.)	(f) Material of construction	(g) Shape (round/rectangular)	(h) Height, m (above ground level)
9	MS	Round	11
(i) Diameter/Size, in meters	(j) Gas quantity, Nm ³ /hr.	(k) Gas temperature °C	(l) Exit gas velocity, m/sec.
0.5	0	0	0
(m) Control equipment preceding the stack	(n) Nature of pollutants likely to present in stack gases such as Cl ₂ , Nox, Sox TPM etc.	(o) Emissions control system provided	(p) In case of D.G. Set power generation capacity in KVA
0	0	Scrubber	0

27. (B) Whether any release of odoriferous compounds such as Mercaptans, Phorate etc. Are coming out from any storages or process house.

0

28. Do you have adequate facility for collection of samples of emissions in the form of port holes, platform, ladder\etc. As per Central Board Publication "Emission regulations Part-III" (December, 1985)

Port hole	No	Details	0
Platform	No	Details	0
Ladder	No	Details	0

29. Quality of treated flue gas emissions and process emissions. Quantity of treated flue gas emissions and process emissions.

Sr. No	Stack attached to	Parameter	Concentration mg/Nm ³	flow (Nm ³ /hr)
1	0	0	0	0

(Specify concentration of criteria pollutants and industry/process-specific pollutants stack-wise. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Government in the Ministry of Environment & Forests. For proposed unit furnish expected characteristics of the emissions..

0

Part - D: Hazardous Waste aspect

30. Information about Hazardous Waste Management as defined in Hazardous Waste (Management & Handling) Rules, 1989 as amended in Jan.,2000. Type/Category of Waste as per

Waste (Annually) Schedule I

Cat No	Type	Qty	UOM
NA		0	--NA--
Max	Method of collection	Method of reception	Method of storage
	NA	NA	NA
Method of transport	Method of treatment	Method of disposal	
NA	NA	NA	

Waste (Annually) Schedule II

31. Details about use of hazardous waste

Name of hazardous waste/Spent chemical	Quantity used/month	Party from whom purchased	Party to whom sold
0	0	0	0

32.

a. Details about technical capability and equipments available with the applicant to handle the Hazardous Waste

0

b. Characteristics of hazardous waste(s) Specify concentration of relevant pollutants. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Govt. in the ministry of Environment & Forests. For proposed units furnish expected characteristics

0

33.

Copy of format of manifest/record Keeping practiced by the applicant.

0

34.

Details of self-monitoring (source and environment system)

0

35.

Are you using any imported hazardous waste. If yes, give details.

0

36.

Copy of actual user Registration/certificate obtained from State Pollution Control Board/Ministry of Environment & Forests, Government of India, for use of hazardous waste.

0

37.

Present treatment of hazardous waste, if any (give type and capacity of treatment units)

0

38. Quantity of hazardous waste disposal

(i) Within factory

0

(ii) Outside the factory (specify location and enclose copies of agreement.)

0

(iii) Through sale (enclosed documentary proof and copies of agreement.)

0

(iv) Outside state/Union Territory, if yes particulars of (1 & 3) above.

0

(v) Other (Specify)

0

Part - E: Additional information

39.

a. Do you have any proposals to upgrade the present system for treatment and disposal of effluent/emissions and/or hazardous waste.

0

b. If yes, give the details with time- schedule for the implementation and approximate expenditure to be incurred on it.

0

40.

Capital and recurring (O & M) expenditure on various aspect of environment protection such as effluent, emission, hazardous waste, solid waste, tree- plantation, monitoring, data acquisition etc. (give figures separately for items implemented/to be implemented).

0

41.

To which of the pollution control equipment, separate meters for recording consumption of electric energy are installed ?

0

42.

Which of the pollution control items are connected to D.G. Set (captive power source) to ensure their running in the event of normal power failure

0

43. Nature, quantity and method of disposal of non- hazardous solid waste generated separately from the process of manufacture and waste treatment. (Give details of area/capacity available in applicant's land)

Type	Quantity	UOM	Treatment	Disposal	Other Details
0	0	--NA--	0	0	0

44. Hazardous Chemicals - Give details of Chemicals and quantities handled and Stored.

(i) Is the unit a Major Accident Hazard unit as per Mfg.Storage Import Hazardous Chemicals Rules ?

0

(ii) Is the unit an isolated storage as defined under the MSIHC Rules ?

0

(iii) Indicate status of compliance of Rules 5,7,10,11,12,13 and 18 of the MSIHC Rules.

0
(iv) Has approval of site been obtained from the concerned authority?

0
(v) Has the unit prepared an off-site Emergency Plan? Is it updated ?

0
(vi) Has information on imports of Chemicals been provided to the concerned authority?

0
(vii) Does the unit possess a policy under the PLI Act?

45. Brief details of tree plantation/green belt development within applicant's premises (in hectors)

Open Space Availability	Plantation Done On	Number of Trees Planted
33754 Square meter	20000 Square meter(59 %)	200

46.
Information of schemes for waste Minimization, resource recovery and recycling - implemented and to be implemented, separately.

0
47.

(a) The applicant shall indicate whether Industry comes under Public Hearing, if so, the relevant documents such as EIA, EMP, Risk Analysis etc. shall be submitted, if so, the relevant documents enclosed shall be indicated accordingly.

0
(b) Any other additional information that the applicants desires to give

0
(c) Whether Environmental Statement submitted ? If submitted, give date of submission.

0
48.
I/We further declare that the information furnished above is corect to the best of my/our knowledge.

49.
I/We hereby submit that in case of any change from what is stated in this application in respect of raw materials, products, process of manufacture and treatment and/or disposal of effluent, emission, hazardous wastes etc. In quality and quantity; a fresh application for Consent/Authorization shall be made and until the grant of fresh Consent/Authorization no change shall be made.

50.
I/We indertake to furnish any other information within one month of its being called by the Board

Yours faithfully

Signature : sd/-
Name : Ravindra N. Chore
Designation : GM

Additional Information

Air Pollution

Sr No.	Air Pollution Source	Pollutants	APCS Provided	Remark
--------	----------------------	------------	---------------	--------

T.C.

MAHARASHTRA POLLUTION CONTROL BOARD

Tel. : (0240) 2473461 / 62 / 63
 Email : roaurangabad@mpcb.gov.in
 sroaurangabad1@mpcb.gov.in



Regional Office :
 Paryavaran Bhavan,
 Plot No. A - 4/1, MIDC, Chikalthana,
 Near Dhoot Hospital, Jalna Road,
 Aurangabad - 431 210.

By R.P.A.D./FAX/HAND DELIVERY:

No. MPCB/ROA/ID/ /2019
 To, 1911050001

Date :- 05/11/2019

M/s. Modern Road Makers Pvt. Ltd.,
 Gat No 172 & 174, At Village Muruma, Tq-Paithan,
 Dist: Aurangabd.

Sub:- Interim Directions under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref.:- 1) Proposed Direction issued by this office vide letter No. MPCB/ROA/PD/1910240001/2019 dated 24/10/2019.
 2) Personal hearing extended on 04/11/2019.

This refers to the Proposed Direction issued by this office vide letter referred above (1) and subsequent to the personal hearing extended on 04/11/2019. As agreed by your representative during the personal hearing, you are hereby directed to comply with the followings:

- 1) The project proponent shall install wind breaking wall at stone crushing plant before restart of said plant.
- 2) The project proponent shall install scrubbing system at Hot Mix Plant before restart of said plant.
- 3) The project proponent shall install water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant.
- 4) The project proponent shall install two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant before restart of said plant.
- 5) The project proponent shall install bag house at storage of cement & fly ash Silos at RMC plant before restart of said plant.
- 6) The project proponent shall install bag house at mixing section of cement, aggregate & sand at RMC plant before restart of said plant.
- 7) The project proponent shall install rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant before restart of said plant.
- 8) The project proponent shall carry out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant.

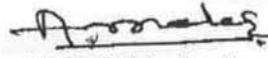
Dear Sir,
 Received on MPCB Portal
 for your instructions & directions,
 D. S. D. S.
 5/11/19

T.C.

[Handwritten Signature]

- 9) The project proponent shall dispose the solid waste stored which was generated from transit mixture washing, muck (debris/sludge) in the premises as per consent condition before restart of said plant.
- 10) The project proponent shall do the adequate plantation before restart of said plants.
- 11) The project proponent shall submit Bank Guarantee of Rs. 2 Lakhs towards the compliance of above directions within 15 days period.

In case, you fail to comply with the above directions, the Board will have no any other option than to issue Closure Directions with disconnection of electricity and water supply of your unit, which may be noted.



(A.D. Mohekar)

Regional Officer-Aurangabad.

Copy submitted to :-

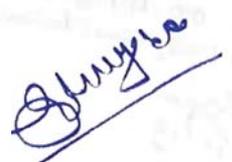
1. The Joint Director (APC), MPCB, Mumbai.
2. The Sr. Law Officer (P & L Div), MPCB, Mumbai.

Copy for information and necessary follow-up action to :

1. The Sub-Regional Officer, MPCB, Aurangabad shall verify the operation status of above plant and as per number of days of non-compliance observed & calculate Environmental compensation and submit the office note of the same within 4 days period for onward submission for approval.

Copy to Master File, MPCB, Aurangabad.

T.C.



416
Modern Road Marker Pvt. Ltd.
Gat No.172 &174, At Village Murma,
Tal. Paithan, Dist. Aurangabad

Date: 24.03.2020

To

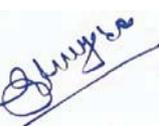
The Member Secretary,
Maharashtra Pollution Control Board
Kalptaru Point, 3rd floor,
Near Cine Planet, Sion Circle,
Sion East, Mumbai – 400022

Ax. R2.5

fwc to: RO / SRO Pune

- Industry:** **Modern Road Marker Pvt. Ltd.**
Gat No.172 & 174, At Village Murma, Tal.
Paithan & Dist. Aurangabad
- Subject:** **Environmental Compensation by**
invoking the "Polluter Pays" Principal for air
pollution control measure noncompliance reg...
- Reference:**
1. Order dated 14/11/2019 passed by Hon'ble National Green Tribunal, in O.A. No. 59/2019
 2. Interim Direction issued by RO MPCB vide letter no. MPCB/ROA/ID/1911050002/2019 dated. 05/11/2019
 3. Report received from Sub- Regional officer, MPCB Aurangabad dated-15/01/2020
 4. Approval received from Authority for issuance of notice over telephone & SMS dated- 18/02/2020
 5. MPCB Notice regarding the Environmental Compensation dated 18/02/2020

T.C.



Sir,

1. We are Modern Road Marker Pvt. Ltd. Gat no. 172 & 174 - industry, giving this representation for requesting review, correction, reassessment and recalculation of Environmental Compensation for damage to environment after careful consideration of techno-legal submissions made by us as hereunder, without prejudice to each other. Before that, it also needs to be first ascertained as whether there is any damage to environment beyond specified limits and of which parameters? We also request that the personal hearing may be given to before taking any final/adverse decision.
2. We have gone through the Notice served by MPCB on 18/02/2020 through Regional Office Aurangabad. We have received the said notice by mail dated 05/03/2020 imposing the **environmental compensation of Rs. 4,56,250/-** for 73 days towards the noncompliance caused by industry regarding air pollution control measures.
3. At the outset we deny that we / our activities have caused any damage or harm to the environment and / or we have not complied any provisions of law, and put MPCB to strict proof thereof. Hence, we state that we are not liable to pay any compensation of Rs. 4,56,250/- or part thereof.
4. Without prejudice to aforesaid, we state that we are not the party in the proceedings before National Green Tribunal (NGT) in O.A. 59/2019 and hence we are not aware of the orders passed by NGT in the said matter. Further, as we are not a party in these proceedings before NGT, the orders passed therein are not binding on us.
5. We were not given the findings of the Visit Report before computation of damage. The notice received does not show the various parameters that were sampled as per the provisions of the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control of Pollution) Act 1981 and Environment (Protection) Act 1986 and pollution or environmental damage has been found in respect of which parameters?
6. We have not received the results of any Law Evidence Sample (LES) drawn as per these provisions. We are not given the qualitative ascertainment of damage, degree of violation against the specified standards of various parameters and the quantified approximate environmental alleged damage caused due to it; and the cost of restoration.

LOCATION OF INDUSTRY

7. Industry is located away from the habitation which is as per the Condition no. **xxi** imposed in the "Environmental Clearance for rehabilitation and up-gradation of existing 2 lane to 4 lane of Yedshi to Aurangabad Section of NH-211 from km 100.000 to km 290.200 in the state of Maharashtra by M/s NHA Reg.
8. Activity is located in a barren land as per the Environmental Clearance to avoid the adverse impact on the human population. There is no human settlement, ecologically sensitive area or flora/fauna getting affected from the plant.
9. Industry is in operation at said place since from 14/10/2016 having valid consent to operate for Crushing Stone Metal, Hot Mix & Wet Mix up, Ready Mix Concrete up to 30/06/2019. We have further applied for renewal of consent to operate through application no.07/05/2019 0000072603 dated 14/01/2020, well in advance before expiry of the earlier Consent to Operate. But this application was refused by MPCB RO Aurangabad. Again, we have applied for the Renewal of Consent to operate on 14/01/2020 through application no. 0000086879.

COMPUTATION OF ENVIRONMENTAL COMPENSATION

10. As per the Order passed by Hon'ble National Green Tribunal in O.A. 59/2019 dated 14/11/2019 Maharashtra Pollution Control Board imposed the Environmental Compensation without any supporting document. Industry has not received the detailed calculation sheet for this Environmental Compensation. MPCB only says that, they had evaluated / calculated the Environmental Compensation as per the formula framed by CPCB. MPCB may be calculated Environmental Compensation based on formula evolved by CPCB in O.A. 593/2017 Paryavaran Suraksha Samiti v/s UoI. The above formula is stated to be accepted by NGT in that matter. However, the same has not been approved and Gazetted / Notified by MoEFCC under the formal Rules under any of the environmental Acts. There is no similarity between the facts, circumstances, activity, location, nature of product, type of emissions, pollutants and its impact on surrounding environmental settings. As such the formula won't apply in the present case. This ought to have been considered by the MPCB before applying the formula ad-hoc, ad-valorem basis instead of modifying or applying it mutatis mutandis basis. MPCB is the technical Board and as such this can't be blindly done by MPCB just because some formula is available.

Without prejudice to aforesaid, it may please be noted that environment compensation for damage to environment was not done by considering following important points:

- a) The industry (Modern Road Marker Pvt. Ltd. Gat no. 172 & 174) was not party to above NGT Application in O.A. 593/2017 Paryavaran Suraksha Samiti v/s UoI. The cause of pollution and issues deliberated in that matter, were quite different and not at all the same as in this present case. The directions of the Hon'ble Tribunal were not against this impugned industry plant.
- b) There is no provision incorporated in any Act, Rule, Gazette Notification to *en-masse* apply such computation to all cases of violations.
- c) Such power of adjudication eventually imposing damages or Environmental Compensation are not vested with the CPCB / MPCB under the Act.
- d) Such powers are not delegated to CPCB / MPCB by the Hon'ble Tribunal as well.
- e) Industry was not given Directions u/s. 5 in this matter by CPCB or MPCB, which were not followed or complied.
- f) No personal hearing was granted to industry regarding Environmental Compensation.
- g) There was no violation as alleged, which could have been explained with facts and reports.
- h) No law evidence sample was collected in accordance with the specific provisions of the Act. Hon'ble Tribunal has not asked to bypass or circumvent the provisions of the Water / Air Act in this regard.
- i) The alleged incremental pollution in Ambient Air Quality, due to industry was not even calculated.
- j) No stack emission standards were violated.
- k) Industrial effluent quantity is NIL therefore there is no cause of pollution due to industrial effluent is generated.
- l) MPCB issued the proposed direction dated 24/10/2019 on the basis of the visit report of the Joint committee comprising the member of State Environment Impact Assessment Authority & MPCB as per the Order passed by Hon'ble NGT in O.A. 59/2019. Whereas this said report copy is not served to industry.

- m) On the basis of this proposed direction Regional Office MPCB Aurangabad ordered the industry to come for the personal hearing dated 31/10/2019 at 11.30 am at RO office Aurangabad.
- n) The personal hearing had taken place on 04/11/2019 and board imposed few conditions and following to this hearing board also issued an interim direction dated 05/11/2019.
- o) During personal hearing industry representative submitted that *"The stone crusher plant & Hot Mix plant is already dismantled & only RMC plant is in existence but same plant is also not in operation. Now Management has decided to dismantle the RMC plant but same is just pending as location of shifting the said plant at new location/site is not yet fixed till date we assured you that, We will not operate the plant. Above submitted fact certified by the SRO Latur during Personal Hearing through following submission, **"The F.O. Latur has reported during hearing that at present no RMC plant is in Operation"***
- p) Industry has replied to the interim direction dated 20/11/2019 along with compliance report with pointwise submission to MPCB allegation.
- q) MPCB has not taken the cognizance of submitted reply and compliance report of the industry and issued the notice of Environmental Compensation dated 18/02/2020. The noticed issue on the basis of the calculation farmed by the CPCB which may be based on the O.A. 593/2017 Paryavaran Suraksha Samiti v/s UoI.
- r) **The formula has a major defect. It doesn't recognize or consider the quantitative or the degree of violation. The same formula comes to effect for computation of damage, which is totally indifferent of the pollutants, degree of violation, and potential of the pollutant to pollute or damage the environment. The uncertainty in sample grab collection, the variation in source or grab sample results are totally ignored.**
- s) The marks given to industries for categorization or classification have been used as factor for calculating fine, for which there is no scientific basis at all. **It will be like marks/score given to height or weight or colour or caste of the person to compute the fine to be imposed for PUC traffic violation.** There is no

scientific linkage of marks given for categorization, in determining environmental damaging potency of the alleged polluting parameters, or potency to damage environment or the ascertainment of actual violation and its degree of violation

- t) Factor used in formula have no study back-up data as to how that links the Environmental Compensation or damage caused to environment, even approximately. As such the formula is based on the random facts selected which have relevance but no mathematical truth in arriving at the Rupee value of Environmental Compensation.
- u) MPCB should not do the adjudication, particularly when MPCB is the beneficiary of the Environmental Compensation to be paid.
- v) No SCN was given to industry after unilateral computation of environmental damage, and sought the say of the industry on it.
- w) There is no damage to environment pointed out in this present case which needs to be cured, treated, restored and/or remediation cost associated with that.
- x) **Allegation of violation is of YES / NO type**, but the degree of violation is not considered in the formula at all.
- y) The data to be collected has to be representative, of **composite weighted sample over the period of time**, as specific in the standard. e.g. AAQS are for the period of 24 hr. AAQ data as per the standard itself is for the area and not for the industry in particular. **The random one-time measurement at a location can't be the basis to determine the contribution of pollution from industry.**
- z) The source data variation itself is over 200 to 300%, whereas the action and compensation are being calculated on YES/NO results, without there being any computation with regards to number of parameters exceeded the standards, degree of exceeding of standards, which is totally incorrect and is injustice to industry and environment, both.
- aa) There are large number of environmental heads of pollution and associated standards with it. e.g. In AAQS there are 12 criteria pollutants. In effluent discharge standards, there are say 6 criteria pollutants in discharge standards. The industry doesn't have

gaseous emissions. What was measured was only Particulate Matter. Violation alleged is only in case of SPM. However, the fact is ignored that the road leading to industry is unpaved and SPM from that traffic is the main source of SPM in that area. This fact is not disclosed or rather suppressed in the factual report.

- bb) Effluent, Hazardous waste and Noise pollution is not there in the industry. Air emissions are there, which is in the form of Particulate Matter only.
- cc) When Act has provided for some formal way of adjudication or prosecution, the same can't be bypassed by the MPCB.
- dd) The proper adjudication and determination of environment compensation for damage to environment can't be done by following such *ad-hoc* unscientific formula

11. In light of all the above important points that have been overlooked while arriving at the calculations of the Environmental Compensation, it is absolutely necessary that exercise of environmental compliance and associated damage to environment has to be done before imposing such a huge amount of compensation.

- 12. Polluter should certainly pay for the pollution done. But it should be clearly established and proved that the pollution is caused due to direct act or omission of the establishment. Further, the proper determination must be done before imposing such penalty or cost of Environmental Compensation. Whether we have defaulted on environmental emission standards, which parameters and to what extent also has to be determined. Even assuming but without admitting any violation, the same approximate formula can't be applied merely because there was violation on a count for a parameter within the degree of tolerance or uncertainty.
- 13. Needless to state, the cost of determination also will be borne by the industry, but this essential step of determination can't be dispensed with.
- 14. **The Prayer:** We urge the Hon'ble Member Secretary to please take note of this and be pleased to pass the instructions to:
 - a. Quash and set aside the earlier calculations which neither has legal sanction nor technical soundness, basis or established correlation

- b. **Keep the order for depositing the amount in abeyance/pending**, till the fresh report is considered ascertaining the environmental damage, if any and compensation towards that.
- c. **Carry out the inspection of industry afresh and scientifically assess the damage to environment, if any, due to non-compliance on the part of the industry.**
- d. Take the fresh **law evidence samples** as may be necessary along with the micrometeorological survey for determination of wind direction and velocity
- e. Assess the possible damage to the environment by at least actual identification of the recipient bodies, ecological systems, persons or flora / fauna as the case may be
- f. Assess the determination of damage to environment
- g. Direct the adjudication of the penalty to be done by the civil adjudicating authority provided under the statutes
- h. If the industry has violated any law, the action may be taken in accordance with the Act and Rules framed thereunder
- i. If there is issue of relief, compensation or restoration of damages, the industry is ready and willing to do it forthwith and/or deposit the Bank Guarantee till this is done as established.
- j. Grant the Renewal of Consent to Operate (Ref application no. 0000086879 dated 14/01/2020)

AND industry prays for this relief with folded hands.

Thanking you,
Yours faithfully,

For, Modern Road makers pvt. Ltd.

Mr. R. N Chore
(General Manager)

Enclosures:

- 1. Daily Order of Hon'ble Tribunal dated 17.10.2019
- 2. MPCB directions u/s.31A dated 05.11.2019

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Sub-Regional Office, Aurangabad

Email id:- gajanan.khadkikar@mpcb.gov.in



Office Address – 'Paryavaran Bhavan',
Plot No. - A-4/1, MIDC Area, Chikalhana,
Near Seth Nandlal Dhoot Hospital,
Jalna Road, Aurangabad – 431210

INSPECTION REPORT

Name & Address of the Industry	:- M/s. Modern Road makers Pvt. Ltd., Gat No. - 172 & 174, Vill. Murma, Tal. Paithan, Dist. Aurangabad.	
Date of visit	:- 05/09/2019	
Person Contacted	:- Mr. Nilesh A. Pathak, PRO	
Contact details	:- 7767018267	
Mob. No.	-	
E mail ID	-	
Validity of Consent Status	:- Category - Orange/LSI Issued on - 14/10/2016 Validity up to - 30/06/2019	
Production Details		
Product Name	Quantity (As per Consent)	Quantity Actual
1] Crushed stone metal	30000 Brass/A	---
2] Hot Mix	20000 MT/m	-
3] Wet Mix	20000 MT/m	In operation
4] Ready mix concrete	30000 MT/m	In operation

Water & Waste water aspect

Effluent Generation in M3/d	Industrial		Domestic
	Process	Cooling	Domestic
As per Consent	Nil	Nil	1.5 cmD
Actual	-	-	1.5 cmD
Treatment System Provided Details (Capacity):-	Nil		Soak pit/STP - Septic Tank is provided
Disposal as per Consent	Yes / No		✓ Yes / No.
Quantity of Disposal	/		
Online Monitoring System Applicable Water	Yes/No	If Yes Connected to 1. CPCB Server 2. MPCB Server	
	Remote calibration applicable	Yes/No	
	Sensor Properly Placed	Yes/No	

T.C.

Gajanan

Separate Electric Meter Provided	Yes/No	
Meter Readings	N.A.	
Source of Water	-	

Operation & Maintenance: Indl. Poor Average Good **Domestic:** Poor Average Good

Last JVS Details: - Date of Collection / **Payment:** - Yes / No /
 Amount details:

Water Sample collected: Yes/No /
 if Yes details of source-Parameters-

Air Pollution Aspects:

Source	Fuel	Quantity/Unit	Pollutants	Stack Height	Control Equipment Installed
/	/	/	/	/	/
N.A.	/	/	/	/	/
/	/	/	/	/	/

Online Monitoring System Air (Stack)	Yes/No	If Yes Connected to 1. CPCB Server 2. MPCB Server
	Remote calibration applicable	Yes/No
	Sensor Properly Placed	Yes/No
	Whether proper stack monitoring facility exists	Yes/No
	Whether calibration facility exist	Yes/No

Online Monitoring System Air (Ambient)	Yes/No	If Yes Connected to 1. CPCB Server 2. MPCB Server
	Remote calibration applicable	Yes/No
	Sensor Properly Placed	Yes/No

Air Sample collected: Yes/No /
 if Yes details of source-Parameters-

Hazardous Waste Management (Last consent Details):

Category No. & Type	Quantity as per consent/UOM	Method of disposal as per consent	Actual Disposal/UOM	Total quantity disposed as per FORM-IV	Last Disposal quantity/UOM	Last Disposal date
/	/	/	/	/	/	/
N.A.	/	/	/	/	/	/
/	/	/	/	/	/	/

Non Hazardous Waste Management:

Name of Waste	Quantity as per consent	Method of disposal as per consent	Last disposal date	Last disposal quantity	Actual Disposal
-	-	-	-	-	-

--	--	--	--

Tree Plantation:

Total plot area in sq. m.	BUA in sq. m	Green Belt area sq. m	Plantation Done in No.	Proposed Plantation

Statutory Submissions:

Hazardous waste Annual Returns: - Submitted up to

Environment Statement Report : - Submitted up to

<p>Previous Legal Action Action Initiated Date:- Specific Compliance :-</p>	<p>Bank Guarantee Details: BG Imposed : Yes /No BG Imposed against : Consent / Directions Number (Only for Directions) :</p>
--	---

BG Imposed for	Amount	BG no.	Date	Validity
<i>No condition imposed in earlier consent</i>				

Additional observations:

- Orange / LSI activity. During visit indl activity regarding Wet mix and Rmc found in operation.
- Maximum portion surrounded with barricading of Tin (ie. height approx. 1ft.) length more than approx. 1.5 Km.
- Mobile water sprinkling (through tankers) - 02 found in operation during visit.
- Fix sprinkling, carried out at Stone Crusher area, Rmc area, Wet mix area.
- conveyor belt cladding covered with green net.
- The activities like ① Stone Crusher ② Hot mix plant ③ Wet mix plant ④ Rmc all these are located within one premises. Also, obtained combined consent for the same.

- Internal road within premises found (max.)
pakka i.e. dambur. (^{area} _{cover})
- Tree plantation within premises found adequate.
- Wind Breaking wall not provided as per Consent.
- Regular cleaning and wetting found carried out.
- Hot mix plant dust collector found provided.
- Inbuilt APC provided to RMC Plant.
- Silo provided for storage of Raw material.
- Representative informed that product use for N.H.- 211 and is captive purpose only.

Remarks :-

Industry shall comply consent condition and improve house keeping so as to relieve consented stds.

~~Signature~~
(Nilesh Pathak)
P.R.O.

~~Signature~~
05/09/2019
(Dr Gajanan Khadkikar)
F.O.

T.C.

424-A

RETYPED

INSPECTION REPORT

Name & Address of Industry M/s. Modern Road Makers Pvt Ltd.
Gat No. 172 & 174, Vill. Muruma, Tal. Panhala, Dist. Aurangabad

Date of Visit 05/09/2019

Person Contacted Mr. Nilesh A Pathak, PRO

Contact Details 7767018267

Mob. No. -

Email ID -

Validity of Consent Category-Orange

Status Issued On-14/10/2016
Validity up to- 30/06/2019

Production details

Product name	Quantity (as per Consent)	Quantity Annual
1. Crushed Stone Metal	30000 Brass/A	-
2. Hot mix	20000 MT/m	-
3. Wet mix	20000 MT/m	In Operation
4. Ready Mix Concrete	30000 MT/M	In Operation

Water & waste Water Aspect

Effluent generation in M ³ /d	Industrial Process	Cooling	Domestic Domestic
As per Consent	Nil	Nil	1.5 CMD
Actual	-	-	1.5 CMD
Treatment System Provided		Nil	Soak pit/STP-Septic tank is provided

424-B

Details

(Capacity): -

Disposal As per Consent Yes/No ✓Yes/No

Separate

Electric Meter Yes/No

Provide

Meter Readings N.A.

Source of

Water -

BG Amount BG. No. Date Validity

Imposed

For

No Condition imposed in earlier Consent

Additional Observations:

- Orange 1 LSI activity During Visit industrial activity regarding Wet mix and RMC was found in operation.
- Maximum portion surrounded with barricading of Tin (i.e., height approx. 10 ft.) length more than approx. 1.5 cm
- Mobile water sprinkling (through tankers) – 02 found in operation during visit.
- Fix Sprinkling carried out at stone crusher area, RMC area, wet mix area.
- Conveyor belt cladding covered with green net.
- The activities like 1. Stone Crusher 2. Hot Mix Plant 3. Wet Mix plant 4. RMC all these are located within one premises. Also, obtained combined consent for the same.
- Internal road within premises found (mass area covert) pakka. Dambur
- Tree plantation within premises found adequate
- Wind breaking wall not provided as per consent
- Regular cleaning and wetting found carried out
- Hot mix plant dust connector found provided

424-C

- Inbuilt APC provided to RMC plant
- Silo provided for storage of Raw material
- Representative informed that product use for N.H-211 and is captive purpose only

Remarks:

- Industry shall comply consent condition and improve housekeeping so as to achieve consented stds

Nilesh Pathak
P.R.O

Dr. Gajanan Khadkikar
F.Q

MAHARASHTRA POLLUTION CONTROL BOARD

Tel.No. (0240) 2473462
Fax No. (0240) 2473461



Regional Office, Paryavaran Bhavan,
A-4/1, MIDC Area, Chikalthana,
Behind Daynik Lokpatra, Near Seth
Nandlal Dhoot Hospital, Jalna Road,
Aurangabad-431 210.

By FAX/R.P.A.D./HAND DELIVERY:
No. MPCB/ROA/DIREC/408/2020

Date:- 18/02/2020

To,
M/s. Modern Road Makers Pvt. Ltd.,
Gat No 172 & 174, At Village Muruma,
Tal-Paithan Dist: Aurangabd.

NOTICE

Sub:- Environmental compensation by invoking the 'Polluter Pays' principal for air pollution control measures noncompliance reg...

- Ref:- 1) Order dated 14/11/2019 passed by the Hon'ble National Green Tribunal, in O.A. No. 59/2019.**
2) Interim Directions issued by this office vide letter No MPCB/ROA/ID/1911050001/2019 Dt- 05.11.2019.
3) Report received from Sub-Regional Officer, MPCB, Aurangabad dated- 15.01.2020.
4) Approval received from Authorities for issuance of notice over telephone & SMS dated-18.02.2020.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi has passed an order on 14/11/2019 in O.A. No. 59/2019 filed by Sakharam Asaram Kale & Others v/s. The Regional Officer, M P C Board & Others for the reason of non-compliance of the Consent conditions issued by the M P C Board & Environmental Clearance issued by MoEF & CC.

Now, it is to inform you that the Sub-Regional Officer of the Board at Aurangabad reported vide above reference (3) that you are operating stone crusher, ready mix concrete plant & hot mix plant and you have not installed wind breaking wall at stone crushing plant, not installed scrubbing system at Hot Mix Plant, not installed water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter, not installed two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant, not installed bag house at storage of cement & fly ash Silos at RMC plant, not installed bag house at mixing section of cement, aggregate & sand at RMC plant, not installed rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant, not carried out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant, not disposed the solid waste stored which was generated from transit mixture washing, muck (debris/sludge) in the premises, not done the adequate plantation in the premises and this noncompliance is observed from the recent visit dated- 24.08.2019 of official of Sub Regional Office at Aurangabad to your unit. So till the issuance of directions vide ref. 2) dated-05.11.2019 total number of days violations are 73 days.

-2

In view of above you are hereby directed to pay an amount of Rs 4,56,250/- (Rs Four lacs fifty six thousand two hundred fifty only) **Environmental compensation** assessed on 'Polluter Payas' principal for air pollution control measures noncompliance and formula framed by CPCB for calculation of Environmental compensation. The Environmental compensation has been assessed on the record produced by Sub Regional Officer at Aurangabd to comply with the order passed by the Hon'ble National Green Tribunal.

The Environmental compensation of Rs 4,56,250/- may kindly be deposited in favor of Regional Officer, M P C Board, and Aurangabad at the earliest.


(Pravin Joshi)

Regional Officer-Aurangabad.



Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.

Copy to :

1. The Sub-Regional Officer, MPCB, Aurangabad- for information and necessary follow-up.

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0240-2473461/62/63

Fax : 0240-2473462

Email : roaurangabad@mpcb.gov.in



Regional Office:

Paryavaran Bhavan, Plot No.A-4/1,MIDC Chikalathana, Behind Dainik Lokpatra, Near Seth Nandlal Dhoot Hospital Jalna Road,Aurangabad-431210

Ax. R3.1Red/SSI EIC No.AD-
(Cat.No.R-73)

Date: 27/11/2015

Consent No: **MPCB-15/**

MPCB/ROA/BD/E-25/98/O/C- 280/166/15

Consent to Operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundry Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

CONSENT is hereby granted to

M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 85/1, Sasewadi Shivar,
Manjarsumba,
Tq. & Dist: Beed.

Located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW (M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1)The Consent to **Operate** is granted for a period up to: **31/12/2017**.

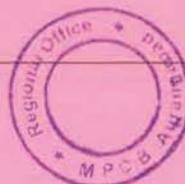
2)The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity	UOM
1	Hot Mix	20000	MT/M.
2	Wet Mix	20000	MT/M.

3) CONDITIONS UNDER WATER ACT:

- (i) The daily quantity of trade effluent from the factory shall be Nil
(ii) The daily quantity of sewage effluent from the factory shall not exceed **0.40 M3**.
(iii) **Trade Effluent : Nil**
(iv) **Treatment: Nil**
(v) **Trade Effluent Disposal: NA**
(vi) **Sewage Effluent Treatment:** The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1)	Suspended Solids	Not to exceed	100	mg/l.
(2)	BOD 3 days 27o C.	Not to exceed	100	mg/l.



(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
---------	---------------	----------	-----	-----------	----------

(viii) **Other Conditions:**

- 1) Industry should monitor effluent quality regularly.
- 2) The industry shall monitor the stack and ambient air quality regularly.
- 3) As per the board's circular no. BO/RO (P & P)/TB/B-779 dtd 06/07/2006, the indigenous varieties of trees like Bel, Shisham, Amla, Mango, Khair Hingan, Palash, Champa, Bakul, Vad, Biba, Pimpal, Neem, Chivel, etc. shall be planted over 33% of the available open land.

(4) The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under

The daily water consumption for the following categories is as under:

(i) Domestic purpose	...	0.50 CMD
(ii) Water gets Polluted & Pollutants are Biodegradable	...	0.00 CMD
(iii) Water gets Polluted, Pollutants are not Biodegradable & Toxic	...	0.00 CMD
(iv) Industrial Cooling, spraying in mine pits or boiler feed	...	0.00 CMD

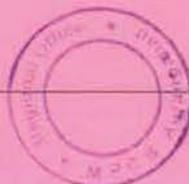
The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

(5) CONDITIONS UNDER AIR ACT:

- (i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

a. Control Equipment:

1. Industry shall provide dust collector of sufficient capacity to control the emissions.
- b) The suspended particulate matter contribution value at a distance of 3 to 10 meters from unit shall be less than 600 microgram/Nm³. These units must also adopt the following pollution control measures.
 1. Dust containment cum suppression system for the equipments.
 2. Construction of wind breaking walls.
 3. Construction of the metalled roads within the premises.
 4. Regular cleaning and wetting of the ground within the premises.
 5. Growing of a green belt along the periphery.
 6. Water sprinkling arrangement shall be provided and operated continuously.



No stone crushing/hot mix activity will be allowed within 500 mtrs. From National Highway, 200 mtrs. From State Highway and 100 mtrs. From other roads such as major district road, other district road or village roads. Also crusher shall be located 500 mtrs. Away from human habitation.

c) Control Equipment for Hot Mix Plant:-

1. *Drum mix machine shall be maintained with dust collector followed by scrubbing system of sufficient capacity to limit emissions.*
2. *Closed silo will be used for addition of cement in concrete making plant to avoid fugitive emission of particulate matter.*
3. *Water sprinkling arrangement at the vent (6 m height) is proposed for Hot Mix Plant before emitting flue gas through its vent with re-circulation system so as to avoid particulate matter emission.*
4. *Closed silo will be used for addition of dust at Wet Mix Macadam Plant to avoid fugitive emission of particulate matter.*
5. *Construction of the metallic roads within the premises.*
6. *Regular cleaning and wetting of the ground within the premises.*
7. *Growing of a green belt along the periphery.*

6. Conditions for D.G. Set

- a. Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
- b. Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
- c. The industry shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise to less than 55 dB(A) during day time and 45 dB(A) during the night time. Day time is reckoned between 6 a.m. to 10 p.m and night time is reckoned between 10 p.m to 6 a.m.
- d. Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
- e. Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
- f. A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use
- g. D.G. Set shall be operated only in case of power failure
- h. The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.



Standards for Stack Emissions:

- i) SPM --- Not to exceed 150µg/Nm³
 ii) SO₂ --- Not to exceed ---Kg/day
- (i) **The applicant shall observe the following fuel pattern:-**

Sr. No.	Type Of Fuel	Quantity	UOM
1	LDO	280.0	Lit/Day.

- (ii) **The applicant shall erect the chimney(s) of the following specifications:-**

Sr. No.	Chimney Attached To	Height in Mtrs.
1	Scrubber	11.0 Mtrs.

- (iii) The applicant shall provide ports in the chimney/(s) and facilities such as ladder, platform etc. for monitoring the air emissions and the same shall be open for inspection to/and for use of the Board's Staff. The chimney(s) vents attached to various sources of emission shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.
- (iv) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned in between 6 a.m. and 10 p.m. and night time is reckoned between 10 p.m. and 6 a.m.

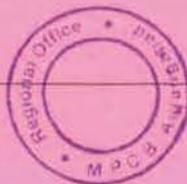
(7) CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDRY MOVEMENT) RULES, 2008:

- (i) The Industry shall handle hazardous wastes as specified below.

Sr. No.	Type Of Waste	Quantity	UOM	Disposal
The industry shall not generate any hazardous waste				

- (ii) Treatment: - NIL

1. The authorization is hereby granted to operate a facility for collection, storage, transport & disposal of hazardous waste.
2. The industry should comply with the Hazardous Waste (MH&TM) Rules, 2008.
 - a. Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.
 - b. Industry shall obtain registration from CPCB as a re-refiner of Used oil having environmentally sound technology as per the provisions of Hazardous Waste (Management, Handling & Transboundary Movement) Rules 2008 before commencement of production.



- c. The unit has to display and maintain the data online outside the factory main gate in Marathi & English both on a 6'x4' display board in the manner and the report of the compliance along with photograph shall be submitted to this office & concerned Regional Office/ Sub Regional Office.
- d. It shall be ensured that the Hazardous waste is handled, managed & disposed of strictly in accordance with the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 and shown & submitted to the Board as & when asked for.

(8) Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipment's provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as pre the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- viii. As inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- ix. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
- x. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.
- xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.




- 9) The Capital investment of the industry is Rs. 392.00 Lacks Only.
- 10) The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.
- 11) The Board reserves the rights to add/amend/revoke any condition in this consent and the same shall be binding on the applicant .

For and On Behalf of the
Maharashtra Pollution Control Board,

[Handwritten Signature]
27/10/15

(A.N. Katole)
Regional Officer, Aurangabad.

T/C

To,

M/s. Modern Road Makers Pvt. Ltd.
Gat No. 85/1, Sasewadi Shivar, Manjarsumba,
Tq. & Dist: Beed.



Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	45100/-	249487	15/10/2015	SBI Bank

Copy forwarded to:
The Sub - Regional Officer, MPC Board, Jalna.

Copy to:
Cess Wing/Statistical Wing/Air Wing/HWMH Wing, MPCB, Mumbai.

[Handwritten Signature]



Maharashtra Pollution Control Board

महाराष्ट्र प्रदूषण नियंत्रण मंडळ

Application for Consent/ Authorisation

Sir,
I/We hereby apply for*

1. Consent to Establish/Operate/Renewal of consent under section 25 and 26 of the Water (Prevention & Control of Pollution) Act, 1974 as amended.
2. Consent to Establish/Operate/Renewal of consent under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended.
3. Authorization/renewal of authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 in connection with my/our/existing/proposed/altered/ additional manufacturing/processing activity from the premises as per the details given below.

Consent Information

UAN No: MPCB-CONSENT-0000086885
Application submitted on: 14-01-2020

Industry Information

Consent To: Renewal (Normal)	IIN No.: 0	Submit to: SRO - Jalna	
Type of institution: Industry	Industry Type: O64 Stone crushers	Category: Orange	Scale: S.S.I
EC Req'd. No	EC Obtained No	EC Ref. No. -	
Whether construction-buildup area is more than 20,000 sq.mtr.(Existing Expansion Unit)		No	

General Information

1. Name, designation, office address with Telephone/Fax numbers, e-mail of the Applicant Occupier/Industry/Institution / Local Body.

Name Ravindra N Chore	Address Survey No.172,Vill.Murma
Designation GM	Taluka Paithana
Area Vill,Murma,Near Pachod.	District Aurangabad
Telephone 7767018267	Fax 0
Email npathak31@gmail.com	Pan Number AAACM3816F

T.C.

(Handwritten Signature)

2. (a) Name and location of the industrial unit/premises for which the application is made (Give revenue Survey Number/Plot number name of Taluka and District, also telephone and fax number)

Industry name

Modern Road Makers Pvt. Ltd.

Location of Unit

Sasewadi Shivar

Survey number/Plot Number

Gat No. 85/1

Taluka

Beed

District

Beed

(b) Details of the planning permission obtained from the local body/Town and Country Planning authority/Metropolitan Development authority/ designated Authority.

Planning permission

Certificate of Incorporation

Planning Authority

Certificate of Incorporation

Name of the local body under whose jurisdiction the unit is located and Name of the licence issuing authority

Name of Local Body

Grampanchyat Sasewadi Shivar

Name of the licence issuing authority

Modern Road Makers Pvt. Lt.

3. Names, addresses with Telephone and Fax Number of Managing Director / Managing Partner and officer responsible for matters connected with pollution control and/or Hazardous waste disposal.

Name of Managing Director

Ravindra N Chore

Telephone number

7767018267

Fax number

0

Officer responsible for day to day business

N. A. Pathak

4. (a.) Are you registered Industrial unit ?

No

Registration number

445203MH1994PTC077075

Date of registration

Mar 16, 2015

5. Gross capital investment of the unit without depreciation till the date of application (Cost of building, land, plant and machinery). (To be supported by an affidavit/undertaking on Rs.20/- stamp paper, annual report or certificate from a Chartered Accountant for proposed unit(s), give estimated figure)

Gross capital (in Lakh)

794.00

*** Verified**

CA Certificate

*** Terms**

1

*** Consent Fee**

25000.00

6. If the site is located near sea-shore/river bank/other water bodies/Highway, Indicate the crow fly distance and the name of the water body, if any.

Distance From	Distance(Km)	* Name
SH/NH	1.70	
River	20.00	
Human Habitation	1.70	
Religious Place	0.00	--NA--
Historical Place	0.00	--NA--
Creek/Sea	0.00	--NA--

6b. Enter Latitude and Longitude details of site

Latitude

0

Longitude

0

7. Does the location satisfy the Requirements Under relevant Central/State Govt. Notification such as Coastal Regulation Zone. Notification on Ecologically Fragile Area, Industrial Location policy, etc. If so, give details.

Location	Approved Industry Area	Sensitive Area	If Yes, Name Of Area	Industry Location with Reference to CRZ
0	No	No	0	

8. If the site is situated in notified industrial estate,

		Details
(a) Whether effluent collection, treatment and disposal system has been provided by the authority.	No	0
(b) Will the applicant utilize the system, if provided.	No	0
(c) If not provided, details of proposed arrangement.	0	

9.

(a) Total plot area (in square meter)	(b) Built up area and (in square meter)	(c) Area available for the use of treated sewage/ trade effluent for gardening/irrigation. (in square meter)
19400	25000	1954

10. Month and year of commissioning of the Unit.

2014-12-31

11. Number of workers and office staff

Workers	staff	Hrs. of shift	Weekly off
20	4	8	Sunday

12.

(a) Do you have a residential colony Within the premises in respect of Which the present application is Made ?	No	0		
(b) If yes, please state population staying				
Number of person staying	Water consumption	Sewage generation	Whether is STP provided?	
0	0	0	No	
(c) Indicate its location and distance with reference to plant site.				
Number of person staying	Water consumption			
0	0			

13. List of products and by-products Manufactured in tonnes/month, Kl/month or numbers/month with their types i.e.Dyes, drugs etc. (Give figures corresponding to maximum installed production capacity)

Products Name and Quantity

Product Name	UOM	Product Name	Existing	Consented	Proposed Revision	Total	Remarks
OTHERS	MT/M	Hot Mix	20000	20000	0	20000	0
OTHERS	MT/M	Wet Mix	20000	20000	0	20000	0
Stone Crushers	Brass/A	Crushed Stone Metal	30000	30000	0	30000	0
Stone Crushers	Brass/A	Stone Dust	2000	2000	0	2000	0

Products Name and Quantity

Product Name	UOM	Quantity	Remarks
0	--NA--	0	0

14. List of raw materials and process chemicals with annual consumption corresponding to above stated production figures, in tonnes/month or kl/month or numbers/month.

Name of Raw Material	UOM	Quantity	Hazardous Waste	Hazardous Chemicals	Remarks
Rubble Stone	Brass/A	33000	No	No	0
Bitumen & Khadi	MT/M	42000	No	No	0

15. Description of process of manufacture for each of the products showing input, output, quality and quantity of solid, liquid and gaseous wastes, if any from each unit process.

0

Part B : Waste Water aspects

16. Water consumption for different uses (m3/day)

Purpose	Consumption	Effluent Generation	Treatment	Remarks	Disposal	Remarks
Domestic Pourpose	2.50	1.9	Septic Tank & Soak Pit	0	On Land for Gardening	0
Water gets Polluted & Pollutants are Biodegradable	0	0	--NA--	0	--NA--	0
Water gets Polluted, Pollutants are not Biodegradable & Toxic	0	0	--NA--	0	--NA--	0
Industrial Cooling, spraying in mine pits or boiler feed	3.0	0	OTHERS	0	Others	0
Others	Gardening-1.0					

17. Source of water supply, Name of authority granting permission if applicable and quantity permitted.

Source of water supply	Name of authority granting permission	Qauntity permitted
Outsource Tanker	Outsource Tanker	0

18. Quantity of waste water (effluent) generated (m3/day)

Domestic	Boiler Blowdown	Industrial	Cooling water blowdown
0	0	0	0
Process	DM Plants/Softening	Washing	Tail race discharge from
0	0	0	0

* 19. Water budget calculations accounting for difference between water consumption and effluent generated.

0

20. Present treatment of sewage/canteen effluent (Give sizes/capacities of treatment units).

Capacity of STP (m3/day)

0

Treatment unit	Size (mxm)	Retention time (hr)
0	0	0

21. Present treatment of trade effluent (Give sizes/capacities of treatment units) (A schematic diagram of the treatment scheme with inlet/outlet characteristics of each unit operation/process is to be provided. Include details of residue Management system (ETP sludges)

Capacity of ETP (m3/day)

0

Treatment unit	Size (mxm)	Retention time (hr)
0	0	0

22.

(i) Are sewage and trade effluents mixed together? No

If yes, state at which stage-Whether before, intermittently or after treatment. 0

23. Capacity of treated effluent sump, Guard Pond if any.

Capacity of treated effluent sump (m3) 0

Effluent sump/Guard pond details No 0

If yes, state at which stage-Whether before, intermittently or after treatment. No 0

24. Mode of disposal of treated effluent With respective quantity, m3/day

(i) into stream/river (name of river)	0	(ii) into creek/estuary (name of Creek/estuary)	0
(iii) into sea	0	(iv) into drain/sewer (owner of sewer)	0
(v) On land for irrigation on owned land/ase land. Specify cropped area.	0	(vi) Connected to CETP	0
(vii) Quantity of treated effluent reused/ recycled, m3/day Provide a location map of disposal arrangement indicating the outler(s) for sampling. Treated effluent reused / recycled (m3/day)	0		

25. (a) Quality of untreated/treated effluents (Specify pH and concentration of SS, BOD,COD and specific pollutants relevant to the industry. TDS to be reported for disposal on land or into stream/river.

Untreated Effluent

pH	0
SS (mg/l)	0
BOD (mg/l)	0
COD (mg/l)	0
TDS (mg/l)	0
Specific pollutant if any	Name Value
1	0 0

Treated Effluent

pH	0	
SS (mg/l)	0	
BOD (mg/l)	0	
COD (mg/l)	0	
TDS (mg/l)	0	
Specific pollutant if any	Name	Value
1	0	0

(b) Enclose a copy of the latest report of analysis from the laboratory approved by State Board/ Committee/Central Board/Central Government in the Ministry of Environment expected characteristics of the untreated/treated effluent

0

26. Fuel consumption

Fuel Type	UOM	Fuel Consumption TPD/LKD	Calorific value
LDO	Ltr/M	240	0
Ash content	Sulphur content	Quantity	Other (specify)
0	0	1	0

27. (a) Details of stack (process & fuel stacks: D. G.)

(a) Stack number(s)	(b) Stack attached to	(c) Capacity	(d) Fuel Type
1	Hot Mix Plant	160	LDO
(e) Fuel quantity (Kg/hr.)	(f) Material of construction	(g) Shape (round/rectangular)	(h) Height, m (above ground level)
8	MS	Round	11
(i) Diameter/Size, in meters	(j) Gas quantity, Nm³/hr.	(k) Gas temperature °C	(l) Exit gas velocity, m/sec.
0.5	0	0	0
(m) Control equipment preceding the stack	(n) Nature of pollutants likely to present in stack gases such as Cl₂, Nox, Sox TPM etc.	(o) Emissions control system provided	(p) In case of D.G. Set power generation capacity in KVA
Provided	0	Scrubber	0

27. (B) Whether any release of odoriferous compounds such as Mercaptans, Phorate etc. Are coming out from any storages or process house.

0

28. Do you have adequate facility for collection of samples of emissions in the form of port holes, platform, ladder\etc. As per Central Board Publication "Emission regulations Part-III" (December, 1985)

Port hole	No	Details	0
Platform	No	Details	0
Ladder	No	Details	0

29. Quality of treated flue gas emissions and process emissions. Quantity of treated flue gas emissions and process emissions.

Sr. No	Stack attached to	Parameter	Concentration mg/Nm³	flow (Nm³/hr)
1	0	0	0	0

(Specify concentration of criteria pollutants and industry/process-specific pollutants stack-wise. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Government in the Ministry of Environment & Forests. For proposed unit furnish expected characteristics of the emissions..

0

Part - D: Hazardous Waste aspect

30. Information about Hazardous Waste Management as defined in Hazardous Waste (Management & Handling) Rules, 1989 as amended in Jan.,2000. Type/Category of Waste as per

Waste (Annually) Schedule I

Cat No	Type	Qty	UOM
NA		0	--NA--
Max	Method of collection	Method of reception	Method of storage
	NA	NA	NA
Method of transport	Method of treatment	Method of disposal	
NA	NA	NA	

Waste (Annually) Schedule II

31. Details about use of hazardous waste

Name of hazardous waste/Spent chemical	Quantity used/month	Party from whom purchased	Party to whom sold
0	0	0	0

32.

a. Details about technical capability and equipments available with the applicant to handle the Hazardous Waste

0

b. Characteristics of hazardous waste(s) Specify concentration of relevant pollutants. Enclose a copy of the latest report of analysis from the laboratory approved by State Board/Central Board/Central Govt. in the ministry of Environment & Forests. For proposed units furnish expected characteristics

0

33.

Copy of format of manifest/record Keeping practiced by the applicant.

0

34.

Details of self-monitoring (source and environment system)

0

35.

Are you using any imported hazardous waste. If yes, give details.

0

36.

Copy of actual user Registration/certificate obtained from State Pollution Control Board/Ministry of Environment & Forests, Government of India, for use of hazardous waste.

0

37.

Present treatment of hazardous waste, if any (give type and capacity of treatment units)

0

38. Quantity of hazardous waste disposal

(i) Within factory

0

(ii) Outside the factory (specify location and enclose copies of agreement.)

0

(iii) Through sale (enclosed documentary proof and copies of agreement.)

0

(iv) Outside state/Union Territory, if yes particulars of (1 & 3) above.

0

(v) Other (Specify)

0

Part - E: Additional information

39.

a. Do you have any proposals to upgrade the present system for treatment and disposal of effluent/emissions and/or hazardous waste.

0

b. If yes, give the details with time- schedule for the implementation and approximate expenditure to be incurred on it.

0

40.

Capital and recurring (O & M) expenditure on various aspect of environment protection such as effluent, emission, hazardous waste, solid waste, tree- plantation, monitoring, data acquisition etc. (give figures separately for items implemented/to be implemented).

0

41.

To which of the pollution control equipment, separate meters for recording consumption of electric energy are installed ?

0

42.

Which of the pollution control items are connected to D.G. Set (captive power source) to ensure their running in the event of normal power failure

0

43. Nature, quantity and method of disposal of non- hazardous solid waste generated separately from the process of manufacture and waste treatment. (Give details of area/capacity available in applicant's land)

Type	Quantity	UOM	Treatment	Disposal	Other Details
0	0	--NA--	0	0	0

44. Hazardous Chemicals - Give details of Chemicals and quantities handled and Stored.

(i) Is the unit a Major Accident Hazard unit as per Mfg.Storage Import Hazardous Chemicals Rules ?

0

(ii) Is the unit an isolated storage as defined under the MSIHC Rules ?

0

(iii) Indicate status of compliance of Rules 5,7,10,11,12,13 and 18 of the MSIHC Rules.

0

(iv) Has approval of site been obtained from the concerned authority?

0

(v) Has the unit prepared an off-site Emergency Plan? Is it updated ?

0

(vi) Has information on imports of Chemicals been provided to the concerned authority?

0

(vii) Does the unit possess a policy under the PLI Act?

0

45. Brief details of tree plantation/green belt development within applicant's premises (in hectors)

Open Space Availability	Plantation Done On	Number of Trees Planted
1965 Square meter	500 Square meter(25 %)	70

46.

Information of schemes for waste Minimization, resource recovery and recycling - implemented and to be implemented, separately.

0

47.

(a) The applicant shall indicate whether Industry comes under Public Hearing, if so, the relevant documents such as EIA, EMP, Risk Analysis etc. shall be submitted, if so, the relevant documents enclosed shall be indicated accordingly.

0

(b) Any other additional information that the applicants desires to give

0

(c) Whether Environmental Statement submitted ? If submitted, give date of submission.

0

48.

I/We further declare that the information furnished above is correct to the best of my/our knowledge.

49.

I/We hereby submit that in case of any change from what is stated in this application in respect of raw materials, products, process of manufacture and treatment and/or disposal of effluent, emission, hazardous wastes etc. In quality and quantity; a fresh application for Consent/Authorization shall be made and until the grant of fresh Consent/Authorization no change shall be made.

50.

I/We undertake to furnish any other information within one month of its being called by the Board

Yours faithfully

Signature : sd/-

Name : Ravindra N. Chore

Designation : GM

Additional Information

Air Pollution

Sr No.	Air Pollution Source	Pollutants	APCS Provided	Remark
1	Stone Crushing Area	SPM/TPM	Water sprinkler, wind Breaking Wal, Dust Contaimnet cum suppression system, Green belt	0
2	Hot Mix Plant	TPM, Nox, SPM	Scrubber	0

Separate EM Provided	No	Other Emission Sources	0
Measures Proposed	0	Foul Smell Coming Out	No
Air Sampling Facility Details	0		

D.G. Set Details

Description	Capacity(KVA)	Remarks
0	0	0

Hazardous Waste Generation

Hazardous Waste	Quantity	UOM	Treatment	Disposal	Other Details

CHWTSDF Details

Member of CHWTSDF	CHWTSDF Name	Remarks

Cess Details

Cess Applicable	Cess Paid	If Yes, UpTo
No	No	Jan 1 1900 12:00:00:000AM

Legal Actions

Legal Action Taken	Legal Record Of Company	Legal Action Details	Remarks
No			

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Tel. : (0240) 2473461 / 62 / 63
 Email : roaurangabad@mpcb.gov.in
 sroaurangabad1@mpcb.gov.in



Regional Office :
 Paryavaran Bhavan,
 Plot No. A - 4/1, MIDC, Chikalthana,
 Near Dhoot Hospital, Jalna Road,
 Aurangabad - 431 210.

By R.P.A.D./FAX/HAND DELIVERY:

No. MPCB/ROA/ID/ /2019
 1911050002

Date :- 05/11/2019

To,

**M/s. Modern Road Makers Pvt. Ltd.,
 Gat No. 85/1, Sr No 87, At Sasewadishivar, Manjarsumba,
 Tq. & Dist: Beed.**

Sub:- Interim Directions under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref.:- 1) Proposed Direction issued by this office vide letter No. MPCB/ROA/PD/1910230003/2019 dated 23/10/2019.
 2) Personal hearing extended on 04/11/2019.

This refers to the Proposed Direction issued by this office vide letter referred above (1) and subsequent to the personal hearing extended on 04/11/2019. As agreed by your representative during the personal hearing, you are hereby directed to comply with the followings:

- 1) The project proponent shall cover conveyor belt by tin sheet of stone crusher before restart of said plant.
- 2) The project proponent shall install wind breaking wall at stone crushing plant before restart of said plant.
- 3) The project proponent shall repair the metallic road within premises before restart of stone crusher plant.
- 4) The project proponent shall install scrubbing system at Hot Mix Plant before restart of said plant.
- 5) The project proponent shall repair the metallic road within premises before restart of hot mix plant before restart of said plant.
- 6) The project proponent shall install water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant.
- 7) The project proponent shall install two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant before restart of said plant.
- 8) The project proponent shall install bag house at storage of cement & fly ash Silos at RMC plant before restart of said plant.
- 9) The project proponent shall install bag house at mixing section of cement, aggregate & sand at RMC plant before restart of said plant.

T.C.

(Signature)

- 10) The project proponent shall install rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant before restart of said plant.
- 11) The project proponent shall carry out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant.
- 12) The project proponent shall do the adequate plantation before restart of said plants.
- 13) The project proponent shall submit Bank Guarantee of Rs. 2 Lakhs towards the compliance of above directions within 15 days period.

In case, you fail to comply with the above directions, the Board will have no any other option than to issue Closure Directions with disconnection of electricity and water supply of your unit, which may be noted.


(A.D. Mohekar)

Regional Officer-Aurangabad.

Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.
2. The Sr. Law Officer (P & L Div), MPCB, Mumbai.

Copy for information and necessary follow-up action to :

1. The Sub-Regional Officer, MPCB, Jalna shall verify the operation status of above plant and as per number of days of non-compliance observed & calculate Environmental compensation and submit the office note of the same within 4 days period for onward submission for approval.

Copy to Master File, MPCB, Aurangabad.

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Tel.No. (0240) 2473462
Fax No. (0240) 2473461



Regional Office, Paryavaran Bhavan,
A-4/1, MIDC Area, Chikalthana,
Behind Daynik Lokpatra, Near Seth
Nandlal Dhoot Hospital, Jalna Road,
Aurangabad-431 210.

By FAX/R.P.A.D./HAND DELIVERY:

No. MPCB/ROA/DIREC/1407/2020

Date:- 18/02/2020

To,
M/s. Modern Road Makers Pvt. Ltd.,
Gat No. 85/1, Sr No 87, At Sasewadishivar, Manjarsumba,
Tq. & Dist: Beed.

NOTICE

Sub:- Environmental compensation by invoking the 'Polluter Pays' principal for air pollution control measures noncompliance reg...

Ref:- 1) Order dated 14/11/2019 passed by the Hon'ble National Green Tribunal, in O.A. No. 59/2019.

- 2) Interim Directions issued by this office vide letter No MPCB/ROA/ID/1911050002/2019 Dt- 05.11.2019.
- 3) Report received from Sub-Regional Officer, MPCB, Jalna dated-15.01.2020.
- 4) Approval received from Authorities for issuance of notice over telephone & SMS dated-18.02.2020.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi has passed an order on 14/11/2019 in O.A. No. 59/2019 filed by Sakharam Asaram Kale & Others v/s. The Regional Officer, M P C Board & Others for the reason of non-compliance of the Consent conditions issued by the M P C Board & Environmental Clearance issued by MoEF & CC.

Now, it is to inform you that the Sub-Regional Officer of the Board at Jalna reported vide above reference (3) that you are operating Stone Crusher, Hot Mix & Ready Mix Concrete plant and you have not covered conveyor belt by tin sheet of stone crusher, not installed wind breaking wall at stone crushing plant, not repaired the metallic road within premises of stone crusher plant, not installed scrubbing system at Hot Mix Plant, not repaired the metallic road within premises of hot mix plant, not installed water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter, not installed two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant, not installed bag house at storage of cement & fly ash Silos at RMC plant, not installed bag house at mixing section of cement, aggregate & sand at RMC plant, not installed rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant, not carried out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant, not done the adequate plantation in the premises and this noncompliance is observed from the recent visit dated-09.08.2019 of official of Sub Regional Office at Jalna to your unit. So till the issuance of directions vide ref. 2) dated-05.11.2019 total number of days violations are 89 days.

1-

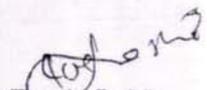


T.C

[Handwritten signature]

In view of above you are hereby directed to pay an amount of Rs 5,56,250/- (Rs Five lacs fifty six thousand two hundred fifty only) **Environmental compensation** assessed on 'Polluter Payas" principal for air pollution control measures noncompliance and formula framed by CPCB for calculation of Environmental compensation. The Environmental compensation has been assessed on the record produced by Sub Regional Officer at Jalna to comply with the order passed by the Hon'ble National Green Tribunal.

The Environmental compensation of Rs 5,56,250/-may kindly be deposited in favor of Regional Officer, M P C Board, and Aurangabad at the earliest.


(Pravin Joshi)
Regional Officer-Aurangabad.

Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.

Copy to :

1. The Sub-Regional Officer, MPCB, Jalna- for information and necessary follow-up.



T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 02482-220222

Email : Srojalna@mpcb.gov.in

Visit At : <http://mpcb.gov.in>



Sub-Regional Office,
Plot No.P-3/1,P-3/2,Phase II,MIDC Jalna,
Jalna-431203

Ax. R4.1

Date: 7/10/2015

Green/SSI

EIC No. AD

Consent No: MPCB/SROJ/UG/E-25/98/CC-1/1046/15

Consent to Establish under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundary Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

CONSENT is hereby granted to

M/s. Modern Road Makers Pvt. Ltd.,
Sr. No. 243, Village Talewadi,
Tal. Georai, Dist. Beed.

located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW(M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. The Consent to Establish is granted for a period up to: Commissioning of the unit OR Five years whichever is earlier.
2. The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity
1	Ready Mix Concrete	3000 MT/M



3. CONDITIONS UNDER WATER ACT:

- (i) The daily quantity of trade effluent from the factory shall be NIL
- (ii) The daily quantity of sewage effluent from the factory shall not exceed 0.4 M³

(iii) Trade Effluent :

Treatment: The applicant shall provide comprehensive treatment system consisting of primary / secondary and/or tertiary treatment as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of the treated effluent to the following standards:

(iv) Trade Effluent Disposal: -----Nil-----

(v) Sewage Effluent Treatment: The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

- | | | | |
|-----------------------|---------------|-----|-------|
| (1) Suspended Solids | Not to exceed | 100 | mg/l. |
| (2) BOD 3 days 27o C. | Not to exceed | 100 | mg/l. |

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
	Nil	Nil			

(viii) **Other Conditions:** Industry should monitor effluent quality regularly.

4. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under

The daily water consumption for the following categories is as under:

- | | | | |
|----------------------------|-----|------|-----|
| (i) Domestic | ... | 0.50 | CMD |
| (ii) Industrial Processing | ... | 0.50 | CMD |
| (iii) Industrial Mixing | ... | 2.00 | CMD |
| (iv) Cooling / Gardening | ... | 0.00 | CMD |

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

5. CONDITIONS UNDER AIR ACT:

(i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

(a) **Control Equipment :** Air pollution control equipments of adequate capacity shall be provided at all sources to limit the emissions.

(b) **Standards for Emissions of Air Pollutants :**

- | | | | |
|------|-----------------|---------------|------------------------|
| (i) | SPM/TPM | Not to exceed | 150 mg/Nm ³ |
| (ii) | SO ₂ | Not to exceed | -- Kg/Day. |

(c) **The applicant shall observe the following fuel pattern :-**

<u>Sr.No.</u>	<u>Type of Fuel</u>	<u>Quantity</u>
	Nil	

(d) **The applicant shall erect the chimney(s) of the following specifications :-**

<u>Sr.No.</u>	<u>Chimney attached to</u>	<u>Height in Mtrs.</u>
	Nil	

(e) **Other Conditions:**

- 1) The industry should not cause any nuisance in surrounding area.
- 2) The industry should monitor stack emissions and ambient air quality regularly.

6. CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDARY MOVEMENT) RULES, 2008 :



(i) The applicant shall handle hazardous wastes as specified below:

Sl.	Item No. as per Sch-I	Type of Waste	Quantity	Disposal
No any Haz waste generation				

(ii) Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.

7. Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by he applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipments provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. **The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.**
- viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as pre the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- ix. An inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
- xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the



- pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.
- xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.
8. The Capital investment of the industry is Rs. 1.31 Lacks only.
9. Industry shall obtain the consent to Operate before commencement of production activity.
10. The Board reserves the right to revoke change Or alter the terms & conditions of this consent.

For and on behalf of the
Maharashtra Pollution Control Board


(S.M. Kurmude)
Sub-Regional Officer,
Jalna



To,
M/s. Modern Road Makers Pvt. Ltd.,
Sr. No. 243, Village Talewadi,
Tal. Georai, Dist. Beed.

Copy submitted to:

1. Regional Officer, Aurangabad.
2. Chief Account Officer, M.P.C. Board, Mumbai
3. Cess Department, M.P.C. Board, Mumbai.
4. Master file.

Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	15100/-	249382	22/09/2015	SBI Bank



MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0240-2473461/62/63

Fax : 0240-2473462

Email : roaurangabad@mpcb.gov.
in

Regional Office:

Paryavaran Bhavan, Plot No.A-4/1,MIDC
Chikalthana, Behind Dainik Lokpatra, Near Seth
Nandlal Dhoot Hospital Jalna Road,Aurangabad-
431210**Ax. R4.2**Red/SSI EIC No.AD-
(Cat.No.R-73)

Date: 25/04/2016

Consent No: **MPCB-16/**

MPCB/ROA/BD/E-25/98/E/O/C- 521/407/2016

Consent to Operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundry Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

.....
CONSENT is hereby granted to

M/s. Modern Road Makers Pvt. Ltd.,
Sr.No. 243, Talewadi, Tq. Georai,
Dist: Beed.

Located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW (M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1)The Consent to **Operate** is granted for a period up to: **31/10/2020**.

2)The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity	UOM
1	Crushed Stone Metal	30000	Brass/A
2	Hot Mix Plant	20000	MT/M
3	Wet Mix	20000	MT/M
	Ready Mix Concrete	3000	Brass/M

3) CONDITIONS UNDER WATER ACT:

- The daily quantity of trade effluent from the factory shall be Nil
- The daily quantity of sewage effluent from the factory shall not exceed 1.5 M3.
- Trade Effluent : Nil**
- Treatment: Nil**
- Trade Effluent Disposal: NA**
- Sewage Effluent Treatment:** The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1) Suspended Solids Not to exceed 100 mg/l.

Received
Attested.

(2) BOD 3 days 27o C. Not to exceed 100 mg/l.

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
---------	---------------	----------	-----	-----------	----------

(viii) **Other Conditions:**

- 1) Industry should monitor effluent quality regularly.
- 2) The industry shall monitor the stack and ambient air quality regularly.
- 3) As per the board's circular no. BO/RO (P & P)/TB/B-779 dtd 06/07/2006, the indigenous varieties of trees like Bel, Shisham, Amla, Mango, Khair Hingan, Palash, Champa, Bakul, Vad, Biba, Pimpal, Neem, Chivel, etc. shall be planted over 33% of the available open land.

(4) The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under

The daily water consumption for the following categories is as under:

- | | | |
|---|-----|----------|
| (i) Domestic purpose | ... | 2.00 CMD |
| (ii) Water gets Polluted & Pollutants are Biodegradable, | ... | 0.00 CMD |
| (iii) Water gets Polluted, Pollutants are not Biodegradable & Toxic | ... | 3.00 CMD |
| (iv) Industrial Cooling, spraying in mine pits or boiler feed | ... | 0.00 CMD |

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

(5) CONDITIONS UNDER AIR ACT:

- (i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

a. Control Equipment:

1. Industry shall provide dust collector of sufficient capacity to control the emissions.

b) The suspended particulate matter contribution value at a distance of 3 to 10 meters from unit shall be less than 600 microgram/Nm³. These units must also adopt the following pollution control measures.

1. Dust containment cum suppression system for the equipments.
2. Construction of wind breaking walls.
3. Construction of the metalled roads within the premises.
4. Regular cleaning and wetting of the ground within the premises.
5. Growing of a green belt along the periphery.

6. *Water sprinkling arrangement shall be provided and operated continuously.*

No stone crushing/hot mix activity will be allowed within 500 mtrs. From National Highway, 200 mtrs. From State Highway and 100 mtrs. From other roads such as major district road, other district road or village roads. Also crusher shall be located 500 mtrs. Away from human habitation.

c) Control Equipment for Hot Mix Plant:-

1. *Drum mix machine shall be maintained with dust collector followed by scrubbing system of sufficient capacity to limit emissions.*
2. *Closed silo will be used for addition of cement in concrete making plant to avoid fugitive emission of particulate matter.*
3. *Water sprinkling arrangement at the vent (6 m height) is proposed for Hot Mix Plant before emitting flue gas through its vent with re-circulation system so as to avoid particulate matter emission.*
4. *Closed silo will be used for addition of dust at Wet Mix Macadam Plant to avoid fugitive emission of particulate matter.*
5. *Construction of the metallic roads within the premises.*
6. *Regular cleaning and wetting of the ground within the premises.*
7. *Growing of a green belt along the periphery.*

6. Conditions for D.G. Set

- a. Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
- b. Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
- c. The industry shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise to less than 55 dB(A) during day time and 45 dB(A) during the night time. Day time is reckoned between 6 a.m. to 10 p.m and night time is reckoned between 10 p.m to 6 a.m.
- d. Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
- e. Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
- f. A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use
- g. D.G. Set shall be operated only in case of power failure
- h. The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.

Standards for Stack Emissions:

- i) SPM --- Not to exceed 150µg/Nm³
 ii) SO₂ --- Not to exceed ---Kg/day

(i) **The applicant shall observe the following fuel pattern:-**

Sr. No.	Type Of Fuel	Quantity	UOM
1	LDO	280	Lit/Day.

(ii) **The applicant shall erect the chimney(s) of the following specifications:-**

Sr. No.	Chimney Attached To	Height in Mtrs.
1	Hot Mix Plant	11.
2	Scrubber	11
2	D.G. Set (750 KVA)	5 mtr.

(iii) The applicant shall provide ports in the chimney(s) and facilities such as ladder, platform etc. for monitoring the air emissions and the same shall be open for inspection to/and for use of the Board's Staff. The chimney(s) vents attached to various sources of emission shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.

(iv) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned in between 6 a.m. and 10 p.m. and night time is reckoned between 10 p.m. and 6 a.m.

(7) CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDRY MOVEMENT) RULES, 2008:

(i) The Industry shall handle hazardous wastes as specified below.

Sr. No.	Type Of Waste	Quantity	UOM	Disposal
The industry shall not generate any hazardous waste				

(ii) Treatment: - NIL

1. The authorization is hereby granted to operate a facility for collection, storage, transport & disposal of hazardous waste.

2. The industry should comply with the Hazardous Waste (MH&TM) Rules, 2008.

- a. Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.

- b. Industry shall obtain registration from CPCB as a re-refiner of Used oil having environmentally sound technology as per the provisions of Hazardous Waste (Management, Handling & Transboundary Movement) Rules 2008 before commencement of production.
- c. The unit has to display and maintain the data online outside the factory main gate in Marathi & English both on a 6'x4' display board in the manner and the report of the compliance along with photograph shall be submitted to this office & concerned Regional Office/ Sub Regional Office.
- d. It shall be ensured that the Hazardous waste is handled, managed & disposed of strictly in accordance with the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 and shown & submitted to the Board as & when asked for.

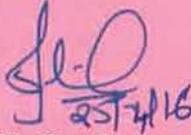
(8) Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipment's provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. **The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.**
- viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as per the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- ix. An inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.

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25/11/14

- xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.
- xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.
- 9) This Consent shall not be construed any relaxation from obtaining necessary No Objection Certificate from other Government Agencies as may deemed fit necessary.
- 10) **The Capital investment of the industry is Rs. 402.00 Lacks Only.**
- 11) **The Board reserves the rights to add/amend/revoke any condition in this consent and the same shall be binding on the applicant .**
- 12) **The applicant shall submit a Bank Guarantee of Rs. 5.0 Lacs within one month to be drawn in favour of Regional Officer, Maharashtra Pollution Control Board, Aurangabad towards O & M of pollution control devices which shall be valid for a period of one year.**

For and On Behalf of the
Maharashtra Pollution Control Board,



(D.B. Patil)

Regional Officer, Aurangabad.

To,

M/s. Modern Road Makers Pvt. Ltd.,
Sr.No. 243, Talewadi, Tq. Georai,
Dist: Beed.



Copy submitted to :-

1. The Member Secretary, MPCB, Mumbai.

Copy f.w.cs. to :-

1. The Chief Accounts Officer, MPCB, Mumbai.

Copy forwarded to :-

1. The Sub-Regional Officer, MPCB, Jalna.

Copy to Cess Wing/Statistical Wing/Air Wing/HWMH Wing, MPCB, Mumbai.

Copy to Master file.

Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	75100/-	250166	10/02/2016	SBI

MAHARASHTRA POLLUTION CONTROL BOARD

Tel. : (0240) 2473461 / 62 / 63
 Email : roaurangabad@mpcb.gov.in
 sroaurangabad1@mpcb.gov.in



Regional Office :
 Paryavaran Bhavan,
 Plot No. A - 4/1, MIDC, Chikalthana,
 Near Dhoot Hospital, Jalna Road,
 Aurangabad - 431 210.

By R.P.A.D./FAX/HAND DELIVERY:

No. MPCB/ROA/ID/ /2019
 To, 1911050005

Date :- 05/11/2019

**M/s. Modern Road Makers Pvt. Ltd.,
 Sr No 243, At Talewadi, Tq-Georai
 Dist: Beed.**

Sub:- Interim Directions under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref.:- 1) Proposed Direction issued by this office vide letter No. MPCB/ROA/PD/1910230004/2019 dated 23/10/2019.
 2) Personal hearing extended on 04/11/2019.

This refers to the Proposed Direction issued by this office vide letter referred above (1) and subsequent to the personal hearing extended on 04/11/2019. As agreed by your representative during the personal hearing, you are hereby directed to comply with the followings:

- 1) The project proponent shall cover conveyor belt by tin sheet of stone crusher before restart of said plant.
- 2) The project proponent shall install wind breaking wall at stone crushing plant before restart of said plant.
- 3) The project proponent shall repair the metallic road within premises before restart of stone crusher plant.
- 4) The project proponent shall install scrubbing system at Hot Mix Plant before restart of said plant.
- 5) The project proponent shall install closed silos for addition of cement concrete making plant to avoid fugitive emission of particulate matter at RMC plant before restart of said plant.
- 6) The project proponent shall install water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant.
- 7) The project proponent shall repair the metallic road within premises before restart of hot mix plant before restart of said plant.
- 8) The project proponent shall install two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant before restart of said plant.

T.C.

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- 9) The project proponent shall install bag house at storage of cement & fly ash Silos at RMC plant before restart of said plant.
- 10) The project proponent shall install bag house at mixing section of cement, aggregate & sand at RMC plant before restart of said plant.
- 11) The project proponent shall install rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant before restart of said plant.
- 12) The project proponent shall carry out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant.
- 13) The project proponent shall do the adequate plantation before restart of said plants.
- 14) The project proponent shall submit Bank Guarantee of Rs. 2 Lakhs towards the compliance of above directions within 15 days period.

In case, you fail to comply with the above directions, the Board will have no any other option than to issue Closure Directions with disconnection of electricity and water supply of your unit, which may be noted.



(A.D. Mohekar)

Regional Officer-Aurangabad.

Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.
2. The Sr. Law Officer (P & L Div), MPCB, Mumbai.

Copy for information and necessary follow-up action to :

1. The Sub-Regional Officer, MPCB, Jalna shall verify the operation status of above plant and as per number of days of non-compliance observed & calculate Environmental compensation and submit the office note of the same within 4 days period for onward submission for approval.

Copy to Master File, MPCB, Aurangabad.

T.C.



ANNEXURE D 109

MAHARASHTRA POLLUTION CONTROL BOARD

Tel.No. (02482) 220120



Sub-Regional Office,
Plot No. P-3-1 & P-3/2,
MIDC Area, Jalna, 431 203.

No. MPCB/SROJ/ 23 — /2020

Date:- 15/01/2020

To,
Regional Officer,
M P C Board,
Aurangabd.

Sub- Present status report & compliance report as per NGT order dated 14.11.2019 in O A No 59/2019 in respect of M/s Modern Road Makers Pvt. Ltd., Sr. no. 243, At: Talewadi, Tal Georai, Dist: Beed

- Ref: 1. Visit paid on 30/12/2019 in accordance to Interim directions issued vide no. MPCB/ROA/ID/1911050005/2019 dated 05-11-2019.
2. NGT order dated 14.11.2019 in O A No 59/2019

Sir,

With reference to above subject matter submitting herewith the report of M/s Modern Road Makers Pvt. Ltd., Sr. no. 243, At: Talewadi, Tal Georai, Dist: Beed as below-

1) During visit dated 30/12/2019 Stone crusher, Hot Mix and RMC plant for above mentioned industry at Sr. no. 243, At: Talewadi, Tal Georai, Dist: Beed was not found in operation. Industry official reported that plants are not operational due to non-requirement of product at this project site and hence the interim directions noncompliance is still there as it is.

2) During visit the operational status of Plants as per the record produced by unit representative is re-verified also discussed with the representative and learnt that the plant is non-complied since 06/09/2019 to till the issuance of Interim direction to unit on 05-11-2019 i.e. 61 days are the violating days for calculation of Environmental compensation.

3) The Environmental Compensation calculated is on the basis of formula:- $EC = PI \times N \times R \times S \times LF$ which is provided by higher office of MPCB and it is calculated as Rs 3,81,250/-

(PI = 50 as all the units falls in Orange category as per CPCB categorization, N = 61 Number of days violation, R = Rs 250, S = 0.5 as all units are small scale, LF = 1.00 as the units are located more than 10 km from municipal boundary of the city / town)

(EC = Environmental Compensation, 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)

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4) The instructions are given as per Interim directions not to start the plant before fulfilment of Interim directions.

D/a - Visit report copy

Byogini

Sub Regional Officer, M.P.C. Board, Jalna

Copy submitted for information to-

Joint Director (APC), MP C Board, Mumbai.

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T.C.

Shreyas

MAHARASHTRA POLLUTION CONTROL BOARD

Sub Regional Office, Jalna
Aurangabad Road, Add. MIDC
Phase-II, Jalna, Dist. Jalna-
431203



Phone No. 02482-220120
Email td-srojaina@mpcb.gov.in

Visit Report

Sr. No	Points	Observations during the visit
01	Name of the industry & detail Address	M/S. Modern Road Makers Pvt. Ltd. Sr. No. Talewadi, Tal - Georai, Dist - Beed.
02	Date of visit	30/12/2019
03	Name of Board Officials	Off. K. A. Zaidpide
04	Name of Industry representative contact number and E-mail ID	
05	Consent status and its validity	Orange/335 Valid up to 31/10/2020
06	Product and By-product details General use of the product Raw Material details used during the process Machinery installed details	Crushed Stone metal 30,000 MT/A Hot mix 20,000 MT/A Rmc 30000/MT Wet mix 20,000 MT/A In National Highway No. 211 —
07	Compliance of Water Pollution Related conditions	—
a)	Domestic waste water	1.5 cmb.
b)	Industrial waste water	Nil
08	Compliance of Air Pollution Related Conditions	During visit industry not found in operation
09	Details of Non-hazardous and storage arrangement details	—



10	Earlier Action initiated	Intention Directives dated 5/11/2019.
<p>Officials of Maharashtra Pollution Control Board and Industry representative of the Industry today on 30.12.2019 as per directions of Sub Regional Officer, During the visit following observations are made.</p>		
<ul style="list-style-type: none"> - During visit Stone crusher, hot mix plant RMC and Wet Mix not found in operation. - The two employee of that industry informed that all activity of plant was not in operation. - As per intention directives, the two level tyre washing facility at entry and exit point for transit mixture vehicle at RMC plant. - By Rooftop water sprinkling arrangement at storage area of aggregate and at fire out provide. - New tree plantation activity not observed during visit. - As per directives record of Bank guarantee related record not available. - During visit responsible authority person not present at site. 		
<p style="text-align: right;">(Dr. K. A. Zedpla)</p>		



464-A

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VISIT REPORT

Sr.	Points	Observations during the visit
01	Name of the industry & detail Address	M/S. Modern Road Makers Pvt.Ltd. Sr. No. Talewadi, Tal-Georai, Dist – Beed.
02	Date of visit	30/12/2019
03	Name of Board Officials	Dr. K. A. Zadpide.
04	Name of industry representative contact number and E-mail ID	
05	Consent status and its validity	Orange/SSI valid up to 31/10 / 2020
06	Product and By-product details	1) Crushed Stone Metal 30,000 B/A 2) Hot mix 20,000 Mg/M RMC 3000 B/M 3) Wet mix 20,000 MG/M
	General use of the product	In National Highway No. 211
	Raw Material details used during the process Machinery installed details	-
07	Compliance of water Pollution Related conditions	-
a)	Domestic waste water	1.5 CMD

T.C.



464-B

b)	Industrial waste water	Nil
08	Compliance of Air Pollution Related Conditions	During visit industry not found in operation
09	Details of Non-hazardous and storage arrangement details	-
10	Earlier Action initiated	Interim Direction dated 5/11/2019

Officials of Maharashtra Pollution Control Board and Industry representative of the Industry today on 30. 12.2019 as per directions of Sub Regional Officer, During the visit following observations are made

- During visit stone crusher, hot mix plant RMC and wet mix not found in operation.
- The two employee of that industry informed that all Activity of plant was not in operation.
- As per interim direction the two level Hre washing facility of entry and exit point for transit mixture vehicle at RMC plant.
- Rooftop water sprinkling arrangement at storage area of aggregate and as RMC not provide.
- New tree plantation activity not observed during visit.
- As per direction record of Bank guarantee related record not available.
- During visit responsible authority person not present at site.

(Dr. K.A.Zadpide)

T.C.



Ref.: YABOT/Beed/MPCB/2019/

Date: 20/11/2019

To,
The Regional Officer,
Maharashtra pollution control board,
Aurangabad.

Sub:- Interim Direction under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref:- 1) Proposed Direction issued by your office vide letter No. MPCB/ROA/PD/1910230004/2019 dated 23/10/2019.
2) Personal hearing dated 04/11/2019.

Respected sir,

This refers to the proposed direction issued by your office vide letter referred above (1) and subsequent personal hearing dated 04.11.2019. As discussed with our representative during the personal hearing, parawise compliance to the points raised for Gat. No. 243, At Talewadi, Ta. Georai, Dist. Beed is as below -

Sr. No	Directions	Compliance
1	The project proponent shall cover conveyor belt by tin sheet of stone crusher before restart of said plant.	All the conveyors are covered with high density Agro shed green net.
2	The project proponent shall install wind breaking wall at stone crushing plant before restart of said plant.	Crushing qty. is Completed. At present plant is kept idle, awaiting for demobilization.
3	The project proponent shall repair the metallic road within premises before restart of stone crusher plant	Repair of Road with plant premises is continuous process in plant.
4	The project proponent shall install scrubbing system at Hot Mix Plant before restart of said plant.	Our Hot mix Plant is provided with heavy duty bag house, which is designed to control Emission / pollution generated during plant operation.
5	The project proponent shall install closed silos for addition of cement concrete making plant to avoid fugitive emission of particulate matter at RMC plant before restart of said plant.	Our Rmc plant is installed with closed silo.
6	The project proponent shall install water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter before restart of said plant.	Water sprinkling is available at our plant .

T.C.



Sr. No	Directions	Compliance
7	The project proponent shall repair the metallic road within premises before restart of hot mix plant before restart of said plant.	All the approach road is continuously maintained.
8	The project proponent shall install two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant before restart of said plant.	Tyre washing facility is not applicable for our installed plant.
9	The project proponent shall install bag house at storage of cement & fly ash Silos at RMC plant before restart of said plant.	Bag house is provided in Existing silo.
10	The project proponent shall install bag house at mixing section of cement, aggregate & sand at RMC plant before restart of said plant.	Water sprinkling is being done through mobile water tanker.
11	The project proponent shall install rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant before restart of said plant	Not applicable for our installation.
12	The project proponent shall carry out air quality monitoring twice in a week for 24 hours during at operation phase of RMC plant.	Air quality is being monitored qtly. basis as per NHI guidelines.
13	The project proponent shall carry do the adequate plantation before restart of said plants.	Plantation in plant premises done.
14	The project proponent shall submit Bank Guarantee of Rs. 2 Lakh towards the compliance of above direction within 15 days period.	The Crusher plant will be closed within __ days. Hot Mix plant & RMC plant is partially operation. So please consider 1 lakh bank guarantee.

Above is submitted for your kind information & necessary acceptance please.

Thanking you,
With regards,

For, Modern Road makers Pvt. Ltd.

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Tel.No. (0240) 2473462
Fax No. (0240) 2473461



Regional Office, Paryavaran Bhavan,
A-4/1, MIDC Area, Chikalthana,
Behind Daynik Lokpatra, Near Seth
Nandlal Dhoot Hospital, Jalna Road,
Aurangabad-431 210.

By FAX/R.P.A.D./HAND DELIVERY:
No. MPCB/ROA/DIREC/46/2020

Date:- 18/02/2020

To,
M/s. Modern Road Makers Pvt. Ltd.,
Sr No 243, At Talewadi,
Tal-Georai Dist- Beed.

NOTICE

Sub:- Environmental compensation by invoking the 'Polluter Pays' principal for air pollution control measures noncompliance reg...

- Ref:- 1) Order dated 14/11/2019 passed by the Hon'ble National Green Tribunal, in O.A. No. 59/2019.
2) Interim Directions issued by this office vide letter No MPCB/ROA/ID/1911050005/2019 Dt- 05.11.2019.
3) Report received from Sub-Regional Officer, MPCB, Jalna dated-15.01.2020.
4) Approval received from Authorities for issuance of notice over telephone & SMS dated-18.02.2020.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi has passed an order on 14/11/2019 in O.A. No. 59/2019 filed by Sakharam Asaram Kale & Others v/s. The Regional Officer, M P C Board & Others for the reason of non-compliance of the Consent conditions issued by the M P C Board & Environmental Clearance issued by MoEF & CC.

Now, it is to inform you that the Sub-Regional Officer of the Board at Jalna reported vide above reference (3) that you are operating Stone Crusher, Hot Mix & Ready Mix Concrete plant and you have not covered conveyor belt by tin sheet of stone crusher, not installed wind breaking wall at stone crushing plant, not repaired the metallic road within premises of stone crusher plant, not installed scrubbing system at Hot Mix Plant, not installed closed silos for addition of cement concrete making plant to avoid fugitive emission of particulate matter at RMC plant, not installed water sprinkling arrangement at the vent for Hot Mix Plant before emitting flue gas with recirculation system so as to avoid emission of particulate matter of hot mix plant, not repaired the metallic road within premises of hot mix plant, not installed two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant, not installed bag house at storage of cement & fly ash Silos at RMC plant, not installed bag house at mixing section of cement, aggregate & sand at RMC plant, not installed rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant, not carried out air quality monitoring twice in a week for 24 hours during the operational phase of RMC plant, not done the adequate plantation in the premises and this noncompliance is observed from the recent visit dated-06.09.2019 of official of Sub Regional Office at Jalna to your unit. So till the issuance of directions vide ref. 2) dated-05.11.2019 total number of days violations are 61 days.

1-

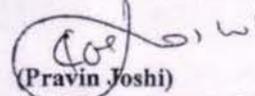


T.C.

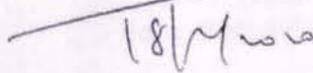
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In view of above you are hereby directed to pay an amount of Rs 3,81,250/- (Rs Three lacs eighty one thousand two hundred fifty only) **Environmental compensation** assessed on 'Polluter Payas" principal for air pollution control measures noncompliance and formula framed by CPCB for calculation of Environmental compensation. The Environmental compensation has been assessed on the record produced by Sub Regional Officer at Jalna to comply with the order passed by the Hon'ble National Green Tribunal.

The Environmental compensation of Rs 3,81,250/-may kindly be deposited in favor of Regional Officer, M P C Board, and Aurangabad at the earliest.


(Pravin Joshi)

Regional Officer-Aurangabad.



Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.

Copy to :

1. The Sub-Regional Officer, MPCB, Jalna- for information and necessary follow-up.



MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0240-2473461/62/63

Fax : 0240-2473462

Email : roaurangabad@mpcb.gov.
in

Regional Office:

Paryavaran Bhavan, Plot No.A-4/1,MIDC
Chikalthana, Behind Dainik Lokpatra, Near Seth
Nandlal Dhoot Hospital Jalna Road,Aurangabad-
431210**Ax. R5.1**Orange/SSI EIC No.AD-
Consent No: **MPCB-17/**

Date: 20/03/17

MPCB/ROA/LTR/E-25/98/E/C-1703001318

Consent to Operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundary Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&H) Rules respectively].

.....
CONSENT is hereby granted to

M/s. Modern Road Makers Pvt,Ltd.
Gat.No.-89 At-Washi.
Tal.-Washi,Dist.-Osmanabad.

Located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW (M&H) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1)The Consent to operate is granted for a period up to: 30/09/2024.

2)The Consent is valid for the manufacture of -

Sr. No.	Product Name	Maximum Quantity	UOM
1	Crushed Stone Metal	30000.0	Brass/A.
2	Ready Mix Concrete	3000.0	MT/M
3	Hot Mix & Wet Mix	20000	MT/M

3) CONDITIONS UNDER WATER ACT:

- The daily quantity of trade effluent from the factory shall be Nil
- The daily quantity of sewage effluent from the factory shall not exceed 0.4 M3.
- Trade Effluent : Nil
- Treatment: Nil
- Trade Effluent Disposal: NA
- Sewage Effluent Treatment: The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1)	Suspended Solids	Not to exceed	100	mg/l.
(2)	BOD 3 days 27o C.	Not to exceed	100	mg/l.

Page 1 of 4

T.C.

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
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(viii) **Other Conditions:**

- 1) Industry should monitor effluent quality regularly.
- 2) The industry shall monitor the stack and ambient air quality regularly.
- 3) As per the board's circular no. BO/RO (P & P)/TB/B-779 dtd 06/07/2006, the indigenous varieties of trees like Bel, Shisham, Amla, Mango, Khair Hingan, Palash, Champa, Bakul, Vad, Biba, Pimpal, Neem, Chivel, etc. shall be planted over 33% of the available open land.

(4) The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under.

The daily water consumption for the following categories is as under:

(i) Domestic purpose	...	0.5 CMD
(ii) Water gets Polluted & Pollutants are Biodegradable	...	0.00 CMD
(iii) Water gets Polluted, Pollutants are not Biodegradable & Toxic	...	0.00 CMD
(iv) Industrial Cooling, spraying in mine pits or boiler feed	...	3.0 CMD

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

(5) CONDITIONS UNDER AIR ACT:

- (i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

a. Control Equipment:

1. Industry shall provide dust collector of sufficient capacity to control the emissions.

The suspended particulate matter contribution value at a distance of 3 to 10 meters from unit shall be less than 600 microgram/Nm³. These units must also adopt the following pollution control measures.

1. Dust containment cum suppression system for the equipments.
2. Construction of wind breaking walls.
3. Construction of the metalled roads within the premises.
4. Regular cleaning and wetting of the ground within the premises.
5. Growing of a green belt along the periphery.
6. Water sprinkling arrangement shall be provided and operated continuously.

No stone crushing activity will be allowed within 500 mtrs. From National Highway, 200 mtrs. From State Highway and 100 mtrs. From other roads such as major district road, other district road or village roads. Also crusher shall be located 500 mtrs. Away from human habitation.

c) Control Equipment for Hot Mix Plant:-

1. Drum mix machine shall be maintained with dust collector followed by scrubbing system of sufficient capacity to limit emissions.
2. Closed silo will be used for addition of cement in concrete making plant to avoid fugitive emission of particulate matter.
3. Water sprinkling arrangement at the vent (6 m height) is proposed for Hot Mix Plant before emitting flue gas through its vent with re-circulation system so as to avoid particulate matter emission.
4. Closed silo will be used for addition of dust at Wet Mix Macadam Plant to avoid fugitive emission of particulate matter.
5. Construction of the metallic roads within the premises.
6. Regular cleaning and wetting of the ground within the premises.
7. Growing of a green belt along the periphery.

Conditions for D.G. Set

- a. Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
- b. Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
- c. The industry shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise to less than 55 dB(A) during day time and 45 dB(A) during the night time. Day time is reckoned between 6 a.m. to 10 p.m and night time is reckoned between 10 p.m to 6 a.m.
- d. Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
- e. Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
- f. A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use
- g. D.G. Set shall be operated only in case of power failure
- h. The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.

Dangar
21/3

Standards for Stack Emissions:

- i) SPM --- Not to exceed 150µg/Nm³
 ii) SO₂ --- Not to exceed ---Kg/day
- (i) The applicant shall observe the following fuel pattern:-

Sr. No.	Type Of Fuel	Quantity	UOM
1	White Coal	15.0	MT/M.
2	Diesel	1780.0	Lit/Day.

- (ii) The applicant shall erect the chimney(s) of the following specifications:-

Sr. No.	Chimney Attached To	Height in Mtrs.
1	Hot Mix Plant	
2	DG Set-I (1000 KVA)	6.5
2	DG Set-II (750 KVA)	5.5
3	DG Set-III (200 KVA)	3.0

- (iii) The applicant shall provide ports in the chimney/(s) and facilities such as ladder, platform etc. for monitoring the air emissions and the same shall be open for inspection to/and for use of the Board's Staff. The chimney(s) vents attached to various sources of emission shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.
- (iv) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned in between 6 a.m. and 10 p.m. and night time is reckoned between 10 p.m. and 6 a.m.

(7) CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDRY MOVEMENT) RULES, 2016:

- (i) The Industry shall handle hazardous wastes as specified below.

Sr. No.	Type Of Waste	Quantity	UOM	Disposal
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The industry shall not generate any hazardous waste

- (ii) Treatment: - NIL

1. The authorization is hereby granted to operate a facility for collection, storage, transport & disposal of hazardous waste.
2. The industry should comply with the Hazardous Waste (M&H) Rules, 2003.
 - a. Whenever due to any accident or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Board, concerned Police Station, office of Directorate of Health Services, Department of Explosives, Inspectorate of Factories and Local Body. In case of failure of pollution control equipments, the production process connected to it shall be stopped.
 - b. Industry shall obtain registration from CPCB as a re-refiner of Used oil having environmentally sound technology as per the provisions of

Hazardous Waste (Management & Handling) Rules 1989 & Amendment Rules 2003 before commencement of production.

- c. The unit has to display and maintain the data online outside the factory main gate in Marathi & English both on a 6'x4' display board in the manner and the report of the compliance along with photograph shall be submitted to this office & concerned Regional Office/ Sub Regional Office.
- d. It shall be ensured that the Hazardous waste is handled, managed & disposed of strictly in accordance with the Hazardous Waste (Management & Handling) Rules, 1989 as amended on 2003 and shown & submitted to the Board as & when asked for.

(8) Industry shall comply with following additional conditions:

- i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
- ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
- iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
- iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
- v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipment's provided for without previous written permission of the Board.
- vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- vii. The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.
- viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as pre the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- ix. As inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
- x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
- xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the pipes / sewers down- stream of the terminal manholes. No

effluent shall find its way other than in designed and provided collection System.
 xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.

9) The Capital investment of the industry is Rs. 804.00 Lacks. As per the declaration of the industry.

10) The Board reserves the rights to add/amend/revoke any condition in this consent and the same shall be binding on the applicant .

For and On Behalf of the
 Maharashtra Pollution Control Board,



(Dr. J.B. Sangewar)

Regional Officer, Aurangabad

To,

M/s. Modern Road Makers Pvt,Ltd.
 Gat.No.-89 At-Washi
 Tal.-Washi, Dist.-Osmanabad.

Received Consent fee of -

Sr. No.	Amount(Rs.)	DD. No.	Date	Drawn On
1	100000/-	NEFT	26/10/2016	State Bank of India

Copy forwarded to:

The Sub - Regional Officer, MPC Board, - Latur- information & follow-up.

Copy to:

Cess Wing/Statistical Wing/Air Wing/HWMH Wing, MPCB, Mumbai.

476

**Modern Road Marker Pvt. Ltd.
Gat No.89, At Village Washi,
Tal. Washi, Dist. Osmanabad**

Date: 24.03.2020

To

**The Member Secretary,
Maharashtra Pollution Control Board**
Kalptaru Point, 3rd floor,
Near Cine Planet, Sion Circle,
Sion East, Mumbai – 400022

Ax. R5.2

fwc to: RO / SRO Pune

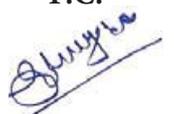
Industry: **Modern Road Marker Pvt. Ltd.**
Gat No.89, At Village Washi, Tal. Washi, Dist.
Osmanabad

Subject: **Environmental Compensation by**
invoking the "Polluter Pays" Principal for air
pollution control measure noncompliance reg...

Reference:

1. Order dated 14/11/2019 passed by Hon'ble National Green Tribunal, in O.A. No. 59/2019
2. Interim Direction issued by RO MPCB vide letter no. MPCB/ROA/ID/1911050002/2019 dated. 05/11/2019
3. Report received from Sub- Regional officer, MPCB Aurangabad dated-15/01/2020
4. Approval received from Authority for issuance of notice over telephone & SMS dated- 18/02/2020
5. **MPCB Notice regarding the Environmental Compensation dated 18/02/2020 (This notice is not received)**

T.C.



Sir,

1. We are Modern Road Marker Pvt. Ltd. Gat no. 89 - industry, giving this representation for requesting review, correction, reassessment and recalculation of Environmental Compensation for damage to environment after careful consideration of techno-legal submissions made by us as hereunder, without prejudice to each other. Before that, it also needs to be first ascertained as whether there is any damage to environment beyond specified limits and of which parameters? We also request that the personal hearing may be given to before taking any final/adverse decision.
2. We have gone through the Notice served by MPCB on 18/02/2020 through Regional Office Aurangabad. We have not received the said notice dated ----- (Knew from call from MPCB department) imposing the **environmental compensation of Rs. 5,31,250/-** for 89 days towards the noncompliance caused by industry regarding air pollution control measures.
3. At the outset we deny that we / our activities have caused any damage or harm to the environment and / or we have not complied any provisions of law, and put MPCB to strict proof thereof. Hence, we state that we are not liable to pay any compensation of Rs.5,31,250/- or part thereof.
4. Without prejudice to aforesaid, we state that we are not the party in the proceedings before National Green Tribunal (NGT) in O.A. 59/2019 and hence we are not aware of the orders passed by NGT in the said matter. Further, as we are not a party in these proceedings before NGT, the orders passed therein are not binding on us.
5. We were not given the findings of the Visit Report before computation of damage. The notice received does not show the various parameters that were sampled as per the provisions of the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control of Pollution) Act 1981 and Environment (Protection) Act 1986 and pollution or environmental damage has been found in respect of which parameters?
6. We have not received the results of any Law Evidence Sample (LES) drawn as per these provisions. We are not given the qualitative ascertainment of damage, degree of violation against the specified standards of various parameters and the quantified approximate environmental alleged damage caused due to it; and the cost of restoration.

LOCATION OF INDUSTRY

7. Industry is located away from the habitation which is as per the Condition no. **xxi** imposed in the "Environmental Clearance for rehabilitation and up-gradation of existing 2 lane to 4 lane of Yedshi to Aurangabad Section of NH-211 from km 100.000 to km 290.200 in the state of Maharashtra by M/s NHAI Reg.
8. Activity is located in a barren land as per the Environmental Clearance to avoid the adverse impact on the human population. There is no human settlement, ecologically sensitive area or flora/fauna getting affected from the plant.
9. Industry is in operation at said place since from 23/02/2016 having valid consent to operate for Crushing Stone Metal, Hot Mix, & Wet Mix, Ready-Mix Concrete up to 30/09/2024.

COMPUTATION OF ENVIRONMENTAL COMPENSATION

10. As per the Order passed by Hon'ble National Green Tribunal in O.A. 59/2019 dated 14/11/2019 Maharashtra Pollution Control Board imposed the Environmental Compensation without any supporting document. Industry has not received the detailed calculation sheet for this Environmental Compensation. MPCB only says that, they had evaluated / calculated the Environmental Compensation as per the formula framed by CPCB. MPCB may be calculated Environmental Compensation based on formula evolved by CPCB in O.A. 593/2017 Paryavaran Suraksha Samiti v/s UoI. The above formula is stated to be accepted by NGT in that matter. However, the same has not been approved and Gazetted / Notified by MoEFCC under the formal Rules under any of the environmental Acts. There is no similarity between the facts, circumstances, activity, location, nature of product, type of emissions, pollutants and its impact on surrounding environmental settings. As such the formula won't apply in the present case. This ought to have been considered by the MPCB before applying the formula ad-hoc, ad-valorem basis instead of modifying or applying it mutatis mutandis basis. MPCB is the technical Board and as such this can't be blindly done by MPCB just because some formula is available.

Without prejudice to aforesaid, it may please be noted that environment compensation for damage to environment was not done by considering following important points:

- a) The industry (Modern Road Marker Pvt. Ltd. Gat no. 89) was not party to above NGT Application in O.A.

593/2017 Paryavaran Suraksha Samiti v/s UoI. The cause of pollution and issues deliberated in that matter, were quite different and not at all the same as in this present case. The directions of the Hon'ble Tribunal were not against this impugned industry plant.

- b) There is no provision incorporated in any Act, Rule, Gazette Notification to *en-masse* apply such computation to all cases of violations.
- c) Such power of adjudication eventually imposing damages or Environmental Compensation is not vested with the CPCB / MPCB under the Act.
- d) Such powers are not delegated to CPCB / MPCB by the Hon'ble Tribunal as well.
- e) Industry was not given Directions u/s. 5 in this matter by CPCB or MPCB, which were not followed or complied.
- f) No personal hearing was granted to industry regarding Environmental Compensation.
- g) There was no violation as alleged, which could have been explained with facts and reports.
- h) No law evidence sample was collected in accordance with the specific provisions of the Act. Hon'ble Tribunal has not asked to bypass or circumvent the provisions of the Water / Air Act in this regard.
- i) The alleged incremental pollution in Ambient Air Quality, due to industry was not even calculated.
- j) No stack emission standards were violated.
- k) Industrial effluent quantity is NIL therefore there is no cause of pollution due to industrial effluent is generated.
- l) MPCB issued the proposed direction dated 23/10/2019 on the basis of the visit report of the Joint committee comprising the member of State Environment Impact Assessment Authority & MPCB as per the Order passed by Hon'ble NGT in O.A. 59/2019. Whereas this said report copy is not served to industry.
- m) On the basis of this proposed direction Regional Office MPCB Aurangabad ordered the industry to come for the personal hearing dated 31/10/2019 at 11.30 am at RO office Aurangabad.
- n) The personal hearing had taken place on 04/11/2019 and board imposed few conditions and following to this

hearing board also issued an interim direction dated 05/11/2019.

- o) During personal hearing industry representative submitted that *"The stone crusher plant & Hot Mix plant is already dismantled & only RMC plant is in existence but same plant is also not in operation. Now management has decided to dismantle the RMC plant but same is just pending as location of shifting the said plant at new location/site is not yet fixed till date we assured you that, we will not operate the Plant."* Above submitted fact certified by the SRO Latur during Personal Hearing through following submission, **"The F.O. Latur has reported during hearing that at present no RMC plant is in operation"**
- p) Industry has replied to the interim direction dated 20/11/2019 along with compliance report with pointwise submission to MPCB allegations.
- q) MPCB has not taken the cognizance of submitted reply and compliance report of the industry and issued the notice of Environmental Compensation dated 18/02/2020. The noticed issue on the basis of the calculation formed by the CPCB which may be based on the O.A. 593/2017 Paryavaran Suraksha Samiti v/s UoI.
- r) **The formula has a major defect. It doesn't recognize or consider the quantitative or the degree of violation. The same formula comes to effect for computation of damage, which is totally indifferent of the pollutants, degree of violation, and potential of the pollutant to pollute or damage the environment. The uncertainty in sample grabs collection, the variation in source or grab sample results are totally ignored.**
- s) The marks given to industries for categorization or classification have been used as factor for calculating fine, for which there is no scientific basis at all. **It will be like marks/score given to height or weight or colour or caste of the person to compute the fine to be imposed for PUC traffic violation.** There is no scientific linkage of marks given for categorization, in determining environmental damaging potency of the alleged polluting parameters, or potency to damage environment or the ascertainment of actual violation and its degree of violation

- t) Factor used in formula have no study back-up data as to how that links the Environmental Compensation or damage caused to environment, even approximately. As such the formula is based on the random facts selected which have relevance but no mathematical truth in arriving at the Rupee value of Environmental Compensation.
- u) MPCB should not do the adjudication, particularly when MPCB is the beneficiary of the Environmental Compensation to be paid.
- v) No SCN was given to industry after unilateral computation of environmental damage, and sought the say of the industry on it.
- w) There is no damage to environment pointed out in this present case which needs to be cured, treated, restored and/or remediation cost associated with that.
- x) **Allegation of violation is of YES / NO type**, but the degree of violation is not considered in the formula at all.
- y) The data to be collected has to be representative, of **composite weighted sample over the period of time**, as specific in the standard. e.g. AAQS are for the period of 24 hr. AAQ data as per the standard itself is for the area and not for the industry in particular. **The random one-time measurement at a location can't be the basis to determine the contribution of pollution from industry.**
- z) The source data variation itself is over 200 to 300%, whereas the action and compensation are being calculated on YES/NO results, without there being any computation with regards to number of parameters exceeded the standards, degree of exceeding of standards, which is totally incorrect and is injustice to industry and environment, both.
- aa) There are large number of environmental heads of pollution and associated standards with it. e.g. In AAQS there are 12 criteria pollutants. In effluent discharge standards, there are say 6 criteria pollutants in discharge standards. The industry doesn't have gaseous emissions. What was measured was only Particulate Matter. Violation alleged is only in case of SPM. However, the fact is ignored that the road leading to industry is unpaved and SPM from that traffic is the main source of SPM in that area. This fact is not disclosed or rather suppressed in the factual report.

- bb) Effluent, Hazardous waste and Noise pollution is not there in the industry. Air emissions are there, which is in the form of Particulate Matter only.
- cc) When Act has provided for some formal way of adjudication or prosecution, the same can't be bypassed by the MPCB.
- dd) The proper adjudication and determination of environment compensation for damage to environment can't be done by following such *ad-hoc* unscientific formula
- 11. In light of all the above important points that have been overlooked while arriving at the calculations of the Environmental Compensation, it is absolutely necessary that exercise of environmental compliance and associated damage to environment has to be done before imposing such a huge amount of compensation.**
12. Polluter should certainly pay for the pollution done. But it should be clearly established and proved that the pollution is caused due to direct act or omission of the establishment. Further, the proper determination must be done before imposing such penalty or cost of Environmental Compensation. Whether we have defaulted on environmental emission standards, which parameters and to what extent also has to be determined. Even assuming but without admitting any violation, the same approximate formula can't be applied merely because there was violation on a count for a parameter within the degree of tolerance or uncertainty.
13. Needless to state, the cost of determination also will be borne by the industry, but this essential step of determination can't be dispensed with.
14. **The Prayer:** We urge the Hon'ble Member Secretary to please take note of this and be pleased to pass the instructions to:
- a. Quash and set aside the earlier calculations which neither has legal sanction nor technical soundness, basis or established correlation
- b. **Keep the order for depositing the amount in abeyance/pending**, till the fresh report is considered ascertaining the environmental damage, if any and compensation towards that.

- c. **Carry out the inspection of industry afresh and scientifically assess the damage to environment, if any, due to non-compliance on the part of the industry.**
- d. Take the fresh **law evidence samples** as may be necessary along with the micrometeorological survey for determination of wind direction and velocity
- e. Assess the possible damage to the environment by at least actual identification of the recipient bodies, ecological systems, persons or flora / fauna as the case may be
- f. Assess the determination of damage to environment
- g. Direct the adjudication of the penalty to be done by the civil adjudicating authority provided under the statutes
- h. If the industry has violated any law, the action may be taken in accordance with the Act and Rules framed thereunder
- i. If there is issue of relief, compensation or restoration of damages, the industry is ready and willing to do it forthwith and/or deposit the Bank Guarantee till this is done as established.

AND industry prays for this relief with folded hands.

Thanking you,
Yours faithfully,

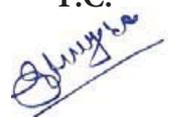
For, Modern Road makers pvt. Ltd.

Mr. R. N Chore
(General Manager)

Enclosures:

1. Daily Order of Hon'ble Tribunal dated 17.10.2019
2. MPCB directions u/s.31A dated 05.11.2019

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD

Tel. : (0240) 2473461 / 62 / 63
 Email : roaurangabad@mpcb.gov.in
 sroaurangabad1@mpcb.gov.in



Regional Office :
 Paryavaran Bhavan,
 Plot No. A - 4/1, MIDC, Chikalthana,
 Near Dhoot Hospital, Jalna Road,
 Aurangabad - 431 210.

By R.P.A.D./FAX/HAND DELIVERY:

No. MPCB/ROA/ID/ /2019

Date :- 05/11/2019

To, 1911050003

**M/s. Modern Road Makers Pvt. Ltd.,
 Gat No. 89, At Washi, Tq. Washi,
 Dist: Osmanabad.**

Sub:- Interim Directions under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref.:- 1) Proposed Direction issued by this office vide letter No. MPCB/ROA/PD/1910230006/2019 dated 23/10/2019.
 2) Personal hearing extended on 04/11/2019.

This refers to the Proposed Direction issued by this office vide letter referred above (1) and subsequent to the personal hearing extended on 04/11/2019. As agreed by your representative during the personal hearing, you are hereby directed to comply with the followings:

- 1) The project proponent shall install two level tyre washing facility at entry & exit points for transit mixture vehicle at RMC plant before restart of said plant.
- 2) The project proponent shall install bag house at storage of cement & fly ash Silos at RMC plant before restart of said plant.
- 3) The project proponent shall install bag house at mixing section of cement, aggregate & sand at RMC plant before restart of said plant.
- 4) The project proponent shall install rooftop water sprinkling arrangement at the storage area of aggregate & sand at RMC plant before restart of said plant.
- 5) The project proponent shall carry out air quality monitoring twice in a week for 24 hours during the operational phase.
- 6) The project proponent shall dispose the solid waste stored which was generated from transit mixture washing, muck (debris/sludge) in the premises as per consent condition before restart of said plant.
- 7) The project proponent shall do the adequate plantation before restart of said plant.
- 8) The project proponent shall submit Bank Guarantee of Rs. 1 Lakhs towards the compliance of above directions within 15 days period.

In case, you fail to comply with the above directions, the Board will have no any other option than to issue Closure Directions with disconnection of electricity and water supply of your unit, which may be noted.



(A.D. Mohekar)

Regional Officer-Aurangabad.

Copy submitted to :-

1. The Joint Director (APC), MPCB, Mumbai.
2. The Sr. Law Officer (P & L Div), MPCB, Mumbai.

Copy for information and necessary follow-up action to :

1. The Sub-Regional Officer, MPCB, Latur shall verify the operation status of above plant and as per number of days of non-compliance observed & calculate Environmental compensation and submit the office note of the same within 4 days period for onward submission for approval.

Copy to Master File, MPCB, Aurangabad.

view that the conduct of the election in the circumstances was not valid in law.

5. Though the learned counsel for the appellant seeks to rely upon Rule 14-A of the Punjab Gram Panchayat Election Rules, we do not think that the facts of the case fall in any of the grounds enumerated in that rule. She cannot file an election petition equally. However, in view of the facts stated above, it being a case of unlawful prevention of the appellant from contesting the election, the election to the office of Sarpanch held is clearly in violation of the law. Therefore, the election of the 7th respondent as Sarpanch is set aside. He may, however, continue till the re-poll is held. The authorities are directed to conduct the election according to the rules within four weeks from the date of the receipt of this order.

6. The appeal is allowed. Writ is issued accordingly. No costs.

Ax. R6

(1996) 3 Supreme Court Cases 212

(BEFORE B.P. JEEVAN REDDY AND B.N. KIRPAL, JJ.)

INDIAN COUNCIL FOR ENVIRO-LEGAL
ACTION AND OTHERS

.. Petitioners;

Versus

UNION OF INDIA AND OTHERS

.. Respondents.

Writ Petitions (C) No. 967 of 1989 with Nos. 94 of 1990, 824 of 1993 and 76 of 1994[†], decided on February 13, 1996

A. Constitution of India — Arts. 32, 21, 48-A and 51-A(g) — PIL — Petition alleging environmental pollution caused by private industrial units — Maintainability — Writ petition filed by an environmentalist organisation, not for issuance of writ, order or direction against such units but against Union of India, State Govt. and State Pollution Board concerned to compel them to perform their statutory duties on ground that their failure to carry on such duties violated rights guaranteed under Art. 21 of the residents of the affected area — Held, maintainable — Court can, after ascertaining that the alleged industrial units were responsible for causing ecological fragility in the area, direct the authorities concerned to perform their statutory duties — Environment (Protection) Act, 1986, Ss. 3, 4, 5 — Water (Prevention and Control of Pollution) Act, 1974, Ss. 24(1), 25(1) (as amended by Act 53 of 1988), 33, 33-A (as introduced by Act 53 of 1988) — Air (Prevention and Control of Pollution) Act, 1981 — Hazardous Wastes (Management and Handling) Rules, 1989

B. Constitution of India — Arts. 32, 21, 48-A, 51-A(g) — Environmental pollution — Compensation — Imposition of cost of remedial measures — Principles of Strict Liability and Polluter Pays — Applicability — Hazardous and inherently dangerous activity carried on by industrial units — Principle laid down by Supreme Court in *Oleum Gas Leak case* regarding strict and absolute liability of such units to compensate to persons adversely affected thereby, held, not obiter but binding — Rule in *Rylands v. Fletcher*, which is

[†] Under Article 32 of the Constitution of India

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subject to exceptions of 'foreseeability' and 'non-natural user', not suitable for Indian conditions and hence not applicable — Discharge of highly toxic effluents viz. waste water and sludge, both iron-based and gypsum-based, from respondents' chemical factories manufacturing 'H' Acid, poisoning earth, underground water, wells, agriculture and other vegetation and rendering the village, where the factories located, ecologically fragile — Respondents operating contrary to law without obtaining clearances from authorities concerned and also disobeying orders of authorities as well as of Supreme Court — Respondents alone found to be responsible for such extensive damages — Held on facts, principles of Strict Liability and Polluter Pays applicable — Power of Central Govt. to direct such industries to defray costs for undertaking remedial measures implicit under Ss. 3 and 4 of Environment (Protection) Act — Determination of the amount required for carrying out the remedial measures, recovery/realisation thereof and undertaking such measures are functions of Central Govt. — Court can therefore issue appropriate directions to the Central Govt. to invoke and exercise the powers under Ss. 3 and 4 of the said Act — Environment (Protection) Act, 1986, Ss. 3 to 5 — Water (Prevention and Control of Pollution) Act, 1974, Ss. 24(1), 25(1) (as amended by Act 53 of 1988), 33, 33-A (as introduced by Act 53 of 1988) — Air (Prevention and Control of Pollution) Act, 1981 — Hazardous Wastes (Management and Handling) Rules, 1989 — Tort

C. Constitution of India — Art. 32 — PIL — Reports submitted by experts pursuant to court's orders — Absence of opportunity to respondents to cross-examine the experts — Plea regarding raised at very late stage, unacceptable

The units/factories of Respondents 4 to 8, located in an industrial complex in village Bichhri in Udaipur (Rajasthan), were all chemical industries and were controlled by the same group of individuals. Respondent 4 started producing in 1987 certain chemicals like Oleum (concentrated form of sulphuric acid) and Single Super Phosphate. Respondent 5 (Silver Chemicals) and Respondent 8 (Jyoti Chemicals) commenced production of 'H' acid. Respondents 6 and 7 were producing fertilizers and a few other products. The respondents had not obtained the requisite clearances/consents/licences; nor did they install any equipment for treatment of highly toxic effluents discharged by them. 'H' acid was meant for export exclusively. Its manufacture gives rise to enormous quantities of highly toxic effluents — in particular, iron-based and gypsum-based sludge — which if not properly treated, pose grave threat to Mother Earth. It poisons the earth, the water and everything that comes in contact with it. The chemicals produced by Respondents 5 and 8 gave birth to about 2400-2500 MT of highly toxic sludge (iron-based sludge and gypsum-based sludge) besides other pollutants. Since the toxic untreated waste waters were allowed to flow out freely and because the untreated toxic sludge was thrown in the open in and around the complex, the toxic substances percolated deep into the bowels of the earth polluting the aquifers and the subterranean supply of water. The water in the wells and the streams turned dark and dirty rendering it unfit for human consumption, unfit for cattle to drink and for irrigating the land. The soil became polluted rendering it unfit for cultivation, the mainstay of the villagers. It spread diseases, death and disaster in the village and the surrounding areas. The villagers then rose in virtual revolt leading to the imposition of Section 144 CrPC by the District Magistrate in the area. It was averred by the respondents that both the units, Silver Chemicals and Jyoti Chemicals had stopped manufacturing 'H' acid since January 1989 were closed. Yet the consequences of their action remained — the sludge, the long-lasting damage to earth, to underground water, to human beings, to cattle and the village economy. An environmentalist organisation filed the present

writ petition before the Supreme Court by way of social action litigation, complaining precisely of the above situation and requesting for appropriate remedial action. Pursuant to notice issued by the Supreme Court, the Government of India, Government of Rajasthan, Rajasthan Pollution Control Board (RPCB) and Respondents 4 to 8 filed counter-affidavits. The Court by its order dated 11-12-1989 requested the National Environmental Engineering Research Institute (NEERI) to study the situation in and around Bichhri village and submit their report "as to the choice and scale of the available remedial alternatives". From the affidavits of the parties, various orders of the Court, technical reports and other data, it was found that out of 2440 tonnes of sludge, about 720 tonnes had been stored in the pits provided by the respondents. The remaining sludge was still there either within the area of the complex of the respondents or outside their complex. With a view to conceal it from the eyes of the inspection teams and other authorities, the respondents dispersed it all over the area and covered it with earth. In some places, the sludge was lying in mounds. The units continued to function even after and in spite of the closure orders of the RPCB. They never did carry out the orders of the Supreme Court fully (e.g., entombing the sludge), nor did they fulfil the undertaking given by them to the court (in the matter of removal of sludge and de-watering of the wells). In spite of repeated reports of officials and expert bodies, they persisted in their illegal course of action in a brazen manner exhibiting their contempt for law, for the lawful authorities and the courts. Allowing the writ petition with costs

Held :

The contention that the respondents being private corporate bodies and not 'State' within the meaning of Article 12, a writ petition under Article 32 would not lie against them, cannot be accepted. If the Supreme Court finds that the Government/authorities concerned have not taken the action required of them by law and that their inaction is jeopardising the right to life of the citizens of this country or of any section thereof, it is the duty of the Supreme Court to intervene. If it is found that the respondents are flouting the provisions of law and the directions and orders issued by the lawful authorities, the Court can certainly make appropriate directions to ensure compliance with law and lawful directions made thereunder. This is a social action litigation on behalf of the villagers whose right to life, is invaded and seriously infringed by the respondents as is established by the various reports of the experts called for, and filed before, the Court. If an industry is established without obtaining the requisite permission and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of the citizens living in the vicinity, the Supreme Court has power to intervene and protect the fundamental right to life and liberty of the citizens of this country. (Para 54)

The contention of respondents that the reports submitted by various expert bodies could not be relied upon by the Court in absence of opportunity to cross-examine the experts cannot be accepted. These reports were called by the Court and several orders passed on the basis of those reports. It was never suggested on behalf of offending industrial units (Respondents 4 to 8) that unless they are permitted to cross-examine the experts or the persons who made those reports, their reports cannot be acted upon. This objection, urged at this late stage of proceedings — after a lapse of several years — is wholly unacceptable. The persons who made the said reports are all experts in their field and under no obligation either to the State Pollution Control Board or for that matter to any other person or industry. It is in view of their independence and competence that their reports were relied upon and made the basis of passing orders by the Supreme Court from time to time. (Para 54)

Relying on the reports submitted by the National Environmental Engineering Research Institute by the Central team (experts from the Ministry of Environment

and Forests, Government of India) and the Rajasthan PCB, it must be held that the respondents alone were responsible for all the damage to the soil, to the underground water and to the village in general. (Paras 54 and 57)

[See also 'Conclusions' at para 69]

The question is whether and to what extent can the respondents be made responsible for defraying the cost of remedial measures in these proceedings under Article 32. (Para 57)

Any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country. According to the rule laid down by the Constitution Bench of the Supreme Court in *Oleum Gas Leak case*, once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity *irrespective* of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. In the words of the Constitution Bench, such an activity "... can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not". The Constitution Bench has also assigned the reason for stating the law in the said terms. It is that the enterprise (carrying on the hazardous or inherently dangerous activity) alone has the resource to discover and guard against hazards or dangers — and not the person affected *and* the practical difficulty (on the part of the affected person) in establishing the absence of reasonable care or that the damage to him was foreseeable by the enterprise. The Bench also observed that such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability under the rule in *Rylands v. Fletcher*. The twin tests laid down in *Rylands v. Fletcher* — apart from the proof of damage to the plaintiff by the act/negligence of the defendants — which must be satisfied to attract its rule are 'foreseeability' and 'non-natural' user of the land. The observation of Ranganath Misra, C.J. in his concurring opinion in *Union Carbide Corpn. case* that the view declared in *Oleum* was only obiter cannot be accepted. It does not appear to be unnecessary for the purposes of that case. Thus the law stated by the Supreme Court in *Oleum Gas Leak case* is by far the more appropriate one — apart from the fact that it is binding. (Paras 65, 58 and 62)

M.C. Mehta v Union of India, (1987) 1 SCC 395 : 1987 SCC (L&S) 37, *affirmed*

Rylands v. Fletcher, (1868) LR 3 HL 330 : (1861-73) All ER Rep 1, *disapproved*

Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584, paras 14 and 15, *overruled on this aspect*

Cambridge Water Co. Ltd. v. Eastern Counties Leather, plc, (1994) 2 WLR 53 : (1994) 1 All ER 53; *Burnie Port Authority v. General Jones Pty Ltd.*, (1994) 68 Aus LJ 331, *considered*

Pravinbhai Jashbhai Patel v. State of Gujarat, (1995) 2 GLR 1210 : (1995) 2 GLH 352, *referred to*

Ballard v. Tomlinson, (1885) 29 Ch D 115 : (1881-5) All ER Rep 688, *cited*

The question of liability of the respondents 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, viz., the "Polluter Pays" principle. According to this principle, the responsibility for repairing the damage is that of the offending industry. (Para 67)

Carolyn Shelbourn: "*Historic Pollution — Does the Polluter Pay?*" — *Journal of Planning and Environmental Law*, Aug. 1974 issue), *approved*

Read with the wide definition of 'environment' in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for for the above purpose. Levy of costs required for carrying out remedial measures is implicit in Sections 3 and 4. (Para 60)

In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. The Supreme Court can certainly give directions to the Central Government or its delegate to take all such measures, if in a given case the Court finds that such directions are warranted. Therefore, appropriate directions can be given by the Court to the Central Government to invoke and exercise those powers with such modulations as are called for in the facts and circumstances of this case. (Paras 60 and 66)

Indian Council for Enviro-Legal Action v. Union of India, (1995) 3 SCC 77 : (1995) 5 Scale 578, *relied on*

Further, in this case, there is a clear violation of law and disobedience to the orders of the Supreme Court apart from the orders of the lawful authorities. In this respect it is distinct from *Oleum Gas Leak case*. The Supreme Court has to ensure the observance of law and of its orders as a part of enforcement of fundamental rights. That power cannot be disputed. If so, the Court is competent to make orders necessary for a full and effective implementation of its orders — and that includes the imposition and recovery of cost of all measures including remedial measures. (Para 60)

However, in all the circumstances, it is 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, the Rajasthan Pollution Control Board or such other agency or authority, as they think fit. It is but appropriate that an estimate of the cost of remedial measures be made now with notice to the respondents, which amount should be paid to Central Government and/or recovered from them by the Central Government. Other directions are also called for in the light of the facts and circumstances mentioned above. (Paras 67 and 68)

[See 'Directions' in para 70]

Suggested Case Finder Search Text :

(1) environment or ecology or pollution or (hazardous near substance*)

Search again.

(compensation or costs or directions)

(2) (pil or "public interest litigation") (standing or maintainabl*)

(3) (rylands or "strict liability") not criminal

D. Constitution of India — Arts. 32 and 21, 48-A & 51-A(g) — PIL — Environmental pollution — Central Govt. directed to consider and examine the advisability of treating chemical industries as a category apart for scrutinising their establishments and functioning more rigorously and allowing these industries to be established in arid area (most of them being water-intensive industries); establishment of environment courts; strengthening the

a environment protection machinery both at the Centre and the States and providing them more teeth; personal accountability of the industrial units for their lapses and negligence and formation of environmental audit directed to be considered and examined by Central Govt. — Environment (Protection) Act, 1986, Ss. 3 to 5 [Paras 70(4), (6) and (7)]

b E. Constitution of India — Art. 32 — PIL — Costs — Actions of voluntary bodies in furtherance of public interest deserve encouragement — Hence while allowing the public interest writ petition respondents directed to pay Rs 50,000 by way of costs to the petitioner — Supreme Court Rules, 1966, Or. 41 (Para 71)

R-M/15795/C

Advocates who appeared in this case :

c Altaf Ahmed, Additional Solicitor General, Harish N. Salve, K.N. Bhat and P.P. Malhotra, Senior Advocates (M.C. Mehta, Ms Seema Midha, K.R.R. Pillai, P.R. Seetharaman, R.P. Wadhvani, K.S. Rohtagi, M.K. Aggarwal, Ms Aparna Rohtagi, Mukul Mudgal, Aruneshwar Gupta, S.B. Wad, Surya Kant, Ms Sushma Suri and Wasim A. Qadri, Advocates, with them) for the appearing parties.

Chronological list of cases cited

in para(s)

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| | 1 (1995) 3 SCC 77 : (1995) 5 Scale 578, <i>Indian Council for Enviro-Legal Action v. Union of India</i> | 43, 60 |
| d | 2. (1995) 2 GLR 1210 : (1995) 2 GLH 352, <i>Pravinbhai Jashbhai Patel v. State of Gujarat</i> | 4, 46 |
| | 3. (1994) 2 WLR 53 : (1994) 1 All ER 53, <i>Cambridge Water Co. Ltd. v. Eastern Counties Leather, plc</i> | 63 |
| | 4. (1994) 68 Aus LJ 331, <i>Burnie Port Authority v General Jones Pty Ltd.</i> | 64 |
| | 5 (1991) 4 SCC 584, <i>Union Carbide Corpn. v. Union of India</i> | 46, 59 |
| e | 6. (1987) 1 SCC 395 : 1987 SCC (L&S) 37, <i>M.C. Mehta v. Union of India</i> | 38, 43, 46, 58, 59, 60, 61, 65, 66, 69 |
| | 7 (1885) 29 Ch D 115 : (1881-5) All ER Rep 688, <i>Ballard v. Tomlinson</i> | 63 |
| | 8. (1868) LR 3 HL 330 : (1861-73) All ER Rep 1, <i>Rylands v. Fletcher</i> | 58, 59, 61, 63, 64 |

The Judgment of the Court was delivered by

B.P. JEEVAN REDDY, J.—

f *Writ Petition (C) No. 967 of 1989*

g 1. This writ petition filed by an environmentalist organisation brings to light the woes of people living in the vicinity of chemical industrial plants in India. It highlights the disregard, nay, contempt for law and lawful authorities on the part of some among the emerging breed of entrepreneurs, taking advantage, as they do, of the country's need for industrialisation and export earnings. Pursuit of profit has absolutely drained them of any feeling for fellow human beings — for that matter, for anything else. And the law seems to have been helpless. Systemic defects? It is such instances which have led many people in this country to believe that disregard of law pays and that the consequences of such disregard will never be visited upon them — particularly, if they are men with means. Strong words indeed — but h nothing less would reflect the deep sense of hurt, the hearing of this case has instilled in us. The facts of the case will bear out these opening remarks.

2. Bichhri is a small village in Udaipur District of Rajasthan. To its north is a major industrial establishment, Hindustan Zinc Limited, a public sector concern. That did not affect Bichhri. Its woes began somewhere in 1987 when the fourth respondent herein, Hindustan Agro Chemicals Limited started producing certain chemicals like Oleum (said to be the concentrated form of sulphuric acid) and Single Super Phosphate. The real calamity occurred when a sister concern, Silver Chemicals (Respondent 5), commenced production of 'H' acid in a plant located within the same complex. 'H' acid was meant for export exclusively. Its manufacture gives rise to enormous quantities of highly toxic effluents — in particular, iron-based and gypsum-based sludge — which if not properly treated, pose grave threat to Mother Earth. It poisons the earth, the water and everything that comes in contact with it. Jyoti Chemicals (Respondent 8) is another unit established to produce 'H' acid, besides some other chemicals. Respondents 6 and 7 were established to produce fertilizers and a few other products.

3. All the units/factories of Respondents 4 to 8 are situated in the same complex and are controlled by the same group of individuals. All the units are what may be called "chemical industries". The complex is located within the limits of Bichhri village.

4. Because of the pernicious wastes emerging from the production of 'H' acid, its manufacture is stated to have been banned in the western countries. But the need of 'H' acid continues in the West. That need is catered to by the industries like the Silver Chemicals and Jyoti Chemicals in this part of the world. (A few other units producing 'H' acid have been established in Gujarat, as would be evident from the decision of the Gujarat High Court in *Pravinbhai Jashbhai Patel v. State of Gujarat*¹, a decision rendered by one of us, B.N. Kirpal, J. as the Chief Justice of that Court.) Silver Chemicals is stated to have produced 375 MT of 'H' acid. The quantity of 'H' acid produced by Jyoti Chemicals is not known. It says that it produced only 20 MT, as trial production, and no more. Whatever quantity these two units may have produced, it has given birth to about 2400-2500 MT of highly toxic sludge (iron-based sludge and gypsum-based sludge) besides other pollutants. Since the toxic untreated waste waters were allowed to flow out freely and because the untreated toxic sludge was thrown in the open in and around the complex, the toxic substances have percolated deep into the bowels of the earth polluting the aquifers and the subterranean supply of water. The water in the wells and the streams has turned dark and dirty rendering it unfit for human consumption. It has become unfit for cattle to drink and for irrigating the land. The soil has become polluted rendering it unfit for cultivation, the mainstay of the villagers. The resulting misery to the villagers needs no emphasis. It spread disease, death and disaster in the village and the surrounding areas. This sudden degradation of earth and water had an echo in Parliament too. An Hon'ble Minister said, action was

(Jeevan Reddy, J.)

a being taken, but nothing meaningful was done on the spot. The villagers then
rose in virtual revolt leading to the imposition of Section 144 CrPC by the
District Magistrate in the area and the closure of Silver Chemicals in January
1989. It is averred by the respondents that both the units, Silver Chemicals
and Jyoti Chemicals have stopped manufacturing 'H' acid since January
1989 and are closed. We may assume it to be so. Yet the consequences of
their action remain — the sludge, the long-lasting damage to earth, to
b underground water, to human beings, to cattle and the village economy. It is
with these consequences that we are to contend with in this writ petition.

5. The present social action litigation was initiated in August 1989
complaining precisely of the above situation and requesting for appropriate
remedial action. To the writ petition, the petitioner enclosed a number of
c photographs illustrating the enormous damage done to water, cattle, plants
and to the area in general. A good amount of technical data and other
material was also produced supporting the averments in the writ petition.

Counter-affidavits of the Respondents

6. On notice being given, counter-affidavits have been filed by the
Government of India, Government of Rajasthan, Rajasthan Pollution Control
d Board (RPCB) and Respondents 4 to 8. Since the earliest *counter-affidavit* in
point of time is that of RPCB, we shall refer to it in the first instance. It was
filed on 26-10-1989. The following are the averments:

(a) Re Hindustan Agro Chemicals Limited (R-4): The unit obtained
"No Objection Certificate" from the PCB for manufacturing sulphuric
acid and alumina sulphate. The Board granted clearance subject to
e certain conditions. Later "No Objection Certificate" was granted under
the Water (Prevention and Control of Pollution) Act, 1974 (Water Act)
and Air (Prevention and Control of Pollution) Act, 1981 (Air Act), again
subject to certain conditions. However, this unit changed its product
without clearance from the Board. Instead of sulphuric acid, it started
f manufacturing Oleum and Single Super Phosphate (SSP). Accordingly,
consent was refused to the unit on 16-2-1987. Directions were also
issued to close down the unit.

(b) Re Silver Chemicals (R-5): This unit was promoted by the fourth
respondent without obtaining "No Objection Certificate" from the Board
for the manufacture of 'H' acid. The waste water generated from the
g manufacture of 'H' acid is highly acidic and contains very high
concentration of dissolved solids along with several dangerous
pollutants. This unit was commissioned in February 1988 without
obtaining the prior consent of the Board and accordingly, notice of
closure was served on 30-4-1988. On 12-5-1988, the unit applied for
consent under Water and Air Acts which was refused. The Government
h was requested to issue directions for cutting off the electricity and water

to this unit but no action was taken by the Government. The unit was found closed on the date of inspection, viz., 2-10-1989.

(c) *Re Rajasthan Multi Fertilizers (R-6)*: This unit was installed without obtaining prior "No Objection Certificate" from the Board and without even applying for consent under Water and Air Acts. Notice was served on this unit on 20-2-1989. In reply where to, the Board was informed that the unit was closed since last three years and that electricity has also been cut off since 12-2-1988. a

(d) *Re Phosphates India (R-7)*: This unit was also established without obtaining prior "No Objection Certificate" from the Board nor did it apply for consent under the Water and Air Acts. When notice dated 20-2-1989 was served upon this unit, the Management replied that this unit was closed for a long time. b

(e) *Re Jyoti Chemicals (R-8)*: This unit applied for "No Objection Certificate" for producing ferric alum. "No Objection Certificate" was issued imposing various conditions on 8-4-1988. The "No Objection Certificate" was withdrawn on 30-5-1988 on account of non-compliance with its conditions. The consent applied for under Water and Air Acts by this unit was also refused. Subsequently, on 9-2-1989, the unit applied for fresh consent for manufacturing 'H' acid. The consent was refused on 30-5-1989. The Board has been keeping an eye upon this unit to ensure that it does not start the manufacture of 'H' acid. On 2-10-1989, when the unit was inspected, it was found closed. c

7. The Board submitted further (in its counter-affidavit) that the sludge lying in the open in the premises of Respondents 4 to 8 ought to be disposed of in accordance with the provisions contained in the Hazardous Wastes (Management and Handling) Rules, 1989 framed under Environment (Protection) Act, 1986. According to the Board, the responsibility for creating the said hazardous situation was squarely that of Respondents 4 to 8. The Board enclosed several documents to its counter in support of the averments contained therein. d

8. *The Govt. of Rajasthan filed its counter-affidavit* on 20-1-1990. It made a curious statement in para 3 to the following effect: e

"(T)hat the State Government is *now* aware of the pollution of underground water being caused by liquid effluents from the firms arrayed as Respondents 4 to 8 in the writ petition. Therefore, the State Government has initiated action through the Pollution Control Board to check further spread of pollution." f

The State Government stated that the water in certain wells in Bichhri village and some other surrounding villages has become unfit for drinking by human beings and cattle, though in some other wells, the water remains unaffected. g

9. *The Ministry of Environment and Forests, Government of India filed its counter* on 8-2-1990. In their counter, the Government of India stated that Silver Chemicals was merely granted a Letter of Intent but it never applied h

a for conversion of the Letter of Intent into industrial licence. Commencing
production before obtaining industrial licence is an offence under Industries
(Development and Regulation) Act, 1951. So far as Jyoti Chemicals is
concerned, it is stated that it has not approached the Government at any time
even for a Letter of Intent. The Government of India stated that in June
1989, a study of the situation in Bichhri village and some other surrounding
villages was conducted by the Centre for Science and Environment. A copy
b of their report is enclosed to the counter. The report states the consequences
emanating from the production of 'H' acid and the manner in which the
resulting wastes were dealt with by Respondents 4 to 8 thus:

"The effluents are very difficult to treat as many of the pollutants
present are refractory in nature. Setting up such highly polluting industry
in a critical groundwater area was essentially ill-conceived. The
c effluents seriously polluted the nearby drain and overflowed into
Udaisagar main canal, severely corroding its cement-concrete lined bed
and banks. The polluted waters also seriously degraded some
agricultural land and damaged standing crops. On being ordered to
contain the effluents, the industry installed an unlined holding pond
within its premises and resorted to spraying the effluent on the nearby
d hill slope. This only resulted in extensive seepage and percolation of the
effluents into groundwater and their spread down the aquifer. Currently
about 60 wells appear to have been significantly polluted but every week
a few new wells, down the aquifer start showing signs of pollution. This
has created serious problems for water supply for domestic purposes,
cattle-watering crop irrigation and other beneficial uses, and it has also
e caused human illness and even death, degradation of land and damage to
fruit, trees and other vegetation. There are serious apprehensions that the
pollution and its harmful effects will spread further after the onset of the
monsoon as the water percolating from the higher parts of the basin
moves down carrying the pollutants lying on the slopes — in the holding
pond and those already underground."

f **10.** Each of the *Respondents 4 to 8* filed separate counter-affidavits. All
the affidavits filed on behalf of these respondents are sworn to by Lt. Gen.
M.L. Yadava, who described himself as the President of each of these units.
In the counter-affidavit filed on behalf of the fourth respondent, it is stated
that it is in no way responsible for the situation complained of. It is engaged
in the manufacture of sulphuric acid and had commenced its operations on
g 6-1-1987. It has been granted "No Objection Certificates" from time to time.
The consent obtained from RPCB is valid up to 15-8-1988. Application for
extension of consent has already been filed. This counter-affidavit was filed
on 18-1-1990.

h **11.** In the counter-affidavit filed on behalf of the fifth respondent (Silver
Chemicals), it is stated that the manufacture of 'H' acid which was
commenced in February 1988 has been completely stopped after January
1989. The respondent is fully conscious of the need to conserve and protect

environment and is prepared fully to cooperate in that behalf. It is ready to comply with any stipulations or directions that may be made for the purpose. It, however, submitted that the real culprit is Hindustan Zinc Limited. The Archaeological Department of the Government of Rajasthan had issued environmental clearance for its unit (rather surprising statement). "No Objection Certificates" had also been issued by the Executive Engineer (Irrigation), Udaipur Division and the Wild Life Warden. So far as the requirement of 'consent' under Water and Air Acts is concerned, it merely stated that it had applied for it. Its closure in January 1989 was on account of promulgation of an order under Section 144 CrPC by the District Magistrate in view of widespread agitation by the villagers against its functioning.

12. In the counter-affidavit filed on behalf of the sixth respondent (Rajasthan Multi Fertilizers), it is stated that it commenced production on 14-3-1982 and closed down in December 1985. Electrical connection to it was disconnected on 13-2-1988. It was submitted that since it is a small-scale industry, no consent was asked for from anyone. It denied that it was causing any pollution, either ground, air or water.

13. In the counter-affidavit filed on behalf of the seventh respondent (Phosphates India), it is stated that this unit commenced production on 15-5-1988 but was closed on and with effect from 1-9-1988 for want of support from the Central Government in the form of subsidies. It submitted that it has merged with the fourth respondent in 1987-88.

14. In the counter-affidavit filed on behalf of the eighth respondent (Jyoti Chemicals), it is stated that it has no electrical connection, that it had commenced production in April 1987 and closed down completely in January 1989. It is stated that the unit produced 'H' acid to an extent of 20 MT as a trial measure for one month with the permission of the Industries Department. It is no longer manufacturing 'H' acid and, therefore, is not responsible for causing any pollution. It is further submitted that it is a small-scale industry and was registered with the District Industry Centre, Udaipur for the manufacture of ferric alum and 'H' acid. It began its operation simultaneously with the fifth respondent, Silver Chemicals, and several of the clearances are common to both, as both of them are located together. The trial production of 'H' acid, it is stated, took place in January 1987.

15. *Hindustan Zinc Limited* was impleaded as the ninth respondent at the instance of Respondents 4 to 8. It has filed a counter-affidavit denying that it is responsible in any manner for causing any pollution in Bichhri village or the surrounding areas. According to it, its plants are situated downstream, towards north of Bichhri village. We do not think it necessary to refer to this affidavit in any detail inasmuch as we are not concerned, in this writ petition, with the pollution, if any, caused by the ninth respondent in other villages but only with the pollution caused by Respondents 4 to 8 in Bichhri or surrounding villages.

Orders passed and steps taken during the period 1989-1992

a **16.** The first considered order made, after hearing the parties, by this Court is of 11-12-1989. Under this order, the court requested the National Environmental Engineering Research Institute (NEERI) to study the situation in and around Bichhri village and submit their report "as to the choice and scale of the available remedial alternatives". NEERI was requested to suggest both short-term and long-term measures required to combat the hazard already caused. Directions were also made for *supply of drinking water* to affected villages by the State of Rajasthan. The RPCB was directed to make available to the court the Report it had prepared concerning the situation in Bichhri village.

c **17.** On the next date of hearing, i.e., 5-3-1990, the court took note of the statements made on behalf of Respondents 4 to 8 that they have completely stopped the manufacture of 'H' acid in their plants and that they did not propose to resume its manufacture. The court also took note of the petitioner's statement that though the manufacture of 'H' acid may have been stopped, a large quantity of highly dangerous effluent waste/sludge has accumulated in the area and that unless properly treated, stored and removed, it constitutes a serious danger to the environment. Directions were given to the RPCB to arrange for its transportation, treatment and safe storage according to the technically accepted procedures for disposal of chemical wastes of that kind. All reasonable expenses for the said operation were to be borne by Respondents 4 to 8 (hereinafter referred to in this judgment as the 'respondents'). So far as the polluted water in the wells was concerned, the court noted the offer made by the learned counsel for the respondents that they will themselves undertake the de-watering of the wells. The RPCB was directed to inspect and indicate the number and location of the wells to be de-watered.

f **18.** The matter was next taken up on 4-4-1990. It was brought to the notice of the court that no meaningful steps were taken for removing the sludge as directed by this Court in its order dated 5-3-1990. Since the monsoon was about to set in, which would have further damaged the earth and water in the area, the court directed the respondents to immediately remove the sludge from the open spaces where it was lying and store it in safe places to avoid the risk of seepage of toxic substances into the soil during the rainy season. The respondents were directed to complete the task within five weeks therefrom.

g **19.** It is not really necessary to refer to the contents of the various orders passed in 1990 and 1991, i.e., subsequent to the order dated 4-4-1990 for the present purposes. Suffice it to say that the respondents did not comply with the direction to store the sludge in safe places. The de-watering of wells did not prove possible. There was good amount of bickering between the respondents on one side and the RPCB and the Ministry of Environment and Forests on the other. They blamed each other for lack of progress in the

matter of removal of sludge. Meanwhile, years rolled by and the hazard continued to rise. NEERI submitted an interim report. (We are, however, not referring to the contents of this interim report inasmuch as we would be referring to the contents of the final report presently after referring to a few more relevant orders of this Court.)

20. On 17-2-1992, this Court passed a fairly elaborate order observing that Respondents 5 to 8 are responsible for discharging the hazardous industrial wastes; that the manufacture of 'H' acid has given rise to huge quantities of iron sludge and gypsum sludge — approximately 2268 MT of gypsum-based sludge and about 189 MT of iron-based sludge; that while the respondents blamed Respondent 9 as the main culprit, Respondent 9 denied any responsibility therefor. The immediate concern, said the Court, was the appropriate remedial action. The report of the RPCB presented a disturbing picture. It stated that the respondents have deliberately spread the hazardous material/sludge all over the place which has only heightened the problem of its removal and that they have failed to carry out the order of this Court dated 4-4-1990. Accordingly, the court directed the Ministry of Environment and Forests, Government of India to depute its experts immediately to inspect the area to ascertain the existence and extent of gypsum-based and iron-based sludge, to suggest the handling and disposal procedures and to prescribe a package for its transportation and safe storage. The cost of such storage and transportation was to be recovered from the respondents.

21. Pursuant to the above order, a team of experts visited the area and submitted a report along with an affidavit dated 30-3-1992. The report presented a highly disturbing picture. It stated that the sludge was found inside a shed and also at four places outside the shed but within the premises of the complex belonging to the respondents. It stated further that sludge has been mixed with soil and at many places it is covered with earth. A good amount of sludge was said to be lying exposed to sun and rain. The report stated:

“Above all, the extent of pollution in groundwater seems to be very great and the entire aquifer may be affected due to the pollution caused by the industry. The organic content of the sludge needs to be analysed to assess the percolation property of the contents from the sludge. It is also possible that the iron content in the sludge may be very high which may cause the reddish colouration. As the mother liquor produced during the process (with pH-1) was highly acidic in nature and was indiscriminately discharged on land by the unit, it is possible that this might have eroded soil and caused the extensive damage. It is also possible that the organic contents of the mother liquor would have gone into soil with water together with the reddish colour.”

The report also suggested the mode of disposal of sludge and measures for reconditioning the soil.

22. In view of the above report, the court made an order on 6-4-1992 for entombing the sludge under the supervision of the officers of the Ministry of

a Environment and Forests, Government of India. Regarding revamping of the soil, the court observed that for this purpose, it might become necessary to stop or suspend the operation of all the units of the respondent but that, the court said, requires to be examined further.

b **23.** The work of entombment of sludge again faced several difficulties. While the respondents blamed the government officers for the delay, the government officials blamed the said respondents of non-cooperation. Several orders were passed by this Court in that behalf and ultimately, the work commenced.

Orders passed in 1993, filing of Writ Petition (C) No. 76 of 1994 by Respondent 4 and the orders passed therein

c **24.** With a view to find out the connection between the wastes and sludge resulting from the production of 'H' acid and the pollution in the underground water, the court directed on 20-8-1993, that samples should be taken of the entombed sludge and also of the water from the affected wells and sent for analysis. Environment experts of the Ministry of Environment and Forests were asked to find out whether the pollution in the well water was on account of the said sludge or not. Accordingly, analysis was conducted and the experts submitted the Report on 1-11-1993. Under the heading 'Conclusion', the report stated:

"5.0 Conclusion

5.1 On the basis of the observations and analysis results, it is concluded beyond doubt that the sludge inside the entombed pit is the contaminated one as evident from the number of parameters analysed.

e 5.2 The groundwater is also contaminated due to discharge of H-acid plant effluent as well as H-acid sludge/contaminated soil leachates as shown in the photographs and also supported by the results. The analysis results revealed good correlation between the colour of well water and H-acid content in it. The analysis results show high degree of impurities in sludge/soil and also in well water *which is a clear indication of contamination of soil and groundwater due to disposal of H-acid waste."*

f The report which is based upon their inspection of the area in September 1993 revealed many other alarming features. It represents a commentary on the attitude and actions of the respondents. In para 2, under the heading "Site Observations and Collection of Sludge/Contaminated Soil Samples", the following facts are stated:

g "2.1. The Central team, during inspection of the premises of M/s HACL, observed that *H-acid sludge (iron/gypsum) and contaminated soil are still lying at different places, as shown in Fig. 1, within the industrial premises* (Photograph 1) which are the leftovers. The area, where the solar evaporation pond was existing with H-acid sludge dumped here and there, was observed to have been levelled with borrowed soil (Photograph 2). It was difficult to ascertain whether the

sludge had been removed before filling. However, there are visual evidences of contaminated soil in the area.

2.2 As reported by the Rajasthan Pollution Control Board (RPCB) representatives, *about 720 tonnes out of the total contaminated soil and sludge scraped from the sludge dump sites is disposed of in six lined entombed pits covered by lime/flyash mix, brick soling and concrete (Photographs 3 and 4). The remaining scraped sludge and contaminated soil was lying near the entombed pits for want of additional disposal facility.* However, during the visit, the left over sludge and contaminated soil could not be traced at site. Inspection of the surrounding area revealed that *a huge heap of foreign soil of 5 metre height (Photograph 5) covering a large area, as also indicated in Fig. 1, was raised on the slopy ground at the foothill within the industry premises.* The storm water run-off pathway over the area showed indication of H-acid sludge leachates coming out of the heap. Soil in the area was sampled for analysis.

2.3 *M/s HACL has a number of other industrial units which are operating within the same premises without valid consents from the Rajasthan Pollution Control Board (RPCB). These plants are sulphuric acid (H₂SO₄), fertilizer (SSP) and vegetable oil extraction. The effluent of these units are not properly treated and the untreated effluent particularly from the acid plant is passing through the sludge dump area playing havoc (Photograph 7). The final effluent was collected at the outlet of the factory premises during operation of these units, at the time of groundwater monitoring in September 1993, by the RPCB. Its quality was observed to be highly acidic (pH: 1.08, Conductivity: 37,100 mg/l, SO₄: 21,000 mg/l, Fe: 392 mg/l, COD: 167 mg/l) which was also revealed in the earlier visits of the Central teams. However, these units were not in operation during the present visit.*

Under para 4.2.1, the report stated inter alia:

"The sludge samples from the surroundings of the (presently non-existent) solar evaporation and the contaminated soil due to seepage from the newly raised dump site also exhibited very high values of the above-mentioned parameters. This revealed that the contaminated soil is buried under the new dump found by the team."

25. So much for the waste disposal by the respondents and their continuing good conduct! To the same effect is the report of the RPCB which is dated 30-10-1993.

26. In view of the aforesaid reports, all of which unanimously point out the consequences of the 'H' acid production, the manner in which the highly corrosive waste water (mother liquor) and the sludge resulting from the production of 'H' acid was disposed of and the continuing discharge of highly toxic effluents by the remaining units even in the year 1993, the authorities (RPCB) passed orders closing down, in exercise of their powers under Section 33-A of the Water Act, the operation of the Sulphuric Acid

a Plant and the solvent extraction plant including oil refinery of the fourth respondent with immediate effect. Orders were also passed directing disconnection of electricity supply to the said plants. The fourth respondent filed Writ Petition (C) No. 76 of 1994 in this Court, under Article 32 of the Constitution, questioning the said orders in January 1994. The main grievance in this writ petition was that without even waiting for the petitioner's (Hindustan Agro Chemicals Limited) reply to the show-cause notices, orders of closure and disconnection of electricity supply were passed and that this was done by the RPCB with a mala fide intent to cause loss to the industry. It was also submitted that sudden closure of its plants is likely to result in disaster and, may be, an explosion and that this consideration was not taken into account while ordering the closure. In its Order dated 7-3-1994, this Court found some justification in the contention of the industry that the various counter-affidavits filed by the RPCB are self-contradictory. The Board was directed to adopt a constructive attitude in the matter. By another order dated 18-3-1994, the RPCB was directed to examine the issue of grant of permission to restart the industry or to permit any interim arrangement in that behalf. On 8-4-1994, a 'consent' order was passed whereunder the industry was directed to deposit a sum of Rupees sixty thousand with RPCB before 11-4-1994 and the RPCB was directed to carry on the construction work of storage tank for storing and retaining ten days' effluents from the Sulphuric Acid Plant. The construction of temporary tank was supposed to be an interim measure pending the construction of an ETP on permanent basis. The order dated 28-4-1994 noted the report of the RPCB stating that the construction of temporary tank was completed on 26-4-1994 under its supervision. The industry was directed to comply with such other requirements as may be pointed out by RPCB for prevention and control of pollution and undertake any work required in that behalf forthwith. Thereafter, the matter went into a slumber until 13-10-1995.

NEERI Report

f 27. At this juncture, it would be appropriate to refer to the report submitted by NEERI on the subject of "Restoration of Environmental Quality of the affected area surrounding Village Bichhri due to past Waste Disposal Activities". This report was submitted in April 1994 and it states that it is based upon the study conducted by it during the period November 1992 to February 1994. Having regard to its technical competence and reputation as an expert body on the subject, we may be permitted to refer to its report at some length.

g 28. At p. 7, the report mentions the industrial wastes emerging from the manufacture of 'H' acid. It reads:

"Solid wastes generated from H-acid manufacturing process are:

h Gypsum sludge produced during the neutralisation of acidic solution with lime after nitration stage (around 6 tonnes/tonne of H-acid manufactured)

Iron sludge produced during the reduction stage (around 0.5 tonnes/tonne of H-acid manufactured)

Gypsum sludge contains mostly calcium sulphate along with sodium salts and organics. Iron sludge constitutes unreacted iron powder, besides ferric salts and organics. a

It is estimated that, for each tonne of H-acid manufactured, about 20 m³ of highly corrosive waste water was generated as mother liquor, besides the generation of around 2.0 m³ of wash water. The mother liquor is characterised by low pH (around 2.0) and high concentration of total dissolved solids (80-280 g/L). High COD of the waste water (90 g/L) could be attributed to organics formed during various stages of manufacture. These include naphthalene trisulphonic acid, nitro naphthalene sulphonic acid, Koch acid and H-acid, besides several other intermediates." b

29. At pp. 8 and 9, the report describes the manner in which the sludge and other industrial wastes were disposed of by the respondents. It states inter alia: c

"The total quantities of waste water and that of sludge generated were around 8250 m³ and 2440 tonnes respectively for a production of 375 tonnes by M/s Silver Chemicals Ltd. and M/s Jyoti Chemicals Ltd.... d

Majority of sludge brought back from disposal sites located outside the plant was transferred inside a covered shed.

The sludge lying in the plant premises was entombed in the underground pit by RPCB as per the directions of the Hon'ble Supreme Court. It may be mentioned that *only 720 MT of sludge out of the estimated quantity of 2440 MT could be entombed as the capacity of the underground tanks provided by the industry for the purpose was only to that extent.* e

Remaining sludge and sludge-mixed soil were, however, present in the plant premises as these could not be transferred into underground tanks. It has also been observed that only sludge above the soil was removed from the six sites and transferred to the plant site. Sub-surface soil of these sites appears to have been contaminated as the soil has reddish colour akin to that of the sludge. f

A fertilizer plant (single superphosphate), a sulphuric acid plant and an oil extraction and oil refining plant were in operation in the same premises where H-acid was earlier manufactured. *The acidic waste water (around pH 1.0) presently generated from these units was flowing over the abandoned dump site. This leaches the sludge-mixed soil from the abandoned dump site and the contaminated water flows by gravity towards east and finds its way into a nullah flowing through the compound and conveys the contaminated water to an irrigation canal which originates from Udaisagar Lake (Pate 1.4).*" (emphasis added) g

30. At p. 10, the report mentions the six dump sites outside the 'H' acid plant premises where the sludge was lying in the open. At pp. 26 and 27, the h

a report states on the basis of VES investigations that while certain wells were found contaminated, others were not. At p. 96, the report states thus:

“DAMAGE TO CROPS AND TREES

The field surveys in contaminated fields *in Zones I and II showed that no crops were coming in the fields particularly in low-lying areas.* On some elevated areas, crops like jowar, maize were growing; however the growth and yield were very poor.

b Further it was also observed that even trees like eucalyptus planted in contaminated fields show leaf burning and stunted growth. Many old trees which were badly affected due to contamination are still growing under stress conditions as a result of soil contamination.

c The top soils at the old dump sites outside the plant premises are still contaminated and require de-contamination before the land is used for other purposes.

It was observed that even after the operation of hauling the sludge back to the industry premises, some sludge-mixed soil was still lying in the premises of a primary school (Table 1.1), which needs de-contamination.”

d **31.** In Chapter 6, the report mentions the remedial measures. Para 6.1, titled INTRODUCTION, states:

e “As could be seen from the data reported in Chapters 4 and 5, *the groundwater and soils within 2 kms from the plant have been contaminated.* After critically scrutinising the data, it was concluded that there is an *urgent need to work out a de-contamination strategy* for the affected area. This strategy includes the de-contamination of the soil, contaminated groundwater and abandoned dump sites. This chapter details the remedial measures that can be considered for implementation to restore the environmental quality of the affected area.”

f **32.** The chapter then sets out the various remedial measures, including land treatment, soil washing, revegetation, control over the flow of the contaminated water to adjoining lands through canals, leaching of soluble salts, design of farm to development of agro-forestry and/or forestry plantation with salt tolerant crops/plants and groundwater de-contamination. Inter alia, the report states:

g “The entire contaminated area comprising of 350 ha of contaminated land and six abandoned dump sites outside the industrial premises has been found to be ecologically fragile due to reckless past disposal activities practised by M/s Silver Chemicals Ltd. and M/s Jyoti Chemicals Ltd. Accordingly, it is suggested that the whole of the contaminated area be developed as a green belt at the expense of M/s Hindustan Agrochemicals Ltd. during the monsoon of 1994.”

h **33.** Under para 6.3.2, the report suggests “De-contamination Alternatives for Groundwater” including bioremediation, degradation of H-

acid by *Azotobacter Vinelandii*, isolation of bacterial population from H-acid contaminated soil and several other methods.

34. Under para 6.4.2, the report mentions the several de-contamination alternatives including containment of contaminated soil, surface control, groundwater control, leachate collection and treatment, gas migration control and direct waste treatment. a

35. At pp. 157 and 158, the report mentions the continuing discharge of effluents in an illegal and dangerous manner. It reports:

“It was also observed by NEERI’s team during the current study that the industry *has not provided adequate effluent treatment facilities* and the waste waters (pH<1.5) from the existing plants (sulphuric acid, fertilizer, and oil extraction) are being discharged, without treatment, on land within the plant premises. This indiscriminate and wilful disposal activity is *further aggravating the contamination problem in the area. Acidic effluent leaches the pollutants from the dumped sludge and the contaminated soil and facilitates their penetration through the ground* and thereby increasing the concentration of sulphates and dissolved solids in groundwater. *What is most serious is the fact that the industry produced chlorosulfonic acid for a few months during late 1992 which is a hazardous and toxic substance as per MEF Notification titled ‘Manufacture, Storage and Import of Hazardous Chemical Rules, 1989’* and even floated public shares for the manufacture of this obnoxious chemical. *The production was however ceased due to the intervention of the Rajasthan Pollution Control Board in December 1992 as the industry was operating without obtaining site clearance, No Objection Certificate (NOC)/Consent from the concerned appropriate regulatory (regulatory?) authorities and without providing for any pollution-control measures.* It is, therefore, essential for M/s Hindustan Agrochemicals Ltd. to comply with these requirements for carrying out the present industrial activities. *The abatement of further contamination warrants the closure of all industrial operations till an appropriate effluent treatment plant is installed, and certified by RPCB for its functionality in keeping with the provisions of Water Act.*” b
c
d
e
f

The report adds:

“The Industry management in the past (during 1988-89) has shown scant respect for Pollution Control and Environment Protection Acts. Not only this, the management *continues industrial activity producing obnoxious waste waters and dumping the same without any treatment, contaminating land and groundwater without any concern for ecology and public health.* It is necessary that the provisions of relevant legislations are imposed on the industry to avoid environmental damage and harm to public welfare.” g (emphasis added)

36. We do not think that the above report requires any emphasis at our hands. It speaks for itself — and it speaks volumes of the “high regard” the respondents have for law! h

37. From p. 179 onwards, the report refers to the damage to the crops and the land and to the psychological and mental torture inflicted upon the villagers by the respondents and suggests that the principle of “Polluter Pays” should be applied in this case inasmuch as “*the incident involved deliberate release of untreated acidic process waste water and negligent handling of waste sludge knowing fully well the implication of such acts*”. The report suggests that compensation should be paid under two heads, viz., (a) for the losses due to damage and (b) towards the cost of restoration of environmental quality. It then works out the total cost of restoration of environmental quality at Rs 3738.5 lakhs — i.e., Rs 37.385 crores.

38. Para 7.4 states the conclusions flowing from the material in Chapter 6 thus:

“The cost of damage to be disbursed to the affected villagers is estimated at Rs 342.8 lakhs and remediation of impacted well waters and soil at Rs 3738.5 lakhs. This cost needs to be borne by the management of the industry in keeping with the Polluter Pays principle and the doctrine of Strict/Absolute liability, as applied to Shri Ram Food and Fertilizers Industry in the case of *Oleum leak*² in 1985.”

Report of RPCB submitted in January 1996 during the final hearing of these matters

39. When all these matters were posted before the court on 13-10-1995, we realised that the matter requires to be heard on a priority basis. Having regard to the voluminous data gathered by this Court and the several orders passed from time to time, the matter was listed for regular hearing. We heard all the parties at length on 10th, 11th, 16th and 17th January, 1996. We have been taken through the voluminous record. Submissions have also been made on the questions of law arising herein.

40. At the end of the first day of regular hearing, we made an order calling upon the RPCB to send a team of high officials to the spot and report to us the latest position on the following aspects:

(i) Whether the factories of Silver Chemicals, Rajasthan Multi Fertilizers and Jyoti Chemicals are still working and whether the machinery installed in the said plant is still existing? (This information was required to check the statement of the respondents that the said units are lying closed since last several years.)

(ii) To report whether the factory or factories of Respondent 4, Hindustan Agrochemicals Limited, are working and if they are working, what are the products being manufactured by them? The Board was also directed to report whether the seventh respondent, Phosphate India, which was said to have merged with the fourth respondent, is having a separate factory and if so, what is being produced therein?

(iii) The approximate quantity of sludge — whether “iron sludge” or “gypsum sludge” — lying in the area. The report was to indicate what quantity was entombed pursuant to the orders of this Court and whether any further sludge was lying in the area or in the premises of the respondents’ complex, its approximate quantity and the time, effort and cost required to remove the same. a

(iv) The Board was also to take samples of the water in wells and tanks in the area and have them analysed and tell us whether it is fit for drinking by cattle and/or fit for irrigation purposes. b

41. Accordingly, the RPCB officials visited the site and have filed a report dated 16-1-1996 along with an affidavit. The report discloses the following facts:

(1) The two units, Silver Chemicals and Jyoti Chemicals, do not exist now. There is no machinery. A godown and a Ferric Alum Plant have been constructed at the site of the said plant. The Ferric Alum Plant was not in operation at the time of inspection though plant and machinery for manufacturing it was found installed therein. Certain old stock of Ferric Alum was also found lying within the plant premises. c

(2) Hindustan Agrochemicals Limited (R-4) has seven industrial plants, viz., Rajasthan Multi Fertilizers [manufacturing Granulated Single Super Phosphate (GSSP)], a Sulphuric Acid Plant, a Chlorosulphonic Acid Plant, Edible Oil Solvent Extraction Plant, Edible Oil Refinery and a Ferric Alum Plant (known as M/s Jyoti Chemicals), all of which are located within the same premises. All these seven plants were found not operating on the date of inspection by the RPCB officials though in many cases the machinery and the other equipment was in place. d
e

So far as the sludge still remaining in the area is concerned, the report stated:

“3. Village Bichhri and other adjoining areas were visited by the undersigned officials to know whether gypsum and iron sludge is still lying in the aforesaid area. In area adjoining the irrigation canal, sludge mixed with soil were found on an area of about 3000 sq.ft. The area was covered with foreign soil. Sample of the sludge-mixed soil was collected for the perusal of the Hon’ble Court. Entire premises of M/s Hindustan Agrochemicals Ltd. was also inspected and sludge mixed with soil was observed in a large area. It was further observed that fresh soil in the varying depth has been spread over in most of the area. In view of the fact that sludge was mixed with the soil and difficult to separate out of the soil it is very difficult to estimate the exact quantity of the sludge required to be removed. Samples of sludge mixed with soil were collected from different parts of this area after serving due notices under Environment Protection Act, 1986.” f
g

So far as the water in the wells was concerned, the report mentioned that they took samples from the wells from Bichhri and other surrounding villages, i.e., from thirty-two different locations and that water in sixteen h

a locations was found to “contain colour of varying intensities ranging from very dark brown to light pink which apparently shows that these wells/handpumps are still polluted”.

b 42. Shri K.N. Bhat, learned counsel for the respondents, however, submitted that the RPCB officials have throughout been hostile to the respondents and that, therefore, the reports submitted by them should not be acted upon. He also submitted that respondents have had no opportunity to
c file objections to the said report or to produce material to contradict the statements made therein. While taking note of these submissions, we may, however, refer to the letter dated 13-1-1996 written by the fourth respondent to the RPCB. In this letter, the particulars of the stocks remaining in each of its seven plants are mentioned along with the date of the last production in each of those plants. The last dates of production are the following:
d Sulphuric Acid Plant — 10-11-1995, SSP Plant (Phosphate India) — 11-11-1995, GSSP Plant (Rajasthan Multi Fertilizers) — 7-7-1995, Solvent Extraction Plant and Refinery — 2-12-1993, Jyoti Chemicals — October 1990 and Chlorosulphonic Acid Plant — 29-9-1995. It is worthy of note that these dates are totally at variance with the dates of closure mentioned in the counter-affidavits filed by these units in 1990-91.

d *Contentions of the parties*

e 43. Shri M.C. Mehta, learned counsel appearing for the petitioner, brought to our notice the several reports, orders and other material on record. He submitted that the abundant material on record clearly establishes the culpability of the respondents for the devastation in Village Bichhri and surrounding areas and their responsibility and obligation to properly store
f the remaining sludge, stop discharge of all untreated effluents by taking necessary measures and defray the total cost required for remedial measures as suggested by NEERI (Rupees forty crores and odd). Learned counsel suggested that in view of the saga of repeated and continuous violation of law and lawful orders on the part of the respondents, they must be closed
g forthwith. So far as the legal propositions are concerned, the learned counsel relied strongly upon the Constitution Bench decision in *M.C. Mehta v. Union of India (Oleum Gas Leak case*²) as well as the recent order of this Court in *Indian Council for Enviro-Legal Action v. Union of India*³. Learned counsel also invited our attention to quite a few foreign decisions and text books on the subject of environment. Shri Altaf Ahmad, the learned Additional Solicitor General appearing for the Union of India, also stressed the need for
h urgent appropriate directions to mitigate and remedy the situation on the spot in the light of the expert reports including the one made by the Central team of experts.

44. The learned counsel for the State of Rajasthan, Shri Aruneshwar Gupta, expressed the readiness of the State Government to carry out and

enforce such orders as this Court may think fit and proper in the circumstances.

45. Shri K.B. Rohatgi, learned counsel for the RPCB, invited our attention to the various orders passed, action taken, cases instituted and reports submitted by the Board in this matter. He submitted that until recently the Board had no power to close down any industry for violation of environmental laws and that after conferment of such power, they did pass orders of closure. He denied the allegations of mala fides or hostile intent on the part of the Board towards the respondents. Learned counsel lamented that despite its best efforts, the Board has not yet been successful in eradicating the pollution in the area and hence asked for stringent orders for remedying the appalling conditions in the village due to the acts of the respondents.

46. Shri K.N. Bhat, learned counsel for the respondents, made the following submissions:

(1) The respondents are private corporate bodies. They are not 'State' within the meaning of Article 12 of the Constitution. A writ petition under Article 32 of the Constitution, therefore, does not lie against them.

(2) The RPCB has been adopting a hostile attitude towards these respondents from the very beginning. The reports submitted by it or obtained by it are, therefore, suspect. The respondents had no opportunity to test the veracity of the said reports. If the matter had been fought out in a properly constituted suit, the respondents would have had an opportunity to cross-examine the experts to establish that their reports are defective and cannot be relied upon.

(3) Long before the respondents came into existence, Hindustan Zinc Limited was already in existence close to Bichhri village and has been discharging toxic untreated effluents in an unregulated manner. This had affected the water in the wells, streams and aquifers. This is borne out by the several reports made long prior to 1987. Blaming the respondents for the said pollution is incorrect as a fact and unjustified.

(4) The respondents have been cooperating with this Court in all matters and carrying out its directions faithfully. The report of the RPCB dated 13-11-1992 shows that the work of entombment of the sludge was almost over. The report states that the entire sludge would be stored in the prescribed manner within the next two days. In view of this report, the subsequent report of the Central team, RPCB and NEERI cannot be accepted or relied upon. There are about 70 industries in India manufacturing 'H' acid. Only the units of the respondents have been picked upon by the Central and State authorities while taking no action against the other units. Even in the matter of disposal of sludge, the directions given for its disposal in the case of other units are not as stringent as have been prescribed in the case of respondents. The decision of the Gujarat High Court in *Pravinbhai Jashbhai Patel*¹ shows

a that the method of disposal prescribed there is different and less elaborate than the one prescribed in this case.

b (5) The reports submitted by the various so-called expert committees that sludge is still lying around within and outside the respondents' complex and/or that the toxic wastes from the Sulphuric Acid Plant are flowing through and leaching the sludge and creating a highly dangerous situation is untrue and incorrect. The RPCB itself had constructed a temporary ETP for the Sulphuric Acid Plant pursuant to the orders of this Court made in Writ Petition (C) No. 76 of 1994. Subsequently, a permanent ETP has also been constructed. There is no question of untreated toxic discharges from this plant leaching with sludge. There is no sludge and there is no toxic discharge from the Sulphuric Acid Plant.

c (6) The case put forward by the RPCB that the respondents' units do not have the requisite permits/consents required by the Water Act, Air Act and the Environment (Protection) Act is again unsustainable in law and incorrect as a fact. The respondents' units were established before the amendment of Section 25 of the Water Act and, therefore, did not require any prior consent for their establishment.

d (7) The proper solution to the present problem lies in ordering a comprehensive judicial enquiry by a sitting Judge of the High Court to find out the causes of pollution in this village and also to recommend remedial measures and to estimate the loss suffered by the public as well as by the respondents. While the respondents are prepared to bear the cost of repairing the damage, if any, caused by them, the RPCB and other authorities should be made to compensate for the huge losses suffered by the respondents on account of their illegal and obstructionist policy adopted towards them.

e (8) The decision in *Oleum Gas Leak case*² has been explained in the opinion of Ranganath Misra, C.J., in the decision in *Union Carbide Corpn. v. Union of India*⁴. The law laid down in *Oleum Gas Leak case*² is at variance with the established legal position in other Commonwealth countries.

f 47. Shri Bhat suggested that in the larger interests of environment, industry and public, this Court may direct the Government of India to constitute, by proper legislation, environment courts all over the country — which courts alone should be empowered to deal with such cases, to give appropriate directions including orders of closure of industries wherever necessary, to make necessary technical and scientific investigations, to suggest remedial measures and to oversee their implementation. Proceedings by way of a writ in this Court under Article 32 or in the High Court under Article 226, the learned counsel submitted, are not appropriate to deal with such matters, involve as they do several disputed questions of fact and technical issues.

48. Before we proceed to deal with the submissions of the learned counsel, it would be appropriate to notice the relevant provisions of law.

Relevant statutory provisions

49. Article 48-A is one of the Directive Principles of State Policy. It says that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Article 51-A sets out the fundamental duties of the citizens. One of them is “(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;”

50. The problem of increasing pollution of rivers and streams in the country — says the Statement of Objects and Reasons appended to the Bill which became the Water (Prevention and Control of Pollution) Act, 1974 — attracted the attention of the State legislatures and Parliament. They realised the urgency of ensuring that domestic and industrial effluents are not allowed to be discharged into water courses without adequate treatment and that pollution of rivers and streams was causing damage to the country’s economy. A committee was set up in 1962 to draw a draft enactment for prevention of water pollution. The issue was also considered by the Central Council of Local Self-Government in September 1963. The Council suggested the desirability of having a single enactment for the purpose. A Draft Bill was prepared and sent to various States. Several expert committees also made their recommendations meanwhile. Since an enactment on the subject was relatable to Entry 17 read with Entry 6 of List II in the Seventh Schedule to the Constitution — and, therefore, within the exclusive domain of the States — the State Legislatures of Gujarat, Kerala, Haryana and Mysore passed resolutions as contemplated by Article 252 of the Constitution enabling Parliament to make a law on the subject. On that basis, Parliament enacted the Water (Prevention and Control of Pollution) Act, 1974. (The State of Rajasthan too passed the requisite resolution.) Section 24(1) of the Water Act provides that:

“24. (1) Subject to the provisions of this section,—

(a) 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....”

Section 25(1), before it was amended by Act 53 of 1988, provided that:

“25. (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, bring into use any new or altered outlet for the discharge of sewage or trade effluent into a stream or well or begin to make any new discharge of sewage or trade effluent into a stream or well.”

As amended by Act 53 of 1988, Section 25 now reads:

“25. (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

a (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as 'discharge of sewage'); or

b (b) bring into use any new or altered outlets for the discharge of sewage; or

(c) begin to make any new discharge of sewage...."

(It is stated that the Rajasthan Assembly passed resolution under Article 252 of the Constitution adopting the said Amendment Act vide Gazette Notification dated 9-5-1990.) Section 33 empowers the Pollution Control Board to apply to the court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class, to restrain any person causing pollution if the said pollution is likely to prejudicially affect water in a stream or a well. Section 33-A, which has been introduced by Amendment Act 53 of 1988, empowers the Board to order the closure of any industry and to stop the electricity, water and any other service to such industry if it finds such a direction necessary for effective implementation of the provisions of the Act. Prior to the said Amendment Act, the Pollution Control Board had no such power and the course open to it was to make a recommendation to the Government to pass appropriate orders including closure.

51. The Air (Prevention and Control of Pollution) Act, 1981 contains similar provisions.

e 52. In the year 1986, Parliament enacted a comprehensive legislation, Environment (Protection) Act. The Act *defines* 'environment' to include "water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property". The preamble to the Act recites that the said Act was made pursuant to the decisions taken at the United Nations Conference on Human Environment held at Stockholm in June 1972 in which India also participated. Section 3 empowers the Central Government "to take all such 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". Sub-section (2) elucidates the several powers inhering in the Central Government in the matter of protection and promotion of environment. Section 5 empowers the Central Government to issue appropriate directions to any person, officer or authority to further the objects of the enactment. Section 6 confers rule-making power upon the Central Government in respect of matters referred to in Section 3. Section 7 says that "no person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed".

53. The Central Government has made the Hazardous Wastes (Management and Handling) Rules, 1989 in exercise of the power conferred upon it by Section 6 of the Environment (Protection) Act prescribing the manner in which the hazardous wastes shall be collected, treated, stored and disposed of. a

Consideration of the submissions

54. Taking up the objections urged by Shri Bhat first, we find it difficult to agree with them. This writ petition is not really for issuance of appropriate writ, order or directions against the respondents but is directed against the Union of India, Government of Rajasthan and RPCB to compel them to perform their statutory duties enjoined by the Acts aforementioned on the ground that their failure to carry out their statutory duties is seriously undermining the right to life (of the residents of Bichhri and the affected area) guaranteed by Article 21 of the Constitution. If this Court finds that the said authorities have not taken the action required of them by law and that their inaction is jeopardising the right to life of the citizens of this country or of any section thereof, it is the duty of this Court to intervene. If it is found that the respondents are flouting the provisions of law and the directions and orders issued by the lawful authorities, this Court can certainly make appropriate directions to ensure compliance with law and lawful directions made thereunder. This is a social action litigation on behalf of the villagers of Bichhri whose right to life, as elucidated by this Court in several decisions, is invaded and seriously infringed by the respondents as is established by the various reports of the experts called for, and filed before, this Court. If an industry is established without obtaining the requisite permission and clearances and if the industry is continued to be run in blatant disregard of law to the detriment of life and liberty of the citizens living in the vicinity, can it be suggested with any modicum of reasonableness that this Court has no power to intervene and protect the fundamental right to life and liberty of the citizens of this country. The answer, in our opinion, is self-evident. We are also not convinced of the plea of Shri Bhat that RPCB has been adopting a hostile attitude towards his clients throughout and, therefore, its contentions or the reports prepared by its officers should not be relied upon. If the respondents establish and operate their plants contrary to law, flouting all safety norms provided by law, the RPCB was bound to act. On that account, it cannot be said to be acting out of animus or adopting a hostile attitude. Repeated and persistent violations call for repeated orders. That is no proof of hostility. Moreover, the reports of RPCB officials are fully corroborated and affirmed by the reports of the Central team of experts and of NEERI. We are also not prepared to agree with Shri Bhat that since the report of NEERI was prepared at the instance of RPCB, it is suspect. This criticism is not only unfair but is also uncharitable to the officials of NEERI who have no reason to be inimical to the respondents. If, however, the actions of the respondents invite the concern of the experts and if they depict the correct situation in their reports, they cannot be accused of any bias. Indeed, it is this Court that asked NEERI to suggest remedial measures and it is in compliance with b
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a those orders that NEERI submitted its interim report and also the final
report. Similarly, the objection of Shri Bhat that the reports submitted by the
NEERI, by the Central team (experts from the Ministry of Environment and
Forests, Government of India) and RPCB cannot be acted upon is equally
unacceptable. These reports were called by this Court and several orders
passed on the basis of those reports. It was never suggested on behalf of
Respondents 4 to 8 that unless they are permitted to cross-examine the
b experts or the persons who made those reports, their reports cannot be acted
upon. This objection, urged at this late stage of proceedings — after a lapse
of several years — is wholly unacceptable. The persons who made the said
reports are all experts in their field and under no obligation either to the
RPCB or for that matter to any other person or industry. It is in view of their
independence and competence that their reports were relied upon and made
c the basis of passing orders by this Court from time to time.

55. Now coming to the question of alleged pollution by Hindustan Zinc
Limited (R-9), it may be that Respondent 9 is also responsible for
discharging untreated effluents at one or the other point of time but that is
not the issue we are concerned with in these writ petitions. These writ
petitions are confined to the pollution caused in Bichhri village on account
d of the activities of the respondent. No report among the several reports
placed before us in these proceedings says that Hindustan Zinc Limited is
responsible for the pollution at Bichhri village. Shri Bhat brought to our
notice certain reports stating that the discharges from Hindustan Zinc
Limited were causing pollution in certain villages but they are all
downstream, i.e., to the north of Bichhri village and we are not concerned
e with the pollution in those villages in these proceedings. The bringing in of
Hindustan Zinc Limited in these proceedings is, therefore, not relevant. If
necessary, the pollution, if any, caused by Hindustan Zinc Limited can be the
subject-matter of a separate proceeding.

56. We may now deal with the contentions of Shri Bhat based upon the
affidavit of RPCB dated 13-11-1992 which has been repeatedly and strongly
f relied upon by the learned counsel in support of his submission that the
entire sludge has been properly stored by or at the expense of his clients. It is
on the basis of this affidavit that Shri Bhat says that the subsequent reports
submitted showing the existence of sludge within and outside their complex
should not be accepted or acted upon. Let us turn to the affidavit of RPCB
dated 13-11-1992 and see how far does it support Shri Bhat's contention. It
g is in para 2(b) that the sentence, strongly relied upon by Shri Bhat occurs,
viz., "remaining work is likely to be completed by 15-11-1992". For a proper
appreciation of the purport of the said sentence, it would be appropriate to
read the entire para 2(b), which is to the following effect:

“(b) that all the six tanks have been entombed with brick toppings.
Roofing is complete on all tanks which have also been provided with
h proper outlets for the exit of gases which may form as a result of
possible chemical reactions in the sludge mass. The tanks have also been

provided with reinforced concrete to prevent drooping of the roof. Remaining work is likely to be completed by 15-11-1992.”

We find it difficult to read the said sentence as referring to the storage of the remaining about 1700 MT of sludge. When the storage of 720 MT itself took up all the six tanks provided by the respondent, where was the remaining 1700 tonnes stored? Except relying upon the said sentence repeatedly, Shri Bhat has not been able to tell us where this 1700 MT has been stored, whether in tanks and if so, who constructed the tanks and when and how were they covered and sealed. He is also not able to tell us on what dates the remaining sludge was stored. It is evident that the aforesaid sentence occurring in clause 2(b) refers to the proper sealing and completion of the said tanks wherein 720 MT of sludge was stored. If, in fact, the said 1700 MT has also been entombed, it was not difficult for the respondents to give the particulars of the said storage. We are, therefore, unable to agree with Shri Bhat that the subsequent reports which repeatedly and uniformly speak of the presence of sludge within and outside the complex of the respondents should not be accepted. It may be recalled that the report of the team of Central experts was submitted on 1-11-1993 based upon the inspection made by them in September/October 1993. To the same effect is the affidavit of RPCB dated 30-10-1993 and the further affidavit dated 1-12-1993. These reports together with the report of NEERI clearly establish that huge quantities of sludge were still lying around either in the form of mounds or placed in depressions, or spread over the contiguous areas and covered with local soil to conceal its existence. It is worth reiterating that the said sludge is only part of the pernicious discharges emanating from the manufacture of ‘H’ acid. The other part, which is unfortunately not visible now (except in its deleterious effects upon the soil and underground water) is the “mother liquor” produced in enormous quantities which has either flowed out or percolated into the soil.

57. So far as the responsibility of the respondents for causing the pollution in the wells, soil and the aquifers is concerned, it is clearly established by the analysis report referred to in the report of the Central experts’ team dated 1-11-1993 (p. 1026 of Vol. II). Indeed, number of orders passed by this Court, referred to hereinbefore, are premised upon the finding that the respondents are responsible for the said pollution. It is only because of the said reason that they were asked to defray the cost of removal and storage of sludge. It is precisely for this reason that, at one stage, the respondents had also undertaken the de-watering of polluted wells. Disclaiming the responsibility for the pollution in and around Bichhri village, at this stage of proceedings, is clearly an afterthought. We accordingly hold and affirm that the respondents alone are responsible for all the damage to the soil, to the underground water and to Village Bichhri in general, damage which is eloquently portrayed in the several reports of the experts mentioned hereinabove. NEERI has worked out the cost for repairing the damage at more than Rupees forty crores. Now, the question is

a whether and to what extent can the respondents be made responsible for
defraying the cost of remedial measures in these proceedings under Article
32. Before we advert to this question, it may perhaps be appropriate to
clarify that so far as removal of remaining sludge and/or the stoppage of
discharge of further toxic wastes are concerned, it is the absolute
responsibility of the respondents to store the sludge in a proper manner (in
the same manner in which 720 MT of sludge has already been stored) and to
b stop the discharge of any other or further toxic wastes from its plants
including Sulphuric Acid Plant and to ensure that the wastes discharged do
not flow into or through the sludge. Now, turning to the question of liability,
it would be appropriate to refer to a few decisions on the subject.

58. In *Oleum Gas Leak case*², a Constitution Bench discussed this
question at length and held thus: (SCC pp. 420-21, paras 31-32)

c “We are of the view that an enterprise which is engaged in a
hazardous or inherently dangerous industry which poses a potential
threat to the health and safety of the persons working in the factory and
residing in the surrounding areas owes an absolute and non-delegable
duty to the community to ensure that no harm results to anyone on
d account of hazardous or inherently dangerous nature of the activity
which it has undertaken. The enterprise must be held to be under an
obligation to provide that the hazardous or inherently dangerous activity
in which it is engaged must be conducted with the highest standards of
safety and if any harm results on account of such activity, the enterprise
must be absolutely liable to compensate for such harm and it should be
e no answer to the enterprise to say that it had taken all reasonable care
and that the harm occurred without any negligence on its part. Since the
persons harmed on account of the hazardous or inherently dangerous
activity carried on by the enterprise would not be in a position to isolate
the process of operation from the hazardous preparation of substance or
any other related element that caused the harm the enterprise must be
f held strictly liable for causing such harm as a part of the social cost of
carrying on the hazardous or inherently dangerous activity. If the
enterprise is permitted to carry on an hazardous or inherently dangerous
activity for its profit, the law must presume that such permission is
conditional on the enterprise absorbing the cost of any accident arising
on account of such hazardous or inherently dangerous activity as an
g appropriate item of its overheads. Such hazardous or inherently
dangerous activity for private profit can be tolerated only on condition
that the enterprise engaged in such hazardous or inherently dangerous
activity indemnifies all those who suffer on account of the carrying on of
such hazardous or inherently dangerous activity regardless of whether it
is carried on carefully or not. ... We would therefore hold that where an
h enterprise is engaged in a hazardous or inherently dangerous activity and
harm results to anyone on account of an accident in the operation of such

hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability under the rule in *Rylands v. Fletcher*⁵. a

We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise.” b

59. Shri Bhat, however, points out that in the said decision, the question whether the industry concerned therein was a ‘State’ within the meaning of Article 12 and, therefore, subject to the discipline of Part III of the Constitution including Article 21 was left open and that no compensation as such was awarded by this Court to the affected persons. He relies upon the observations in the concurring opinion of Ranganath Misra, C.J., in *Union Carbide Corpn.*⁴ The learned Chief Justice referred in the first instance, to the propositions enunciated in *Oleum Gas Leak case*² and then made the following observations in paras 14 and 15: (SCC pp. 607-08) c

“14. In *M.C. Mehta case*², no compensation was awarded as this Court could not reach the conclusion that Shriram (the delinquent company) came within the meaning of ‘State’ in Article 12 so as to be liable to the discipline of Article 21 and to be subjected to a proceeding under Article 32 of the Constitution. Thus what was said was essentially obiter. d

15. The extracted part of the observations from *M.C. Mehta case*² perhaps is a good guideline for working out compensation in the cases to which the ratio is intended to apply. The statement of the law ex facie makes a departure from the accepted legal position in *Rylands v. Fletcher*⁵. We have not been shown any binding precedent from the American Supreme Court where the ratio of *M.C. Mehta decision*² has in terms been applied. In fact Bhagwati, C.J. clearly indicates in the judgment that his view is a departure from the law applicable to western countries.” e

60. The majority judgment delivered by M.N. Venkatachaliah, J. (on behalf of himself and two other learned Judges) has not expressed any opinion on this issue. We on our part find it difficult to say, with great respect to the learned Chief Justice, that the law declared in *Oleum Gas Leak case*² is obiter. It does not appear to be unnecessary for the purposes of that case. Having declared the law, the Constitution Bench directed the parties and other organisations to institute actions on the basis of the law so f

declared.** Be that as it may, we are of the considered opinion that even if it is assumed (for the sake of argument) that this Court cannot award damages against the respondents in these proceedings that does not mean that the Court cannot direct the Central Government to determine and recover the cost of remedial measures from the respondents. Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government (or its delegate, as the case may be) to “take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment...”. Section 5 clothes the Central Government (or its delegate) with the power to issue directions for achieving the objects of the Act. Read with the wide definition of ‘environment’ in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are “necessary or expedient for the purpose of protecting and improving the quality of the environment”. The Central Government is empowered to take all measures and issue all such directions as are called for for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. We find that similar directions have been made in a recent decision of this Court in *Indian Council for Enviro-Legal Action*³. That was also a writ petition filed under Article 32 of the Constitution. Following is the direction:

“It appears that the Pollution Control Board had identified as many as 22 industries responsible for the pollution caused by discharge of their effluents into Nakkavagu. They were responsible to compensate to farmers. It was the duty of the State Government to ensure that this amount was recovered from the industries and paid to the farmers.”

** A distinction between the *Oleum Gas Leak case* and the present case may be noticed. That was not a case where the industry was established or was being operated contrary to law as in the present case. That was also not a case where the orders of lawful authorities and courts were violated with impunity as in this case. In this case, there is a clear violation of law and disobedience to the orders of this Court apart from the orders of the lawful authorities. The facts stated above and findings recorded by us hereinafter bear it out. This Court has to ensure the observance of law and of its orders as a part of enforcement of fundamental rights. That power cannot be disputed. If so, a question may arise why is this Court not competent to make orders necessary for a full and effective implementation of its orders — and that includes the imposition and recovery of cost of all measures including remedial measures. Above all, the Central Government has the power under the provisions of Sections 3 and 5 of the Environment (Protection) Act, 1986 to levy and recover the cost of remedial measures — as we shall presently point out. If the Central Government omits to do that duty, this Court can certainly issue appropriate directions to it to take necessary measures. Is it not open to the court, in an appropriate situation, to award damages against private parties as part of relief granted against public authorities. This is a question upon which we do not wish to express any opinion in the absence of a full debate at the Bar.

It is, therefore, idle to contend that this Court cannot make appropriate directions for the purpose of ensuring remedial action. It is more a matter of form.

61. Shri K.N. Bhat submitted that the rule of absolute liability is not accepted in England or other Commonwealth countries and that the rule evolved by the House of Lords in *Rylands v. Fletcher*⁵ is the correct rule to be applied in such matters. Firstly, in view of the binding decision of this Court in *Oleum Gas Leak case*², this contention is untenable, for the said decision expressly refers to the rule in *Rylands*⁵ but refuses to apply it saying that it is not suited to the conditions in India. Even so, for the sake of completeness, we may discuss the rule in *Rylands*⁵ and indicate why that rule is inappropriate and unacceptable in this country. The rule was first stated by Blackburn, J. (Court of Exchequer Chamber) in the following words: (All ER p. 7)

“We think that the true rule of law is that the person who, for his own purposes, brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and, if he does not do so, he is prima facie answerable for all the damage which is the natural consequence of its escape. He can excuse himself by showing that the escape was owing to the plaintiff’s default, or perhaps, that the escape was the consequence of vis major, or the act of God; ... and it seems but reasonable and just that the neighbour who has brought something on his own property which was not naturally there, harmless to others so long as it is confined to his own property, but which he knows will be mischievous if it gets on his neighbour’s, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property.”

62. The House of Lords, however, added a rider to the above statement, viz., that the user by the defendant should be a “non-natural” user to attract the rule. In other words, if the user by the defendant is a natural user of the land, he would not be liable for damages. Thus, the twin tests — apart from the proof of damage to the plaintiff by the act/negligence of the defendants — which must be satisfied to attract this rule are ‘foreseeability’ and ‘non-natural’ user of the land.

63. The rule in *Rylands*⁵ has been approved by the House of Lords in the recent decision in *Cambridge Water Co. Ltd. v. Eastern Counties Leather, plc*⁶. The plaintiff, Cambridge Water Company, was a statutory corporation engaged in providing public water supply within a certain area including the city of Cambridge. It was lifting water from a bore well situated at some distance from Sawstyn. The defendant-Company Eastern Leather, was having a tannery in Sawstyn. Tanning necessarily involves degreasing of pelts. For that purpose, the defendant was using an organo chlorine called PCE. PCE was stored in a tank in the premises of the defendant. The plaintiff’s case was that on account of the PCE percolating into the ground, the water in its well became contaminated and unfit for human consumption

a and that on that account it was obliged to find an alternative source at a
substantial cost. It sued the defendant for the resulting damages. The
plaintiff based his claim on three alternative grounds, viz., negligence,
nuisance and the rule in *Rylands*⁵. The trial Judge (High Court) dismissed
the action in negligence and nuisance holding that the defendant could not
have reasonably foreseen that such damage could occur to the plaintiff. So
far as the rule in *Rylands*⁵ was concerned, the trial Judge held that the user
b by the defendant was not a non-natural user and hence, it was not liable for
damages. On appeal, the Court of Appeal declined to decide the matter on
the basis of the rule in *Rylands*⁵. It relied strongly upon the ratio in *Ballard*
*v. Tomlinson*⁷ holding that no person having a right to use a common source
is entitled to contaminate that source so as to prevent his neighbour from
having a full value of his right of appropriation. The Court of Appeal also
c opined that the defendant's use of the land was not a natural use. On appeal
by the defendant, the House of Lords allowed the appeal holding that
foreseeability of the harm of the relevant type by the defendant was a pre-
requisite to the right to recover damages both under the heads of *nuisance*
and also under the rule in *Rylands*⁵ and since that was not established by the
plaintiff, it has to fail. The House of Lords, no doubt, held that the
d defendant's use of the land was a non-natural use *but dismissed the suit*, as
stated above, *on the ground that the plaintiff has failed to establish that*
pollution of their water supply by the solvent used by the defendant in his
premises was in the circumstances of the case foreseeable by the defendant.

64. The Australian High Court has, however, expressed its disinclination
to treat the rule in *Rylands*⁵ as an independent head for claiming damages or
as a rule rooted in the law governing the law of nuisance in *Burnie Port*
e *Authority v. General Jones Pty Ltd.*⁸ The respondent, General Jones Limited,
had stored frozen vegetables in three cold storage rooms in the building
owned by the appellant, Burnie Port Authority (Authority). The remaining
building remained under the occupation of the Authority. The Authority
wanted to extend the building. The extension work was partly done by the
Authority itself and partly by an independent contractor (Wildridge and
f Sinclair Pty. Ltd.). For doing its work, the contractor used a certain
insulating material called EPS, a highly inflammable substance. On account
of negligent handling of EPS, there was a fire which inter alia damaged the
rooms in which General Jones had stored its vegetables. On an action by
General Jones, the Australian High Court held by a majority that the rule in
*Rylands*⁵ having attracted many difficulties, uncertainties, qualifications and
g exceptions, should now be seen, for the purposes of Australian Common
Law, as absorbed by the principles of ordinary *negligence*. The Court held
further that under the rules governing negligence, if a person in control of a
premises, introduces a dangerous substance to carry on a dangerous activity,
or allows another to do one of those things, owes a duty of reasonable care to

h
7 (1885) 29 Ch D 115 · (1881-5) All ER Rep 688

8 (1994) 68 Aus LJ 331

avoid a reasonably foreseeable risk of injury or damage to the person or property of another. In a case where a person or the property of that other is lawfully in a place outside the premises, the duty of care varies in degree according to the magnitude of the risk involved and extends to ensuring that such care is taken. Applying the said principle, the court held that the authority allowed the independent contractor to introduce or retain a dangerous substance or to engage in a dangerous activity in its premises which substance and activity caused a fire that destroyed the goods of General Jones. The evidence, the court held, established that the independent contractor's work was a dangerous activity in that it involved real and foreseeable risk of a serious conflagration unless special precautions were taken. In the circumstances, it was held that *the authority owed a non-delegable duty of care to General Jones to ensure that its contractor took reasonable steps to prevent the occurrence of a fire and the breach of that duty attracted liability pursuant to the ordinary principles of negligence for the damage sustained by the respondent.*

65. On a consideration of the two lines of thought (one adopted by the English courts and the other by the Australian High Court), we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country. We are convinced that the law stated by this Court in *Oleum Gas Leak case*² is by far the more appropriate one — apart from the fact that it is binding upon us. (We have disagreed with the view that the law stated in the said decision is *obiter*.) According to this rule, once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity *irrespective* of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. In the words of the Constitution Bench, such an activity: (SCC p. 421, para 31)

“... can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not”.

The Constitution Bench has also assigned the reason for stating the law in the said terms. It is that the enterprise (carrying on the hazardous or inherently dangerous activity) alone has the resource to discover and guard against hazards or dangers — and not the person affected *and* the practical difficulty (on the part of the affected person) in establishing the absence of reasonable care or that the damage to him was foreseeable by the enterprise.

66. Once the law in *Oleum Gas Leak case*² is held to be the law applicable, it follows, in the light of our findings recorded hereinbefore, that Respondents 4 to 8 are absolutely liable to compensate for the harm caused by them to the villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove the sludge and other pollutants lying in the affected area (by affected area, we mean the area of about 350 ha indicated in the sketch at

a p. 178 of NEERI report) and also to defray the cost of the remedial measures
b required to restore the soil and the underground water sources. Sections 3
and 4 of Environment (Protection) Act confers upon the Central Government
the power to give directions of the above nature and to the above effect.
Levy of costs required for carrying out remedial measures is implicit in
Sections 3 and 4 which are couched in very wide and expansive language.
Appropriate directions can be given by this Court to the Central Government
to invoke and exercise those powers with such modulations as are called for
in the facts and circumstances of this case.

67. The question of liability of the respondents 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, viz., the "Polluter
Pays" principle.⁹

c "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
d the financial burden of the pollution incident to the taxpayer. The
'Polluter Pays' principle was promoted by the Organisation for
Economic Cooperation 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
e and the public from the threats posed by pollution in a modern
industrialised 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 satisfactorily agreed.

f 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
g 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

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9 (*Historic Pollution — Does the Polluter Pay?* by Carolyn Shelbourn — *Journal of Planning and Environmental Law*, Aug 1974 issue)

for preventive action; the need for environmental damage to be rectified at source; and that the polluter should pay.”

Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. 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, RPCB or such other agency or authority, as they think fit.

68. The next question is what is the amount required for carrying out the necessary remedial measures to repair the damage and to restore the water and soil to the condition it was in before the respondents commenced their operations. The report of NEERI has worked out the cost at more than Rupees forty crores. The estimate of cost of remedial measures is, however, not a technical matter within the expertise of NEERI officials. Moreover, the estimate was made in the year 1994. Two years have passed by since then. Situation, if at all, must have deteriorated further on account of the presence of — and dispersal of the sludge — in and around the complex of the respondents by them. They have been discharging other toxic effluents from their other plants, as reported by NEERI and the Central team. It is but appropriate that an estimate of the cost of remedial measures be made now with notice to the respondents, which amount should be paid to Central Government and/or recovered from them by the Central Government. Other directions are also called for in the light of the facts and circumstances mentioned above.

Conclusions

69. From the affidavits of the parties, orders of this Court, technical reports and other data, referred to above (even keeping aside the latest report of the RPCB), the following facts emerge:

(I) Silver Chemicals (R-5) and Jyoti Chemicals (R-8) had manufactured about 375 MT of ‘H’ acid during the years 1988-89. This had given rise to about 8250 m³ of waste water and 2440 tonnes of sludge (both iron-based and gypsum-based). The waste water had partly percolated into the earth in and around Bichhri and part of it had flowed out. Out of 2440 tonnes of sludge, about 720 tonnes has been stored in the pits provided by the respondents. The remaining sludge is still there either within the area of the complex of the respondents or outside their complex. With a view to conceal it from the eyes of the inspection teams and other authorities, the respondents have dispersed it all over the area and covered it with earth. In some places, the sludge is lying in mounds. The story of entombing the entire quantity of sludge is untrue.

The units manufacturing ‘H’ acid — indeed most of the units of the respondents — had started functioning, i.e., started manufacturing

a various chemicals without obtaining requisite clearances/consents/
licences. They did not instal any equipment for treatment of highly toxic
b effluents discharged by them. They continued to function even after and
in spite of the closure orders of the RPCB. They never did carry out the
orders of this Court fully, (e.g., entombing the sludge) nor did they fulfil
the undertaking given by them to the court (in the matter of removal of
sludge and de-watering of the wells). In spite of repeated reports of
officials and expert bodies, they persisted in their illegal course of action
in a brazen manner, which exhibits their contempt for law, for the lawful
authorities and the courts.

(II) That even after the closure of 'H' acid plant, the fourth
respondent had not taken adequate measures for treating the highly toxic
waste water and other wastes emanating from the Sulphuric Acid Plant.
c The untreated highly toxic waste water was found — by NEERI as well
as the Central team — flowing through the dumps of iron/gypsum
sludge creating a highly potent mix. The letter of the fourth respondent
dated 13-1-1996, shows that the Sulphuric Acid Plant was working till
10-11-1995. An assertion is made before us that permanent ETP has also
been constructed for the Sulphuric Acid Plant in addition to the
temporary tank which was constructed under the orders of this Court.
d We express no opinion on this assertion, which even if true, is valid only
for the period subsequent to April 1994.

(III) The damage caused by the untreated highly toxic wastes
resulting from the production of 'H' acid — and the continued discharge
of highly toxic effluent from the Sulphuric Acid Plant, flowing through
the sludge (H-acid waste) — is indescribable. It has inflicted untold
e misery upon the villagers and long lasting damage to the soil, to the
underground water and to the environment of that area in general. The
report of NEERI contains a sketch, at p. 178, showing the area that has
been adversely affected by the production of 'H' acid by the
respondents. The area has been divided into three zones on the basis of
the extent of contamination. A total area of 350 ha has become seriously
f contaminated. The water in the wells in that area is not fit for
consumption either by human beings or cattle. It has seriously affected
the productivity of the land. According to NEERI report, Rupees forty
crores is required for repairing the damage caused to men, land, water
and the flora.

(IV) This court has repeatedly found and has recorded in its orders
g that it is the respondents who have caused the said damage. The analysis
reports obtained pursuant to the directions of the court clearly establish
that the pollution of the wells is on account of the wastes discharged by
Respondents 4 to 8, i.e., production of 'H' acid. The report of the
environment experts dated 1-11-1993 has already been referred to
hereinbefore. Indeed, several orders of this Court referred to *supra* are
h also based upon the said finding.

(V) 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 and/or carry out remedial measures, and wherever necessary impose the cost of remedial measures upon the offending industry. The principle "Polluter Pays" has gained almost universal recognition, apart from the fact that it is stated in absolute terms in *Oleum Gas Leak case*². The law declared in the said decision is the law governing this case.

Directions

70. Accordingly, the following directions are made:

1. The Central Government shall determine the amount required for carrying out the remedial measures including the removal of sludge lying in and around the complex of Respondents 4 to 8, in the area affected in Village Bichhri and other adjacent villages, on account of the production of 'H' acid and the discharges from the Sulphuric Acid Plant of Respondents 4 to 8. Chapters VI and VII in NEERI report (submitted in 1994) shall be deemed to be the show-cause notice issued by the Central Government proposing the determination of the said amount. Within six weeks from this day, Respondents 4 to 8 shall submit their explanation, along with such material as they think appropriate in support of their case, to the Secretary, Ministry of Environment and Forests, Government of India, (MEF). The Secretary shall thereupon determine the amount in consultation with the experts of his Ministry within six weeks of the submission of the explanation by the said respondents. The orders passed by the Secretary, (MEF) shall be communicated to Respondents 4 to 8 — and all concerned — and shall also be placed before this Court. Subject to the orders, if any, passed by this Court, the said amount shall represent the amount which Respondents 4 to 8 are liable to pay to improve and restore the environment in the area. For the purpose of these proceedings, the Secretary, (MEF) and Respondents 4 to 8 shall proceed on the assumption that the affected area is 350 ha, as indicated in the sketch at p. 178 of NEERI report. In case of failure of the said respondents to pay the said amount, the same shall be recovered by the Central Government in accordance with law. The factories, plant, machinery and all other immovable assets of Respondents 4 to 8 are attached herewith. The amount so determined and recovered shall be utilised by the MEF for carrying out all necessary remedial measures to restore the soil, water sources and the environment in general of the affected area to its former state.

2. On account of their continuous, persistent and insolent violations of law, their attempts to conceal the sludge, their discharge of toxic

a effluents from the Sulphuric Acid Plant which was allowed to flow through the sludge, and their non-implementation of the orders of this Court — all of which are fully borne out by the Expert Committee's reports and the findings recorded hereinabove — Respondents 4 to 8 have earned the dubious distinction of being characterised as "rogue industries". They have inflicted untold misery upon the poor, unsuspecting villagers, de-spoiling their land, their water sources and their entire environment — all in pursuance of their private profit. They have forfeited all claims for any consideration by this Court. Accordingly, we herewith order the closure of all the plants and factories of Respondents 4 to 8 located in Bichhri village. The RPCB is directed to seal all the factories/units/plants of the said respondents forthwith. So far as the Sulphuric Acid Plant is concerned, it will be closed at the end of one week from today, within which period Respondent 4 shall wind down its operations so as to avoid risk of any untoward consequences, as asserted by Respondent 4 in Writ Petition (C) No. 76 of 1994. It is the responsibility of Respondent 4 to take necessary steps in this behalf. The RPCB shall seal this unit too at the end of one week from today. The reopening of these plants shall depend upon their compliance with the directions made and obtaining of *all* requisite permissions and consents from the relevant authorities. Respondents 4 to 8 can apply for directions in this behalf after such compliance.

e 3. So far as the claim for damages for the loss suffered by the villagers in the affected area is concerned, it is open to them or any organisation on their behalf to institute suits in the appropriate civil court. If they file the suit or suits in *forma pauperis*, the State of Rajasthan shall not oppose their applications for leave to sue in *forma pauperis*.

f 4. The Central Government shall consider whether it would not be appropriate, in the light of the experience gained, that chemical industries are treated as a category apart. Since the chemical industries are the main culprits in the matter of polluting the environment, there is every need for scrutinising their establishment and functioning more rigorously. No distinction should be made in this behalf as between a large-scale industry and a small-scale industry or for that matter between a large-scale industry and a medium-scale industry. All chemical industries, whether big or small, should be allowed to be established only after taking into consideration all the environmental aspects and their functioning should be monitored closely to ensure that they do not pollute the environment around them. It appears that most of these industries are water-intensive industries. If so, the advisability of allowing the establishment of these industries in arid areas may also require examination. Even the existing chemical industries may be subjected to such a study and if it is found on such scrutiny that it is necessary to take any steps in the interests of environment, appropriate directions in that behalf may be issued under Sections 3 and 5 of the

Environment Act. The Central Government shall ensure that the directions given by it are implemented forthwith.

5. The Central Government and the RPCB shall file quarterly reports before this Court with respect to the progress in the implementation of Directions 1 to 4 aforesaid. a

6. The suggestion for establishment of environment courts is a commendable one. The experience shows that the prosecutions launched in ordinary criminal courts under the provisions of the Water Act, Air Act and Environment Act never reach their conclusion either because of the workload in those courts or because there is no proper appreciation of the significance of the environment matters on the part of those in charge of conducting of those cases. Moreover, any orders passed by the authorities under Water and Air Acts and the Environment Act are immediately questioned by the industries in courts. Those proceedings take years and years to reach conclusion. Very often, interim orders are granted meanwhile which effectively disable the authorities from ensuring the implementation of their orders. All this points to the need for creating environment courts which alone should be empowered to deal with all matters, civil and criminal, relating to environment. These courts should be manned by legally trained persons/judicial officers and should be allowed to adopt summary procedures. This issue, no doubt, requires to be studied and examined in depth from all angles before taking any action. b

7. The Central Government may also consider the advisability of strengthening the environment protection machinery both at the Centre and the States and provide them more teeth. The heads of several units and agencies should be made personally accountable for any lapses and/or negligence on the part of their units and agencies. The idea of an environmental audit by specialist bodies created on a permanent basis with power to inspect, check and take necessary action not only against erring industries but also against erring officers may be considered. The idea of an environmental audit conducted periodically and certified annually, by specialists in the field, duly recognised, can also be considered. The ultimate idea is to integrate and balance the concern for environment with the need for industrialisation and technological progress. c

71. Respondents 4 to 8 shall pay a sum of Rupees fifty thousand by way of costs to the petitioner which had to fight this litigation over a period of over six years with its own means. Voluntary bodies, like the petitioner, deserve encouragement wherever their actions are found to be in furtherance of public interest. The said sum shall be deposited in this Court within two weeks from today. It shall be paid over to the petitioner. d

72. Writ Petition (C) No. 967 of 1989 is allowed with the above directions with costs as specified hereinabove. e

Writ Petition (C) No. 76 of 1994

a 73. In view of the decision in Writ Petition (C) No. 967 of 1989, the writ petition is dismissed.

74. No costs.

Writ Petition (C) No. 94 of 1990

b 75. In view of the decision in Writ Petition (C) No. 967 of 1989, no separate orders are necessary in this petition. The writ petition is accordingly dismissed.

76. No costs.

Writ Petition (C) No. 824 of 1993

c 77. In view of the decision in Writ Petition (C) No. 967 of 1989, no separate orders are necessary in this petition. The writ petition is accordingly dismissed.

78. No costs.

(1996) 3 Supreme Court Cases 253

(BEFORE K. RAMASWAMY AND G.B. PATTANAIK, JJ.)

d RITESH R. SAH .. Petitioner;

Versus

DR Y.L. YAMUL AND OTHERS .. Respondents.

Writ Petition (C) No. 693 of 1995[†], decided on February 15, 1996

e A. Universities — Medical colleges — Admission — Reservation — Candidates belonging to reserved category, who could be admitted on the basis of open merit, should be treated as open category candidates for the purpose of computing percentage of reservation — But they should be given option for admission to graduate or postgraduate course in colleges where seats kept reserved for reserved category and thereafter less meritorious reserved category candidates should be considered for admission in whichever colleges reserved seats are available — They would also be entitled to the concessions or scholarships and other benefits according to Govt. rules or instructions —

f Constitution of India, Art. 15(4)

g B. Universities — Medical colleges — Admission — Denial of — Relief — Supreme Court modifying rule thereby providing for admission against reserved seats even of such candidates who were otherwise eligible to be admitted against open seats — But admissions for the session being already over, Court's interference with such admissions not necessary — But petitioner, who had been wrongly denied admission on the basis of that rule, being the single applicant before the Court, direction issued for his admission in any college where reserved seat still available and if no seat available then by increasing one seat in any such college since the State itself had given such admission to a candidate in another case

h Respondents 5 to 36 belonging to the reserved category though could have been admitted on the basis of marks secured in open merit, yet they were admitted as

† Under Article 32 of the Constitution of India

(1996) 5 Supreme Court Cases 647

(BEFORE KULDIP SINGH, FAIZAN UDDIN AND K. VENKATASWAMI, JJ.)

VELLORE CITIZENS' WELFARE FORUM . . Petitioner;

Versus

UNION OF INDIA AND OTHERS . . Respondents.

Writ Petition (C) No. 914 of 1991[±], decided on August 28, 1996

A. Constitution of India – Arts. 32, 21, 47, 48-A, 51-A(g) – Environmental pollution by tannery industries – While the industries are vital for country's development, but having regard to pollution caused by them, principle of Sustainable Development has to be adopted as a balancing concept – Precautionary Principle and Polluter Pays Principle acceptable as part of the law of the country and should be implemented – Precautionary environmental measures should be taken by State Govt. and statutory authorities and lack of scientific certainty cannot be a ground for postponing such measures where there are serious threats to ecology – Onus on polluter industries to prove that their actions were environmentally benign – Polluter industries liable to pay compensation to individuals affected as well as to make good the ecological damage – Discharge of untreated effluent by tanneries in State of T.N. rendering river water unfit for human consumption, contaminating the subsoil water and spoiling the physico-chemical properties of the soil making it unfit for agricultural purposes – Held, such industries cannot be permitted to continue their operation unless they set up pollution control devices – Such industries liable to compensate for the past pollution generated by them – Pollution fine of Rs 10,000 imposed on each tannery – Amount to be deposited in Environment Protection Fund which shall be utilised for compensating the affected persons and restoring the ecological balance – Environment (Protection) Act, 1986 – Ecology – Damage to – Compensation

B. Ecology – Environment (Protection) Act, 1986 – S. 3(3) – Authority under – Directed to be constituted by Central Govt. before 30-9-1996 – Authority to be headed by a retired High Court Judge – Authority to have all powers necessary to deal with the situation created by the polluting industries – Authority also to implement the Precautionary Principle and the principle of Polluter Pays – Authority to compute compensation payable by the polluting industries to individuals affected and that payable for restoring the damage it caused to the environment – Authority also to frame a scheme in consultation with expert bodies like NEERI, Central Board and State Board for reversing the ecological damage and environmental pollution

C. Constitution of India – Arts. 32, 226 & 21 – PIL – Ecology – Green Bench – Environmental pollution caused by tanneries in State of T.N. – Suitable directions issued by Supreme Court – However, instead of itself monitoring the matter any further Madras High Court advised to constitute a Green Bench to deal with all the environmental matters – Such Green Benches already functioning in some other High Courts

D. International Law – Customary international law – If not contrary to the municipal law, deemed to be incorporated in domestic law

E. Judicial activism – Inaction on the part of the Govt. to set up regulatory/adjudicatory statutory authorities as directed by the Act makes it imperative for the Court to pass suitable necessary directions



Held :

Though the leather industry is of vital importance to the country as it generates foreign exchange

and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.

(Para 9)

The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.

(Para 10)

"The Precautionary Principle" and "the Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" — in the context of the municipal law — means:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

"The Polluter Pays Principle" has been held to be a sound principle. The "Polluter Pays Principle" as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject. In view of the constitutional and statutory provisions it must be held that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

(Paras 11 to 14)

Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212 : JT (1996) 2 SC 196, relied on

Even otherwise, once these principles are accepted as part of the customary international law there would be no difficulty in accepting them as part of the domestic law. The rules of customary international law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law.

(Para 15)

A.D.M. v. Shivakant Shukla, (1976) 2 SCC 521 : AIR 1976 SC 1207; *Jolly George Varghese v. Bank of Cochin*, (1980) 2 SCC 360 : AIR 1980 SC 470; *Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667, relied on

The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the



inalienable common law right of clean environment. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land.

(Paras 16 and 17)

Commentaries on the Laws of England of Sir William Blackstone Vol. III, Fourth Edn. published in 1876. Chapter XIII, relied on

The Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by the Supreme Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for the Supreme Court to direct the Central Government to take immediate action under the provisions of the Environment Act.

(Para 20)

There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. The Supreme Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology.

(Para 21)

The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, it is directed that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu.

(Para 24)

[Keeping in view the above position the Supreme Court gave specific directions in para 25.]

However, it is not necessary for the Supreme Court to monitor these matters any further. The Madras High Court would be in a better position to monitor these matters hereinafter. Therefore, the Chief Justice of the Madras High Court is directed to constitute a Special Bench — "Green Bench" — to deal with this case and other environmental matters. However, it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by "Green Benches" already functioning in Calcutta, Madhya Pradesh and some other High Courts.

(Para 26)

R-M/T/16616/C

Advocates who appeared in this case:

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Chronological list of cases cited

on page(s)

1. (1996) 3 SCC 212 : JT (1996) 2 SC 196, *Indian Council for Enviro-Legal Action v. Union of India*

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2. (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667,
Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey 660e

 3. (1980) 2 SCC 360 : AIR 1980 SC 470, *Jolly George Varghese v. Bank of Cochin* 660d-e

 4. (1976) 2 SCC 521 : AIR 1976 SC 1207, *A.D.M. v. Shivakant Shukla* 660d-e

The Judgment of the Court was delivered by

KULDIP SINGH, J.— This petition — public interest — under Article 32 of the Constitution of India has been filed by Vellore Citizens' Welfare Forum and is directed against the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu. It is stated that the tanneries are discharging untreated effluent into agricultural fields, roadsides, waterways and open lands. The untreated effluent is finally discharged in River Palar which is the main source of water supply to the residents of the area. According to the petitioner the entire surface and subsoil water of River Palar has been polluted resulting in non-availability of potable water to the residents of the area. It is stated that the tanneries in the State of Tamil Nadu have caused environmental degradation in the area. According to the preliminary survey made by the Tamil Nadu Agricultural University Research Centre, Vellore nearly 35,000 hectares of agricultural land in the tanneries belt has become either partially or totally unfit for cultivation. It has been further stated in the petition that the tanneries use about 170 types of chemicals in the chrome tanning processes. The said chemicals include sodium chloride, lime, sodium sulphate, chlorium (*sic*) sulphate, fat, liquor, ammonia and sulphuric acid besides dyes which are used in large quantities. Nearly 35 litres of water is used for processing one kilogram of finished leather, resulting in dangerously enormous quantities of toxic effluents being let out in the open by the tanning industry. These effluents have spoiled the physico-chemical properties of the soil and have contaminated groundwater by percolation. According to the petitioner an independent survey conducted by Peace Members, a non-governmental organisation, covering 13 villages of Dindigul and Peddiar Chatram Anchayat Unions, reveals that 350 wells out of total of 467 used for drinking and irrigation purposes have been polluted. Women and children have to walk miles to get drinking water. Legal Aid and Advice Board of Tamil Nadu requested two lawyers namely, M.R. Ramanan and P.S. Subramaniam to visit the area and submit a report indicating the extent of pollution caused by the tanneries. Relevant part of the report is as under:

“As per the Technical Report dated 28-5-1983 of the hydrological investigations carried out in Solur village near Ambur it was noticed that 176 chemicals including acids were contained in the tannery effluents. If 40 litres of water with chemicals are required for one kilo of leather, with the production of 200 tons of leather per day at present and likely to



be increased multifold in the next four to five years with the springing up of more tanneries like mushroom in and around Ambur town, the magnitude of the effluent water used with chemicals and acids let out daily can be shockingly imagined. ... The effluents are let out from the tanneries in the nearby lands, then to Goodar and Palar

rivers. The lands, the rivulet and the river receive the effluents containing toxic chemicals and acids. The subsoil water is polluted ultimately affecting not only arable lands, wells used for agriculture but also drinking-water wells. The entire Ambur town and the villages situated nearby do not have good drinking water. Some of the influential and rich people are able to get drinking water from a far-off place connected by a few pipes. During rainy days and floods, the chemicals deposited into the rivers and lands spread out quickly to other lands. The effluents thus let out affect cultivation; either crops do not come up at all or if produced the yield is reduced abnormally too low. ... The tanners have come to stay. The industry is a foreign exchange earner. But one moot point is whether at the cost of the lives of lakhs of people with increasing human population the activities of the tanneries should be encouraged on monetary considerations. We find that the tanners have absolutely no regard for the healthy environment in and around their tanneries. The effluents discharged have been stored like a pond openly in most of the places adjacent to cultivable lands with easy access for the animals and the people. The Ambur Municipality, which can exercise its powers as per the provisions of the Madras District Municipalities Act, 1920 (5 of 1920) more particularly under Sections 226 to 231, 249 to 253 and 338 to 342 seems to be a silent spectator. Probably it does not want to antagonise the highly influential and stupendously rich tanners. The powers given under Section 63 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) have not been exercised in the case of tanneries in Ambur and the surrounding areas."

2. Along with the affidavit dated 21-7-1992 filed by Deputy Secretary to Government, Environment and Forests Department of Tamil Nadu, a list of villages affected by the tanneries has been attached. The list mentions 59 villages in the three divisions of Thirupathur, Vellore and Ranipet. There is acute shortage of drinking water in these 59 villages and as such alternative arrangements were being made by the Government for the supply of drinking water.

3. In the affidavit dated 9-1-1992 filed by Member Secretary, Tamil Nadu Pollution Control Board (the Board), it has been stated as under:

"It is submitted that there are 584 tanneries in North Arcot Ambedkar District vide Annexures 'A' and 'D', out of which 443 tanneries have applied for consent of the Board. The Government were concerned with the treatment and disposal of effluent from tanneries. The Government gave time up to 31-7-1985 to tanneries to put up Effluent Treatment Plant (ETP). So far 33 tanneries in North Arcot

Ambedkar District have put up Effluent Treatment Plants. The Board has stipulated standards for the effluent to be disposed of by the tanneries."

4. The affidavits filed on behalf of the State of Tamil Nadu and the Board clearly indicate that the tanneries and other polluting industries in the State of Tamil Nadu are being persuaded for the last about 10 years to control the pollution generated by them. They were given option either to construct common effluent treatment plants for a cluster of industries or to set up individual pollution control devices. The Central Government agreed to give substantial subsidy for the construction of Common Effluent Treatment Plants (CETPs). It is a pity that till date most of the tanneries operating in the State of Tamil Nadu have not taken any step to control the pollution caused by the discharge of effluent. This Court on 1-5-1995 passed a detailed order. In the said order this Court noticed various earlier orders passed by this Court and

finally directed as under:

“Mr R. Mohan, the learned Senior Counsel for the Tamil Nadu Pollution Control Board, has placed before us a consolidated statement dividing the 553 industries into three parts. The first part in Statement 1 and the second part in Statement 2 relate to those tanneries who have set up the Effluent Treatment Plants either individually or collectively to the satisfaction of the Tamil Nadu Pollution Control Board. According to the report placed on the record by the Board, these industries in Statements 1 and 2 have not achieved the standard or have not started functioning to the satisfaction of the Board. So far as the industries in Statements 1 and 2 are concerned, we give them three months' notice from today to complete the setting up of Effluent Treatment Plant (either individually or collectively) failing which they shall be liable to pollution fine on the basis of their past working and also liable to be closed. We direct the Tamil Nadu Pollution Control Board to issue individual notices to all these industries within two weeks from today. The Board is also directed to issue a general notice on three consecutive days in a local newspaper which has circulation in the district concerned.

So far as the 57 tanneries listed in Statement III (including 12 industries who have filed writ petition, numbers of which have been given above) are concerned, these units have not installed and commissioned the Effluent Treatment Plants despite various orders issued by this Court from time to time. Mr R. Mohan, the learned Senior Counsel appearing for Tamil Nadu Pollution Control Board, states that the Board has issued separate notices to these units directing them to set up the Effluent Treatment Plants. Keeping in view the fact that this Court has been monitoring the matter for the last about four years and various orders have been issued by this Court from time to time, there is no justification to grant any further time to these industries. We, therefore, direct the 57 industries listed hereunder to be closed with immediate effect. ... We direct the District Collector and the Senior Superintendent of Police of the district to have our orders complied with



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immediately. Both these officers shall file a report in this Court within one week of the receipt of the order.

We give opportunity to these 57 industries to approach this Court as and when any steps towards the setting up of Effluent Treatment Plants and their commissioning have been taken by these industries. If any of the industries wish to be relocated to some other area, they may come out with a proposal in that respect.”

5. On 28-7-1995 this Court suspended the closure order in respect of seven industries mentioned therein for a period of eight weeks. It was further observed as under:

“Mr G. Ramaswamy, the learned Senior Advocate appearing for some of the tanneries in Madras, states that the setting up of the Effluent Treatment Plants is progressing satisfactorily. According to him several lakhs have already been spent and in a short time it would start operating. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that the team of the Board will inspect the project and file a report by 3-8-1995.”

6. This Court on 8-9-1995 passed the following order:

“The Tamil Nadu Pollution Control Board has filed its report. List No. I relates to about 299 industries. It is stated by Mr G. Ramaswamy, Mr Kapil Sibal and Mr G.L.

Sanghi, the learned Senior Advocates appearing for these industries, that the setting up of the projects is in progress. According to the learned counsel Tamil Nadu Leather Development Corporation (TALCO) is in charge of the project. The learned counsel state that the project shall be completed in every respect within 3 months from today. The details of these industries and the projects undertaken by TALCO as per List No. I are as under. ... We are of the view that it would be in the interest of justice to give a little more time to these industries to complete the project. Although the industries have asked for three months' time, we give them time till 31-12-1995. We make it clear that in case the projects are not completed by that time, the industries shall be liable to be closed forthwith. Apart from that, these industries shall also be liable to pollution fine for the past period during which they had been operating.

We also take this opportunity to direct TALCO to take full interest in these projects and have the projects completed within the time granted by us.

Mr Kapil Sibal, the learned counsel appearing for the tanneries, stated that Council for Indian Finished Leather Manufacturers' Export Association is a body which is collecting 5 per cent on all exports. This body also helps the tanneries in various respects. We issue notice to the Association to be present in this Court and assist this Court in all the matters pertaining to the leather tanneries in Madras. Mr Sampath takes notice.



So far as List No. II is concerned, it relates to about 163 tanneries (except M/s Vibgyor Tanners & Co., Kailasagiri Road, Mittalam-635 811, Ambur (via). The Pollution Control Board has inspected all these tanneries and placed its report before us. According to the report most of these tanneries have not even started primary work at the spot. Some of them have not even located the land. The tanneries should have themselves set up the pollution control devices right at the time when they started working. They have not done so. They are not even listening to various orders passed by this Court from time to time during the last more than 2 years. It is on the record that these tanneries are polluting the area. Even the water around the area where they are operating is not worth drinking. We give no further time to these tanneries. We direct all the following tanneries which are numbering about 162 to be closed with immediate effect."

It may be mentioned that this Court suspended the closure orders in respect of various industries from time to time to enable the said industries to install the pollution control devices.

7. This Court by the order dated 20-10-1995 directed the National Environmental Engineering Research Institute, Nagpur (NEERI) to send a team of experts to examine, in particular, the feasibility of setting up of CETPs for cluster of tanneries situated at different places in the State of Tamil Nadu where the work of setting up of the CETPs has not started and also to inspect the existing CETPs including those where construction work was in progress. NEERI submitted its first report on 9-12-1995 and the second report on 12-2-1996. This Court examined the two reports and passed the following order on 9-4-1996:

"Pursuant to this Court's order dated December 15, 1995, NEERI has submitted Final Examination Report dated February 12, 1996 regarding CETPs constructed/under construction by the tanneries in various districts of the State of

Tamil Nadu. A four-member team constituted by the Director, NEERI inspected the CETPs from January 27, 1996 to February 12, 1996. According to the report, at present, 30 CETP sites have been identified for tannery clusters in the five districts of Tamil Nadu viz., North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. All the 30 CETPs were inspected by the team. According to the report, only 7 CETPs are under operation, while 10 are under construction and 13 are proposed. The following 7 CETPs are under operation:

1. M/s TALCO Ranipet Tannery Effluent Treatment Co. Ltd., Ranipet, District North Arcot Ambedkar.
2. M/s TALCO Ambur Tannery Effluent Treatment Co. Ltd., Thuthipet Sector, Ambur, District North Arcot Ambedkar.
3. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Vaniyambattu, Vaniyambadi, District North Arcot.



4. M/s Pallavaram Tanners Industrial Effluent Treatment Co., Chrompet Area, District Chengai MGR.

5. M/s Ranipet SIDCO Finished Leather Effluent Treatment Co. Pvt. Ltd., Ranipet, District North Arcot Ambedkar.

6. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Udayendiram, Vaniyambadi, District North Arcot Ambedkar.

7. M/s TALCO Pernambut Tannery Effluent Treatment Co. Ltd., Bakkalapalli, Pernambut, District North Arcot Ambedkar.

The CETPs mentioned at Sl. Nos. 5, 6 and 7 were commissioned in January 1996 and were on the date of report passing through stabilization period. The report indicates that so far as the above CETPs are concerned, although there is improvement in the performance, they are still not operating at their optimal level and are not meeting the standards as laid down by the Ministry of Environment and Forests and the Tamil Nadu Pollution Control Board for inland surface water discharge. The NEERI has given various recommendations to be followed by the above-mentioned units. We direct the units to comply with the recommendations of NEERI within two months from today. The Tamil Nadu Pollution Control Board shall monitor the directions and have the recommendations of the NEERI complied with. So far as the three units which are under stabilization are concerned, the NEERI Team may inspect the same and place a final report before this Court within the period of two months.

Apart from the tanneries which are connected with the above-mentioned 7 units, there are large number of other tanneries operating in the 5 districts mentioned above which have not set up any satisfactory pollution control devices. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that notices were issued to all those tanneries from time to time directing them to set up the necessary pollution control devices. It is mandatory for the tanneries to set up the pollution control devices. Despite notices it has not been done. This Court has been monitoring these matters for the last about 4 years. There is no awakening or realisation to control the pollution which is being generated by these tanneries.

The NEERI has indicated the physico-chemical characteristics of groundwater from dug wells near tannery clusters. According to the report, water samples show that well waters around the tanneries are unfit for drinking. The report also shows

that the quality of water in Palar river downstream from the place where effluent is discharged is highly polluted. We, therefore, direct that all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. which are not connected with the seven CETPs mentioned above, shall be closed with immediate effect. None of these tanneries shall be permitted to operate till the time the CETPs are constructed to the satisfaction of the Tamil Nadu Pollution Control



Board. We direct the District Magistrate and the Superintendent of Police of the area concerned, to have all these tanneries closed with immediate effect. Mr Mehta has placed on record the report of Tamil Nadu Pollution Control Board. In Statement I of the Index, there is a list of 30 industries which have also not been connected with any CETPs. According to the report, these industries have not, till date set up pollution control devices. We direct the closure of these industries also. List is as under. ... The Tamil Nadu Pollution Control Board has filed another report dated January 18, 1996 pertaining to 51 tanneries. There is dispute regarding the permissible limit of the quantity of total dissolved solids (TDS). Since the NEERI Team is visiting these tanneries, they may examine the TDS aspect also and advise this Court accordingly. Meanwhile, we do not propose to close any of the tanneries on the ground that it is discharging more than 2001 TDS.

The report indicates that except the 17 units, all other units are non-complaint units in the sense that they are not complying with the BOD standards. Excepting these 17 industries, the remaining 34 tanneries listed hereunder are directed to be closed forthwith. ... We direct the District Magistrate and the Superintendent of Police of the area concerned to have all these industries mentioned above closed forthwith. The tanneries in the 5 districts of Tamil Nadu referred to in this order have been operating for a long time. Some of the tanneries are operating for a period of more than two decades. All this period, these tanneries have been polluting the area. Needless to say that the total environment in the area has been polluted. We issue show-cause notice to these industries through their learned counsel who are present in Court, why they be not subjected to heavy pollution fine. We direct the State of Tamil Nadu through the Industry Ministry, the Tamil Nadu Pollution Control Board and all other authorities concerned and also the Government of India through the Ministry of Environment and Forests, not to permit the setting up of further tanneries in the State of Tamil Nadu.

Copy of this order be communicated to the authorities concerned within three days. To come up for further consideration after the replies to the show-cause. There are a large number of tanneries in the State of Tamil Nadu which have set up individual pollution control devices and which according to the Tamil Nadu Pollution Control Board are operating satisfactorily. The fact, however, remains that all these tanneries are discharging the treated effluents within the factory precincts itself. We direct NEERI Team which is visiting this area to find out as to whether the discharge of the effluent on the land within the factory premises is permissible environmentally. *M/s Nandeem Tanning Company, Valayampet Vaniyambadi* is one of such industries. Copy of the report submitted by the Tamil Nadu Pollution Control Board be forwarded to the NEERI. NEERI may inspect this industry within ten days and file a report in this Court. Copy of this order be communicated to NEERI.



Matters regarding distilleries in the State of Tamil Nadu

The Tamil Nadu Pollution Control Board has placed on record the factual report regarding 6 distilleries mentioned in page 4 of the Index of its Report dated April 5, 1996. The learned counsel for the Board states that the Board shall issue necessary notices to these industries to set up pollution control devices to the satisfaction of the Board, failing which these distilleries shall be closed. The Pollution Control Board shall place a status report before this Court."

The NEERI submitted two further reports on 1-5-1996 and 11-6-1996 in respect of CETPs set up by various industries. The NEERI reports indicate that the physico-chemical characteristics of groundwater from dug wells in Ranipet, Thuthipeth, Valayambattu, Vaniyambadi and various other places do not conform to the limits prescribed for drinking purposes.

8. This Court has been monitoring this petition for almost five years. The NEERI, Board and the Central Pollution Control Board (Central Board) have visited the tanning and other industries in the State of Tamil Nadu several times. These expert bodies have offered all possible assistance to these industries. The NEERI reports indicate that even the seven operational CETPs are not functioning to its satisfaction. NEERI has made several recommendations to be followed by the operational CETPs. Out of the 30 CETP sites which have been identified for tannery clusters in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R., 7 are under operation, 10 are under construction and 13 are proposed. There are a large number of tanneries which are not likely to be connected with any CETP and are required to set up pollution control devices on their own. Despite repeated extensions granted by this Court during the last five years and prior to that by the Board the tanneries in the State of Tamil Nadu have miserably failed to control the pollution generated by them.

9. It is no doubt correct that the leather industry in India has become a major foreign exchange earner and at present Tamil Nadu is the leading exporter of finished leather accounting for approximately 80 per cent of the country's export. Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.

10. The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called "Our Common Future". The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known



as "Brundtland Report". In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a

document called "Caring for the Earth" which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in the history — deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.

11. Some of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" — in the context of the municipal law — means:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

12. "The Polluter Pays Principle" has been held to be a sound principle by this Court in *Indian Council for Enviro-Legal Action v. Union of India*¹. The Court observed: (SCC p. 246, para 65)



"... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country."

The Court ruled that: (SCC p. 246, para 65)

"... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity *irrespective* of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity

carried on”.

Consequently the polluting industries are “absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas”. The “Polluter Pays Principle” as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

13. The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:

“47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48-A. Protection and improvement of environment and safeguarding of forests and wildlife.—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

51-A. (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.”

Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are: the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the



Central Government and the constitution of the State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

15. Even otherwise once these principles are accepted as part of the Customary

International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khanna's opinion in *A.D.M. v. Shivakant Shukla*², *Jolly George Varghese case*³ and *Gramophone Co. case*⁴.

16. The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (*Commentaries on the Laws of England of Sir William Blackstone*) Vol. III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words:

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow-chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, 'sic utere tuo, ut alienum non leadas'; this



therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance.

... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of 'doing to others, as we would they should do unto ourselves'."

17. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land.

18. The Statement of Objects and Reasons to the Environment Act, inter alia, states as under:

"The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food-chains, growing risks of environmental accidents and threats to life-support systems. The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. The Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident.

Existing laws generally focus on specific types of pollution or on specific

categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build-up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.

In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate



powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, safety and health.”

Sections 3, 4, 5, 7 and 8 of the Environment Act which are relevant are as under:

“3. *Power of Central Government to take measures to protect and improve environment.*—(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such 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.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely—

(i) coordination of actions by the State Governments, officers and other authorities—

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents

which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;



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(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

4. *Appointment of officers and their powers and functions.*—(1) Without prejudice to the provisions of sub-section (3) of Section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of Section 3 or of any other authority or officer.

5. *Power to give directions.*—Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the

exercise of its powers and performance of its functions under this 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.



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Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

7. *Persons carrying on industry, operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards.*—No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. *Persons handling hazardous substances to comply with procedural safeguards.*—No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.”

19. Rules 3(1), 3(2) and 5(1) of the Environment (Protection) Rules, 1986 (the Rules) are as under:

“3. *Standards for emission or discharge of environmental pollutants.*—(1) For the purposes of protecting and improving the quality of the environment and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in Schedules I to IV.

3. (2) Notwithstanding anything contained in sub-rule (1), the Central Board or a State Board may specify more stringent standards from those provided in Schedules I to IV in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons therefor in writing.

5. *Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.*—(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas—

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.



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(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area."

20. It is thus obvious that the Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by this Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for this Court to direct the Central Government to take immediate action under the provisions of the Environment Act.

21. There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. This Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology.

22. Mr M.C. Mehta, the learned counsel for the petitioner has invited our attention to the notification GOMs No. 213 dated 30-3-1989 which reads as under:

"In the government order first read above, the Government have ordered, among other things, that no industry causing serious water



pollution should be permitted within one kilometre from the embankments of rivers, streams, dams, etc. and that the Tamil Nadu Pollution Control Board should furnish a list of such industries to all local bodies. It has been suggested that it is necessary to have a sharper definition for water sources so that ephemeral water collections like rainwater ponds, drains, sewerages (bio-degradable) etc. may be excluded from the purview of the above order. The Chairman, Tamil Nadu Pollution Control Board has stated that the scope of the government order may be restricted to reservoirs, rivers and public drinking-water sources. He has also stated that there should be a complete

ban on location of highly polluting industries within 1 kilometre of certain water sources.

2. The Government have carefully examined the above suggestions. The Government impose a total ban on the setting up of the highly polluting industries mentioned in Annexure I to this order within one kilometre from the embankments of the water sources mentioned in Annexure II to this order.

3. The Government also direct that under any circumstances if any highly polluting industry is proposed to be set up within one kilometre from the embankments of the water sources other than those mentioned in Annexure II to this order, the Tamil Nadu Pollution Control Board should examine the case and obtain the approval of the Government for it."

Annexure I to the notification includes distilleries, tanneries, fertilizer, steel plants and foundries as the highly polluting industries. We have our doubts whether the above-quoted government order is being enforced by the Tamil Nadu Government. The order has been issued to control pollution and protect the environment. We are of the view that the order should be strictly enforced and no industry listed in Annexure I to the order should be permitted to be set up in the prohibited area.

23. The learned counsel for the tanneries raised an objection that the standard regarding total dissolved solids (TDS) fixed by the Board was not justified. This Court by the order dated 9-4-1996 directed the NEERI to examine this aspect and give its opinion. In its report dated 11-6-1996 NEERI has justified the standards stipulated by the Board. The reasoning of the NEERI given in its report dated 11-6-1996 is as under:

"The total dissolved solids in ambient water have physiological, industrial and economic significance. The consumer's acceptance of mineralized water decreases in direct proportion to increased mineralization as indicated by Bruvold (1). High total dissolved solids (TDS), including chlorides and sulphates, are objectionable due to possible physiological effects and mineral taste that they impart to water. High levels of total dissolved solids produce laxative/cathartic/purgative effect in consumers. The requirement of soap and other detergents in household and industry is directly related to water hardness as brought



out by De Boer and Larsen (2). High concentration of mineral salts, particularly sulphates and chlorides, are also associated with costly corrosion damage in wastewater treatment systems, as detailed by Patterson and Banker (3). Of particular importance is the tendency of scale deposits with high TDS thereby resulting in high fuel consumption in boilers.

The Ministry of Environment and Forests (MEF) has not categorically laid down standards for inland surface water discharge for total dissolved solids (TDS), sulphates and chlorides. The decision on these standards rests with the respective State Pollution Control Boards as per the requirements based on local site conditions. The standards stipulated by the TNPCB are justified on the afore-referred considerations.

The prescribed standards of the TNPCB for inland surface water discharge can be met for tannery wastewaters cost effectively through proper implant control measures in tanning operation, and rationally designed and effectively operated wastewater treatment plants (ETPs and CETPs). Tables 3 and 5 depict the quality of

groundwater in some areas around tanneries during peak summer period (3-6-1996 to 5-6-1996). Table 8 presents the data collected by TNPCB at individual ETPs indicating that TDS, sulphates and chloride concentrations are below the prescribed standards for inland surface water discharge. The quality of ambient waters needs to be maintained through the standards stipulated by TNPCB.”

24. The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, we direct that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu.

25. Keeping in view the scenario discussed by us in this judgment, we order and direct as under:

1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired Judge of the High Court and it may have other members — preferably with expertise in the field of pollution control and environment protection — to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking measures with respect to the matters referred to in clauses (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.



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 polluters concerned 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.

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collectors/District Magistrates of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present

but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.

6. We impose pollution fine of Rs 10,000 each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called "Environment Protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act, 1971.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The



expenditure shall be met from the "Environment Protection Fund" and from other sources provided by the State Government and the Central Government.

8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

10. Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.

11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.

26. We have issued comprehensive directions for achieving the end result in this

case. It is not necessary for this Court to monitor these matters any further. We are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We, therefore, request the Chief Justice of the Madras High Court to constitute a Special Bench "Green Bench" to deal with this case and other environmental matters. We make it clear that it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by us. We may mention that "Green Benches" are already functioning in Calcutta, Madhya Pradesh and some other High Courts. We direct the Registry of this Court to send the records to the Registry of the Madras High Court within one week. The High Court shall treat this matter as a petition under Article 226 of the Constitution of India and deal with it in accordance with law and also in terms of the directions issued by us. We give liberty to the parties to approach the High Court as and when necessary.



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27. Mr M.C. Mehta has been assisting this Court to our utmost satisfaction. We place on record our appreciation for Mr Mehta. We direct the State of Tamil Nadu to pay Rs 50,000 towards legal fees and other out of pocket expenses incurred by Mr Mehta.

[†] Under Article 32 of the Constitution of India

¹ (1996) 3 SCC 212 : JT (1996) 2 SC 196

² (1976) 2 SCC 521 : AIR 1976 SC 1207

³ *Jolly George Varghese v. Bank of Cochin*, (1980) 2 SCC 360 : AIR 1980 SC 470

⁴ *Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667

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Adv. Sachin Subhash Gore <ssgore2005@gmail.com>

Khed Plant - Reply for Environmental Compensation by invoking the 'Polluter Pays' principal for air pollution control measures non compliances regarding..

1 message

Nilesh Pathak <nilesh.pathak@irb.co.in>

Mon, Apr 6, 2020 at 4:26 PM

To: ms <ms@mpcb.gov.in>

Cc: RO Aurangabad <roaurangabad@mpcb.gov.in>, srolatur@mpcb.gov.in, Jayant Dangare <jayant.dangare@irb.co.in>, Yabot Irb <yabot.irb@irb.co.in>, Qs Sybot <qs.sybot@irb.co.in>, Girish Gadikar <girish.gadikar@irb.co.in>

Sir,

We are submitting our reply regarding Environmental Compensation imposed by Regional Office, MPCB-Aurangabad.

We argue that the Environmental compensation imposed by MPCB is based on some incorrect facts and with some missing facts which were admitted/ submitted by us during personal hearing and reply to interim direction.

Therefore we submitted our argument and request to Hon'ble MPCB for consideration for representation regarding the same .

Please find the attached letter regarding representation on Environmental compensation.

Thanking you ,

With regards,

Nilesh (Nayan) A. Pathak

Liaison Manager

YABOT Project,

77670 18267

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4 attachments - Khed G.No. 264, Modern Road makers representation to MPCB vs Compensation.pdf
351K Khed Notice for Polluter Pays from MPCB RO, Aurangabad (25.02.2020)
1452K NGT 59-2019 Sakharam Kale IRB DO 17-10-2019.pdf
163K

T.C.



550



Interim direction Khed Os'bad 05.11.2019.pdf

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T.C.

Ax. A8

General Framework For Imposing Environmental Damage Compensation



CENTRAL POLLUTION CONTROL BOARD
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
Parivesh Bhawan, East Arjun Nagar, Delhi 110032, India

December 2022

T.C.

Sharma

Environmental Damage Compensation (EDC) is a tool guided by ‘Polluter Pays’ principle, wherein a cost is paid by the polluter responsible for polluting environment and causing damage to its components. It is applicable in both cases where the release of pollutants is sudden or gradual over a longer period, recoverable for the site where injuries to natural resources have occurred.

While, the EDC is calculated on case to case basis and various CPCB guidelines exists for specific cases & sectors for calculating damage cost, need was felt for a general framework for guiding the damage assessment and cost estimation process.

This document helps in identifying direct and indirect damages caused to environment due to anthropogenic activities and retroactive application of Environment Compensation (EC) charges. It also details a standard procedure for damage assessment including preliminary investigation, analysis of data, identification of EDC liabilities, assessment of direct & indirect liabilities, assessment of eco-system damages, detailed investigation of damaged site, analysis of detailed data, determination of EDC scenario and cost, identify best achievable remediation and restoration methods, action plan imposing over-all EDC and monitoring of implementation of plan by regulatory bodies.

A standard format for preliminary investigation of damaged area is provided along with instructions. Two checklists of direct and indirect liabilities for 19 types of anthropogenic hazards are also provided. Indicative methods of damage quantification and EDC estimation have been compiled and placed at Appendix IV for easy reference.

This document was prepared in pursuant to the directions of Hon’ble National Green Tribunal via order dated April 24, 2019 in O.A. 606/2018. It is authored by Shri B. Vinod Babu, Divisional Head WM II, CPCB and co-authored by Smt. Garima Sharma, AS, CPCB with editing support from Shri Sameer Arora, Consultant (Engineering), CPCB.

Member Secretary
Central Pollution Control Board

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**PRELIMINARY FRAMEWORK FOR IMPOSING ENVIRONMENTAL DAMAGE
COMPENSATION**

1.1 Introduction

Environmental damage means the adverse effects induced on environmental properties (or goods) due to anthropic activity, in this context, environmental goods may be natural resources such as air, soil, surface water, groundwater, flora and fauna, ecosystem, biodiversity and the services they provide to ecosystem or to humans. Some of the ecosystem services are purification, productivity, landscape, climate regulation, nutrient cycling, disturbance prevention and natural mitigation, etc.

Environmental Damage Compensation (EDC) is a cost to be paid by the polluter responsible for causing environmental damage by release of harmful substances or pollutants in excess of stipulated standards due to inadequate control equipment or negligence. Release of pollutants may be sudden or slow and gradual manner in excess of standards over a longer period.

Realising the need for the same, Hon'ble NGT vide its order dated April 24, 2019 in O.A. 606/2018, noted that it necessary to recover cost of environmental damages from identified polluters based on polluter pay principle by undertaking assessment of environmental damage. This concept is needful for effective enforcement of environmental laws.

EDC is also based on the precautionary principle that ensures operators to take appropriate action to prevent environmental damage from occurring. Under the "polluter pays" principle the responsible party will be required to restore environmental damage and also responsible for compensating consequent damages caused on receptors.

It is necessary to ensure that EDC maximize the welfare of receptor population, restoration of environment as well as maintain sustainable environment and eco-systems, however at the same time, scientifically estimated EDC is necessary to justify costs imposed on polluter-pay-principle.

Monetary valuation of environmental damages is a complex process involving multidisciplinary juridical, technical and economic analysis is necessary. Following challenges may arise in assessing environmental damages;

- Establish existence of the damage
- Establish cause-effect link between the damage and the unauthorised or negligent activities;
- Quantify or determine extent of damage;
- Identification of suitable methodologies to valuate damages.

Environmental Damage Compensation (EDC) is a quantifiable and reasonably estimable future expenditure as on date for restoration of environmental damages caused due to anthropogenic release of pollutants in excess of permissible limits or unauthorised activity. Environmental damage compensation is apportioned to one or more factors relating to degradation of air quality, water resources, soil, groundwater, adverse effect on human health, loss of eco-system services, including damages caused to property, natural assets and productive assets. Thus, EDC includes cost of assessments, cost of restoration and compensation for direct and indirect damages caused to human, property, flora, fauna including ecosystem functions.

1.2.1 Direct Damages

Direct damages or general damages occur through direct interaction of polluting activity with an environmental, social, or economic component. For example, discharge of untreated sewage into a river may lead to a decline in water quality in terms of BOD, DO or rise in bacterial contamination.

1.2.2 Indirect Damages

Indirect or consequential impacts on environment often seen away from source and often occur in pathway of impact. Indirect impacts can also be secondary or even third level impacts. For, example, rainwater run-off over a dumpsite may contaminate a receiving water body with heavy metals or other toxins, which in turn lead to a secondary indirect impact on aquatic flora (phytoplankton) in that water body. This may effect fish population in impacted water body, thereafter, reduction in fish yield may affect income of farming is third level socio-economic impacts.

As discussed, Environmental damage compensation would require monetizing cumulative activities preliminary site investigation, detailed site assessment, restoration and also compensation for environmental and ecological losses arising from direct and indirect damages.

1.2.3 Applicability

Environmental compensation need to be imposed retroactively. Principle of strict liability shall be exercised on the polluter while implementing environment damage compensation. Strict liability is imposition of liability on the polluter without finding a fault such as exceedance of standards, negligence or ill intention.

In cases where two or more persons are liable in respect of damage, principle of joint and several liabilities may be imposed. Under joint and several liability, a State may pursue obligation of EDC

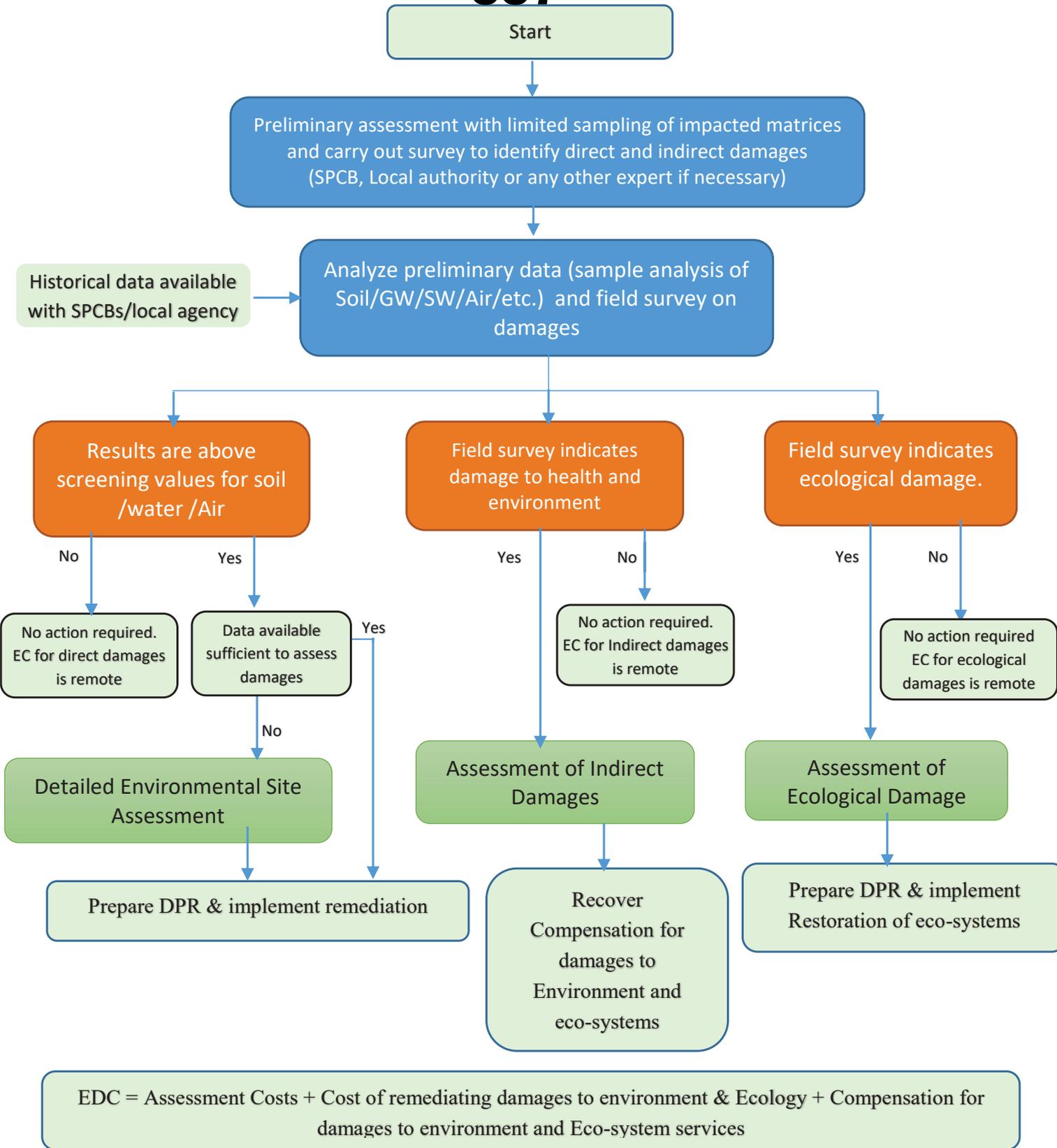
against any one party as if parties were jointly accountable and it becomes responsibility of the defendants to sort out their respective proportions of obligation and payment.

1.3 Scope of EDC & Standard Flow Model for estimating EDC

A standard procedure shall be followed for estimation of damages due to anthropogenic polluting activities. It includes following steps,

- i. Preliminary investigation
- ii. Analysis of preliminary data
- iii. Identification of EDC liabilities
- iv. Assessment of direct, indirect liabilities
- v. Assessment of eco-system damages
- vi. Detailed investigation of damaged site, if required
- vii. Analysis of detailed data
- viii. Determination of EDC scenario and cost
- ix. Identify best achievable remediation and restoration methods
- x. Directions/ action plan imposing over-all EDC
- xi. Monitoring of implementation of plan by regulatory bodies

The Standard Flow Model for estimating EDC is as presented below,



1.3.1 Preliminary investigation

Following scope of work identified for reconnaissance and preliminary investigation of damaged site;

- To conduct field visits, visual site inspections, review of existing documents, maps and literature and carry out the following activities.
- Current sources of contamination at site and process of release in the influence area.
- Collection of history/background information of the contaminated site
- Basic features of the site i.e. collection of available information on the site like site maps (topographical, geological), hydro-geological information, information from local authorities, information on the type of polluting-sources at site.
- Identification of previous and current land use pattern of the site
- Identification of parameters causing immediate threat to the ecology and environment.
- Discussion with local people and other informed people, district administration, municipal and regulatory authorities, NGOS, etc.
- Selection of the available observation wells (Bore Well) in the watershed covering the site, for monitoring water level and quality monitoring at appropriate locations, & inventory details like total depth of the well, water column; frequency of sampling (pre monsoon/ post monsoon)
- Description of area with respect to existing land use, potential areas of environmental/ecological risk, demographic profile, social economic and environmental conditions of the people in receptor areas, flora and fauna etc.
- Information of prevailing or commonly reported health issues in the area
- Collection of preliminary samples and analysis of soil, sub-soil, surface water, ground water for comprehensive analysis of major ions and heavy metals, organic constituents, pesticides and other relevant parameters related to the contaminated site as per national / international accredited testing procedures.

1.3.2 Analysis of preliminary data

- Based on preliminary survey and sampling, a detailed sampling protocol aimed at assessing the contamination level of the site and to establish the baseline environmental status of the project area shall be prepared. The protocol shall include identification of criteria pollutant (parameters) for analysis, sampling frequency (number of seasons), number of samples, etc. and shall be submitted for approval of concerned authorities.
- Identification of Benchmark /Background samples.
- Outlining the extent of contaminant plume or contaminated area based on field survey and preliminary findings.
- Establishing conceptual site plan/model showing link between source and receptor. It comprises three elements (i) Potential sources of contamination, (ii) Potential receptors that may be harmed and (iii) Potential pathways linking the two

1.3.3 Identification of direct and indirect EDC liabilities

This guidance document provides a broad framework for identifying damages, assessing damages and imposing compensation for environmental damage. Step-wise approach shall be adopted for activities such as preliminary assessment, identification of direct and indirect liabilities, detailed environmental and ecological studies, assessment of damages, calculation of compensation for direct and indirect liabilities.

- Following direct liabilities will be applicable for assessment and restoration;
 - Soil and sediment contamination
 - Groundwater contamination
 - Contamination surface bodies
 - Damages to eco-systems

These ecological impacts may constitute clearing/fragmentation/alteration/destruction of native vegetation, animal habitats, pollution of watercourses and wetlands, sediment, nutrient and pollutant run-off into adjacent vegetation and animal habitats, loss of hollows, nesting and feeding habitats for birds, etc. Some of the activities that may cause ecological damages are as given below;

- Sand mining

- Mining activity
 - Industrial discharge of wastewater
 - Dumping of hazardous wastes and chemicals
 - Deforestation
 - Release of air pollutants
- The direct liabilities with respect to Air pollution are,
- Compensation for release of air pollutants in excess of permitted quantities
 - Compensation for release of toxic gases from process
- Indirect damages are those damages which are not directly accountable to an action and may either be fixed or variable. A few important indirect damages are,
- Cost of compensating indirect damages
 - Social responsibility for supply of safe drinking water
 - Resettlement/Relocation
 - Loss of life
 - Permanent, temporary, total or partial disability or other injury or sickness
 - Loss of wages due to total or partial disability or permanent or temporary disability
 - Medical expenses incurred for treatment of injuries or sickness
 - Damages to private property
 - Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons
 - Loss to the Government or local authority arising out of, or connected with, the activity causing any damage
 - Local claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems
 - Loss of business or employment or both

- Any other claim arising out of, or connected with environmental and ecological damages due to release of pollutants
- Long term monitoring costs (for options such as monitored natural attenuation)
- Claims on account of harm to milch and draught animals
- Claims on account of harm to aquatic fauna
- Claims for loss due reduced fishing yield in ponds, rivers or sea

Impacts to the environment can be caused through a variety of mechanisms. It is not the intent of this report to capture all possible contamination scenarios that may occur in a multitude of permutations and combinations that may impact the natural resources. However, this report addresses environmental impacts arising from prominent anthropogenic polluting activities which contaminate natural resources and impact receptors. A check-list of environmental damage scenarios and applicable compensation liabilities is placed at Appendix II & III.

1.3.4 Assessment of direct and indirect liabilities

Development of national framework on environmental damage assessment is a complex exercise requiring consultations with multi sectoral experts of environmental economics, remediation, cost estimates, etc. CPCB utilized expertise of Expert Group comprising experts on damage assessment, environmental economics, valuation, etc. A meeting of Expert Group was held on May 16, 2019 at Central Pollution Control Board to guide efforts for exploring development of national framework. It was suggested that a standard procedure for calculating best estimation of damages due to different scenarios of anthropogenic polluting activities need to be developed over time for quantification and estimation of environmental damages.

In case of environmental damages arising due to improper handling of hazardous wastes, guidelines on imposition of environmental liability published by CPCB may be referred. Indicative methods for assessment of environmental damage compensation for air pollution, river pollution, soil and groundwater is placed at Appendix IV. Specific studies would be necessary for assessing EDC depending on nature of damage. Cost for penal or deterrent charges and criminal damages have not addressed in this reference document while estimating EDC.

1.3.5 Assessment of Eco-system liabilities

Quantification of ecological damages is analytical measure of the extent, severity and duration of the damage in terms of alteration, which is an adverse variation with respect to the baseline condition of the natural resources and services; deterioration, which is a partial loss of the ability of the natural resource to provide an ecological or public service; partial destruction, which is the loss of one or more services; and total destruction, which is the loss of all the services. Thus, assessment of eco-system damage is complex and location specific. It is required to be done on case to case basis by collection, compilation and assessment of data on biological environment, ecosystem functions, communities, etc. in the damaged area. In view of time constraint, the same may be done using archive data available with local agencies & concerned institutions.

1.3.6 Detailed investigation of damaged site, if required

Detailed investigation is build up on findings of preliminary investigation, including extent & significance of direct and indirect damages. Detailed assessment should be carried out as per pre-determined sampling protocol approved by concerned authority. Scope of detailed assessment in case of contaminated areas is given below;

- Clearly delineate the boundaries, longitudinal and cross section of the contaminated site through topographic and other engineering surveys and prepare a base map of the site.
- Water, soil, sediment, and air quality assessment - analysis of criteria pollutants
- Collect data on geological, hydrogeological and hydrological features of the contaminated site - if required necessary studies shall be carried out.
- Development of groundwater flow, surface water flow and mass transport models.
- Estimate the quantity of contaminants and their concentrations including secondary pollutants.
- Socio - economic and environmental assessment of the contaminated area.
- Assess the potential environmental/ecological/health impacts on soil, ground water, surface water bodies, population, flora and fauna
- Pathways of contaminant transport, fate of the contaminant and exposure.
- Assessment of toxicity, bioavailability, biodegradability and mobility of contaminants.

- Identification of significant receptors and establishing trigger values.
- Use suitable quantitative or qualitative risk assessment model.

This report does not prescribe detailed methodology for assessing environmental damages. However, an indicative checklist of possible types of damages and parameters indicating indirect impacts on environment is given at Appendix II & III.

1.3.7 Analysis of detailed data

Analysis of data from detailed investigation data will determine the applicable damages for environmental compensation, which should be estimated as per specified methodology, that may be evolved on case to case basis. Some of the indicative methods for assessment of environmental damage compensation for air pollution, river pollution, soil and groundwater are given at Appendix IV.

1.3.8 Determination of EDC scenario and cost

As discussed earlier, environmental damage compensation is cumulative of one or more factors relating to environmental degradation of air quality, water resources, soil, groundwater, adverse effect on human health, loss of eco-system services, including damages caused to property, natural assets and productive assets. Thus, EDC includes cost of assessments, cost of restoration and compensation for direct and indirect damages caused to human, property, flora, fauna including ecosystem functions etc., identified during detailed assessment study.

Environmental Damage Compensation comprises of (i) assessment obligation, (ii) remediation obligation (iii) restoration obligation (iv) compensation to affected third party (v) obligation to compensate damage to natural resources. Thus environmental damage compensation can be calculated as below;

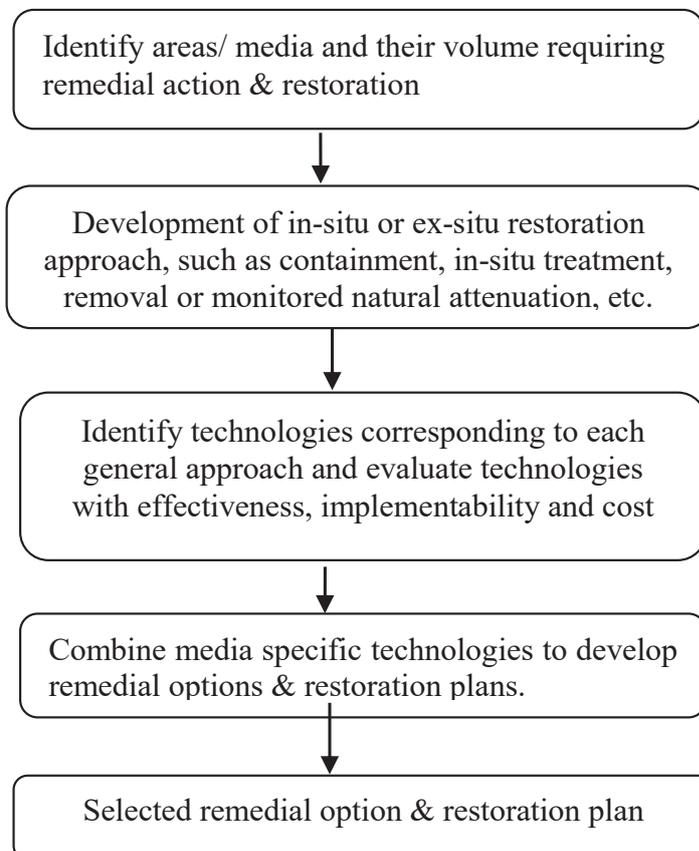
EDC = Assessment Costs + Cost of remediating damages to environment & ecology + Compensation for damages to environment and eco-system services

The concerned regulatory agency (or SPCBs/PCCs) may approve applicable EDC scenario. The key parameters that will ultimately dictate the level and costs of remediation activities are degree of ecological damage, number of impacted receptors, impacted media volumes, volume of indirect damage liabilities,

pollutants (constituents) of concern, number of contaminants, impact matrix, current and intended future land use, migration of contamination, etc.

1.3.9 Identify best achievable remediation and restoration methods & its cost

Having completed the preliminary and detailed site assessment as above, the polluter may be liable to undertake remediation and restoration activity, as applicable. A remediation plan is to be prepared specifying most applicable remedial technology to bring the site-specific contamination levels down to no risk or an accepted risk level (based on environment/ human health scenario) and estimated costs for remediation. Upon review of the same, the concerned agency (or SPCB/PCC) may specify remediation objective and site specific target levels for restoration for specific constituents of concerns along with intermediate target levels vis-à-vis time schedule so as to monitor the progress of remediation. Evaluation and fixation of site specific target levels for restoration of environmental and ecological damages may be specified by concerned SPCB/PCC on their own or by constituting an Expert Committee thereof. A restoration plan of the site may be evaluated by concerned SPCB/PCC or Expert Committee and target levels fixed for intermediate monitoring. An indicative approach for arriving at an appropriate remediation option and restoration plan is presented in the flow sheet below,



Expert Committee may also finalize applicable compensation liabilities due to indirect damages based on detailed investigation studies.

Once the plan with site specific target levels is approved by the agency (or SPCBs/PCCs), responsible party shall undertake site restoration accordingly under supervision of agency or any third party appointed for the same. During such period, few sampling and analysis shall also be carried out by the SPCB/PCC for validation.

1.3.10 Directions/ action plan imposing over-all EDC

Upon receipt of the assessment reports, which shall comprise of damage assessment, remediation objective and restoration plans along with the cost estimation and time schedule, the concerned agency (SPCB/PCC) may firm up the remediation objective and duly approve the plan for implementation by specifying site specific target levels. Directions may be issued to responsible party(ies), as necessary.

1.3.11 Monitoring of implementation of plan by regulatory bodies

The approved restoration plan and recovery of environmental compensation for damages caused to environmental properties shall be executed by the responsible party(ies), which may be monitored by SPCB/PCC as per the time schedules and phase wise remedial targets thereof as declared in the assessment report so as to meet the said remediation objective/standard. During such monitoring, few sampling and analysis thereof shall also be carried out by the SPCB/PCC for validation.

FORM - I

FORMAT FOR PRELIMINARY INVESTIGATION OF DAMAGED AREA

1.	Date and time of inspection	
2.	Location of damaged area	
3.	Coordinates of damaged area	
4.	Nature of damage	
5.	Possible cause of damage	
6.	Single source contamination or multi source contamination	
7.	Estimated date or duration of activity resulting in damage	
8.	Impacted receptors (tick whichever applicable)	<input type="checkbox"/> Air <input type="checkbox"/> Surface water <input type="checkbox"/> Drinking water <input type="checkbox"/> Ground water <input type="checkbox"/> Soil <input type="checkbox"/> Sediment <input type="checkbox"/> Flora <input type="checkbox"/> Fauna

		<input type="checkbox"/> Cattle <input type="checkbox"/> Crops/ Agriculture land/ Orchard <input type="checkbox"/> Infrastructure/property <input type="checkbox"/> Others.....
9.	Pollutants suspected to be discharged	
10.	Pollutants of most concern	
11.	Estimated quantification of damage media (in terms of area, volume, numbers, percentage, as applicable and possible)	
12.	Land use (industrial, commercial, agricultural, residential, combinations thereof, etc.) Specify if needed.	Historic Current Future
13.	Site situation (climatic conditions, hydrology, groundwater flow, surface waters, underground structures, etc. in damaged area)	
14.	Type of geology (sand, clay silt, weathered rocks, fracture rocks, competent rocks)	
15.	Depth to ground water (m) (if applicable)	
16.	Offsite migration of pollutant possible, specify	Yes / No
17.	Location of damaged area with respect to nearby wetland or eco-sensitive areas (if any)	

18.	Location of damaged area with respect to sensitive receptors that could possibly require remedial actions such as, potable water supply, surface water bodies, residential area, sensitive ecosystem, etc.	
19.	Any immediate measure taken to control damage, specify	Yes / No
20.	Any other observation requiring mention,	
21.	Documents to be attached (if available) <ul style="list-style-type: none"> ▪ Relevant permits, consent, license, etc. (if applicable) ▪ Site layout map ▪ Photographs ▪ Videos 	

Signature

Name & designation of team members

Date & Place

INSTRUCTIONS FOR FILLING FORM - I

- This form serves as a preliminary factsheet to gather general information on damaged site
- The inspecting team shall perform dry inspection including observation of damaged site, neighborhood & operations/ activities in the area, interviewing stakeholders/site/receptors representatives, collecting records & reports available, taking photographs or making videos, etc.
- Preliminary inspection can be a rapid walk-through inspection or slightly more elaborated, if required.
- While informing ‘nature of damage’ and ‘possible cause of damage’, an estimate may be made on most possible scenarios that may have occurred resulting in environmental damage to the site. In case, team fails to make an estimate, a list of probable scenarios may be prepared.

- ‘Pollutants suspected to be discharged’, it is required to mention all the pollutants suspected to have been discharged during the incident. However, with respect to information under ‘Pollutants of most concern’, it is to remember that it is the function of nature of pollutant, its impact of human & environment, toxicity and concentration at damaged site. For example, it may include but not limited to a pollutant which is carcinogenic or hazardous or radioactive. It may include toxic pollutants which are pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.
- ‘Estimated quantification of damage media’, in case air quality is affected, it may be reported in terms of area and population under direct impact and physical observations on air quality.

CHECKLISTS OF DIRECTLY IMPACTED ENVIRONMENTAL COMPONENTS

The most possible scenarios that may occur due to anthropogenic activities resulting in damage to environment and applicable compensation scenarios are as given in Tables below,

Type of damage	Directly impacted environmental properties (tick the appropriate box)						
	Ambient air	Ground Water	Surface Water	Soil	Sediment	Ecology	
Effluent discharge from an industry exceeding limits/ untreated or inadequate pollution control device	✓ (VOCs & Acidic fumes)	✓	✓	✓	✓	✓	
Emission from an industry or incinerator; absent or inadequate pollution control device	✓			✓	✓	✓	
Un-scientific dumping of municipal solid waste	✓	✓	✓	✓		✓	
Untreated sewage in water bodies		✓	✓		✓	✓	
Improper disposal of C&D Waste	✓						
Leakage or failure of sanitary and secured Landfills		✓		✓			
Unscientific recycling of E-Waste	✓	✓	✓	✓	✓		

Type of damage	Directly impacted environmental properties (tick the appropriate box)						
	Ambient air	Ground Water	Surface Water	Soil	Sediment	Ecology	
Improper disposal of bio-medical waste						✓	
Biomass burning	✓			✓			
Vehicular emissions exceeding limit	✓						
Diesel generator sets exceeding limit	✓						
Road dust & soil dust	✓						
Illegal Hazardous waste dumping by industry		✓	✓	✓	✓	✓	
Chemical spills or leakages	✓	✓	✓	✓	✓	✓	
CETP – Failing to meet standards (case to case basis)			✓		✓	✓	
Fire, explosions, Reactions of hazardous substances/wastes (case to case basis)	✓		✓	✓		✓	
Marine spills			✓	✓	✓	✓	
Mining Activity	✓	✓	✓	Beach	✓	✓	

APPENDIX III

CHECKLIST – APPLICABLE COMPENSATIONS FOR INDIRECT IMPACTS

Type of Environmental damage	Parameters indicating indirect liabilities for compensation												
	Supply Drinking water	Harm to Flora & fauna, animals	Property damage	Loss of ecological services	Resettlement/relocation/Relief	Health	Injury /sickness	Loss of life	Loss of recreation	Reduced yield fishing / agriculture	Loss of earnings	Medical expenses	Other claims indirect losses
Un-acceptable Effluent discharge from an industry	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Un-acceptable Emission from industry or incinerator	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Un-scientific dumping of municipal solid waste	✓	✓	✓		✓	✓	✓	✓	✓	✓			Monitor ing etc.
Untreated sewage in water bodies	✓	✓		✓		✓			✓	✓			

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Parameters indicating indirect liabilities for compensation

Type of Environmental damage	Supply Drinking water	Harm to Flora & fauna, animals	Property damage	Loss of ecological services	Resettlement/relocation/Relief	Health	Injury/sickness	Loss of life	Loss of recreation	Reduced yield fishing / agriculture	Loss of earnings	Medical expenses	Other claims indirect losses
Improper disposal of C&D Waste		√	√	√		√							Noise
Leakage or failure of sanitary and secured Landfills	√	√		√	√	√	√	√	√	√			Visual nuisance, Odour
Unscientific recycling of E-Waste	√	√		√		√	√	√		√			
Improper disposal of bio-medical waste	√	√		√		√	√	√		√			
Biomass burning		√				√	√						√
Diesel generator sets exceeding limit		√		√		√	√						√
Road dust & soil dust		√	√			√				√			

Parameters indicating indirect liabilities for compensation

Type of Environmental damage	Supply Drinking water	Harm to Flora & fauna, animals	Property damage	Loss of ecological services	Resettlement/relocation/Relief	Health	Injury/sickness	Loss of life	Loss of recreation	Reduced yield fishing / agriculture	Loss of earnings	Medical expenses	Other claims indirect losses
Illegal Hazardous waste dumping by industry	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Chemical spills or leakages	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CETP – Failing to meet standards (case to case basis)		✓				✓	✓		✓	✓	✓	✓	574
Fire, explosions, Reactions of hazardous substances/wastes (case to case basis)		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Marine spills		✓	✓	✓		✓	✓		✓	✓	✓		✓
Mining Activity	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Deforestation	✓	✓		✓	✓	✓			✓	✓	✓		✓

INDICATIVE METHODS OF DAMAGE QUANTIFICATION & EDC ESTIMATION METHODS

1. AMBIENT AIR

1.1 Applicability

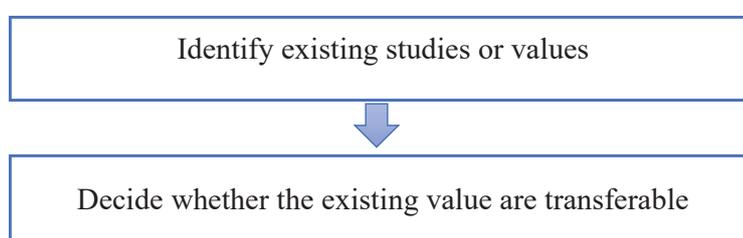
- Discharge of air pollutants from ducted and/or non-ducted emissions above prescribed limits or general standards
- Deposition of toxic particulates on land from localized air polluting source (lead, mercury, cadmium, etc.)
- Formation of complex secondary pollutants due to nucleation, condensation and other chemical reactions of primary pollutants discharged from a polluting activity

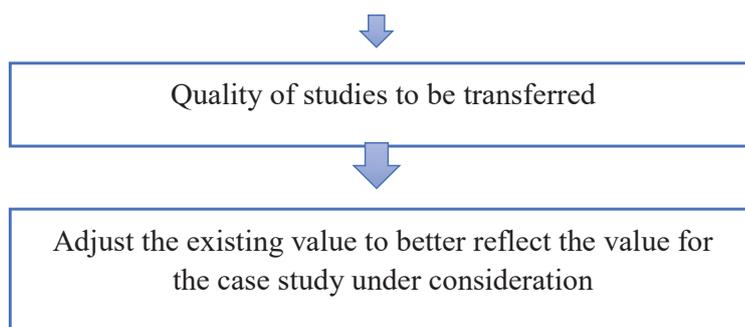
1.2 Quantification

The monitoring & analysis of applicable parameters (as per prescribed norms) upwind, mid site and downwind may be conducted as per established methods of measurement. Dispersion model such as AERMOD, CALPUFF, CALINE, etc. can be used to determine the change in concentration over the specific area. For estimating affected population, ArcGIS can be used or else can be done manually using population details available in public domain for damaged site and downwind area.

1.3 Estimating cost due to mortality & morbidity using direct cost transfer method

This method is based on the method of transferring available information from already completed studies in another location or context. It is economical and less time consuming than other available method for economic assessment. It can be used as a screening process to decide whether original valuation study would be required or not. Steps for valuation through this method are as presented below,





For ease of understanding, a case study by Muller & Mendelsohn, 2007 is used for estimating damage cost due to mortality and morbidity (Chronic bronchitis, Cardiac issues etc) due to air pollution in an area using direct cost transfer method. Assuming that the conditions at the referred site are similar in total or portion to damaged site under study, we utilize cost estimates of referred study to deduce cost per tonne of pollutant emitted reworked to Indian context by considering exchange rates and inflation.

Damage cost on Health (Rs/tonnes) = Damage cost per tonne (USD, 2011) × Exchange rates × inflation

It is elucidated as below,

Damage cost due to mortality and morbidity per tonne of emitted pollutants				
Sl. No	Pollutant	Damage cost per tonne (USD,2011)*	Damage cost per tonne (INR)**	Damage cost per tonne (2019)***
Mortality				
1	NOx	319.82	22,084	36,062.15
2	VOC	143.79	9,929	16,213.6
Morbidity				
1	NOx	5.07	350	571.53
2	VOC	2.24	155	253.11

*Findings of referred study

**Exchange rate applied

***Inflation rate applied

1.4 Estimating cost of life & health through value of statistical life and disability adjusted life year

Value of statistical life (VSL) is the amount people are willing to pay to reduce risk so that on average one less person is expected to die from the risk. Alternatively, it can be thought of as how much people are willing to pay for safety. VSL estimates are based on studies of the wage compensation for occupational hazards or studies that elicit people's willingness to pay for mortality risk reduction directly. On the other hand disability-adjusted life year (DALY) is a measure of overall disease burden, expressed as the number of years lost due to ill-health, disability or early death. Both of these values are powerful indicators for understanding impacts of air pollution on affected population. There are numerous studies done for calculating VSL. With regard to DALY, values are published in WHO publication "Global Burden of Disease".

The mortality cost is calculated using following equation,

$$\mathbf{Tc (Mortality) = Pa \times VSL \times (1+i)^n}$$

Where,

Tc = Total mortality cost

Pa = Affected Population (calculated as below)

VSL = Value of statistical life (Using data from existing literature)

i = inflation rate

n = number of years

The morbidity cost is calculated using following equation,

$$\mathbf{Tc (Morbidity) = Pa \times DALY \times Ai \times (1+i)^n}$$

Where,

Tc = Total morbidity cost

Pa = Affected population (calculated as below)

DALY= Disability Adjusted Life Years (Using data from WHO database)

Ai = Annual Income (Using data from latest National / State economic survey reports)

i = inflation rate;

n = number of years

The value for Pa is calculated using equation below,

$$Pa = AF \times Bi \times Pe$$

Where,

Pa= Affected Population

Pe, Exposed Population = (Total population * ambient concentration of pollutant / relative risk)

Bi = Baseline Incidence*

AF, Attribution Factor** = ((Relative Risk- 1) / Relative risk)

*It is expected level of disease that is usually present in a community. Baseline Incidence per 100,000 population is based on threshold limit given in WHO guidelines.

**Attributable risk is the rate (proportion) of a disease or other outcome in exposed individuals that can be attributed to the exposure. Further, relative risk is the ratio of the risk of occurrence of a disease among exposed people to that among the unexposed. WHO guidelines provide value of relative risks for various air pollutants and relevant diseases.

1.5 Estimating cost of impacts on biodiversity, crops & property

Direct cost transfer method is most suitable and less time consuming method for estimating damage cost with respect to crops, flora fauna, orchids, cattle, property, etc. The results from referred study are transferred to the site under assessment and values are adjusted considering exchange rates and inflation. It is presented below for a study on effects on flora due to NO_x & VOC conducted by Muller & Mendelssohn, 2007,

Damage cost due to effect on flora due to pollutants				
Sl. No	Pollutant	Damage cost per tonne (USD,2011)	Damage cost per tonne (INR)	Damage cost per tonne(2019)
1	NO _x	28.67	1980	3,233.25
2	VOC	14.96	1033	1,686.84

2. SURFACE WATER

2.1 Applicability

- Discharge of untreated or partially treated effluent into nearby streams or nalla ultimately discharging into larger surface water bodies
- Runoff from waste dumps entering into surface water bodies
- Variety of exposure pathways to receptor including but not limited to dermal contact with polluted water, ingestion by human, ingestion by livestock & its potential bioaccumulation in foodchain, ingestion by aquatic species
- Pollutants include organic, inorganic constituents, pathogens, nutrients, suspended solids, radioactive pollutants, oil & grease, thermal pollution, etc.
- Damage to human health, water supply suspension, fishery, recreational function, biological diversity, environmental property and indirect damages

2.2 Quantification of discharge of conservative substances into rivers

This method can be applied to calculate concentration of conservative substance such as, total dissolved solids, chlorides and certain metals which remain conserved i.e. there is no losses due to chemical and biological degradation and its concentration remains unchanged until the encroachment of next tributary. If the source of discharge is a point source (that enter from a fixed discharge point such as effluent pipe or tributary stream), downstream concentration of pollutant can be estimated by using mass balance principle at the point of discharge. Assuming that the river is homogeneous with respect to water quality parameter across its depth and height. Also there is no mixing of one parcel with another due to dispersion and velocity gradient. The order of magnitude of the distance from a single point source to the zone of complete mixing is obtained from following equation (Muller & Thomann)

$$L_m = 2.6 U \frac{B^2}{H} \quad (\text{For side bank discharge})$$

$$L_m = 1.3 U \frac{B^2}{H} \quad (\text{For midstream discharge})$$

Where,

L_m = distance from the source to the zone where discharge has been well mixed in ft

U = average stream velocity in fps

B= average stream width in ft

H= average stream depth in ft

By assuming complete mix condition, the principal statement for mass balance at outfall will be
 mass rate of substance upstream + mass rate added by outfall = mass rate of substance immediately
 downstream from outfall,

$$Q_u S_u + Q_e S_e = QS$$

$$S = \frac{Q_u S_u + Q_e S_e}{Q}$$

Where,

Q_u, S_u = Upstream flow and upstream concentration respectively

Q_e, S_e = Outfall flow and concentration respectively

Q, S = Downstream flow and downstream concentration respectively

Assuming upstream concentration of substance as zero ($S_u = 0$), then downstream concentration can be
 calculated using equation given below,

$$S = \left(\frac{Q_e}{Q}\right) \times S_e$$

2.3 Quantification of discharge of non-conservative substances in river

Non conservative substances decay with time due to chemical reaction, bacterial degradation, radioactive
 decay, or settling of particles. Thus, assuming that the decay of substance is according to a first order
 reaction, i.e. rate of loss of substance is proportional to concentration at any time.

At boundary condition i.e. $S = S_0$ at $x = 0$ where S_0 is calculated from equation above and by assuming
 uniform cross-sectional area, the concentration of non-conservative pollutant can be determined using
 equation below,

$$S = s_0 e^{\left(\frac{-Kx}{U}\right)}$$

Where K is the decay rate, since $x/u = t$ (time to travel a distance x at velocity u)

2.4 Quantification using modelling approach

USEtox model can be used for calculation of characterization factor of toxic pollutant. This model offers more than 1250 substances and reflect more updated knowledge and data on effect factors. This model was specifically designed to determine the fate, exposure and effect of toxic substances with the ability to consider spatial differences with the country specific parameters. The characterization factor in the USEtox model includes a Fate Factor (FF), Exposure Factor (XF) and an Effect Factor (EF).

2.5 Cost estimation to human health damage

Evaluation of economic losses related to human life and health includes sum of two components (i) evaluation of cost of fatality (ii) evaluation of cost of affected persons.

$$L_{HH} = V_d N_d + \sum_{k=1}^3 V_{k,p} N_{k,p}$$

Where,

L_{HH} = Total cost to human health damage

V_d = Economic loss of one fatality

N_d = Number of fatalities

$V_{k,p}$ = Economic valuation of affected person in the category k

k= 1 slightly affected, k= 2 severely affected, k= 3 very severely affected

$N_{k,p}$ = Number of person affected

Evaluation of cost of one fatality

According to “ the year of potential life lost” proposed by U.S. Centres for diseases control and prevention in 1982 , life is valued in proportion to person’s potential economic production. Cost of one fatality also includes living cost of dependents. Thus cost of one fatality depend on age of victim, his income, number of dependent on him. The life expectancy of healthy human is assumed to be 80. Cost of one fatal victim is presented in table below,

Cost of one fatal victim

('a' = age of victim, 'ae' = age of dependant elder, 'ay' = age of dependent child)

		a < 60	60 < a < 75	a >= 75
Victim's own loss in age 'a'		Income × 20	Income × (80 - a)	Income × 5
Cost of dependent's living needs	Living expenses of one elder of age 'ae'	60 < ae < 75	ae >= 75	
		Income × (80 - ae)	Income × 5	
	Living expenses of one child of age 'ay'	Income × (18 - ay)		

Evaluation of cost of affected person

Evaluation of affected people is the function of their age and severity of affect. It is classified into three categories slightly affected, severely affected and very severely affected using coefficient of 0.4, 0.7 and 1 respectively. Duration of sick leaves and medical fees associated with the cure of affected people is also taken into consideration while evaluating economic valuation of affected people.

Evaluating cost of one affected victim

Detail of loss estimation	Slight	Severe	Very severe
Affected people own loss and living cost of the dependant	Cost in homologous death × 0.4	Cost in homologous death × 0.7	Cost in homologous death × 1
Loss of sick leaves	Average daily wages × dh × 3		
Medical Fees	Average hospitalization expenses		

2.6 Estimating cost of damage to fisheries

Surface water pollution directly affects the fish yield, to recover the same certain time period is required. Assuming that fishing is forbidden before recovery of fish yield, the economic loss of damage to fishery can be evaluated using the following equation,

$$L_f = AI_f \times rt$$

Where,

L_f = economic loss due to damage to fishery

AI_f = annual gross income from fisheries in polluted water

rt = the recovery time of aquatic product (for estimating same AQUATOX model, by USEPA can be used)

Estimating cost of damage to recreational function

Surface water pollution affects the economic function of recreation activities such as swimming, angling, boating etc. To evaluate the cost of damage to recreation functional, following equations can be used. The data required on number of people swimming, boating, angling in the concerned water body per day can be obtained from local agencies or socio-economic studies conducted in the area.

$L_R = L_{SM} + L_{BT} + L_{AG} + L_{LM}$	<p>L_R : the loss of damage to recreation</p> <p>L_{SM} : the loss of swimming</p> <p>L_{BT} : the loss of boating</p> <p>L_{AG} : the loss of angling</p> <p>L_{LM} : loss of leisure means</p>
$L_{SM} = P_{SM} \times N_{SM} \times d$	<p>P_{SM} : the price of replacement of swimming per person (rs/cap/ day)</p> <p>N_{SM} : the number of people swimming in the water per day (cap/ day)</p> <p>d : duration of the pollution episode (day)</p>
$L_{BT} = P_{BT} \times N_{BT} \times d$	<p>P_{BT} : the price for replacement for boating (rs/cap/ day)</p> <p>N_{BT} : the number of people boating in water per day</p> <p>d : duration of pollution episode (d)</p>
$L_{AG} = P_{AG} \times N_{AG} \times d$	<p>P_{AG} : the price for angling for boating (rs/cap/ day)</p> <p>N_{AG} : the number of people angling in water per day</p> <p>d : duration of pollution episode (d)</p>

2.7 Estimating cost of damage to environmental property loses

Pollution released in water bodies deteriorate the water quality and decrease the value of surface water. Pollutant may also deposit in sediments and percolate in nearby sources of groundwater. Pollution clearance cost analysis is applied to evaluate the cost associated with damage to environmental property due to water pollution using following equations,

$L_{EP} = C_{SW} + C_{GW} + C_{SO}$	L_{EP} = loss of environmental property (rs) C_{SW} = cost of pollutant removal from surface water C_{SO} = cost of pollutant removal from sediment C_{GW} = cost of pollutant removal form ground water
$C_{SW} = P_{SW} \times V_{SM}$	P_{SW} = price of removing pollutant from surface water (rs/m ³) V_{SM} = the volume of polluted surface water (m ³)
$C_{GW} = P_{GW} \times V_{GM}$	P_{GW} = price of removing pollutant from ground water (rs/m ³) V_{GM} = the volume of polluted ground water (m ³)
$C_{SO} = P_{SO} \times A_{SO}$	P_{SO} = price of sediment remediation (rs/m ²) A_{SO} = the area of polluted sediment (m ²)

3. GROUND WATER

3.1 Applicability

- Leaching of contaminants from wastes dumped onto open parcels of land
- Leaching of chemicals from storage tanks or leaking underground storage tanks/ fuel tanks/ septic tanks
- Leaching of contaminants from landfills that are leaking below ground
- Reverse injection of effluent into deep injection wells
- Leaching of contaminants from underground leaking pipelines carrying liquid chemicals

- Contaminated aquifers provide a variety of exposure pathways to various receptors, including but not limited to, most importantly Humans, Livestock, including cattle, poultry, flora, fauna etc. These pathways include, but are not limited to dermal contact with contaminated groundwater, ingestion of contaminated groundwater and ingestion of crops that are irrigated with contaminated groundwater.

3.2 Quantification of damage to groundwater

The pollutant which enter subsurface zone creates a contamination plume within the aquifer. Thus, small amount of certain pollutant can contaminate large areas. Flow through groundwater is govern by two physical process that are advection and hydrodynamic dispersion. Advection is the component of solute movement attributed to transport by flowing groundwater. The rate of transport is equals to average linear groundwater velocity, v^* where $v^*=v/n$, v being the specific discharge and n the porosity.

Further, solute transport equation is used to represent the movement of flux of solute mass through a control volume. The equation states that the sum of all mass, which creates solute with the control volume, must be equal to a change in the concentration of solute with the control volume.

$$\frac{\partial C}{\partial t} = \left[\frac{\partial}{\partial x} \left(D_x \frac{\partial C}{\partial x} \right) + \frac{\partial}{\partial y} \left(D_y \frac{\partial C}{\partial y} \right) + \frac{\partial}{\partial z} \left(D_z \frac{\partial C}{\partial z} \right) \right] - \left[\frac{\partial}{\partial x} (V_x C) + \frac{\partial}{\partial y} (V_y C) + \frac{\partial}{\partial z} (V_z C) \right]$$

Where,

V_x, V_y, V_z = Seepage velocities in x,y,z directions, m/s

D_x, D_y, D_z = Dispersion coefficient, m^2/sec

C = Solute concentration, mg/m^3

T = Time, (s)

Visual MODFLOW can also be used to predict the ground water flow with the contaminate transport. With the use of geological and hydraulic data the potential area of pollutant transport and its concentration can be simulated with the help of MODFLOW and MT3D. Using this model the concentration of pollutant at the user end can be determined.

3.3 Cost estimation to damages

Methods for estimating cost to human health and cost of damage to environmental property described under surface water may be transferred for ground water damage cost estimation. However, while calculating EDC for groundwater pollution ecological economic assessment of groundwater is essential. This is elucidated with an example on removal of groundwater (GW) deposit due to mining activity in an area,

Relevant parameters are,

- Monetary value co-efficient of the damage caused by destruction & removal of ground water (*K deposit*)
- Static reserve's assessment co-efficient of the ground water (*K static reserve*)
- Monetary value co-efficient of damage caused by the water removed (*K water infiltration*)
- Basic price of ground water (Rs./ m³)
- Volume of groundwater that is being removed (m³)
- Water return coefficient of groundwater

Total cost of GW removed = Basic price of GW X Water return coefficient of GW X Volume of GW being removed (*K deposit + K static reserve + K water infiltration*)

4. SOIL

4.1 Applicability

- Illegal dumping of waste (hazardous or nonhazardous) on open parcels of land
- Discharge of untreated or inadequately treated effluent onto open parcels of land
- Boundary breaches wherein wastes might either get spilled onto open parcels of adjoining land, and/ or sub grade breaches where wastes and/ or leachate seeps into the subsoil and potentially ultimately into the aquifer
- Spills of chemicals/ wastes during transportation, leakages from trucks, tanks, pipelines etc.
- Impacted soils can lead to indirect impacts including rendering the land as not usable for agricultural purposes, serving as a continuous source of contamination to groundwater, serve as a direct exposure pathway to humans who may come into contact with the contaminated soil media.

- Soils that are contaminated provide a variety of exposure pathways to various receptors including but not limited to, most importantly humans, livestock, including cattle, poultry, etc. These pathways include, but are not limited to dermal contact with contaminated soils, incidental ingestion of contaminated soils, ingestion of crops that are grown on contaminated soils, inhalation of vapors from wastes that are dumped on soils

In India, there are no comprehensive soil quality regulations and standards to ascertain the seriousness and quantification of contamination, however, internationally adopted standards can be applied selectively for setting screening and response levels for contaminated soils.

**Report of the CPCB In-house Committee on
Methodology for Assessing Environmental
Compensation and Action Plan to Utilize the Fund**



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Abstract

Environmental compensation is a policy instrument for the protection of the environment which works on the Polluter Pay Principal. Environmental compensation has already been implemented in various countries, although limited in scope. Experiences from these implementations are mixed and tend to stress the importance of certain principles in order to achieve the overall objective of protection of the environment.

The Hon'ble National Green Tribunal through its various judgments has empowered the Central Pollution Control Board to lay down the methodology to assess and recover compensation for damage to the environment and utilize such amount in terms of an action plan for protection of the environment.

An attempt has been made by the CPCB in-house Committee to develop a methodology for assessing environmental compensation to be levied on concerned industry, authority, individual etc. for the protection of environment. Expert institutions/ NGOs like The Energy and Resources Institute, Centre for Science and Environment-India, Institute of Economic Growth etc. were also consulted to finalize the report. Overall objective is to develop self-sense of responsibility towards the environment and to make defaulters realize their mistake by imposing compensation, which will be utilized for the protection/restoration of the environment.

Although, this is the first attempt in India towards development of methodology for assessing environmental compensation, however, efforts have been made to simplifying the process so that regulatory institutions can easily adopt the methodology for implementation.

Chapter-I: Environment Compensation to be levied on Industrial Units

1.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that:

“The CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the CPCB within three months” (Annexure-I).

1.2 Constitution of the Committee

In this context, Chairman, CPCB constituted a Committee under the Chairmanship of Shri A. Sudhakar, I/c WQM-I with Shri A. K. Vidyarthi, I/c WQM-II, Shri P. K. Gupta, I/c IPC-VI, Shri Nazimuddin I/c IPC-II and Dr. S. K. Paliwal, Scientist 'D' as members. The Committee was asked to deliberate on this issue and come up with a draft formulation before 15.9.2018.

1.3 Methodology for Assessing Environmental Compensation

The Committee discussed the issue on 4.9.2018, 13.9.2018, 17.9.2018 and 09.10.2018. A meeting was also held with Senior Officers of CPCB Head Office and Regional Directorates through video conferencing on 28.09.2018 to discuss the draft report and to seek comments/feedbacks. The comments/feedbacks received and deliberations of the Committee on the same are given in **Annexure-II**.

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 27/03/2019. The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are attached as **Annexure-III**.

It was deliberated for developing a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies and this is the first attempt made. The committee discussed that environmental compensation should be based on "Polluter Pay Principle". The Committee decided to list the instances for taking cognizance of cases fit for violation and levy environmental compensation.

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.

1.3.1 In the instances as mentioned at *a, b and c* above, Pollution Index may be used as a basis to levy the Environmental Compensation. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White based on concept of Pollution Index (PI). The Pollution Index is arrived after considering quantity & quality of emissions/ effluents generated, types of hazardous wastes generated and consumption of resources. Pollution Index of an industrial sector is a numerical number in the range of 0 to 100 and can be represented as follows:

$$PI = f(\text{Water Pollution Score, Air Pollution Score \& HW Generation Score})$$

Pollution Index is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution *hazard from the industrial sector*.

CPCB has issued directions to all SPCBs/PCCs on 07.03.2016 to adopt the methodology and follow guidelines prepared by CPCB for categorization of industrial sectors into Red, Orange, Green and White.

The concept of Pollution Index, which was deliberated widely with all stakeholders and agreed, shall be used for calculating Environmental Compensation. This may help in implementation of such provision throughout the country, a successful initiative in vital field of industrial pollution control.

After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as mentioned at *a, b and c* including non-compliance of the environmental standards / violation of directions.

The Environmental Compensation shall be based on the following formula:

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

Where,

- EC is Environmental Compensation in ₹
 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

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to the large habitations.

Note:

- 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.
- 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.
- 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.
- 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.
- 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 1st repetition, 4 times on 2nd 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 2nd, 3rd and 4th 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

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

1.3.2 In other instances i.e. *d, e and f*, the environmental compensation may contain two parts – one requires providing immediate relief and other long-term measures such as remediation. In all these cases, detailed investigations are required from expert institutions/organizations based on which environmental compensation will be decided. CPCB shall list the expert institutions for this purpose.

In such cases, comprehensive plan for remediation of environmental pollution may be prepared and executed under the supervision of a committee with representatives of SPCB, CPCB and expert institutions/organizations.

1.4 Action Plan for Utilization of Environmental Compensation Fund

The Committee discussed about the utilization of funds, which will be received by imposing Environmental Compensation. The following Action Plan is proposed to utilize the fund for protection of the environment.

1.4.1. When Environmental Compensation is calculated through the Pollution Index:

The amount received by imposing the Environmental Compensation to the industries / organization non-complying with the environmental standards / violating any CPCB's directions shall be deposited in a separate bank account. The amount accumulated will be utilized for Protection of Environment. The following schemes were identified, which may be considered for utilization of Environmental Compensation Fund:

- 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

The above proposed list may include other schemes also, depending upon the requirement.

Considering the availability of accumulated funds, CPCB will finalize the scheme, keeping in mind the priority, to utilize the funds of Environmental Compensation.

1.4.2. When Environmental Compensation is assessed based on actual damage to the environment by Expert Organization/ Agency:

The amount of Environmental Compensation under this case will be remediation costs, measures requiring immediate and short-term actions, compensation towards loss of ecology, etc., and will be utilized exclusively for the purpose at specific site, based on the detailed investigations by the Expert Organizations/ agencies.

1.5 Recommendations

The Committee made following recommendations:

- 1.5.1 To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986. In case of a, b and c, Environmental Compensation may be calculated based on the formula "EC = PI x N x R x S x LF", wherein, PI may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively, and R may be taken as 250. S and LF may be taken as prescribed in the preceding paragraphs.

- 1.5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.
- 1.5.3 The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed that all running industrial units which require "consent to operate" from concerned State Pollution Control Board, have a primary effluent treatment plant in place. Therefore, no industry requiring ETP, shall be allowed to operate without ETP.
- 1.5.4 EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts and Rules.

Chapter-II: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in NCR.

2.1 Background

The CPCB In-house Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in NCR. The implementing agencies for each activity have been identified and the EC will be levied on these agencies. These violations attract graded amounts of EC depending on the state of ambient air quality, which is given in table below:

Table No. 2.1: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in Delhi-NCR.

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

2.2 Action Plan for Utilization of Environmental Compensation Fund

EC levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

Chapter-III: Environmental Compensation to be levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules

3.1 Background

The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed State Governments (including the concerned Union Territories) to set-up Sewage Treatment Plants (STPs), which are already under implementation, within the time lines already postulated. Further, the STPs, which are yet to set-up, to be completed within a period of three years, from today, i.e. by 22.02.2020.

The Hon'ble NGT in its order dated 06.12.2018 (**Annexure-III**) in the matter of Court of its own motion v/s State of Karnataka (Original Application No. 125/2017 and M.A. No. 1337/2018) has given following directions:

“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.”

3.2 Ideology of Environmental Compensation Formula

In compliance of the directions of the Hon'ble Tribunal, the Committee deliberated on the issue of environmental compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid and other waste management rules. The Committee has suggested that environmental compensation in these cases should be comprised of two components i.e.

1. Cost saved/benefits achieved by the concerned individual/authority by not having proper waste/sewage management system; and
2. Cost to the environment (environmental externality) due to untreated/partially treated waste/sewage because of insufficient capacity of waste/sewage management/treatment facility.

Cost saved/benefits achieved by not having proper waste/sewage management system includes the interest on capital cost of the waste/sewage management facility and daily operation and maintenance (O&M) cost associated with the facility.

The Committee suggested that annual interest rate as 10% on loan amount, borrowed by concerned individual/authority for setting-up waste/sewage management facility, may be assumed as Capital Cost Factor for calculation of environment compensation. Further, as whole O&M cost is saved by concerned individual/authority for not managing required waste/sewage management system, 100% of the O&M cost saved may be considered as O&M cost factor.

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

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

Cost to the environment due to untreated/partially treated waste/sewage discharge by concerned individual/authority may be assumed as recommended by the committee, which is mentioned below:

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

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

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

Municipal Solid Waste Management Capacity Gap (TPD)	Marginal Cost of Environmental Externality (Rs. per ton per day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)
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. 0.35
1001-2000	40	Min. 0.50, Max. 0.60
Above 2000		Max. 0.80

The Committee further decided to fix a cap for minimum and maximum cost for capital and O&M component for Environmental Compensation, which are given in below tables:

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

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	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

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

The application of formula for calculation of EC may be further understood with the example of two typical cases.

3.3 Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/Authority:

BIS IS-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013), may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCD, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. and O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr/MLD (marginal average cost). Further, expected cost for conveyance system is assumed as Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

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

Table No. 3.5: Sample calculation for EC to be levied for discharge of untreated/partial treated Sewage

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Sewage Generation (MLD) (as per the latest data available with CPCB)	4195	381	486	37
Installed Treatment Capacity (MLD) (as per the latest data available with CPCB)	2500	220	404	45.5
Operational Capacity (MLD) (as per the latest data available with CPCB)	1900	140	300	24.5
Treatment Capacity Gap (MLD)	2295	241	186	12.5
Calculated EC (capital cost component for STPs) in Lacs Rs.	29662.50	2817.50	1435.00	0.00
Calculated EC (capital cost component for Conveyance System) in Lacs. Rs.	127372.50	13375.50	10323.00	693.75
Calculated EC (Total capital cost component) in Lacs Rs.	157035.00	16193.00	11758.00	693.75
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (Total Capital Cost Component) in Lacs Rs.	20000.00	10000.00	1000.00	693.75
Calculated EC (O&M Component in Lacs Rs./day)	459.00	48.20	37.20	2.50
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5	Min. 0.5 Max. 5
Final EC (O&M Component) in Lacs. Rs./Day	20.00	10.00	5.00	2.50
Calculated Environmental Externality (Lacs Rs .Per Day)	2.0655	0.2049	0.1395	0.0094
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)	Min. 0.60 Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Lacs Rs. Per day)	0.80	0.25	0.10	0.05

3.4 Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management:

It is known that estimated MSW generation is approximately 1.5 lakh MT/Day in India (MoHUA Report-2016). As per the principles of SWM Rules, 2016 and PWM Rules 2016, as amended in 2018, the total cost of Municipal Solid Waste management in a city/town includes cost for door to door collection, cost of segregation at source, cost for transportation in segregated manner, cost for processing of MSW and disposal through facility like composting, biomethanation, recycling, co-processing in cement kilns etc.

In view of above, it is estimated that the total cost of processing and treatment of MSW for a city having population size of 1 lakh and generating approximately 50 tons/day of MSW is Rs.15.5 Crores, including capital cost (one time) and O & M cost for one year. The expenditure for subsequent years would be only Rs. 3.5 crores/annum.

CPCB sponsored a survey to ascertain the status of municipal solid waste disposal in 59 cities/towns of India. The survey was conducted by the Environment Protection Training Research Institute (EPTRI), Hyderabad. As per the survey, it is 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. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

EC = Capital Cost Factor x Marginal Average Cost for Waste Management x (Per day waste generation-Per day waste disposed as per the Rules) + O&M Cost Factor x Marginal Average O&M Cost x (Per day waste generation-Per day waste disposed as per the Rules) x Number of days violation took place + Environmental Externality x 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) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

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

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

3.3 Action Plan for Utilization of Environmental Compensation Fund

EC levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

3.4 Recommendations

1. The Committee recommended that to begin with, Environmental Compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid waste management rules may be calculated with the methodology described in the report.
2. If mixing of Bio-medical Waste or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.

3. In order to include deterrent effect for continuous violations, component of O&M and Environmental Externality in EC formula may be increased on exponential basis by 2, 4, and 8 times after every six-months, beyond the time prescribed by authority for ensuring complete treatment of sewage/waste of the city/town.

Chapter-IV: Environmental Compensation in Case of Illegal Extraction of Ground Water

4.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of Shailesh Singh v/s Central Ground Water Board & Ors. (Original Application No. 327/2018) vide order dated 03/01/2019 (**Annexure-V**) directed Central Pollution Control Board (CPCB) that:

“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.”

4.2 Constitution of the Committee

In compliance to Hon'ble NGT dated 03/01/2019, CPCB constituted a committee under the Chairmanship of Shri A. Sudhakar, DH, WQM-I Division with Shri P. K. Gupta, DH, IPC-VI, Shri Vishal Gandhi, Sc. D, UPC-I Division and Smt. Suniti Parashar, Scientist B, WQM-I Division as members. The committee was asked to deliberate on this issue and come up with draft formulation of mechanism to determine the Environmental Compensation for illegal extraction of ground water.

4.3 Methodology for Assessing Environmental Compensation

The committee discussed the issue on 07/02/2019, 07/03/2019 and 20/3/2019. The committee deliberated on the issue of Environmental Compensation to be recovered from individuals/industries such as domestic, packaging drinking water units, mining & infrastructure projects and industrial units in case of illegal extraction of ground water. The Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 were also discussed and based on this further formulation to levy Environmental Compensation has been evolved.

4.4 Ideology of Environmental Compensation w.r.to illegal extraction of ground water

Ground water is becoming an increasingly scarce resource because of its unabated and indiscriminate over-exploitation. Growth in ground water exploitation, however, has led to a steep fall in water table in several parts of the country. Use of ground water is becoming unsustainable day by day. The falling water table is a matter of special concern since it tends to reduce the accessibility of the resource to small and marginal farmers due to increase in costs of extractions.

Specific conditions applicable in Notified/Non-Notified areas for various users, as mentioned in Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 are given below:

For Notified Areas:

1. Permission to abstract ground water through any energized means will not be accorded for any purpose other than drinking water.

2. Central Ground Water Authority (CGWA) so far has notified 162 areas, in the country for the purpose of regulation of ground water development.
3. Regulation of Ground Water development in Notified areas is through District Administrative Heads assisted by Advisory Committees under the provisions of Section 4 of the Environment (Protection) Act, 1986.
4. In Notified areas, ground water use in individual houses, infrastructure complexes like group housing societies, hospitals, schools etc. and drinking water requirements of workers in industries can be allowed.
5. NOC for ground water withdrawal will be considered only if Water Supplying Department is not providing adequate water in the area/premises. Proof for this is to be produced from the concerned authority by the applicant.
6. For individual houses, the maximum diameter of the tube-well should be restricted to 4 inch only and the capacity of the pump should not exceed 1HP. For infrastructure projects, maximum diameter of the ground water abstraction structures should be restricted to 150 mm (6 inches) only and capacity of the pump should not exceed 5 HP.
7. Any violation of the above conditions will attract legal action under Section 15 of the Environment (Protection) Act, 1986.

For Non-Notified Areas:

NOC for ground water withdrawal will be considered for industries/infrastructure/packaging as per safe, semi critical, critical and over-exploited criteria.

4.5 Formula for Environmental Compensation for illegal extraction of ground water

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

EC_{GW}	=	Water Consumption per Day x No. of Days x Environmental Compensation Rate for illegal extraction of ground water (ECR_{GW})
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Where water Consumption is in m^3/day and ECR_{GW} in $Rs./m^3$

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_{GW} .

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

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

As per CGWB, safe, semi-critical, critical and over-exploited areas are categorized from the ground water resources point of view (CGWB, 2017). List of safe, semi-critical, critical and over-exploited areas are available on the website of CGWB and can be accessed from- <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.

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

4.6.1 ECR_{GW} 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^3/day)			
		<2	2 to <5	5 to <25	25 & above
Environmental Compensation Rate (ECR_{GW}) in Rs./ m^3					
1	Safe	4	6	8	10
2	Semi Critical	12	14	16	20
3	Critical	22	24	26	30
4	Over-Exploited	32	34	36	40
Minimum EC_{GW}=Rs 10,000/- (for households) and Rs. 50,000 (for institutional activity, commercial complexes, townships etc.)					

4.6.2 ECR_{GW} for Packaged drinking water units:

Sl. No.	Area Category	Water Consumption (m^3/day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR_{GW}) in Rs./ m^3					
1	Safe	12	18	24	30
2	Semi critical	24	36	48	60
3	Critical	36	48	66	90
4	Over-exploited	48	72	96	120
Minimum EC_{GW}=Rs 1,00,000/-					

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

Sl. No.	Area Category	Water Consumption (m^3/day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR_{GW}) in Rs./ m^3					
1	Safe	15	21	30	40
2	Semi critical	30	45	60	75
3	Critical	45	60	85	115
4	Over-exploited	60	90	120	150
Minimum EC_{GW}=Rs 1,00,000/-					

4.6.4 ECR_{GW} for Industrial Units:

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

For better understanding of implementation of EC_{GW} policy, some example calculations are given below:

Example No. 1 (For drinking and domestic Use):

It is observed that a household in safe zone is extracting ground water illegally from past 2 year and 3 months with the help of 1 HP pump, dia 4 inches and head as 25 meter. It is assumed that the house-owner runs the pump for 0.5 hr/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 3 m³/hr

Daily Consumption = 3 x 0.5 = 1.5 m³

ECR_{GW} = 4 Rs./m³ (Please refer para 4.6.1)

EC to be levied = 4 x 1.5 = 6 Rs./day

Total time period = 820 days

Then, EC_{GW} = 6 x 820

Calculated EC_{GW} = 4,920 Rs.

EC_{GW} to be levied = 10,000 Rs. (minimum prescribed EC_{GW}, please refer para 4.6.1)

Example 2 (For Industrial Units):

It is observed that an industry in critical zone is extracting ground water illegally from past 1 year with the help of 5 HP pump, dia 6 inches and head as 50 meter. It is assumed that the industry runs the pump for 3 hrs/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 12 m³/hr

Daily Consumption = 12 x 3 = 36 m³/day

ECR_{GW} = 60 Rs./m³ (Please refer para 4.6.4)

EC to be levied = 60 x 36 = 2,160 Rs./day

Total time period = 365 days

Then, EC_{GW} = 2,160 x 365

EC_{GW} = 7,88,400 Rs.

4.7 Relaxation

Central Ground Water Authority (CGWA) reserves to right to relax or interpret these mechanisms in case of any exigency or situation of National strategic importance, as per Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015.

4.8 Recommendations

The committee has given following recommendations:

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

S. No.	Actions	Authority
1.	To seal the illegal bore-well/tube-well to stop extraction of water and further closure of project	District Collector
2.	To levy EC _{GW} as per prescribed method	District Collector, CGWA
3.	To levy EC on water pollution, as per the method prescribed in report of CPCB- "EC on industrial pollution"	CPCB/SPCB/PCC
4.	Prosecution of violator	CGWA under EP Act
		SPCB/PCC under Air and Water Act

- CGWA may maintain a separate account for collection and utilization of fund, collected through the prescribed methodology in this report.

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 593/2017
(W.P. (Civil) No. 375/2012)

In the matter of:

Paryavaran Suraksha Samiti & Anr.
Vs.
Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant: Mr. Rohit Prajapati, Applicant in person
Amicus Curiae: Mr. Jai A. Dehadrai, Adv.
Respondent Nos. Mr. Nishe Rajan Shonker, Adv. for State of Kerala
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar
Mr. Sandeep Mishra Adv. for GNCTD
Mr. Anil Shrivastava Mr Rituraj Bwas and
Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh
Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board
Mr. Avijit Roy, Adv. for Assam Pollution Control Board
Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur
Mr. Nikhil Nayyar, Mr. Dhananjay Bajjal, Advs. for APCCB and TSPCB
Mr. Mukesh Verma, Adv.
Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv.
Mr. Dinesh Jindal, LO for DPCC
Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim
Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB
Mr. Edward Belho, AAG, Mr. K. Lulkang Michael and Ms. Hoinethiam, Advs. for State of Nagaland
Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board
Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCCB, Odisha
Mr. Dhruv Pal, Adv. for State of Gujarat
Mr. V.K. Shukla, Adv. for State of MP
Mr. Jayesh Gaurav, Adv. for R-47
Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board
Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs.
Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar
Ms. Aprajita Mukherjee, Adv.
Ms. G. Indira, Adv. for UT of Andaman & Nicobar
Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change
Ms. Puja Kalra, Adv. for SDMC & NDMC
Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECEB
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.
 Ms. Priyanka Sinha, Adv. for State of Jharkhand
 Mr. Rajul Shrivastav, Adv. for MPPCB
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB
 Mr. Shubham Bhalla, Adv.
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board
 Mr. G. M. Kawoosa, Adv. for State of J & K
 Mr. Divya Prakash Pande, Adv. For HPSPCB
 Mr. Manish Kumar, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04th July, 2017 stating as follows:</p> <p style="padding-left: 40px;"><i>"4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</i></p>

	<p>Item No. 12</p> <p>August 03, 2018 A</p>	<p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62nd Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report, which has been summarized at Annexure-I.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act, 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issue to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process".</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant</p>
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	<p>Item No. 12</p> <p>August 03, 2018 A</p>	<p>(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at filing.ngt@gmail.com.</p>
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	<p>Item No. 12 August 03, 2018 A</p>	<p>(7) Proceedings are disposed of.</p> <p>However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018.</p> <p>We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (S.P. Wangdi)</p> <p>....., EM (Dr. Nagin Nanda)</p> <p>03.08.2018</p>
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Annexure-II
Comments Received from Various RDs on Draft Report for Environmental Compensation

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
1	Case- a, b & c	By passing of effluent/emission should be given special consideration. EC levied on ROG categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection.	Instead of "Compensation", "Penalty" word should be used. In case common facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure directions for pro-longed and gross non-compliance.			The Committee discussed that the points highlighted by RD Kolkata are already the part of cases fit for violation and levy environmental compensation. However, as mentioned by RD Vadodara, word "Penalty" may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.
2	Case- d, e & f	Higher rates for irreparable damages crop, soil, health etc. Leakages/spillage should have different compensation value.	It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to 'Guidelines on Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty', Guidelines may be prepared.		Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation is based on the philosophy of "polluters pay" and for grievance injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	Pollution Index (PI)			Instead of average PI, Actual PI may be used.		Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.
4	R-factor	Should be based on pollution load. For ex. Amount of BOD/NOx etc. discharged.		May be classified based on the contribution of pollution load based on quantity of effluent, concentration, emissions	May be as per the category of industry, for ex. Red-500, Orange-300, Green-100.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	L-factor			May be redefined based on the features, activities involved and habitation.		L-factor may be covered in future as already indicated in the report.

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
6	Defining period of violations for which EC will be levied		Duration of violations needs more clarity.	For industry having OCEMS, no. of days may be counted based on the recorded data. Industry without OCEMS- based on break down of ETP/APCD, disturbance of power supply or any failure of auxiliary machineries w.r.t. control system.	May be clearly defined as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.
7	Repeated Violations		Some number of days may be specified after which the penalty amount may get a factor of 1.5 or 2.		Multiplying factor for repeated violations may be included. For ex. 1 st Repetition- 25% 2 nd Repetition- 50% 3 rd Repetition- 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
8	Utilization of fund	An environmental damage assessment cell may be created. Expertise in the field may be achieved by involving scientist/engineers and providing them training in country/abroad.	Amount should not be utilized for 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 f) Funding to financially weaker municipalities for installation of STPs The amount should be utilized solely for damage assessment, remediation of affected sites, orphan contaminated sites and creating awareness. The purpose should not get inclined towards revenue generation.			RD Vadodara suggested that amount should be utilized only for remediation purpose. However, committee discussed that the proposal for utilization of fund is prepared considering the other aspects (i.e. direct and indirect) for protection of environment, which include research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

<p>9</p>	<p>Others</p>	<p>Higher EC for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.</p>	<p>Thus, the functional fabric of CPCB shall remain intact.</p>				<p>The committee discussed that CPCB is already taking appropriate action including closure direction against the industries found operating without pollution control measures.</p>
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Comments Received from Various Expert Institutions on the Report on Environmental Compensation

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are summarized in table below:

S. No.	Item	Comments from TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	Cases d, e and f	Distinction between categories "a, b, c" and "d, e, f" is not clear. Case specific investigations should be minimized. Proposed cases deals separately with intentional and accidental cases but sometimes they are not easy to establish.	-	Why cases 'e' and 'f' are left for later remediation and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigation made by Expert Institutions/Organizations.
2	R-factor	-	R-factor should be Rs. 1,000/day.	Why R-factor is kept as 250, although the value ranges between 100 to 500?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, which may be further revised in future.
3	L-factor	-	L-factor should be based on the population density of surroundings, instead of population of the nearby city/town. For critically polluted areas/ ecologically fragile areas LF should be considered as 2.	For nearby city, having population less than 1 million, the LF is 1. This implies that we care only for populated regions only. Industries located in critically polluted and ecologically fragile area should be closed down.	Population density for surrounding of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units are generally away from population. More weightage is given to the higher population exposure to the risk. In case the industry is located in the city of population less than one million than the LF Factor will be 1. Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination, as per prevailing policy of MoEFCC/SPCB, The Committee agreed that for notified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

S. No.	Item	Classification of industries should be based on profit/turnover basis.	Comments of CSE	Comments of IEG	Committee's Deliberations
4	S-factor	Classification of industries should be based on profit/turnover basis.	S-factor should be based on the turn-over of the industrial unit.	-	Presently industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complicate the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
5	Level of non-compliance	Pollution Index does not measure the level of pollution. Further, averaging PI eliminates the variation in the nature/ impact of pollution that PI tries to capture. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken The rate of the penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The objective should be that units should choose to shut down operations when violations cannot be brought under control in the specified time.	For different level of non-compliance such as gross, moderate and low, a factor for 'intensity of violation', IV-factor should be incorporated in the formula.	-	Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers variation in pollution load. 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. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the processing. Therefore, for calculating the Environmental Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively. To keep the formula simple for better implementation, the IV factor may not be considered as there are different environmental parameters such as environmental standards and for each standard calculation of level of violation and its weightage will be a tedious task, which may bring difficulty in implementation of EC concept. The Committee has agreed that in order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4 and 8 times on each similar violation. Further, if the violator continues its operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 2 nd , 3 rd and 4 th quarter, respectively. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.
6	Utilization of fund	Funds may be utilized for building monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance especially in the MSME sector.	-	Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts. Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs is already covered in the report Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP	-	Size of the construction sites more than 20,000 sqm. area are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the place should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cut-off is maintained here. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of stacks, which is not the case presently for most units. Therefore, continuous monitoring should be implemented urgently, to begin with for all red and orange categories.	-	Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and compensation may be imposed based on the manual testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.
	(b)	CETP should be categorized under Red Category of industries. Some sub-classification should be undertaken under red categories of industries.	-	CETPs are already categorized under Red Category of Industries
	(c)	Based on the spirit behind the proposed charge, it should therefore be called an "environmental penalty" rather than "environmental compensation".	-	The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 03.08.2018 (OA No.593/2017). Therefore, term "Environmental Penalty" is avoidable.

Item Nos. 01 & 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 125/2017
(M.A. No. 1337/2018)

With

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)Court on its own Motion
State of Karnataka

Versus

Applicant(s)
Respondent(s)

With

D. Kupendra Reddy

Versus

State of Karnataka

Applicant(s)
Respondent(s)

Date of hearing: 06.12.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s):

Mr. Sajan Poovayya, Sr. Advocate and Mr. Saransh Jain,
Advocate for impleaded applicant - Namma Bengaluru
Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s):

Mr. Devraj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mehrotra, AdvocateOriginal Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s):

Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr.
P. Ramaprakash and Mr. Sandeep Mishra, Advocates

For Respondents (s):

Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA**ORDER**

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. 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.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs, based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

Item Nos. 1 to 11

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015
(M.A. No. 1332/2015)
&
Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)
&
Original Application No. 108/2013
(M.A. No. 489/2015)
&
Original Application No. 179/2013
(M.A. No. 866/2014 & M.A. NO. 644/2015)
&
Appeal No. 67/2015
(M.A. No. 652/2015)
And

Original Application No. 484/2015
(M.A. No. 155/2017, M.A. No. 567/2017
& M.A. No. 927/2017)
And

Original Application No. 327/2018
(M. A. No. 1282/2018)
And

Original Application No. 115/2017
(M.A. No. 442/2017)
And

Original Application No. 411 of 2018
And

Original Application No. 613/2017
And

Original Application No. 614/2017

Shailesh Singh		Respondent(s)
	Versus	
Hotel Holiday Regency, Moradabad & Ors.		Applicant(s)
With		
Legal Aid, National Green Tribunal Bar Association		Applicant(s)
	Versus	
NCT of Delhi & Ors.		Respondent(s)
With		
Raj Hans Bansal		Applicant(s)
	Versus	
Ministry of Water Resources & Ors.		Respondent(s)
With		
Apex Chambers of Commerce and Industries of N.C.T. of Delhi & Ors.		Applicant(s)
	Versus	
Govt. of NCT Delhi & Ors.		Respondent(s)
With		
Vikrant Tongad		Applicant(s)

Versus

Union of India & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Hotel The Oberoi Amarvilas & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Panchsheel Buildtech Pvt. Ltd. & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Central Ground Water Board & Ors. Respondent(s)

With
M/s A-One Mineral Water Industry Applicant(s)

Versus

Central Ground Water Authority & Ors. Respondent(s)

With
Mohd. Javed Asghar Applicant(s)

Versus

M/s Upper Ganges Sugar and Industries Ltd.
(Distillery Unit) & Ors. Respondent(s)With
Mohd. Javed Asghar Applicant(s)

Versus

State of U.P. & Ors. Respondent(s)

Hearing concluded on: 18.12.2018

Order uploaded on: 03.01.2019

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

For Applicant(s): Mr. Raj Pajwani, Senior Advocate and Mr. Rahul Choudhary, Advocate (In O.A. Nos. 59/2012 & 108/2013)
 Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam Jaiswal, Advocates (In O.A. Nos. 176/2015, 484/2015, 327/2018 & 115/2017)
 Mr. Amrendra Kumar Dubey, Advocate (O.A. No. 411/2018)

For Respondent (s): Ms. Sakshi Popli, Advocate for DJB (O.A. No. 59/2012)
 Mr. Sumeet Pushkarna, Mr. Devanshu, Advocates with Mr. Sudhir Chauhan, E.E., Delhi Jal Board (O.A. No. 108/2013)
 Mr. Ajay Jain, Advocate for GNCTD
 Mr. Ardhendumauli Kumar Prasad, Mr. Shashank Saxena, Ms. Diksha Gera, Mr. Amrithesh Raj, Advocates for CGWA
 Mr. Pradeep Mishra, Mr. Daleep Dhyani, Advocates for UPPCB
 Ms. Sakshi Popli, Advocate for NDMC
 Mr. Amit Tiwari, Mr. Rohit Pratap Singh, Advocates for State of UP

appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CPCB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured for as well as to sustain the floodplains of rivers in terms of e-flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain *inter-se* with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF &CC and this Tribunal in two months by e-mail at ngt.filing@gmail.com.

31. The Committee may also indicate the projection of its impact study in light of projected data for the next 50 years (in phased manner with action plan for each decade). Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CPCB may constitute a mechanism to deal with individual cases of violations 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. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.



CRITERIA TO CALCULATE WATER CONSUMPTION**Table 1: Discharge of 4" Dia and 1 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

Table 2: Discharge of 4" Dia and 2 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

Table 3: Discharge of 6" Dia and 3 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

Table 4: Discharge of 6" Dia and 5 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

References

1. Bureau of Indian Standards. 1993. IS1172:1993 (Reaffirmed 2002). *Code of Basic Requirements for Water Supply, Drainage and Sanitation (Fourth Revision)*. New Delhi: BIS.
2. Census of India. 2011. Census of India's website. [Online]. [Accessed 15 February 2019]. Available from: http://censusindia.gov.in/2011-prov-results/paper2/data_files/India2/1.%20Data%20Highlight.pdf.
3. Central Pollution Control Board. 2013. *Performance Evaluation of Sewage Treatment Plants under NRCD*. Delhi: CPCB.
4. Central Pollution Control Board. 2016. *Graded Response Action Plan for Delhi & NCR*. Delhi: CPCB.
5. Central Pollution Control Board. 2016. *Final Document on Revised Classification of Industrial Sectors Under Red, Orange, Green and White Categories*. Delhi: CPCB.
6. CGWA. 2015. *Guidelines/Criteria for evaluation of proposals/requests for ground water abstraction*. New Delhi-Central Ground Water Authority, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
7. CGWB. 2017. *Categorisation of Assessment Units* [Online]. [Accessed 20 February 2019]. Available from: <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.
8. CGWB. 2017. *Dynamic Ground Water Resources of India*. Faridabad-Central Ground Water Board, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
9. CPHEEO. 2013. *Manual on Sewerage and Sewage Treatment Systems – 2013*, New Delhi: Ministry of Urban Development, Government of India.
10. CPHEEO. 2016. *Manual on Municipal Solid Waste Management – 2016*. New Delhi: Ministry of Urban Development, Government of India.
11. Ministry of Micro, Small and Medium Enterprises. 2006. *The Micro, Small and Medium Enterprises Development Act, 2006. 2nd October, 2006, vide notification No. S.O. 1154(E) dated 18th July, 2006, see Gazette of India, Extraordinary Part II sec.3(ii)*, Government of India.
12. *Plastic Waste Management Rules, 2016*. (G.S.R. 320 (E) [18-03-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
13. *Solid Waste Management Rules, 2016*. (S.O. 1357(E) [08-04-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
14. WILO. 2017. *Building Service Residential Selection Booklet*. Pune- WILO Mather and Platt Pumps Pvt. Ltd.

**Proof of Service**

raghunath mahabal <adv.rbmahabal@gmail.com>

NGT: OA 59/2019(WZ) Shankar Asaram Kale Vs. RO MPCB: Next Date: 05/07/2023 : R5: Affidavit in reply

1 message

raghunath mahabal <adv.rbmahabal@gmail.com>

28 June 2023 at 17:57

To: nitinlonkar@gmail.com, roaurangabad@mpcb.gov.in, mpcbaurangabad@mpcb.gov.in, Manasi Joshi <adv.manasi.joshi@outlook.com>, ms@mpcb.gov.in, memberadmin@nhai.org, romumbai@nhai.org, solapur@nhai.org, srolatur@mpcb.gov.in, sroaurangabad1@mpcb.gov.in, sroaurangabad2@mpcb.gov.in, nhairomaharashtra@gmail.com, National Green Tribunal Pune <ngt-pune@gov.in>, "Principal Secretary Environment Dept. Govt. of Maharashtra" <psec.env@maharashtra.gov.in>

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SIR,

This is an email copy for circulation of Affidavit in reply by Respondent No. 5.

Part 2 :

 2023-06-28 NGT OA 56_2019(WZ) R-5 MRMPL OBJEC...

Google Drive link: https://drive.google.com/drive/folders/1q_UaZ770_ertzM8VHfxeeTX5XhXOEOC?usp=drive_link

The size of the document is more therefore google drive link is also provided to download the complete Affidavit.

Advocate for Respondent No.5, (MODERN ROAD MAKERS PVT. LTD.)

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 2023-06-28 NGT OA 56_2019(WZ) R-5 MRMPL OBJECTION TO MPCB COMPUTATION f - Part 1.pdf
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