

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

**O.A. No. 329/2015**

**IN THE MATTER OF:**

**GRAM PANCHAYAT ARABA**

**.....APPLICANT**

**VERSUS**

**STATE OF RAJASTHAN & OTHERS**

**...RESPONDENT(S)**

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**SUPPLEMENTARY AFFIDAVIT TO AFFIDAVIT DATED**  
**13.03.2020 FILED BY THE CGWB, JAIPUR, BEFORE THE**  
**HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL**  
**BENCH, NEW DELHI.**

Through:

**ARDHENDUMAULI KUMAR PRASAD**  
**Standing Counsel, Union of India**  
**A-52, Sector 17-A, NOIDA, U.P. 201301**  
**mail@ardhendumauli.com**  
**0120-2488800/01/02**

Place: Jaipur  
Dated: 17.08.2020

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

**O.A. No. 329/2015**

**IN THE MATTER OF:**

**GRAM PANCHAYAT ARABA**

**.....APPLICANT**

**VERSUS**

**STATE OF RAJASTHAN & OTHERS**

**.....RESPONDENT(S)**

**SUPPLEMENTARY AFFIDAVIT TO AFFIDAVIT DATED 13.03.2020**

**FILED BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,**

**PRINCIPAL BENCH, NEW DELHI.**

**MOST RESPECTFULLY SHOWETH:**

I, Dr. Sunil Kumar Jain, S/o Late Shri Gulab Chand Jain aged about 58 years, employed as Regional Director, Central Ground Water Board, Western Region, Jaipur, functioning at Jaipur, do hereby solemnly affirm and declare as under:-

1. That I am duly authorized and competent to swear this affidavit for and on behalf of Central Ground Water Board, Western Region, Department of Water Resources, River Development & Ganga Rejuvenation Ministry of Jal Shakti, Jaipur in the above matter.



(1)

क्षेत्रीय निदेशक / Regional Director  
केन्द्रीय भूमि जल बोर्ड  
Central Ground Water Board  
पश्चिमी क्षेत्र, जयपुर / WR, Jaipur  
जल संसाधन, न.वि. एवं मं.सं. विभाग  
Department WR, RD & GR  
जल शक्ति मंत्रालय / Ministry of Jal Shakti  
भारत सरकार / Govt. of India

**ATTESTED**

*Att 17-8-2020*  
NOTARY PUBLIC, JAIPUR  
(RAJ) INDIA

2. That I have read and understood the order dated 24.02.2020 and 16.03.2020 of the Hon'ble NGT, New Delhi and filing this Supplementary affidavit to the affidavit dated 13.03.2020 filed by CGWB, Jaipur, in order to explain the compliances made by the answering respondent on the basis directions passed by this Hon'ble Tribunal. The orders passed by this Hon'ble Tribunal are enclosed as **Annexure - R/1**(24.02.2020) and **R/2** (16.03.2020) for kind perusal.
3. That the deponent craves liberty to raise additional submissions or file additional affidavits in case need arises during the course of arguments.

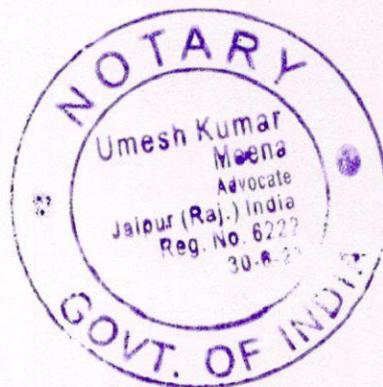
**BRIEF SUBMISSIONS**

4. It is submitted that the Hon'ble Tribunal under its order dated 24.02.2020 has directed the applicant, Gram Panchayat ARABA to implead the CGWA, MOEF&CC and RO, RIICO, Jodhpur as party respondents in OA No. 329/2015 and to amend cause title within one week.
5. It is also submitted that the Hon'ble Tribunal under its order dated 16.03.2020 has directed the Rajasthan State Pollution Control Board to provide the list of units falling in different categories to CGWA within three days for taking required action against such units.
6. It is submitted that as per the above directions of Hon'ble NGT, the answering respondent has received a letter from Regional Officer, Rajasthan Pollution Control Board, Jodhpur with a list of 14 industries falling under white category or Non Industry category, among 58 industrial units whose bore wells were sealed by Central Ground Water Authority. Copy of the letter and list of Industries received from Regional Officer, Rajasthan Pollution Control Board, Jodhpur is annexed as **Annexure R/3** for kind perusal.

*hdaia*

क्षेत्रीय निदेशक / Regional Director  
 केन्द्रीय भूमि जल बोर्ड  
 Central Ground Water Board  
 वरिष्ठी क्षेत्र, जयपुर / WR, Jaipur  
 जल संसाधन, न.वि. एवं न.सं. विभाग  
 Department WR, RD & GR  
 जल शक्ति मंत्रालय / Ministry of Jal Shakti  
 भारत सरकार / Govt. of India

(2)



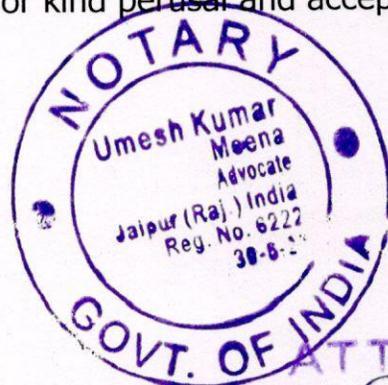
**ATTESTED**

*Umesh Kumar Meena*  
 NOTARY PUBLIC, JAIPUR  
 (RAJ.) INDIA

7. It is humbly submitted that in compliance of directions to CGWA, the answering respondent had written letters to all the 14 industries falling under Non Industry category and white category to provide information about their tube wells sealed by Central Ground Water Board. Copy of one of the letter (common format) written to the industries by Regional Director Central Ground Water Board, Jaipur is annexed as **Annexure R/4** for kind perusal.
8. It is submitted that the answering respondent received reply from 7 out of 14 industries to whom letters had been served or pasted/affixed at main entrance of the Units. Out of 7 Industries the data of 2 Industries was complete. The Assessment of Environmental Compensation in case of illegal extraction of ground water is estimated based on the report dated 26 June 2019, of Central Pollution Control Board, submitted to Hon'ble NGT in compliance of order dated 11/09/2019 in original application **No. 327/2018** in the matter of Shailesh Singh V/S Panchsheel Build Tech Pvt. Ltd & Ors.,. A Copy of the report on Assessment of Environmental Compensation in case of illegal extraction of ground water is annexed as **Annexure R/5** for kind perusal.
9. It is submitted that the answering respondent has assessed the Environmental Compensation, in the case of M/S Rajab Engineering Works it is Rs. 71940=00 only and in the case of M/S Raj Kamal Fabrics the amount of Environmental Compensation is Rs. 17480=00 only which is less than the minimum (Rs. 50000=00 only) prescribed by the CPCB at para 6.2 on page no.7 of Annexure R/5. So in the case of M/s. Raj Kamal Fabrics and other 12 Industries Environmental Compensation is estimated as minimum prescribed by CPCB of drawing ground water without a valid NOC from CGWA. The List of 14 Firms for Levy of Environmental Compensation to be charged for illegal abstraction of ground water in Industrial area of Luni Block (Safe area) of Jodhpur district is annexed as **Annexure R/6** for kind perusal and acceptance.

*hola*

(3)



क्षेत्रीय निदेशक / Regional Director  
केन्द्रीय भूमि जल बोर्ड  
Central Ground Water Board  
पश्चिमी क्षेत्र, जयपुर / WR, Jaipur  
जल संसाधन, न.वि. एवं न.सं. विभाग  
Department WR, RD & GR  
जल शक्ति मंत्रालय / Ministry of Jal Shakti  
भारत सरकार / Govt. of India

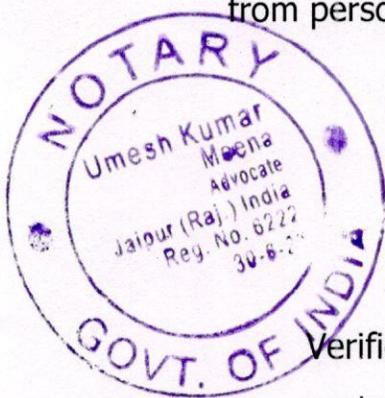
ATTESTED  
*Umesh Kumar Meena*  
NOTARY PUBLIC, JAIPUR  
(RAJ.) INDIA

10. It is also submitted that the answering respondent also has written a letter to District Collector Jodhpur to charge environmental compensation for the period of illegal extraction of ground water from all the 14 industries whose names were provided by Rajasthan State Pollution Control Board. Copy of the letter written to District Collector Jodhpur Rajasthan is annexed as **Annexure R/7** for kind perusal.

In view of the above submissions, it is respectfully submitted that the application may kindly be disposed with appropriate orders as deemed fit and proper in the interest of justice and on the basis of replies filed by other respondents. The answering respondent may kindly be exempted from personal appearance.

*[Handwritten Signature]*

**DEPONENT**



**VERIFICATION:**

Verified at Jaipur, on this the <sup>17</sup>..... day of August, 2020 that the contents of the above Affidavit are true and correct to my best of knowledge. No part of it is false and nothing material has been concealed there from.

*[Handwritten Signature]*  
 क्षेत्रीय निदेशक / Regional Director  
 केन्द्रीय भूमि जल बोर्ड  
 Central Ground Water Board  
 पश्चिमी क्षेत्र, जयपुर / WR, Jaipur  
 जल संसाधन, तृप्ति एवं वृद्धि विभाग  
 Department WR, RD & GR  
 जल शक्ति मंत्रालय / Ministry of Jal Shakti  
 भारत सरकार / Govt. of India

**Through:**

**ARDHENDUMAULI KUMAR PRASAD**  
 Standing Counsel, Union of India  
 A-52, Sector 17-A, NOIDA, U.P. 201301  
[mail@ardhendumauli.com](mailto:mail@ardhendumauli.com)  
 0120-2488800/01/02

Place: Jaipur  
 Dated: 17.08.2020

**ATTESTED**

*[Handwritten Signature]* 17-8-2020  
 NOTARY PUBLIC, JAIPUR  
 (RAJ.) INDIA

(4)

## ANNEXURE - R-1

Item No. 06 to 08

Court No. 2

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

Original Application No. 329/2015  
(M.A. Nos. 283/2018, 1389/2018, I.A. No. 532/2019, I.A.  
Nos. 660/2019, 719/2019 & 720/2019)

With

Original Application No. 521/2015

With

Original Application No. 448/2013 (THC)  
(CW 4050/12)

(M.A. Nos. 1228/2015&amp;513/2017)

Gram Panchayat ARABA

Applicant(s)

Versus

State of Rajasthan &amp;Ors.

Respondent(s)

And

M.M. Charitable Trust

Applicant(s)

Versus

State of Rajasthan &amp;Ors.

Respondent(s)

And

U.R. Beniwal

Applicant(s)

Versus

State of Rajasthan &amp;Ors.

Respondent(s)

Date of hearing: 24.02.2020

**CORAM:**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER**  
**HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Ms. Disha Sachdeva, Advocate  
for Mr. Jaideep Singh, Advocate

For Respondent(s)

Mr. Ardhendumauli Kr. Prasad,  
Advocate with Mr. Mohnish  
Nirwan, Advocate  
Mr. Lokendra Singh Kachhawa,  
Advocate  
Mr. Raj Kumar, Advocate  
Mr. Krishan Kumar Singh,  
Advocate

Mr. Praveen Choudhari, RLO  
RIICO

Mr. Rishabh Sancheti, Advocate  
Mr. Sunil K. Panwar, Regional  
Director, CGWA, Jaipur  
Mr. Shitij Chakravarty and Mr.  
Anuj Bhandari, Advocate.  
Mr. Ranjesh Kr. Sinha, Advocate

### ORDER

The learned counsel for CPCB submits that the samples taken from all the 19 locations have been tested and report of the same has been placed on record (Page no. 2220). It has been further stated that at every location, COD is beyond acceptable limit. In these 19 locations the CPCB (Page no. 2225) report shows that there are direct discharge from the units. In the conclusion of the report, it has been stated as under:

*"The higher values of Chemical Oxygen Demand (COD) found in the range of 360mg/l to 2480mg/l at sampling locations No. 2 to 5 and 7 to 17 is may be due to the following reasons:*

1. Direct discharge of untreated domestic effluent from nearby habitation.
2. Sludge deposition on the river bed.
3. Discharge of partially treated effluent from STP at Nandri & Salawas.
4. Discharge of treated CETP outlet & untreated RIICO drain outlet &
5. Direct discharge of untreated effluent of Boranada, Sangaria & Basni industrial area on right bank of the river.

*Direct discharge of domestic & industrial effluent found at various locations viz. Location no. 2,3,4,6,9,12,13 & 14 needs to be stopped. Therefore, concern authorities i.e. RIICO, RSPCB, Municipal Corp. Jodhpur & PHED needs to directed for necessary preventive action to stop direct discharge into river Jojri.*

*The satellite imageries collected for 19 locations with Google Earth Pro software and are respective field photographs are as enclosed."*

As mentioned above, it has been stated that discharge at location no. 2,3,4,6,9,12, 13 & 14 needs to be stopped. Therefore, we direct RIICO, Regional Office, Jodhpur; State

Pollution Control Board; Municipal Corporation, Jodhpur and PHED to immediately take action so as to identify the units from which such discharges are left in open area and also take necessary steps to prevent the same in future. It is made clear that every unit from which the discharge is flowing directly into the river or where discharges are found to be left in the area, the authorities are directed to close down such units. Further, such units need to be imposed exemplary compensation/penalty for discharging industrial waste without treatment. Compliance report in this regard be submitted before the Tribunal by all the aforesaid departments/authorities within a period of two weeks from today.

Earlier STF had submitted a report on 29.01.2020 stating that total FIRs registered were 35 and charge sheet had been filed only in respect of 25 cases. Besides the total units inspected by them was 554. Today the incharge of STF present before us has informed us that they inspected a total of 919 units till 22.02.2020. Amongst the cases already registered, charge sheet remained to be filed against 10 in respect of the report of January and 3 in respect of report of February. Of the total cases in which the charge sheet was filed till date, 6 cases where FIR has been registered, the investigation is said to have been still pending.

In this regard, we direct Deputy Superintendent of Police, Jodhpur, Rural to see that investigation be concluded in respect of five cases wherein FIR has been registered at various police stations under his jurisdiction. Similarly, 2 cases have been registered at Police Station, Boranada and Kudi Bhagdashani. The Commissioner Police, Jodhpur shall see that investigation in these matters is completed within 15 days.

The Additional Director General of Police (Traffic) is directed to have all the units i.e. 1125 inspected by 29<sup>th</sup> February, 2020. In fact order had already been passed to this effect for completing inspection of all the units.

The State Pollution Control Board had submitted earlier that they have inspected 25 textile units between 26<sup>th</sup> January, 2020 to 28<sup>th</sup> January, 2020 and they have been identified to be defaulters against whom FIRs have been registered. The State Pollution Control Board is directed to proceed to take action against all the units in respect of which FIRs have already been lodged by STF.

The Secretary, State Pollution Control Board shall file a personal affidavit with regard to the status of 24 units running in non-conforming area, as per their own affidavit filed earlier in respect of inspection conducted on 29<sup>th</sup> January, 2020. The Central Ground Water Authority (CGWA) had earlier submitted that underground water was being extracted by the 58 units and the same has been

sealed by them. However, the Pollution Control Board was directed to initiate action against such units but we have been informed by the Learned Counsel for Pollution Control Board that it is still under process. It is high time that since January, 2020 when these borewells were found operating illegally and sealed by CGWA but the Pollution Control Board is, as usual, still sleeping over it and no action against any of those 58 units have been taken so far. In the affidavit to be filed by Secretary, Pollution Control Board it should also be given out about the status in respect of action taken against these 58 units found by CGWA to be illegally extracting ground water.

In case any of the units amongst 58 units fall under white category then Collector and CGWA shall take against them, in accordance with law before the next date of hearing.

A copy of this order be sent to Additional Director General of Police (Traffic); Deputy Superintendent of Police, Jodhpur, Rural; Commissioner of Police, Jodhpur; Regional Officer, RIICO; Commissioner of Municipal Corporation, Jodhpur and the Superintendent Engineer, PHED, Jodhpur through email forthwith.

We direct the applicant to implead Central Ground Water Authority (CGWA), Ministry of Environment, Forest and Climate Change (MoEF & CC) and Regional Officer, RIICO, Jodhpur as party respondent in this case and amended cause title may be filed within one week.

6/6

List the matter on 16<sup>th</sup> March, 2020.

**Original Application No. 521/2015 and Original Application No. 448/2013**

We have been noticed that since long no one has appeared on behalf of the applicants.

Therefore, we dismiss these original applications in default. Moreover, similar question has raised in both these original applications is already pending adjudication in original application 329/2015.

**M.A. Nos. 1228/2015 & 513/2017**

These misc. applications do not survive for consideration as the main original application itself dismissed in default.

Accordingly, M.A. Nos. 1228/2015 & 513/2017 are disposed of.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

JG

1/2

ANNEXURE-R-2

Item No. 05

Court No. 2

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

Original Application No. 329/2015  
(M.A. Nos. 283/2018, 1389/2018, I.A. No. 532/2019, I.A.  
No. 660/2019, 719/2019 & 720/2019)

Gram Panchayat ARABA

Applicant(s)

Versus

State of Rajasthan &amp;Ors.

Respondent(s)

Date of hearing: 16.03.2020

**CORAM:**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER**  
**HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Jaideep Singh, Ms. Disha  
Sachdeva, Mr. Kartik Dabas, Ms.  
Eysha Marysha, Advocates

For Respondent(s)

Mr. Ardhendumauli Kr. Prasad,  
Advocate with Mr. Mohnish  
Nirwan, Advocate  
Mr. Pinaki Misra, Sr. Advocate  
with Mr. Adhiraj Singh, Advocate  
Mr. Raj Kumar, Advocate  
Mr. Krishan Kumar Singh,  
Advocate  
Mr. Ranjesh Kr. Sinha, Advocate  
Mr. Rishabh Sancheti, Advocate  
Mr. Sunil K. Panwar, Addl. SP.  
STF, Jodhpur  
Mr. Anuj Bhandari, Advocate  
with Mr. Sanjay Jha RM, RIICO  
Mr. Ranjesh Kr. Sinha, Advocate

**ORDER**

Earlier directions were issued to Municipal Corporation, Jodhpur from stopping and taking action against discharge of effluents by the industries at the location given out in the report by CPCB. However, no compliance report has been filed nor anyone is present on behalf of the Corporation.

Therefore, we direct the Chairman, Municipal Corporation, Jodhpur to appear before the Tribunal on the next date of hearing and file a compliance report in respect of the directions given on 24.02.2020.

The Pollution Control Board is granted one more opportunity to fully comply with the directions given earlier particularly in respect of the illegal extraction of ground water by 58 units, as pointed out by CGWA. The required action against such units shall be immediately taken by the authority concerned whether it is the State through Collector, Jodhpur or Pollution Control Board or Central Ground Water Authority. List of the units falling in different categories be given by the Pollution Control Board to the office of central Ground Water Authority within three days.

The STF shall submit a report before the next date of hearing as regards the investigation which is still pending in respect of FIR Lodged in the subsequent survey about illegal units in operation.

A copy of this order be sent to Collector, Jodhpur and Chairman, Municipal Corporation, Jodhpur through email forthwith.

List the matter on 01<sup>st</sup> April, 2020.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

JG

ANNEXURE-R-3

rdwr-cgwb@nic.in

Email

**Fwd: list of units fall underwhite category incompliance of Hon'ble NGT order dated 24/02/2020 in O.A. no. 329 of 2015, Gram Panchayat ARABA Vs. State of Rajasthan & Others-**

**From :** rorpcb jodhpur <rorpcb.jodhpur@gmail.com>

Tue, Mar 17, 2020 05:33 PM

**Subject :** Fwd: list of units fall underwhite category incompliance of Hon'ble NGT order dated 24/02/2020 in O.A. no. 329 of 2015, Gram Panchayat ARABA Vs. State of Rajasthan & Others-

1 attachment

**To :** Regional Director <rdwr-cgwb@nic.in>

----- Forwarded message -----

From: **Ro Jodhpur** <rorpcb.jodhpur@gmail.com>

Date: Sat, Mar 14, 2020 at 5:51 PM

Subject: list of units fall underwhite category incompliance of Hon'ble NGT order dated 24/02/2020 in O.A. no. 329 of 2015, Gram Panchayat ARABA Vs. State of Rajasthan & Others-

To: dm-jod-rj <dm-jod-rj@nic.in>, Admcity Admcity <Admcity128@gmail.com>, <cgwa@nic.in>, member-secretary <member-secretary@rpcb.nic.in>, HO RSPCB Legal <legal.rpcb@gmail.com>, HO RSPCB Planning <plg.rpcb@gmail.com>, HO RSPCB TCD <tcd.rpcb@gmail.com>

Respected Sir /Madam

Please find attached list of units fall under white category

--

From...

Regional Office,

Rajasthan State Pollution Control Board,

SPL-2, Phase I, MIA, Basni, Jodhpur

--

From...

Regional Office,

Rajasthan State Pollution Control Board,

SPL-2, Phase I, MIA, Basni, Jodhpur

 **list of unit fall under white category.pdf**

3 MB

2/4



(Regional office)

## Rajasthan State Pollution Control Board

SPL-2, M.I.A., I Phase, Basni, Jodhpur-342005  
Phone/Fax no. 0291-2723225, E-Mail ID : rorpcb.jodhpur@gmail.com

No.: RPCB / RO Jodh./ 2934, 3004 to 3008

Dated : 12/3/2020

1. The District Collector,  
Jodhpur2. Regional Director,  
Central Ground Water Authority,  
6-A, Jhalana Doongari, Jaipur

Sub.: Compliance of Hon'ble NGT order dated 24/02/2020 in O.A. no. 329 of 2015, Gram Panchayat ARABA Vs. State of Rajasthan &amp; Others

Ref.: 1. Hon'ble NGT Court, New Delhi order dated 24/02/2020 (copy attached)  
2. Verification report of all 58 sealed tube wells has been carried out by this office officials.

Sir,

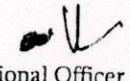
With respect to above, it is submitted that Hon'ble NGT had inter-alia passed following directions in the matter of Gram Panchayat ARABA V/s. State of Rajasthan & Others in original application no. 329 of 2015 on dated 24/02/2020 :-

"The Central Ground Water Authority (CGWA) had earlier submitted that underground water was being extracted by the 58 units and the same has been sealed by them. However, the Pollution Control Board was directed to initiate action against such units but we have been informed by the Learned Counsel for Pollution Control Board that it is still under process. It is high time that since January, 2020 when these borewells were found operating illegally and sealed by CGWA but the Pollution Control Board is, as usual, still sleeping over it and no action against any of those 58 units have been taken so far. In the affidavit to be filed by Secretary, Pollution Control Board it should also be given out about the status in respect of action taken against these 58 units found by CGWA to be illegally extracting ground water. In case any of the units amongst 58 units fall under white category then Collector and CGWA shall take against them, in accordance with law before the next date of hearing."

In the compliance of above order, the inspection of all 58 sealed tube wells has been carried out by this office officials and Show cause notice to 28 units has been issued to Red/Orange/Green Category units the other 14 units (Non industry & white category) detailed verification report is being attached herewith to request kindly initiate necessary action as per the order dated 24/02/2020 passed by Hon'ble NGT. Also requested to kindly submit the action taken report to the Hon'ble NGT Court, New Delhi.

Enclosed : As above.

Your's Sincerely,

  
Regional Officer

Copy to following for information and further necessary action please :-

1. Member Secretary, Rajasthan State Pollution Control Board, Jaipur
2. CEE & Group Incharge (Plg.), Rajasthan State Pollution Control Board, Jaipur
3. SEE & Group Incharge (Textile), Rajasthan State Pollution Control Board, Jaipur
4. SEE & Group Incharge (Legal Cell), Rajasthan State Pollution Control Board, Jaipur

  
Regional Officer

3/4

## Consent Status of 58 units to whom tube well was sealed by CGWA

Sr. No.	MIS Unit ID	Name of Industry	Plot no.	Address of industry	Date of inspection	Industry or Non industry	Category	Activity / sector cover under unit	Status of unit	Status of consent	Recommendation of RO for action taken	Remarks
6		Swaraj Diamond	A-42 (A)	MIA Phase II, Basni, Jodhpur	05/03/2020	Non Industry	N.A.	No plant & m/c were observed	Non operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	
7		Raj Kamal Fabrics	H-686, Road no.1	MIA Phase II, Basni, Jodhpur	07/03/2020	Non Industry	N.A.	Godown	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	
8		Mohammed Farooque Aladin (On Rent)	F-143 A	MIA Phase II, Basni, Jodhpur	05/03/2020	Non Industry	N.A.	Scrap Godown (Plastic & Paper)	Non operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	
13		Khokhar Udhog	G-614 A	MIA Phase II, Basni, Jodhpur	06/03/2020	Industry	White	Engineering Fabrication	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	
14	57308	Super Job	Plot no.7	MIA Phase II, Basni, Jodhpur	07/03/2020	Industry	White	Cutting & Welding of Iron Pipe	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	Membership surrendered to JPNT. Earlier applications refused by HO.
15		Mohammed Rafique Factory	F-143 A	MIA Phase II, Basni, Jodhpur	05/03/2020	Non Industry	N.A.	No plant & m/c for any industrial activity was observed	Non operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	
22		Kuchaman Agri Co.	B-3	MIA Phase I, Basni, Jodhpur	06/03/2020	Non Industry	N.A.	Whare House (Guar Gum)	Non operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	
28		Deepa Enterprises	Plot no.25	Industrial Area, BNPH, Jodhpur	06/03/2020	Industry	White	Stitching / Packing of Mattresses / Pillows	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	
31		Shiv Lal & Sons	H-139	New Jodhpur Industrial Area, Jodhpur	06/03/2020	Non Industry	N.A.	No industrial activity found in premises	Non operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	No tube well observed at site.
37		Mahajan Textile	E-281 A	MIA Phase II, Basni, Jodhpur	07/03/2020	Non Industry	N.A.	No any plant & m/c found installed in premises	Non Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	

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Sr. No.	MIS Unit ID	name of industry	Plot no.	Address of Industry	Date of inspection	Industry or Non Industry	Category	Activity / sector cover under unit	Status of unit	Status of consent	Recommendation of RO for action taken	Remarks
43		Rajat Engineers Works	H2-461	Sangaria, Jodhpur	04/03/2020	Industry	White	Fabrication unit	Non Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	
45		K.R. Creations	H2-521	2nd Phase Sangaria, Jodhpur	04/03/2020	Industry	White	Handicraft / Furniture items without paint / varnish / polishing of items	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	
47		Zargar Handicraft	Opp. Cross County	MIA Phase II, Basni, Jodhpur	04/03/2020	Industry	White	Furniture making unit	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020 (white category).	
48		Vishal Mart Timber	Nr. Ashok Leyland	MIA Phase II, Basni, Jodhpur	04/03/2020	Non Industry	N.A.	Timber Godown	Operative	N.A.	Action is to be taken at the level of District Administration and CGWA in compliance to Hon'ble NGT order dated 24/02/2020.	

ANNEXURE-R-4

Government of India / भारत सरकार  
 जल शक्ति मंत्रालय / Ministry of Jal Shakti  
 Department of Water Resources, River Development & Ganga Rejuvenation  
 जल संसाधन, नदी विकास और गंगा संरक्षण विभाग  
 Central Ground Water Authority / केंद्रीय भूमि जल प्राधिकरण  
 Western Region, Jaipur / पश्चिमी क्षेत्र, जयपुर



File No. 21-4/CGWA/WR/So-Cause/Jodhpur/2019 - 550

Dated 20.03.2020  
02.06.2020

To,  
 M/s. Zargar Handicraft  
 Opposite Cross Country  
 M.I.A, 2<sup>nd</sup> Phase  
 Basni, Jodhpur,  
 Rajasthan

Sub:- Information about sealed bore/tubewells by CGWA in Industrial area of Luni Block, Jodhpur.

Sir,

In reference to the order dated 02.08.2019 of Hon'ble National Green Tribunal, New Delhi in OA No. 329 of 2015 in the matter of Gram Panchayat ARABA Vs. State of Rajasthan and others, the bore/ tube well in your premises was sealed by CGWA, due to the illegal abstraction of ground water. You are hereby directed to submit the following information to this office:

1. Date of commencement of the firm along with proof.
2. Date of construction of well.
3. Average quantity of groundwater withdrawal per day (kilolitre/ day).
4. Purpose of ground water used from borewell.

The above may be submitted within three days from the receipt of this letter, failing which it will be treated as the violation of directions of Hon'ble NGT, New Delhi. The information may be emailed to [rdwr-cgwb@nic.in](mailto:rdwr-cgwb@nic.in) and/or to officer-in-charge, CGWB, Unit Office, Jodhpur at following address:

Officer-In-Charge  
 Central Ground Water Board  
 State Unit Office, 61-61E  
 Rajiv Nagar, Bhagtasani, Jodhpur

*Revised 20/3/20*  
 Regional Director

Copy to:-

1. Member, Central Ground Water Authority, 18/11, Jam Nagar House, Man Singh Road, New Delhi, for information.
2. The District Collector, Jodhpur, for Information
3. The officer-in-charge, CGWB, Unit Office, Jodhpur, for distribution.

Regional Director

क्षेत्रीय कार्यालय : 6-ए, झालाना डूंगरी, जयपुर - 302004  
 Email: [rdwr-cgwb@nic.in](mailto:rdwr-cgwb@nic.in), Fax: 0141-2706991

**ANNEXURE-R-5****REPORT ON****"ASSESSMENT OF ENVIRONMENTAL COMPENSATION IN  
CASE OF ILLEGAL EXTRACTION OF GROUND WATER"**

(SUBMITTED IN COMPLIANCE TO HON'BLE NGT ORDER DATED 7/5/2019 IN  
ORIGINAL APPLICATION NO. 327/2018 IN THE MATTER OF SHAILESH SINGH Vs  
CENTRAL GROUND WATER BOARD & ORS)

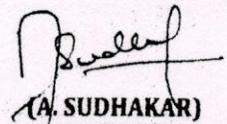


**CENTRAL POLLUTION CONTROL BOARD**  
(Ministry of Environment, Forest & Climate Change)  
Parivesh Bhawan East Arjun Nagar,  
Delhi-110032

**26 June, 2019**

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SI NO.	PARTICULAR	PAGE NO.
1.	REPORT ON "ASSESSMENT OF ENVIRONMENTAL COMPENSATION IN CASE OF ILLEGAL EXTRACTION OF GROUND WATER."	
2.	ANNEXURE-I : HON'BLE NGT ORDER DATED 07.05.2019.	
3.	ANNEXURE-II : CASE STUDIES SHOWING ESTIMATION OF ENVIRONMENTAL COMPENSATION FOR ILLEGAL EXTRACTION OF GROUND WATER.	



(A. SUDHAKAR)  
SCIENTIST 'E'

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

PLACE: DELHI  
DATED :- 01.07.2019

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**"ASSESSMENT OF ENVIRONMENTAL COMPENSATION IN CASE  
OF ILLEGAL EXTRACTION OF GROUND WATER"**

**1. Background**

The Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi passed order on 3/1/2019 in Original Application No. 327/2018 in the matter of Shailesh Singh v/s Central Ground Water Board & Ors directed Central Pollution Control Board (CPCB) in para 32 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."*

In compliance to the Hon'ble NGT order dated 3/1/2019, CPCB submitted report on Environmental Compensation (EC) for illegal extraction of ground water to the Hon'ble NGT on 30/4/2019. Hon'ble National Green Tribunal reviewed the report and directed CPCB vide order dated 7/5/2019 in para 10 & 11 which are reproduced as follows:

*Para 10: CPCB has, vide e-mail dated 30.04.2019, forwarded a report which deals with assessment of environmental compensation for illegal extraction of ground water. We do not find the report of the CPCB to be complete for the following reasons:*

- (i) *The OCS areas which need regulation for conservation of ground water cannot be further treated separately as notified or non-notified. Conservation of ground water in the said areas is of equal necessity. Depletion of ground water in the said area affects the sub-terranean flow and results in contamination of ground water and also poses a potential danger for drying up of important natural resource in violation of established principle of "Intergenerational Equity".*

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- (ii) *The compensation to be recovered for illegal extraction has to be deterrent specially when it is for commercial or industrial purpose and linked to the quantum of ground water extracted and the period for which such extraction takes place.*
- (iii) *Scenario analysis with robust scientific logic is required for all the classes considered in comparable terms which have not been done in the present report.*

**Para 11: Let the CPCB furnish a fresh report on or before 30.06.2019 by email at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com).**

A copy of Hon'ble NGT order dated 7/5/2019 is enclosed as Annexure I.

## 2. Follow up action by CPCB

In compliance to Hon'ble NGT order dated 3/1/2019, CPCB constituted a committee under the Chairmanship of Shri A. Sudhakar, DH, WQM-I Division with Shri P. K. Gupta, DH, IPC-VI Division, Shri Vishal Gandhi, Sc D, UPC-I Division and Smt. Suniti Parashar, Scientist B, WQM-I Division as members.

The Committee has deliberated on the issues and submitted its report to the Hon'ble NGT on 30/4/2019. Further, in compliance of NGT order dated 7/5/2019, same committee reviewed the report as directed by Hon'ble NGT. The compliance status of Hon'ble NGT direction and suggestions, highlights of the revised report are summarized below:

S.No.	Directions/Suggestions of Hon'ble NGT	Compliance Status/Highlights
1	Intergenerational Equity	<ul style="list-style-type: none"> <li>▪ It is considered that incidence of illegal extraction of ground water, regardless of the category of area (notified or non-notified) will attract the environment compensation.</li> <li>▪ EC is purely based on illegal extraction of ground water in OCS (Over-exploited, Critical and Semi-critical) and safe areas.</li> <li>▪ The rate of environment compensation will</li> </ul>

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		increase as the criticality of ground water availability in the area increases or amount of ground water extraction increases.
2	Deterrent in terms of commercial/industrial purpose	<ul style="list-style-type: none"> <li>▪ Considering the water as a basic need of human, environmental compensation charges in case of domestic/household uses are kept low and higher rates of environmental compensation are prescribed for institutional, commercial, infrastructural and industrial purposes by the extraction of ground water.</li> <li>▪ Environmental Compensation Rates (EC<sub>GW</sub>) for illegal extraction of ground water also increase with increase in water consumption as well as water scarcity in the area.</li> <li>▪ For drinking/domestic purposes, minimum EC suggested as Rs 10,000/- (for households) and Rs 50,000 (institutional activity, commercial complexes, townships etc).</li> <li>▪ For industrial activity minimum EC is suggested as Rs 1,00,000/-</li> <li>▪ Estimation made for illegal extraction in industrial cases shows deterrent EC for OCS areas in scenario analysis</li> </ul>
3	Scenario Analysis	Case Studies in terms of scenario analysis for different classes have been done and incorporated in the report ( <i>Annexure-II</i> ).

### 3. Methodology for Assessing Environmental Compensation (EC)

The committee discussed the issue on 13/5/2019 and 7/6/2019. The committee deliberated in detail on the issue of Environmental Compensation to be recovered

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from individuals/industries such as domestic, packaging 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 mechanism to levy Environmental Compensation has been evolved.

#### 4. Ideology of Environmental Compensation w.r.t 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. 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 extraction.

#### 5. Formula for Environmental Compensation for illegal extraction of ground water

The committee recommended that the formula considering water consumption, no of days, rates for imposing Environmental Compensation based on the purpose for illegal abstraction of ground water as well as the deterrent factor detailed below:-

$$EC_{GW} = \text{Water consumption per day} \times \text{Environmental Compensation rate for illegal extraction of ground water (ECR}_{GW}) \times \text{No. of Days} \times \text{Deterrent Factor}$$

Where, water consumption is in  $m^3/\text{day}$  and  $ECR_{GW}$  in  $Rs/m^3$

#### 6. Environmental Compensation Rate ( $ECR_{GW}$ )

- (i) 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.

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(ii) Categorisation of the area shall be (safe, semi-critical, critical and over-exploited) based on the ground water resources estimation in the year 2009, 2011 and 2013 or the latest estimation carried out by CGWB.

(iii) Environmental Compensation Rate ( $EC_{GW}$ ) for illegal use of ground water for various purposes such as drinking/domestic use, industrial activities such as water packaging units, mining and industrial sectors as finalized by the committee are given in tables below:

#### 6.1 $EC_{GW}$ for Drinking & Domestic use (For household purposes)

The rate of Environmental Compensation for domestic and drinking purpose for individual household shall be charged at the rate Rs 100/- per day for OCS categories (Over-exploited, Critical and Semi-Critical Category). Similarly, for safe category, the EC rate shall be charged as Rs 50/- per day. Minimum environmental compensation for household shall be Rs 10,000/-

#### 6.2 $EC_{GW}$ for Drinking & Domestic use (For institutional activity, commercial complexes, townships etc)

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

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

### 6.2 ECR<sub>GW</sub> for Packaged Drinking Water Units

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

*Note :- Minimum ECR<sub>GW</sub> shall not be less than Rs 1,00,000/-*

### 6.3 ECR<sub>GW</sub> for Mining, Infrastructure and Dewatering Projects

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

*Note :- Minimum ECR<sub>GW</sub> shall not be less than Rs 1,00,000/-*

### 6.4 ECR<sub>GW</sub> for Industrial Units

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

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**6.5 Deterrent factors to compensate losses and environmental damage (for packaging drinking water units, mining, industrial and commercial purposes)**

The activities such as packaging drinking water, mining, industrial and others draw ground water to add commercial value to the products manufactured. Hence, these activities attract stricter provisions of deterrence and intergenerational equity. It is proposed to levy following deterrent factors to compensate the losses and environmental damages as detailed in the following table:-

**6.5 :- Deterrent Factor**

S.No.	Water Consumption	Deterrent Factor		
		< 2 years	2-5 years	>5 years
1	<1000 KLD	1.00	1.00	1.25
2	1000-5000 KLD	1.00	1.00	1.50
3	>5000 KLD	1.00	1.25	2.00

*Note: The industrial operations may be reviewed and only permitted, if it is safe to continue withdrawal of ground water at the rate permitted.*

**7. Relaxation**

Central Ground Water Authority (CGWA) reserves the 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.

**8. Recommendations**

The committee has given following recommendations:

1. In case of fixation of liability, it always lies with current owner of the premises where illegal extraction of groundwater is taking place.
2. Violation duration may be assumed as at least one year in case where no evidence for period of installation of borewell could be established.
3. For illegal industrial ground water abstraction, where metering system is not available, water consumption may be estimated as per consent conditions imposed by SPCB/PCC.

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4. Water intensive industries should only be permitted in safe, semi-critical and critical area, and should not be allowed to establish new industries in over-exploited area.
5. Water in over-exploited area should be permitted only for drinking purposes and industries established in this area without prior consent or NOC from CGWA or another concerned department must be closed down with immediate effect . No expansion in existing industrial activity should be permitted, irrespective of additional water demand arises or not.
6. Present categorization of area (Over-exploited, Critical and Semi-Critical), as per CGWA shall be considered for calculation of EC, regardless of the area category when the period of violation started.
7. In case of all existing cases having more than 5000 KLD ground water demand, permission may be given only after examining scientific assessment of water availability and assessing intergenerational equity by CGWA.
8. The industrial units should be directed to adopt State of the Art technologies, use of surface water, treated waste water and reduce specific water consumption, thereby ground water demand is reduced by 10% over three years' period. The industries also be encouraged to create facilities for storage of excess storm water and adequate measures such as groundwater recharge as well as restoration of lakes /ponds in the vicinity of the industry.
9. In addition, all repeated violations will attract EC at 1.25 times the previous EC.
10. Authorities assigned for levy EC and taking penal action are listed below:

S. No.	Actions	Authority
1.	To seal illegal bore-well/tube-well to stop extraction of water and further closure of project	District Magistrate
2.	To levy EC <sub>GW</sub> as per prescribed method	District Magistrate/ CGWA
3.	To levy EC on industries involved in illegal abstraction of Groundwater, as per the method prescribed in	CPCB/SPCB/PCC

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	report of CPCB- "EC for industrial units"	
4.	Prosecution of Violator	CGWA under Environment (Protection) Act, 1986 (or) SPCB/PCC under Water (Prevention and Control of Pollution), Act, 1974

11. CGWA shall maintain a separate account for collection and utilization of environmental compensation levied for illegal extraction of ground water on the violators.
12. For easy understanding w.r.t levying of EC on violators as per the recommendation of CPCB, case studies given at **Annexure II** may please be referred.

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**References**

1. 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.
2. CGWB. 2017. *Categorisation of Assessment Units [Online]*. [Accessed 20 February 2019]. Available from: <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/>

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Item Nos. 01 to 11

Court No. 1

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

Original Application No. 59/2012  
(M.A. No. 34/2016 & M.A. No. 190/2016)

WITH

Original Application No. 108/2013

WITH

Original Application No. 179/2013

WITH

Appeal No. 67/2015

WITH

Original Application No. 176/2015  
(M.A. No. 107/2019)

WITH

Original Application No. 484/2015

WITH

Original Application No. 327/2018

WITH

Original Application No. 115/2017

WITH

Original Application No. 411/2018

WITH

Original Application No. 613/2017

WITH

Original Application No. 614/2017

Vikrant Kumar Tongad

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

Legal Aid, National Green  
Tribunal Bar Association

Applicant(s)

Versus

NCT of Delhi & Ors

Respondent(s)

WITH

Raj Hans Bansal

Applicant(s)

(14/24)

	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	
Government of NCT Delhi & Ors.		Respondent(s)
WITH		
Shailesh Singh		Applicant(s)
	Versus	
Hotel Holiday Regency, Moradabad & 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)

(24)

15/24

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. &amp; Ors

Respondent(s)

Date of hearing: 07.05.2019

**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 Panjwani, Senior Advocate with Mr.  
Sany Antony, Advocate

For Respondent(s): Mr. Krishna Kumar Singh, Advocate for  
MoEF&CC  
Mr. Rajkumar, Advocate for CPCB  
Mr. Ardhendumauli Kr. Prasad, Advocate for  
CGWA & MoWR  
Mr. Daleep Dhyani, Advocate for UPPCB  
Mr. Narender Pal Singh, Advocate for DPCC  
Dr. Sandeep Singh, Advocate for State of UP (in  
item no. 7)  
Mr. Rohit Pratap Singh, Advocate for State of  
UP (in item no. 1&2)

**ORDER**

1. Enforcement of mandate of judgment of the Hon'ble Supreme Court in *M.C. Mehta Vs. Union of India & Ors. (1997) 11 SCC 312* for conservation of groundwater is the subject matter of consideration before this Tribunal. The issue acquired significance on account of fast depletion of ground water as per acknowledged studies

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including the studies referred to in the publication of the Niti Ayog referred to in the order of this Tribunal dated 03.01.2019.

2. Central Ground Water Authority (CGWA), constituted by the Central Government under the Environment (Protection) Act, 1986, in compliance of judgment of the Hon'ble Supreme Court, conducted a survey and declared certain areas to be over exploited, critical and semi-critical areas (OCS) where the ground water level was on the decline. To maintain ground water balance, it was necessary that there is no further decline and the water level is brought up to the safe level. The mandate of the CGWA is to frame and operate regulatory measures to achieve the goal of conserving ground water at safe level.
3. The Tribunal was faced with the grievance that CGWA failed to check the depletion in OCS areas and such depletion was continuing. Regulatory framework of CGWA was inadequate and ineffective, contrary to the purpose for which CGWA was set up. There was no check on extraction of ground water even for commercial purposes, including packaging water, use of ground water by builders and hotels for swimming pools or other activities. Though conditions for recharge were incorporated while granting permission, such conditions were not complied with and no adverse measures were taken against violators. Orders were passed by this Tribunal, including order dated 28.08.2018 noting the guidelines of CGWA that permission to extract ground water in OCS areas is to be

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given only for drinking and domestic purposes. OCS areas were further classified as 'notified' and 'non-notified' without any basis and 'non-notified' were not being regulated. The Tribunal directed remedial measures to be taken.

4. In purported compliance of the directions of this Tribunal, the Ministry of Water Resources (MoWR) issued Notification dated 12.12.2018. The said Notification, instead of remedying the situation, worsened the same by liberalizing extraction of ground water even for commercial purposes in violation of mandate of judgment of the Hon'ble Supreme Court in *M.C. Mehta (supra)* as well as the mandate of 'Sustainable Development' and 'Precautionary' principle and the object for which CGWA was set up.
5. The Tribunal considered the matter on 03.01.2019 and noted as follows:

*"In the revised guidelines the situation has been made worst by liberalizing the regime of control against extraction of ground water in OCS areas even for commercial/industrial purposes. There is no study undertaken of the likely impact for such liberalization on the ground water resources and there is no projected estimation as to how the revised policy will result in better conservation of ground water which is necessary for compliance of the Precautionary Principle, Sustainable Development Principle as well as Inter-generational Equity Principles. It seems that the revised policy is a sort of knee jerk reaction in response to observations of this Tribunal. It appears that MoWR has not undertaken any strength, weakness, opportunities and threats (SWOT) analysis to ascertain the weaknesses of old policy and the threat scenarios it offers. It is silent on robust institutional mechanism on surveillance and monitoring of its ground implementation. It rather abdicates its authority in form of delegation to field units without any checks and balances to regulate ground water extraction, on scientific lines and environmentally sustainable manner. Despite*

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stating that the guidelines shall be applicable Pan-India, the notification does not cover the States of Kerala, Karnataka, Andhra Pradesh, Telangana, West Bengal, Arunachal Pradesh, Himachal Pradesh, Jammu & Kashmir and the UT of Delhi. The serious flaws pointed out are:

- i. Liberally permitting extraction of ground water and justifying the same on the plea that charges have been prescribed even in OCS areas for commercial/industrial purposes.
- ii. Liberally permitting extraction of ground water on the ground that condition was imposed for rain water harvesting without any data of effective compliance of such conditions or even possibility of this being done.
- iii. Having exempted categories in OCS areas for purposes other than drinking water, including swimming pools, commercial and industrial uses. Reference has been made to the statistics to show deteriorating status of conservation of water and crises of access to water being available to the common man, as well as its requirement for ensuring e-flow in the rivers."

6. Accordingly, the Tribunal held:

"27. We are satisfied that the Notification dated 12.12.2018 tested on the Precautionary Principle, Sustainable Development as well as Inter-generational Equity Principles is unsustainable in law and instead of conservation of ground water which is necessary for providing access to drinking water in OCS areas, as well also other needs of environment, including sustenance of rivers and other water bodies, it will result in fast depletion of ground water and damage to water bodies and will be destructive of the fundamental right to life under Article 21 of the Constitution of India.

28. Accordingly, the impugned Notification may not be given effect to in view of serious shortcomings as pointed above so that an appropriate mechanism can be introduced consistent with the needs of environment."

7. Thereafter, the Tribunal directed the Ministry of Environment, Forests and Climate Change (MoEF&CC) to constitute an Expert Committee and to issue an appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance

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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 as well as to sustain the floodplains of rivers in terms of e-flow, augmentation of subterranean flows and preservation of other water bodies. The Committee was to be constituted within two weeks and was to give report by 30.04.2019 after undertaking study of impact of projected data for the next 50 years. The Central Pollution Control Board (CPCB) was directed to evolve a mechanism to deal with cases of violations, including prosecution and coercive measures to check illegal extraction, including scale of deterrent compensation.

8. Unfortunately, MoEF&CC has failed to perform its duty for which no explanation has been furnished. No affidavit has been filed. On being asked, learned Counsel for the MoEF&CC has informed the Tribunal that the Committee was constituted only on 29.03.2019 and not within two weeks from 03.01.2019, as directed. The Committee has not yet given its report. We do not appreciate such attitude of Government departments when under a statutory enactment, violation of orders of this Tribunal is a criminal offence. The Committee has not acted promptly and no significant progress has been brought to our notice. Lack of sensitivity of serious issues of environment such as fast depleting ground water is a matter of concern.

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9. Let the report be now furnished positively by the Committee by 30.06.2019 and further steps taken promptly. If report is not so furnished, the Joint Secretary concerned of MoEF&CC may remain present in person before the Tribunal on the next date with the report and explanation why action be not taken for violation of orders of this Tribunal.
10. CPCB has, vide e-mail dated 30.04.2019, forwarded a report which deals with assessment of environmental compensation for illegal extraction of ground water. We do not find the report of the CPCB to be complete for the following reasons:
- i. The OCS areas which need regulation for conservation of ground water cannot be further treated separately as notified or non-notified. Conservation of ground water in the said areas is of equal necessity. Depletion of ground water in the said areas affects the sub-terranean flow and results in contamination of ground water and also poses a potential danger for drying up of important natural resource in violation of established principle of 'Intergenerational Equity'.
  - ii. The compensation to be recovered for illegal extraction has to be deterrent specially when it is for commercial or industrial purpose and linked to the quantum of ground water extracted and the period for which such extraction takes place.

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iii. Scenario analysis with robust scientific logic is required for all the classes considered in comparable terms which has not been done in the present report.

11. Let the CPCB furnish a fresh report on or before 30.06.2019 by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com).

12. As regards the Miscellaneous Application (M.A. No. 107/2019) filed on behalf of the CGWA seeking ground water development on the basis of its guidelines dated 16.11.2015 for existing industries, infrastructure in the sand mining projects, we do not find any safeguards suggested to address the concern earlier expressed against depleting ground water. The mandate of CGWA is not exploitation of ground water in depleted areas but to conserve it. Any policy which results in further depletion obviously cannot be permitted in OCS areas CGWA is free to lay down and follow stringent norms to ensure that there is no depletion of ground water in OCS areas and depleted water level is improved and replenished. Any policy has to be in that direction and not in reverse direction as is unfortunately being attempted by CGWA, as noticed in earlier orders.

13. MoEF&CC has to come out with an appropriate policy consistent with the above mandate. The MoEF&CC has taken the plea that CGWA has not cooperated which is a cause for delay. This is denied by CGWA. The fact remains that failure is on the part of both. Being entrusted with the responsibility of protecting ground water, the

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CGWA and all other authorities must cooperate and collaborate in the exercise of coming out with a policy which results in checking further depletion of ground water and enhancing replenishment. If necessary, the concerned Secretaries should monitor compliance of these directions having regard to the importance of the issue.

List for further consideration on 04.07.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 07, 2019  
Original Application No. 59/2012  
(M.A. No. 34/2016 & M.A. No. 190/2016)  
and other connected matters  
DV

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## Annexure-II

CASE STUDIES

## Case Study I:

1	Industrial Sector	:	Pulp and Paper Industry
2	Area Category, as per CGWB	:	Semi-Critical
3	Production Capacity	:	200 MT/day
4	Water Consumption	:	50 m <sup>3</sup> /T
5	Violation Period (illegal extraction of ground water)	:	1 year

(Source: CPPRI, Saharanpur)

**Assessment of environmental compensation:**

Environmental Compensation (EC) = Water Consumption x Rate x No of Days x Deterrent Factor

Per day water consumption = 50 x 200 = 10,000 m<sup>3</sup>/day

Fine as per semi-critical zone = Rs 100 / m<sup>3</sup>/day (Table given at SI No 6.4)

Deterrent factor: (Table given at SI No 6.5)

EC for 1-year violation = 10,000 x 100 x 365 x 1 = Rs 36,50,00,000 (Rs 36.50 Crore)

## Case Study II:

1	Industrial Sector	:	Pulp and Paper Industry
2	Area Category, as per CGWB	:	Safe
3	Production Capacity	:	120 MT/day
4	Water Consumption	:	50 m <sup>3</sup> /T
5	Violation Period (illegal extraction of ground water)	:	3 years

(Source: CPPRI, Saharanpur)

**Assessment of environmental compensation:**

Environmental Compensation (EC) = Water Consumption x Rate x No of Days x Deterrent Factor

Per day water consumption = 50 x 120 = 6000 m<sup>3</sup>/day

Fine as per semi-critical zone = Rs 50 / m<sup>3</sup>/day (Table given at SI No 6.4)

Deterrent factor: (Table given at SI No 6.5)

EC for 3 year violation = 6000 x 50 x (365 x 3) x 1.25 = Rs 41,06,25,000 (Rs 41.06 Crore)

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**Case Study III:**

1	Industrial Sector	:	Distillery Plant
2	Area Category, as per CGWB	:	Critical
3	Production Capacity	:	135 KL/day
4	Water Consumption	:	20 m <sup>3</sup> /KL
5	Violation Period (illegal extraction of ground water)	:	2 years

*(Source: CPCB, Delhi)***Assessment of environmental compensation:**

Environmental Compensation (EC) = Water Consumption x Rate x No of Days x Deterrent Factor

Per day water consumption =  $135 \times 20 = 2700 \text{ m}^3/\text{day}$

Fine as per semi-critical zone = Rs 110 / m<sup>3</sup>/day (Table given at SI No 6.4)

Deterrent factor: (Table given at SI No 6.5)

EC for 2 year violation =  $2700 \times 110 \times (365 \times 2) \times 1 = \text{Rs } 21,68,10,000$  (Rs 21.68 Crore)

**Case Study IV:**

1	Industrial Sector	:	Mineral Water Packaging Unit (small)
2	Area Category, as per CGWB	:	Over-Exploited
3	Production Capacity, as per CTO	:	6 KLD
4	Water Consumption	:	10 KLD
5	Violation Period (illegal extraction of ground water)	:	6 years

*(Source: CPCB, Delhi)***Assessment of environmental compensation:**

Environmental Compensation (EC) = Water Consumption x Rate x No of Days x Deterrent Factor

Per day water consumption =  $10 \text{ m}^3/\text{day}$

Fine as per Over-Exploited = Rs 48/m<sup>3</sup>/day (Table given at SI NoNo 6.2)

Deterrent factor: (Table given at SI No 6.5)

EC for 6 year violation =  $10 \times 48 \times (365 \times 6) \times 1.25 = \text{Rs } 13,14,000$  (Rs 13.14 lakh)



**Annexure -R-6**

**List of 14 Firms regarding Levy of Environmental Compensation to be recovered for illegal abstraction of ground water in Industrial area of Luni Block of Jodhpur district**

Sr. No.	Name of Industry	Use of Ground Water	Illegal Quantity of Ground water	Rate of Environmental Compensation (ECRgw) In Rs./m <sup>3</sup>	Calculated Environmental Compensation (ECRgw) In Rs.	Lavy of Environmental Compensation (ECRgw) In Rs.	Remark
1	Swaraj Daimond	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
2	Raj kamal Fabrics	Drinking, Domestic or green belt development or platation	2185 m <sup>3</sup> (5 m <sup>3</sup> /day of ground water since 17.06.2018 to 27.09.2019)	8	2185*8 = 17480	50000=00	The firm has applied for regulization of its tube well.
3	Mohammed Farooq Aladin (On Rent)	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
4	Khokhar Udhog	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
5	Super Job	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
6	Mohammed Rafique Factory	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
7	Kuchaman Agri Co.	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
8	Deepa Enterprises	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
9	Shiv Lal & Sons	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
10	Mahajan Textile	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
11	Rajab Engineers Works	Drinking, Domestic or green belt development or platation	11990 m <sup>3</sup> (4 m <sup>3</sup> /day of ground water since 01.01.2010 to 20.12.2019)	6	11990*6=71940	71940=00	The firm has applied for regulization of its Tube well.
12	K.R Creations	Drinking, Domestic and tanker supply.	Not Avialable	Not Avialable	Not Avialable	50000=00	
13	Zargar Handicraft	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	
14	Vishal Mart Timber	Drinking, Domestic or green belt development or platation	Not Avialable	Not Avialable	Not Avialable	50000=00	

(1/2)

## ANNEXURE - R-7

No: 21-4/CGWAWR/So-Cause/Jodhpur/2019 - 600

भारत सरकार /Govt. of India

जल शक्ति मंत्रालय /Ministry of Jal Shakti

जल संसाधन, नदी विकास और गंगा संरक्षण विभाग /Department of Water Resources, RD &amp; GR

केंद्रीय भूमि जल बोर्ड/ Central Ground Water Board

पश्चिमि क्षेत्र, जयपुर / Western Region, Jaipur

-6A, झालना डूंगरी, जयपुर राज(/

6-A, Jhalana Doongri, Jaipur-302004 (Raj)

Tel: 0141-2706338, Fax: 2706991

Email: rdwr-cgwb@nic.in, tswr-cgwb@nic.in

Date: 13-07-2020

To,  
The District Collector,  
Jodhpur

Sub. : Compliance of directions of Hon'ble NGT under order dated 24/02/2020 in O.A. No. 329 of 2015, Gram Panchayat ARABA Vs. State of Rajasthan & Others.

Ref. :1. Hon'ble NGT, New Delhi, order dated 24/02/2020 ( copy attached)  
2. Letter from Regional Officer, Rajasthan State Pollution Control Board, SPL-2, M.I.A., I phase, Basni, Jodhpur-342005, RPCB/RO JODH/2934, 3004 to 3008 dated 14.03.2020.(Copy attached)

Sir,

With respect to above, it is submitted that Hon'ble NGT had inter-alia passed following directions in the matter of Gram Panchayat ARABA V/s State of Rajasthan & Others in Original Application No. 329 of 2015 on dated 24/02/2020 :-

"The Central Ground Water Authority (CGWA) had earlier submitted that underground water was being extracted by the 58 units and the same has been sealed by them. However, the Pollution Control Board was directed to initiate action against such units but we have been informed by the Learned Counsel for Pollution Control Board that it is still under process. It is high time that since January, 2020

when these borewells were found operating illegally and sealed by CGWA but the Pollution Control Board is, as usual, still sleeping over it and no action against any of those 58 units have been taken so far. In the affidavit to be filed by the Secretary, Pollution Control Board it should also be given out about the status in ground water. In case any of the units amongst 58 units fall under white category then Collector and CGWA shall take action against them, in accordance with law before the next date of hearing."

In the compliance of above order CGWB, Jaipur has calculated the amount of Environment Compensation (for Illegal Ground Water Extraction ) to be charged to the 14 firms withdrawing groundwater illegally for drinking, domestic and green belt development, as per the details given in endorsed tabular form.

The District Collector, Jodhpur is requested to charge the Environmental Compensation to 14 Firms as per list for the illegal abstraction of Ground Water under section 24 of the NGT Act, 2010 read with section 7 and 7A of the Public Liability Insurance Act, 1991. The action taken in this connection in compliance of directions of Hon'ble NGT may kindly be intimated/ reported to Hon'ble NGT, New Delhi by mail at [judicial-ngt@nic.in](mailto:judicial-ngt@nic.in).

Enclosures: As above

Yours Faithfully

*[Handwritten Signature]*  
13/7/20

Regional Director  
CGWB, WR, Jaipur

Copy to:

- 1. The Member, Central Ground Water Authority, 18/11, Jamnagar House, Mansingh Road, New Delhi-110 for kind information.

Regional Director  
CGWB, WR, Jaipur