

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE, PUNE  
APPEAL NO. 39/2020 (WZ)**

**In the matter of:**

**Shri Sant Damaji SSK Ltd.**

**Appellant**

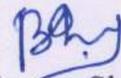
**Versus**

**The Chairman, Central Pollution  
Control Board and Ors.**

**Respondent**

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Bharat Kumar Sharma  
Regional Director,  
Central Pollution Control Board,  
Regional Directorate, Pune

Date :24.11.2020

Place : Pune

**भरत कुमार शर्मा/Bharat Kumar Sharma**  
क्षेत्रीय निदेशक / Regional Director  
**केंद्रीय प्रदूषण नियंत्रण बोर्ड**  
**Central Pollution Control Board**  
क्षेत्रीय निदेशालय, पुणे/Regional Directorate, Pune  
पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार  
M/o Env't. Forest & Climate Change, Gov't. of India  
गे हाउस नंबर-1, संजीवनी निसर्ग, बालेवाडी, पुणे-411045  
New House No.-1, Sanjivani Nisarg, Balewadi, Pune-411045

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE, PUNE  
APPEAL NO. 39/2020 (WZ)**



**In the matter of:**

**Shri Sant Damaji SSK Ltd.**

**Appellant**

**Versus**

**The Chairman, Central Pollution  
Control Board and Ors.**

**Respondent**

**Counter Affidavit on behalf of Central Pollution Control Board, Respondent  
No.1 and 3**

I, Bharat Kumar Sharma, S/o Shri D P Vishwakarma, aged about 47 years, working as Regional Director in Central Pollution Control Board, Regional Directorate Pune, do hereby solemnly affirm and declare as under:

2. That I am fully conversant with the facts and circumstances of the present case and am duly authorized to affirm and swear this affidavit on behalf of the Central Pollution Control Board, Delhi (hereinafter referred to as CPCB)

**Parawise Reply**

3. That averments contained in Paras 1 & 2 is about the appellant unit and status of consent order for operation being issued by Maharashtra Pollution Control Board (hereinafter referred to as MPCB) and need no comments from this Answering Respondent.

4. That averments contained in the Paras 3 & 4 is about direction (Show Cause Notice) issued under section 5 of Environment (Protection) Act, 1986 by this Answering Respondent to the appellant for non-installation of Online Continuous Effluent Monitoring Systems (hereinafter referred to as OCEMS) and not to resume their manufacturing operations till installation and commissioning of OCEMS and its connectivity with State Pollution Control Board (hereinafter referred to as SPCB) and CPCB servers and need no comments from this Answering Respondent.
5. That the averments contained in the Paras 5 & 6 is about the purchase order & supply of Online Continuous Effluent Monitoring System (OCEMS) by the appellant unit and need no comments from this Answering Respondent.
6. That averment contained in the Para 7 is about the visit of MPCB officials to the appellant unit and need no comments from this Answering Respondent.
7. That the averment contained in the Para 8 is about the letter of appellant informing the Respondent No. 1, CPCB about the purchasing of its OCEMS devices, however required connectivity details with CPCB servers was not provided in that letter. It does not require any comment from this Answering Respondent.
8. That in reply to the averment contained in the Para 9, this Answering Respondent submits that a direction (Show cause Notice) dated 24.07.2015 was issued to the unit to Show Cause why the unit should not be closed if the unit has not complied fully with the direction issued w.r.t installation of OCEMS devices. However no reply is received from the unit and the



Respondent CPCB further published the name of non-complying units, which had not responded to the Show Cause Notice in national daily newspapers dated 15.12.2015 and given opportunity to the units to file the reply within a week. Again with non-receipt of any reply from the unit, CPCB issued a closure direction dated 22.03.2016 to the unit under section 5 of Environment (Protection) Act, 1986. The copy of closure direction dated 22.03.2016 is annexed as **Annexure-I**.

That Respondent No 1, upon reported compliance and submission of required documents including self-certificate, online registration details, online connectivity details, valid Consent copy vide letter dated 27.10.2017, by the unit and subsequent verification by the IT division of CPCB, the Respondent CPCB issued the revocation direction dated 30.11.2017 to the unit under section 5 of Environment (Protection) Act, 1986. The copy of revocation direction dated 30.11.2017 is annexed as **Annexure-II**.

9. That in reply to the averments contained in the Paras 10 & 11, this Answering Respondent submits that it has been noticed that even after CPCB's closure direction the unit has operated for total 86 days (i.e. from 11.11.2016 to 13.01.2017 & 09.11.2017 to 30.11.2017). That the Hon'ble National Green Tribunal, Principal Bench (hereinafter referred to as NGT) in the matter of OA No 593/2017 (WP (Civil) No 375/2012), Paryavaran Suraksha Samiti & Anr. Vs Union of India & Ors. vide its order dated 28.08.2019 directed that '*...the Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water in the report dated 30.05.2019 is accepted and same may be acted upon as an interim measure...*' One of the cases to be considered for levying environmental compensation in the said report is 'not complying with the

directions issue, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.' Thus, in compliance of above-mentioned Hon'ble NGT order this Respondent levied EC on the appellant. The copy of NGT order dated 28.08.2019 in OA No.593/2017 is annexed as **Annexure-III**.

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10. That in reply to the averment contained in the Para 12, this Answering Respondent submits that repeated excuse of operation under pressure and poor response of network connectivity cannot be considered as ground for continuing violations of closure directions. CPCB has followed uniform policy for levying Environmental Compensation (hereinafter referred to as EC) to the industries as per approved formula submitted in Hon'ble NGT.
  11. That in reply to the averments contained in the Paras 13 & 14, this Answering Respondent reiterated the same as above in para 9 of this affidavit.
  12. That in reply to the averment contained in the Para 15, this Answering Respondent reiterated the same as above in para 10 of this affidavit.
  13. That in reply to the averments contained in the Para No. 16, 17, 18 & 19 the answering respondent CPCB submits that Hon'ble NGT vide its order dated 22.05.2019 in appeal No. 44/2019 directed CPCB to consider the views of the units and to give opportunity of personal hearing to the unit. In compliance of above NGT order an opportunity of personal was given to the appellant unit on 01.10.2019. After hearing and considering the viewpoints of the unit representative it was resolved that EC amount levied may be



reviewed considering date of connectivity as verified by IT division of CPCB and in accordance with the CPCB policy on EC. The IT division further verified the date of establishment of initial uninterrupted data connectivity of OCEMS for all the specified parameters as 06.10.2017. Therefore, the revised EC amount was calculated Rs 18,90,000/- for the non-compliance period of 63 days only (i.e. from 11.11.2016 to 13.01.2017) and a fresh direction dated 17.12.2019 was issued to the unit under section 5 of Environment (Protection) Act, 1986. The copy of direction dated 17.12.2019 is annexed as **Annexure-IV**.

14. That in reply to the averments contained in the Paras 20 (a), (b) & (c) of Grounds, this Answering Respondent CPCB reiterated the same as above in Para 8 and 13 of this affidavit.
15. That in reply to the averments contained in the Paras 20 (d), (e), (f) & (g) of Grounds, this Answering Respondent reiterated the same as above in Para 9 and 10 of this affidavit.
16. That in reply to the averment contained in the Para 21, this Answering Respondent submits that the levying of EC was completely in accordance of law and as per formula approved by Hon'ble NGT.
17. That the averments contained in the Paras No. 22, 23 & 24 is about the appeal, required fees deposited by the appellant and various prayers of the appellant and need no comments from this Answering Respondent.

18. That in view of the above submissions, it is respectfully submitted that CPCB shall abide by any order or directions passed by this Hon'ble Court.



DEPONENT

VERIFICATION

It is verified that the content of this Affidavit is based on official record and information available in the office are true and correct. Nothing has been concealed therein.

Signed and verified on this 24th day of November, 2020 at Pune.



DEPONENT



Noted and Registered  
at Serial Number  
Date

1598

25.11.2020

भरत कुमार शर्मा/Bharat Kumar Sharma  
क्षेत्रीय निदेशक / Regional Director  
केंद्रीय प्रदूषण नियंत्रण बोर्ड  
Central Pollution Control Board  
क्षेत्रीय निदेशालय, पुणे/Regional Directorate, Pune  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार  
M/o Env't. Forest & Climate Change, Govt. of India  
हाउस नंबर-1, संजीवनी निसर्ग, बालेवाडी, पुणे-411045  
Office No.-1, Sanjivani Nisarg, Balewadi, Pune-411045

BEFORE ME  
  
P. J. YELWANDE  
NOTARY GOVT. OF INDIA  
PUNE.

25 NOV 2020



## Annexure-I

BY REGISTERED AD

No.B-400(S) PCI-III/2015-16/

S 17

March 22, 2016

To

M/s. Shree Sant Damaji SSK Ltd.,  
A/p – Mangalwedha, Tal. – Mangalwedha,  
Dist. Solapur, Maharashtra

Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 regarding installation of on-line effluent monitoring system– Closure Notice thereof

**WHEREAS**, the Sugar industries are identified as one of the 17 categories of highly polluting industries which have been discharging environmental pollutants directly or indirectly into the ambient air and water, having potential threat to cause adverse effect on the water and air quality; and

**WHEREAS**, a direction under section 18 (1) (b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 was issued on February 05, 2014 to all the State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs) for installation of online emission monitoring system and online effluent monitoring system w.r.t. pH, COD, BOD, TSS and Flow parameters in Sugar industries; and

**WHEREAS**, it was clarified that flow meter & web camera may be installed in case of Units with Zero liquid discharge (ZLD) by March 31, 2015 vide guidelines uploaded on website of CPCB dated November 7, 2014; and

**WHEREAS**, considering the requests/ representations received from industries/ industrial associations/ SPCBs / PCCs, an extension of time up to June 30, 2015 for installation of online monitoring systems was granted vide direction dated March 27, 2015 under section 18 (1) (b) of the Water (Prevention & Control of Pollution) Act, 1974; and

**WHEREAS**, a letter vide dated May 29, 2015 was issued by the Chairman CPCB to all the SPCBs/ PCCs informing that no further extension of time will be given after June 30, 2015 and withdrawal of consent to operate along with forfeiture of bank guarantee of non-complying units will be the only option; and

**WHEREAS**, concerned SPCB/ PCC have issued directions under section 33A of the Water (Prevention & Control of Pollution) Act, 1974 to install the online monitoring system by June 30, 2015 and to submit bank guarantee of 100% of the cost of online effluent monitoring system; and

WHEREAS, the Ministry of Environment & Forests, Government of India, vide Notifications No. S. O. 157 (E) of 27.02.1996 and S. O. 730 (E) dated 10.07.2002, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violations of the standards and rules notified under the Environment (Protection) Rules, 1986 and amendment thereof.

WHEREAS, in view of the above and in exercise of the powers delegated to the Chairman, Central Pollution Control Board under section 5 of the Environment (Protection) Act, 1986, notice was served to the Unit dated 24.07.2015 to **Show Cause why the Unit should not be closed down if the Unit has not complied fully with the direction issued w.r.t. Installation of online effluent monitoring system and further directions to comply with.**

WHEREAS, CPCB has further published the name of non-complying units, which had not responded to the Show Cause Notice issued on 30.07.2015, in national daily newspapers dated 15.12.2015 and given opportunity to file the reply within a week; and

WHEREAS, No reply has been filed by the said unit in response of same till date;

NOW, THEREFORE, in view of the above and in exercise of the powers delegated to the Chairman, Central Pollution Control Board under section 5 of the Environment (Protection) Act, 1986, **the unit is hereby directed not to undertake any manufacturing operations till installation and commissioning of online 24 x 7 monitoring system and data to SPCBs/PCCs and CPCB.**

The compliance of above directions shall be submitted to this office within 15 days of the receipt of the Closure notice.

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(ARUN KUMAR MEHTA)  
CHAIRMAN

9/10

*Ar*

केन्द्रीय प्रदूषण नियंत्रण बोर्ड

दिनांक.....

दिनांक.....

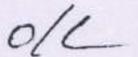
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Copy to:

- 1) **The Member Secretary** : (With a request to ensure compliance of the directions)  
Maharashtra Pollution Control Board,  
2nd, 3rd & 4th floor,,  
Opp. Cine planet,  
Near Sion Circle, Sion (E)  
**Mumbai- 400 022**
- 2) **The Advisor (CP Division)**  
Ministry of Environment, Forest & C.C  
Prithvi Block, Indira Paryavaran Bhawan,  
Jorbagh Road,  
**New Delhi – 110 003**
- 3) **The District Magistrate** : (To ensure closure of the unit as per direction)  
Collectorate Office, Dist. Solapur,  
**Maharashtra- 413001**
- 4) **The Superintendent Engineer** : (With the direction to disconnect power supply)  
Maharashtra State Electricity Distribution Co. Ltd.,  
Dist. Solapur,  
**Maharashtra- 413001**
- 5) **The Incharge,**  
Central Pollution Control Board  
Parivesh Bhawan  
Opp. VMC Ward Office No. 10,  
Subhanpura,  
**Vadodara – 390 023**
- 6) **The In-charge, NGRBA Cell, CPCB**
- 7) **The In-charge, IT Division, CPCB**
- 8) **The In-charge, PCI-III Division, CPCB**



(A B AKOLKAR)  
MEMBER SECRETARY



BY REGISTERED AD

No.B-782(S)/IPC-III/2017-18/ 14842

November, 30 2017

To,

M/s. Shree Sant Damaji SSK Ltd.,  
A/p -Mangalwedha, Tal. - Mangalwedha,  
Dist - Solapur  
Maharashtra-413305

**Sub: Closure Directions under Section 5 of the Environment (Protection) Act, 1986 regarding installation of on-line effluent monitoring system-Revoked thereof.**

**WHEREAS**, the Ministry of Environment & Forests, Government of India, vide Notifications No. S. O. 157 (E) of 27.02.1996 and S. O. 730 (E) dated 10.07.2002, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violations of the standards and rules notified under the Environment (Protection) Rules, 1986 and amendment thereof; and

**WHEREAS**, in view of the above and in exercise of the powers delegated to the Chairman, Central Pollution Control Board under section 5 of the Environment (Protection) Act, 1986, notice was served to the unit dated 24.07.2015 to **Show Cause why the unit should not be closed down if the unit has not complied fully with the directions issued w.r.t. installation of online effluent monitoring system and further directions to comply with; and**

**WHEREAS**, no reply as recorded was filed by the said unit in response of the same; and

**WHEREAS**, in view of the above and in exercise of the powers delegated to the Chairman, Central Pollution Control Board under section 5 of the Environment (Protection) Act, 1986, **the unit vide letter no. B-400(S)/2016-17/517/ dated 22.03.2016 was directed to close down their sugar mill and not to resume their manufacturing operation till installation and commissioning of online 24x7 monitoring system and networking of data with SPCB and CPCB, and to submit compliance to CPCB within 15 days on the receipt of the Closure Direction; and**

**WHEREAS**, the unit has responded to the above said Closure Direction vide its email letter dated 27-10-2017 and informed to have complied with the

directions regarding installation and commissioning of online continuous effluent monitoring system (OCEMS) and the same was verified by IT Division of CPCB; and

**However, it has been observed that the unit has closed its manufacturing operations on 19-01-2017, only after operating it during crushing season 2016-17, which is non-compliance of the closure direction issued by CPCB vide letter dated 22-03-2016 under Section 5 of the E(P) Act, 1986 and for which action as per law shall be initiated separately.**

**WHEREAS,** CPCB constituted a three-member committee vide office order dated 03.10.2017 having representative(s) from CPCB and MoEF&CC for examination and recommendation for revocation of Closure Direction issued by CPCB; and

**WHEREAS,** the committee in its meeting held on 24.11.2017 reviewed the compliance made by the unit & verified the submitted supporting documents in line with the agreed criteria and recommended that the unit may be allowed to resume its manufacturing operation with certain conditions; and

**NOW THEREFORE,** in view of the compliance made by the unit to the direction issued by CPCB and in exercise of powers vested under Section 5 of the Environment (Protection) Act, 1986, the unit **M/s. Shree Sant Damaji SSK Ltd., A/p - Mangalwedha, Tal.-Mangalwedha, Dist- Solapur, Maharashtra-413305** is allowed to resume its manufacturing operations subject to following condition:

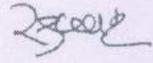
1. Before commencement of operations, industry shall obtain valid Consent to Operate under the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 and authorisation under Hazardous Waste & Management from Maharashtra State Pollution Control Board and industry shall not operate under any circumstances without valid consent.
2. It shall be ensured that the installed OCEMS devices are functioning properly & continuously and that data from that device are uninterruptedly transferred to CPCB. Any failure in his regard shall be rectified at the earliest.
3. Ensure periodic calibration of the analyzers as per Standard Operating Procedure/recommendations of the supplier and submit the calibration results.
4. Submission of treated effluent sample analysis result from EPA approved laboratory within one month of commencement of manufacturing operations and once per month during the entire crushing period.

In case of failure of the unit to comply with the above directions action as deemed appropriate will be taken with the provisions under Environment (Protection) Act, 1986.

(S.P. SINGH PARIHAR)  
CHAIRMAN

Copy to:

1. **The Member Secretary,**  
Maharashtra Pollution Control  
Board, certificate provided by industry). 2nd,  
3rd & 4th floor, Opp. Cine planet, Near Sion  
Circle, Sion (E), **Mumbai- 400 022** : **To ensure compliance of  
directions please**
2. **The Advisor (CP Division)**  
Ministry of Environment, Forest & C.C  
Prithvi Block, Indira Paryavaran Bhawan,  
**Jorbagh Road, New Delhi - 110 003** : **For information and necessary  
action please**
3. **The District Magistrate,**  
Collectorate, Distt-Solapur  
**Maharashtra - 413001** : **With direction to re-connect  
power supply**
4. **The Superintendent Engineer,**  
Maharashtra State Electricity Distribution,  
Distt-Solapur  
**Maharashtra - 413001** : **For information and  
necessary action please**
5. **The Regional Directorate, (West)**  
Central Pollution Control Board  
Parivesh Bhawan,  
Opp. VMC Ward Office No.10,  
Subhanpura, **Vadodara - 390 023** : **For information please**
6. The In-charge, IT Division, CPCB : **For uploading on CPCB website**

  
(A. SUDHAKAR)  
MEMBER SECRETARY

Annexure-III

Item No. 02

Court No. 1

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

Original Application No. 593/2017  
(arising from W.P. (Civil) No. 375/2012 on the file of the Hon'ble  
Supreme Court)

Paryavaran Suraksha Samiti &amp; Anr.

Applicant(s)

Versus

Union of India &amp; Ors.

Respondent(s)

Date of hearing: 28.08.2019

**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 Respondent (s): Mr. Shlok Chandra, Advocate for CPCB

**ORDER**

**Issue for consideration- Remedial action against water  
pollution in absence of ETPs/CETPs/STPs**

1. The issue for consideration is establishment and functioning of ETPs/CETPs/STPs to prevent untreated sewage/effluents being discharged in water bodies, including rivers and canals meeting such rivers or otherwise. The magnitude of the problem is well acknowledged. In the year 1962 GoI set up a Committee for prevention of water pollution. The recommendations led to enactment of the Water (Prevention and Control of Pollution) Act, 1974 ("Water Act") in pursuance of Article 252 of the Constitution. The Water Act provides for the constitution of a Central Board and

State Boards/Committees. No polluted matter can be discharged into a stream or well or on land, and no industry, operation or process can be established and no out-let for discharge of sewage used without consent of the State Board. The Water Act provides powers to give directions for closing any such activity as well as for prosecution. Power to give directions implicitly includes recovery of compensation on 'Polluter Pays' principle.

2. In spite of above statutory regime we are faced with serious problem of water pollution. The Hon'ble Supreme Court noted<sup>1</sup> that the water pollution caused serious diseases, including Cholera and Typhoid. Water pollution could not be ignored and adequate measures for prevention and control are necessary. Polluting industries were directed to be shifted on 'Precautionary' principle. It is not necessary to refer to all the judgments of the Hon'ble Supreme Court dealing with the significance of water and need to prevent pollution of water. We may only refer to the observations that everyone has right to have access to drinking water in quantum and equality equal to the basic needs. This is fundamental to life and part of Article 21.<sup>2</sup>
3. As per CPCB's report 2016<sup>3</sup>, it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently

<sup>1</sup> (1988) 1 SCC 471

<sup>2</sup> APPCB vs. Prof. M.V Nayudu (2001) 2 SCC 62 at para 3, 4, State of Orissa Vs. Government of India (2009) 5 SCC 492, at para 58 "Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting overpumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels."

<sup>3</sup> [http://www.sulabhenvi.nic.in/Database/STST\\_wastewater\\_2090.aspx](http://www.sulabhenvi.nic.in/Database/STST_wastewater_2090.aspx) July 16, updated on December 6, 2016

existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in the rural areas.

4. We may note that discharge of untreated effluents and sewage is the principal cause of water pollution in the country as noted in cases relating to pollution of rivers.<sup>4</sup> Similarly, in the case of 100 polluted industrial clusters being dealt with by this Tribunal<sup>5</sup>, water pollution is one of the factors polluting the said industrial clusters. As already noted, official data of CPCB is to the effect that 351 river stretches in the Country are polluted. The Tribunal held that remedial action for restoration of the said river stretches is necessary.<sup>6</sup> In the said order, it was observed:

*“As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters, encroachments of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not been achieved. Tough governance is the need of the hour. If pollution does not stop, the industry has to be stopped. If sewage dumping does not stop, local bodies have to be made accountable and their heads are to be prosecuted. Steps have to be taken for awareness and public involvement.”*

<sup>4</sup> O.A No. 673 of 2018 this Tribunal is considering remedial action to rejuvenate 351 polluted river stretches. Therein, other cases of river pollution are mentioned thus “This Tribunal also considered the issue of pollution of river Yamuna, in Manoj Mishra Vs. Union of India, river Ganga in M.C. Mehta Vs. Union of India, river Ramganga which is a tributary of river Ganga in Mahendra Pandey Vs. Union of India & Ors., rivers Sutlej and Beas in the case of Sobha Singh & Ors. Vs. State of Punjab & Ors., river Son in Nityanand Mishra Vs. State of M.P. & Ors., river Ghaggar in Stench Grips Mansa’s Sacred Ghaggar River (Suo-Moto Case)”, river Hindon in Doaba Paryavaran Samiti Vs. State of U.P. & Ors., river Kasardi in Arvind Pundalik Mhatre Vs. Ministry of Environment, Forest and Climate Change & Ors., River Ami, Tapti, Rohani and Ramgarh lake in Meera Shukla Vs. Municipal, Corporation, Gorakhpur & Ors., rivers Chenab and Tawi in the case of Amresh Singh Vs. Union of India & Ors. and Subarnarekha in Sudarsan Das Vs. State of West Bengal & Ors. and issued directions from time to time”

<sup>5</sup> O.A No. 1038/2018

<sup>6</sup> O. A No.673/2018, order dated 08.04.2019

5. All the States and UTs where polluted river stretches exist are required to constitute River Rejuvenation Committees to prepare actions plans for restoration (which are to be reviewed by the highest authority in the States, i.e Chief Secretary) to be monitored by CPCB and thereafter to be further monitored by this Tribunal. Accordingly, the action plans have been prepared which broadly envisage action to prevent discharge of untreated effluent/sewage. The same are being monitored by the CPCB and by this Tribunal and the matter is now listed for hearing on 29.11.2019. In O.A 606/2018 while dealing with the compliance of Solid Waste Management Rules, 2016, this Tribunal vide order dated 16.01.2019 directed personal appearance of all the Chief Secretaries with their monitoring reports on major environment issues including the rejuvenation of polluted river stretches. The Chief Secretaries of all States/UTs have accordingly appeared and furnished their reports which envisages steps for setting up of ETPs/CETPs/STPs to prevent water pollution. The Chief Secretaries have to appear before this Tribunal with further progress reports on the subjects.

6. Further, control of pollution of river Ganga is being monitored by this Tribunal in O. A No. 200/2014 after transfer from the Hon'ble Supreme Court. Therein timelines have been prescribed to the effect that STPs be set up in time bound manner and no a drop of pollution be discharged in the river. The Tribunal observed

*"Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing' which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to*

delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.

With regard to works under construction, after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply. Further with regard to the sectors where STP and sewerage network works have not yet started, the State has to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.”

#### **Background of the present case before this Tribunal**

7. The Hon'ble Supreme Court vide order dated 22.02.2017 in Paryavaran Suraksha Samiti Vs. Union of India<sup>7</sup> transferred the matter for monitoring by this Tribunal in the light of the directions of the Hon'ble Supreme Court requiring establishment and functioning of requisite ETPs/CETPs/STPs and in default to close industrial activities discharging effluents without treatment and to take action against local bodies for failing to install STPs and discharging sewage without treatment. Some of the observations in the judgment of the Hon'ble Supreme Court are:

“ 7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or

<sup>7</sup>(2017) 5 SCC 326

industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up "common effluent treatment plants", according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to "public health, sanitation conservancy and solid waste management", we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the "common effluent treatment plants", within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). **The norms for generating funds for setting up and/or operating the "common effluent treatment plant" shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the "common effluent treatment plants", which are presently dysfunctional, from their own financial resources.**
11. Just in the manner suggested hereinabove, for the purpose of setting up of "common effluent treatment plants", the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.**



12. *We are of the view that in the manner suggested above, the malady of sewer treatment, should also be dealt with simultaneously. We, therefore, hereby direct that "sewage treatment plants" shall also be set up and made functional, within the timelines and the format, expressed hereinabove.*

13. *We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional "primary effluent treatment plants", and the setting up of functional "common effluent treatment plants" within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. **The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default.** The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal.*

14. *To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. **The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.**"*

8. Accordingly, on 25.05.2017, notice was issued to the Central Pollution Control Board (CPCB), the State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs) and the Ministry of Environment, Forest and Climate Change (MoEF&CC). They filed their status reports showing gaps in waste generated and treatment capacity. It was further stated that action had been initiated to remedy the situation. After considering the status



report, the Tribunal, vide orders dated 04.07.2017, 18.09.2017 and 11.10.2017, sought information about the steps taken by the SPCBs/PCCs.

9. Vide order dated 03.08.2018, the matter was reviewed and after noting that in absence of functional ETPs/CETPs/STPs, untreated effluents were being discharged in water bodies leading to contamination of surface and ground water which causes various diseases and also has adverse consequence on aquatic organism due to decreased level of oxygen. The Tribunal directed the CPCB to prepare an action plan. Direction was also given for monitoring by a Committee of two officers – one each representing MoEF&CC and CPCB at least once in every month. CPCB was required to place the progress report every three months on the website and take penal action for failure by way of recovery of compensation for damage to the environment, apart from other steps.
10. Vide order dated 19.02.2019, after considering the status report furnished by the CPCB, based on the reports furnished by the States/UTs, this Tribunal after referring to orders passed in O.A NO. 673/2018 for remedial action in respect of 351 polluted river stretches, which had direct nexus with the steps for ETPs/CETPs/STPs and order passed in O.A No. 606/2018 requiring Chief Secretaries to monitor progress *inter alia* on the subject of control of pollution on the river stretches, directed that the Chief Secretaries may look into the subject of setting up and proper functioning of ETPs/CETPs/STPs in their respective States/UTs. Further direction issued was to prepare a report on



assessment of compensation on account of discharge of untreated sewage and dumping of solid waste, loss to ecological services due to illegal mining, deforestation, after taking inputs from expert bodies. The Tribunal also directed the CPCB to compile its monitoring report with regard to 97 CETPs (assuming the total number of CETPs in the country to be 97) installed in different States. CPCB was also directed to furnish its report in O.A. No. 95/2018, *Aryavart Foundation Vs. M/s Vapi Green Enviro Ltd. & Ors.* which concerned the issue of inadequate functioning CETP leading to water pollution.

#### **Reports filed by the CPCB**

11. Accordingly, two reports filed by CPCB, have been put up for consideration today :-
  - (i) Report dated 30.05.2019, updated on 19.07.2019, giving status of setting up of ETPs/CETPs/STPs and methodology for assessing environment compensation for discharge of pollutants in water bodies.
  - (ii) Report dated 14.08.2019 with regard to monitoring of CETPs.
12. We proceed to consider the above reports.

#### **I. Report dated 30.05.2019 updated on 19.07.2019**

13. According to updated report dated 19.07.2019, out of 62,897 number of industries requiring ETPs, 60,944 industries are operating with functional ETPs and 1949 industries are operating without ETPs. 59,258 industries are complying with environmental standards and 1,524 industries are noncomplying. There are total 192 CETPs, out of which 133 CETPs are complying with



environmental standards and 59 CETPs are non-complying. There are total 13,709 STPs (Municipal and other than municipal), out of which, 13,113 STPs are complying with environmental standards and 637 STPs are non-complying. 73 CETPs in construction/proposal stage, whereas, for STPs, 1164 projects (municipal and non-municipal) are under construction/proposal stage.

14. A report has also been prepared on the scale of environmental compensation to be recovered from individual/authorities for causing pollution or failure for preventing causing pollution, apart from illegal extraction of ground water, failure to implement Solid waste Management Rules, damage to environment by mining and steps taken to explore preparation of an annual environmental plan for the country. Extracts from the report which are considered significant for this order are:

**"I. Environment Compensation to be levied on Industrial Units**

**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, band c, Environmental Compensation may be calculated based on the formula " $EC = PI \times N \times Rx \times S \times LF$ ", 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. Sand 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.

## II. Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in NCR.

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

## 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:

**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)	Min. 2000	Min. 1000	Min. 100

<b>recommended by the Committee (Lacs Rs.)</b>	Max. 20000	Max. 10000	Max. 1000
<b>Minimum and Maximum values of EC (O&amp;M Cost Component) recommended by the Committee (Lacs Rs./day)</b>	Min. 2	Min. 1	Min. 0.5
	Max. 20	Max. 10	Max. 5

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

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

### **3.3 Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority:**

BIS 15-1172:1993 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:

$$EC = \text{Capital Cost Factor} \times [\text{Marginal Average Capital Cost for Treatment Facility} \times (\text{Total$$

**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.S{Total Sewage Generation - Installed Treatment Capacity)+ 55.S{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 (MID)	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:**

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) (assumed as 25% of waste generation for sample calculation)	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

#### Compensation in Case of Illegal Extraction of Ground Water

#### 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 ( $EC_{Gw}$ ):

$$EC_{Gw} = \text{Water Consumption per Day} \times \text{No. of Days} \times \text{Environmental Compensation Rate for illegal extraction of ground water (ECR}_{Gw})$$

Where water Consumption is in  $m^3/\text{day}$  and  $ECR_{Gw}$  in  $\text{Rs.}/m^3$

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 &
		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

SI. No	Area Category	Water Consumption ( $m^3/day$ )			
		<200	200 to <1000	1000 to <5000	5000 &
		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:

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

#### 4.8 Recommendations

The committee has given following recommendations:

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

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 <sub>GW</sub> as per prescribed method	District Collector,
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."

#### **Discussion on the report dated 30.05.2019 updated on 19.07.2019**

15. It is clear from the order of the Hon'ble Supreme Court<sup>8</sup> that the responsibility of operating STPs under Article 243W and item 6 of Schedule XII to the Constitution is of local bodies who have to evolve norms to recover funds for the purpose which is to be supervised by the States/UTs. The norms were to be finalized upto 31.03.2017 to be implemented from the next year, i.e 01.04.2018. In absence thereof, the States/UTs have to cater to the financial requirement from its own resources. The States/UTs are to prioritize the cities, towns, villages discharging effluents/sewage directly into the water bodies. Industrial activity without proper treatment plants (ETPs and CETPs) is not to be allowed by the State PCBs and the Secretaries, Environment of the States/UTs are

<sup>8</sup> Para 10-13 in *Paryavaran Suraksha Samiti Vs. Union of India, Supra*

to be answerable. Thus, the source for financial resources for the STPs, stands finalized under the binding judgment of the Hon'ble Supreme Court. Authorities and persons accountable are identified. Rigid implementation has been laid down. This Tribunal has been required to monitor compliance of the directions and timelines.

16. It is in this background that the present report needs to be appraised and further directions given. As regards the Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water is accepted as an interim measure. With regard to setting up of STPs, while we appreciate the extensive work of the CPCB based on information furnished by States/UTs, the challenge remains about verification of the said data on the one hand and analysis of the steps taken and required on the other. There is already a database available with the CPCB with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites. This needs to be collated and river basinwise macro picture needs to be prepared by the CPCB in terms of need for interventions, existing infrastructure and gaps therein. The States have given timelines which need to be effectively monitored both by the CPCB and the Chief Secretaries in terms of its execution.
17. As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is



discharged in water bodies. Doing so is a criminal offence under the Water Act and is harmful to the environment and public health. 'Precautionary' principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on 'Polluter Pays' principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs, the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018.

## **II. Report dated 14.08.2019 with regard to monitoring of CETPs**

18. The Committee inspected 127 CETPs in 14 States. Figure of CETP assumed to be 97 was not correct. 66 CETPs were found to be non-compliant. CPCB directed SPCBs to take following steps:

- “1. SPCBs shall direct non-complying CETPs to take immediate corrective actions to comply with the environmental standards.
2. CETP should be directed to take action as per the recommendations provided at Annexure A-N within a time frame.
3. In case of non-complying CETPs, action as deemed fit including levying of environmental compensation may be taken.
4. In case, OCEMS are not connected with CPCB & SPCB servers, ensure a robust system of physical inspections to verify compliance by drawing samples.”

#### **Discussion on the report dated 14.08.2019**

19. We accept the recommendation of the CPCB and direct the Chief Secretaries, State Governments, Union Territories and the SPCBs/PCCs to take further action accordingly and furnish an action taken report accordingly. The CPCB to meanwhile compile and collate information with regard to ETPs, CETPs, STPs, MSW Facilities, Legacy Waste dump sites and complete the pending task on the subject before the next date and furnish a report.
20. The environmental compensation regime for CETP not meeting the prescribed norms need to be evolved by the CPCB.

#### **Directions**

21. We may now sum up our directions:
- (i) The Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water in the report dated 30.05.2019 is accepted and the same may be acted upon as an interim measure.

- 
- (ii) SPCBs/PCCs may ensure remedial action against non-compliant CETPs or individual industries in terms of not having ETPs/fully compliant ETPs or operating without consent or in violation of consent conditions. This may be overseen by the CPCB. CPCB may continue to compile information on this subject and furnish quarterly reports to this Tribunal which may also be uploaded on its website.
- (iii) All the Local Bodies and or the concerned departments of the State Government have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.
- (iv) The CPCB needs to collate the available data base with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites and prepare a river basinwise macro picture in terms of gaps and needed interventions.
- (v) The Chief Secretaries of all the States/UTs may furnish their respective compliance reports on this subject also in O.A. No. 606/2018.

List for further consideration on 21.05.2020, unless required earlier. A copy of this order be placed on the file of O.A. No. 606/2018 relating to all States/UTs and be sent to Chief Secretaries of all States/UTs, Secretary MoEF&CC, Secretary Jal Shakti and Secretary, MoHUA.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 28, 2019  
Original Application No. 593/2017  
(W.P.(Civil) No. 375/2012)  
DV



Annexure-IV

BY REGISTERED AD

No.B-782(S)/IPC-III/2019-20/10205

December 17, 2019

To

M/s. Shree Sant Damaji SSK Ltd.,  
A/p -Mangalwedha, Tal. - Mangalwedha, Dist - Solapur  
Maharashtra-413305

**Sub: Directions under Section 5 of the Environment (Protection) Act, 1986**

**WHEREAS**, Sugar industries are identified as one of the 17 categories of highly polluting industries which have been discharging environmental pollutants directly or indirectly into the ambient air and water, having potential threat to cause adverse effect on the water and air quality; and

**WHEREAS**, for strengthening the monitoring and compliance through self-regulatory mechanism, a direction under section 18 (1) (b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 was issued on February 05, 2014 to all the State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs) for installation of online emission monitoring system w.r.t. Particulate Matter parameter & online effluent monitoring system w.r.t. pH, BOD, COD, TSS, Flow parameters in 17 categories of industries including Sugar; and

**WHEREAS**, considering the requests/ representations received from industries/ industrial associations/ SPCBs / PCCs, an extension of time up to June 30, 2015 for installation of online monitoring systems was granted vide direction dated March 02, 2015 under section 18 (1) (b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981; and

**WHEREAS**, in follow up to the directions issued to the SPCBs/PCCs, CPCB had issued show cause notices under section 5 of the Environment (Protection) Act, 1986 dated 24.07.2015 to 602 Sugar industries, including M/s. Shree Sant Damaji SSK Ltd., A/p -Mangalwedha, Tal. - Mangalwedha, Dist - Solapur, Maharashtra 413305 hereinafter referred to as 'the unit', as to why the Unit should not be closed down if the Unit has not complied fully with the direction issued w.r.t. installation of online emission & effluent monitoring system by June 30, 2015. It was further directed to submit documentary evidence regarding status of installation and connectivity of online emission & effluent monitoring system in the format given in annexure; and

**Dir. u/s 5 of E (P) Act, 1986 to M/s. Shree Sant Damaji SSK Ltd, Maharashtra**

**WHEREAS**, no reply as recorded was filed by the said unit in response of the same; and

**WHEREAS**, in view of the above and in exercise of the powers delegated to the Chairman, Central Pollution Control Board under section 5 of the Environment (Protection) Act, 1986, the unit vide letter no. B-400(S)/PCI-III/2015-16/517/ dated 22.03.2016 was directed to close down their sugar mill and not to resume their manufacturing operation till installation and commissioning of online 24x7 monitoring system and networking of data with SPCB and CPCB, and to submit compliance to CPCB within 15 days on the receipt of the Closure Direction; and

**WHEREAS**, the unit has responded to the above said Closure Direction vide its letter dated 27.10.2017 and informed to have stopped all manufacturing operations on 19.01.2017 & complied with the CPCB's directions regarding installation and commissioning of online continuous effluent monitoring system (OCEMS) and asked for revocation of closure directions issued under Section 5 of E(P)A, 1986 dated 22.03.2016; and

**WHEREAS**, it has been observed that the unit has deliberately failed to respond the CPCBs closure directions and resumed operations during crushing season 2016-17 and 2017-18 without seeking permission from CPCB which is non-compliance of the closure direction issued by CPCB dated 22-03-2016 under Section 5 of the E(P) Act, 1986; and

**WHEREAS**, based on the compliance made by the unit (M/s. Shree Sant Damaji SSK Ltd) and verification by IT Division of CPCB, it was allowed to resume its manufacturing operations vide CPCB revoking directions u/s 5 of E(P)A, 1986 dated 30.11.2017. However, a separate clause was inserted in the revoke direction that action as per law shall be initiated separately.

**WHEREAS**, it has been noticed that even after CPCB's closure directions the unit has operated for total 86 days during crushing season 2016-17 (64 days) and 2017-18 (22 days) without obtaining revocation orders from CPCB.

**WHEREAS**, *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."*



**WHEREAS**, in compliance of above quoted Hon'ble NGT order, a Committee was constituted by CPCB. As per the Committee recommendations one of the cases to be considered for levying environmental compensation is 'not complying with the directions issue, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.'

**WHEREAS**, as per formula derived for levying environmental compensation by CPCB, the total environmental compensation amount was calculated Rs. 25, 80,000/- (Rupees Twenty Five Lakhs & Eighty Thousand only) for the non-compliance period of 86 days during 11.11.2016 to 13.01.2017 & 09.11.2017 to 30.11.2017 and same shall be deposited by the unit to CPCB.

**WHEREAS**, a direction under Section 5 of the Environment (Protection) Act, 1986, was issued to the unit vide letter no. B-782(S)/IPC-III/2018-19/18233 dated March 18, 2019 directing it to deposit EC of Rs. 25, 80,000/- (Rupees Twenty Five Lakhs & Eighty Thousand only) to CPCB.

**WHEREAS**, the unit appealed against the CPCB direction dated March 18, 2019 for submission of EC in Hon'ble NGT vide appeal no. 44/2019. *In this matter, Hon'ble NGT vide order dated 22.05.2019 directed CPCB to consider the views of the unit and to give opportunity of personal hearing to the unit.*

**WHEREAS**, as per the directives of Hon'ble NGT vide order dated 22.05.2019 an opportunity of personal hearing was accorded to the unit on October 01, 2019. After hearing and considering the viewpoints of the unit representative, it was resolved that EC amount levied may be reviewed considering date of connectivity as verified by IT, and in accordance with the CPCB policy on EC.

**WHEREAS**, as per the CPCB policy dated 04.09.2019 for levying EC for industries 'EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets/stacks, as verified by the IT division.' The IT division verified the date of establishment of initial uninterrupted data connectivity of OCEMS for all the specified parameters as 06.10.2017.

**WHEREAS**, as per formula derived for environmental compensation by CPCB, the revised EC amount was calculated Rs.18,90,000/- (Rupees Eighteen Lakhs and Ninty thousand only) for the non-compliance period of 63 days during 11.11.2016 to 13.01.2017.

**NOW THEREFORE**, in exercise of powers vested to Chairman CPCB under Section 5 of the Environment (Protection) Act, 1986, the unit **M/s. Shree Sant Damaji SSK Ltd., A/p - Mangalwedha, Tal. - Mangalwedha, Dist - Solapur, Maharashtra-**

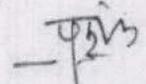
**413305** is directed to deposit Environmental Compensation of Rs.18,90,000/- (Rupees Eighteen Lakhs and Ninty thousand only) in CPCB account No. 532702050000164 (Bank name: Union Bank of India, I.P. Extn Branch, Vikas Marg Extn., Delhi; IFSC UBIN0553271).

In case of failure of the unit to comply with the above directions action as deemed appropriate will be taken with the provisions under Environment (Protection) Act, 1986 without further notice.

(S.P.SINGH PARIHAR)  
CHAIRMAN

Copy to:

1. **The Member Secretary,** : For information please  
Maharashtra Pollution Control Board, 2nd, 3rd & 4th floor,  
Opp. Cine planet, Near Sion Circle, Sion (E)  
Mumbai- 400 022
2. **The Regional Directorate, (West)** : For information please  
Central Pollution Control Board  
Parivesh Bhawan,  
Opp. VMC Ward Office No.10,  
Subhanpura, Vadodara - 390 023
3. **The In-charge, IT Division, CPCB** : For uploading on CPCB website

  
(PRASHANT GARGAVA)  
MEMBER SECRETARY