

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, PUNE
APPEAL NO. 40/2020 (WZ)**

In the matter of:-

Bhairavnath Sugar Works Ltd.

Appellant

Versus

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

Respondent

Index

S. No.	PARTICULARS	PAGE NO.
1.	Counter Affidavit on behalf of the Central Pollution Control Board, Respondent No.1 and 3 in the above matter	01-07
2.	Annexure-I: The copy of direction dated 24.07.2015	08-10
3.	Annexure-II: The copy of closure direction dated 22.08.2016	11-13
4.	Annexure-III: The copy of revocation direction dated 07.09.2017	14-16
5.	Annexure-IV: The copy of CPCB direction dated 05.12.2019	17-19
6.	Annexure-V: The copy of CPCB direction dated 18.12.2019	20-23



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

Date :24.11.2020

Place : Pune

भारत 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
प्लॉट नंबर-1, संजीवनी निसर्ग, बालेवाडी, पुणे-411045

BEFORE THE NATIONAL GREEN TRIBUNAL

**WESTERN ZONE, PUNE
APPEAL NO. 40/2020 (WZ)**



In the matter of:-

Bhairavnath Sugar Works 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 the 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 Para 3 is about direction (Show Cause Notice) dated 24.07.2015 issued under section 5 of Environment (Protection) Act, 1986 by this answering respondent CPCB to the appellant for non-installation of Online Continuous Effluent Monitoring Systems (hereinafter referred to as OCEMS) and need no comments from this Answering Respondent. The copy of direction dated 24.07.2015 is annexed as **Annexure-I.**
5. That averments contained in Para 4 is about the purchase order of OCEMS placed by the appellant and need no comments from this Answering Respondent.
6. That in reply to the averment contained in Para 5, 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 22.08.2016 to the unit under section 5 of Environment (Protection) Act, 1986. The copy of closure direction dated 22.08.2016 is annexed as **Annexure-II.**



7. That the averment contained in Para 6 need no comments from this Answering Respondent.
8. That in reply to the averments contained in Paras 7, 8 & 9, this Answering Respondent submits that it was clearly mentioned in the closure direction dated 22.08.2016 that installation and commissioning of online 24 x 7 monitoring system and data transfer to State Pollution Control Board (hereinafter referred to as SPCB) and CPCB servers is compulsory. However, the acknowledgement receipt dated 26.11.2016 referred by the unit is showing installation and connection of OCEMS to CPCB servers and it does not ensure 24 x 7 data transfer to CPCB servers. The establishment of continuous uninterrupted data connectivity of OCEMS for all the specified parameters from the appellant unit was received at CPCB servers on 05.12.2016 as verified by the IT division of CPCB. Hence the EC for the period of manufacturing operations before the connectivity of OCEMS with CPCB servers (i.e. from 07.11.2016 to 05.12.2016) is justified.
9. That in reply to the averments contained in the Para No. 10, this Answering Respondent submits that, upon reported compliance and submission of required documents including self-certificate, online registration details, online connectivity details, valid Consent copy vide letter dated 09.08.2017 and subsequent verification by the IT division, CPCB revocation direction was issued to the unit on 07.09.2017. That CPCB informed the applicant through revocation direction under Section 5 of Environment (Protection) Act, 1986 dated 07.09.2017 that a separate action shall be initiated as per law for non-compliance of the CPCBs closure direction dated 22.08.2016 (Refer to Annexure II) by the industry wherein they continued the



manufacturing operation without seeking revoking of closure directions issued to it. The copy of revocation direction dated 07.09.2017 is annexed as **Annexure-III**.

10. That in reply to the averment contained in Paras 11, 12, 13, 14, 15 & 16, this Answering Respondent submits that the unit should have applied for revocation of closure directions before start of crushing season and not after the end of crushing season. However, after the receipt of revocation request from the unit vide its letter dated 09.08.2017 and required verification of OCEMS connectivity by the IT division of CPCB, the respondent issued the revocation direction vide its letter dated 07.09.2017 to the appellant unit. That CPCB in its direction dated 05.12.2019 to the appellant regarding levying of EC mentioned that in compliance of the Hon'ble National Green Tribunal (hereinafter referred to as 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., a Committee was constituted by CPCB for preparing report on methodology for assessing penalty & EC. 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.' The copy of CPCB direction dated 05.12.2019 is annexed as **Annexure-IV**.

This report of the Committee was submitted before the Hon'ble NGT and the report of the Committee on 'Methodology for assessing penalty & EC and action plan to utilize the fund' was accepted by Hon'ble NGT vide its order dated 28.08.2019. EC amount was calculated based on guidelines & formula mentioned in the said report.

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 hearing was given to the appellant unit on 18.09.2019. 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 05.12.2016. Therefore, the revised EC amount was calculated Rs 8,70,000/- for the non-compliance period of 29 days only (i.e. from 07.11.2016 to 05.12.2016) and a fresh direction dated 18.12.2019 was issued to the unit under section 5 of Environment (Protection) Act, 1986. The copy of CPCB direction dated 18.12.2019 is annexed as **Annexure-V**.

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11. That in reply to the averment contained in Paras 17 (a) & (b) of Grounds, this Answering Respondent submits that the EC was levied only for the non-compliance period of 29 days and is already justified above in Para 10 of this affidavit.
 12. That in reply to the averment contained in Para 17 (c) of Grounds, this Answering Respondent reiterated the same as above in Para 8 of this affidavit.

13. That in reply to the averment contained in Para 17 (d) of Grounds, this Answering Respondent reiterated the same as above in Para 10 of this affidavit.
14. That in reply to the averment contained in Para17 (e) of Grounds, this Answering Respondent CPCB reiterated the same as above in Para 8 of this affidavit.
15. That in reply to the averment contained in Para 17 (f) of Grounds, this Answering Respondent reiterated the same as above in Para 10 of this affidavit.
16. That in reply to the averment contained in Paras17 (g) & (h) of Grounds, this Answering Respondentreiterated the same as in above Paras.
17. That averment contained in Para 18 need no comments from this Answering Respondent.
18. That averment contained in Paras 19, 20 & 21 is about appeal, required Fess of the Tribunal and various prayers of the appellant and need no comments from this Answering Respondent.
19. 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

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



BEFORE ME

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

Noted and Registered
at Serial Number
Date

1599

25.11.2020

25 NOV 2020



BY REGISTERED AD

B-400(S)/PCI-III/2015-16/

July 24, 2015

To

M/s. Bhairavnath Sugar Works,
Vihal, Tal; Karmala, Dist: Solapur.
Maharashtra-413203

Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 regarding installation of on-line effluent and emission monitoring system- 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, there is need to inculcate habit of self-monitoring within the industries for complying with the prescribed standards and this can be achieved by the methods like installing online effluent and emission monitoring devices; and

WHEREAS, for strengthening the monitoring and compliance through self regulatory mechanism, online source emission and effluent monitoring systems need to be installed and operated by the industries on 'polluter pays principle' ;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 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, 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

केन्द्रीय प्रदूषण नियंत्रण बोर्ड

निर्गत.....

दिनांक.....

26/07/15

WHEREAS, concerned SPCB/ PCC have issued directions under section 33A of the Water (Prevention & Control of Pollution) Act, 1974 and section 31A of the Air (Prevention & Control of Pollution) Act, 1981 to install the online monitoring system by June 30, 2015 and to submit bank guarantee of 100% of the cost of online emission & effluent monitoring system; and

WHEREAS, Hon'ble Supreme court of India has expressed concern regarding non implementation of direction of statutory bodies on various matters; and

WHEREAS, Hon'ble National Green Tribunal in its order dated 15th December, 2014 in the matter of Krishan Kant Singh Vs. M/s. Hindustan Cocacola Beverages Pvt. Ltd., Mehdiganj, Rajatalab, Varanasi stated that "it seems appropriate introduction of online monitoring system for the industries needs to be explored and if it is possible to provide for joint online monitoring system"; and

WHEREAS, CPCB has explored installation of Online Monitoring device in the other countries and has come to conclusion that the online monitoring devices are essential for improving compliance as the conventional monitoring systems not able to capture violations on regular basis; and

WHEREAS, CPCB has held stakeholder consultations with industrial associations and SPCBs/PCCs on 06.08.2014, 19.09.2014, 29.09.2014, 08.10.2014, 16.10.2014, 09.01.2015, 08.04.2015 and 16.06.2015 regarding time bound implementation of installation of these devices; and

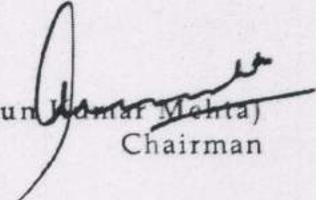
WHEREAS, the Ministry of Environment & Forests, Government of India, vide Notifications No. S. O. 157 (E) of 27.02.1996 and S. O. 730 (E) dated 10.07.2002, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control 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.

NOW, THEREFORE, based on all material facts available with CPCB, in exercise of powers vested under Section 5 of the Environment (Protection) Act, 1986, notice is hereby served to the Unit to **show cause why the Unit should not be closed down/not to be allowed to restart crushing of cane**, 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 and hereby further directed to comply with the following directions:

1. The Unit shall submit documentary evidence regarding status of installation of online emission & effluent monitoring system.
2. The Unit shall submit the status on connectivity for submission of online 24x7 monitoring data to SPCBs/PCCs and CPCB.
3. The Unit shall submit the details as per Annexure-I through
 - (a) E-mail id - cems.cpcb@nic.in
 - (b) Uploading the data on the link provided on CPCB Website (www.cpcb.nic.in) and
 - (c) By speed post

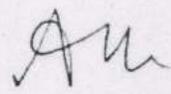
to the Member Secretary, Central Pollution Control Board.

The compliance of above directions shall be submitted to this office within 15 days of the receipt of the directions. In case of failure to comply with the said directions necessary action as deemed fit under the provision of the Environment (Protection) Act 1986 will be taken by CPCB.


 (Arun Kumar Mehta)
 Chairman

Copy to:

- 1 Member Secretary
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, Forests and Climate Change
Prithvi Wing, 2nd Floor, Room No. 216,
Indira Paryavaran Bhawan
Aliganj, Jor Bagh Road, New Delhi-110003
- 3 The Incharge, West Zonal Office,
Central Pollution Control Board
Parivesh Bhawan, Opp. VMC Ward Office No. 10,
Subhanpura, Vadodara - 390 023
- 4 Incharge-IT, CPCB


 (A. B. Akolkar)
 Member Secretary



Annexure-II

BY REGISTERED AD

No.B-400(S) PCI-III/2016-17/

August ²² 8, 2016

To

M/s Bhairavnath Sugar Works Ltd.,
 Ap-Vihal Tal-Karmala Dist-Solapur,
 Jinti-Karmala Road, SH67,
 Maharashtra 413203

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, despite several reminders and telephonic discussions the unit has failed to comply with the direction issued vide Show Cause Notice dated 30.07.2015;

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 resume its 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.

(S.P. SINGH PARIHAR)
CHAIRMAN

केंद्रीय प्रदूषण नियंत्रण बोर्ड

निर्देश...

दिनांक...

NR
9/9/15

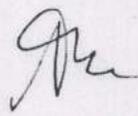
8/9/15

d



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,
 Solapur: - 413512
- 4) **The Superintendent Engineer** : (With the direction to disconnect
 power supply, except residential,
 street light & Security system)
 Maharashtra State Electricity
 Distribution, O & M circle, Juni
 Mill compound, market yard,
Solapur-413005, Maharashtra
- 5) **The Incharge, West Zonal Office,**
 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

9/11



BY REGISTERED AD

No.B-791(S)/IPC-III/2017-18/50870

September 07, 2017,

To

M/s Bhairavnath Sugar Works Ltd.,
A/P Vithal, Jaywant Nagar, Tal; Karmala,
Distt:- Solapur, Maharashtra -413203

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)/2016-17/4273/ dated 22.08.2016 was directed 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 Notice; and.**

WHEREAS, the unit has responded to the above said Closure Notice vide its Letter dated 09-08-2017 stating that they have complied with the directions regarding installation and commissioning of online continuous effluent monitoring system (OCEMS). The unit has provided URL & password to access the data submitted from OCEMS, and requested to revoke the closure notice; and that IT division of CPCB has confirmed the installation and connectivity of OCEMS with CPCB server.

However, it has been observed that the unit has closed its manufacturing operations on 24-12-2017, only after operating it during crushing season 2016-17; which is non-compliance of the closure direction issued by CPCB vide letter dated 22-08-2016 under Section 5 of the E(P) Act, 1986 and for which action as per law shall be initiated separately.

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 **Bhairavnath Sugar Works Ltd., A/P Vithal, Jaywant Nagar, Tal; Karmala, Distt:- Solapur, Maharashtra** is allowed to resume its manufacturing operations subject to following condition.

1. Before commencement of operations, industry shall obtain valid Consent to Operate under Water & Air Act(s) from Maharashtra State Pollution Control Board and industry shall not operate under any circumstances without a valid consent.

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.

Pr.

(S.P. SINGH PARIHAR)
CHAIRMAN

Copy to:

1. **The Member Secretary**
Maharashtra Pollution Control Board,
2nd, 3rd & 4th floor, Opp. Cine planet,
Near Sion Circle, Sion (E)
Mumbai- 400 022.

:With a request to ensure compliance and verify the self-certificate provided by industry).

2. **The District Magistrate**
Collectorate, Distt - Solapur,
Maharashtra - 413512

:for information please

3. **The Superintendent Engineer** :With the direction to re-
Maharashtra State Electricity Distribution Cor. Ltd., connect power supply
Circle office, Juni Mill Compound, market yard,
Solapur -413005, Maharashtra
4. **Regional Directorate, (West)**
Central Pollution Control Board
PariveshBhawan Opp. VMC Ward Office No. 10,
Subhanpura, **Vadodara - 390 023**
4. **The Advisor (CP Division)** :For information please
Ministry of Environment, Forest & C.C
Prithvi Block, Indira ParyavaranBhawan,
Jorbagh Road, New Delhi - 110 003
5. ✓ The In-charge, IT Division, CPCB

28/08/17

(A. SUDHAKAR)
MEMBER SECRETARY

Pr

Annexure-IV

BY REGISTERED AD

No. B-875(S)/IPC-III/2018-19/ 18289

February 05, 2019

To

M/s Bhairavnath Sugar Works,
A/p Vithal, Jaywant Nagra, Tal: Karmala,
Dist. Solapur,
Maharashtra-413203

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 Bhairavnath Sugar Works, Maharashtra-413203 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

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)/2015-16/551/ dated 22.08.2016 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 09.08.2017 and informed to have stopped all manufacturing operations on 24.12.2016 & 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 22.08.2016; 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 without seeking permission from CPCB which is non-compliance of the closure direction issued by CPCB dated 22-08-2016 under Section 5 of the E(P) Act, 1986; and

WHEREAS, based on the compliance made by the unit (M/s Bhairavnath Sugar Works) 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 07.09.2017. 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 48 days during crushing season 2016-17 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 issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.'

e/

Dir. u/s 5 of E (P) Act, 1986 to M/s Shri Bhairavnath Sugar Works, Maharashtra

WHEREAS, as per formula derived for levying Environmental Compensation by CPCB, the total environmental compensation amount was calculated Rs. 14,40,000/- (Rupees Fourteen Lakhs & Forty Thousand Only) for the non-compliance period (07.11.2016 to 24.12.2016) and same shall be deposited by the unit within 15 days from receipt of direction.

NOW THEREFORE, in exercise of powers vested to Chairman CPCB under Section 5 of the Environment (Protection) Act, 1986, the unit M/s Bhairavnath Sugar Works, A/p Vithal, Jaywant Nagra, Tal: Karmala, Dist. Solapur, Maharashtra-413203 is directed to deposit Environmental Compensation of Rs.14,40,000/- (Rupees Fourteen Lakhs & Forty Thousand Only) immediately 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 for information to:

1. **The Member Secretary,**
Maharashtra Pollution Control Board, 2nd, 3rd & 4th
floor, Opp. Cine planet, Near Sion Circle, Sion (E)
Mumbai- 400 022
2. **The Regional Directorate, (West)**
Central Pollution Control Board
PariveshBhawan,
Opp. VMC Ward Office No.10,
Subhanpura, Vadodara - 390 023
3. **The District Magistrate,**
Collectorate Office, Dist-Ahmednagar,
Maharashtra-414001
4. **The In-Charge (CP Division),**
MoEF&CC, Prithvi Block,
Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi- 110003
5. **The In-charge, IT Division, CPCB**

: For uploading on CPCB website

(PRASHANT GARGAVA)
MEMBER SECRETARY

BY REGISTERED AD

No.B-875(S)/IPC-III/2019-20/ 10207

December 18, 2019

To

M/s Bhairavnath Sugar Works,
A/p Vithal, Jaywant Nagra, Tal: Karmala,
Dist. Solapur,
Maharashtra-413203

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 Bhairavnath Sugar Works, Maharashtra-413203 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 Shri Bhairavnath Sugar Works,
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)/2015-16/551/ dated 22.08.2016 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 09.08.2017 and informed to have stopped all manufacturing operations on 24.12.2016 & 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 22.08.2016; 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 without seeking permission from CPCB which is non-compliance of the closure direction issued by CPCB dated 22-08-2016 under Section 5 of the E(P) Act, 1986; and

WHEREAS, based on the compliance made by the unit (M/s Bhairavnath Sugar Works) 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 07.09.2017. 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 48 days during crushing season 2016-17 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*

Dir. u/s 5 of E (P) Act, 1986 to M/s Shri Bhairavnath Sugar Works, Maharashtra

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 penalty is 'not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.'

WHEREAS, as per formula derived for Environmental Compensation (EC) by CPCB, the total environmental compensation charges was calculated Rs. 14,40,000/- (Rupees Fourteen Lakhs & Forty Thousand Only) and same shall be deposited by the unit to CPCB immediately for the non-compliance period of 48 days during 07.11.2016 to 24.12.2016.

WHEREAS, a direction under Section 5 of the Environment (Protection) Act, 1986, was issued to the unit vide letter no. B-875(S)/IPC-III/2018-19/16269 dated February 05, 2019 directing it to deposit EC of Rs.14,40,000/- (Rupees Fourteen Lakhs & Forty Thousand Only) to CPCB.

WHEREAS, the unit appealed against the CPCB direction dated February 05, 2019 for submission of EC in Hon'ble NGT vide appeal no. 27/2019. *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 September 18, 2019. After 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 06.12.2016.

WHEREAS, as per formula derived for environmental compensation by CPCB, the revised EC amount was calculated Rs.08, 70,000 /-(Rupees Eight Lakhs and Seventy thousand only) for the non-compliance period of 29 days during 07.11.2016 to 05.12.2016.

Dir. u/s 5 of E (P) Act, 1986 to M/s Shri Bhairavnath Sugar Works, Maharashtra

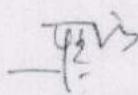
NOW THEREFORE, in exercise of powers vested to Chairman CPCB under Section 5 of the Environment (Protection) Act, 1986, the unit **M/s Bhairavnath Sugar Works, A/p Vithal, Jaywant Nagra, Tal: Karmala, Dist. Solapur, Maharashtra-413203** is directed to deposit Environmental Compensation of Rs.08, 70,000 /-(Rupees Eight Lakhs and Seventy thousand only) immediately 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