

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 165 OF 2025

IN THE MATTER OF:

KISHAN LAL & ANR.

.....APPLICANT

VERSUS

STATE OF UTTAR PRADESH & OTHERS

.....RESPONDENT(s)

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THROUGH COUNSEL

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A handwritten signature in blue ink, appearing to read 'Bpsjadon', with a long horizontal stroke extending to the right.

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DATE: 02.12.2025
PLACE: NOIDA

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BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 165 OF 2025



IN THE MATTER OF:

KISHAN LAL & ANR.

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**FURTHER RESPONSE ON BEHALF OF UPPCB IN COMPLIANCE OF
THE ORDER DT. 06.11.2025 PASSED BY THE HON'BLE NATIONAL
GREEN TRIBUNAL, PRINCIPAL BENCH NEW DELHI**

I, Ankit Singh aged about 38 years S/o Sh. Ajit Singh, presently posted as Regional Officer, Uttar Pradesh Pollution Control Board, Ghaziabad, do hereby solemnly affirm and state on oath as under:

1. That I, the Deponent in the above captioned matter am fully conversant with the facts of the case and is competent and authorized to swear the present report.
2. That I state that the contents of the report have been drafted by my counsel on my instructions and the contents of the same are true to my knowledge and nothing material has been concealed therefrom.



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I. BACKGROUND OF THE MATTER

3. That in the present matter, the applicant has raised a complaint against the ongoing construction activities undertaken by Respondent No. 2 i.e. M/s SMV Agencies Pvt. Ltd. in the Integrated Township (Jaipuria Sunrise Greens) located at Village ShahpurBamheta, NH-24, District Ghaziabad, Uttar Pradesh, alleged that the project falls under Clause 8(b) of the Environment Impact Assessment (EIA) Notification, 2006, as the Detailed Project Report (DPR) indicates a layout plan covering 300 acres. It is further alleged that Respondent No. 2 has failed to obtain the mandatory Environmental Clearance (EC) under the EIA Notification, 2006, as well as the requisite Consent to Establish (CTE) and Consent to Operate (CTO) from the competent authority. Additionally, the applicant contends that the construction is being carried out on land designated as green area and that there is unauthorized and excessive extraction of groundwater without due permission.

4. That it is relevant to submit here that this Hon'ble Tribunal vide order dt. 24.04.2025 constituted a Joint Committee comprising of representative of Member Secretary, Central Pollution Control Board (CPCB); RO, MoEF&CC, Lucknow and District Magistrate, Ghaziabad, wherein the District Magistrate, Ghaziabad acted as coordinative agency.



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5. That in compliance of the aforementioned order, the Joint Committee Report dt. 07.08.2025 was submitted before this Hon'ble Tribunal. That in the said report the recommendations for UPPCB of the committee were as under:

“B.Recommendations to Uttar Pradesh Pollution Control Board

(UPPCB)

- i. *Calculation of Environmental Compensation for Construction Without CTE*
- ii. *Calculation of Environmental Compensation for Operation Without CTO*
- iii. *Environmental Compensation for Sewage Discharge Without CTO*
- iv. *Review of Deficiency in the CTE Application*
- v. *Environmental Compensation for Violation of CAQM Direction No. 76 related to DG Sets, and Direction No. 13 concerning mandatory dust control measures and registration on the dust portal for buildings above 500 sq.m.*
- vi. *The UPPCB is recommended to compute Environmental Compensation for these specific violations and direct remedial measures for future compliance.”*



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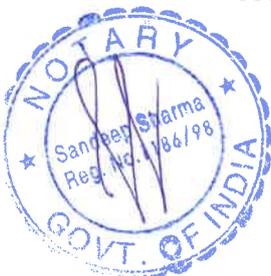
II. SHOW CAUSE NOTICE DT. 04.08.2025 ISSUED

6. That it is relevant to state here that as submitted in the response dt. 07.08.2025 filed on behalf of the Deponent, the UPPCB had issued a show cause notice dt. 04.08.2025(*Refer @Pg No. 185 of the Judicial Record*) to the Project Proponent and directed them as to why not the action of prosecution be initiated against responsible persons of M/s SMV Agencies Pvt. Ltd. That no response to the said notice has been received from the Project Proponent.

III. INSPECTION DT. 28.11.2025

7. Further an inspection of the project was conducted by the undersigned on 28.11.2025 in the presence of the project representative, Shri Robeen Singh, Engineer. The detailed inspection report is as follows:

- The Integrated Township (Jaipuria Sunrise Greens), NH-24, Near Village Shahpur Bamheta, Ghaziabad is being developed by M/s SMV Agencies Pvt. Ltd., First Floor, Near Ritu Wears, Jaipuria Sunrise Plaza, Plot No. 12A, Ahinsa Khand, Ghaziabad. The following group housing projects were found established/operational within the township:



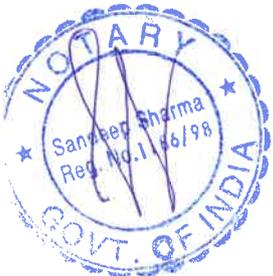
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a. M/s Organics Homes, Group Housing Society, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- The project comprises 10 towers (900 flats), of which residence in 200 flats was stated. Presently, 07 towers are operational and construction/finishing work is ongoing in 03 towers.
- A 530 KLD STP based on MMBR technology has been installed for treatment of domestic sewage. During inspection, repair work was found ongoing at the STP. The STP was not operational; therefore, sampling could not be carried out.
- For power supply, 02 DG sets of 500 kVA and 750 kVA were found installed/operational with chimneys as per norms. RECD/Dual Fuel Kits have not been installed on these DG sets.
- As per office records, since M/s Organics Homes (M/s Rise Projects Pvt. Ltd.) constructed the project without obtaining a No Objection Certificate (NOC) from the State Board, prosecution Case No. 78516/2020 was filed before the CGM Court, Lucknow, which is presently sub judice.

b. M/s Divyansh, Group Housing Society, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- The project has a total of 600 flats. It was informed that 400 flats are currently occupied.



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- A 380 KLD STP based on MMBR technology was found installed/operational. A sample of treated effluent from the STP outlet was collected and submitted to the Regional Laboratory for analysis. Analysis report is awaited.
- For power supply, 02 DG sets (CPCB-IV) of 320 kVA capacity were found installed; however, chimneys as per standards have not been installed.

c. M/s Golden Gate, Group Housing Society, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- The project comprises 228 constructed flats, of which residence in 125 flats was reported.
- A 150 KLD STP based on MMBR technology was found installed/operational. A treated effluent sample was collected and submitted for laboratory analysis. Report is awaited.
- For power supply, 02 DG sets (CPCB-IV) of 200 kVA and 250 kVA capacity were installed; chimneys as per prescribed norms have not been provided.



d. M/s Ruchika Sapphire, Group Housing Society, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- A total of 306 flats have been constructed. The representative informed that only 35 flats are presently occupied.
- A 200 KLD STP based on MMBR technology was found installed. A sample of treated effluent was collected and submitted for analysis. Report is awaited.
- For power supply, 02 DG sets (CPCB-IV) of 320 kVA and 160 kVA capacity have been installed; chimneys as per norms have not been provided.

e. M/s Ecocan Renovo, Group Housing Society, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- The project comprises 304 constructed flats, of which 260 flats are occupied.
- A 240 KLD STP based on MMBR technology was found installed/operational. A treated effluent sample was collected and deposited for analysis. Report is awaited.
- For power supply, 02 DG sets of 250 kVA and 320 kVA (CPCB-IV) capacity were found installed. Chimneys as per norms have not been provided. RECD/Dual Fuel Kit has not been installed on the 250 kVA DG set. The representative of the Project Proponent informed that the 250 kVA DG set is used as a standby unit.



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f. M/s Residential Plots Sector A–F, NH-24, Near Village Shahpur Bamheta, Ghaziabad

- A total of 800 residential plots have been developed across Sectors A–F, of which residence in approximately 300 plots was reported.
 - A 100 KLD STP based on MMBR technology was found installed/operational. A treated effluent sample was collected and submitted for analysis. Report is awaited.
8. That the project/Integrated Township Jaipuria Sunrise Greens, NH-24, Village Shahpur Bamheta, Ghaziabad has been granted Environmental Clearance by the Ministry of Environment, Forest & Climate Change vide letter dated 30.09.2011, followed by expansion approval dated 11.06.2018.
9. The project was granted a No Objection Certificate by the Uttar Pradesh Pollution Control Board vide letter dated 02.12.2011, valid for a period of five years.
10. That it is relevant to state that the the M/s SMV Agencies Pvt. Ltd., Integrated Township (Jaipuria Sunrise Greens) has not obtained Consent to Establish/Operate under the provisions of the Water (Prevention and



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Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, in respect of the developed residential projects.

A Copy of the inspection report dt. 28.11.2025 has been annexed herewith as **ANNEXURE R-1**.

IV. CONFIRMATION OF SHOW CAUSE NOTICE DT. 04.08.2025 AND RECOMMENDATION FOR INITIATION OF PROSECUTION AGAINST THE PROJECT PROPONENT

11. That further the Deponent, vide its letter dated 29.11.2025 addressed to the Chief Environmental Officer (Circle-1), U.P. Pollution Control Board, Lucknow, has submitted the confirmation of the Show Cause Notice dated 04.08.2025 issued against M/s SMV Agencies Pvt. Ltd., Integrated Township (Jaipuria Sunrise Greens), NH-24, Near Village Shahpur Bamheta, Ghaziabad. The said letter further recommends initiation of prosecution under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 against the Directors of the Project Proponent, as reflected in the Ministry of Corporate Affairs (MCA) records, for necessary further action.

A Copy of the letter dt. 29.11.2025 has been annexed herewith as **ANNEXURE R-2**.



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V. DIRECTIONS OF THE HON'BLE SUPREME COURT IN
THE CIVIL APPEAL NO(S). 757-760 OF 2013 VIDE ORDER
DT. 04.08.2025

12. That it is imperative to submit that the Hon'ble Supreme Court vide order dt. 04.08.2025 in the *CIVIL APPEAL NO(S). 757-760 OF 2013* has directed in Para 39 (c) as under:

"...(c) it is further directed that the power to impose or collect restitutionary or compensatory damages or the requirement to furnish bank guarantees as an ex-ante measure under Sections 33A and 31A of the Water and Air Acts shall be enforced only after detailing the principle and procedure incorporating basic principles of natural justice in the subordinate legislation."

That in compliance of the above directions, no environmental compensation has been imposed upon the Project Proponent.

A Copy of the order dt. 04.08.2025 has been annexed herewith as **ANNEXURE R-3.**

13. Hence, the present report is being submitted for the kind perusal of this Hon'ble Tribunal. It is prayed that the same be taken on record.



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Sandeep S.
DEPONENT

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VERIFICATION

Verified at Ghaziabad on this 2nd day of December, 2025, that the contents of the above affidavit from paragraphs 1 to 13 are believed to be true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

[Handwritten Signature]

DEPONENT



ATTESTED

(Sandeep Sharma)
Reg. No. 1186/98
NOTARY PUBLIC
Ghaziabad (U.P.)

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मैसर्स एस0एम0वी0 एजेन्सीज प्रा0लि0, इन्टीग्रेटेड टाउनशिप (जयपुरिया सनराइज ग्रीन्स), एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद की निरीक्षण आख्या।

बोर्ड मुख्यालय के पत्र संख्या एच-31032/सी-1/सा0-2255/का0ब0नो0-जल/2025 दिनांक 04.08.2025 के माध्यम से परियोजना को जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 33ए के अन्तर्गत कारण बताओं नोटिस निर्गत किया गया है। उक्त के अनुपालन में परियोजना का निरीक्षण अधोहस्ताक्षरी द्वारा दिनांक 28.11.2025 को परियोजना प्रतिनिधि श्री रोबीन सिंह, इंजीनियर की उपस्थिति में किया गया। विस्तृत निरीक्षण आख्या निम्नवत् है:-

1. इन्टीग्रेटेड टाउनशिप (जयपुरिया सनराइज ग्रीन्स), एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद की स्थापना विकासकर्ता मैसर्स एस0एम0वी0 एजेन्सीज प्रा0लि0, प्रथम तल, नियर रितू वियरस, जयपुरिया सनराइज प्लाजा, प्लाट नं0 12ए, अहिंसा खण्ड, गाजियाबाद द्वारा की जा रही है, जिसके अन्तर्गत निम्नलिखित ग्रुप हाउसिंग परियोजनाएं स्थापित/संचालित पायी गयी:-
 - a. **मैसर्स आर्गेनिक्स होम्स, ग्रुप हाउसिंग सोसायटी, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:-**परियोजना निरीक्षण के समय श्री गजेन्द्र शर्मा, इंजीनियर उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:-
 - I. परियोजना में कुल 10 टावर (900 फ्लैट) निर्मित है, जिसमे 200 फ्लैट्स में निवास किया जाना सूचित किया गया है। परियोजना मे वर्तमान में कुल 07 टावर संचालित है एवं 03 टावर में निर्माण/फिनिशिंग का कार्य किया जा रहा है।
 - II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 530 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति पर स्थापित पाया गया। निरीक्षण के समय एस0टी0पी0 में मरम्मत का कार्य होता पाया। एस0टी0पी0 का संचालन नहीं होता पाया गया, जिस कारण नमूने का एकत्रण का कार्य नहीं किया जा सका।
 - III. परियोजना में विद्युत आपूर्ति हेतु 02 डी0जी0 सेट्स क्षमता 500 के0वी0ए0 एवं 750 के0वी0ए0 स्थापित/संचालित है, जिन पर मानको के अनुरूप चिमनी स्थापित है। उक्त डी0जी0 सेट्स पर आर0ई0सी0डी0/ड्यूल फ्यूल किट की स्थापना नहीं की गयी है।
 - IV. कार्यालय अभिलेखानुसार उक्त परियोजना मैसर्स आर्गेनिक्स होम्स(मैसर्स राइज प्रोजेक्टस प्रा0लि0), ग्रुप हाउसिंग सोसायटी द्वारा राज्य बोर्ड से अनापत्ति प्रमाण पत्र प्राप्त किये बिना परियोजना का निर्माण किये जाने के दृष्टिगत उक्त परियोजना के विरुद्ध सी0जी0एम0 कोर्ट, लखनऊ में अभियोजनात्मक कार्यवाही हेतु वाद संख्या 78516/2020 दायर किया गया है, जो कि वर्तमान में विचाराधीन है।
 - b. **मैसर्स दिव्यांश, ग्रुप हाउसिंग सोसायटी, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:-**परियोजना निरीक्षण के समय श्री राजकुमार, फैंसिलिटि मैनेजर उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:-
 - I. परियोजना में कुल 600 फ्लैट्स है। निरीक्षण के समय उपस्थित परियोजना प्रतिनिधि द्वारा अवगत कराया गया कि परियोजना में 400 फ्लैट्स में निवास किया जाना सूचित किया गया है।
 - II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 380 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति पर स्थापित/संचालित पाया गया। एस0टी0पी के आउटलेट से निस्तारित उत्प्रवाह का नमूना एकत्रित कर क्षेत्रीय प्रयोगशाला में विश्लेषण हेतु जमा कराया गया। विश्लेषण आख्या अपेक्षित है।

- III. परियोजना में विद्युत आपूर्ति हेतु 02 डी0जी0 सेट्स सी0पी0सी0बी0 चतुर्थ क्षमता 320 के0वी0ए0 स्थापित है, जिन पर मानको के अनुरूप चिमनी स्थापित नहीं की गयी है।
- c. **मैसर्स गोल्डन गेट, ग्रुप हाउसिंग सोसायटी, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:-** परियोजना निरीक्षण के समय श्री मोहित डागर, फ़ैसलिटी इन्चार्ज उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:-
- I. निरीक्षण के समय पाया गया कि परियोजना में कुल 228 फ्लैट्स निर्मित है, जिसमें 125 फ्लैट्स में निवास किया जाना सूचित किया गया है।
 - II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 150 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति पर स्थापित/संचालित पाया गया। एस0टी0पी0 से निस्तारित उत्प्रवाह का नमूना एकत्रित कर क्षेत्रीय प्रयोगशाला में विश्लेषण हेतु जमा कराया गया। विश्लेषण आख्या अपेक्षित है।
 - III. परियोजना में विद्युत आपूर्ति हेतु 02 डी0जी0 सेट्स सी0पी0सी0बी0 चतुर्थ क्षमता 200 के0वी0ए0 एवं 250 के0वी0ए0 स्थापित है, जिन पर मानको के अनुरूप चिमनी स्थापित नहीं की गयी है।
- d. **मैसर्स रूचिका सफायर, ग्रुप हाउसिंग सोसायटी, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:-** परियोजना निरीक्षण के समय श्री सुधीर, प्रोजेक्ट मैनेजर उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:-
- I. निरीक्षण के समय पाया गया कि परियोजना में कुल 306 फ्लैट्स निर्मित है। निरीक्षण के समय उपस्थित परियोजना प्रतिनिधि द्वारा अवगत कराया गया कि वर्तमान में मात्रा 35 फ्लैट्स में निवास किया जाना सूचित किया गया है।
 - II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 200 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति पर स्थापित है। एस0टी0पी0 से निस्तारित उत्प्रवाह का नमूना एकत्रित कर क्षेत्रीय प्रयोगशाला में विश्लेषण हेतु जमा कराया गया। विश्लेषण आख्या अपेक्षित है।
 - III. परियोजना में विद्युत आपूर्ति हेतु 02 डी0जी0 सेट्स सी0पी0सी0बी0 चतुर्थ क्षमता 320 के0वी0ए0 एवं 160 के0वी0ए0 स्थापित है, जिन पर मानको के अनुरूप चिमनी स्थापित नहीं की गयी है।
- e. **मैसर्स एकोकान रेनवो, ग्रुप हाउसिंग सोसायटी, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:-** परियोजना निरीक्षण के समय श्री सुमित, फ़ैसलिटी इन्चार्ज उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:-
- I. निरीक्षण के समय पाया गया कि परियोजना में कुल 304 फ्लैट्स निर्मित है, जिसमें 260 फ्लैट्स में निवास किया जाना सूचित किया गया है।
 - II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 240 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति पर स्थापित/संचालित पाया गया। एस0टी0पी0 से निस्तारित उत्प्रवाह का नमूना एकत्रित कर क्षेत्रीय प्रयोगशाला में विश्लेषण हेतु जमा कराया गया। विश्लेषण आख्या अपेक्षित है।
 - III. परियोजना में विद्युत आपूर्ति हेतु 02 डी0जी0 सेट्स क्षमता 250 के0वी0ए0 एवं सी0पी0सी0बी0 चतुर्थ 320 के0वी0ए0 स्थापित है, जिन पर मानको के अनुरूप चिमनी स्थापित नहीं की गयी है। 250 के0वी0ए0 क्षमता के डी0जी0 सेट पर आर0ई0सी0डी0/डयूल फयूल किट की स्थापना नहीं की गयी है। उपस्थित प्रतिनिधि द्वारा अवगत कराया गया कि 250 के0वी0ए0 क्षमता के डी0जी0 सेट को स्टेण्डबाई के रूप में प्रयोग किया जाता है।

f. मैसर्स आवासीय प्लॉट सेक्टर ए से एफ, एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद:— परियोजना निरीक्षण के समय श्री अश्वनी कुमार सिंह, प्रोजेक्ट मैनेजर उपस्थित थे। विस्तृत निरीक्षण निरीक्षण आख्या निम्नवत् है:—

- I. निरीक्षण के समय पाया गया कि परियोजना में सेक्टर ए से एफ तक कुल 800 आवासीय प्लॉट विकसित है, जिनमें से लगभग 300 प्लॉट पर भवनों में निवास किया जाना सूचित किया गया है।
- II. परियोजना में घरेलू उत्प्रवाह के शुद्धिकरण हेतु 100 के0एल0डी0 क्षमता का एस0टी0पी0 एम0एम0बी0आर0 पद्धति स्थापित/संचालित पाया गया। एस0टी0पी0 से निस्तारित उत्प्रवाह का नमूना एकत्रित कर क्षेत्रीय प्रयोगशाला में विश्लेषण हेतु जमा कराया गया। विश्लेषण आख्या अपेक्षित है।
2. बोर्ड मुख्यालय के पत्र संख्या एच-31032/सी-1/सा0-2255/का0ब0नो0-जल/2025 दिनांक 04.08.2025 के माध्यम से परियोजना को जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 33ए के अन्तर्गत कारण बताओं नोटिस निर्गत किया गया है, जिसका प्रतिउत्तर इस कार्यालय में अप्राप्त है।
3. परियोजना/इन्टीग्रेटेड टाउनशिप जयपुरिया सनराइज ग्रीन्स एन0एच0-24, ग्राम शाहपुर बम्हेटा, गाजियाबाद को पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय द्वारा दिनांक 30.09.2011 तदोपरान्त विस्तारीकरण हेतु पत्र दिनांक 11.06.2018 द्वारा पर्यावरणीय स्वीकृति निर्गत की गयी है।
4. परियोजना/इन्टीग्रेटेड टाउनशिप जयपुरिया सनराइज ग्रीन्स एन0एच0-24, ग्राम शाहपुर बम्हेटा, गाजियाबाद को उ0प्र0 प्रदूषण नियंत्रण बोर्ड के पत्र दिनांक 02.12.2011 द्वारा अनापत्ति प्रमाण पत्र निर्गत किया गया है, जिसकी वैधता अवधि 05 वर्ष हेतु मान्य थी।
5. कार्यालय अभिलेखानुसार मैसर्स एस0एम0वी0 एजेन्सीज प्रा0लि0, इन्टीग्रेटेड टाउनशिप (जयपुरिया सनराइज ग्रीन्स) द्वारा उक्त विकसित आवासीय परियोजनाओं के सम्बन्ध में जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 एवं वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1981 के प्राविधानों के अन्तर्गत राज्य से सहमति जल/वायु प्राप्त नहीं की गयी है।

अतः उपरोक्त तथ्यों को दृष्टिगत रखते हुये परियोजना मैसर्स एस0एम0वी0 एजेन्सीज प्रा0लि0, इन्टीग्रेटेड टाउनशिप (जयपुरिया सनराइज ग्रीन्स), एन0एच0-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद के विरुद्ध जारी कारण बताओं नोटिस दिनांक 04.08.2025 की पुष्टि किये जाने एवं Ministry of Corporate Affairs (MCA) से प्राप्त डायरेक्टर की सूची में अंकित डायरेक्टर्स के विरुद्ध जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 के प्राविधानों के अन्तर्गत अभियोजनात्मक कार्यवाही किये जाने की संस्तुति सहित आख्या आपके अवलोकनार्थ एवं अग्रिम आवश्यक कार्यवाही हेतु सादर प्रस्तुत है।

(विपुल कुमार)

सहायक पर्यावरण अभियंता

क्षेत्रीय अधिकारी

Ministry Of Corporate Affairs

Date : 01-12-2025 11:13:13 am

Company Information

CIN	U74899DL1994PTC062671
Company Name	SMV AGENCIES PRIVATE LIMITED
ROC Name	ROC Delhi
Registration Number	062671
Date of Incorporation	11/11/1994
Email Id	headoffice[at]jaipuriagroup[dot]com
Registered Address	S-25, Green Park, Main Market, South Delhi, New Delhi, Delhi, India, 110016
Address at which the books of account are to be maintained	-
Listed in Stock Exchange(s) (Y/N)	No
Category of Company	Company limited by shares
Subcategory of the Company	Non-government company
Class of Company	Private
ACTIVE compliance	ACTIVE Compliant
Authorised Capital (Rs)	18,00,00,000
Paid up Capital (Rs)	18,00,00,000
Date of last AGM	30/09/2024
Date of Balance Sheet	31/03/2024
Company Status	Active

Jurisdiction	
ROC (name and office)	ROC Delhi
RD (name and Region)	RD, Northern Region

Index of Charges

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount	Address	Whether charge registered by other entity	Asset Holder Name
1	AB6624196	101150858	PUNJAB AND SIND BANK	06/08/2025	-	-	15,62,68,000	H BLOCK, CONNAUGHT PLACE, Central Delhi, New Delhi, Delhi, India, 110001	No	-
2	AB2897224	101059483	PUNJAB & SIND BANK	03/03/2025	-	-	5,00,000	Branch: H Block, H-5, Laxmi Building, Central Delhi, New Delhi, Delhi, India, 110001	No	-
3	AA6990970	100873230	PUNJAB & SIND BANK	29/02/2024	-	-	12,42,000	Green Park, South West Delhi, New Delhi, Delhi, India, 110016	No	-
4	AA6990757	100873234	PUNJAB & SIND BANK	16/02/2024	-	-	7,13,259	GREEN PARK, South West Delhi, New Delhi, Delhi, India, 110016	No	-
5	AA6990597	100873231	PUNJAB & SIND BANK	12/02/2024	-	-	9,00,000	Green Park, South West Delhi, New Delhi, Delhi, India, 110016	No	-
6	AA6990359	100873236	PUNJAB & SIND BANK	29/01/2024	-	-	9,30,000	Green Park, South West Delhi, New Delhi, Delhi, India, 110016	No	-
7	AB6592311	100801091	Punjab & Sind Bank	21/10/2023	-	06/09/2025	21,00,00,000	H Block, Connaught Circus, Central Delhi, New Delhi, Delhi, India, 110001	Yes	HILARIOUS REALTORS PRIVATE LIMITED

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount	Address	Whether charge registered by other entity	Asset Holder Name
8	AA5172663	100793897	Punjab & Sind Bank	01/08/2023	-	-	19,00,000	Green Park,South West Delhi, New Delhi, Delhi, India, 110016	No	-
9	AB6627727	100450888	PUNJAB AND SIND BANK	31/03/2021	-	06/09/2025	21,00,00,000	'H' BLOCK,CONNAUGHT PLACE,DELHI, Delhi, India, 110001	No	-
10	R39454210	100337668	Punjab & Sind Bank	04/03/2020	-	-	1,10,00,000	Green Park,New Delhi, Delhi, India, 110016	No	-
11	AB4421906	100267542	PUNJAB & SIND BANK	17/05/2019	-	02/06/2025	7,50,000	H BLOCK CONNAUGHT CIRCUS,NEW DELHI,NEW DELHI, Delhi, India, 110001	No	-
12	AB4422281	100260212	PUNJAB & SIND BANK	26/04/2019	-	02/06/2025	5,35,000	H BLOCK, CONNAUGHT CIRCUS,NEW DELHI,NEW DELHI, Delhi, India, 110001	No	-
13	G74154584	100149422	PUNJAB & SIND BANK	18/01/2018	-	-	39,00,00,000	LARGE CORPORATE BRANCH,18/90 CONNAUGHT CIRCUS,New Delhi, Delhi, India, 110001	No	-
14	G44145449	100098327	Bank of India	31/03/2017	-	-	23,00,000	Circuit House Area Branch, 4, Inner Circle Road,Gulnar Mahal,Jamshedpur, Jharkhand, India, 831001	No	-
15	G90244625	10543160	PUNJAB & SIND BANK	06/12/2014	01/05/2018	-	35,35,00,000	LARGE CORPORATE BRANCH,18/90 CONNAUGHT CIRCUS,New Delhi, Delhi, India, 110001	No	-
16	H84223882	10445432	PUNJAB & SIND BANK	07/08/2013	-	21/08/2019	55,00,00,000	SPECIALIZED CORPORATE FINANCE BRANCH,CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
17	B72651862	10417943	HDFC BANK LIMITED	07/03/2013	-	-	78,89,200	HDFC BANK HOUSESENAPATI BAPAT MARG,LOWER PAREL W,MUMBAI, Maharashtra, India, 400013	No	-
18	G58013012	10396857	PUNJAB & SIND BANK	15/12/2012	-	03/10/2017	55,00,00,000	SPECIALIZED CORPORATE FINANCE BRANCH,CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
19	H48487060	10381993	ICICI BANK LIMITED	10/10/2012	-	13/03/2019	14,50,00,000	LANDMARKRACE COURSE CIRCLE,ALKAPURI,BARODA, Gujarat, India, 390015	No	-
20	G60829819	10368249	PUNJAB & SIND BANK	16/07/2012	-	16/10/2017	8,95,00,000	H BLOCK, CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
21	C23321292	10321869	PUNJAB & SIND BANK	05/11/2011	-	08/09/2014	8,25,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
22	B27263094	10321871	PUNJAB & SIND BANK	05/11/2011	-	-	7,64,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
23	G80843279	10315912	PUNJAB & SIND BANK	29/09/2011	-	07/03/2018	11,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
24	B58997297	10309902	SYNDICATE BANK	29/09/2011	-	20/09/2012	10,00,00,000	CORPORATE FINANCE BRANCH,6, BHAGWAN DAS ROAD,NEW DELHI, Delhi, India, 110001	No	-
25	G60829579	10313625	PUNJAB & SIND BANK	29/09/2011	-	16/10/2017	11,00,00,000	H BLOCK CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
26	B08732562	10274297	PUNJAB & SIND BANK	26/02/2011	-	-	12,50,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
27	AA5807099	10276461	Bank of India	11/02/2011	-	03/10/2023	10,00,00,000	New Delhi Mid Corporate Branch,37, Shalced Bhagat Singh Marg,New Delhi, Delhi, India, 110001	No	-

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount	Address	Whether charge registered by other entity	Asset Holder Name
28	C77510451	10270145	PUNJAB & SIND BANK	03/02/2011	-	25/01/2016	5,00,00,000	H BLOCK, CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
29	C76945195	10270647	PUNJAB & SIND BANK	24/01/2011	-	25/01/2016	5,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
30	C78823689	10233322	PUNJAB & SIND BANK	15/07/2010	-	10/02/2016	2,40,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
31	C82024662	10232897	PUNJAB & SIND BANK	15/07/2010	-	09/03/2016	1,80,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
32	G81057804	10202918	PUNJAB & SIND BANK	29/01/2010	-	07/03/2018	5,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
33	G81058075	10202928	PUNJAB & SIND BANK	29/01/2010	-	07/03/2018	5,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
34	C53894069	10198889	HDFC BANK LIMITED	14/12/2009	-	14/05/2015	27,00,000	HDFC BANK HOUSE SENAPATI BAPAT MARG,LOWER PAREL W,MUMBAI, Maharashtra, India, 400013	No	-
35	A75710863	10191914	Punjab & Sind Bank	17/11/2009	-	-	1,26,68,00,000	Industrial Finance Branch, P-18/90, Connaught Circus, New Delhi, Delhi, India, 110001	No	-
36	C69011377	10174716	PUNJAB & SIND BANK	05/08/2009	-	23/10/2015	2,18,00,000	H BLOCK,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
37	AB6628510	10174710	PUNJAB & SIND BANK	05/08/2009	-	06/09/2025	6,00,00,000	H BLOCK,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
38	C69013464	10174713	PUNJAB & SIND BANK	05/08/2009	-	23/10/2015	1,52,00,000	H BLOCK,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
39	G81056913	10137716	PUNJAB & SIND BANK	22/12/2008	29/09/2011	07/03/2018	30,69,36,753	INDUSTRIAL FINANCE BRANCH,CONAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
40	C67872275	10137723	PUNJAB & SIND BANK	22/12/2008	-	23/10/2015	4,70,00,000	INDUSTRIAL FINANCE BRANCH,P-18/90, CONNAUGHT CIRCUS, NEW DELHI, Delhi, India, 110001	No	-
41	G81056509	10137724	PUNJAB & SIND BANK	22/12/2008	-	07/03/2018	2,00,00,000	INDUSTRIAL FINANCE BRANCH,P-18/90, CONNAUGHT CIRCUS, NEW DELHI, Delhi, India, 110001	No	-
42	G81057895	10137728	PUNJAB & SIND BANK	22/12/2008	24/01/2011	07/03/2018	11,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
43	G81056418	10137726	PUNJAB & SIND BANK	19/12/2008	-	07/03/2018	35,00,00,000	INDUSTRIAL FINANCE BRANCH,P-18/90, CONNAUGHT CIRCUS, NEW DELHI, Delhi, India, 110001	No	-
44	AB6628745	10134182	PUNJAB & SIND BANK	04/12/2008	26/05/2017	06/09/2025	76,84,00,000	H BLOCK CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
45	G80843493	10118376	PUNJAB & SIND BANK	11/08/2008	10/03/2017	07/03/2018	26,00,00,000	P-18/90,CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
46	C23318249	10110224	PUNJAB & SIND BANK	12/05/2008	18/11/2008	08/09/2014	56,00,00,000	INDUSTRIAL FINANCE BRANCH,P-18/90, CONNAUGHT PLACE, NEW DELHI, Delhi, India, 110001	No	-
47	A73318818	10091111	BANK OF MAHARASHTRA	24/01/2008	-	16/11/2009	7,30,00,000	CHANDNI CHOWK,CHANDNI CHOWK, Delhi, India, 110006	No	-

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount	Address	Whether charge registered by other entity	Asset Holder Name
48	B96718713	10087921	Standard Chartered Bank	28/11/2007	-	19/02/2014	1,50,00,000	CREDIT RISK CONTROL,NARAIN MANZIL, 23, BARAKHAMBA ROAD,NEW DELHI, Delhi, India, 110001	No	-
49	G80843162	10067851	PUNJAB & SIND BANK	13/09/2007	-	07/03/2018	3,85,00,000	INDUSTRIAL FINANCE BRANCH,P18/90, CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
50	A35225929	10051703	PUNJAB & SIND BANK	06/02/2007	15/02/2008	-	17,30,00,000	18/90 CONNAUGHT CIRCUS,NEW DELHI,NEW DELHI, Delhi, India, 110001	No	-
51	A11429412	10051704	PUNJAB & SIND BANK	06/02/2007	-	-	7,30,00,000	INDUSTRIAL FINANCE BRANCH,P-18/90, CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
52	G80843220	10031465	PUNJAB & SIND BANK	21/12/2006	-	07/03/2018	3,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
53	G80843774	10031425	PUNJAB & SIND BANK	21/12/2006	-	07/03/2018	3,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
54	G80843741	10031471	PUNJAB & SIND BANK	21/12/2006	-	07/03/2018	3,00,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
55	B22210413	10004515	PUNJAB NATIONAL BANK	29/04/2006	12/09/2006	29/09/2011	1,00,00,000	KATRA MOHAN,CHANDNI CHOWK,NEW DELHI, Delhi, India, 110001	No	-
56	C54990163	10005189	Indian Bank	30/03/2006	-	26/05/2015	41,70,00,000	CHANDNI CHOWK,DELHI, Delhi, India, 110006	No	-
57	C67883637	80000303	PUNJAB AND SIND BANK	16/02/2006	14/03/2006	23/10/2015	42,15,00,000	INDUSTRIAL FINANCE BRANCH,CONNAUGHTN CIRCUS,DELHI, Delhi, India, 110001	No	-
58	A31999444	80041729	Punjab & Sind Bank	21/01/2006	16/02/2006	17/01/2008	3,00,00,000	Industrial Finance Branch,Connaught Circus,New Delhi, Delhi, India, 110001	No	-
59	A97206304	80061163	RAYMOND LTD	11/06/2005	-	26/10/2010	8,00,00,000	PLOT NO. 156/ H.NO. 2, VILLAGE ZADGAON, RATNAGIRI,RATNAGIRI, Maharashtra, India, 400005	No	-
60	A40576282	80000085	PNB	31/05/2005	21/02/2006	27/03/2008	29,00,00,000	Katra Mohan,Chandni Chowk,Delhi, Delhi, India, 110006	No	-
61	B96717160	80007105	Standard Chartered Bank	12/05/2005	22/06/2006	19/02/2014	9,00,00,000	(being security agent acting on behalf of and for,SCB, London) NARAIN MANZIL, 23 BARAKHAMBA ROAD,NEW DELHI, Delhi, India, 110001	No	-
62	Y10145577	90064506	BANK OF PUNJAB LTD.	08/12/2003	-	06/06/2005	11,00,00,000	1907; CHANDNI CHOWK,DELHI, Delhi, India, 110006	No	-
63	Y10145543	90064472	PEPSICO INDIA HOLDINGS PRIVATE LTD.	01/09/2003	-	-	4,86,00,000	3B; S BLOCK; DLF CORPORATE PARK,OUTAB ENCLAVCE,GURGAON, Haryana, India,	No	-
64	C56376270	90064448	PUNJAB NATIONAL BANK	17/06/2003	-	15/06/2015	20,00,00,000	KATRA MOHAN,CHANDNI CHOWK,DELHI, Delhi, India, 110006	No	-
65	G01840206	90064282	ORIENTAL BANK OF COMMERCE	27/11/2001	04/08/2003	29/03/2016	1,00,00,000	CHANDNI CHOWK,DELHI, Delhi, India,	No	-
66	G01839737	90064271	ORIENTAL BANK OF COMMECE	04/10/2001	17/07/2003	29/03/2016	1,00,00,000	CHANDNI CHOWK,DELHI, Delhi, India, 110006	No	-
67	Y10145328	90064257	PUNJAB NATINAL BANK	01/09/2001	-	28/05/2003	6,30,00,000	91; CONNAUGHT PLACE,NEW DELHI, Delhi, India, 110001	No	-
68	G80843006	90064107	PUNJAB & SIND BANK	27/12/1999	23/03/2002	07/03/2018	5,60,00,000	INDUSTRIAL FINANCE BRANCH,B-45/47;	No	-

Sr. No	SRN	Charge Id	Charge Holder Name	Date of Creation	Date of Modification	Date of Satisfaction	Amount	Address	Whether charge registered by other entity	Asset Holder Name
								CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001		
69	A79253373	90063960	PUNJAB & SIND BANK	22/10/1997	29/01/2010	-	35,00,00,000	H BLOCK,CONAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-
70	G60830049	90063925	PUNJAB & SIND BANK	08/03/1997	26/05/2017	16/10/2017	12,00,00,000	H BLOCK CONNAUGHT CIRCUS,NEW DELHI, Delhi, India, 110001	No	-

Director/Signatory Details

Sr. No	DIN/PAN	Name	Designation	Category	Date of Appointment	Cessation Date	Signatory
1	00014430	SURYAKANT JAIPURIA	Director	Promoter	11/11/1994	-	Yes
2	00043704	VAIBHAV JAIPURIA	Director	Promoter	11/11/1994	-	Yes
3	00299325	SHRIPRIYA JAIPURIA	Director	Promoter	27/09/2008	-	Yes
4	02354463	RAJKUMAR RAMRAKHIYANI	Director	Professional	05/11/2012	-	Yes
5	06846482	CHAITANYA JAIPURIA	Director	Promoter	20/06/2015	-	Yes
6	09463831	ASHWIN JAIPURIA	Additional Director	Promoter	05/03/2025	-	Yes



क्षेत्रीय कार्यालय-उ०प्र० प्रदूषण नियंत्रण बोर्ड, गाजियाबाद
Regional Office, U.P. Pollution Control Board, Ghaziabad
Website- www.uppqb.up.gov.in, e-mail: rogghaziabad@uppqb.in

संदर्भ संख्या : 16.37/1C/15-1547/2025

दिनांक 29/11/2025

सेवा में,

मुख्य पर्यावरण अधिकारी(वृत्त-1),
उ०प्र० प्रदूषण नियंत्रण बोर्ड,
लखनऊ।

विषय:—मैसर्स एस०एम०वी० एजेन्सीज प्रा०लि०, इन्टीग्रेटिड टाउनशिप (जयपुरिया सनराइज ग्रीन्स), एन०एच०-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद के विरुद्ध जारी कारण बताओं नोटिस दिनांक 04.08.2025 की पुष्टि किये जाने एवं अभियोजनात्मक कार्यवाही किये जाने के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक का संदर्भ ग्रहण करने का कष्ट करें। बोर्ड मुख्यालय के पत्र संख्या एच-31032/सी-1/सा०-2255/का०ब०नो०-जल/2025 दिनांक 04.08.2025 के माध्यम से परियोजना को जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 33ए के अन्तर्गत कारण बताओं नोटिस निर्गत किया गया है। उक्त के अनुपालन में परियोजना का निरीक्षण इस कार्यालय के प्राधिकृत अधिकारी द्वारा दिनांक 28.11.2025 को किया गया। विस्तृत निरीक्षण आख्या संलग्न है।

आख्यानुसार परियोजना मैसर्स एस०एम०वी० एजेन्सीज प्रा०लि०, इन्टीग्रेटिड टाउनशिप (जयपुरिया सनराइज ग्रीन्स), एन०एच०-24, नियर ग्राम शाहपुर बम्हेटा, गाजियाबाद के विरुद्ध जारी कारण बताओं नोटिस दिनांक 04.08.2025 की पुष्टि किये जाने एवं Ministry of Corporate Affairs (MCA) से प्राप्त डायरेक्टर की सूची में अंकित डायरेक्टर्स के विरुद्ध जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 के प्राविधनों के अन्तर्गत अभियोजनात्मक कार्यवाही किये जाने की संस्तुति सहित आख्या आपके अवलोकनार्थ एवं अग्रिम आवश्यक कार्यवाही हेतु सादर प्रेषित की जा रही है।

संलग्नक:उपरोक्तानुसार।

भवदीय

(अंकित सिंह)
क्षेत्रीय अधिकारी

०१८



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ANNEXURE R-3

2025 INSC 923

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 757-760 OF 2013

DELHI POLLUTION CONTROL COMMITTEE ...APPELLANT(S)

VERSUS

LODHI PROPERTY CO. LTD. ETC. ...RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 1977-2011 OF 2013

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Signature Not Verified
Digitally signed by
KAPIL TANPON
Date: 2025.03.13
19:08:44 IST
Reason:

1. Introduction.

1. The Delhi Pollution Control Committee (DPCC)¹ is in appeal against the judgment of the Division Bench of the High Court holding that it is not empowered to levy compensatory damages in exercise of powers under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981² on the ground that such an action amounts to imposition of penalty provided for in Chapters VII and VI of the respective Acts, and as such, procedure contemplated thereunder will be the only method for imposing and collecting compensatory damage.

2. Having considered the principles that govern Indian environmental laws, we have held that the environmental regulators, the Pollution Control Boards exercising powers under the Water and Air Acts, can impose and collect restitutionary or compensatory damages in the form of fixed sum of monies or require furnishing of bank guarantees as an *ex-ante* measure to prevent potential environmental damage. These powers are

¹ DPCC is a regulatory body in the National Capital Territory of Delhi, established as a 'State Board'. These Boards are constituted under section 4 of the Water Act and under section 4 or section 5 of the Air Act, and exercise powers granted under section 33A of the Water Act and section 31A of the Air Act. Our interpretation of section 33A and 31A herein will apply to any such body established under said Acts.

² Hereinafter referred to as the Water Act and Air Act respectively.

incidental and ancillary to the empowerment under Sections 33A and 31A of the Water and Air Acts. At the same time, we have directed that the powers must be exercised as per procedure laid down by subordinate legislation incorporating necessary principles of natural justice, transparency and certainty.

2. Facts.

3. It is the case of the Delhi Pollution Control Committee that pursuant to the directions of the Ministry of Environment, Forest and Climate Change (MoEFCC) to take appropriate action against certain entities operating in violation of the environmental norms, show cause notices were issued for violation of Section 25 of the Water Act and Sections 21 and 22 of the Air Act. These entities were either residential complexes, commercial complexes or shopping malls. The show cause notices were issued on the ground that they proceeded with construction and in fact, were operating without obtaining the mandatory “consent to establish” and “consent to operate” under Section 25 of the Water Act and Section 21 of the Air Act. The show cause notices were challenged by way of 38 writ petitions before the Delhi High Court. The challenge culminated in the judgement of a single judge dated 30.09.2010 in

the case of *Splendor Landbase Ltd. v. DPCC*³. The learned single judge considered the question as to whether a State Board can levy environmental damages in the form of fixed sums of money or require an entity to furnish a bank guarantee as a condition for grant of consent under Section 33A of Water Act and/or Section 31A of Air Act. Similar writ petitions were considered and decided by another single judge bench in *Bharti Realty Ltd. v. DPCC* and *Anush Finlease and Construction v. DPCC* on 20.07.2011 and 15.09.2011 and were disposed of in terms of the decision in *Splendor Landbase Ltd. v. DPCC*. The reasoning adopted in the judgement and orders passed by the Single Judges are as follows.

3. Single Judge's Judgement and Orders.

4. In *Splendor Landbase Ltd. v. DPCC*⁴, the ld. single judge by his judgement dated 30.09.2010 dealt with two major issues – firstly, whether proprietors of properties over 20,000 square meters are required to obtain *consent to establish* and *consent to operate* under Water Act and Air Act independently, despite obtaining EIA Clearance from the Ministry; and secondly, whether Boards can levy penalties, fines, environmental damages in form

³ 2012 (195) DLT 177.

⁴ Hereinafter referred to as *Splendor*.

of fixed sums of monies or call for bank guaranties as a condition to grant consent under Water and Air Acts? While the first question was answered in the affirmative, the second was answered in the negative.

4.1 It was held that the power to levy penalty is in the nature of a penal power and as such a penalty cannot be imposed without there being an enabling statutory power. For this reason, the single judge held that Board has no power to levy penalty or damage, even on the basis of the general powers under Sections 31A or 33A of the Acts. The learned Judge criticized the monetary demand as a pre-condition for grant of consent under the Acts on the ground that it has no statutory backing.

4.2 In the other batch of cases i.e. in *Bharti Realty Ltd. v. DPCC* and *Anush Finlease and Construction Ltd. v. DPCC*, decided on 12.07.2011 and 15.09.2011, the learned Single Judge was constrained to enquire into the matter in detail as writ appeals against the judgement in *Splendor* were already pending before a Division Bench. Therefore, the Single Judge allowed the writ petitions following the decision in *Splendor* and holding that the Board has no power to impose and collect compensatory damages. In these cases, the learned Judge also directed refund of the

amounts collected. However, no interest was granted to the respondents as they chose to comply with the demand instead of challenging the same at the relevant point in time.

4. Impugned Order of the Division Bench.

5. The decisions of the single judges were challenged by the appellant before the Division Bench of the High Court. By the judgement impugned before us, the Division Bench upheld the findings of the Single Judge in *Splendor* that the power to issue directions under Sections 33A and 31A under the two Acts does not confer the power to levy 'penalty'. The High Court further observed that under Chapter VII and Chapter VI of the Water and Air Acts penalties can be levied only by courts and that too after taking cognizance of offences specified under the two Acts. Provided that the procedure so prescribed under the statute has to be followed mandatorily, the Division Bench held that the appellant would not be entitled to impose compensation or direct deposit of bank guarantees. The relevant portion of the Division Bench of the High Court is as follows –

“37. We concur with the reasoning of the learned Single Judge in paras 58 to 64 of the impugned decision and thus do not elaborate any further, but would additionally highlight that, the power to issue directions under Section 33A of the Water Act and the power to issue directions under Section 31A of the

Air Act, on their plain language, does not confer the power to levy any penalty. We would further highlight that under Chapter VII of the Water Act and under Chapter VI of the Air Act penalties and procedure to levy the same have been set out. A perusal of the provisions under the Water Act would reveal that penalties can be levied as per procedure prescribed and only Courts can take cognizance of offences under the Act and levy penalties, whether by way of imprisonment or fine. Similar is the position under the Air Act. The legislature having enacted specific provisions for levy of penalties and procedures to be followed has specifically made the offences cognizable by Courts and the power to levy penalties under both Acts has been vested in the Courts. The role of the Pollution Control Boards is to initiate proceedings before the Court of Competent jurisdiction and no more.

40. The language of Sub-Section 5 of Section 25 of the Water Act makes it plain clear that the only solution to a situation of a building being constructed to establish an industry, operation or process without obtaining prior consent of the State Pollution Control Board is the power of the Board to serve upon the person concerned a notice imposing such conditions as might have been imposed on an application, seeking prior consent and we find that the learned Single Judge has correctly so opined and has rightly issued the direction that the only way out, pertaining to the Water Act is to permit DPCC to inspect the shopping malls and the shopping commercial complexes and if it is found that pertaining to discharge of sewage from these buildings any steps are required to prevent water pollution DPCC would be authorized to issue notices requiring the owner of the building to take steps in terms of the notice issued. Pertaining to the Air Act notwithstanding there being no similar provision, but the concept of a post decisional hearing may be made applicable with the modification that no hearing would be required inasmuch as there is no decision, but DPCC should be empowered to inspect the shopping malls and the shopping, commercial complexes and pertaining to air pollution, if the owners of the buildings do not take corrective action, DPCC would always have the power to file criminal complaints before the Courts of Competent Jurisdiction, which Courts would alone have the power to impose fine and additionally impose sentence of imprisonment upon the offending persons.

42. In a few cases, we find that since DPCC was not permitting the buildings to be occupied, under protest, the owners paid the penalty to DPCC and have immediately approached the Court seeking refund and the same has been ordered for the reason neither under the Water Act nor under the Air Act there exists any power in DPCC to levy penalty or impose conditions

of furnishing bank guarantee. The decision of the learned Single Judge is correct in directing the bank guarantees to be discharged and penalties levied to be refunded for the reason the said act of DPCC is ultra-vires its power under the two statutes and the levy of penalty is without any authority of law. In the decision reported as 1997 [5] SCC 535 Mafatlal Industries Ltd. & Ors. Vs UOI & Ors., under writ jurisdiction refund can be directed where the levy is without jurisdiction and the same would include a penalty levied without any jurisdiction. In the instant case the penalty levied is unconstitutional being not sanctioned by any power vested in DPCC either under the Water Act or the Air Act. The impugned decisions where penalty levied has been directed to be refunded are upheld.”

5. Submissions.

6. Mr. Pradeep Mishra appearing on behalf of the appellant DPCC submitted that the High Court erred in holding that the State Boards are not empowered to impose environmental damages under Sections 33A and 31A of Water and Air Acts. He has argued that the application of the principle of *Polluter Pays* is distinct from the requirement of authority of law to impose tax or penalty.

7. We have requested Mr. Ninad Laud, learned counsel to assist us in the matter. He has gracefully accepted and has eminently assisted the Court. He has submitted that as per broad scheme of the Acts and also the statement of objects and reasons, State Boards are empowered to act on their own while enforcing Sections 25 and 26 and also while issuing directions under Sections 33A and 31A. However, when faced with non-compliances, recourse to

judicial process is contemplated under Sections 49 and 43 of Water and Air Acts respectively. Further, neither Rule 34 of Water (Prevention & Control of Pollution) Rules 1975 nor Rule 20A of Air (Prevention & Control of Pollution) Rules 1983, while providing a mechanism to administer Section 33A and Section 31A, contemplate monetary penalties. Countering the submission of Mr. Pradeep Misra on the principle of *Polluter Pays* to encourage reading the power to impose and collect environmental damages under Sections 33A and 31A of the respective Acts, he would submit such an approach is impermissible as the said power is specifically and separately provided under Chapters VII and VI therein. Relying on the decision of this Court in *MC Mehta v. Kamal Nath*⁵, he would submit, after considering the scheme of penal provisions under Water Act, Air Act and Environment (Protection) Act 1986, the Supreme Court held that penalties under the Acts befall a person only after finding of guilt upon trial by a court of law. Referring to the legitimacy of State Board's action demanding bank guarantees to secure compliance with conditions, he would submit that no penalty, other than that contemplated in the

⁵ (2000) 6 SCC 213, para 13-17.

statute or statutory scheme can be imposed.⁶ We have also heard Mr. Pinaki Misra, Senior Advocate and other learned counsel and they have strongly supported the decision of the Division Bench.

7.1 Counsel for M/s Laxmi Buildtech Pvt Ltd⁷ has submitted that they have neither violated nor acted in breach of any provision of environmental laws and therefore they cannot be subjected to any penalty or criminal prosecution. Counsel for other respondents further submitted that they have deemed consent as well as EIA clearance from the Ministry. They have also submitted that imposition and collection of damages by the State Boards is outside the powers vested in them under the Water and Air Acts.

7.2 Counsel for M/s Bharti Realty Ltd has submitted that it is a settled principle of law that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and no other.⁸ This principle, according to the learned counsel, squarely applies to the present case as Chapter VII and Chapter VI of the Water and Air Acts have a prescribed procedure to be followed before imposing penalties. It is further argued that the

⁶ *State of MP v. Centre for Environment Protection Research & Development*, (2020) 9 SCC 781.

⁷ Civil Appeal No. 2001 of 2013.

⁸ *Chandra Kishore Jha v. Mahavir Prasad & Ors*, (1999) 8 SCC 266.

role of any State Board is in the nature of a complainant and not that of an adjudicatory authority. In this vein, it is submitted that any other interpretation would render the chapter on 'Penalties and Procedures' nugatory and otiose. It is also submitted that the power to give directions under Sections 33A and 31A of the Water and Air Acts is "subject to provisions of this Act". Written submissions also refer to the recent amendments to the Water and Air Acts, empowering an Adjudicating Officer, not below the rank of Joint Secretary of Government of India or Secretary to State Government, for imposing penalties for contravention of provisions of the Acts.

6. Issue.

8. The core question in these appeals is - whether the regulatory boards can, in exercise of powers under Section 33A of the Water Act and Section 31A of the Air Act, impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage?

7. Existing Legal Regime for Pollution Control in India.

9. Under the Water Act and the Air Act, the State Boards have a broad statutory mandate to prevent, control and abate water pollution and air pollution. Under Section 17 of the Water Act, the State Boards are to shoulder enormous responsibilities and their functions are reproduced herein for ready reference -

“Section 17. Functions of State Board – (1) Subject to the provisions of this Act, the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;

(c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

- (i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;*
 - (j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;*
 - (k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;*
 - (l) to make, vary or revoke any order—*
 - (i) for the prevention, control or abatement of discharges of waste into streams or wells;*
 - (ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or adopt such remedial measures as are necessary to prevent, control or abate water pollution;*
 - (m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;*
 - (n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;*
 - (o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.*
- (2) The Board may establish or recognize a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.”*

10. Section 17 of the Air Act⁹, substantially similar to its equivalent under the Water Act, also indicates the crucial

⁹ Section 17 of Air Act states –

17. Functions of State Boards.— (1) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974, the functions of a State Board shall be—

- (a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;*
- (b) to advise the State Government on any matter concerning the prevention, control or abatement relating to air pollution;*

responsibilities of the State Boards in discharge of their mandate. Chapter V of the Water Act and Chapter IV of the Air Act include provisions that prescribe the regulatory powers of the State Boards. These powers include the power to issue, modify or withdraw consent¹⁰, power to obtain information¹¹, power of entry and inspection¹² and power to take samples¹³.

8. Insertion of Sections 33A & 31A in Water and Air Acts.

11. In 1988, both Acts were amended. Notably, through amendments the State Boards were further empowered to give

-
- (c) to collect and disseminate information relating to air pollution;
 - (d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise a mass-education programme relating thereto;
 - (e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;
 - (f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;
 - (g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft: Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;
 - (h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;
 - (i) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;
 - (j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

(2) A State Board may establish or recognise a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.

¹⁰ Sections 25, 27 of Water Act and Section 21 of Air Act

¹¹ Section 20 of Water Act and Section 25 of Air Act

¹² Section 23 of Water Act and Section 24 of Air Act

¹³ Section 21 of Water Act and Section 26 of Air Act

directions under Section 33A of the Water Act and Section 31A¹⁴ of the Air Act. These two provisions are identically worded. Section 33A of the Water Act is as under;

“Section 33A. Power to give directions.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service.”

12. The directions contemplated under Sections 33A and 31A of the Water and Air Acts must be in furtherance of the powers and functions of the Boards and they must be in writing. These provisions, declares that the power to issue directions will include the power to direct closure, prohibition or regulation of any

¹⁴ Section 31A of the Air Act states –

31A. Power to give directions.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service.

industry, operation or process. Further, this power extends to directing the stoppage or regulation of supply of electricity, water or any other service. The power to give directions has been worded broadly, and it allows the Boards significant flexibility in deciding the nature of directions. The legislative intention of granting these powers through the 1988 amendment can be inferred from the Statement of Objects and Reasons of the Water Act, which reads as follows –

“2. The Water Act is implemented by the Central and State Governments and the Central and State Pollution Control Boards. Over the past few years, the implementing agencies have experienced some more administrative and practical difficulties in effectively implementing the provisions of the Act. The ways and means to remove these difficulties have been thoroughly examined in consultation with the implementing agencies. Taking into account the views expressed, it is proposed to amend certain provisions of the Act in order to remove such difficulties....

3. The Bill, inter alia, seeks to make the following amendments in the Act, namely:—

....

(iv) in order to effectively prevent water pollution, the penal provisions of the Act are proposed to be made stricter and bring them at par with the punishments prescribed in the Air (Prevention and Control of Pollution) Act, 1981 as amended by Act 47 of 1987;

....

(vi) it is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending industry, operation or process or stoppage or regulation of supply of services such as water and electricity;”

13. Similar objective is expressed for the amendment introduced in the Air Act.¹⁵

14. An appeal against directions issued under Section 33A of the Water Act by the State Board can be filed before the National Green Tribunal under Section 33B, introduced in 2010¹⁶. Unlike the Water Act there is no specific Appeal provision against directions issued under Section 31A of the Air Act. This asymmetry must be addressed legislatively.

15. Offences and penalties under the two Acts, and the related procedures, are covered in Chapter VII of the Water Act and Chapter VI of the Air Act. These chapters have undergone significant and substantial amendments. Prior to the amendments, the two Acts stipulated penalties in the form of

¹⁵ Statement of Objects and Reasons for Air Act states, “2. *The Air Act is implemented by the Central and State Governments and the Central and State Boards. Over the past few years, the implementing agencies have experienced some administrative and practical difficulties in effectively implementing the provisions of this Act and have brought these to the notice of Government. The ways and means to remove these difficulties have been thoroughly examined in consultation with the concerned Central Government departments, the State Governments and the Central and State Boards. Taking into account the views expressed, the Government have decided to make certain amendments to the Act in order to remove such difficulties.* 3. *The Bill, inter alia, seeks to make the following amendments in the Act, namely—*

....
iv) In order to prevent effectively air pollution, the punishments provided in the Act are proposed to be made stricter.

....
(vii) It is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending establishments or stoppage or regulation of supply of services such as, water and electricity. (viii) It is proposed to empower the Boards to approach courts to obtain orders restraining any person from causing air pollution.”

¹⁶ Act 19 of 2010.

imprisonment, monetary fine or both for offences under the statute. Courts could only take cognizance of an offence if a complaint was filed by a Board or any officer authorized by it, or by any person who had given notice of the alleged offence and of his intention to make a complaint. No court inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first class can try an offence punishable under the two Acts. Be that as it may, for the present purpose we have to examine and interpret Sections 33A and 31A of the Water and Air Acts.

9. Interpretation of and for Environmental Institutions.

16. Our constitutionalism bears the hallmark of an expansive interpretation of fundamental rights. But such creative expansion is only a job half done if the depth of the remedies, consequent upon infringement, remain shallow. In other words, remedial jurisprudence must keep pace with expanding rights and regulatory challenges. It is not sufficient that courts adopt injunctory, mandatory and compensatory remedies, but our regulators also must be empowered in that regard. However, the legislative grammar must be elastic for us to infuse the regulators with power to fashion different remedies. This infusion must also be tempered with the necessary guidelines and parameters of

exercise of remedial powers, failing which such infusion would aid arbitrary use. Our firm view is that remedial powers or restitutionary directives are a necessary concomitant of both the fundamental rights of citizens who suffer environmental wrongs and an equal concomitant of the duties of a statutory regulator, which are informed by Part IV A of the constitution. To that extent, the functions and powers of a regulator must be inspired by the obligation in Part IV A and Article 48 A. The State's '*endeavour to protect and improve the environment*' will be partial, if it does not encompass a duty to retribute.

17. Of all the duties imposed under Article 51A, the obligation to conserve and protect water and air, is perhaps the most significant, amidst our climate change crisis. The Water Act and the Air Act institutionalised all efforts and actions that need to be taken to protect air that we breathe and water that we consume by creating the Pollution Control Boards. These Boards functioning as our environment regulators are expected to act with *institutional foresight* by evolving necessary policy perspectives and action plans. Working with perpetual seal and succession, they are to develop and retain *institutional memory* so that they can act on the basis of the experience, data and information that they would have

gathered and processed. *Institutional expertise* is critical, and these bodies are to employ human resource which have domain expertise and talent. These bodies are intended to maintain *institutional integrity* by taking independent and objective decisions without governmental or industrial control. These values flow naturally if there is *institutional transparency and accountability*. It is in this perspective that we need to interpret Section 33A of the Water Act and 31A of the Air Act.

10. Duty to Restitute v. Power to Punish and Penalise.

18. There is a distinction between an action for environmental damages for restitution or remediation and imposition of penalties or fines levied at the culmination of a punitive action. This Court in *M.C. Mehta* (supra), while referring to the provisions of the Water Act, Air Act and the Environment Protection Act observed –

“17. All the three Acts, referred to above, also contemplate the taking of the cognizance of the offences by the court. Thus, a person guilty of contravention of provisions of any of the three Acts which constitutes an offence has to be prosecuted for such offence and in case the offence is found proved then alone can he be punished with imprisonment and fine or both. The sine qua non for punishment of imprisonment and fine is a fair trial in a competent court. The punishment of imprisonment or fine can be imposed only after the person is found guilty.”

“24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay

damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender....”

19. Therefore, Indian law distinguishes between the imposition of a monetary penalty or fine, which constitutes punitive action following a determination of guilt after adherence to the statutorily prescribed procedure, and the payment of damages for restitution or remediation as compensatory relief.

20. In this context, it is important to turn to one of the key principles of Indian environmental law – the *Polluter Pays* principle. This principle has been a part of Indian jurisprudence since 1996. In *Indian Council for Enviro-Legal Action v. Union of India*¹⁷, this Court held that according to the *Polluter Pays* principle the responsibility for repairing the damage is that of the offending industry. The Court further held that the powers of the Central Government to issue directions under Section 5 read with Section 3 of the Environment Protection Act include the power to impose costs for remedial measures -

“60. ... Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government (or its delegate, as the case may be) to “take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment...”. Section 5 clothes the Central Government (or its delegate) with the power to issue

¹⁷ (1996) 3 SCC 212

directions for achieving the objects of the Act. Read with the wide definition of 'environment' in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. ...

67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" principle. ...Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, RPCB or such other agency or authority, as they think fit."

(emphasis added)

21. Subsequently, the Court in *Vellore Citizens' Welfare Forum v. Union of India*¹⁸, has held that the liability for environmental damage includes both a compensatory aspect and a restorative or remedial aspect-

"12. ... The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the

¹⁸ (1996) 5 SCC 647

environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.”

(emphasis added)

22. Application of the *Polluter Pays* principle not only includes payment for restoring the damaged environment, taking remedial action to deal with the damage and compensating for the direct harm caused, but also for avoiding pollution. In *Research Foundation for Science (18) v. Union of India*¹⁹, this Court held -

“29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.”

(emphasis added)

23. The Court further held that the observations of the Court in *Deepak Nitrite Ltd. v. State of Gujarat*²⁰ that “mere violation of the law in not observing the norms would result in degradation of environment would not be correct” were confined to the facts of that

¹⁹ (2005) 13 SCC 186.

²⁰ (2004) 6 SCC 402

case. The Court clarified that the actual degradation of the environment is not a necessary condition for the application of polluter pays principle, as long as the offending activities have the potential of degrading the environment -

“30...The decision also cannot be said to have laid down a proposition that in the absence of actual degradation of environment by the offending activities, the payment for repair on application of the polluter-pays principle cannot be ordered. The said case is not relevant for considering cases like the present one where offending activities have the potential of degrading the environment. In any case, in the present case, the point simply is about the payments to be made for the expenditure to be incurred for the destruction of imported hazardous waste and amount spent for conducting tests for determining whether it is such a waste or not...”

(emphasis added)

24. The distinction between a punitive action and a direction to pay environmental damages was made by the National Green Tribunal in *State Pollution Control Board, Odisha v M/s Swastik Ispat Pvt Ltd and Others*²¹. The Tribunal in this case was considering the legality of forfeiture of bank guarantees in case a defaulting industry did not comply with the regulatory conditions within the stipulated timeframe. The Tribunal expressly considered the opinion of the High Court in the impugned judgment before us today and held -

“45. It is evident from the above facts and the reasoning that there was actual levy of penalty or damages by the DPCC and

²¹ 2014 SCC OnLine NGT 13.

*it was in consequence of such imposition of penalty/ damages that the Units were called upon to furnish bank guarantees for granting of consent. In other words, bank guarantee was required to be furnished in furtherance to the imposition of a penalty or damages in that case. It was not an act de hors the imposition of penalty and had the element of punitive action. In the present case, it is not a consequence of a punitive or penal action but is in exercise of the powers vested in the Board in relation to recalling the conditions of consent and ensuring their implementation while also making compensatory provision for remedying the apprehended wrong to the environment. In the cases in hand, the Board has not imposed any penalty upon the units but has granted consent to them on certain conditions, none of which is punitive. They squarely fall within the power of the Board to prevent and control pollution in consonance with the scheme of the Acts concerned. Thus, on facts, the judgments of the High Court in *Splendor* (supra) do not have any application to the present case. In any case, we are of the considered view that asking for a bank guarantee as an interim measure for due performance of the conditions of the consent order being compensatory in nature, is not punitive.*

46. We have already noticed above that there is a clear distinction between a penal and a compensatory provision. In such matters, the paramount question that would normally fall for determination before a court or tribunal would be whether the action contemplated is penal or compensatory. This issue shall have to be decided with reference to the facts of the case, the provisions of the law applicable and the intent of the authority concerned. Once it falls in the 'compensatory' field, then it will necessarily be beyond the purview of penalty....

(emphasis added)

25. In *Swastik Ispat*, the Green Tribunal correctly interpreted Sections 33A and 31A of the Water and Air Acts. The judgment of the High Court in *Splendor* had not yet been taken up or considered by this Court at that time, the Tribunal had to distinguish the facts of *Splendor* to arrive at its own conclusion. In view of our reasoning and interpretation of Sections 33A and 31A

of the Water and Air Acts, we have no hesitation to hold that the Green Tribunal is correct in its approach.

26. More recently, in *T.N. Godavarman Thirumulpad, In Re v. Union of India*²², this Court while considering the issue of illegal construction in the Corbett Tiger Reserve drew the distinction between action against persons violating the law and measures for restoration of the environmental damage. The Court held -

“173. ... However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localised to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged.

175. We find that, bringing the culprits to face the proceedings is a different matter and restoration of the damage already done is a different matter. We are of the considered view that the State cannot run away from its responsibilities to restore the damage done to the forest. The State, apart from preventing such acts in the future, should take immediate steps for restoration of the damage already done; undertake an exercise for determining the valuation of the damage done and recover it from the persons found responsible for causing such a damage.

(emphasis added)

11. Principles.

27. Based on a review of precedents on this issue, the following legal position emerges –

²² (2025) 2 SCC 641

- I. There is a distinction between a direction for payment of restitutionary and compensatory damages as a remedial measure for environmental damage or as an *ex-ante* measure towards potential environmental damage on the one hand; and a punitive action of fine or imprisonment for violations under Chapters VII of the Water Act and VI of the Air Act on the other hand.
- II. If directions in furtherance of restitutionary and compensatory measures are issued, these are not to be considered as punitive in nature. Punitive action can only be taken through the procedure prescribed in the statute for example under chapters VII and VI of the Water and Air Acts respectively.
- III. Indian environmental law has assimilated²³ the principle of *Polluter Pays* and there is also a statutory incorporation of this principle in our laws.²⁴ The invocation of this principle is triggered in the situations²⁵; i) when an established threshold or prescribed requirement is exceeded or

²³ *Indian Council for Enviro-Legal Action* (supra n.12); *Vellore* (supra n 13).

²⁴ **Section 20. Tribunal to apply certain principles-** *The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.*

²⁵ Loveleen Bhullar, 'The Polluter Pays Principle: Scope and Limits or Judicial Decisions'; in Shibani Ghosh (ed.), *Indian Environmental Law* (Orient BlackSwan 2019).

breached, and it does result in environmental damage, ii) when an established threshold or prescribed requirement is not exceeded or breached, nevertheless the act in question results in environmental damage and also iii) when a potential risk or a likely adverse impact to the environment is anticipated, irrespective of whether or not prescribed thresholds or requirements are exceeded or breached.

IV. Environmental regulators have a compelling duty to adopt and apply preventive measures irrespective of actual environmental damage. *Ex-ante* action shall be taken by these regulators and for this purpose a certain measure in exercise of powers under Sections 33A and 31A of the Water and Air Acts is necessary.

V. The powers of the Boards under Sections 33A and 31A of the Water and Air Acts are identical to that of Section 5 of the Environment Protection Act. Under Section 5, the Central Government or its delegate has the power to issue directions to the polluting industry to pay certain amounts and utilise the said fund for carrying out remedial measures. The Boards are empowered to take similar actions under Sections 33A and 31A of the Acts.

28. Having considered the principles that govern our environmental laws and on interpretation of Sections 33A and 31A of the Water and Air Acts, we are of the opinion that that the Division Bench of the High Court was not correct in restrictively reading powers of the Boards. We are of the opinion that these regulators in exercise of these powers can impose and collect, as restitutionary or compensatory damages fixed sum of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential or actual environmental damage.

29. There is no doubt that Section 33A of the Water Act and Section 31A of the Air Act give the State Boards powers to issue necessary directions for environmental restoration, remediation and compensation and for the payment of costs for the same. The National Green Tribunal's judgment in *Swastik Ispat* correctly identified the Boards powers to issue directions for payment of environmental damages under Section 33A of the Water Act and the Section 31A of the Air Act. A restrictive interpretation which fails to differentiate between environmental damages and punitive action significantly encumbers the Boards ability to discharge its duties.

30. The Board's powers under Section 33A of the Water Act and Section 31A of the Air Act have to be read in light of the legal position on the application of *Polluter Pays* principle as formulated and explained. This means that State Board cannot impose environmental damages in case of every contravention or offence under the Water Act and Air Act. It is only when the State Board has made a determination that some form of environmental damage or harm has been caused by the erring entity, or the same is so imminent, that the State Board must initiate action under Section 33A of the Water Act and Section 31A of the Air Act.

31. At this stage, we must also take note of the recent 2024 amendments²⁶ to the Water and Air Acts. Two major changes relevant for our consideration are that of decriminalisation²⁷ and introduction of the office of "Adjudicatory Officer"²⁸. Even after the

²⁶ The Water (Prevention and Control of Pollution) Amendment Act, 2024, Jan Vishwas (Amendment of Provisions) Act, 2023.

²⁷ Section 41 in the erstwhile Water Act has been substituted by sections 41 and 41A, whereby contravention of directions issued under section 20 (for obtaining information), 32 (for imposing emergency measures in case of pollution), 33 (for restraining apprehended pollution) or 33A would now be punishable by penalty alone; thereby replacing the earlier penal framework comprising of imprisonment *and* fine. Similar amendments done for section 42 (penalty for certain acts), section 43 for contravention of directions under section 24 (prohibiting use of stream or well), section 44 (prohibiting alteration of meter, etc.), and section 45A (residuary). Correspondingly, under the Air Act criminal liability under section 37 for contravention of directions under section 22 (restricting emission beyond standards) or section 31A has been restricted to fine alone. Similar amendments have been brought in section 38 and 39 (residuary). Punishment for imprisonment has been retained only for violation of section 21 and failure to pay penalty or additional penalty under section 39D.

²⁸ In the Water Act, section 45B puts in place a new office by the title of 'Adjudicating Officer', who would be an officer not below the rank of Joint Secretary to the Centre or Secretary to the State, appointed by the Central Government. Adjudicating Officer is empowered to inquire

amendments, in our opinion, there is no conflict between the powers of the State Boards to direct payment of environmental damages under Sections 33A and 31A of the Water and Air Acts and the powers of the Adjudicating Officer to impose penalties under Chapter VII of the Water Act and Chapter VI of the Air Act. The decriminalization of offences under these Chapters has not removed the punitive nature of actions that can be taken under them. There remains a clear distinction between the nature of directions that the State Boards can issue under Sections 33A and 31A of the Water and Air Acts for payment of environmental damage and the determination by Adjudicating Officers. The former is compensatory in nature and will be resorted to when remedial measures are being undertaken to restore the degraded environment or pollution caused. The latter is a penalty for an offence under the law and is imposed with the objective of punishing the offender. This penalty collected here will not be specifically directed towards the restoration of the degraded environment (for instance, to decontaminate a pond that has been

and impose penalties under sections 41, 41A, 42, 43, 44, 45A and 48. Appeal against such imposition lies before the National Green Tribunal as per section 45C. The Adjudicating Officer is further empowered to file a complaint for cognizance under section 49. Corresponding additions have been made under the Air Act as well under sections 39A (Adjudicating Officer), 39B (Appeal to NGT) and 43 (Cognizance of offences).

polluted due to discharge of untreated sewage). It will be deposited in the Environmental Protection Fund that is to be set up under Section 16 of the Environment (Protection) Act. According to Section 16(3) of the EP Act, the Fund shall be used for, (a) the promotion of awareness, education and research for the protection of environment; (b) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act; and (c) such other purposes, as may be prescribed.

A. Board's Responsibility to Choose Appropriate Course of Action.

32. Given their broad statutory mandate and the significant duty towards public health and environmental protection the Boards must have the power and distinction to decide the appropriate action against a polluting entity. It is essential that the Boards function effectively and efficiently by adopting such measures as is necessary in a given situation. The Boards can decide whether a polluting entity needs to be punished by imposition of penalty or if the situation demands immediate restoration of the environmental damage by the polluter or both.

B. Powers Must Be Guided by Transparency and Non-Arbitrariness.

33. While we hold that the Boards have the power to direct the payment of environmental damages, we make it clear that this power must always be guided by two overarching principles. First, that the power cannot be exercised in an arbitrary manner; and second, the process of exercising this power must be infused with transparency.

34. This Court has underscored the importance of strong institutional frameworks in environmental governance that are effective, accountable and transparent. In *Bengaluru Development Authority v. Sudhakar Hegde*²⁹, this Court held -

“95. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision-making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognised value under Article 21 of the Constitution, proper structures for environmental decision-making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place.”

(emphasis added)

²⁹ (2020) 15 SCC 63

35. To ensure that the Boards impose restitutionary and the compensatory environmental damages in a fair transparent, non-arbitrary manner, with procedural certainty, necessary subordinate legislation in the form of rules and regulations must be notified. This shall include methods by which environmental damage is determined, and the consequent quantum of damages are assessed. They may also incorporate certain basic principles of natural justice for fairness in action. At present environmental damages are being levied by the Boards on the basis of certain guidelines issued by the Central Pollution Control Board in its document “*General framework for imposing environmental damage compensation*” issue in December, 2022. These guidelines seem to have been issued pursuant to the directions of the NGT.³⁰ It is important that these guidelines are reviewed thoroughly and issued in the form of Rules and Regulations. This will enable declaration of a law that applies and ensures its recognition and easy implementation.

36. These Rules must also create enabling framework for citizens to file complaints about environmental damage. Public participation in environmental protection has assumed great

³⁰ Pursuant to the NGT in its order in O.A. No. 606/2018 dated 24.04.2019.

importance with climate change threatening to drastically disrupt our way of living. Boards, being the first line of defence against polluting activities, must provide easy accessibility and encourage public participation in their function and decision making.

37. While we have reversed the decision of the High Court on the principle of law and hold that the environmental regulators, the Pollution Control Boards, can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts, we issue the following consequential directions.

38. In view of the fact that the show cause notices in these cases relate to the year 2006 and those show cause notices were set-aside by the Single as well as by the Division Benches of the High Court, we are of the opinion that no purpose will be served in reviving the said show cause notices at this point of time. In the facts and circumstances of the case while we allow the appeal on the principle of law there shall not be any consequential direction for reviving the show cause notices which have been set-aside concurrently by the Single as well as by the Division Bench of the

High Court. If certain amounts have been collected on the basis of the said show cause notices they shall be returned by DPCC within a period of six weeks from the date of this order, and if amounts are not deposited or collected the appellant, DPCC shall not take any further action.

39. For the reasons stated above:

(a) we allow these appeals and set aside the judgement and order dated 23.01.2012, passed by the Division Bench of the High Court of Delhi to the extent of declaration of law but direct that the show cause notices that have been set aside by the High Court shall not be revived.

(b) we direct that the Pollution Control Boards can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts.

(c) it is further directed that the power to impose or collect restitutionary or compensatory damages or the requirement to furnish bank guarantees as an *ex-ante* measure under Sections 33A and 31A of the Water and Air Acts shall be enforced only after

detailing the principle and procedure incorporating basic principles of natural justice in the subordinate legislation.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[MANOJ MISRA]

**NEW DELHI;
AUGUST 04, 2025**