

**JOINT COMMITTEE REPORT
ON
ASSESSMENT OF ENVIRONMENTAL COMPENSATION
Dated 30/09/2020**



Prepared

by

The committee constituted by Hon'ble National Green Tribunal in reference to
Order dated 21/09/2020 in the OA No. 61/2020

Joint Committee report on assessment of environmental compensation in matter of NGT OA no. 61/2020 (CZ) (Maj. Gen. Harpreet Singh Bedi (Retd.) & ors. Versus Shri Vijay Singh, Dwarkadheesh Haveli Builders & ors.

Sub: Committee constituted by Hon'ble National Green Tribunal for assessment of environmental compensation in matter of NGT OA no. 61/2020 (CZ) (Maj. Gen. Harpreet Singh Bedi (Retd.) & ors. Versus Shri Vijay Singh, Dwarkadheesh Haveli Builders & ors.

Ref: Order dated 21/09/2020 in the matter of OA 61/2020 by Hon'ble National Green Tribunal(**Annexure-I**).

The Hon'ble National Green Tribunal in Original Application No. 61/2020 (CZ) vide order dated 21/09/2020 in the case titled as (Maj. Gen. Harpreet Singh Bedi (Retd.) & ors. Versus Shri Vijay Singh, Dwarkadheesh Haveli Builders & ors. constituted a joint committee consisting of following to calculate the amount of environmental compensation for violation of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention And Control Of Pollution) Act, 1981, extraction of groundwater without permission from Central Groundwater Authority:-

- (i) One representative from the Central Pollution Control Board,
- (ii) One representative from State Pollution Control Board
- (iii) One representative from Central Groundwater Authority

The Committee is directed by Honourable National Green Tribunal to Central Pollution Control Board, State Pollution Control Board and Central Ground Water Authority to immediately calculate the environmental compensation and report within 10 days.

In view of the above, for the purpose of constituting the said committee as per orders of the Hon'ble Tribunal, following officers were nominated by the concerned departments to calculate the amount of environmental compensation:

1. Shri Milind Nimje, Scientist-C, Regional Directorate, Central Pollution Control Board, Bhopal (**Annexure-II**).
2. Shri H. S. Malviya, Superintending Engineer, M.P. Pollution Control Board, Bhopal (**Annexure-III**).
3. Dr. Seraj Khan, Scientist, Regional Directorate, Central Ground Water Board, Bhopal (**Annexure-IV**).

The committee during its first meeting dated 28/09/2020, gone through the order of Hon'ble NGT to draw out the requisite parameters for evaluation of the environment compensation. As

per para 14 of the order dated 21/09/2020 the formula for evaluation of environment compensation given is as follows:

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

BIS 15-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013}, may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCDC, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. And O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr/MLD (marginal average cost). Further, expected cost for conveyance system is assumed as Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

EC= Capital Cost Factor x [Marginal Average Capital Cost for Treatment Facility x (Total Generation-Installed Capacity) + Marginal Average Capital Cost for Conveyance Facility x (Total Generation -Operational Capacity)]+ O&M Cost Factor x Marginal Average O&M Cost x (Total Generation- Operational Capacity) x No. of Days for which facility was not available + Environmental Externality x No. of Days for which facility was not available Alternatively;

EC (Lacs Rs.)= [17.5{Total Sewage Generation -Installed Treatment Capacity)+ 55.5{Total Sewage Generation-Operational Capacity}] + 0.2(Sewage Generation-Operational Capacity) x N + Marginal Cost of Environmental Externality x (Total Sewage Generation-Operational Capacity) X N

Where; N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority.

Quantity of Sewage is in MLD”

4.6 Environmental Compensation Rate (ECRG_w) for illegal use of Ground Water:

The committee decided that the Environmental Compensation Rate (ECRG_w) for illegal extraction of ground water should increase with increase in water consumption as well as water scarcity in the area. Further, ECRG_w are kept relaxed for drinking and domestic use as compared to other uses, considering the basic need of human being. As per CGWB, safe, semi-critical, critical and overexploited areas are categorized from the ground water resources point of view (CGWB, 2017). List of safe, semi-critical, critical and over-exploited areas are available on the website of CGWB and can be accessed from -

<http://cgwanoc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessment.pdf#ZOOM=150>. Environmental Compensation Rates (ECRGw) for illegal use of ground water (ECRGw) for various purposes such as drinking/domestic use, packaging units, mining and industrial sectors as finalized by the committee are given in tables below: Units.

4.6.1 ECRGw for Drinking and Domestic use:

Drinking and Domestic use means uses of ground water in households, institutional activity, hospitals, commercial complexes, townships etc.

SI. No.	Area Category	Water Consumption (m ³ /day)			
		<2	2 to <5	5 to <25	25 & above
Environmental Compensation Rate (ECRGw) in Rs./m ³					
1	Safe	4	6	8	10
2	Semi Critical	12	14	16	20
3	Critical	22	24	26	30
4	Over-Exploited	32	34	36	40
Minimum ECGw=Rs 10,000/- (for households) and Rs. 50,000 (for institutional activity, commercial complexes, townships etc.)					

The committee also gone through the guidelines prepared by CPCB (**Annexure-V**) for assessment of environment compensation and also the guidelines published by CGWA vide GoI notification dated 24/09/2020. The formula for “**Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority**” is well suited above for the concerned project as CPCB guidelines and as narrated above in the order but for assessment of environment compensation for ground water abstraction for drinking purposes is not given in the CGWA guidelines hence the methodology given in the order by the Hon’ble NGT is adopted for assessment.

The committee after study of the guidelines and order draw out the following parameters for assessment of the environment compensation:

1. Water consumption per day
2. Total Sewage Generation
3. Installed Treatment Capacity
4. Operational Capacity of STP
5. N= Number of days from the date of direction of CPCB/SPCB/PCC
6. Marginal Cost of Environmental Externality
7. Area Category for ground water abstraction as CGWA

Since the Dwarkadheesh Haveli Builders (Dwarkadham) did not obtained consent from MPPCB and permission for ground water abstraction from CGWA hence the requisite data/documents or the information for assessment of the environment compensation based on above parameters are

not available. Therefore the committee decided to visit the site and interact with the applicant and respondent at site itself. The committee visited the project on 29/09/2020. During visit to the project, apart from committee members' applicant Major General H.S. Bedi (Retd.) and respondent Shri Vijay Singh were present.



The committee after discussion with the office bearers of the Dwardham Residents Welfare Society and the developer along with study of the guidelines on NBC, CGWA, CPCB in view of the order dated 21/09/2020, draw out the following parameters for assessment of the environment compensation:

1. Water consumption per day : The developer has 07 bore wells out of which 04 (01 No. 8HP-6stage and 03 Nos. 6HP-4stage) are being used rest are standby in case of any eventuality or failure of pumps of operating bore wells. These bore wells are not fitted with water meters. The developer has one 50 KL capacity storage tank which is being filled five times a day hence total water used per day for domestic and parks etc is 250 KL/day.
2. Total Sewage Generation: as per discussion with the developer and the society members' alongwith applicant about 252 Families (**Annexure-VI**) are occupying the houses and average 5 persons/family are considered residing presently. Considering National Building Code for domestic water supply about 150 LPCD water is being required,

totaling about 190 KLD. As per CPHEEO manual out of domestic consumption about 80% generates as sewage. Hence total Sewage generation would be 0.152 MLD.

3. Installed Treatment Capacity: During visit the sewage treatment plant (STP) created by developer was found defunct and even connections were not made for sewage to enter in the treatment system. As per discussion and information given, the capacity of STP is 200 KLD however no technical design and sizes are provided.
4. Operational Capacity of STP: During visit, the STP was found defunct and even connections were not made for sewage to enter in the treatment system. Hence for environmental compensation calculation point of view operational capacity was considered as nil.
5. N= Number of days from the date of direction of CPCB/SPCB/PCC: After receipt of complaint and visit of the site by M.P. Pollution control Board issued show cause notice on 10th June, 2020 (**Annexure-VII**) hence as per guidelines and the directions number of days calculated from 10th June, 2020 for estimation of environmental compensation. Hence up to 30th September, 2020 number days are – 113 days.
6. Marginal Cost of Environmental Externality : As per the guidelines CPCB for calculation of environmental compensation for “Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority” and the order dated 21/09/2020 the Marginal Cost of Environmental Externality is taken as minimum 0.05 and maximum 0.10 for sewage up to 200 MLD. Hence for calculation of the environmental compensation Marginal Cost of Environmental Externality is taken as maximum Rs. 0.1 Lacs/day.
7. Area Category for ground water abstraction as CGWA : As per the CGWA guidelines and categorisation done, this area falls under – Semi-critical category.

EC calculations:

The committee discussed the matter of air pollution from the township, there is no specific source of air pollution in the township however the member from MPPCB informed that the Board has filed prosecution against the builder under Water Act 1974, Air Act 1981 and Environment (Protection) Act 1986. Hence the committee decided to calculate EC for Sewage disposal and ground water abstraction. The details are as follows:

1. EC for sewage treatment-

EC (Lacs Rs.)= [17.5{Total Sewage Generation -Installed Treatment Capacity)+ 55.5{Total Sewage Generation-Operational Capacity}] + 0.2(Sewage Generation-Operational Capacity) x N + Marginal Cost of Environmental Externality x (Total Sewage Generation-Operational Capacity) X N

EC (Lacs Rs.)=[17.5(0.152-0)+55.5(0.152-0)]+0.2(0.152-0)X113+0.1X(0.152-0)X113

EC (Lacs Rs.)=[2.66+8.436+3.435+1.1725]

EC (Lacs Rs.)=15.7035 Lacs.

Note: *Since the STP of the township is not functional hence the EC shall be continued till developer reports the same to the Hon'ble NGT.*

2. EC for Ground water abstraction-

Total ground water abstraction by the builder for the project is about 190 KLD. Area Category for ground water abstraction as CGWA guidelines falls under – Semi-critical category. The rate for this category is Rs. 20/m³.

EC rate = 190 X 20 Rs./KL = 3800 Rs./day.

As per order of Hon'ble NGT in the matter of OA No. 176/2015 dated 11/09/2019 para- "21.

The committee has given following recommendations:

1. *In case of fixation of liability, it always lies with current owner of the premises where illegal extraction of groundwater is taking place.*
2. *Violation duration may be assumed as at least one year in case where no evidence for period of installation of borewell could be established."*

The committee during visit and discussion with developer could not get the exact date of establishment of bore wells hence the period of EC for ground water abstraction has been considered from the date of above order i.e. 11/09/2019 to 30/09/2020. The calculations are as follows:-

Total EC_{GWA} = EC rate X days

Total EC_{GWA} = Rs. 3800/day X 384 days

= Rs. 14.592 Lacs.

Recommendations:

Environmental compensation calculated based on the order of Hon'ble National Green Tribunal and the guidelines of CGWA & CPCB the details are as follows:

1. **Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority-** Rs.15.7035 Lacs
2. **EC_{GWA} for Drinking and Domestic use** = Rs. 14.592 Lacs. Total Environmental compensation is Rs. 30.2055 Lacs.

Note: Since the STP of the township is not functional and ground water abstraction is continue hence EC should be continued till developer reports the operation of STP and permission of CGWA to the Hon'ble NGT.

Visit Photographs-Annexure - VIII

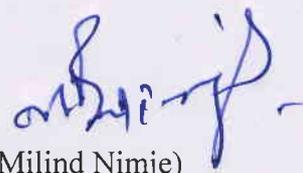
Enclosures: As mentioned above (Annexure I to VIII).



(Dr. Seraj Khan)
Scientist,
Regional Directorate,
Central Ground Water Board,
Bhopal



(H. S. Malviya)
Superintending Engineer
M.P. Pollution Control Board,
Bhopal



(Milind Nimje)
Scientist
Regional Directorate,
Central Pollution Control Board,
Bhopal

Item No. 04(Bhopal Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 61/2020 (CZ)

Maj. Gen. Harpreet Singh Bedi (Retd.) & Ors. Applicant(s)
Versus

Shri Vijay Singh, Dwarkadheesh Haveli Builders Respondent(s)
& Ors.

Date of hearing: 21.09.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant (s) : Maj. Gen. Harpreet Singh Bedi (Retd.), Applicant
in person
For Respondent(s): Ms. Parul Bhadoria, Advocate
Mr. Om S. Shrivastava, Advocate

ORDER

1. This is in continuation of the order passed by this Tribunal on 17.08.2020. The issue of untreated water / sewage water being discharged in open place, supply of contaminated water, presence of strong ammonia in the water, construction of building without environmental compensation or required permission by the Competent Authority, without consent to operate under Water (Prevention and Control of Pollution) Act, 1974 were raised and this Tribunal vide order as above constituted a Committee consisting the Collector, Bhopal and Municipal Commissioner, Bhopal and Madhya Pradesh Pollution Control Board to submit a factual and action taken report.

2. The Joint Committee visited the site and submitted the report as follows:

*"Before visit to the site the committee discussed the details of the order and the responsibility entrusted to the committee by Honourable National Green Tribunal the contents of the order. As per para 11 of the order dated 17/08/2020 **"The Committee is directed to visit the place and submit the action taken report within four weeks. The State PCB will be the nodal agency for coordination and logistic support."** Further the Hon'ble NGT in para 14 directed the committee **"We also direct the committee to submit a report on the following points:-***

(i) The total no of drains were untreated/Sewage water is being discharged in the lake or river bodies in Bhopal.

(ii) Total no of STPs installed there.

(iii) Quantity of water being used by the residents in the city of Bhopal.

(iv) Total capacity to treated the water.

(v) The gape between the used and capacity to treat.

(vi) Future planning of Municipality to meet out the gape and make proper arrangements for treatment of the water.

(vii) Action taken against the polluters who are discharging the water, sewage & untreated water in to the river bodies & causing water pollution & contaminating the underground water.

(viii) It is directed that Municipal authorities to ensure that no solid waste be thrown in to the open space and there should be no discharge of untreated/sewage water in to the water bodies or in the open space & any one violating the norms and any violation of this order should be taken seriously in accordance with the order passed by the principal bench of this tribunal in O.A. No. 148/2016: Mahesh Chandra Saxena v. South Delhi Municipal Corporation & Ors. Vide order dated 21.05.2020...."

Applicant Shri. Major General H.S. Bedi & Ors. Office bearer of Dwarkadham Resident Welfare Society, Bhopal explained the matter to the committee members and informed that STP of Township is not commissioned till date even after the handing over of apartments to the residents welfare society. Shri Bedi informed the steps taken by him to raise the issue before the developer and various government organizations. The committee took the bird eye view of the area from top of the one of the tower in the colony and observed that STP is totally defunct and lots of

bushes/grass was grown around it. The committee also observed that stinking untreated sewage was found in stagnant condition near STP and in open land besides the applicants residence block. Shri Bedi also informed that due to stagnation of untreated sewage nearby the tube well supplying water to their building is contaminated it is verified from water analysis report obtained from Local Laboratory.

*Further, PCB Officials, informed that the developer has not obtained consent to establish from MPPCB and EC from SEIAA hence its application was rejected. In response to the complaint dated 20.05.2020 made by the applicant in the Board, the Officers from Regional Office, MPPCB Bhopal inspected site on 23.05.2020 and found that the complaint is right & based on the observations, M.P. Pollution Control Board issued show cause notice dated 22.07.2020 to the developer **(Annexure-III)** under section 15 of Environment Protection Act, 1986 & under section 33-A of Water (Prevention and Control) Act, 1974 & 31A of Air (Prevention and Control) Act, 1981 and due to inaction by developer, a criminal case is filed against the developer in the court of Judicial Magistrate (I), Bhopal, on 31/08/2020 under section 15 of Environment Protection Act, 1986 & under section 25 & 44 of Water (Prevention and Control) Act, 1974 & 37 & 39 of Air (Prevention and Control) Act, 1981. **(Annexure-IV)***

*As per the details sought by Hon'ble NGT as per para 14, the information provided by Municipal Corporation Bhopal to Additional District Magistrate Bhopal is as per **Annexure-V**.*

*Regional Office, M.P. Pollution Control Board has filed 54 Criminal cases against Polluter (Building Project) in Bhopal Region under **Water (Prevention and Control) Act, 1974** which are under consideration in Honorable Lower Court at Bhopal*

Recommendations: *After detailed site visit and discussions, following are the recommendations: —*

- 1. Project Proponent shall immediately stop the water supply from the polluted bore well and seal the same.*
- 2. Project proponent to make alternate safe water supply arrangements for affected residents.*
- 3. Project Proponent shall obtain environmental clearance from SEIAA MP under EIA Notification, 2006.*
- 4. Project Proponent shall obtain consent to establish and consent to operate from State Pollution Control Board under section 25 of Water (Prevention and Control) Act, 1974 & 21 of Air (Prevention and Control) Act, 1981.*

5. *The projection proponent shall rectify the STP on priority and make it functional at the earliest.*

6. *Project Proponent shall immediately clear the blockage of drain/nallah for free flow of water.*

Action Taken Report:

1. *Project proponent has not obtained consent to establish and consent to operate from State Pollution Control Board under section 25 of Water (Prevention and Control) Act, 1974 & 21 of Air (Prevention and Control) Act, 1981 hence Board has filed criminal case against the Project Proponent for violation of Environmental Laws **(Annexure-IV)**.*
2. *District Administration has initiated action against Project Proponent under **section 133 of CRPC 1973**.*
3. *Details of the drains and future plan of the Municipal Corporation is as per **Annexure-V**.”*
3. It is surprising that the Project Proponent completed the building without any order of Competent Authority and without an environmental clearance within the capital of the State and the public functionaries to whom duties to control the illegal construction and illegal discharge of contaminated untreated sewage water are entrusted failed to monitor and check it. The Regional Officer of State Pollution Control Board also failed to exercise his duty to take immediate action and also failed to calculate the environmental compensation which was to be realised by the Board according to law. It reflects that the authorities are indirectly permitting the illegal construction, illegal extraction of groundwater without the valid permission of Central Ground Water Authority and it is complete negation of rule of law.
4. When the law protector becomes the law violators, how law will be protected. The basic principle of rule of law is to follow rule/ law and not to break or violate it. For the negligence of those to whom public duties have been entrusted can never be allowed to cause public mischief.

Public servants if committing wrong in discharge of statutory functions and later on if it was found not be in accordance with law within the knowledge of the officer concerned then it cannot be said to be the work and duty within the definition of State Act.

5. Statutory rules are required to be observed. It is settled law that when the action of the State or its instrumentalities is not as per the rules or regulations and supported by a statute, the Court must exercise its jurisdiction to declare such an act to be illegal and invalid.

In *Sirsi Municipality Vs. Cecelia Kom Francis Tellis*, AIR 1973 SC 855, the Supreme Court observed that “the ratio is that the rules or the regulations are binding on the authorities.”

Similarly, a Constitution Bench of the Hon'ble Supreme Court in *Sukhdev Singh & Ors. Vs. Bhagatram Sardar Singh Raghuvanshi & Anr.*, AIR 1975 SC 1331, has observed as under:-

*“The statutory authorities cannot deviate from the conditions of service. **Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations.** The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....**the element of public employment or service and the support of statute require observance of rules and regulations.** Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man’s rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to **observe the rules of natural justice and compliance with rules and regulations imposed by statute.**” (Emphasis added).*

6. Similar view has been taken by the Supreme Court in *Ambica Quarry Works etc. Vs. State of Gujarat & Ors.*, AIR 1987 SC 1073; and *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, AIR 1952 SC 16. In both the cases, the Apex Court relied upon the judgment of the House of Lord in *Julius Vs. Lord Bishop of Oxford*, (1880) 5 AC 214, wherein it was observed as under:-

“There may be something in the nature of thing empowered to be done, something in the object for which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so.”

In *Commissioner of Police (supra)*, the Apex Court observed as under:-

“Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order.....An enabling power of this kind conferred for public reasons and for the public benefit is, in our opinion, coupled with a duty to exercise it when the circumstances so demand. It is a duty which cannot be shirked or shelved nor it be evaded, performance of it can be compelled.”

In *Dr. Meera Massey Vs. Dr. S.R. Mehrotra & Ors.*, AIR 1998 SC 1153, the Apex Court observed as under:-

“If the laws and principles are eroded by such institutions, it not only pollutes its functioning deteriorating its standard but also exhibits.....wrong channel adopted.....If there is any erosion or descending by those who control the activities all expectations and hopes are destroyed. If the institutions perform dedicated and sincere service with the highest morality it would not only up-lift many but bring back even a limping society to its normalcy.”

The Supreme Court has taken the same view in *Ram Chand & Ors. Vs. Union of India & Ors.*, (1994) 1 SCC 44, and held that “the exercise of power should not be made against the spirit of the provisions of the statute, otherwise it would tend towards arbitrariness.”

A Constitution Bench of the Hon'ble Supreme Court in *Ajit*

Singh (II) Vs. State of Punjab & Ors., (1999) 7 SCC 209 held that any action being violative of Article 14 of the Constitution is arbitrary and if it is found to be de hors the statutory rules, the same cannot be enforced.

7. Therefore, it is evident from the aforesaid judgments of the Hon'ble Apex Court that whenever any action of the authority is in violation of the provisions of the statute or the action is constitutionally illegal, it cannot claim any sanctity in law, and there is no obligation on the part of the Court to sanctify such an illegal act. Wherever the statutory provision is ignored, the Court cannot become a silent spectator to such an illegal act, and it becomes the solemn duty of the Court to deal with the persons violating the law with heavy hands. (Vide *R.N. Nanjundappa Vs. T. Thimmaiah & Anr.*, AIR 1972 SC 1767; *B.N. Nagarajan & Ors. Vs. State of Karnataka & Ors.*, AIR 1979 SC 1676; *Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi & Ors.*, AIR 1992 SC 789; *State of Orissa & Ors. Vs. Sukanti Mohapatra & Ors.*, AIR 1993 SC 1650; *Jawahar Lal Nehru Krishi Vishwa Vidyalaya, Jabalpur, M.P. Vs. Bal Kishan Soni & Ors.* (1997) 5 SCC 86; *State of Himachal Pradesh Vs. Nodha Ram & Ors.*, AIR 1997 SC 1445; *Ashwani Kumar & Ors. Vs. State of Bihar & Ors.*, AIR 1997 SC 1628; *State of M.P. & Anr. Vs. Dharam Bir*, (1998) 6 SCC 165; *Municipal Corporation, Bilaspur & Anr. Vs. Veer Singh Rajput & Ors.*, (1998) 9 SCC 258; *Nazira Begum Lashkar & Ors. Vs. State of Assam & Ors.*, AIR 2001 SC 102; *Mrs. Dr. Chanchal Goyal Vs. State of Rajasthan*, AIR 2003 SC 1713; *M.D., U.P. Land Development Corporation & Anr. Vs. Amar Singh & Ors.*, AIR 2003 SC 2357; *State of Haryana & Anr. Vs. Tilak Raj & Ors.*, AIR 2003 SC 2658; *Haryana Tourism Corporation Ltd. Vs. Fakir Chand & Ors.*, AIR 2003 SC 4465; *Sultan Sadik Vs. Sanjay Raj*

Subba & Ors., AIR 2004 SC 1377; and A. Umarani Vs. registrar, Co-operative Societies & Ors., 2004 AIR SCW 4462).

8. In view of the above, we are of the considered opinion that every statutory provision requires strict adherence, for the reason that the statute creates rights in favour of the citizens, and if any order is passed de hors the same, it cannot be held to be a valid order and cannot be enforced. As the statutory provision creates legal rights and obligations for individuals, the statutory authorities are under a legal obligation to give strict adherence to the same and cannot pass an order in contravention thereof, treating the same to be merely decoration pieces in his office.
9. The matter of calculation of environmental compensation for discharge of untreated sewage water into the water bodies or in the open space and extraction of the groundwater without due permission from the Competent Authority has been dealt by the Principal Bench of this Tribunal in O.A No. 148/2016 vide order dated 21st May, 2020 which is as follows:

“

1. *Proceedings in this matter are consequential to the order of the Hon'ble Supreme Court dated 22.02.2017 in Paryavaran Suraksha Samiti Vs. Union of India¹ transferring the proceedings in W.P. (Civil) No. 375/2012 for monitoring compliance of the orders of the Hon'ble Supreme court. The order of the Hon'ble Supreme Court requires establishment and functioning of requisite ETPs/CETPs/STPs and in default to close industrial activities discharging effluents without treatment and to take action against local bodies for failing to install*

¹ (2017) 5 SCC 326

STPs and discharging sewage without treatment. Some of the observations in the judgment of the Hon'ble Supreme Court are:

“7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment

plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.**
12. We are of the view that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously.** We, therefore, hereby direct that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.
13. **We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down.** We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment plants” within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. **The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions.** They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional **National Green Tribunal.**
14. **To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned**

case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.”

(emphasis supplied)

6. We now refer to the observations of this Tribunal while considering the reports dated 30.05.2019 updated on 19.07.2019 and 14.08.2019:

“I. Report dated 30.05.2019 updated on 19.07.2019

13. According to updated report dated 19.07.2019, out of 62,897 number of industries requiring ETPs, 60,944 industries are operating with functional ETPs and 1949 industries are operating without ETPs. 59,258 industries are complying with environmental standards and 1,524 industries are non-complying. There are total 192 CETPs, out of which 133 CETPs are complying with environmental standards and 59 CETPs are non-complying. There are total 13,709 STPs (Municipal and other than municipal), out of which, 13,113 STPs are complying with environmental standards and 637 STPs are non-complying. 73 CETPs in construction/proposal stage, whereas, for STPs, 1164 projects (municipal and non-municipal) are under construction/proposal stage.
14. A report has also been prepared on the scale of environmental compensation to be recovered from individual/authorities for causing pollution or failure for preventing causing pollution, apart from illegal extraction of ground water, failure to implement Solid waste Management Rules, damage to environment by mining and steps taken to explore preparation of an annual environmental plan for the country. Extracts from the report which are considered significant for this order are:

“I. Environment Compensation to be levied on Industrial Units

Recommendations

The Committee made following recommendations:

1.5.1 To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986. In case of a, b and c, Environmental Compensation may be calculated based on the formula "EC= Pl x N x Rx S x LF", wherein, Pl may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively, and R may be taken as 250. S and LF may be taken as prescribed in the preceding paragraphs

1.5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.

1.5.3 The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others {Writ Petition {Civil} No. 375 of 2012), directed that all running industrial units which require "consent to operate" from concerned State Pollution Control Board, have a primary effluent treatment plant in place. Therefore, no industry requiring ETP, shall be allowed to operate without ETP.

1.5.4 EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts and Rules.

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

Table No. 2.1: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in Delhi-NCR.

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

. Environmental Compensation to be levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules:

Table No. 3.3: Minimum and Maximum EC to be levied for untreated/partially treated sewage discharge

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5

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

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

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

BIS 15-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013), may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCD, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. and O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr./MLD (marginal average cost). Further, expected cost for conveyance system is assumed as Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied

on concerned ULB may be calculated with the following formula:

$$\begin{aligned}
 EC = & \text{Capital Cost Factor} \times [\text{Marginal Average Capital Cost for Treatment Facility} \times (\text{Total Generation-Installed Capacity}) + \text{Marginal Average Capital Cost for Conveyance Facility} \times (\text{Total Generation -Operational Capacity})] + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \\
 & \times (\text{Total Generation- Operational Capacity}) \times \text{No. of Days for which facility was not available} \\
 & + \text{Environmental Externality} \times \text{No. of Days for which facility was not available}
 \end{aligned}$$

Alternatively;

$$\begin{aligned}
 EC \text{ (Lacs Rs.)} = & [17.S\{\text{Total Sewage Generation - Installed Treatment Capacity}\} + 55.S\{\text{Total Sewage Generation-Operational Capacity}\}] + 0.2(\text{Sewage Generation-Operational Capacity}) \\
 & \times N + \text{Marginal Cost of Environmental Externality} \times (\text{Total Sewage Generation-Operational Capacity}) \times N
 \end{aligned}$$

Where; N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Quantity of Sewage is in MLD

Table No. 3.5: Sample calculation for EC to be levied for discharge of untreated/partial treated Sewage

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Sewage Generation (MLD) (as per the latest data available with CPCB)	4195	381	486	37
Installed Treatment Capacity (MLD) (as per the latest data available with CPCB)	2500	220	404	45.5
Operational Capacity (MLD) (as per the latest data available with CPCB)	1900	140	300	24.5
Treatment Capacity Gap (MID)	2295	241	186	12.5

Calculated EC (capital cost component for STPs) in Lacs Rs.	29662.50	2817.50	1435.00	0.00
Calculated EC (capital cost component for Conveyance System) in Lacs. Rs.	127372.50	13375.50	10323.00	693.75
Calculated EC (Total capital cost component) in Lacs Rs.	157035.00	16193.00	11758.00	693.75
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (Total Capital Cost Component) in Lacs Rs.	20000.00	10000.00	1000.00	693.75
Calculated EC (O&M Component in Lacs Rs./day	459.00	48.20	37.20	2.50
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5	Min. 0.5 Max. 5
Final EC (O&M Component) in Lacs. Rs./Day	20.00	10.00	5.00	2.50
Calculated Environmental Externality (Lacs Rs .Per Day)	2.0655	0.2049	0.1395	0.0094
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)	Min. 0.60 Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Lacs Rs. Per day)	0.80	0.25	0.10	0.05

3.4 Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management:

Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

EC = Capital Cost Factor x Marginal Average Cost for Waste Management x (Per day waste generation-Per day waste disposed as per the

Rules) + O&M Cost Factor x Marginal Average O&M Cost x (Per day waste generation-Per day waste disposed as per the Rules) x Number of days violation took place + Environmental Externality x N

Where;

Waste Quantity in tons per day (TPD)

N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Simplifying;

EC (Lacs Rs.) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

Table No. 3.6: Sample calculation for EC to be levied for improper management of Municipal Solid Waste

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Waste Generation (kg. per person per day)	0.6	0.5	0.4	0.4
Waste Generation (TPD)	9809.90	880.14	350.79	200.31
Waste Disposal as per Rules (TPD) (assumed as 25% of waste generation for sample calculation)	2452.47	220.04	87.70	50.08
Waste Management Capacity Gap (TPD)	7357.42	660.11	263.09	150.23
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1584.26	631.42	360.56
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1584.26	631.42	360.56

Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	13.20	5.26	3.00
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
V				
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
i				
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
o				
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02
e				

Compensation in Case of Illegal Extraction of Ground Water

4.5 Formula for Environmental Compensation for illegal extraction of ground water

The committee decided that the formula should be based on water consumption (Pump Yield & Time duration) and rates for imposing Environmental Compensation for violation of illegal abstraction of ground water. The committee has proposed following formula for calculation of Environmental Compensation (EC_{Gw}):

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

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

Yield of the pump varies based on the capacity/power of pump, water head etc. For reference purpose, yield of the pump may be assumed as given in **Annexure-VI**.

Time duration will be the period from which pump is operated illegally.

In case of illegal extraction of ground water, quantity of discharge as per the meter reading or as calculated with assumptions of yield and time may be used for calculation of EC_{Gw} .

4.6 Environmental Compensation Rate (ECR_{GW}) for illegal use of Ground Water:

The committee decided that the Environmental Compensation Rate (ECR_{GW}) for illegal extraction of ground water should increase with increase in water consumption as well as water scarcity in the area. Further, ECR_{GW} are kept relaxed for drinking and domestic use as compared to other uses, considering the basic need of human being.

As per CGWB, safe, semi-critical, critical and over-exploited areas are categorized from the ground water resources point of view (CGWB, 2017). List of safe, semi-critical, critical and over-exploited areas are available on the website of CGWB and can be accessed from- <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/Categorization0fAssessmentUnits.pdf#ZOOM=150>.

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

4.6.1 ECR_{GW} for Drinking and Domestic use:

Drinking and Domestic use means uses of ground water in households, institutional activity, hospitals, commercial complexes, townships etc.

SI. No.	Area Category	Water Consumption (m ³ /day)			
		<2	2 to <5	5 to <25	25 & above
		Environmental Compensation Rate (ECR_{GW}) in Rs./m³			
1	Safe	4	6	8	10
2	Semi Critical	12	14	16	20
3	Critical	22	24	26	30
4	Over-Exploited	32	34	36	40
Minimum EC_{GW}=Rs 10,000/- (for households) and Rs. 50,000 (for institutional activity, commercial complexes, townships etc.)					

4.6.2 ECR_{GW} for Packaged drinking water units:

SI. No.	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 &
		Environmental Compensation Rate (ECR_{GW}) in Rs./m³			
1	Safe	12	18	24	30
2	Semi critical	24	36	48	60
3	Critical	36	48	66	90
4	Over-exploited	48	72	96	120
Minimum EC_{GW}=Rs 1,00,000/-					

4.6.3 ECR_{GW} for Mining, Infrastructure and Dewatering Projects

SI. No	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 &
		Environmental Compensation Rate (EC _{Gw}) in Rs./m ³			
1	Safe	15	21	30	40
2	Semi critical	30	45	60	75
3	Critical	45	60	85	115
4	Over-exploited	60	90	120	150
Minimum EC_{Gw}=Rs 1,00,000/-					

4.6.4 ECR_{Gw} for Industrial Units:

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

4.8 Recommendations

The committee has given following recommendations:

- The minimum Environmental Compensation for illegal extraction of ground water for domestic purpose will be Rs. 10,000, for institutional/commercial use will be 50,000 and for other uses will be 1,00,000.
- In case of fixation of liability, it always lies with current owner of the premises where illegal extraction is taking place.
- Time duration may be assumed to be one year in case where no evidence for period of installation of bore well could be established.
- For Drinking and Domestic use, where metering is not present but storage tank facility is available, minimum water consumption per day may be assumed as similar to the storage capacity of the tank.
- For industrial ground water use, where metering is not available, water consumption may be assumed as per the consent conditions. Further, where in case industry is operating without consent, water consumption may be calculated based on the plant capacity (on the recommendation of SPCB/PCC, if required). SPCB/PCC may bring the issue of illegal extraction of ground water in industries in to the notice of CGWA for appropriate action by CGWA.
- Authorities assigned for levy EC and taking penal action are listed below:

S. No.	Actions	Authority
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	To seal the illegal bore-well/tube-well to stop extraction of water and further closure of project	District Collector
	To levy EC _{GW} as per prescribed method	District Collector,
	To levy EC on water pollution, as per the method prescribed in report of CPCB- "EC on industrial pollution"	CPCB/SPCB/PCC
	Prosecution of violator	CGWA under EP Act SPCB/PCC under Air and Water Act

- CGWA may maintain a separate account for collection and utilization of fund, collected through the prescribed methodology in this report.”

“Discussion on the report dated 30.05.2019 updated on 19.07.2019

15. It is clear from the order of the Hon’ble Supreme Court² that the responsibility of operating STPs under Article 243W and item 6 of Schedule XII to the Constitution is of local bodies who have to evolve norms to recover funds for the purpose which is to be supervised by the States/UTs. The norms were to be finalized upto 31.03.2017 to be implemented from the next year, i.e 01.04.2018. In absence thereof, the States/UTs have to cater to the financial requirement from its own resources. The States/UTs are to prioritize the cities, towns, villages discharging effluents/sewage directly into the water bodies. Industrial activity without proper treatment plants (ETPs and CETPs) is not to be allowed by the State PCBs and the Secretaries, Environment of the States/UTs are to be answerable. Thus, the source for financial resources for the STPs, stands finalized under the binding judgment of the Hon’ble Supreme Court. Authorities and persons accountable are identified. Rigid implementation has been laid down. This Tribunal has been required to monitor compliance of the directions and timelines.
16. It is in this background that the present report needs to be appraised and further directions given. As regards the Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water is accepted as an interim measure. With regard to setting up of STPs, while we appreciate the extensive work of the CPCB based on information furnished by States/UTs, the challenge remains about verification of the said data on the one hand and analysis of the steps taken and required on the other. There is already a database available with the CPCB with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites. This needs to be collated and river basinwise macro picture needs to be prepared by the CPCB in terms of need for interventions, existing

² Para 10-13 in *Paryavaran Suraksha Samiti Vs. Union of India, Supra*

infrastructure and gaps therein. The States have given timelines which need to be effectively monitored both by the CPCB and the Chief Secretaries in terms of its execution.

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

"II. Report dated 14.08.2019 with regard to monitoring of CETPs

18. *The Committee inspected 127 CETPs in 14 States. Figure of CETP assumed to be 97 was not correct. 66 CETPs were found to be non-compliant. CPCB directed SPCBs to take following steps:*
 - "1. SPCBs shall direct non-complying CETPs to take immediate corrective actions to comply with the environmental standards.*
 - 2. CETP should be directed to take action as per the recommendations provided at Annexure A-N within a time frame.*

3. *In case of non-complying CETPs, action as deemed fit including levying of environmental compensation may be taken.*
4. *In case, OCEMS are not connected with CPCB & SPCB servers, ensure a robust system of physical inspections to verify compliance by drawing samples.”*

“Discussion on the report dated 14.08.2019

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

(emphasis supplied)

7. *After the above discussion, this Tribunal proceeded to issue following directions:*

“Directions

21. *We may now sum up our directions:*
 - (i) *The Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water in the report dated 30.05.2019 is accepted and the same may be acted upon as an interim measure.*
 - (ii) *SPCBs/PCCs may ensure remedial action against non-compliant CETPs or individual industries in terms of not having ETPs/fully compliant ETPs or operating without consent or in violation of consent conditions. This may be overseen by the CPCB. CPCB may continue to compile information on this subject and furnish quarterly reports to this Tribunal which may also be uploaded on its website.*
 - (iii) All the Local Bodies and or the concerned departments of the State Government have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.**

- (iv) *The CPCB needs to collate the available data base with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites and prepare a river basin-wise macro picture in terms of gaps and needed interventions.*
- (v) The Chief Secretaries of all the States/UTs may furnish their respective compliance reports on this subject also in O.A. No. 606/2018.**

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

(emphasis supplied)

8. *Before proceeding further, we may also note further order of this Tribunal dated 06.12.2019 in O.A. No. 673/2018 directing as follows:*

“XII. Directions:

47. *We now sum up our directions as follows:*

- i. 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 at least to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.**
- ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.**
- iii. We further direct that an institutional mechanism be evolved for ensuring compliance of above directions. For*

this purpose, monitoring may be done by the Chief Secretaries of all the States/UTs at State level and at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB.

- iv. For above purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance who may take assistance of CPCB and may give its quarterly report to this Tribunal commencing 01.04.2020.**
- v. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the Secretary level and ensuring appropriate adverse entries in the ACRs of erring officers. Monitoring at State level must take place on fortnightly basis and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose.*
- vi. Monthly progress report may be furnished by the States/UTs to Secretary, Ministry of Jal Shakti with a copy to CPCB. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers.*
- vii. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level.**
- viii. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.**
- ix. CPCB may finalize its recommendations for action plans relating to P-III and P-IV as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the action plans prepared by the States which may start forthwith, if not already started.*
- x. The action plan prepared by the Delhi Government which is to be approved by the CPCB has to follow the action points delineated in the order of this Tribunal dated 11.09.2019 in O.A. No. 06/2012.*
- xi. Since the report of the CPCB has focused only on BOD and FC without other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification, a survey may now be conducted with reference to all the said*

parameters by involving the SPCB/PCCs within three months. Monitoring gaps be identified and upgraded so to cover upstream and downstream locations of major discharges to the river. CPCB may file a report on the subject before the next date by e-mail at judicial-ngt@gov.in.

xii. Rivers which have been identified as clean may be maintained.”

(emphasis supplied)

14. At this stage, it will also be appropriate to mention the proceedings in another matter pending before this Tribunal which have bearing on the present case namely O.A. No. 1038, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" which was last dealt with on 14.11.2019. Brief reference to same has been made in earlier order also. The issue therein was remedial action against pollution of industrial clusters, classified as such, based on Comprehensive Environmental Pollution Index (CEPI) prepared by CPCB on the basis of data furnished by the State PCBs/PCCs. The said data shows that 100 industrial clusters are polluted in terms of air, water and soil. Some of the salient observations in the said order are as follows:

“9. In view of the above, since the data compiled so far shows increasing trend of air, water and soil pollution, meaningful action must result in reversing such trend and the violators of law cannot be allowed to have a free run at the core of environment and public health. Inaction by the statutory authorities is also at the cost of Rule of Law which is the mandate of the Constitution and is necessary for meaningful enforcement of legitimate constitutional rights of citizens and basic duty of a welfare State under the Constitution.

10. We may note the observation of the Hon'ble Supreme Court in the subject of accountability of authorities for failing to discharge their duties. In **M.C. Mehta v. UOI & Ors.**, W.P Civil No. 13029/1985 vide order dated 04.11.2019, the Hon'ble Supreme Court observed:

*“....Obviously, it is writ large that **the State Governments, Government of NCT of Delhi and civic bodies have miserably failed to discharge their liability as per the directive principles of State Policy which have found statutory expression, they are being made statutory mockery and also the directions of this Court and High Courts in this regard are being violated with impunity.***

.... Time has come when we have to fix the accountability for this kind of situation which has arisen and is destroying right to life itself in gross violation of Article 21 of the Constitution of India.

*.... **Everybody has to be answerable including the top state machinery percolating down to the level of gram panchayat. The very purpose of giving administration power up to the panchayat level is that there has to be proper administration and there is no room for such activities.** The action is clearly tortuous one and is clearly punishable under statutory provisions, besides the violation of the Court’s order.”*

In **Techi Tagi Tara vs. Rajendra Singh Bhandari and Ors., (2018) 11 SSC 734**, it was observed:

*“2..... **There can be no doubt that the protection and preservation of the environment is extremely vital for all of us and unless this responsibility is taken very seriously, particularly by the State Governments and the SPCBs,** we are inviting trouble that will have adverse consequences for future generations. Issues of sustainable development, public trust and intergenerational equity are not mere catch words, but are concepts of great importance in environmental jurisprudence.*

4. One of the principal attributes of good governance is the establishment of viable institutions comprising professionally competent persons and the strengthening of such institutions so that the duties and responsibilities conferred on them are performed with dedication and sincerity in public interest. This is applicable not only to administrative bodies but more so to statutory authorities—more so, because statutory authorities are the creation of a law made by a competent legislature, representing the will of the people.”

11. **The Tribunal has thus no option except to reiterate that meaningful action has to be taken by the State PCBs/PCCs as already directed and action taken report furnished showing the number of identified polluters in polluted industrial areas mentioned above, the extent of closure of polluting activities, the extent of environmental**

compensation recovered, the cost of restoration of the damage to the environment of the said areas, otherwise there will be no meaningful environmental governance. This may be failure of rule of law and breach of trust reposed in statutory authorities rendering their existence useless and burden on the society. On default, the Tribunal will have no option except to proceed against the Chairmen and the Member Secretaries of the State PCBs/PCCs by way of coercive action under Section 25 of the National Green Tribunal Act, 2010 read with Section 51 CPC. Such action may include replacement of persons heading such PCBs/PCCs or direction for stopping their salaries till meaningful action for compliance of order of this Tribunal. The Tribunal may also consider deterrent compensation to be recovered from the State PCBs/PCCs. Such action taken reports strictly in terms of law and order of this Tribunal referred to above may be furnished by the State PCBs/PCCS on or before 31.01.2020 to the CPCB. The CPCB may prepare a tabulated analysis of the same and file a consolidated report before this Tribunal before February 15, 2020 by email at judicial-ngt@gov.in. The CPCB may also revise its mechanism for expansion and new activities by red and orange category of industries in critically/ severely polluted areas consistent with the spirit of the earlier orders of this Tribunal and principles of environmental law to bring down the pollution load and ensure that activities do not further add to such load.”

10. After considering the report and recommendations submitted by the Joint Committee, We direct as follows:
 - i. The Municipal Commissioner is directed to immediately monitor and ensure the supply of pure water to the residents and in case it is not being supplied by the Project Proponent, the Municipal Commissioner to ensure the supply of water subject to the cost to be recovered from the Project Proponent.
 - ii. We constitute a Committee consisting one representative from the Central Pollution Control Board, one representative from State Pollution Control Board and one representative from Central Ground Water Authority to calculate the

amount of environmental compensation for violation of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention And Control Of Pollution) Act, 1981, extraction of groundwater without permission from Central Groundwater Authority.

- iii. The Project Proponent to show cause as to why an amount of Rs. 50 lakhs be deposited as a performance guarantee for compliance of the requirement of the law and if no reply is submitted before the date fixed the order may be passed accordingly.

11. Accordingly, we direct the representative of Central Pollution Control Board, State Pollution Control Board and Central Ground Water Authority to immediately calculate the environmental compensation and report within 10 days.
12. The Respondent- Project Proponent to show cause as to why the construction which was raised without permission from the Competent Authority or without any environmental clearance, and as to why the construction be not declared as unauthorised and necessary action be initiated according to law.
13. The Municipal Commissioner is directed to ensure that no untreated sewage water, be discharged into the open place or into the river bodies and free flow of drain / nala be immediately maintained.
14. The District Administration / Collector be directed to ensure the early disposal of the case pending under Section 133 of CRPC and also to take

remedial action and ensure that no illegal or unauthorised construction be permitted.

15. The Central Pollution Control Board and the State Pollution Control Board is a Statutory Body competent to proceed to control the abatement of the pollution as aforesaid mentioned and to calculate and recover the environmental compensation according to law.
16. Thus, we direct the authority concerned to do according to law and further action taken report by the authorities mentioned above, the Central Pollution Control Board, the State Pollution Control Board, Central Ground Water Authority, the Municipal Commissioner, the Collector be submitted by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF before the date of listing.
17. A copy of this order be sent through available email to Municipal Commissioner, Central Pollution Control Board, State Pollution Control Board, Central Ground Water Authority and the applicant.
18. List it on 07.10.2020

Justice Sheo Kumar Singh, JM

Dr. S.S. Garbyal, EM

JG
Original Application No. 61/2020 (CZ)

Annexure-II

M Gmail

Hanumat Malviya <hsmalviya@gmail.com>

Fwd: Nomination of the officer in O.A No. 61/2020

1 message

Milind Nimje <milindnmj07@gmail.com>

To: hsmalviya@gmail.com

Wed, Sep 30, 2020 at 2:32 PM

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

From: **Milind Nimje** <milindnmj07@gmail.com>

Date: Tue, Sep 29, 2020, 8:37 PM

Subject: Fwd: Nomination of the officer in O.A No. 61/2020

To: <hsmalviya-pcb@mp.gov.in>

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

From: **Regional Directorate, Bhopal** <cpcb bhopal@gmail.com>

Date: Thu, Sep 24, 2020, 11:02 AM

Subject: Fwd: Nomination of the officer in O.A No. 61/2020

To: <ms-mppcb@mp.gov.in>, ro mppcb bpl <romppcb_bpl@rediffmail.com>, <ropcb-bhopal@mp.gov.in>, <sudhir-pcb@mp.gov.in>

Cc: Milind Nimje <milindnmj07@gmail.com>

MOST URGENT

Respected Sir,

In compliance with the Hon'ble NGT order dated 21.9.2020 in O.A No. 61/2020 titled as Maj. Gen. Harpreet Singh Bedi vs. Shri Vijay Singh Dwakadesh Haveli Builders. The following is directed under para 11

"Accordingly, we direct the representative of Central Pollution Control Board, State Pollution Control Board & Central Ground Water Authority to immediately calculate the environmental compensation and report within 10 days."

In this regard, this office has nominated **Sh Milind Nimje, Sc-C** as representative of CPCB.

This is for your kind information and necessary action, please.

With regards

P. Jagan

Regional Director

Central Pollution Control Board

Regional Directorate (Central)

Parvesh Bhawan, Paryavaran Parisar

E-5, Arera Colony, Bhopal - 462016

Tel: 0755-2775386/85

Telefax: 0755-2775587

Mobile: +91-9755559745

**Maj. Gen. Harpreet 61-2020.pdf**

664K



मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड

पर्यावरण परिसर, ई-5, अरेरा कालोनी, भोपाल (म.प्र.) - 462016

☎(0755)2464428, 2466191 Fax: 0755 - 2463742 e-mail:ms-mppcb@mp.gov.in, www.mppcb.nic.in

कमांक 1752 /तक/मुप्रनिबो/एनजीटी/61/2020,

भोपाल, दिनांक / 28/09/2020

प्रति

कलेक्टर, कार्यालय कलेक्टर, भोपाल (म.प्र.)	आयुक्त, नगर निगम, भोपाल (म.प्र.)	अध्यक्ष, मध्यप्रदेश राज्य पर्यावरण प्रभाव आंकलन प्राधिकरण, भोपाल (म.प्र.)
क्षेत्रीय प्रमुख, केन्द्रीय भूजल प्राधिकरण, पर्यावास भवन, अरेरा हिल्स,भोपाल (म.प्र.)	रीजनल डायरेक्टर, केन्द्रीय प्रदूषण नियंत्रण बोर्ड, भोपाल (म.प्र.)	डायरेक्टर, मध्यप्रदेश नगर एवं ग्राम निवेश पर्यावरण परिसर भोपाल (म.प्र.)

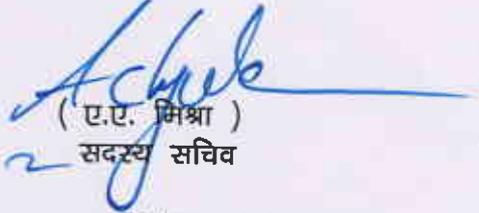
विषय :- माननीय राष्ट्रीय हरित अधिकरण में प्रचलित प्रकरण कं0 61/2020 (मेजर जनरल हरप्रीत सिंह (रिटायर्ड)) में पारित आदेश दिनांक 21/09/2020 के परिपालन में कार्यवाही करने बावत्।

विषयांतर्गत कृपया माननीय राष्ट्रीय हरित अधिकरण में प्रचलित प्रकरण कं0 61/2020 (मेजर जनरल हरप्रीत सिंह (रिटायर्ड)) में पारित आदेश दिनांक 21/09/2020 (प्रति संलग्न) का अवलोकन हो।

माननीय राष्ट्रीय हरित अधिकरण द्वारा जारी आदेश के पेरा कं. 03,04,05,10,11,12,13,14,15 एवं 16 में निर्देशानुसार कार्यवाही सुनिश्चित किए जाने का अनुरोध है।

प्रकरण में आगामी सुनवाई दि. 07/10/2020 निश्चित है अतः प्रतिवेदन आदेश में निर्देशानुसार ईमेल के माध्यम से भेजा जाना सुनिश्चित करें।

संलग्न- उपरोक्तानुसार


(ए.ए. मिश्रा)
सदस्य सचिव

प्रतिलिपि:-

1. श्री आलोक सिंघई, क्षेत्रीय अधिकारी, क्षेत्रीय कार्यालय, म.प्र. प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर आदेश के प्रति संलग्न कर निर्देशित किया जाता है कि माननीय राष्ट्रीय हरित अधिकरण में प्रचलित प्रकरण कं0 61/2020 (मेजर जनरल हरप्रीत सिंह (रिटायर्ड)) में पारित आदेश दिनांक 21/09/2020 के पेरा कं. 03 के संबंध में वर्ष 2012-13 में सम्मति आवेदन निरस्त होने के बाद की गई कार्यवाही का विवरण 03 दिवस के भीतर प्रस्तुत करें।
2. श्री एच.एस. मालवीय, अधीयन यंत्री, म.प्र. प्रदूषण नियंत्रण बोर्ड, भोपाल को प्रकरण में निर्देशानुसार एन्वारोंमेंटल कन्पेनसेशन निर्धारण समिति हेतु नामांकित किया जाता है।
3. विधि अधिकारी, म.प्र. प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु।

From : North Central Region Bhopal
<rdnrc-cgwb@nic.in>

Fri, Sep 25, 2020 04:56 PM

Subject : Fwd: regarding compliance of order
dtd. 21.09.2020 in O.A No. 61/2020
titled as Maj. Gen. Harpreet Singh
Bedi vs. Shri Vijay Singh Dwakadesh
Haveli Builders

1 attachment

To : ms msoffice <ms-
mppcb@mp.gov.in>, MPPCB
<it_mppcb@rediffmail.com>

Cc : Central Ground Water Authority
<cgwa@nic.in>

Sir

Kindly refer trailing mail regarding compliance of order dtd.
21.09.2020 in O.A No. 61/2020 titled as Maj. Gen. Harpreet
Singh Bedi vs. Shri Vijay Singh Dwakadesh Haveli Builders.
Dr Seraj Khan, Sc-D is Nominated from CGWB/ CGWA.

Regards



P K Jain
Regional Director (i/c)
CGWB, NCR
Bhopal

**Report of the CPCB In-house Committee on
Methodology for Assessing Environmental
Compensation and Action Plan to Utilize the Fund**



CENTRAL POLLUTION CONTROL BOARD
"Parivesh Bhawan", East Arjun Nagar,
Delhi-110032

110

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Abstract

Environmental compensation is a policy instrument for the protection of the environment which works on the Polluter Pay Principal. Environmental compensation has already been implemented in various countries, although limited in scope. Experiences from these implementations are mixed and tend to stress the importance of certain principles in order to achieve the overall objective of protection of the environment.

The Hon'ble National Green Tribunal through its various judgments has empowered the Central Pollution Control Board to lay down the methodology to assess and recover compensation for damage to the environment and utilize such amount in terms of an action plan for protection of the environment.

An attempt has been made by the CPCB in-house Committee to develop a methodology for assessing environmental compensation to be levied on concerned industry, authority, individual etc. for the protection of environment. Expert institutions/ NGOs like The Energy and Resources Institute, Centre for Science and Environment-India, Institute of Economic Growth etc. were also consulted to finalize the report. Overall objective is to develop self-sense of responsibility towards the environment and to make defaulters realize their mistake by imposing compensation, which will be utilized for the protection/restoration of the environment.

Although, this is the first attempt in India towards development of methodology for assessing environmental compensation, however, efforts have been made to simplifying the process so that regulatory institutions can easily adopt the methodology for implementation.

Chapter-I: Environment Compensation to be levied on Industrial Units

1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 93/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that:

"The CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the CPCB within three months" (Annexure-I).

2 Constitution of the Committee

In this context, Chairman, CPCB constituted a Committee under the Chairmanship of Shri A. Sudhakar, I/c WQM-I with Shri A. K. Vidyarthi, I/c WQM-II, Shri P. K. Gupta, I/c IPC-VI, Shri Fazimuddin I/c IPC-II and Dr. S. K. Paliwal, Scientist 'D' as members. The Committee was asked to deliberate on this issue and come up with a draft formulation before 15.9.2018.

3 Methodology for Assessing Environmental Compensation

The Committee discussed the issue on 4.9.2018, 13.9.2018, 17.9.2018 and 09.10.2018. A meeting was also held with Senior Officers of CPCB Head Office and Regional Directorates through video conferencing on 28.09.2018 to discuss the draft report and to seek comments/feedbacks. The comments/feedbacks received and deliberations of the committee on the same are given in Annexure-II.

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and the Energy Research Institute (TERI). CSE and IEG has provided their comments, however ERI has not provided any response.

A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 12/03/2019 under the chairmanship of Shri A. Sudhakar. The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are attached as Annexure-III.

It was deliberated for developing a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies and this is the first attempt made. The committee discussed that environmental compensation should be based on "Polluter Pay Principle". The Committee decided to list the instances for taking cognizance of cases fit for violation and levy environmental compensation.

Cases considered for levying Environmental Compensation (EC):

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.
- d) Accidental discharges lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment.
- f) Injection of treated/partially treated/ untreated effluents to ground water.

1.3.1 In the instances as mentioned at *a, b and c* above, Pollution Index may be used as a basis to levy the Environmental Compensation. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White based on concept of Pollution index (PI). The Pollution Index is arrived after considering quantity & quality of emissions/ effluents generated, types of hazardous wastes generated and consumption of resources. Pollution Index of an industrial sector is a numerical number in the range of 0 to 100 and can be represented as follows:

$$PI = f(\text{Water Pollution Score, Air Pollution Score \& HW Generation Score})$$

Pollution Index is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution hazard from the industrial sector.

CPCB has issued directions to all SPCBs/PCCs on 07.03.2016 to adopt the methodology and follow guidelines prepared by CPCB for categorization of industrial sectors into Red, Orange, Green and White.

The concept of Pollution Index, which was deliberated widely with all stakeholders and agreed, shall be used for calculating Environmental Compensation. This may help in implementation of such provision throughout the country, a successful initiative in vital field of industrial pollution control.

After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as

mentioned at a, b and c including non-compliance of the environmental standards / violation-of directions.

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where,

- EC is Environmental Compensation in ₹
- PI = Pollution Index of industrial sector
- N = Number of days of violation took place
- R = A factor in Rupees (₹) for EC
- S = Factor for scale of operation
- LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to the large habitations.

Note:

- a. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.
- b. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.
- c. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.
- d. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.
- e. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used:

Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*Population of the city/town as per the latest Census of India
 #LF will be 1.0 in case unit is located >10km from municipal boundary
 LF is presumed as 1 for city/town having population less than one million.

For notified Ecologically Sensitive areas, for beginning, LF may be assumed as 2.0. However, for critically Polluted Areas, LF may be explored in future.

- f. In any case, minimum Environmental Compensation shall be ₹ 5000/day.
- g. In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4, 8, 16.... times on each similar violation.

A sample calculation for Environmental Compensation is given at Table No. 1.2. It can be noticed that for all instances, EC for Red, Orange and Green category of industries varies from 3,750 to 60,000 ₹/day.

Table No. 1.2: A sample calculation for Environmental Compensation

Industrial category	Red	Orange	Green
Pollution Index (PI)	60-100	41-59	21-40
Average PI	80	50	30
Re-factor	250		
Sp-factor	0.5-1.5		
L-factor	1.00-2.00		
Deterrent Factor	on exponential basis, i.e. by 2, 4, 8, 16.... times		
Environmental Compensation (₹/day)	10,000-60,000	6,250-37,500	5,000-22,500

1.3.2 In other instances i.e. *d, e and f*, the environmental compensation may contain two parts – one requires providing immediate relief and other long-term measures such as remediation. In all these category cases, detailed investigations are required from expert institutions/organizations based on which environmental compensation will be decided. CPCB shall list the expert institutions for this purpose.

In such cases, comprehensive plan for remediation of environmental pollution may be prepared and executed under the supervision of a committee with representatives of SPCB, CPCB and expert institutions/organizations.

1.4 Action Plan for Utilization of Environmental Compensation Fund

The Committee discussed about the utilization of funds, which will be received by imposing Environmental Compensation. The following Action Plan is proposed to utilize the fund for protection of the environment.

When Environmental Compensation is calculated through the Pollution Index:

The amount received by imposing the Environmental Compensation to the industries / organization non-complying with the environmental standards / violating any CPCB's directions shall be deposited in a separate bank account. The amount accumulated will be utilized for Protection of Environment. The following schemes were identified, which may be considered for utilization of Environmental Compensation Fund:

- a. Industrial Inspections for compliance verification
- b. Installation of Continuous water quality monitoring stations / Continuous ambient air quality monitoring stations for strengthening of existing monitoring network
- c. Preparation of Comprehensive Industry Documents on Industrial Sectors / clean technology
- d. Investigations of environmental damages, preparation of DPRs
- e. Remediation of contaminated sites
- f. Infrastructure augmentation of Urban Local Bodies (ULBs) / capacity building of SPCBs/PCCs

The above proposed list may include other schemes also, depending upon the requirement.

Considering the availability of accumulated funds, CPCB will finalize the scheme, keeping in mind the priority, to utilize the funds of Environmental Compensation.

When Environmental Compensation is assessed based on actual damage to the environment by Expert Organization/ Agency:

The amount of Environmental Compensation under this case will be remediation costs, measures requiring immediate and short-term actions, compensation towards loss of ecology, etc., and will be utilized exclusively for the purpose at specific site, based on the detailed investigations by the Expert Organizations/ agencies.

Recommendations

The Committee made following recommendations:

- 1.5.1 To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986. In case of a, b and c, Environmental Compensation may be calculated based on the formula " $EC = PI \times N \times R \times S \times LF$ ", wherein, PI may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively,

and R may be taken as 250. S and LF may be taken as prescribed in the *preceding paragraphs*.

- 1.5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.

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

2.1 Amount for Environmental Compensation

The CPCB In-house Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR. The implementing agencies for each activity have been identified and the EC will be levied on these agencies. These violations attract graded amounts of EC depending on the state of ambient air quality, which is given in table below:

Table No. 2.1: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in Delhi-NCR.

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

2.2 Action Plan for Utilization of Environmental Compensation Fund

EC levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR will be deposited in the same fund and will be utilized in the same manner as mentioned in para 4.1 of Chapter-I of this report.

Chapter-III: Environmental Compensation to be levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules

3.1 Background

The Hon'ble NGT in its order dated 06.12.2018 (**Annexure-III**) in the matter of Court of its own motion v/s State of Karnataka (Original Application No. 125/2017 and M.A. No. 1337/2018) has given following directions:

"Since failure of preventing the pollutants being discharged in water bodies (including lakes) and failure to implement solid and other waste management rules are too frequent and widespread, the CPCB must lay down specific guidelines to deal with the same, throughout India, including the scale of compensation to be recovered from different individuals/authorities, in addition to or as alternative to prosecution. The scale may have slabs, depending on extent of pollution caused, economic viability, etc. Deterrent effect for repeated wrongs may also be provided."

3.2 Ideology of Environmental Compensation Formula

In compliance of the directions of the Hon'ble Tribunal, the Committee deliberated on the issue of environmental compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid and other waste management rules. The Committee has suggested that environmental compensation in these cases should be comprised of two components i.e.

1. Cost saved/benefits achieved by the concerned individual/authority by not having proper waste/sewage management system; and
2. Cost to the environment (environmental externality) due to untreated/partially treated waste/sewage because of insufficient capacity of waste/sewage management/treatment facility.

Cost saved/benefits achieved by not having proper waste/sewage management system includes the interest on capital cost of the waste/sewage management facility and daily operation and maintenance (O&M) cost associated with the facility.

The Committee suggested that annual interest rate as 10% on loan amount, borrowed by concerned individual/authority for setting-up waste/sewage management facility, may be assumed as Capital Cost Factor for calculation of environment compensation. Further, as whole O&M cost is saved by concerned individual/authority for not managing required waste/sewage management system, 100% of the O&M cost saved may be considered as O&M cost factor.

Therefore, generalized formula for Environmental Compensation may be described as:

EC = Capital Cost Factor x Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility x (Waste or Sewage Management or Treatment Capacity Gap)

+ O&M Cost Factor x Marginal Average O&M Cost x (Waste or Sewage Management or Treatment Capacity Gap) x No. of Days for which facility was not available + Environmental Externality

Cost to the environment due to untreated/partially treated waste/sewage discharge by concerned individual/authority may be assumed as recommended by the committee, which is mentioned below:

Table No. 3.1: Environmental externality for untreated/partially treated sewage discharge

Sewage Treatment Capacity Gap (MLD)	Marginal Cost of Environmental Externality (Rs. per MLD/day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)
Up to 200	75	Min. 0.05 Max. 0.10
201-500	85	Min. 0.25 Max. 0.35
501 and above	90	Min. 0.60 Max. 0.80

Table No. 3.2: Environmental externality for improper municipal solid waste management

Municipal Solid Waste Management Capacity Gap (TPD)	Marginal Cost of Environmental Externality (Rs. per ton per day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)
Up to 200	15	Min. 0.01 Max. 0.05
201-500	30	Min. 0.10 Max. 0.15
501-1000	35	Min. 0.25 Max. 0.35
1001-2000	40	Min. 0.50 Max. 0.60
Above 2000		Max. 0.80

The Committee further decided to fix a cap for minimum and maximum cost for capital and O&M component for Environmental Compensation, which are given in below tables:

Table No. 3.3: Minimum and Maximum EC to be levied for untreated/partially treated sewage discharge

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000

Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5
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Table No. 3.4: Minimum and Maximum EC to be levied for improper municipal solid waste management

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

The application of formula for calculation of EC may be further understood with the example of two typical cases.

3 Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/Authority:

BIS IS-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013), may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCD, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. and O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr/MLD (marginal average cost). Further, expected cost for conveyance system is assumed as Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

$$EC = \text{Capital Cost Factor} \times [\text{Marginal Average Capital Cost for Treatment Facility} \times (\text{Total Generation} - \text{Installed Capacity}) + \text{Marginal Average Capital Cost for Conveyance Facility} \times (\text{Total Generation} - \text{Operational Capacity})] + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \times (\text{Total Generation} - \text{Operational Capacity}) \times \text{No. of Days for which facility was not available} + \text{Environmental Externality} \times \text{No. of Days for which facility was not available}$$

Alternatively;

$$EC \text{ (Lacs Rs.)} = [17.5(\text{Total Sewage Generation} - \text{Installed Treatment Capacity}) + 55.5(\text{Total Sewage Generation} - \text{Operational Capacity})] + 0.2(\text{Sewage Generation} - \text{Operational Capacity})$$

Capacity) x N + Marginal Cost of Environmental Externality x (Total Sewage Generation-Operational Capacity) x N

Where;

N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Note: In order to include deterrent effect for continuous violations, component of O&M in EC formula may be increased on exponential basis by 2, 4, 8, 16.... times on every six-months, beyond the time prescribed by authority for ensuring complete treatment of sewage of the city/town.

Table No. 3.5: Sample calculation for EC to be levied for discharge of untreated/partial treated Sewage

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Sewage Generation (MLD) (as per the latest data available with CPCB)	4195	381	486	37
Installed Treatment Capacity (MLD) (as per the latest data available with CPCB)	2500	220	404	45.5
Operational Capacity (MLD) (as per the latest data available with CPCB)	1900	140	300	24.5
Treatment Capacity Gap (MLD)	2295	241	186	12.5
Calculated EC (capital cost component for STPs) in Lacs Rs.	29662.50	2817.50	1435.00	0.00
Calculated EC (capital cost component for Conveyance System) in Lacs. Rs.	127372.50	13375.50	10323.00	693.75
Calculated EC (Total capital cost component) in Lacs Rs.	157035.00	16193.00	11758.00	693.75
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (Total Capital Cost Component) in Lacs Rs.	20000.00	10000.00	1000.00	693.75
Calculated EC (O&M Component in Lacs Rs./day)	459.00	48.20	37.20	2.50
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5	Min. 0.5 Max. 5
Final EC (O&M Component) in Lacs Rs./Day	20.00	10.00	5.00	2.50
Calculated Environmental Externality (Lacs Rs .Per Day)	2.0655	0.2049	0.1395	0.0094
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)	Min. 0.60 Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Lacs Rs. Fer day)	0.80	0.25	0.10	0.05

3.4 Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management:

It is known that estimated MSW generation is approximately 1.5 lakh MT/Day in India (MoHUA Report-2016). As per the principles of SWM Rules, 2016 and PWM Rules 2016, as amended in 2018, the total cost of Municipal Solid Waste management in a city/town includes cost for door to door collection, cost of segregation at source, cost for transportation in segregated manner, cost for processing of MSW and disposal through facility like composting, biomethanation, recycling, co-processing in cement kilns etc.

In view of above, it is estimated that the total cost of processing and treatment of MSW for a city having population size of 1 lakh and generating approximately 50 tons/day of MSW is Rs.15.5 Crores, including capital cost (one time) and O & M cost for one year. The expenditure for subsequent years would be only Rs. 3.5 crores/annum.

CPCB sponsored a survey to ascertain the status of municipal solid waste disposal in 59 cities/towns of India. The survey was conducted by the Environment Protection Training Research Institute (EPTRI), Hyderabad. As per the survey, it is estimated that solid waste generated in small, medium and large cities and towns is about 0.1 kg (Class-III), 0.3-0.4 kg (Class-II) and 0.5 kg (Class-I) per capita per day respectively. The committee opined that 0.6 kg/day, 0.4 kg/day and 0.3 kg/day per capita waste generation may be assumed for mega-cities, million-plus UAs/towns and Class-I UA/Towns respectively for calculation of environmental compensation purposes. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

EC = Capital Cost Factor x Marginal Average Cost for Waste Management x (Per day waste generation-Per day waste disposed as per the Rules) + O&M Cost Factor x Marginal Average O&M Cost x (Per day waste generation-Per day waste disposed as per the Rules) x Number of days violation took place + Environmental Externality x N

Where;

Waste Quantity in tons per day (TPD)

N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Simplifying;

EC (Lacs Rs.) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation - Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

Table No. 3.6: Sample calculation for EC to be levied for improper management of Municipal Solid Waste

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Waste Generation (kg. per person per day)	0.6	0.4	0.3	0.3
Waste Generation (TPD)	9809.90	704.11	263.09	150.23
Waste Disposal as per Rules (TPD) (assumed as 25% of waste generation for sample calculation)	2452.47	176.03	65.77	37.56
Waste Management Capacity Gap (TPD)	7357.42	528.09	197.32	112.67
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1267.41	473.56	270.42
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1267.41	473.56	270.42
Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	10.56	3.95	2.25
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02

3.3 Action Plan for Utilization of Environmental Compensation Fund

EC levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

3.4 Recommendations

1. The Committee recommended that to begin with, Environmental Compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid waste management rules may be calculated with the methodology described in the report.
2. If mixing of Bio-medical Waste and Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.1 in case of Bio-medical Waste and by a multiplication factor of 1.25 in case of Hazardous Waste.
3. In order to include deterrent effect for repeated violations, component of O&M in EC formula may be increased on exponential basis by 2, 4, 8, 16.... times on every six-months, beyond the time prescribed by authority for ensuring complete treatment of sewage/waste of the city/town.

Dwarkadheesh Haveli Builders

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Web Site www.bhopaldwarkadham.com



Respected Sir,

Date:- 29/09/2020

We are hereby submitting you details of resident residing in Dwarkadham Colony as below

No. of occupants

Duplexes

4 BHK- 135

3 BHK- 58

193

FLATS

4 BHK- 7

3 BHK- 14

2 BHK- 38

59

Total 252

Garden in use by occupants as per Town & Country Planning Approval 3399.72 Sq. Mtr.

This information we are submitting you for further reference

Your Faithfully

Partner

Dwarkadheesh Haveli Builders

मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड

पर्यावरण परिसर, ई-5 सेक्टर, अरेरा कालोनी, भोपाल-462016

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क्रमांक 426 /प्रनिबो/2020
प्रति,

भोपाल, दिनांक 10 JUN 2020

श्री टी.पी.सोनी,
प्रोजेक्ट प्रतिनिधि,
मैसर्स द्वारकाधाम रेसीडेन्ट वेलफेयर सो.
माधवराव सिंधिया मार्ग,
भोपाल

विषय:- पर्यावरण (संरक्षण) अधिनियम 1986 की धारा 15, जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 33 ए, वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1981 की धारा 31 ए, के अन्तर्गत कारण बताओ सूचना ।

संदर्भ :- द्वारकाधाम वेलफेयर सोसायटी द्वारा प्रस्तुत शिकायत

:-:-:-:-

- 1 यह कि, मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड का गठन जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 4 के अंतर्गत हुआ है, बोर्ड द्वारा उक्त अधिनियम के साथ-साथ वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1981 तथा पर्यावरण संरक्षण अधिनियम के अन्तर्गत समस्त उत्तरदायित्वों का निर्वहन किया जा रहा है ।
- 2 यह कि, आपका संस्थान भोपाल जिले में 2000 वर्गमीटर से अधिक क्षेत्र वाली एक आवासीय/रहवासी कोलोनी/प्रकोष्ठ/व्यवसायिक प्रकोष्ठ संबंधी परियोजना के अधिष्ठाता हैं ।
- 3 यह कि, संस्थान को भारत सरकार के पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय द्वारा जारी ईआईए नोटिफिकेशन 14/09/2006 अनुसार संस्थान हेतु पर्यावरणीय स्वीकृति प्राप्त करना वैधानिक अनिवार्यता है ।
- 4 यह कि, संस्थान को जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 के प्रावधानों के अनुसार सभी जल प्रदूषणकारी प्रकृति के स्रोतों पर जल प्रदूषणरोधी व्यवस्थाओं तथा वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1981 के प्रावधानों के अनुसार सभी वायु प्रदूषणकारी स्रोतों पर वायु प्रदूषणरोधी व्यवस्थाओं का सुनिश्चयन कर परिवेशीय वायु गुणवत्ता को निर्धारित मानकों के अन्दर बनाये रखना विधिक अनिवार्यता है ।
- 5 यह कि उद्योग को परिसंकटमय अपशिष्ट नियम 2008 तथा नगरीय ठोस अपशिष्ट प्रबंधन नियम 2016 के अनुपालन हेतु आवश्यक कार्यवाही करना भी विधिक अनिवार्यता है ।
- 6 यह कि द्वारकाधाम वेलफेयर सोसायटी द्वारा प्रस्तुत शिकायत के परिप्रेक्ष्य में दिनांक 23 मई 2020 को क्षेत्रीय कार्यालय भोपाल के कार्यपालन यंत्री श्री ए.के.बिसेन द्वारा स्थल निरीक्षण किया गया । निरीक्षण के दौरान संस्थान में निम्न कमियाँ पाई गईं जो कि पर्यावरणीय नियमों के उल्लंघन अन्तर्गत आती हैं :-

➤ संस्थान द्वारा पर्यावरणीय स्वीकृति एवं बिना सम्मति प्राप्त किये टाउनशिप का विकास एवं संचालन किया जा रहा है ।

- निरीक्षण के दौरान एसटीपी का संचालन नहीं पाया गया ।
- ब्लॉक क्रमांक 4 ए एवं 4 बी के मध्य खुली भूमि पर घरेलू जल का जमाव पाया गया ।
- दूषित जल से जल प्रदाय करने वाले ट्यूबवेल की जल गुणवत्ता प्रभावित होने जैसी स्थिति पाई गई ।

उपरोक्त तथ्यों के प्रकाश में आपका संस्थान भारत सरकार के पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय द्वारा जारी ईआईए नोटिफिकेशन 14/09/2006 अनुसार बिना पर्यावरणीय स्वीकृति एवं जल (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1974 की धारा 25 तथा वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम 1981 की धारा 21 अनुसार बोर्ड की बिना सम्मति प्राप्त किये संचालित होना पाया गया जो कि अधिनियम के प्रावधानों का उल्लंघन है ।

आपको सूचित किया जाता है कि कृपया आप पर्यावरणीय स्वीकृति, जल एवं वायु सम्मति, खतरनाक अपशिष्ट हेतु प्राधिकार प्राप्त करने हेतु आवेदन करें, साथ ही दूषित जल का भराव रोकते हुये एसटीपी का संचालन तत्काल प्रारम्भ करें, ऐसे बोलवेल जिनके जल की गुणवत्ता निर्धारित मानकों से अधिक है से जल प्रदपाय तत्काल बंद करें ।

इस संबंध में आप अपना पक्ष पत्र जारी करने की तिथि से 15 दिन के अन्दर बोर्ड के समक्ष लिखित अथवा मौखिक रूप से रख सकते हैं । संतोषजनक उत्तर प्राप्त नहीं होने अथवा समय सीमा में उत्तर प्राप्त नहीं होने पर माना जायेगा कि उद्योग को इस संबंध में कुछ नहीं कहना है एवं बोर्ड जल अधिनियमों के तहत कार्यवाही हेतु स्वतंत्र होगा ।

पत्र की पावती व पालन प्रतिवेदन तत्काल भेजना सुनिश्चित करें ।

म.प्र.प्रदूषण नियंत्रण बोर्ड की ओर से

(Handwritten Signature)
 (ए० ए० मिश्रा)
 सदस्य सचिव,

भोपाल, दिनांक 10 JUN 2020

क्रमांक 427 /प्रनिबो/2020

प्रतिलिपि:-

- 1 आयुक्त, नगर तथा ग्राम निवेश विभाग, मध्य प्रदेश शासन, भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु ।
- 2 संचालक, नगर तथा ग्राम निवेश विभाग, जिला भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु ।
- 3 आयुक्त, नगर निगम भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु ।
- 4 क्षेत्रीय अधिकारी, म.प्र.प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु ।

Photograph of NGT Case 61/2020 (CZ) Inspection Date 29/10/2020



Dwarkadham Colony at Bhopal Official of Committee Members discuss with Petitioners Sh. Maj. Gen. Harpreet Singh Bedi (retd.)



Sewer line of colony not connected to STP



open drain in STP area Dwarkadham Colony



STP of Dwarkadham Colony Capacity 200 KLD



Lay out Map of Dwarkadham Colony



Bore well without water meters