

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI

Original Application No. 185 of 2021 (SZ)

Vikas R S, Bangalore

...Applicant(s)

Versus

The Chairman, Karnataka State Pollution Control Board & Ors.

...Respondent(s)

**MEMO FILED ON BEHALF OF THE 1ST RESPONDENT – KARNATAKA
STATE POLLUTION CONTROL BOARD**

The Respondent above named submits as under:

1. It is submitted that the Appellant in this appeal has filed the Appeal for the following reliefs;
 - a) Direct Respondents 1 and 2 to act as per the law to protect the environment and stop pollution;
 - b) Direct Respondent 3 to respect the environmental laws;
 - c) To impose exorbitant penalty of environmental compensation to Respondent 3 for deliberate violation of environmental laws;
 - d) Issue an order to Respondents 1 and 2 in the nature of a continuing mandamus, constitute a committee to monitor the action of the proceedings and submit periodical reports to this Hon'ble Tribunal.
2. It is submitted that a closure order under Section 33(A) of the Water Act, 1974 read with Rule 34 of Karnataka State Pollution Control Board for Prevention and Control of Water Pollution (Procedure for Transaction of Business) and the Water Rules, 1976 was issued to the 3rd Respondent dated 29.10.2021. The said proceeding is annexed as Annexure 1.
3. It is submitted that in proceedings of the meeting dated 12.01.2022 to calculate the Environmental Compensation (EC) in compliance to the order of the Hon'ble Tribunal dated 30.11.2021 and accordingly Rs.37.519 Lakhs

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has been calculated as Environmental Compensation and also till the project proponent obtains Consent to Establish and Consent to operate, he shall be liable to pay Rs.15,625/- per day from 13.01.22. The said proceedings is annexed as Annexure 2.

4. It is submitted that on 11.02.2022, the 3rd Respondent was served with a demand notice to pay the environmental compensation within a period of 15 days failing which action will be initiated as per the provision of law. The said proceeding is annexed as Annexure 3.

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to record the above mentioned facts and pass such order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

Dated at Bengaluru, on this the 01st day of March, 2022

For 1st and 2nd Respondent

M. R. G. Srinivasan
Counsel for 1st Respondent

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ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ

Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ, ಭಾರತ
 "Parisara Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, INDIA

SNR Silver Ripples

NO. PCB/Infra/20/RTI/21/ 75

Date:

29 OCT 2021

/ BY REGD. POST WITH ACK. DUE /

CLOSURE DIRECTIONS UNDER SECTION 33 (A) OF THE WATER (PREVENTION & CONTROL POLLUTION) ACT, 1974, READ WITH RULE 34 OF KARNATAKA STATE POLLUTION CONTROL BOARD FOR PREVENTION AND CONTROL OF WATER POLLUTION (PROCEDURE FOR TRANSACTION OF BUSINESS) AND THE WATER (PREVENTION AND CONTROL OF POLLUTION) RULES, 1976

Sub: Non-Compliance under the provisions of Water (Prevention & Control of Pollution) Act, 1974 by M/s. SNR Silver Ripples, Site No.21, Khatha No.206/21, Somapura Village, Anekal Tq. Sarjapura Hobli, Bengaluru Urban District-560099-reg.

- Ref:**
1. Inspection of the apartment by the Regional officer along with DEO's of RO Sarjapura on 16.03.2021.
 2. Regional office, Sarjapura Inspection Report forwarded to RSEO, Bengaluru South vide no.745 dated: 31.03.2021.
 3. Notice of Proposed Direction issued by RSEO, Bengaluru South vide no. 57 dated: 10.08.2021.
 4. Apartment Authorities reply to the NPD on 17.08.2021.
 5. Regional office, Sarjapura letter vide no.328 dated: 11.10.2021.

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Preamble:

M/s. SNR Silver Ripples is a residential apartment located at Site No.21, Khatha No.206/21, Somapura Village, Anekal Tq, Sarjapura Hobli, Bengaluru Urban District.

The Residential Apartment was inspected by the Regional officer along with DEO's of RO Sarjapura on 16.03.2021 and observed following non compliances:

1. You have constructed the apartment consisting of 3 blocks with 120 flats without obtaining the Consent for Establishment (CFE)/Consent for Operation (CFO) of the Board. It is a clear violation of Section 25 of Water Act, 1974 and Section 33(A) of the above said Act.
2. The existing Sewage Treatment Plant units are not at all working and all the machineries are defunct and has become show piece. The Sewage effluents generated is not being treated in the Sewage Treatment Plant, instead discharging into the outside open drain by a pipe line. The open drains are meant to carry the rain water and these drains are feeder for the nearest lakes. The untreated/partially

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treated effluents are finally joining to the nearby water bodies causing water pollution in the vicinity, which is a clear violation under Section 25 of Water (Prevention and Control of Pollution) Act, 1974.

3. No qualified/skilled persons are appointed for operation and maintenance of Sewage Treatment Plant and not maintained log books for operation and maintenance of Sewage Treatment Plant.
4. You have not displayed flow diagram of STP in the STP area.
5. You have not provided flow meter to the inlet and outlet of STP to measure the quantity of sewage effluent generated and treated.
6. You are generating huge quantity of Organic and inorganic waste, same is being disposed to unauthorized persons illegally.

The apartment authorities are not serious enough to comply with the law and they have constructed the residential apartment without valid Consent for Establishment (CFE)/Consent for operation (CFO), thereby violating the provisions of section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974. Based on the non compliance RSEO, Bangalore South had issued the Notice of Proposed direction under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974. The authorities have replied to the Notice of Proposed Direction on 17.08.2021 vide ref (4) sought 120 days time to discuss the matter which is not acceptable as the apartment authorities have grossly violated by not taking prior CFE (Consent for Expansion) and CFO (Consent for Operation) of the Board.

Mean while Sri. Vikas R S No. 402, 7B Main, 4 B Main, 4 B Cross, HRBR Layout, 1st Block, Kalyan Nagar, Bengaluru-43 has filed Writ Petition before Hon'ble NGT at Chennai vide Application No. 185 of 2021. Since the apartment is operating without valid CFE/CFO of the Board and discharging the untreated sewage outside the apartment premises which may cause surface/ sub surface and soil pollution.

Hence, RO, Sarjapura has requested the Board office to confirm the Notice of Proposed Direction on 11.10.2021.

In view of the non-compliances mentioned above and also you have failed to obtain Consent inspite of Notice of Proposed Direction issued by the Board, which is in violation of the provisions of Water (Prevention & Control of Pollution) Act, 1974.

Hence, the following directions under the provisions of Water (Prevention & Control of Pollution) Act, 1974, and in exercise of its power vested with it under Section 33 (A) of the Water (Prevention and Control Pollution) Act, 1974, read with Rule 34 of Karnataka State Board for the Prevention and Control of Water Pollution (Procedure for Transaction of Business) and the Water (Prevention and Control of Pollution) Rules, 1976 & the Karnataka State Pollution Control Board, hereby issues the following:

// O R D E R //

In exercise of the powers conferred under Section 33(A) of Water (Prevention & Control of Pollution) Act, 1974, read with Rule 34(4) of Karnataka State Board for the (Prevention & Control of Pollution) Rules, 1976, the Board, hereby issues the Closure Order with directions to the Government agencies as shown in Sl No. 2 to 7 below to initiate action;

- (1) The Occupier, M/s SNR Silver Ripples, Site No.21, Khatha No.206/21, Somapura Village, Anekal Tq, Sarjapura Hobli, Bengaluru Urban District-560099 to stop the discharge of sewage/sullage from your premises forthwith and until further orders.
- (2) The Managing Director, Bangalore Electricity Supply Company Ltd(BESCOM) , Nrupathunga Road, Opp. RBI, K.R Circle, Bengaluru – 560 001 to issue necessary directions to the concerned Executive Engineer and Asst. Executive Engineer, to disconnect the power supply to the above said units with immediate effect and until further order.
- (3) The Chairman, Bangalore Water Supply and Sewerage Board(BWSSB), 1st Floor Cauvery Bhavan, KG Road, Bengaluru – 560 001 to issue necessary directions to the concerned Executive Engineer and Asst. Executive Engineer, to disconnect the water supply to the above said units with immediate effect and until further order.
- (4) The Commissioner, Bruhat Bengaluru Mahanagar Palike (BBMP), Hudson circle, Bengaluru-560 002 for information and is directed to cancel the plan/license immediately until further orders.
- (5) The Chief Electrical Inspector, Department of Electrical Inspectorate, No.18,Crescent Road, Madhava nagar, Gandhinagar, Bengaluru, Karnataka-560001 for information and directed to seize the DG Set immediately forthwith and further orders.
- (6) The Chief General Manager operations Bangalore Electricity Supply Company Ltd (BESCOM), Nrupathunga Road, Opp. RBI, K.R Circle, Bengaluru – 560 001 to disconnect the power supply to the above said Unit with immediate effect and until further orders.
- (7) The Executive Engineer/ The Asst. Executive Engineer Bangalore Electricity Supply Company Ltd (BESCOM), 03 Sompura Village Sarjapura Rd, Anekal Taluk Bangalore, 562125 to disconnect the power supply to the above said Unit, with immediate effect and until further orders.

Draft Approved by Chairman

FOR AND BEHALF OF THE
KARNATAKA STATE POLLUTION CONTROL BOARD,
BANGALORE.

Sd/-
Member Secretary

To:

1. The Occupier,
M/s SNR Silver Ripples,
Site No.21, Khatha No.206/21,
Somapura Village, Anekal Tq,
Sarjapura Hobli,
Bengaluru Urban District-560099.
2. The Managing Director,
Bangalore Electricity Supply Company Ltd(BESCOM),
Nrupathunga Road, Opp. RBI, K.R Circle,
Bengaluru – 560 001
3. The Chairman,
Bangalore Water Supply and Sewerage Board(BWSSB),
1st Floor Cauvery Bhavan, KG Road,
Bengaluru – 560 001
4. The Commissioner,
Bruhat Bengaluru Mahanagar Palike (BBMP),
Hudson circle, Bengaluru-560 002
5. The Chief Electrical Inspector,
Department of Electrical Inspectorate,
No.18, Crescent Road, Madhava nagar,
Gandhinagar, Bengaluru, Karnataka-560001.
6. The Chief General Manager,
Bangalore Electricity Supply Company Ltd (BESCOM),
Nrupathunga Road, Opp. RBI, K.R Circle,
Bengaluru – 560 001
7. The Executive Engineer/ The Asst. Executive Engineer
Bangalore Electricity Supply Company Ltd (BESCOM),
03 Somapura Village Sarjapura Rd, Anekal Taluk,
Bangalore, 562125

Copy to:

1. The Regional Senior Environmental Officer, KSPCB, Bengaluru South, for information.
2. The Regional Officer, KSPCB, Sarjapura, for information and directed to ensure the compliance to the closure order direction.
3. The Law Officer, KSPCB for information and necessary action.
4. Master file.
5. Case file.


Senior Environmental Officer

Proceedings of the meeting held on 12.01.2022 to calculate Environmental Compensation (EC) in compliance to NGT order dt. 30th November, 2021 in OA 185/2021

Honourable National Green Tribunal, Chennai in its order dt. 30th November, 2021 in OA 185/2021 directed KSPCB to impose Environmental Compensation with regard to violations observed with respect to M/s SNR Silver Ripples (Residential Apartment) considering the facts & damages caused to the Environment.

In view of above NGT order, Board vide its office memorandum No. 4759 dt. 16th December, 2021 has constituted the committee for calculation of EC.

In compliance to OM of Board a meeting was convened at office of RSEO- South, Bengaluru on 12th January, 2022. Followings officials were present during the meeting:

1. Shri Vasudeva S K, RSEO- South, KSPCB
2. Smt. Anjana Kumari V, Scientist D, CPCB, RD, Bengaluru
3. Shri Manjunath C R, EO, Regional Office, Sarjapura

Shri Manjunath C R, EO briefed the facts of the case regarding construction of apartment (comprising of 120 flats wherein 70 flats are occupied) without obtaining CFE/CFO since 2019 & there is no Sewage Treatment Plant to treat the sewage generated in the apartment. Presently, the sewage is being discharged into the drains/open land adjacent to the apartment. Considering the violations by M/s SNR Silver Ripples EC may be calculated.

In view of the facts submitted, committee referred the guidelines of CPCB and calculated the EC on following criteria:

- i. Calculation of EC for construction of apartment without obtaining CFE/CFO

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

Where

EC = Environmental Compensation

PI = Pollution Index

N = Number of days violations took place

R = Factor in Rupees i.e Rs. 250/-

S = Factor for scale of operation

LF = Location factor

PI value is taken as 50 (since it falls under orange category industry)

N = 1107 (Apartment was established in January, 2019. No. of days calculated since January 1, 2019 to January 12, 2022)

R = 250 (as per guidelines of CPCB)

S = 1 (since it falls under medium category industry)

LF = 1.25 (as the apartment is located in outside the Bangalore city)

So, EC is calculated as below:

$$EC = 50 * 1107 * 250 * 1 * 1.25$$

= 1,72,96,875/- (Rupees one crore seventy-two lakhs, ninety-six thousand eight hundred and seventy five only)

ii. Calculation of EC for discharge of untreated sewage into drains/open land

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

The apartment has 120 flats out of which 70 flats are occupied. The details of water consumption and sewage generated are as follows:

No. of flats occupied – 70

No. of inmates/flat - 05

Water requirement per day for 70 flats = 70 x 5 x 135

= 47250 l/day = 47.25 KLD

Assuming 80% of water is converted into sewage

Quantity of sewage generated = 0.8x47.25 = 37.8 KLD = 0.0378 MLD

N= 303 days (date of inspection of apartment is 16.03.2021 to 12.01.2022)

Marginal cost of Environmental Externality = Rs. 75/MLD = 75x0.0378= Rs. 2.835

EC (lacs Rs.) = [17.5 (0.0378-0) + 55.5 (0.0378-0)] + 0.2 (0.0378-0) x 303 + 2.835 x (0.0378-0) x 303

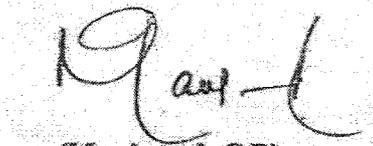
EC = 0.06615+2.097+2.29+32.47

EC = 37.519 lakhs

Further, the project proponent shall pay EC of Rs. 15625/day from 13.01.2022 till obtains CFE/CFO from KSPCB.


(Vasudeva S K)
RSEO- South
KSPCB, Bengaluru
(Chairman)


(Anjana Kumari V)
Scientist D
CPCB, RD, Bengaluru


(Manjunath C R)
EO, Regional Office
Sarjapura
(Member Convener)



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ, ಭಾರತ
 "Parisara Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, INDIA

No. PCB INFRA 20 RTI 2/6093

//By RPAD//

Date:

11 FEB 2022

To
 The Oocupier
 M/s. SNR Silver Ripples,
 Site No. 21, Khata No. 206/21,
 Somapura Village, Anekla Taluk,
 Sarjapura Hobli, Bengaluru Urban District,
 Bengaluru- 560 099.

[Handwritten Signature]
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Sir,

Sub: Imposing Environmental Compensation (EC) for Non-compliances under the provisions of
 Water (Prevention and Control of Pollution) ACT, 1974-Reg.

Ref:

1. Directions of Hon'ble NGT in its Order dated: 30.11.2021 in OA No. 185/2021.
2. Board Office Memorandum No. 4759 dated: 16.12.2021.
3. RSEO- Bengaluru South letter to Board office dated: 17.01.2022.

With reference to the above, it is to be informed that as per the NGT Order OA No. 185/2021 dated: 30.11.2021, directed the KSPCB to take action by imposing Environmental Compensation for not obtaining CFE/CFO of the Board.

Further, to levy Environmental Compensation to the developers, a committee has been constituted by the Board consisting of following members: 1. Regional Senior Environmental Officer-Bengaluru South. 2. Representative from CPCB, Zonal Office, Nisarga Bhavan, Bengaluru. 3. Regional officer- Sarjapura to calculate the Environmental Compensation considering the facts/damage and not obtaining consent from the Board.

In this regard, Board Office issued Office Memorandum cited ref (2) to take immediate action to calculate the Environmental Compensation by convening the meeting at RSEO, Bengaluru South.

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The Regional Senior Environmental Officer, Bengaluru South has convened a meeting on 12.01.2022 at the Office of the RSEO, Bengaluru South with CPCB Officials and EO-Bommanahalli, and submitted a report vide ref(3).

Further, in the said meeting it was decided to levy Environmental Compensation charges for not obtaining CFE/CFO since 2019 & there is no sewage Treatment Plant to treat the sewage generated in the Apartment. Hence, you are liable to Pay Environmental Compensation of **Rs. 37.519 Lakhs** and also Project proponent shall pay Environmental Compensation of Rs. 15625/day from 13.01.2022 till obtains CFE/CFO from KSPCB in the form of **demand draft (DD) drawn in favour of Member Secretary, KSPCB, Bengaluru within 15 days** from the date of service of this notice, falling which action as deemed fit under the provisions of Law, will be initiated.

The receipt of this notice may please be acknowledged.

Encl: As above.

Draft Approved by Member Secretary

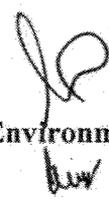
Yours faithfully

Sd/-

Member Secretary

Copy to:

1. The Chief Finance Officer, KSPCB for information and to maintain separate account for EC.
2. The Law Officer, KSPCB for information and necessary action.
3. RSEO, Bengaluru South for information and necessary action.
4. Regional Office, Bommanahalli for information and take action to collect Environmental Compensation charges as per the above letter.
5. Office copy.


Senior Environmental Officer