

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

APPEAL NO. 27 of 2025

IN THE MATTER OF: -

Dhanashree Agro Products Pvt. Ltd.

...Appellant

Vs.

Ministry of Environment Forest
And Climate Change & Anr.

...Respondents

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Filed by:



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New Delhi

Dated: 07.11.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 27 of 2025**

In the matter of: -

Dhanashree Agro Products Pvt. Ltd.

...Appellant

Vs.

Ministry of Environment Forest
And Climate Change & Anr.

...Respondents

**REPLY ON BEHALF OF THE RESPONDENT No. 2, CENTRAL POLLUTION
CONTROL BOARD (CPCB)**

PRELIMINARY SUBMISSIONS: -

1. That, Central Pollution Control Board (hereinafter referred as CPCB) is a statutory Board constituted under Section 3 of The Water (Prevention and control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and control of Pollution) Act 1974 (hereinafter Water Act), The Air (Prevention and control of Pollution) Act, 1981 (hereinafter Air Act) and The Environment (Protection) Act, 1986.
2. That, at the outset, this answering respondent denies all claims, contentions, allegations and averments against answering respondent, CPCB in the above appeal contrary to anything stated or submitted in this reply. Nothing in the appeal may be deemed to have been accepted or admitted by the answering respondent for want of a specific denial or on the ground of non- traverse, save any averment which has been expressly admitted hereinafter.
3. That, Hon'ble NGT vide order dated 22.05.2025 has sought the reply of CPCB in the instant matter. Thereby, the reply is made in succeeding paragraphs.



4. That, the Hon'ble NGT has vide its order dated 21.08.2025 directed the following:

"..1. Learned Counsel appearing for the respondent -Central Pollution Control Board seeks four weeks' time to file the reply. He is also directed to produce a copy of the original record on the basis of which the order impugned in this Appeal has been passed on the next date of hearing."

5. That, a brief chronological summary of the inspections carried out and actions taken by the respondent pertaining to M/s Dhanashree Agro Products Pvt. Ltd. (hereinafter referred as "unit") are as follows:

Date	Event	Key observations/directions
05.02.2014	CPCB issued directions under Section 18 (1) (b) of the Water (Prevention and control of pollution) Act, 1974 to the SPCBs	To direct Grossly Polluting Industries(GPIs) to install OCEMS at outlet of Effluent Treatment Plant
24.07.2015	CPCB issued directions to the unit under Section 5 of the Environment (Protection) Act, 1986	To install OCEMS at outlet of ETP before final disposal
27.03.2018	Unit inspected by CPCB	Non-compliance was found w.r.t. pH -7.07 against the norms of 5.5-8.5, BOD-148 mg/l against the norms of 30 mg/l, COD- 299 mg/l against the norms of 250 mg/l, TSS- 81mg/l against the norms of 30 mg/l and Oil & Grease -13 mg/l against the norms of 10 mg/l
29.05.2018	CPCB issued closure directions to the unit under Section 5 of the Environment	To close down operations with immediate effect



	(Protection) Act, 1986 (Annexure I)	
26.10.2018	CPCB issued revocation directions under Section 5 of the Environment (Protection) Act, 1986 (Annexure II)	To start its operation only after obtaining valid consent to operate (CTO) from Uttarakhand Environment Protection and Pollution Control Board (UEPPCB)
07.02.2019	Unit inspected by CPCB (Annexure III)	<ul style="list-style-type: none"> i. Online Continuous Effluent Monitoring System (OCEMS) was not observed at final outlet of ETP. ii. As verified by IT Division, CPCB, the OCEMS data were not available after 07.06.2018 iii. Crushing season of the unit commenced from 11.12.2018. iv. Unit was operating without OCEMS for the entire season and had not informed CPCB about the same.
22.03.2019	CPCB issued Show Cause Notice to the unit under Section 5 of the Environment (Protection) Act, 1986 (Annexure IV)	For failing to transmit OCEMS data uninterruptedly
08.04.2019 and 09.04.2019	Unit submitted replies	It was submitted by the unit that the unit failed to supply OCEMS data uninterruptedly because OCEMS system failed in January, 2019 and system was sent to M/s Axis Nano Technology Pvt. Ltd. on 14.01.2019.



		However, it was observed that the unit could not provide satisfactory reply regarding delay of about one year in getting repair of OCEMS from supplier.
15.05.2019	Circular issuing policy to maintain uniformity in action towards issuing EC for sugar mills (Annexure V)	
22.05.2019	CPCB issued closure directions under Section 5 of the Environment (Protection) Act, 1986 wherein Environmental Compensation of Rs. 76,80,000/- was levied in compliance of NGT order dated 31.08.2018 (Annexure VI)	<ul style="list-style-type: none"> i. The unit shall remain closed and not operate without seeking permission from CPCB. ii. The unit shall install OCEMS and provide connectivity. iii. The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation. iv. The unit shall deposit Rs.76,80,000/- within 15 days from the date of receipt of direction in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation.[EC to be levied to the unit was calculated as Rs.6,00,000/- (Rupees Six Lakhs only), for non-compliance of effluent discharge norms, for the periods i.e from 27.03.2018 to 15.04.2018 (date of





		inspection to till the end of the crushing season for 2017-18 and Rs.70,80,000/- (Rupees Seventy Lakhs Eighty Thousand only) for non-compliance of non-installation of OCEMS ,for the periods i.e from 11.12.2018 to 07.04.2019 (Date of commence of crushing season to end of crushing season during the crushing season 2018- 19).
05.07.2019	Hon'ble High Court of Delhi vide its order dated 05.07.2019 disposed off the petition challenging the direction of Hon'ble NGT by way of Writ Petition (C) No. 6853/2019	The Writ Petition was disposed off on the ground that the Court does not consider it apposite to entertain the petition.
09.08.2019	Hon'ble Supreme Court in its order dated 09.08.2019 gave interim protection to the unit in SLP (C) No. 18576/2019 which was filed by the unit	<i>"Issue notice. In the meantime, the demand of penalty imposed by the Central Pollution Control Board shall remain stayed."</i>

04.09.2019	CPCB issued office order "Policy for levying environmental compensation (EC) for industries " (Annexure VII)	EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall be applied for the period between date of inspection & monitoring to date of closing of manufacturing operation.
27.11.2019	CPCB filed Counter Affidavit dated 27.11.2019 in Hon'ble Supreme Court of India (Annexure VIII)	-
24.12.2019	Unit submitted reply	Unit informed about the installation of OCEMS since 19.12.2019
17.03.2020	CPCB issued modified direction under Section 5 of the Environment (Protection) Act, 1986 (Annexure IX)	<ul style="list-style-type: none"> i. The unit shall ensure uninterrupted connectivity with CPCB server. ii. Environmental Compensation (EC) was recalculated as Rs.18,00,000/- for the periods i.e from date of inspection (07.02.2019) to date of end of crushing season 2018-19 (07.04.2019) and Rs. 1,80,000/- for the period from date of starting of crushing season (13.12.2019) to period of non-installation and non-transmission of data (18.12.2019). iii. EC will remain stayed and shall be levied subject to the final judgement of the Hon'ble Supreme Court in the matter of M/s Dhanashree Agro Products Pvt. Ltd. Versus Central Pollution Control Board in SLP (c) No. (s) 18576/2019.



24.02.2025	Hon'ble Supreme Court by order dated 24.02.2025 has disposed of the SLP	“ 3. In view of the aforesaid observation of the High Court and upon hearing learned counsel for the parties, we are also of the opinion that the petitioner(s) can seek remedies with regard to the impugned orders of the CPCB before the NGT. 4. We accordingly, allow the petitioner(s) four weeks' time to approach the NGT against the orders dated 30.05.2019 and 17/22.05.2019 passed by the CPCB as also the subsequent order(s), if any passed by the CPCB which shall be considered on its own merits.”
21.04.2025 & 21.08.2025	Matter filed in Hon'ble NGT within a period of 04 weeks. Hon'ble Tribunal passes order dated 21.04.2025	The Respondent - CPCB is directed to produce the original record leading to the passing of the impugned order at the time of hearing of the Appeal.



6. It was submitted that in compliance of Hon'ble NGT order dated 21.08.2025, the relevant copy of original records available on office records and on the basis of order impugned dated 22.05.2019 in Appeal no. 27/2025 has been passed are as below:

- i. Copy of closure directions dated 29.05.2018
- ii. Copy of revocation directions dated 26.10.2018
- iii. Inspection report of the unit inspection carried out on 07.02.2019
- iv. Show Cause Notice dated 22.03.2019
- v. CPCB policy dated 15.05.2019 for imposing EC for sugar mills
- vi. Copy of Closure directions dated 22.05.2019
- vii. CPCB EC policy dated 04.09.2019
- viii. Counter affidavit filed in Hon'ble Supreme Court dated 27.11.2019
- ix. CPCB Directions dated 17.03.2020

REPLY ON MERIT:-

1. That with regard to the contents of Para No.1& 2 of the appeal the following is humbly submitted:

- i. CPCB formulated the methodology for imposing the EC for the violation of environment laws by the industries/violators in compliance of Hon'ble NGT order dated 31.08.2018 in O.A. No. 593/2017 (W.P. (Civil) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs Union of India & Ors. directed that *"The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund be kept in a separate account and utilized in terms of an action plan for protection of the environment"*.

A copy of the order dated 31.08.2018 is placed at **Annexure X**.

- ii. That the Hon'ble National Green Tribunal further directed through order dated 19.02.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

"The report dated 12.12.2018 annexes an amended Annexure 7 which relates to "Methodology for assessing penalty and environmental compensation and action plan to utilize the fund."

Copy of the methodology is annexed as **Annexure XI**.

2. That, with regard to the averments made in paras 3 to 6 of the appeal, the contents made in paras under preliminary submissions are re-iterated and the same are not repeated herein for the sake of brevity.



3. That the contents of Para No. 7 of the appeal need no reply being matter of record.
4. That no comments are offered over the contents of para no. 8 of the appeal, wherein the facts related to balance sheet of the appellant company are arrayed. However, the allegation made against the CPCB of irresponsible attitude is denied.
5. That the contents of Para No.9 of the appeal need no reply being matter of record.
6. That with regard to the contents of Para No.10 to 15 of the appeal, the contents of para's under preliminary submissions made by the answering respondent (R2) herein are re-iterated and the same are not repeated for the sake of brevity.
7. That with regard to the contents of Para No.16 of the appeal, it is humbly submitted by the R-2 that as per closure directions dated 29.05.2018, the unit was found non-complying with the discharge norms of CPCB on 27.03.2018:

BOD of 148 mg/l against stipulated standards of 30 mg/l,

COD -299 mg/l against stipulated stds. of 250 mg/l,

TSS -81 mg/l against stipulated stds. of 30 mg/l and

Oil & Grease – 13 mg/l against stipulated stds. of 10 mg/l

The aeration tank had an MLSS of 1443 mg/l which indicates the unstabilized ETP. The above facts indicate that even though the unit has installed an ETP in its premises, its operation and maintenance is poor and not operated properly. Further, in this regard the contents made in para's under preliminary submissions are re-iterated and the same are not repeated herein for the sake of brevity.

8. That the contents of Para No.17 of the appeal are not admitted and vehemently denied that the unit was functioning as per the environment laws. It is further submitted by the R-2 that the OCEMS was not functional. It was also verified by IT division CPCB that OCEMS data was only available up to



07.06.2018. CPCB thus, issued closure direction dated 22.05.2019 under Section 5 of E(P) Act, 1986 to the unit for deliberately failing to provide uninterrupted connectivity of OCEMS with CPCB server.

9. That the contents of Para No.18 of the appeal need no reply being matter of record.

10. That with respect to the contents of Para No.19 & 20 of the appeal the contents made in paras under preliminary submissions are re-iterated and the same are not repeated herein for the sake of brevity.

11. That, with respect to the averments made in paras 21 to 25, the contents made in paras under preliminary submissions are re-iterated and the same are not repeated herein for the sake of brevity.

12. That with regard to the averments made in paras 26 to 33 of the appeal, it is humbly submitted that the contents made in paras under preliminary submissions are re-iterated and the same are not repeated herein for the sake of brevity.

REPLY ON GROUNDS: -

A. That, with regard to the averments made in para-A to R of the grounds of appeal it is humbly submitted that the contents made in para A of Reply on Merits are re-iterated and the same are not repeated herein for the sake of brevity.

B. That, with regard to the averments made in para S of the grounds of appeal, this answering respondent submits that during the CPCB

inspection dated 07.02.2019, OCEMS system was not observed at final outlet of ETP. It was informed that the same has been sent for repair/replacement. However, as verified by IT division, CPCB, OCEMS data was available only till 07.06.2018. The unit vide its replies dated 08.04.2019 and 09.04.2019 submitted that OCEMS system failed in January, 2019 and was sent to M/s Axis Nano Technology Pvt Ltd. on 14.01.2019. The supplier could not repair the system timely. However, the unit could not provide satisfactory reply regarding delay of about one year in getting repair of OCEMS from supplier.



C. That, with regard to the averments made in para T of grounds of appeal, this answering respondent submits that just as the appellant is under the legal obligation to continue its operations under the Uttarakhand Sugarcane (Regulations of Supply & Purchase) Act, 1953, it is also under the obligation to maintain compliance under the Environment (Protection) Act, 1986.

D. That, no comments are offered over the averments made in para U of grounds of appeal.

13. That, no comments are offered over the averments made in paras 36 to 39 of the appeal.

14. That the prayer made in the appeal by the appellant is not admitted and denied.

15. That, the answering respondent craves leave of the Hon'ble Tribunal to file additional reply, if required, in future.

16. That, in the light of the above submissions, it is respectfully submitted that this Answering Respondent, i.e., CPCB to dismissed the present appeal as the same is devoid of merit and with cost and the CPCB shall abide by any order(s) or direction(s) passed by this Hon'ble Court in the instant appeal.



A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by a smaller 'G'.

(Dinabandhu Gouda)

Scientist 'F'

Central Pollution Control Board

06.11.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 27 of 2025**

In the matter of: -

Dhanashree Agro Products Pvt. Ltd.

...Appellant

Vs.

Ministry of Environment Forest
And Climate Change & Anr.

...Respondents

AFFIDAVIT

I, **Dinabandhu Gouda** working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. in the above matter, do hereby solemnly affirm, declare on oath and state as under:-

1. That I, the deponent herein is well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



DEPONENT

दीनबन्धु गौड़ा / Dinabandhu Gouda
प्रभागीय प्रमुख, डबल्यू क्यू एम-II / Division Head, WQM-II
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION:

Verified at New Delhi on this 06 NOV 2025 day of 2025 that the contents of the above reply are correct and true on the basis of the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.


DEPONENT

दीनबन्धु गौड़ा / Dinabandhu Gouda
 प्रभागीय प्रमुख, डबल्यू क्यू एम-II / Division Head, WQM-II
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
 (M/o Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

ATTESTED

 NOTARY PUBLIC
 GOVT. OF INDIA
 06 NOV 2025

Speed Post

B-190197/WQM-II(RG)/CPCB/Sugar/47/2016-17

May 22nd, 2018

२१

To,

M/s Dhanu Shree Agro Product Pvt. Ltd.
 (Formerly known as M/s Lakshmi Sugar Mills Co. Ltd.)
 Iqbalpur, Tehsil Bhagwanpur,
 Distt Haridwar-247668
 Uttarakhand

**DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986-
 CLOSURE NOTICE THEREOF**

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Dhanu Shree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand (herein after referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, CPCB issued direction dated 02.11.2017 under section 5 of Environment Protection Act, 1986 to the Unit to remain closed till compliance with the following directions:

1. i. The Unit shall submit the following reports to CPCB duly validated by reputed institutions like National Sugar Institute, Kanpur/Vasandada Sugar Institute, Pune /IITs within 60 days;
 - a) ETP adequacy assessment reports;

(Contd..2/-)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
 निर्गत.....
 दिनांक.....
 30/05/18

-Page 2-

- b) time bound action plan for ETP augmentation & upgradation upto tertiary treatment level; to comply with the standards notified G.S.R. 35 (E), MoEF&CC, January 14, 2016 for effluent disposal, & waste water conservation.
 - c) water audit and mass balance report to establish waste water generation rate;
 - d) action Plans to achieve the notified effluent discharge quality and generation standards.
 - e) irrigation management plan as per the new notified standards on January 14, 2016; and
- ii. The Unit shall restrict the storage capacity of lined lagoon upto 15 days of effluent generation.
 - iii. The Unit shall meet the BOD-30mg/l standards for discharging any effluent on land /surface water body whereas effluent stored in lined lagoons/tanks of capacity not more than 15 days shall comply with BOD-100 mg/l standards.
2. The Unit shall stabilize the ETP by September 2017 before commencing of the new crushing season. The unit will not be allowed to resume manufacturing operations till stabilization of ETP system.
 3. The Unit shall upgrade of process technology, ETP system & adapt the best practice in a time bound manner and submit a report to CPCB before starting the next crushing season.
 4. The Unit shall seek permission from CPCB, after compliance with the above mentioned directions before resumption of manufacturing operations.

AND WHEREAS, the Unit has submitted implementation status of recommendations of the adequacy report vide letter dated 16.11.2017 to CPCB; and

WHEREAS, the Unit (M/s Dhanu Shree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) was inspected on 27.03.2018 by officials from CPCB and following observations are made;

1. The Unit and ETP were operational.
2. The Unit has consent under Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 with validity upto 31.03.2018.
3. Effluent Treatment Plant (ETP) comprises of Bar Screen, Oil Grease Separator, Equalisation Tank, Primary Clarifier, Aeration Tank, Secondary Clarifier & Activated Carbon filter.
4. Analysis of treated effluent sample shows pH-7.07 against norms of 5.5-9.0, **BOD-148 mg/l** against norms of 30 mg/l, **COD- 299 mg/l** against norms of 250 mg/l, **TSS- 81 mg/l** against norms of 30 mg/l and **Oil-grease content- 13 mg/l** against norms of 10 mg/l which indicates non-compliance w.r.t. BOD, COD & TSS with effluent surface discharge norms prescribed under Environment (Protection) Rules, 1986.
5. MLSS in aeration tank was found 1443 mg/l which indicates unstabilised Activated Sludge Process system and poor operation and maintenance of ETP system.

(Contd..3/-)

-Page 3-

6. The Unit has installed cooling tower but there is no separate treatment of excess water containing sulphate and it is transferred to inlet of ETP directly.

It is evident that the aeration tank of ETP system is not properly stabilised and untreated/partially treated effluent is being discharged by the Unit, posing potential threat to surface water/ground water quality.

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Dhanu Shree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) is directed to **close down its manufacturing operations immediately** and shall comply with the following directions;

1. The Unit is directed to close down its Sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The Unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process
3. The Unit having high-pressure boiler (>45 Kg/cm²) shall install & Commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
4. The Unit shall restrict the treated waste water storage lagoon capacity of 15 days for low demand period for irrigation.
5. The Unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adequacy assessment and submit the report to CPCB.
6. The Unit shall submit revalidated ETP adequacy assessment report to CPCB immediately.
7. The Unit shall inform to CPCB about the Closure of operation immediately.
8. The Unit shall seek permission from CPCB before resumption of manufacturing operations.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit (**M/s Dhanu Shree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand.**) without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

(S. P. SINGH PARIHAR)
CHAIRMAN

(Contd..4/-)

Copy to:

1. The Chairman

Uttar Pradesh Pollution Control Board,
Building No. TC-12V, Vibhuthi Khand,
Gomti Nagar, Lucknow – 226 010

:With request to ensure compliance of the directions.

2. Joint Secretary (CP Division)

Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003

:For kind information, please.

3. The District Magistrate

Shahjahanpur, U.P.

:With request to ensure closure of the unit in compliance of the directions

4. The Superintending Engineer

Madhyanchal Vidyut Vitaran Nigam Limited,
Shahjahanpur, U.P.

:With a direction to disconnect power supply

5. The Regional Director

Regional Directorate
Central Pollution Control Board, PICUP Bhawan,
Ground Floor, Vibhuthi Khand, Gomti Nagar,
Lucknow – 226 010

:For follow up and ensuring compliance

6. The In-charge, IT Division, CPCB**7. Master file/Guard file, WQM II, CPCB Delhi**


(A SUDHAKAR)
MEMBER SECRETARY



Speed Post

B-190197/WQM-II(RG)/CPCB/Sugar/47/2016-17

Oct 22nd, 2018
26

To,

M/s Dhanashree Agro Product Pvt. Ltd.
(Formerly known as M/s Lakshmi Sugar Mills Co. Ltd.)
Iqbalpur, Tehsil Bhagwanpur,
Distt Haridwar-247668
Uttarakhand

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand (herein after referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, CPCB issued direction dated 23.06.2017 under section 5 of the Environment (Protection) Act, 1986 to the Unit for carrying out ETP adequacy assessment by reputed institutions; and

WHEREAS, CPCB received adequacy assessment report vide letter dated 12.09.2017 from the unit prepared by VSI, Pune; and

(Contd..2/-)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड, इकबलपुर, हरिद्वार, उत्तराखण्ड

-Page 2-

WHEREAS, CPCB issued direction dated 02.11.2017 under section 5 of Environment (Protection) Act, 1986 to the Unit: and

WHEREAS, the Unit has submitted implementation status of recommendations of the adequacy report vide letter dated 16.11.2017 to CPCB; and

WHEREAS, the Unit was inspected on 27.03.2018 by officials from CPCB and following observations were made;

1. The Unit and ETP were operational.
2. Effluent Treatment Plant (ETP) comprises of Bar Screen, Oil Grease Separator, Equalisation Tank, Primary Clarifier, Aeration Tank, Secondary Clarifier & Activated Carbon filter.
3. Analysis of treated effluent sample showed pH-7.07 against norms of 5.5-9.0, **BOD-148 mg/l** against norms of 30 mg/l, **COD- 299 mg/l** against norms of 250 mg/l, **TSS- 81 mg/l** against norms of 30 mg/l and **Oil-grease content- 13 mg/l** against norms of 10 mg/l which indicated non-compliance w.r.t. BOD, COD & TSS with effluent surface discharge norms prescribed under Environment (Protection) Rules, 1986.
4. MLSS in aeration tank was found 1443 mg/l which indicated unstabilised Activated Sludge Process system and poor operation and maintenance of ETP system.
5. The Unit has installed cooling tower but there is no separate treatment of excess water containing sulphate and it is transferred to inlet of ETP directly.

AND WHEREAS, CPCB issued direction dated 29.05.2018 under Section 5 of the Environment (Protection) Act, 1986 the unit to comply the following:

1. The Unit is directed to close down its Sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The Unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process
3. The Unit having high-pressure boiler (>45 Kg/cm²) shall install & Commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
4. The Unit shall restrict the treated waste water storage lagoon capacity of 15 days for low demand period for irrigation.
5. The Unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adequacy assessment and submit the report to CPCB.
6. The Unit shall submit revalidated ETP adequacy assessment report to CPCB immediately.
7. The Unit shall inform to CPCB about the Closure of operation immediately.
8. The Unit shall seek permission from CPCB before resumption of manufacturing operations.

(Contd..3/-)

-Page 3-

AND WHEREAS, the Unit replied along with the revalidated adequacy assessment reports prepared by VSI, Pune vide letters dt. 02.07.2018 which were examined and following observations were made:

1. Flow meters to be installed at major unit operations to ascertain and control hot and cold-water requirement.
2. Flow meters to be installed at various fresh water consumption points.
3. The Unit shall install the anaerobic treatment to avoid the disturbance due to shock load.
4. The Unit is having adequate facility for 4500TCD and effluent generation is estimated as 94.7 litre/tonne for cane crushed which requires to be rechecked.

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention (thereafter referred to as the Charter;

WHEREAS, a meeting of sugar mills operating in Uttarakhand, representatives of UEPPCB and CPCB was held on 19.07.2018 under Chairmanship of Cane Commissioner, Government of Uttarakhand and the following decisions are made

1. Sugar Mills shall submit an action plan to CPCB by 31.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB before start the crushing season.
3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

(Contd..4/-)

-Page 4-

WHEREAS, the unit vide letter dated 24.07.2018 submitted their compliance status of the Charter, which is examined and following observations are made:

1. The unit has installed the necessary flow meters at requisite points as prescribed under the Charter.
2. The unit has submitted action plan/ compliance report on upgradation of ETP.
3. The unit is maintaining proper logbook for bore-well readings thereby recording their fresh water consumption on regular basis.
4. The unit has stated that no untreated/ partially treated effluent is being discharged on land.
5. The unit shall employ hydro-jet for cleaning of heat exchanger unit.
6. The unit has already set up environmental laboratory with dedicated technical staff.
7. The unit has planned to arrange training for its technical staff on ETP Operation and Maintenance.
8. The unit has submitted compliance report on BMT for Water Recycling and Pollution Prevention.

AND WHEREAS, the Three Member Committee in its meeting held on 08.10.2018 examined the revalidated adequacy assessment report, & implementation status of the Charter and recommended that the unit may be allowed to resume operation.

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand,) is directed to comply with the following directions before commencement of crushing season 2018-2019;

1. The unit shall start its operation only after obtaining the valid consent from the Uttarakhand Environment Protection and Pollution Control Board (UEPPCB).
2. The unit shall implement the observation & recommendation of the revalidated adequacy assessment of ETP.
3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of cold and hot water consumption.
5. The unit shall install flow meters for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent generation also.
7. The unit shall carry out colour coding of pipelines carrying recycled process water and fresh process water.

(Contd..5/-)

-Page 5-

8. The Unit shall commission mechanical sludge handling system of adequate capacity
9. The unit shall carry out analysis of effluent discharge parameters notified under Environment (Protection) Rules, 1986 and logbook shall be maintained on daily basis.
10. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
11. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report to CPCB within 60 days of resumption of operation

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit (**M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand.**) without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.



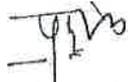
(S. P. SINGH PARIHAR)
CHAIRMAN

25.10.18

(Contd..6/-)

Copy to:

- | | |
|--|--|
| <p>1. Cane and Sugar Commissioner (Uttarakhand)
Village Hempur Ismile
Bazpur Road, Kashipur ,
Udham Singh Nagar-244713</p> | <p>With request to ensure compliance of the directions.</p> |
| <p>2. Member Secretary
Uttarakhand Environment Protection & Pollution Control Board, 29/20, Nemi Road, Dehradun, Uttarakhand-248001</p> | <p>:With request to ensure compliance of the directions.</p> |
| <p>3. Joint Secretary (CP Division)
Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003</p> | <p>: For kind information, please.</p> |
| <p>4. District Magistrate
Haridwar, U.P.</p> | <p>: With request to ensure compliance of the directions</p> |
| <p>5. Superintending Engineer
Uttarakhand Power Corporation Ltd.,
Electricity Distribution Circle
Roorkee, Haridwar,
Uttarakhand-247667</p> | <p>: To reconnect the power supply of the unit, please</p> |
| <p>6. Regional Director
Regional Directorate
Central Pollution Control Board, PICUP Bhawan,
Ground Floor, Vibhuti Khand, Gomti Nagar,
Lucknow – 226 010</p> | <p>:For follow up and ensuring compliance</p> |
| <p>7. In-charge, IT Division, CPCB</p> | |
| <p>8. Master file/Guard file, WQM II, CPCB Delhi</p> | |


(Prashant Gargava)
 MEMBER SECRETARY



**CENTRAL POLLUTION CONTROL BOARD
REGIONAL OFFICE (NORTH)
LUCKNOW**

Inspection Report of M/s Dhanshree Agro Products Pvt Ltd, Iqbalpur District Haridwar Uttrakhand

Background

M/s Dhanshree Agro Products Pvt Ltd (formerly Known as M/s Lakshmi Sugar Mills Company Private Ltd.) is located at V.P.O Iqbalpur Tehsil Roorkee District Haridwar (hereafter referred as "The unit"). The unit was inspected by officials of CPCB Regional Directorate (North), Lucknow on February 07, 2019 under SMS alert programme w.r.t to offline of the OCEMS. The unit was found operational, on the day of inspection. The unit was engaged in production of white sugar through 'Double Sulphitation Process' using sugar cane as raw material.

The team had carried out inspection of different process sections of the unit and collected secondary information from the unit representative and samples of Effluent Treatment Plant and also emission monitoring of Co-generation Boiler to verify prescribed standards. The overall details, Observations & Recommendations are mentioned in the ensuing sections:

A: General Information		
1	Name of the unit and Address	M/s Dhanshree Agro Products Pvt Ltd (Formaly M/s Lakshmi Sugar Mill Co Ltd.) V.P.O Iqbalpur Tehsil Roorkee District Haridwar, (U.K)
2	Name of the Proprietor/ Contact person Designation Contact No.	Mr. Ramesh Chand Agarwal (G.M. Production) 08755900435
3	Year of Comm.	1953
4	Sector	Private
5	Production details. • Products • Installed Prod. Cap • Operating capacity	White Sugar 4500 TCD 4500 TCD 4500 TCD
6	Cane crushing capacity	4500 TCD
7	Cane crushed last year	6770901 QTLS
8	Sugar produced	702850 QTLS
9	Molasses generation	306056 QTLS
10	Press Mud generation	288400 QTLS
11	Operational status	Operational
B: Water Pollution and its Control:		
1	Water Supply Source Water Consumption (KLD) ➤ Industrial ➤ Domestic	Tube wells (02) 250 KLD 120 KLD Reported
2	Water Meter to show consumption	Mechanical type meter at tube wells
3	Flow measuring device installed at outlet of ETP	Electromagnetic type flow meter

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4	Waste Water Generation (KLD) ➤ Industrial ➤ Domestic	450 KLD 100 KLD
5	Waste Water Treatment capacity (KLD) ➤ Industrial ➤ Domestic	Industrial effluent treated through ETP Domestic effluent treated through soak pit
6	Details of ETP ➤ ETP Description With flow diagram (with specific reference to O&G removal system)	The ETP is comprised of Bar Screen > Oil & Grease Trap > Fine screen > Collection Tank > Chemical Mixing Tank (Lime dosing) > Primary Clarifier > Aeration tank-I (Diffused Aeration system) > Aeration tank-II > Secondary Clarifier > Pressure Sand Filter > Activated Carbon Filter > Sludge drying Beds (4 Nos.)
7	Waste water discharged (after treatment)(KLD) ➤ Industrial ➤ Domestic	450 KLD 100 KLD
8	Mode of disposal of treated effluent	Irrigation (on land disposal)
9	Effluent collection locations & analysis results (if collected)	Please see in observations
10	Status of Consent under the Water Act-1974	Valid upto 31/03/2019
11	Status of installation of online effluent monitoring system. Whether connected to CPCB & SPCB. If yes, the URL and date of registration with CPCB server. Details of instrument Id no. and OCEMS readings of parameters with photographs	During visit, team not observed OCEMS at ETP. As reported that OCEMS of ETP was found non-functional since Jan-2019 therefore, it was send to vendor for maintence /replaced of the same.
(I) Information regarding Ferti-irrigation		
1	Details of treatment of effluent before Ferti-irrigation	Treated effluent is utilized in house in plant irrigation about 5 acres area.
2	Command area for irrigation (available land area)	5 Acres area.
	System for dilution of treated effluent required for Ferti-irrigation	Not applicable
3	System of transportation of treated effluent upto field.	PVC Pipeline & Distribution channel in the plantation area.
4	Formal agreements with farmers for using treated effluent	Not applicable
5	Storage facility available for treated effluent during low demand period	5193 m ³
6	Quality of effluent being used for Ferti-irrigation	Not applicable
7	Ground water monitoring network	Installed only one Piezometer in their premise for monitoring ground water level
C: Air Pollution and its Control		
1	Sources of Air Pollution	Details of Boilers Co- Gen Boiler 110 TPH Su Boiler 40 TPH
2	➤ Type of Fuel used with consumption ➤ Rate of fuel used ➤ Load at which sampling done	Bagasse 44 Ton/hr 106 TPH Co-generation Boiler

3	➤ Stack details	73 mtrs, Dia 2.84 mtrs (Top) 40 mtrs, Dia 2.0 mtrs
4	➤ APCS details	Co-generation boiler of capacity 110 TPH is equipped with 3 field ESP, Low pressure Boiler of capacity 40 TPH is equipped with Multi-cyclone Wet Scrubber
5	Status of Consent under the Air Act- 1981	Valid upto 31/03/2019
6	OCEMS Status:	Please see in observations
D: Waste Management		
1	Type & Quantity of Waste Generated	ETP sludge –info not provided Spray Pond sludge- info not provided Boiler ash: info not provided Used oil : info not provided
2	Facility of Storage/ Disposal	ETP sludge-stored in Sludge drying beds Reported Press mud was taken by local farmers As reported Boiler ash is taken by contractor for land filling Used oil is used in house boiler mixed with bagasse
3	Disposal of waste	ETP sludge = used in landfill Press mud= sold to farmers Boiler ash= sold to contractor Used oil = mixed with bagasse
4	Status of Grant of authorization	Valid upto 31/03/2019
E. Other informations		
1	Future Plans for Environmental Management	
2	Compliance of CREP recommendations	
3	Compliance of EC conditions obtained from MoEF	Not applicable

Observations:

1. The unit is engaged in production of sugar with sugar cane crushing capacity of 4500 TCD. During inspection, unit was in operation with the present cane crushing capacity of 4500 TCD. As informed by the unit representative, unit has started cane crushing for the current cane crushing season (2018-19) from 11.12.2018.
2. As reported by the unit representative that Effluent Treatment Plant was started on 10/11/2018 stabilize the bio-mass one month prior to the start of the crushing season.
3. During inspection, the unit and its ETP was found in operation.
4. The unit is meeting its fresh water requirement through two tube wells. Mechanical Water meter is installed at tube wells. The unit has maintained log book regarding fresh water consumption. The unit has obtained permission from CGWA for the ground water abstraction. As per, NOC abstraction of 3,27,025 m³/year (680 m³/day for season 145 days & 1235 m³/day for 185 days off season) for extraction of the ground water.

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5. As reported by the unit representative, excess condensate about 718 m³/day is sent to Under Ground Reservoir (UGR) after cooling and is utilized for cooling tower make up.
6. As reported by the unit representative, total effluent generation is 426 m³/day including spray pond over flow (168.0 m³/day. During visit team had observed that spray pond over flow and sugar mill effluent is sent to ETP for further treatment.
7. The unit has not installed flow meter for measuring spray pond over flow, excess condensate generation.
8. The unit has installed separate energy meter for the ETP and records of the same were maintained.
9. The unit has installed an Effluent Treatment Plant (ETP) of capacity 900 m³/day which based on Activated Sludge Process (ASP). The ETP is comprised of Bar Screen > Oil & Grease Trap > Fine screen > Collection Tank > Chemical Mixing Tank (Lime dosing) > Primary Clarifier > Aeration tank-I (Diffused Aeration system) > Aeration tank-II > Secondary Clarifier > Pressure Sand Filter > Activated Carbon Filter > Sludge drying Beds (4 Nos.)
10. At the time of inspection, effluent sample were taken from various stages of the ETP to verify the effluent norms. Analysis results of sample are presented below :

Sampling locations	Parameters*								
	pH	SS	TDS	MLSS	MLVSS	BOD	COD	O&G	SAR
Inlet of ETP	4.84	411	2424	--		2390	4075	--	
Aeration tank-I	--	--	--	6550	2616	--	--	--	
Aeration Tank-II	--	--	--	7162	2738	--	--	--	
Final outlet of ETP	7.47	12.8	678	--	--	41.60	95.30	BDL	1.03
Prescribed standards for on land discharge	5.5-8.5	100	2100	--	--	100	--	10	--

*All values are in mg/l except pH

11. It is evident from the above analysis results that the unit is generally complying with the prescribed norms.
12. During visit team had observed that ETP treated water is being used plantation own land 6 Acre.
13. The unit has provided a pucca lagoon for storing treated water upto 15 days in case of low demand period of irrigation. During inspection, treated effluent storage lagoon was found empty.
14. The unit has installed flow measuring device at outlet of the ETP and records of the same was maintained.

15. During visit, team observed, excess foaming at inlet conveying channel of spray pond.
16. During inspection, team had observed that spray pond effluent is recycled after cooling and its over flow fed into collection Tank of the ETP for further treatment.
17. During visit, team had not observed OCEMS system at final out let of ETP for measuring of consented parameters. As reported by the unit representative that existing OCEMS Sensor was non-functional since Jan-19. Hence, the unit was sent the OCEMS system to the vendor on 03/02/2019 for repairing /replacement of the same.
18. The ash generated from the boiler is used for land filling. Press mud is taken by local farmer for bio-composting. As reported, used oil is mixed with bagasse and fired in boiler.
19. The unit has installed two boilers of capacity 110 TPH and 40 TPH respectively for producing steam and power using bagasses as fuel. The high pressure boilers of capacity 110 TPH are used for generation of 20 MW power for on requirement as well as to sell the power to State electricity board. Whereas low pressure boiler of capacity 40 TPH is used as stand by and it also used bagasse as fuel. This emission is emitted to atmosphere through stack of 40m height followed by multi cyclone, wet scrubber as APCD.
20. The emission from boiler of 110 TPH is emitted to atmosphere through 73m stack height followed ESP (three Fields) as APCD. During visit, team had carried out emission monitoring of the 110 TPH (Co-generation Boiler). During monitoring, the boiler was operated at 106 TPH load to verify the emission norms. Emission analysis results of the same are presented below :

Sampling Location	Emission Parameters	
	Particulate Matter	Sulphur Dioxide
Co-generation Boiler of 110 TPH capacity	83.80	17.6
Prescribed Emission standards	150 mg/Nm ³	--

All values are in mg/Nm³

21. It is evident from the above analysis results that the unit is generally complying with emission norms.
22. The unit has not installed on-line stack emission monitoring system (CSEMS) at boiler stacks for measuring the consented parameters.

23. The unit possesses valid consents upto 31/03/2019 under the water Act, 1974 and the Air Act, 1981 also Authorization under the Hazardous and other Wastes (Management and Trans-Boundary Movement) Rules, 2016 from concerned SPCB.
24. The unit has not installed Sewage treatment plant for treatment of colony domestic waste water.

Recommendations:

1. The unit should expedite repair of its OCEMS.
2. The unit should ensure that installed OCEMS device are functioning properly & continuously and that data from the devices are uninterruptedly transferred to CPCB.
3. The unit should installed on-line stack emission monitoring system (CSEMS) at Co-generation boiler and boiler for measuring consented emission parameters.
4. The unit should install flow meter for measuring spray pond over flow, excess condensate generation and maintained records of the same.
5. The unit should ensure disposal of the other waste i.e. boiler ash, ETP sludge and spray pond sludge and maintained records of the same.
6. The unit should installed Sewage treatment plant for treatment of the domestic and colony waste water.
7. The unit should ensure regular maintenance and operation & calibration of the on-line system so as to obtain continuous reliable accurate results.
8. Data transmission, system Diagnostic alarms should check on daily basis.

Inspecting Team:

- ❖ Sh. J.P. Meena, Sc. C, CPCB RD(N) Lucknow
- ❖ Sh. B.M. Singh, STS, CPCB RD(N) Lucknow
- ❖ Sh. Ravinder Singh, SRF, CPCB RD(N) Lucknow

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21/21/2019

Ravinder Singh
21/21/19

Concluding Remarks/Action Suggested by Regional Director:

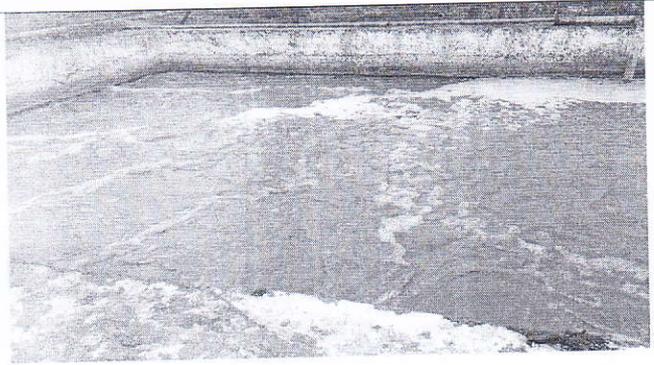
In view of non functional of OCEMS at ETP and no online system at boiler stack and non-installation of STP for treatment of the domestic sewage, the unit may be issued suitable directions under section 5 of E (P) Act, 1986.

(S.K.Gupta) | 21/21/19
Regional Director

Photo Gallery Of M/S Dhanshree Agro Products Pvt Ltd



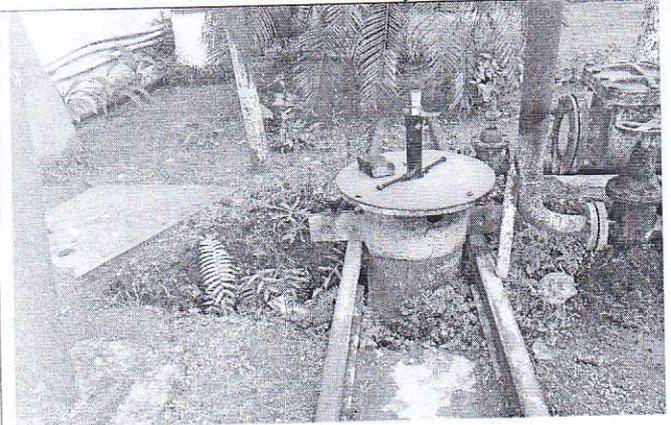
Collection Tank of ETP



Aeration Tank of ETP



Sludge Drying Beds



Piezometer well



Plantation Area

Tagelish

Speed Post

B-190197/WQM-II(RG)/CPCB/Sugar/47/2016-17 (8356)

14.03.2019

22.03.19

To,

M/s Dhanashree Agro Product Pvt. Ltd.
 (Formerly known as M/s Lakshmi Sugar Mills Co. Ltd.)
 Iqbalpur, Tehsil Bhagwanpur,
 Distt Haridwar-247668
 Uttarakhand

**DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT,
 1986- NOTICE THEREOF**

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand (herein after referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected on 27.03.2018 by officials from CPCB and following observations were made;

1. The Unit and ETP were operational.
2. Effluent Treatment Plant (ETP) comprises of Bar Screen, Oil Grease Separator, Equalisation Tank, Primary Clarifier, Aeration Tank, Secondary Clarifier & Activated Carbon filter.
3. Analysis of treated effluent sample showed pH-7.07 against norms of 5.5-9.0, **BOD- 148 mg/l** against norms of 30 mg/l, **COD- 299 mg/l** against norms of 250 mg/l, **TSS- 81 mg/l** against norms of 30 mg/l and **Oil and grease- 13 mg/l** against norms of 10

mg/l which indicated non-compliance w.r.t. BOD, COD & TSS with effluent surface discharge norms prescribed under Environment (Protection) Rules, 1986.

4. MLSS in aeration tank was found 1443 mg/l which indicated unstabilised Activated Sludge Process system and poor operation and maintenance of ETP system.
5. The Unit has installed cooling tower but there is no separate treatment of excess water containing sulphate and it is transferred to inlet of ETP directly.

AND WHEREAS, CPCB issued direction dated 29.05.2018 under Section 5 of the Environment (Protection) Act, 1986 the unit; and

WHEREAS, the Unit vide letter dt 02.07.2018 submitted revalidated adequacy assessment reports prepared by VSI, Pune; and

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention (thereafter referred to as the Charter; and

WHEREAS, a meeting of sugar mills operating in Uttarakhand, representatives of UEPPCB and CPCB was held on 19.07.2018 under Chairmanship of Cane Commissioner, Government of Uttarakhand and the following decisions were made

1. Sugar Mills shall submit an action plan to CPCB by 31.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB before start the crushing season.
3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letter dated 24.07.2018 submitted their compliance status of the Charter; and

WHEREAS, the Three Member Committee in its meeting held on 08.10.2018 examined the revalidated adequacy assessment report, & implementation status of the Charter and recommended that the unit may be allowed to resume operation; and

WHEREAS, CPCB issued compliance direction dated 26.10.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit to comply with the following:

1. The unit shall start its operation only after obtaining the valid consent from the Uttarakhand Environment Protection and Pollution Control Board (UEPPCB).
2. The unit shall implement the observation & recommendation of the revalidated adequacy assessment of ETP.
3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of cold and hot water consumption.
5. The unit shall install flow meters for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent generation also.
7. The unit shall carry out colour coding of pipelines carrying recycled process water and fresh process water.
8. The Unit shall commission mechanical sludge handling system of adequate capacity
9. The unit shall carry out analysis of effluent discharge parameters notified under Environment (Protection) Rules, 1986 and logbook shall be maintained on daily basis.
10. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
11. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report to CPCB within 60 days of resumption of operation

AND WHEREAS, the Unit was inspected on 7.02.2019 by officials from CPCB, RD Lucknow based on SMS alert programme and following observations were made;

- i. The unit is engaged in production of sugar with sugar cane crushing of 4500 TCD. During the inspection, the unit was in operation with the present cane crushing capacity of 4500 TCD.
- ii. The unit has started its crushing season from 11.12.2018.
- iii. ETP plant was started on 10.11.2018 as per the information provided by the unit representative. During the inspection ETP was found operational.
- iv. The ETP comprises of Oil skimming & Bar screen chamber, Fine screen, Collection Tank, Chemical Mixing Tank, Primary Clarifier, Aeration tank-I (Diffused aeration), Aeration tank II, Secondary Clarifier, Pressure Sand filter, Activated Carbon filter, Sludge drying beds (4 nos.)
- v. Analysis of treated effluent sample showed pH-7.47 against norms of 5.5-8.5, BOD- 41.60 mg/l against 100 mg/l, COD- 95.3 mg/l against 250 mg/l, SS- 12.8 mg/l against

100 mg/l and Oil and grease- BDL against 10 mg/l which indicated compliance w.r.t. BOD, COD & TSS with effluent for disposal on land norms prescribed under Environment (Protection) Rules, 1986.

- vi. The unit is meeting its fresh water requirement through two tube wells. The unit has installed the mechanical flow meter at tube wells and maintained the logbook.
- vii. The unit has obtained permission from CGWA for ground water abstraction of 3, 27,025m³/yr. (680 m³ for season & 1235 m³/day off season).
- viii. The excess condensate about 718 m³/day is sent to Under Ground Reservoir (UGR) after cooling and utilizing in the cooling tower make up.
- ix. As per the unit representative, total effluent generation is 426 m³/day including spray pond overflow (168.0 m³/day). During inspection team had observed that spray pond overflow and sugar mill effluent is sent to ETP for further treatment.
- x. The unit has not installed the flow meter at the spray pond overflow, excess condensate generation.
- xi. The unit is having pucca lagoon for the storage of treated effluent for the low demand period for irrigation.
- xii. The unit has installed flow meter at outlet of ETP and maintain the record.
- xiii. During the inspection, OCEMS system was not observed at final outlet of ETP. The unit informed that existing OCEMS sensor was non functional since January 2019. The unit sent the system to the vendor for repairing/ replacement of the same.
- xiv. Ash generated from boiler is used for landfilling, pressmud is taken to the local farmers and used oil is mixed with baggases and fired in boiler.
- xv. The unit has installed two boilers of 110TPH (high-pressure boiler) and 40 TPH respectively. The unit have 40m stack followed by multicyclone and wet scrubber as APCD.
- xvi. The unit has not installed the online stack emission monitoring system at boiler stacks for measuring the consented parameters.
- xvii. The unit has not installed the STP for treatment of colony domestic wastewater.

It is evident that the unit (M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) has failed to install and provide the connectivity of the OCEMS to CPCB server.

AND WHEREAS, IT division, CPCB has verified that OCEMS data is available till 07.06.2018 and for BOD and COD faulty data was supplied;

AND NOW, THEREFORE, in view of the above observations and in exercise of the powers, delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, notice is hereby served to the Unit to **show cause, why the Unit should not be closed** down for the following;

1. Failed to supply OCEMS data uninterruptedly.
2. For not submitting the point wise compliance status of CPCB direction dated 26.10.2018
3. Failing to install & commission Condensate Polishing Unit (CPU) for high-pressure boiler 110 TPH (>45 Kg/cm²) for treatment of condensate water to ensure its reuse & recycle within the process.

The reply, if any to the Show Cause Notice shall be submitted to this office within 15 days from the date of receipt of this notice, failing which further necessary action will be taken without giving any further notice as per the provision of the Environment (Protection) Rules, 1986.

↓
19/11/15
(S. P. SINGH PARIHAR)
CHAIRMAN

Copy to:

1. Chairman
Uttarakhand Environment Protection & Pollution
Control Board, 29/20, Nemi Road,
Dehradun, Uttarakhand,-248001

:With request to ensure compliance
of the directions.

2. Joint Secretary (CP Division)
Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003

:For kind information, please.

3. The Regional Director
Regional Directorate
Central Pollution Control Board, PICUP Bhawan,
Ground Floor, Vibhuti Khand, Gomti Nagar,
Lucknow – 226 010

:For follow up and ensuring
compliance

4. The In-charge, IT Division, CPCB

✓ 5. Master file/Guard file, WQM II, CPCB Delhi

↓
(PRASHANT GARGAVA)
MEMBER SECRETARY



Annexure- V
303

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

F.No. B-19004/NGRBA/CPCB/2015-16(Part file)

Dated: 15.05.2019

374

CIRCULAR

To maintain uniformity in action towards imposing Environmental Compensation (EC) for sugar mills, a policy has been formulated and enclosed herewith as Annexure-I. The specific cases, if any, different to the listed cases shall follow the "Methodology for assessing penalty and Environmental Compensation and action plan to utilize the fund".

The policy will be effective from 14.05.2019.

This issues with the approval of Competent Authority, CPCB.

Dr. A.K. Vidyarthi
15/05/19

(Dr. A.K.Vidyarthi)

Additional Director & In-charge, WQM-II

To:

1. Concerned officers involved in processing of sugar cases.

Copy for information to:

- 1) I/c - IPC-III
- 2) I/c - IPC-VI
- 3) I/c - WQM-I
- 4) PS to MS
- 5) Guard file/ Master File, WQM-II, CPCB, Delhi

Dr. A.K. Vidyarthi
15/05/19

(Dr. A.K.Vidyarthi)

Additional Director & In-charge, WQM-II

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत
दिनांक 15/05/19

(MM)

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

o/c

दूरभाष/Tel : 43102030, 223057937 वेबसाइट/Website : www.cpcb.nic.in

Annexure-I

Table: Policy to maintain uniformity in action towards imposing Environmental Compensation (EC) for sugar mills

Case	Previous Crushing Season	Current Crushing Season	Environmental Compensation
I	Comply	Non-Comply (SCN/Closure)	EC for current crushing season only Period (N): Date of inspection during current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3)
II	Non-Comply (SCN) (not converted into confirmed closure/SCN verified and found complying)	Non-Comply (SCN/Closure)	EC for current crushing season only Period (N): Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3)
III	Non-Comply (SCN) (Converted into Confirmed closure/SCN verified and found non-complying)	Non-Comply (SCN/Closure)	EC for both crushing season Period (N): a. Last crushing Season: Date of inspection to Date of closing of crushing season b. Current crushing season: Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3) in case SCN is confirmed.
IV	Non-Comply (Closure)	Non-Comply (SCN)	EC for both crushing season Period (N): a. Last crushing Season: Date of inspection to Date of closing of crushing season b. Current crushing season: Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3) in case SCN is confirmed.
V	Non-Comply (Closure)	Non-Comply (Closure)	EC for both crushing season Period (N): a. Last crushing Season: Date of inspection to date of closing of crushing season b. Current crushing season: 2 x EC for full crushing season

$$EC = PI * N * R * S * LF = 80 * N * 250 \text{ (Rs.)} * 1.5 * 1 = \text{Rs. } 30,000 * N$$

Where,

PI = Pollution Index of Industrial Sector (80), N = Number of days of violation took place

R = A factor in Rupees for Penalty (250), S = Factor for scale of operation (1.5)

LF = Location Factor (1)

- For discharge parameters pH <5.5 or pH>8.5 and or BOD>100 mg/l against standard 30mg/l (for disposal in surface water) or 100mg/l (for disposal on land), closure direction will be issued.
- The deterrent of repeated/extended violation will be considered as mentioned in above table, however for every crushing season, if violation continues then rate of EC will be 2,4 or 8 times of the basic EC rates arrived at for subsequent crushing seasons.
- **In case of closure, EC will be imposed. However, in case of SCN (Case I-IV), proposed EC amount will be communicated. EC amount will be levied only when SCN will be converted into confirmed closure.**

Speed Post

B-190197/WQM-II(RG)/CPCB/Sugar/47/2016-17 1445

17.05.2019
21/05/19

To,

M/s Dhanashree Agro Product Pvt. Ltd.

(Formerly known as M/s Lakshmi Sugar Mills Co. Ltd.)

Iqbalpur, Tehsil Bhagwanpur,

Distt Haridwar-247668

Uttarakhand

**DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986-
CLOSURE NOTICE THEREOF**

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand (herein after referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected on 27.03.2018 by officials from CPCB and following observations were made;

1. The Unit and ETP were operational.
2. Effluent Treatment Plant (ETP) comprises of Bar Screen, Oil Grease Separator, Equalisation Tank, Primary Clarifier, Aeration Tank, Secondary Clarifier & Activated Carbon filter.
3. Analysis of treated effluent sample showed pH-7.07 against norms of 5.5-9.0, **BOD- 148 mg/l** against norms of 30 mg/l, **COD- 299 mg/l** against norms of 250 mg/l, **TSS- 81 mg/l** against norms of 30 mg/l and **Oil and grease- 13 mg/l** against norms of 10 mg/l which indicated non-compliance w.r.t. BOD, COD & TSS with effluent surface discharge norms prescribed under Environment (Protection) Rules, 1986.

4. MLSS in aeration tank was found 1443 mg/l which indicated unstabilised Activated Sludge Process system and poor operation and maintenance of ETP system.
5. The Unit has installed cooling tower but there is no separate treatment of excess water containing sulphate and it is transferred to inlet of ETP directly.

AND WHEREAS, CPCB issued direction dated 29.05.2018 under Section 5 of the Environment (Protection) Act, 1986 the unit; and

WHEREAS, the Unit vide letter dt 02.07.2018 submitted revalidated adequacy assessment reports prepared by VSI, Pune; and

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention (thereafter referred to as the Charter; and

WHEREAS, a meeting of sugar mills operating in Uttarakhand, representatives of UEPPCB and CPCB was held on 19.07.2018 under Chairmanship of Cane Commissioner, Government of Uttarakhand and the following decisions were made;

1. Sugar Mills shall submit an action plan to CPCB by 31.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB before start the crushing season.
3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letter dated 24.07.2018 submitted their compliance status of the Charter; and

WHEREAS, CPCB issued compliance direction dated 26.10.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit to comply with the following:

1. The unit shall start its operation only after obtaining the valid consent from the Uttarakhand Environment Protection and Pollution Control Board (UEPPCB).
2. The unit shall implement the observation & recommendation of the revalidated adequacy assessment of ETP.
3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of cold and hot water consumption.
5. The unit shall install flow meters for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent generation also.
7. The unit shall carry out colour coding of pipelines carrying recycled process water and fresh process water.
8. The Unit shall commission mechanical sludge handling system of adequate capacity
9. The unit shall carry out analysis of effluent discharge parameters notified under Environment (Protection) Rules, 1986 and logbook shall be maintained on daily basis.
10. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
11. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report to CPCB within 60 days of resumption of operation

WHEREAS, the Unit was inspected on 07.02.2019 by officials from CPCB, RD Lucknow based on SMS alert programme and following observations were made;

- i. The unit is engaged in production of sugar with sugar cane crushing of 4500 TCD. During the inspection, the unit was in operation with the present cane crushing capacity of 4500 TCD.
- ii. The unit has started its crushing season from 11.12.2018.
- iii. ETP plant was started on 10.11.2018 as per the information provided by the unit representative. During the inspection ETP was found operational.
- iv. The ETP comprises of Oil skimming & Bar screen chamber, Fine screen, Collection Tank, Chemical Mixing Tank, Primary Clarifier, Aeration tank-I (Diffused aeration), Aeration tank II, Secondary Clarifier, Pressure Sand filter, Activated Carbon filter, Sludge drying beds (4 nos.)
- v. Analysis of treated effluent sample showed pH-7.47 against norms of 5.5-8.5, BOD-41.60 mg/l against 100 mg/l, COD- 95.3 mg/l against 250 mg/l, SS- 12.8 mg/l against 100 mg/l and Oil and grease- BDL against 10 mg/l which indicated compliance w.r.t. BOD, COD & TSS with effluent for disposal on land norms prescribed under Environment (Protection) Rules, 1986.
- vi. The unit is meeting its fresh water requirement through two tube wells. The unit has installed the mechanical flow meter at tube wells and maintained the logbook.
- vii. The unit has obtained permission from CGWA for ground water abstraction of 3, 27,025m³/yr. (680 m³ for season & 1235 m³/day off season).

- viii. The excess condensate about 718 m³/day is sent to Under Ground Reservoir (UGR) after cooling and utilizing in the cooling tower make up.
- ix. As per the unit representative, total effluent generation is 426 m³/day including spray pond overflow (168.0 m³/day). During inspection team had observed that spray pond overflow and sugar mill effluent is sent to ETP for further treatment.
- x. The unit has not installed the flow meter at the spray pond overflow, excess condensate generation.
- xi. The unit is having pucca lagoon for the storage of treated effluent for the low demand period for irrigation.
- xii. The unit has installed flow meter at outlet of ETP and maintain the record.
- xiii. During the inspection, OCEMS system was not observed at final outlet of ETP. The unit informed that existing OCEMS sensor was non-functional since January 2019. The unit sent the system to the vendor for repairing/ replacement of the same.
- xiv. Ash generated from boiler is used for landfilling, press mud is taken to the local farmers and used oil is mixed with bagasse and fired in boiler.
- xv. The unit has installed two boilers of 110TPH (high-pressure boiler) and 40 TPH respectively. The unit have 40m stack followed by multicyclone and wet scrubber as APCD.
- xvi. The unit has not installed the online stack emission monitoring system at boiler stacks for measuring the consented parameters.
- xvii. The unit has not installed the STP for treatment of colony domestic wastewater.

AND WHEREAS, IT division, CPCB has verified that OCEMS data is available till 07.06.2018 and for BOD and COD faulty data was supplied; and

WHEREAS, the unit w.r.to vide letter dated 20.02.2019 submitted their compliance direction dated 26.10.2018 which was examined and following observations made;

1. The unit has not installed flow meters for measuring generation of effluent at various generation points.
2. The unit has not carried out colour coding of pipelines carrying recycled process water and fresh process water.
3. The Unit has not commissioned mechanical sludge handling system of adequate capacity.
4. The unit has not submitted the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
5. The unit has not submitted implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season within 60 days of resumption of operation.

AND WHEREAS, CPCB issued Show cause notice dated 22.03.2019 under section 5 of the Environment (Protection) Act, 1986 to the unit as the unit:

1. Failed to supply OCEMS data uninterruptedly.
2. For not submitting point-wise compliance status of CPCB direction dated 26.10.2018.

3. Failing to install & commission Condensate Polishing Unit (CPU) for high-pressure boiler 110 TPH (>45 Kg/cm²) for treatment of condensate water to ensure its reuse & recycle within the process.

AND WHEREAS, unit replies vide email dated 08.04.2019 and 09.04.2019 were examined and following observations are made:

1. The unit failed to supply OCEMS data uninterruptedly because OCEMS system failed in January, 2018 and system was sent to M/s Axix Nano Technology Pvt Ltd. on 14.01.2019. The supplier could not repair the system timely. However, the unit could not provide satisfactory reply regarding delay of about one year in getting repair of OCEMS from supplier.
2. The unit has submitted Implementation Status of the Charter.
3. The unit is having condensate polishing unit for treatment of secondary condensate for use as cooling tower make up water.
4. The unit has closed its operations during the crushing season 2018-19 on 07.04.2019.

It is evident that the unit (M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) has deliberately failed to install and provide connectivity of OCEMS to CPCB server uninterruptedly.

AND WHEREAS, The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that "*The CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment*"; and

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, as per the methodology for assessing penalty and environmental compensation, the environmental compensation to be levied to the unit is calculated as **Rs 6,00,000/-** (Rupees six lakhs only) for the non-compliance period (27.03.2018-15.04.2018), for the crushing season 2017- 18; and **Rs. 70,80,000/-** (Rupees seventy lakhs eighty thousand only) for the non-compliance period (11.12.2018 to 07.04.2019), for the crushing season 2018- 19; and

NOW, THEREFORE, in exercise of powers delegated to Chairman CPCB under Section 5 of the Environment (Protection) Act, 1986, the Unit (M/s Dhanashree Agro Product Pvt. Ltd. Iqbalpur, Distt Haridwar-247668 Uttarakhand) is directed to comply with the following directions:

1. The unit shall remain closed and not operate without seeking permission from CPCB.
2. The unit shall install OCEMS and provide connectivity.
3. The unit shall **deposit Rs.76,80,000/- within 15 days** from the date of receipt of direction in CPCB A/c No. 532702050000164 (Bank name: Union Bank Of India, IP

Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation.

4. The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit (M/s Dhanashree Agro Product Pvt. Ltd. Iqbalpur, Distt Haridwar, Uttarakhand) without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

↓
21/05/14
(S. P. SINGH PARIHAR)
CHAIRMAN

Copy to:

- | | |
|--|---|
| <p>1. The Chairman
Uttarakhand Environment Protection & Pollution Control Board, 29/20, Nemi Road, Dehradun, Uttarakhand-248001</p> | :With request to ensure compliance of the directions. |
| <p>2. Cane and Sugar Commissioner
Uttarakhand
Village Hempur Ismile, Bazpur Road, Kashipur District, Udham Singh Nagar, Uttarakhand-244713</p> | :With request to ensure compliance of the directions. |
| <p>3. Joint Secretary (CP Division)
Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi - 110 003</p> | :For kind information, please |
| <p>4. The District Magistrate
Haridwar, (U.K.)</p> | :With request to ensure closure of the unit in compliance of the directions |
| <p>5. Superintending Engineer
Uttarakhand power corporation Ltd.,
Electricity distribution circle, Roorkee, Haridwar, U.K. -247667</p> | :With a direction to disconnect power supply |
| <p>6. The Regional Director
Regional Directorate
Central Pollution Control Board, PICUP Bhawan,
Ground Floor, Vibhuti Khand, Gomti Nagar,
Lucknow - 226 010</p> | :For follow up and ensuring compliance |
| <p>✓ 7. The In-charge, IT Division, CPCB</p> | :with request to upload on CPCB server. |
| <p>8. Master file/Guard file, WQM II, CPCB Delhi</p> | |

↓
(PRASHANT GARGAVA)
MEMBER SECRETARY

312

CENTRAL POLLUTION CONTROL BOARD
DELHI

F.No.B-400(S)/IPC-III/2019-20 \162

September 04th, 2019

OFFICE ORDER

POLICY FOR LEVYING ENVIRONMENTAL COMPENSATION (EC) FOR INDUSTRIES

In compliance of Hon'ble NGT order in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, *Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.*) a Committee was constituted by CPCB for developing a formula for imposing penalty and environmental compensation on industrial units.

As per the Committee recommendations, following cases are considered for levying environmental compensation,:

- 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 discharge 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 in to ground water.

In the instances as mentioned at a, b and c above, Pollution Index shall be used as a basis to levy the Environmental Compensations. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White bases 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 (Water Pollution Score, Air Pollution Score & IIW 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.

After considering various factors including the policy implementation issues, Committee has derived 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.

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

Where,

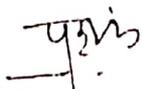
PI (pollution Index), N (number of days of violation), R (Rupees factor), S (Scale of operation), LF (location factor).

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

Conditions/ policy / operational protocol for levying EC shall be as below:

1. Prior to imposition of EC, a Show Cause Notice (SCN) for imposing EC alongwith an opportunity to reply/ hearing be given.
2. Method adopted for calculation of EC may be shared with the concerned industry/ agency if asked during hearing or through reply.
3. Unless there is substantial evidence, date of non-complying days would start w.e.f. date of non-compliance observed during inspection.
4. In Sugar industry, number of days of violation is calculated based on actual number of days operated during crushing season(s) based on Excise Form RT-8C submitted by the unit.
5. EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets /stacks, as verified by the IT division.
6. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall apply for the period between date of inspection & monitoring to date of closing of manufacturing operation.
7. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

This issues in supersession of the earlier approach & methodology being followed in calculation of EC amount on the ground of non-compliance of closure direction regarding OCEMS and circular no. B19004/NGRBA/CPCB/2015-16(part file) dated 15.05.2019 regarding calculation of EC amount on the ground of non-compliance of notified norms for sugar mills.


(PRASHANT GARGAVA)
MEMBER SECRETARY

To,

1. All Divisional Heads *1/10-10/11* : For necessary action please
2. All Regional Directors : For necessary action please
3. Divisional Head II : For uploading on CPCB's website please

Copy for information to:

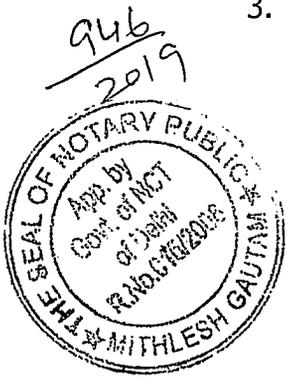
1. PS to CCB
2. PS to MS

314

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****SPECIAL LEAVE PETITION (CIVIL) NO. 18576 OF 2019****IN THE MATTER OF:-****M/S DHANASHREE AGRO PRODUCTS PVT. LTD. PETITIONER****VERSUS****CENTRAL POLLUTION CONTROL BOARD RESPONDENT(S)****COUNTER AFFIDAVIT ON BEHALF OF THE CENTRAL POLLUTION CONTROL BOARD PARIVESH BHAVAN, EAST ARJUN NAGAR DELHI 110 032, RESPONDENT IN THE ABOVE MATTER**

I, A.K.Vidyarthi, S/o Late Vikrama Singh, working as Scientist 'E', in Central Pollution Control Board (CPCB), Parivesh Bhavan, East Arjun Nagar, Delhi 110 032 do hereby solemnly affirm and declare as under:

2. That I am fully conversant with the facts and circumstances of the present case and am duly authorized to affirm and swear this affidavit on behalf of the Central Pollution Control Board, Delhi (hereinafter referred to as "CPCB").
3. That this Special Leave Petition has been filed by M/s Dhanashree Agro Products Pvt. Ltd. against the order passed by the High Court of Delhi on 05.07.2019 in the matter of W.P.(C) No.6853 of 2019. The High Court while disposing of the Writ Petition filed by M/s Dhanashree Agro Products Pvt. Ltd. has observed that since the Petitioner has an equally effective remedy available, this Court does not consider it appropriate to entertain the present Writ Petition and the same is disposed of leaving it for the Petitioner to avail of alternative remedies.
4. That earlier the Central Pollution Control Board, Respondent has issued directions, dated 17/22.05.2019 under Section 5 of the Environment (Protection) Act, 1986 and directed the Petitioner industry to close its unit with immediate effect and also deposit a sum of Rs.76,80,000/- as Environmental Compensation. The Environmental Compensation was imposed pursuant to the directions of the Hon'ble National Green Tribunal.



Contd...2/-

5. That Central Pollution Control Board submits that directions issued under Section 5 of the Environment (Protection) Act, 1986 is appealable under Section 5 A of the Environment (Protection) Act, 1986 which lies before the Hon'ble NGT.

PRELIMINARY SUBMISSIONS

6. At the outset, the Respondent, CPCB submits that the above Special Leave Petition may be dismissed on the following preliminary objections:

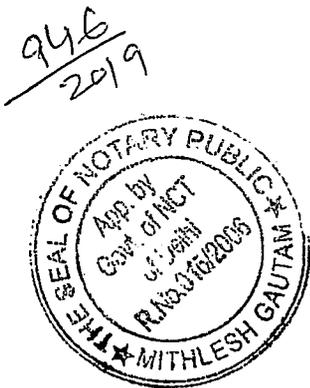
- i. The directions with regard to the recovery of the Environment Compensation are being issued in respectful compliance with the directions issued by the Hon'ble National Green Tribunal which is a duly constituted Tribunal under the provision of the National Green Tribunal Act, 2010. As pointed out hereunder in detail, the methodology of computation of such Environment Compensation was also determined during the pendency of the proceedings before and as per the directions issued by the Hon'ble NGT. The said methodology was also placed for consideration before the Hon'ble NGT and the recovery of such compensation is being reported from time to time to the Hon'ble NGT.

Section 22 of the National Green Tribunal Act, 2010 reads as under :

"Appeal to Supreme Court

Any person aggrieved by any award, decision or order of the tribunal, may file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

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Provided that the Supreme Court may, entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal."

It is respectfully submitted that the exercise of the statutory appellate powers which only the Hon'ble Supreme Court is conferred with. The petition deserves to be dismissed on this ground alone.

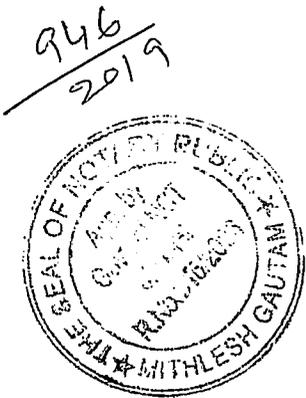
- ii. It is respectfully submitted that apart from the fact that the impugned directions are in compliance with and in pursuance of the order passed by the Hon'ble NGT, the said direction is issued in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986. The exercise of this power can also be subjected to a statutory appeal under section 5A of the said Act which lies before the Hon'ble NGT. Section 5A of the Environment (Protection) Act, 1986 reads as under:

"Appeal to National Green Tribunal

Any person aggrieved by any directions issued under section 5, on or after commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 in accordance with the provisions of that Act."

The present petition may not be entertained as the Petitioner has the alternative efficacious remedy of appeal which lies before the Hon'ble NGT which is already seized of the subject matter. Any party who does not succeed before the said Tribunal would have a remedy before the Hon'ble Supreme Court under Section 22 of the NGT Act quoted above.

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As the subject matter of dispute in the present Petition is already a subject matter before the Competent Statutory Tribunal which is seized of the matter and as the NGT Act, 2010 read with Environment (Protection) Act, 1986 are self-contained Code. The Respondent, the CPCB respectfully prays that this question may kindly be decided as a preliminary question without examining the matter on merits.

7. That the Petitioner, M/s Dhanashree Agro Products Pvt. Ltd. is a Unit engaged in production of sugar with sugar cane crushing of 4500 TCD. The CPCB has issued direction dated 05.02.2014 under Section 18 (1) (b) of the Water (Prevention and control of pollution) Act, 1974 to the State Pollution Control Boards to direct the Grossly Polluting Industries (GPIs) discharging into River Ganga and its tributaries to install Online Continuous Effluent Monitoring System (OCEMS) at outlet of Effluent Treatment Plant (ETP) before final disposal as notified in Environment (Protection) Rule, 1986 into River Ganga and its tributaries for self-monitoring of compliance of effluent discharge.
8. Thereafter, Respondent issued direction dated 24.07.2015 under Section 5 of the Environment (Protection) Act, 1986 to direct the Petitioner Unit discharging into River Ganga and its tributaries to install Online Continuous Effluent Monitoring System (OCEMS) at outlet of Effluent Treatment Plant (ETP) before final disposal to monitor compliance of notified environmental standards under Environment (Protection) Rules, 1986 into River Ganga and its tributaries for self-monitoring of compliance of effluent discharge.
9. That M/s Dhanashree Agro Products Pvt. Ltd., Petitioner Unit was inspected on 07.02.2019 by officials of Respondent Board- CPCB, Regional Directorate, Lucknow. That it was observed that no data was being transmitted by the industry from Online Continuous Effluent Monitoring System (OCEMS) and following observations were made:



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"During the inspection, Online Continuous Effluent Monitoring System (OCEMS) was not observed at final outlet of ETP. The unit informed that existing OCEMS sensor was non-functional since January 2019. The unit sent the system to the vendor for repairing/ replacement of the same."

10. That OCEMS has been installed to monitor continuous compliance of industrial unit with respect to Effluent Discharge norms notified under the Environment (Protection) Rules, 1986. OCEMS data from the Petitioner Unit was not available after 07.06.2018. As a result, Respondent and Uttarakhand Environment Protection and Pollution Control Board could not monitor performance of Effluent Treatment Plant and compliance of effluent discharge norms as notified under Environment (Protection) Rules, 1986. Consequently, Respondent issued Show Cause Notice dated 22.03.2019 under section 5 of the Environment (Protection) Act, 1986 to the Petitioner Unit as the Unit:

i. Failed to transmit OCEMS data uninterruptedly.

11. That in response, the Petitioner Unit replied vide emails dated 08.04.2019 and 09.04.2019 which were examined and the Respondent made further observations reproduced herein below:

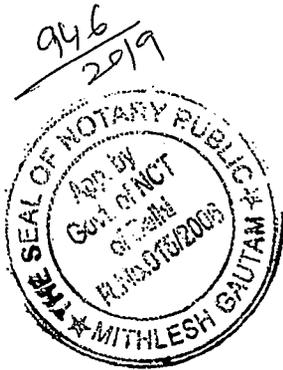
"The unit failed to supply OCEMS data uninterruptedly because OCEMS system failed in January, 2019 and system was sent to M/s Axix Nano Technology Pvt Ltd. on 14.01.2019. The supplier could not repair the system timely. However, the unit could not provide satisfactory reply regarding delay of about one year in getting repair of OCEMS from supplier."

The unit was earlier inspected on 27.03.2018 and the treated effluent sampled showed pH 7.07 against the norms of 5.5-8.5, BOD-148mg/l against the norms of 30mg/l, COD- 299mg/l against the norms of 250mg/l, TSS- 81mg/l against the norms of 30mg/l and oil & grease -13mg/l against the norms of 10mg/l which indicated non-

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compliance in respect of BOD, COD, TSS and Oil & grease with effluent surface discharge norms prescribed under Environment (Protection) Rule, 1986 and MLSS in aeration tank was found 1443mg/l which indicated unstabilised activated sludge process system and poor operation and maintenance of ETP system. Accordingly, CPCB issued closure direction dated 29.05.2018 under section 5 of the Environment (Protection) Act, 1986 to the Petitioner Unit for non-compliance.

12. That as per the "Methodology for Assessing Environmental Compensation", issued vide CPCB circular dated 24.05.2019 the Environmental Compensation to be levied to the unit is calculated as Rs.6,00,000/- (Rupees Six Lakhs only), for non-compliance of effluent discharge norms, during the period 27.03.2018 which is date of inspection till the end of the crushing season for 2017- 18 on 15.04.2018; and Rs. 70,80,000/- (Rupees Seventy Lakhs Eighty Thousand only) for non-compliance period (11.12.2018 to 07.04.2019) related to non-installation of OCEMS during the crushing season 2018- 19. That the Petitioner Unit has seasonal operation and has stopped its operation on 07.04.2019.



13. That in exercise of powers delegated to Respondent under Section 5 of the Environment (Protection) Act, 1986 and in compliance of direction vide order dated 03.08.2018 of the Hon'ble National Green Tribunal in O.A No. 593/2017, the Petitioner Unit was directed to comply with the following directions vide letter dated 22.05.2019:

"1. The unit shall remain closed and not operate without seeking permission from CPCB.

2. The unit shall install OCEMS and provide connectivity.

3. The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.

4. The unit shall deposit Rs.76,80,000/- within 15 days from the date of receipt of direction in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi;

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IFSC: UBIN0553271) towards environmental compensation."

14. That the Hon'ble NGT vide order dated 22/05/2019 in Appeal No. 27/2019 with Appeal No. 35/2019 and order dated 29/07/2019 in Appeal no. 22/2019 directed that, *CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint.*

Accordingly, personal hearing of the sugar mills was held on 18.09.2019 and 24.09.2019 in CPCB, Delhi and based on viewpoints received from sugar mills, CPCB vide office order dated 04.09.2019 issued policy for levying environmental compensation (EC) for industries which prescribes that:

- a. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall applied for the period between date of inspection and monitoring of date of closing of manufacturing operation.
- b. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

The unit is yet to install and establish OCEMS connectivity with CPCB server in compliance to CPCB direction dated 22.05.2019 and the unit may be issued compliance direction only after compliance of CPCB direction dated 22.05.2019.

As per office order dated 04.09.2019, EC has been recalculated as Rs. 18,00,000/- for the period from date of inspection (07.02.2019) to date of end of operations in the crushing season 2018-19 (07.04.2019). However, the EC will remain stayed and shall be levied subject to the final judgement of the Hon'ble Supreme Court in the matter of M/s Dhanashree Agro Products Pvt. Ltd. Versus Central Pollution Control Board in SLA (c) No. (s) 18576/2019.

15. That it is submitted that this Respondent, CPCB imposed Environmental Compensation based on the principle of "Polluter Pays" which states that one who pollutes the environment must pay to reverse the damages caused by his acts. The Hon'ble Supreme

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Court stated in Indian Council for Enviro-Legal Action Vs. Union of India (1996) AIR SCW 1069:

"67. The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution..."

In the case of Vellore Citizens Welfare Forum Vs. Union of India (1996) 5 SCC 647 the Hon'ble Supreme Court defined the polluter pays principle as:

"11. Polluter Pays principle has been held to be a sound principle. The Polluter Pays principle as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject. In view of the constitutional and statutory provisions it must be held that Precautionary principle and the Polluter Pays Principle are part of the environmental law of the country."

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16. That this Hon'ble Court in the case of M.C Mehta v. Kamal Nath 2002(2) SCALE 654 stated the following:

"24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of

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the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender.

In addition to damages aforesaid, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner.

The considerations for which fine can be imposed upon a person guilty of committing an offence are different from those on the basis of which exemplary damages can be awarded."

17. That it is humbly submitted that the Respondent has been authorized to levy environmental compensation by Hon'ble National Green Tribunal vide order dated 03.08.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

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"1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 Paryavaran Suraksha Samiti Vs. Union of India (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.

6. vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund 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 Central Pollution Control Board within three months from today."

18. That the Hon'ble National Green Tribunal directed vide order dated 06.12.2018 in Court on its own Motion Versus State of Karnataka

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With D. Kupendra Reddy Vs. State of Karnataka, Original Application No. 125/2017 (M.A. No. 1337/2018) With Original Application No. 217/2017 (M.A. Nos. 761/2017, 1073/2017, 1098/2017 & 1471/2017):

"26. xvi. 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."

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19. That the Hon'ble National Green Tribunal further directed through order dated 19.02.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012) :

"The report dated 12.12.2018 annexes an amended Annexure 7 which relates to methodology for assessing environmental compensation and action plan to utilize the fund."

Methodology document filed in NGT is annexed as **ANNEXURE.**

20. That the Hon'ble National Green Tribunal has observed in its order dated 21.02.2019 in Residents of Gram Panchayat Varahiya Versus State of M.P. in Original Application No. 739/2018:

"7. As laid down by this Tribunal repeatedly, the Regulatory Authorities are not only required to prohibit illegal polluting activities but they are also required to recover compensation for the damage caused apart from prosecution or other steps so as to render polluting activities to be unprofitable. Failure

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to do so may call for action against the regulatory authorities themselves."

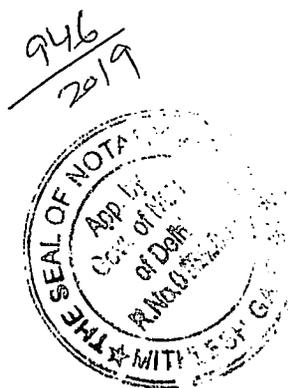
21. That it is humbly averred that the Respondent is levying Environmental Compensation as directed by the Hon'ble National Green Tribunal vide its orders dated 03.08.2018 and 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012), Original Application No. 125/2017 (M.A. No. 1337/2018) and 217/2017 (M.A. Nos. 761/2017, 1073/2017, 1098/2017 & 1471/2017) vide order dated 06.12.2018 & OA No. No. 739/2018, vide its order dated 21.02.2019.

22. That it is respectfully submitted that in order to continuously monitor performance of Petitioner Unit, an Online Continuous Effluent Monitoring System was installed at the outlet of Effluent Treatment Plant as per the directions of Hon'ble National Green Tribunal vide order dated 13.07.2017 in M.C. Mehta vs. Union of India & Ors, OA No. 200/2014. The Respondent issued Show Cause Notice to the Petitioner on 22.03.2019 for failing to supply uninterrupted data to OCEMS. That the methodology for assessing the Environmental Compensation and Action Plan to utilize the fund were placed before the Hon'ble National Green Tribunal and the Hon'ble Tribunal was pleased to make the following observation in order dated 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

"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):

- 1. Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.*
- 2. 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.*
- 3. Intentional avoidance of data submission or data manipulation by tampering Online Continuous Emission/ Effluent Monitoring System."*

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23. That the Petitioner vide emails dated 08.04.2019 and 09.04.2019, replied that the OCEMS system failed in January, 2019 and system was sent to M/s Axix Nano Technology Pvt Ltd. on 14.01.2019. The supplier could not repair the system timely. Whereas, IT division of Respondent has verified that OCEMS data is available only till 07.06.2018.
24. That the closure direction under Section 5 of the Environment (Protection) Act, 1986 with Environmental Compensation for non-compliance with the directions issued by the Respondent, was issued to the Petitioner Unit for non-installation of OCEMS in the current (2018-19) crushing season.
25. That the Petitioner Unit was non-compliant with respect to discharge norms in the last crushing season (2017-18).
26. That it is respectfully submitted that IT division of Respondent has verified that OCEMS data is available only till 07.06.2018. However, the Petitioner Unit has not taken serious action regarding the repair of OCEMS till January, 2019. Crushing season of the unit commenced from 11.12.2018. For the whole season of 2018-19 the Petitioner Unit was operating without OCEMS and had not informed the Respondent about the same.
27. That it is only after the Respondent issued a Show Cause Notice on 22.03.2019, Petitioner Unit replied and informed about non-functioning of OCEMS. That as per information received from Petitioner Unit vide emails dated 8th and 9th April, 2019, vendor has also offered to arrange an alternate within 10-15 days as temporary arrangement.
28. That it is respectfully submitted that Respondent has erroneously considered the date as January, 2018 instead of June, 2018. However, as per the verification given by the IT division of Respondent, it received the data from OCEMS only till June, 2018. It means OCEMS was not working from June, 2018 onwards. It appears that the Petitioner Unit has deliberately not initiated any action on the OCEMS to avoid monitoring of their compliance with effluent discharge norms.

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PARAWISE COMMENTS

29. That in reply to the averments contained in para 1 the answering Respondent CPCB reiterated as stated in earlier paras.
30. That the averment contained in para 2 need no comments.
31. That the averment contained in para 3 & 4 need no comments.

GROUND

32. That in reply to the averment contained in paras A to J of Para 5 of the Grounds, the Central Pollution Control Board, the answering Respondent reiterated as stated in earlier paras.
33. That the averment contained in paras L & M of Para 5 of the Grounds refer the order Hon'ble NGT need no comments.
34. That in reply to the averments contained in para N of Para 5 of the Grounds, the CPCB submits that Petitioner, M/s Dhanashree Agro Products Pvt. Ltd. is a Unit engaged in production of sugar with sugar cane crushing of 4500 TCD.

That M/s Dhanashree Agro Products Pvt. Ltd., Petitioner Unit was inspected on 07.02.2019 by officials of Respondent Board- CPCB, Regional Directorate, Lucknow. That it was observed that no data was being transmitted by the industry from Online Continuous Effluent Monitoring System (OCEMS) and following observations were made:

"During the inspection, Online Continuous Effluent Monitoring System (OCEMS) was not observed at final outlet of ETP. The unit informed that existing OCEMS sensor was non-functional since January 2019. The unit sent the system to the vendor for repairing/ replacement of the same."

That OCEMS has been installed to monitor continuous compliance of industrial unit with respect to Effluent Discharge norms notified under the Environment (Protection) Rules, 1986. OCEMS data from the Petitioner Unit was not available after 07.06.2018. As a result, Respondent and Uttarakhand Environment Protection and Pollution Control Board could not monitor performance of Effluent Treatment Plant and compliance of effluent discharge norms as notified under Environment (Protection) Rules, 1986. Consequently, Respondent issued Show Cause Notice dated 22.03.2019 under section 5 of the

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Environment (Protection) Act, 1986 to the Petitioner Unit as the Unit:

- i. Failed to transmit OCEMS data uninterruptedly.

That in response, the Petitioner Unit replied vide emails dated 08.04.2019 and 09.04.2019 which were examined and the Respondent made further observations reproduced herein below:

"The unit failed to supply OCEMS data uninterruptedly because OCEMS system failed in January, 2019 and system was sent to M/s Axix Nano Technology Pvt Ltd. on 14.01.2019. The supplier could not repair the system timely. However, the unit could not provide satisfactory reply regarding delay of about one year in getting repair of OCEMS from supplier."

The unit was earlier inspected on 27.03.2018 and the treated effluent sampled showed pH 7.07 against the norms of 5.5-8.5, BOD-148mg/l against the norms of 30mg/l, COD- 299mg/l against the norms of 250mg/l , TSS- 81mg/l against the norms of 30mg/l and oil & grease -13mg/l against the norms of 10mg/l which indicated non-compliance in respect of BOD, COD, TSS and Oil & grease with effluent surface discharge norms prescribed under Environment (Protection) Rule, 1986 and MLSS in aeration tank was found 1443mg/l which indicated unstabilised activated sludge process system and poor operation and maintenance of ETP system. Accordingly, CPCB issued closure direction dated 29.05.2018 under section 5 of the Environment (Protection) Act, 1986 to the Petitioner Unit for non-compliance.

That as per the methodology for assessing Environmental Compensation, the Environmental Compensation to be levied to the unit is calculated as Rs.6,00,000/- for non-compliance of effluent discharge norms, during the period 27.03.2018 which is date of inspection till the end of the crushing season for 2017- 18 on 15.04.2018; and Rs. 70,80,000/- for non-compliance period (11.12.2018 to 07.04.2019) related to non-installation of OCEMS during the crushing season 2018- 19.

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Thus, the activities of the unit were damaging the environment and hence the unit has to pay compensation for the damaged caused on the basis of "Polluter Pays Principle"

- 35. That the averment contained in paras 6 & 7 need no comments.
- 36. That it is humbly submitted that the present SLP is not maintainable and liable to be dismissed as Section 5A, Environment (Protection) Act, 1986 clearly states that any person aggrieved by any directions issued under Section 5 of the Environment (Protection) Act, 1986 may file an appeal to Hon'ble National Green Tribunal.

Or

This Hon'ble Court may pass any order or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the matter.

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2019



Ajit Kumar Vidyasthi
DEPONENT

VERIFICATION

Verified at Delhi on this 27th day of November, 2019 that the contents of the above affidavit are correct to the best of my knowledge and belief and nothing has been concealed therein.

Identify the deponent who
is signed in my presence.

Ajit Kumar Vidyasthi
DEPONENT

CERTIFIED THAT THE DEPONENT
 Shri/Smt./K... A.K. Vidyasthi
 S/o. Vikram Singh
 Identified by self
 has... at Delhi
 on 12 DEC 2019
 that... ant which
 have... to him/her
 are true... knowledge.
ATTESTED
MITHI SH GAUTAM
 Notary Public, Karnal Court, Delhi
 Comm. Exp. on 25.9.2021

12 DEC 2019

**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

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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

1.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that:

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

1.2 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 Nazimuddin 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.

1.3 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). A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 27/03/2019. 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:

- 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.
- 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.
- 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.
- 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.
- 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 times on 1st repetition, 4 times on 2nd repetition and 8 times on further repetitions.
- h. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.
- i. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.

A sample calculation for Environmental Compensation (without deterrent factor) 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
R-Factor	250		
S-Factor	0.5-1.5		
L-Factor	1.00-2.00		
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 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.

1.4.1. 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.

1.4.2. 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.

1.5 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 x N x R x S x 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.
- 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.

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

2.1 Background

The CPCB In-house Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in 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 1.4.1 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 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 State Governments (including the concerned Union Territories) to set-up Sewage Treatment Plants (STPs), which are already under implementation, within the time lines already postulated. Further, the STPs, which are yet to set-up, to be completed within a period of three years, from today, i.e. by 22.02.2020.

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:

$$EC = \text{Capital Cost Factor} \times \text{Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) \times \text{No. of Days for which facility was not available} + \text{Environmental Externality}$$

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

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.

3.3 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;

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

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

Quantity of Sewage is in MLD

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

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

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, 0.5 kg/day and 0.4 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	0.5	0.4	0.4
Waste Generation (TPD)	9809.90	880.14	350.79	200.31
Waste Disposal as per Rules (TPD) (assumed as 25% of waste generation for sample calculation)	2452.47	220.04	87.70	50.08
Waste Management Capacity Gap (TPD)	7357.42	660.11	263.09	150.23
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1584.26	631.42	360.56
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1584.26	631.42	360.56
Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	13.20	5.26	3.00
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02

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 or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.

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

Chapter-IV: Environmental Compensation in Case of Illegal Extraction of Ground Water

4.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of Shailesh Singh v/s Central Ground Water Board & Ors. (Original Application No. 327/2018) vide order dated 03/01/2019 (Annexure-V) directed Central Pollution Control Board (CPCB) that:

"CPCB may constitute a mechanism to deal with individual cases of violation of norms, as existed prior to Notification of 12/12/2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per law."

4.2 Constitution of the Committee

In compliance to Hon'ble NGT dated 03/01/2019, CPCB constituted a committee under the Chairmanship of Shri A. Sudhakar, DH, WQM-I Division with Shri P. K. Gupta, DH, IPC-VI, Shri Vishal Gandhi, Sc. D, UPC-I Division and Smt. Suniti Parashar, Scientist B, WQM-I Division as members. The committee was asked to deliberate on this issue and come up with draft formulation of mechanism to determine the Environmental Compensation for illegal extraction of ground water.

4.3 Methodology for Assessing Environmental Compensation

The committee discussed the issue on 07/02/2019, 07/03/2019 and 20/3/2019. The committee deliberated on the issue of Environmental Compensation to be recovered from individuals/industries such as domestic, packaging drinking water units, mining & infrastructure projects and industrial units in case of illegal extraction of ground water. The Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 were also discussed and based on this further formulation to levy Environmental Compensation has been evolved.

4.4 Ideology of Environmental Compensation w.r.to illegal extraction of ground water

Ground water is becoming an increasingly scarce resource because of its unabated and indiscriminate over-exploitation. Growth in ground water exploitation, however, has led to a steep fall in water table in several parts of the country. Use of ground water is becoming unsustainable day by day. The falling water table is a matter of special concern since it tends to reduce the accessibility of the resource to small and marginal farmers due to increase in costs of extractions.

Specific conditions applicable in Notified/Non-Notified areas for various users, as mentioned in Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 are given below:

For Notified Areas:

1. Permission to abstract ground water through any energized means will not be accorded for any purpose other than drinking water.

2. Central Ground Water Authority (CGWA) so far has notified 162 areas, in the country for the purpose of regulation of ground water development.
3. Regulation of Ground Water development in Notified areas is through District Administrative Heads assisted by Advisory Committees under the provisions of Section 4 of the Environment (Protection) Act, 1986.
4. In Notified areas, ground water use in individual houses, infrastructure complexes like group housing societies, hospitals, schools etc. and drinking water requirements of workers in industries can be allowed.
5. NOC for ground water withdrawal will be considered only if Water Supplying Department is not providing adequate water in the area/premises. Proof for this is to be produced from the concerned authority by the applicant.
6. For individual houses, the maximum diameter of the tube-well should be restricted to 4 inch only and the capacity of the pump should not exceed 1HP. For infrastructure projects, maximum diameter of the ground water abstraction structures should be restricted to 150 mm (6 inches) only and capacity of the pump should not exceed 5 HP.
7. Any violation of the above conditions will attract legal action under Section 15 of the Environment (Protection) Act, 1986.

For Non-Notified Areas:

NOC for ground water withdrawal will be considered for industries/infrastructure/packaging as per safe, semi critical, critical and over-exploited criteria.

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}):

$$EC_{GW} = \frac{\text{Water Consumption per Day} \times \text{No. of Days} \times \text{Environmental Compensation Rate for illegal extraction of ground water (ECR}_{GW})}{1}$$

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/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.

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

4.6.1 ECR_{GW} for Drinking and Domestic use:

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

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

4.6.2 ECR_{GW} for Packaged drinking water units:

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

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

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

4.6.4 ECR_{GW} for Industrial Units:

Sl. No.	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
		Environmental Compensation Rate (ECR _{GW}) in Rs./m ³			
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/-					

For better understanding of implementation of EC_{GW} policy, some example calculations are given below:

Example No. 1 (For drinking and domestic Use):

It is observed that a household in safe zone is extracting ground water illegally from past 2 year and 3 months with the help of 1 HP pump, dia 4 inches and head as 25 meter. It is assumed that the house-owner runs the pump for 0.5 hr/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 3 m³/hr
 Daily Consumption = 3 x 0.5 = 1.5 m³
 ECR_{GW} = 4 Rs./m³ (Please refer para 4.6.1)
 EC to be levied = 4 x 1.5 = 6 Rs./day
 Total time period = 820 days

Then, EC_{GW} = 6 x 820

Calculated EC_{GW} = 4,920 Rs.

EC_{GW} to be levied = 10,000 Rs. (minimum prescribed EC_{GW}, please refer para 4.6.1)

Example 2 (For Industrial Units):

It is observed that an industry in critical zone is extracting ground water illegally from past 1 year with the help of 5 HP pump, dia 6 inches and head as 50 meter. It is assumed that the industry runs the pump for 3 hrs/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 12 m³/hr
 Daily Consumption = 12 x 3 = 36 m³/day
 ECR_{GW} = 60 Rs./m³ (Please refer para 4.6.4)
 EC to be levied = 60 x 36 = 2,160 Rs./day
 Total time period = 365 days

Then, EC_{GW} = 2,160 x 365

EC_{GW} = 7,88,400 Rs.

4.7 Relaxation

Central Ground Water Authority (CGWA) reserves to right to relax or interpret these mechanisms in case of any exigency or situation of National strategic importance, as per Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015.

4.8 Recommendations

The committee has given following recommendations:

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

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

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

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 593/2017
[W.P. (Civil) No. 376/2012]

In the matter of:

(Paryavaran Suraksha Samiti & Anr.
Vs.
Union of India & Ors.

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant: Mr. Rohit Prajapati, Applicant in person.
Amicus Curiae: Mr. Jai A. Dehadrai, Adv.
Respondent Nos.: Mr. Nisha Rajan Shonker, Adv. for State of Kerala
Mr. Tarunvir Singh Khehar, Ms. Gunest Khehar
Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Anil Shrivastava, Mr. Ritunjay Bawas and
Ms. Snajaya Bhardwaj, Adv. for State of
Arunkhal, Pradhik.
Mr. Jigy Boria, Ms. Renu Victor, Adv. for
Kerala State Pollution Control Board
Mr. Avijit Roy, Adv. for Assam Pollution Control
Board
Mr. Leikhangthem Roshmani Kh., Ms. Malham
Babina, Adv. for State of Manipur
Mr. Nikhil Nayyar, Mr. Dhananjay Rajal, Adv.
for APCCB and TSPCB
Mr. Mukesh Verma, Adv.
Mr. Tarunvir Singh Khehar, Adv. Mr. Sandeep
Mishra and Ms. Gunest Khehar, Adv.
Mr. Dinesh Jindal, I.O. for DPCC
Ms. Arun Mathur, Mr. Avucash Arputham, Ms.
Simra Jee and Ms. Anuradha Arputham, Adv.
for State of Sikkim
Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms.
Abhinavini Yadav, Adv. and Adv. for State of
WB
Mr. Edward Belbo, AAG, Mr. K. Lukang Michael
and Ms. Holmestham, Adv. for State of
Nagaland
Ms. Kastoll Sema, Adv. for State of Nagaland
and Pollution Control Board
Mr. M. Faltaray and Mr. A.K. Panda, Adv. for
SPCB, Odisha
Mr. Dhruv Pal, Adv. for State of Gujarat
Mr. V.R. Shukla, Adv. for State of MP
Mr. Jayesh Gaurav, Adv. for R-47
Mr. Tayanjam Mamo Singh, Adv. for Meghalaya
Pollution Control Board
Mr. Shlok Chandra and Mr. Ritesh Kumar
Sharma, Adv.
Mr. Gantam Singh and Mr. Shoesh Alam, Adv.
for State of Bihar
Ms. Aprajita Mukherjee, Adv.
Ms. G. Indira, Adv. for UT of Andaman &
Nicobar
Mr. Balendi Shekhar, Mr. Srikanth Prakash and
Mr. Rajkumar Maurya, Adv. for Ministry of
Environment, Forest and Climate Change
Ms. Puja Kaira, Adv. for BDMC & NDMC
Mr. Anil Grover, AAG, Mr. Rahul Khurana and
Mr. Mishal Vij, Adv. for State of Haryana and
HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECEB;
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha
 Ms. Asha Nayar Basu and Mr. Aradhita Ghosh Mandal, Adv.
 Ms. Priyanka Sinha, Adv. for State of Jharkhand
 Mr. Rajul Shrivastav, Adv. for MPPCB
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPCEB
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB
 Mr. Shubham Bhalla, Adv.
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikramjeet Singh, Adv. for State of Rajasthan and Pollution Control Board
 Mr. G. M. Kawoosa, Adv. for State of J & K
 Mr. Divya Prakash Pande, Adv. For HPSPCB
 Mr. Manish Kumar, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 12 August 03, 2018 A</p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETE/STPs</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04th July, 2017, stating as follows:</p> <p><i>4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</i></p>

<p>Item No. 12 August 03, 2018 A</p>	<p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62nd Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report which has been summarized at Annexure I.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issued to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process.</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in the State; how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant.</p>
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<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance of all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held at least once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and</p>
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<p>Item No. 12 August 03, 2018 A</p>	<p>appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board at least once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund 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 Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at filing.ngt@gmail.com.</p>
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<p>Item No. 12 August 03, 2018 A</p>	<p>(7) Proceedings are disposed of. However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018. We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>..... GP (Adarsh Kumar Goel)</p> <p>..... JM (Dr. Jawad Rahim)</p> <p>..... JM (S.P. Wangdi)</p> <p>..... EM (Dr. Nagin Nanda)</p> <p>03/08/2018</p>
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Comments Received from Various RDs on Draft Report for Environmental Compensation

Annexure-II

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
1	Case-a, b & c	Bypassing of effluent/emission should be given special consideration. EC Levied on ROG categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection.	Instead of "Compensation", "Penalty" word should be used. In case common facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure directions for pro-longed and gross non-compliance.			The Committee discussed that the points highlighted by RD Kolkata are already the part of cases fit for violation and levy environmental compensation. However, as mentioned by RD Vadodara, word "Penalty" may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.
2	Case-d, e & f	Higher rates for irreparable damages crop, soil, health etc. Leakages/spillage should have different compensation value.	It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to Guidelines on Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty, Guidelines may be prepared.		Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation is based on the philosophy of "polluters pay" and for grievance injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	Pollution Index (PI)			Instead of average PI, Actual PI may be used.		Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.
4	R-factor	Should be based on pollution load. For ex. Amount of BOD/NOx etc. discharged.		May be classified based on the contribution of pollution load based on quantity of effluent, concentration, emissions.	May be as per the category of industry, for ex. Red-500, Orange-300, Green-100.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	L-factor			May be redefined based on the features, activities involved and habitation.		L-factor may be covered in future as already indicated in the report.

S.No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
6	Defining period of violations for which EC will be levied		Duration of violations needs more clarity.	For industry having OCEMS, no. of days may be counted based on the recorded data. Industry without OCEMS- based on break down of ETP/APCD, disturbance of power supply or any failure of auxiliary machineries w.r.t. control system.	May be clearly defined, as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.
7	Repeated Violations		Some number of days may be specified after which the penalty amount may get a factor of 1.5 or 2.		Multiplying factor for repeated violations may be included. For ex: 1 st Repetition- 25% 2 nd Repetition- 50% 3 rd Repetition- 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
8	Utilization of fund	An environmental damage assessment cell may be created. Expertise in the field may be achieved by involving scientist/engineers and providing them training in country/abroad.	Amount should not be utilized for 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) Funding to financially weaker municipalities for installation of STPs. The amount should be utilized solely for damage assessment, remediation of affected sites, orphan contaminated sites and creating awareness. The purpose should not get inclined towards revenue generation.			RD Vadodara suggested that amount should be utilized only for remediation purpose. However, committee discussed that the proposal for utilization of fund is prepared considering the other aspects (i.e. direct and indirect) for protection of environment, which include research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

			Thus the functional fabric of CPCB shall remain intact.			
9	Others	Higher EG for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.				The committee discussed that CPCB is already taking appropriate action including closure direction against the industries found operating without pollution control measures.

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Comments Received from Various Expert Institutions on the Report on Environmental Compensation

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institutions, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are summarized in table below:

S.No.	Item	Comments from TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	Cases d, e and f	Distinction between categories 'a, b, c' and 'd, e, f' is not clear. Case specific investigations should be minimized. Proposed cases deals separately with intentional and accidental cases but sometimes they are not easy to establish.		Why cases 'e' and 'f' are left for later remediation and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigation made by Expert Institutions/Organizations.
2	R-factor		R-factor should be Rs. 1,000/day.	Why R-factor is kept as 250, although the value ranges between 100 to 500?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, which may be further revised in future.
3	L-factor		L-factor should be based on the population density of surroundings. Instead of population of the nearby city/town. For critically polluted areas/ ecologically fragile areas, LF should be considered as 2.	For nearby city, having population less than 1 million, the LF is 1. This implies that we care only for populated regions only. Industries located in critically polluted and ecologically fragile area should be closed down.	Population density for surrounding of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units are generally away from population. More weightage is given to the higher population exposure to the risk in case the industry is located in the city of population less than one million than the LF Factor will be 1. Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination as per prevailing policy of MoEFCC/SPCB. The Committee agreed that for notified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

S. No.	Item		Comments of CSE	Comments of IEG	Committee's Deliberations
4.	S-factor	Classification of Industries should be based on profit/turnover basis.	S-factor should be based on the turn-over of the industrial unit.		Presently Industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complicate the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
5.	Level of non-compliance	<p>Pollution Index does not measure the level of pollution. Further, averaging PI eliminates the variation in the nature/ impact of pollution that PI tries to capture. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken.</p> <p>The rate of the penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The objective should be that units should choose to shut down operations when violations cannot be brought under control in the specified time.</p>	For different level of non-compliance such as gross, moderate and low, a factor for 'intensity of violation', IV-factor, should be incorporated in the formula.		<p>Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers variation in pollution load.</p> <p>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. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the processing. Therefore, for calculating the Environmental Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively.</p> <p>To keep the formula simple for better implementation, the IV factor may not be considered as there are different environmental parameters such as environmental standards and for each standard calculation of level of violation and its weightage will be a tedious task, which may bring difficulty in implementation of EC concept.</p> <p>The Committee has agreed that in order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4 and 8 times on each similar violation. Further, if the violator continues its operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively.</p> <p>Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.</p> <p>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.</p>
6.	Utilization of fund	Funds may be utilized for building, monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance especially in the MSME sector.		Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	<p>Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs is already covered in the report.</p> <p>Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.</p>

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S. No.	Item		Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP			Size of the construction sites more than 20,000 sqm. area are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the place should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cut-off is maintained here. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of stacks, which is not the case presently for most units. Therefore, continuous monitoring should be implemented urgently to begin with for all red and orange categories.			Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and compensation may be imposed based on the manual testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.
	(b)	CETP should be categorized under Red Category of Industries. Some sub-classification should be undertaken under Red categories of Industries.			CETPs are already categorized under Red Category of Industries
	(c)	Based on the spirit behind the proposed change, it should therefore be called an environmental penalty rather than "environmental compensation".			The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 03.08.2018 (OA No 593/2017). Therefore, term "Environmental Penalty" is avoidable.

Item Nos. 01 & 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 125/2017
(M.A. No. 1337/2018)With
Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

Court on its own Motion Applicant(s)
Versus
State of Karnataka Respondent(s)

With
D. Kupendra Reddy Applicant(s)
Versus
State of Karnataka Respondent(s)

Date of hearing: 06.12.2018

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s): Mr. Sajjan Poovayya, Sr. Advocate and Mr. Saransh Jain,
Advocate for impleaded applicant - Namma Bengaluru
Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondent(s): Mr. Devraj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mahotra, Advocate

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s): Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr.
P. Ramaprakash and Mr. Sandeep Mishra, Advocates
For Respondent(s): Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA

ORDER

- I. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

1.

their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. 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.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

15.

Item Nos. 1 to 11

Court No. 1.

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015
(M.A. No. 1332/2015)
&
Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)
&
Original Application No. 108/2013
(M.A. No. 489/2015)
&
Original Application No. 179/2013
(M.A. No. 866/2014 & M.A. No. 644/2015)
&
Appeal No. 67/2015
(M.A. No. 652/2015)
And
Original Application No. 484/2015
(M.A. No. 155/2017, M.A. No. 567/2017
& M.A. No. 927/2017)
And
Original Application No. 327/2018
(M.A. No. 1282/2018)
And
Original Application No. 115/2017
(M.A. No. 442/2017)
And
Original Application No. 411 of 2018
And
Original Application No. 613/2017
And
Original Application No. 614/2017



Shallesh Singh	Versus	Respondent(s)
Hotel Holiday Regency, Moradabad & Ors.		Applicant(s)
With		
Legal Aid, National Green Tribunal Bar Association		Applicant(s)
	Versus	
NCT of Delhi & Ors.		Respondent(s)
With		
Raj Hans Bansal		Applicant(s)
	Versus	
Ministry of Water Resources & Ors.		Respondent(s)
With		
Apex Chambers of Commerce and Industries of N.C.T. of Delhi & Ors.		Applicant(s)
	Versus	
Govt. of NCT Delhi & Ors.		Respondent(s)
With		
Vikrant Tongad		Applicant(s)

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Versus
Respondent(s)
Union of India & Ors.
With
Shallesh Singh
Applicant(s)
Versus
Respondent(s)
Hotel The Oberoi Amarvilas & Ors.
With
Shallesh Singh
Applicant(s)
Versus
Respondent(s)
Panchsheel Buildtech Pvt. Ltd. & Ors.
With
Shallesh Singh
Applicant(s)
Versus
Respondent(s)
Central Ground Water Board & Ors.
With
M/s A-One Mineral Water Industry
Applicant(s)
Versus
Respondent(s)
Central Ground Water Authority & Ors.
With
Mohd. Javed Asghar
Applicant(s)
Versus
Respondent(s)
M/s Upper Ganges Sugar and Industries Ltd.
(Distillery Unit) & Ors.
With
Mohd. Javed Asghar
Applicant(s)
Versus
Respondent(s)
State of U.P. & Ors.

Hearing concluded on: 18.12.2018
Order uploaded on: 03.01.2019

CORAM:
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):
Mr. Raj Bajwani, Senior Advocate and Mr.
Rahul Choudhary, Advocate (In O.A. Nos.
59/2012 & 108/2013)
Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam
Jaiswal, Advocates (In O.A. Nos. 176/2015,
484/2015, 327/2018 & 115/2017)
Mr. Amrendra Kumar Dubey, Advocate, (O.A.
No. 411/2018)

For Respondent(s):
Ms. Sakshi Popli, Advocate for DJB (O.A. No.
59/2012)
Mr. Sumeet Pushkarna, Mr. Devanshu,
Advocates with Mr. Sudhir Chauhan, E.E.,
Delhi Jal Board, (O.A. No. 108/2013)
Mr. Ajay Jain, Advocate for GNCTD
Mr. Ardhendumauli Kumar Prasad, Mr.
Shashank Saxena, Ms. Diksha Gera, Mr.
Amritesh Raj, Advocates for CGWA
Mr. Pradeep Mishra, Mr. Daleep Dhyani,
Advocates for UPPCB
Ms. Sakshi Popli, Advocate for NDMC
Mr. Amit Tiwari, Mr. Rohit Pratap Singh,
Advocates for State of UP

appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CECB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured for as well as to sustain the floodplains of rivers in terms of flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain *inter-se* with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF & CC and this Tribunal in two months by e-mail at npt_filing@gmail.com.

31. The Committee may also indicate the projection of its impact study in light of projected data for the next 50 years (in phased manner with action plan for each decade). Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CECB may constitute a mechanism to deal with individual cases of violations of norms, as existed prior to Notification of 12.12.2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per

law. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.



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CRITERIA TO CALCULATE WATER CONSUMPTION**Table 1: Discharge of 4" Dia and 1 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

Table 2: Discharge of 4" Dia and 2 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

Table 3: Discharge of 6" Dia and 3 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

Table 4: Discharge of 6" Dia and 5 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

References

1. Bureau of Indian Standards. 1993. IS1172:1993 (Reaffirmed 2002). *Code of Basic Requirements for Water Supply, Drainage and Sanitation (Fourth Revision)*. New Delhi: BIS.
2. Census of India. 2011. Census of India's website. [Online]. [Accessed 15 February 2019]. Available from: http://censusindia.gov.in/2011-prov-results/paper2/data_files/India2/1.%20Data%20Highlight.pdf.
3. Central Pollution Control Board. 2013. *Performance Evaluation of Sewage Treatment Plants under NRCD*. Delhi: CPCB.
4. Central Pollution Control Board. 2016. *Graded Response Action Plan for Delhi & NCR*. Delhi: CPCB.
5. Central Pollution Control Board. 2016. *Final Document on Revised Classification of Industrial Sectors Under Red, Orange, Green and White Categories*. Delhi: CPCB.
6. CGWA. 2015. *Guidelines/Criteria for evaluation of proposals/requests for ground water abstraction*. New Delhi-Central Ground Water Authority, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
7. CGWB. 2017. *Categorisation of Assessment Units* [Online]. [Accessed 20 February 2019]. Available from: <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.
8. CGWB. 2017. *Dynamic Ground Water Resources of India*. Faridabad-Central Ground Water Board, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
9. CPHEEO. 2013. *Manual on Sewerage and Sewage Treatment Systems – 2013*, New Delhi: Ministry of Urban Development, Government of India.
10. CPHEEO. 2016. *Manual on Municipal Solid Waste Management – 2016*. New Delhi: Ministry of Urban Development, Government of India.
11. Ministry of Micro, Small and Medium Enterprises. 2006. *The Micro, Small and Medium Enterprises Development Act, 2006. 2nd October, 2006, vide notification No. S.O. 1154(E) dated 18th July, 2006, see Gazette of India, Extraordinary Part II sec.3(ii)*, Government of India.
12. *Plastic Waste Management Rules, 2016*. (G.S.R. 320 (E) [18-03-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
13. *Solid Waste Management Rules, 2016*. (S.O. 1357(E) [08-04-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
14. WILO. 2017. *Building Service Residential Selection Booklet*. Pune- WILO Mather and Platt Pumps Pvt. Ltd.

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Speed Post

B-19019//WQM-II(RG)/CPCB/Sugar/47/2016-17 13009

06.03.2020
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To,

M/s Dhanashree Agro Product Pvt. Ltd.

(Formerly known as M/s Lakshmi Sugar Mills Co. Ltd.)

Iqbalpur, Tehsil Bhagwanpur,

Distt Haridwar-247668

Uttarakhand

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand (herein after referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected on 27.03.2018 by officials from CPCB and following observations were made;

1. Effluent Treatment Plant (ETP) comprises of Bar Screen, Oil Grease Separator, Equalisation Tank, Primary Clarifier, Aeration Tank, Secondary Clarifier & Activated Carbon filter.
2. Analysis of treated effluent sample showed pH-7.07 against norms of 5.5-9.0, **BOD- 148 mg/l** against norms of 30 mg/l, **COD- 299 mg/l** against norms of 250 mg/l, **TSS- 81 mg/l** against norms of 30 mg/l and **Oil and grease- 13 mg/l** against norms of 10 mg/l which indicated non-compliance w.r.t. BOD, COD & TSS with effluent surface discharge norms prescribed under Environment (Protection) Rules, 1986.
3. MLSS in aeration tank was found 1443 mg/l which indicated unstabilised Activated Sludge Process system and poor operation and maintenance of ETP system.

4. The Unit has installed cooling tower but there is no separate treatment of excess water containing sulphate and it is transferred to inlet of ETP directly.

AND WHEREAS, CPCB issued direction dated 29.05.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit; and

WHEREAS; the Unit vide letter dt 02.07.2018 submitted adequacy assessment reports prepared by VSI, Pune; and

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention (thereafter referred to as the Charter; and

WHEREAS, a meeting of sugar mills operating in Uttarakhand, representatives of UEPPCB and CPCB was held on 19.07.2018 under Chairmanship of Cane Commissioner, Government of Uttarakhand and the following decisions were made;

1. Sugar Mills shall submit an action plan to CPCB by 31.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB before start the crushing season.
3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letter dated 24.07.2018 submitted their compliance status of the Charter; and

WHEREAS, CPCB issued directions dated 26.10.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit to comply with the following:

1. The unit shall start its operation only after obtaining the valid consent from the Uttarakhand Environment Protection and Pollution Control Board (UEPPCB).
2. The unit shall implement the observation & recommendation of the adequacy assessment report of ETP.

3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of cold and hot water consumption.
5. The unit shall install flow meters for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent generation also.
7. The unit shall carry out colour coding of pipelines carrying recycled process water and fresh process water.
8. The Unit shall commission mechanical sludge handling system of adequate capacity
9. The unit shall carry out analysis of effluent discharge parameters notified under Environment (Protection) Rules, 1986 and logbook shall be maintained on daily basis.
10. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
11. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report to CPCB within 60 days of resumption of operation

AND WHEREAS, the Unit was inspected on 07.02.2019 by officials from CPCB, based on SMS alert programme and following observations were made;

- i. The unit has started its crushing season from 11.12.2018.
- ii. The ETP comprises of Oil skimming & Bar screen chamber, Fine screen, Collection Tank, Chemical Mixing Tank, Primary Clarifier, Aeration Tank-I (Diffused aeration), Aeration tank II, Secondary Clarifier, Pressure Sand filter, Activated Carbon filter, Sludge drying beds (4 nos.)
- iii. Analysis of treated effluent sample showed pH-7.47 against norms of 5.5-8.5, BOD-41.60 mg/l against 100 mg/l, COD- 95.3 mg/l against 250 mg/l, TSS- 12.8 mg/l against 100 mg/l and Oil and grease- BDL against 10 mg/l which indicated compliance w.r.t. BOD, COD & TSS with on land effluent disposal norms prescribed under Environment (Protection) Rules, 1986.
- iv. The unit is meeting its fresh water requirement through two tube wells. The unit has installed the mechanical flow meter at tube wells and maintained the logbook.
- v. The unit has obtained permission from CGWA for ground water abstraction of 3, 27,025m³/yr. (680 m³ for season & 1235 m³/day off season).
- vi. The excess condensate of about 718 m³/day is sent to Under Ground Reservoir (UGR) after cooling for utilizing in the cooling tower make up.
- vii. As per the unit representative, total effluent generation is 426 m³/day including spray pond overflow (168.0 m³/day). During inspection team had observed that spray pond overflow and sugar mill effluent is sent to ETP for further treatment.
- viii. The unit has not installed the flow meters at the spray pond overflow and excess condensate generation points.
- ix. The unit is having pucca lagoon for the storage of treated effluent for the low demand period for irrigation.

- x. The unit has installed flow meter at outlet of ETP and maintain the record.
- xi. During the inspection, OCEMS system was not observed at final outlet of ETP. The unit informed that existing OCEMS sensor was non-functional since January 2019. The unit sent the system to the vendor for repairing/ replacement of the same.
- xii. The unit has installed two boilers of 110TPH (high-pressure boiler) and 40 TPH respectively. The unit have 40m stack followed by multicyclone and wet scrubber as APCD.
- xiii. The unit has not installed the online stack emission monitoring system at boiler stacks for measuring the consented parameters.
- xiv. The unit has not installed STP for treatment of colony domestic wastewater.

AND WHEREAS, IT division, CPCB verified that OCEMS data was available till 07.06.2018 and for BOD and COD faulty data was supplied; and

WHEREAS, the unit vide letter dated 20.02.2019 submitted their compliance report which was examined and following observations were made;

1. The unit has not installed flow meters for measuring generation of effluent at various generation points.
2. The unit has not carried out colour coding of pipelines carrying recycled process water and fresh process water.
3. The Unit has not commissioned mechanical sludge handling system of adequate capacity.
4. The unit has not submitted the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan.
5. The unit has not submitted implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed govt. expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season within 60 days of resumption of operation.

AND WHEREAS, CPCB issued Show cause notice dated 22.03.2019 under section 5 of the Environment (Protection) Act, 1986 to the unit as the unit failed to supply OCEMS data uninterruptedly; and

WHEREAS, unit replies vide email dated 08.04.2019 and 09.04.2019 were examined; and

WHEREAS, Hon'ble NGT vide its orders dated 03.08.2018 and 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed 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*"; and

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to

the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, CPCB has been levying Environmental Compensation in compliance of Hon'ble NGT and as per the methodology for imposing Environment Compensation issued vide CPCB circular dated 24/05/2019, the environmental compensation to be levied to the unit is calculated as Rs 6,00,000/- for the non-compliance period (27.03.2018-15.04.2018), for the crushing season 2017-18; and Rs. 70,80,000/- for the non-compliance period (11.12.2018 to 07.04.2019), for the crushing season 2018- 19; and

WHEREAS, CPCB issued closure direction dated 22.05.2019 under section 5 of Environment (Protection) Act, 1986 to the unit and directed to comply with the following:

1. The unit shall remain closed and not operate without seeking permission from CPCB.
2. The unit shall install OCEMS and provide connectivity.
3. The unit shall deposit Rs. 76,80,000/- within 15 days from the date of receipt of direction in CPCB A/c No. 532702050000164 (Union Bank of India, IP Extension Branch, Vikas Marg Exten. Delhi; IFSC: UBIN0553271) towards environmental compensation.
4. The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.

AND WHEREAS, the Unit replied vide letter dated 15.06.2019, and assured that the unit will install OCEMS and provide connectivity to CPCB server as soon as the unit will receive the system after repair and requested to drop the EC levied on the unit; and

WHEREAS, CPCB issued letter dated 01.07.2019 to the unit to deposit EC along with simple interest @12% for delay period in compliance to Hon'ble NGT order dated 06.12.2018 in O.A. No. 125/2017; and

WHEREAS, the unit has filed writ petition against CPCB direction dated 22.05.2019 in Hon'ble High Court of Delhi, and the case was disposed by Hon'ble High court vide order 05.07.2019 in W.P.(C) no. 6853/2019 and CM APPL. 28569/2019 that "*The court does not consider it apposite to entertain the present petition and the same is disposed of leaving it open for the petitioner to avail of alternative remedies*"; and

WHEREAS, the unit filed Special Leave to Appeal (C) No. (s) 18576/2019 in Hon'ble Supreme Court and Hon'ble Supreme court passed order on 09.08.2019 that "*The demand of penalty imposed by Central Pollution Control Board shall remained stayed*" and granted period of 04 weeks to CPCB, to file counter affidavit; and

WHEREAS, CPCB vide office order dated 04.09.2019 issued policy for levying environmental compensation (EC) for industries which prescribes that:

- a. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall applied for the period between date of inspection and monitoring of date of closing of manufacturing operation.
- b. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

AND WHEREAS, the unit vide letter dated 24.12.2019 informed about installation and commissioning of OCEMS on 19.12.2019; and

WHEREAS, IT division, CPCB verified on 13.01.2020 that the unit has provided OCEMS data connectivity through M/s Aaxis Nano technologies Pvt. Ltd.; and

WHEREAS, the unit replies vide letter dated 22.01.2020, 23.01.2020 and 31.01.2020 were examined and following observations are made:

1. The unit has informed that the unit closed its crushing operation for the season 2018-19 on 07.04.2019.
2. The unit has submitted CTO with validity up to 31.03.2020 issued by UEPPCB.
3. The unit has submitted self-certificate on the compliance of closure direction issued by CPCB.

AND WHEREAS, CPCB constituted a Three-member committee vide office order dated 27.09.2017 having representative from CPCB, MoEF&CC and NMCG for examination and recommendation for revocation of the closure direction issued by CPCB; and

WHEREAS, the Three Member Committee in its meeting held on 11.02.2020 examined the unit's replies and recommended that the unit may be allowed to resume operation with the following conditions:

1. The unit shall ensure uninterrupted connectivity with CPCB server.
2. The unit shall submit performance assessment of treatment system by the same reputed government institute including implementation status of the recommendations made in adequacy assessment report validated by VSI, Pune in April 2018 within 06 months.

AND WHEREAS, the unit vide email dated 17.02.2020 informed about the start of crushing operation on 13.12.2019 in the crushing season 2019-20; and

WHEREAS, as per office order dated 04.09.2019, Environmental Compensation has been recalculated as Rs. 18,00,000/- for the period from date of inspection (07.02.2019) to date of end of operation in the crushing season 2018-19 (07.04.2019); and Rs. 1,80,000/- for the period from date of start of crushing (13.12.2019) to period of non- installation and non-transmission of data (18.12.2019). However, the EC will remain stayed and shall be levied subject to the final judgement of the Hon'ble Supreme Court in the matter of M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand Versus CPCB in SLA (c) No. (s) 18576/2019; and

NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) is directed to comply with the following directions:

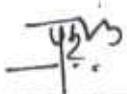
1. The unit shall ensure uninterrupted connectivity with CPCB server.
2. The unit shall submit performance assessment of treatment system by the same reputed government institute including implementation status of the recommendations made in adequacy assessment report validated by VSI, Pune in April 2018 within 06 months.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit (M/s Dhanashree Agro Product Pvt. Ltd., Iqbalpur, Haridwar, Uttarakhand) without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.


(RAVISH PRASAD)
CHAIRMAN

Copy to:

- | | |
|--|--|
| <p>1. Member Secretary
Uttarakhand Environment Protection & Pollution Control Board, 29/20, Nemi Road, Dehradun, Uttarakhand-248001</p> | <p>:With request to ensure compliance of the directions.</p> |
| <p>2. Cane and Sugar Commissioner
Uttarakhand
Village Hempur Ismile, Bazpur Road, Kashipur District, Udham Singh Nagar, Uttarakhand-244713</p> | <p>:With request to ensure compliance of the directions.</p> |
| <p>3. Joint Secretary (CP Division)
Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003</p> | <p>:For kind information, please</p> |
| <p>4. The District Magistrate
Haridwar, (U.K.)</p> | <p>:With request to ensure compliance of the directions</p> |
| <p>5. Superintending Engineer
Uttarakhand power corporation Ltd.,
Electricity distribution circle, Roorkee, Haridwar, U.K. -247667</p> | <p>:With a direction to connect power supply</p> |
| <p>6. The Regional Director
Regional Directorate
Central Pollution Control Board, PICUP Bhawan,
Ground Floor, Vibhuti Khand, Gomti Nagar,
Lucknow – 226 010</p> | <p>:For follow up and ensuring compliance</p> |
| <p><input checked="" type="checkbox"/> 7. The In-charge, IT Division, CPCB</p> | <p>:with request to upload on CPCB server.</p> |
| <p>8. Master file/Guard file, WQM II, CPCB Delhi</p> | |


(PRASHANT GARGAVA)
MEMBER SECRETARY

REVISED ORDER
CORRECTED 31.08.2018

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 593/2017
(W.P. (Civil) No. 375/2012)

In the matter of:

Paryavaran Suraksha Samiti & Anr.
Vs.
Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present:

<p>Applicant: Amicus Curiae: Respondent Nos.</p>	<p>Mr. Rohit Prajapati, Applicant in person Mr. Jai A. Dehadrai, Adv. Mr. Nishe Rajan Shonker, Adv. for State of Kerala Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar Mr. Sandeep Mishra Advs. for GNCTD Mr. Anil Shrivastava Mr Rituraj Bswas and Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board Mr. Avijit Roy, Adv. for Assam Pollution Control Board Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur Mr. Nikhil Nayyar, Mr. Dhananjay Baijal, Advs. for APPCB and TSPCB Mr. Mukesh Verma, Adv. Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv. Mr. Dinesh Jindal, LO for DPCC Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB Mr. Edward Belho, AAG, Mr. K. Luikang Michael and Ms. Hoineithiam, Advs. for State of Nagaland Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCB, Odisha Mr. Dhruv Pal, Adv. for State of Gujarat Mr. V.K. Shukla, Adv. for State of MP Mr. Jayesh Gaurav, Adv. for R-47 Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs. Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar Ms. Aprajita Mukherjee, Adv. Ms. G. Indira, Adv. for UT of Andaman & Nicobar Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change Ms. Puja Kalra, Adv. for SDMC & NDMC</p>
---	---

Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Adv. for State of Haryana and HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB

Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change

Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board

Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha

Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.

Ms. Priyanka Sinha, Adv. for State of Jharkhand Mr. Rajul Shrivastav, Adv. for MPPCB

Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB

Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB

Mr. Shubham Bhalla, Adv.

Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board

Mr. G. M. Kawoosa, Adv. for State of J & K

Mr. Divya Prakash Pande, Adv. For HPSPCB

Mr. Manish Kumar, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04th July, 2017 stating as follows:</p> <p style="padding-left: 40px;"><i>"4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all</i></p>

	<p>Item No. 12</p> <p>August 03, 2018 A</p>	<p>SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</p> <p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62nd Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report, which has been summarized at Annexure-I.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act, 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issue to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process”.</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant (CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>month and on the basis of such meeting and the feedback taken further follow up action must be taken and appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund 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 Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>be furnished to this Tribunal within four months from today by e-mail at filing.ngt@gmail.com.</p> <p>(7) Proceedings are disposed of.</p> <p>However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 3.2.2019.</p> <p>We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (S.P. Wangdi)</p> <p>....., EM (Dr. Nagin Nanda)</p> <p>03.08.2018</p>
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**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

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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

1.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that:

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

1.2 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 Nazimuddin 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.

1.3 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). A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 27/03/2019. 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:

- 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.
- 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.
- 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.
- 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.
- 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 times on 1st repetition, 4 times on 2nd repetition and 8 times on further repetitions.
- h. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.
- i. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.

A sample calculation for Environmental Compensation (without deterrent factor) 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
R-Factor	250		
S-Factor	0.5-1.5		
L-Factor	1.00-2.00		
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 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.

1.4.1. 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.

1.4.2. 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.

1.5 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 x N x R x S x 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.
- 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.

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

2.1 Background

The CPCB In-house Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in 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 1.4.1 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 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 State Governments (including the concerned Union Territories) to set-up Sewage Treatment Plants (STPs), which are already under implementation, within the time lines already postulated. Further, the STPs, which are yet to set-up, to be completed within a period of three years, from today, i.e. by 22.02.2020.

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:

$$EC = \text{Capital Cost Factor} \times \text{Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) \times \text{No. of Days for which facility was not available} + \text{Environmental Externality}$$

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

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.

3.3 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= 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

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. 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:

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, 0.5 kg/day and 0.4 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	0.5	0.4	0.4
Waste Generation (TPD)	9809.90	880.14	350.79	200.31
Waste Disposal as per Rules (TPD) (<i>assumed as 25% of waste generation for sample calculation</i>)	2452.47	220.04	87.70	50.08
Waste Management Capacity Gap (TPD)	7357.42	660.11	263.09	150.23
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1584.26	631.42	360.56
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1584.26	631.42	360.56
Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	13.20	5.26	3.00
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02

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 or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.

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

Chapter-IV: Environmental Compensation in Case of Illegal Extraction of Ground Water

4.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of Shailesh Singh v/s Central Ground Water Board & Ors. (Original Application No. 327/2018) vide order dated 03/01/2019 (**Annexure-V**) directed Central Pollution Control Board (CPCB) that:

“CPCB may constitute a mechanism to deal with individual cases of violation of norms, as existed prior to Notification of 12/12/2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per law.”

4.2 Constitution of the Committee

In compliance to Hon'ble NGT dated 03/01/2019, CPCB constituted a committee under the Chairmanship of Shri A. Sudhakar, DH, WQM-I Division with Shri P. K. Gupta, DH, IPC-VI, Shri Vishal Gandhi, Sc. D, UPC-I Division and Smt. Suniti Parashar, Scientist B, WQM-I Division as members. The committee was asked to deliberate on this issue and come up with draft formulation of mechanism to determine the Environmental Compensation for illegal extraction of ground water.

4.3 Methodology for Assessing Environmental Compensation

The committee discussed the issue on 07/02/2019, 07/03/2019 and 20/3/2019. The committee deliberated on the issue of Environmental Compensation to be recovered from individuals/industries such as domestic, packaging drinking water units, mining & infrastructure projects and industrial units in case of illegal extraction of ground water. The Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 were also discussed and based on this further formulation to levy Environmental Compensation has been evolved.

4.4 Ideology of Environmental Compensation w.r.to illegal extraction of ground water

Ground water is becoming an increasingly scarce resource because of its unabated and indiscriminate over-exploitation. Growth in ground water exploitation, however, has led to a steep fall in water table in several parts of the country. Use of ground water is becoming unsustainable day by day. The falling water table is a matter of special concern since it tends to reduce the accessibility of the resource to small and marginal farmers due to increase in costs of extractions.

Specific conditions applicable in Notified/Non-Notified areas for various users, as mentioned in Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 are given below:

For Notified Areas:

1. Permission to abstract ground water through any energized means will not be accorded for any purpose other than drinking water.

2. Central Ground Water Authority (CGWA) so far has notified 162 areas, in the country for the purpose of regulation of ground water development.
3. Regulation of Ground Water development in Notified areas is through District Administrative Heads assisted by Advisory Committees under the provisions of Section 4 of the Environment (Protection) Act, 1986.
4. In Notified areas, ground water use in individual houses, infrastructure complexes like group housing societies, hospitals, schools etc. and drinking water requirements of workers in industries can be allowed.
5. NOC for ground water withdrawal will be considered only if Water Supplying Department is not providing adequate water in the area/premises. Proof for this is to be produced from the concerned authority by the applicant.
6. For individual houses, the maximum diameter of the tube-well should be restricted to 4 inch only and the capacity of the pump should not exceed 1HP. For infrastructure projects, maximum diameter of the ground water abstraction structures should be restricted to 150 mm (6 inches) only and capacity of the pump should not exceed 5 HP.
7. Any violation of the above conditions will attract legal action under Section 15 of the Environment (Protection) Act, 1986.

For Non-Notified Areas:

NOC for ground water withdrawal will be considered for industries/infrastructure/packaging as per safe, semi critical, critical and over-exploited criteria.

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}	=	Water Consumption per Day x No. of Days x Environmental Compensation Rate for illegal extraction of ground water (ECR_{GW})
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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/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.

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

4.6.1 ECR_{GW} for Drinking and Domestic use:

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

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

4.6.2 ECR_{GW} for Packaged drinking water units:

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

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

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

4.6.4 ECR_{GW} for Industrial Units:

Sl. No.	Area Category	Water Consumption (m ³ /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR _{GW}) in Rs./m ³					
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/-					

For better understanding of implementation of EC_{GW} policy, some example calculations are given below:

Example No. 1 (For drinking and domestic Use):

It is observed that a household in safe zone is extracting ground water illegally from past 2 year and 3 months with the help of 1 HP pump, dia 4 inches and head as 25 meter. It is assumed that the house-owner runs the pump for 0.5 hr/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 3 m³/hr

Daily Consumption = 3 x 0.5 = 1.5 m³

ECR_{GW} = 4 Rs./m³ (Please refer para 4.6.1)

EC to be levied = 4 x 1.5 = 6 Rs./day

Total time period = 820 days

Then, EC_{GW} = 6 x 820

Calculated EC_{GW} = 4,920 Rs.

EC_{GW} to be levied = 10,000 Rs. (minimum prescribed EC_{GW}, please refer para 4.6.1)

Example 2 (For Industrial Units):

It is observed that an industry in critical zone is extracting ground water illegally from past 1 year with the help of 5 HP pump, dia 6 inches and head as 50 meter. It is assumed that the industry runs the pump for 3 hrs/day. What Environmental Compensation (EC_{GW}) will be charged to the owner?

Solution: Pump Yield (Please refer Annexure-VI) = 12 m³/hr

Daily Consumption = 12 x 3 = 36 m³/day

ECR_{GW} = 60 Rs./m³ (Please refer para 4.6.4)

EC to be levied = 60 x 36 = 2,160 Rs./day

Total time period = 365 days

Then, EC_{GW} = 2,160 x 365

EC_{GW} = 7,88,400 Rs.

4.7 Relaxation

Central Ground Water Authority (CGWA) reserves to right to relax or interpret these mechanisms in case of any exigency or situation of National strategic importance, as per Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015.

4.8 Recommendations

The committee has given following recommendations:

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

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

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

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 593/2017
(W.P. (Civil) No. 375/2012)

In the matter of:

Paryavaran Suraksha Samiti & Anr.
Vs.
Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant: Mr. Rohit Prajapati, Applicant in person
Amicus Curiae: Mr. Jai A. Dehadrai, Adv.
Respondent Nos. Mr. Nishe Rajan Shonker, Adv. for State of Kerala
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar
Mr. Sandeep Mishra Advs. for GNCTD
Mr. Anil Shrivastava Mr Rituraj Bswas and
Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh
Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board
Mr. Avijit Roy, Adv. for Assam Pollution Control Board
Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur
Mr. Nikhil Nayyar, Mr. Dhananjay Baijal, Advs. for APCCB and TSPCB
Mr. Mukesh Verma, Adv.
Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv.
Mr. Dinesh Jindal, LO for DPCC
Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim
Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB
Mr. Edward Belho, AAG, Mr. K. Luikang Michael and Ms. Hoinethiam, Advs. for State of Nagaland
Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board
Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCCB, Odisha
Mr. Dhruv Pal, Adv. for State of Gujarat
Mr. V.K. Shukla, Adv. for State of MP
Mr. Jayesh Gaurav, Adv. for R-47
Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board
Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs.
Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar
Ms. Aprajita Mukherjee, Adv.
Ms. G. Indira, Adv. for UT of Andaman & Nicobar
Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change
Ms. Puja Kalra, Adv. for SDMC & NDMC
Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.
 Ms. Priyanka Sinha, Adv. for State of Jharkhand
 Mr. Rajul Shrivastav, Adv. for MPPCB
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB
 Mr. Shubham Bhalla, Adv.
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board
 Mr. G. M. Kawoosa, Adv. for State of J & K
 Mr. Divya Prakash Pande, Adv. For HPSPCB
 Mr. Manish Kumar, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04th July, 2017 stating as follows:</p> <p><i>"4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</i></p>

	<p>Item No. 12</p> <p>August 03, 2018 A</p>	<p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62nd Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report, which has been summarized at Annexure-I.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act, 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issue to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process".</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund 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 Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at filing.ngt@gmail.com.</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>(7) Proceedings are disposed of.</p> <p>However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018.</p> <p>We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (S.P. Wangdi)</p> <p>....., EM (Dr. Nagin Nanda)</p> <p>03.08.2018</p>
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Annexure-II
Comments Received from Various RDs on Draft Report for Environmental Compensation

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
1	Case- a, b & c	By passing of effluent/emission should be given special consideration. EC levied on ROG categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection.	Instead of "Compensation", "Penalty" word should be used. In case common facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure directions for pro-longed and gross non-compliance.			The Committee discussed that the points highlighted by RD Kolkata are already the part of cases fit for violation and levy environmental compensation. However, as mentioned by RD Vadodara, word "Penalty" may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.
2	Case- d, e & f	Higher rates for irreparable damages crop, soil, health etc. Leakages/spillage should have different compensation value.	It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to 'Guidelines on Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty', Guidelines may be prepared.		Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation is based on the philosophy of "polluters pay" and for grievance injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	Pollution Index (PI)			Instead of average PI, Actual PI may be used.		Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.
4	R-factor	Should be based on pollution load. For ex. Amount of BOD/NOx etc. discharged.		May be classified based on the contribution of pollution load based on quantity of effluent, concentration, emissions	May be as per the category of industry, for ex. Red-500, Orange-300, Green-100.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	L-factor			May be redefined based on the features, activities involved and habitation.		L-factor may be covered in future as already indicated in the report.

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
6	Defining period of violations for which EC will be levied		Duration of violations needs more clarity.	For industry having OCEMS, no. of days may be counted based on the recorded data. Industry without OCEMS- based on break down of ETP/APCD, disturbance of power supply or any failure of auxiliary machineries w.r.t. control system.	May be clearly defined as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.
7	Repeated Violations		Some number of days may be specified after which the penalty amount may get a factor of 1.5 or 2.		Multiplying factor for repeated violations may be included. For ex. 1 st Repetition- 25% 2 nd Repetition- 50% 3 rd Repetition- 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
8	Utilization of fund	An environmental damage assessment cell may be created. Expertise in the field may be achieved by involving scientist/engineers and providing them training in country/abroad.	Amount should not be utilized for 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 f) Funding to financially weaker municipalities for installation of STPs The amount should be utilized solely for damage assessment, remediation of affected sites, orphan contaminated sites and creating awareness. The purpose should not get inclined towards revenue generation.			RD Vadodara suggested that amount should be utilized only for remediation purpose. However, committee discussed that the proposal for utilization of fund is prepared considering the other aspects (i.e. direct and indirect) for protection of environment, which include research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

9	Others		Higher EC for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.	Thus, the functional fabric of CPCB shall remain intact.					The committee discussed that CPCB is already taking appropriate action including closure direction against the industries found operating without pollution control measures.
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Comments Received from Various Expert Institutions on the Report on Environmental Compensation

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). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are summarized in table below:

S. No.	Item	Comments from TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	Cases d, e and f	Distinction between categories "a, b, c" and "d, e, f" is not clear. Case specific investigations should be minimized. Proposed cases deals separately with intentional and accidental cases but sometimes they are not easy to establish.	-	Why cases 'e' and 'f' are left for later remediation and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigation made by Expert Institutions/Organizations.
2	R-factor	-	R-factor should be Rs. 1,000/day.	Why R-factor is kept as 250, although the value ranges between 100 to 500?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, which may be further revised in future.
3	L-factor	-	L-factor should be based on the population density of surroundings, instead of population of the nearby city/town. For critically polluted areas/ ecologically fragile areas LF should be considered as 2.	For nearby city, having population less than 1 million, the LF is 1. This implies that we care only for populated regions only. Industries located in critically polluted and ecologically fragile area should be closed down.	Population density for surrounding of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units are generally away from population. More weightage is given to the higher population exposure to the risk. In case the industry is located in the city of population less than one million than the LF Factor will be 1. Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination, as per prevailing policy of MoEFCC/SPCB, The Committee agreed that for notified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
4	S-factor	Classification of industries should be based on profit/turnover basis.	-	Presently industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complicate the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
5	Level of non-compliance	Pollution Index does not measure the level of pollution. Further, averaging PI eliminates the variation in the nature/ impact of pollution that PI tries to capture. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken The rate of the penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The objective should be that units should choose to shut down operations when violations cannot be brought under control in the specified time.	-	Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers variation in pollution load. 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. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the processing. Therefore, for calculating the Environmental Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively. To keep the formula simple for better implementation, the IV factor may not be considered as there are different environmental parameters such as environmental standards and for each standard calculation of level of violation and its weightage will be a tedious task, which may bring difficulty in implementation of EC concept. The Committee has agreed that in order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4 and 8 times on each similar violation. Further, if the violator continues its operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 2 nd , 3 rd and 4 th quarter, respectively. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.
6	Utilization of fund	Funds may be utilized for building monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance especially in the MSME sector.	Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	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. Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs is already covered in the report Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP	-	Size of the construction sites more than 20,000 sqm. area are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the place should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cut-off is maintained here. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of stacks, which is not the case presently for most units. Therefore, continuous monitoring should be implemented urgently, to begin with for all red and orange categories.	-	Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and compensation may be imposed based on the manual testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.
	(b)	CETP should be categorized under Red Category of industries. Some sub-classification should be undertaken under red categories of industries.	-	CETPs are already categorized under Red Category of Industries
	(c)	Based on the spirit behind the proposed charge, it should therefore be called an "environmental penalty" rather than "environmental compensation".	-	The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 03.08.2018 (OA No.593/2017). Therefore, term "Environmental Penalty" is avoidable.

Item Nos. 01 & 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 125/2017
(M.A. No. 1337/2018)

With

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

Court on its own Motion Applicant(s)
Versus
State of Karnataka Respondent(s)

With
D. Kupendra Reddy Applicant(s)
Versus
State of Karnataka Respondent(s)

Date of hearing: 06.12.2018

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s): Mr. Sajan Poovayya, Sr. Advocate and Mr. Saransh Jain,
Advocate for impleaded applicant - Namma Bengaluru
Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s): Mr. Devraj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mehrotra, Advocate

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s): Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr.
P. Ramaprakash and Mr. Sandeep Mishra, Advocates
For Respondents (s): Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA

ORDER

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. 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.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs, based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

Item Nos. 1 to 11

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015
(M.A. No. 1332/2015)
&
Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)
&
Original Application No. 108/2013
(M.A. No. 489/2015)
&
Original Application No. 179/2013
(M.A. No. 866/2014 & M.A. NO. 644/2015)
&
Appeal No. 67/2015
(M.A. No. 652/2015)
And

Original Application No. 484/2015
(M.A. No. 155/2017, M.A. No. 567/2017
& M.A. No. 927/2017)
And

Original Application No. 327/2018
(M. A. No. 1282/2018)
And

Original Application No. 115/2017
(M.A. No. 442/2017)
And

Original Application No. 411 of 2018
And

Original Application No. 613/2017
And

Original Application No. 614/2017

Shailesh Singh		Respondent(s)
	Versus	
Hotel Holiday Regency, Moradabad & Ors.		Applicant(s)
With		
Legal Aid, National Green Tribunal Bar Association		Applicant(s)
	Versus	
NCT of Delhi & Ors.		Respondent(s)
With		
Raj Hans Bansal		Applicant(s)
	Versus	
Ministry of Water Resources & Ors.		Respondent(s)
With		
Apex Chambers of Commerce and Industries of N.C.T. of Delhi & Ors.		Applicant(s)
	Versus	
Govt. of NCT Delhi & Ors.		Respondent(s)
With		
Vikrant Tongad		Applicant(s)

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Versus

Union of India & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Hotel The Oberoi Amarvilas & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Panchsheel Buildtech Pvt. Ltd. & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Central Ground Water Board & Ors. Respondent(s)

With
M/s A-One Mineral Water Industry Applicant(s)

Versus

Central Ground Water Authority & Ors. Respondent(s)

With
Mohd. Javed Asghar Applicant(s)

Versus

M/s Upper Ganges Sugar and Industries Ltd.
(Distillery Unit) & Ors. Respondent(s)With
Mohd. Javed Asghar Applicant(s)

Versus

State of U.P. & Ors. Respondent(s)

Hearing concluded on: 18.12.2018

Order uploaded on: 03.01.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Raj Pajwani, Senior Advocate and Mr. Rahul Choudhary, Advocate (In O.A. Nos. 59/2012 & 108/2013)
Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam Jaiswal, Advocates (In O.A. Nos. 176/2015, 484/2015, 327/2018 & 115/2017)
Mr. Amrendra Kumar Dubey, Advocate (O.A. No. 411/2018)

For Respondent (s): Ms. Sakshi Popli, Advocate for DJB (O.A. No. 59/2012)
Mr. Sumeet Pushkarna, Mr. Devanshu, Advocates with Mr. Sudhir Chauhan, E.E., Delhi Jal Board (O.A. No. 108/2013)
Mr. Ajay Jain, Advocate for GNCTD
Mr. Ardhendumauli Kumar Prasad, Mr. Shashank Saxena, Ms. Diksha Gera, Mr. Amritesh Raj, Advocates for CGWA
Mr. Pradeep Mishra, Mr. Daleep Dhyani, Advocates for UPPCB
Ms. Sakshi Popli, Advocate for NDMC
Mr. Amit Tiwari, Mr. Rohit Pratap Singh, Advocates for State of UP

appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CPCB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured for as well as to sustain the floodplains of rivers in terms of e-flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain *inter-se* with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF &CC and this Tribunal in two months by e-mail at ngt.filing@gmail.com.

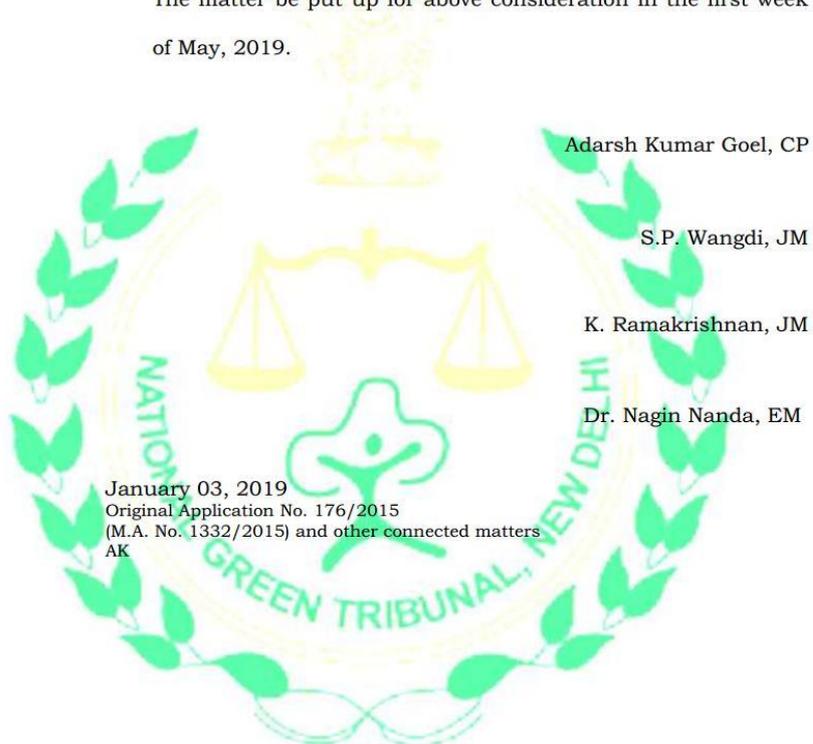
31. The Committee may also indicate the projection of its impact study in light of projected data for the next 50 years (in phased manner with action plan for each decade). Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CPCB may constitute a mechanism to deal with individual cases of violations of norms, as existed prior to Notification of 12.12.2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per

law. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.



CRITERIA TO CALCULATE WATER CONSUMPTION**Table 1: Discharge of 4" Dia and 1 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

Table 2: Discharge of 4" Dia and 2 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

Table 3: Discharge of 6" Dia and 3 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

Table 4: Discharge of 6" Dia and 5 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m ³ /hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

References

1. Bureau of Indian Standards. 1993. IS1172:1993 (Reaffirmed 2002). *Code of Basic Requirements for Water Supply, Drainage and Sanitation (Fourth Revision)*. New Delhi: BIS.
2. Census of India. 2011. Census of India's website. [Online]. [Accessed 15 February 2019]. Available from: http://censusindia.gov.in/2011-prov-results/paper2/data_files/India2/1.%20Data%20Highlight.pdf.
3. Central Pollution Control Board. 2013. *Performance Evaluation of Sewage Treatment Plants under NRCD*. Delhi: CPCB.
4. Central Pollution Control Board. 2016. *Graded Response Action Plan for Delhi & NCR*. Delhi: CPCB.
5. Central Pollution Control Board. 2016. *Final Document on Revised Classification of Industrial Sectors Under Red, Orange, Green and White Categories*. Delhi: CPCB.
6. CGWA. 2015. *Guidelines/Criteria for evaluation of proposals/requests for ground water abstraction*. New Delhi-Central Ground Water Authority, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
7. CGWB. 2017. *Categorisation of Assessment Units* [Online]. [Accessed 20 February 2019]. Available from: <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.
8. CGWB. 2017. *Dynamic Ground Water Resources of India*. Faridabad-Central Ground Water Board, Ministry of Water Resources, River Development & Ganga Rejuvenation, Government of India.
9. CPHEEO. 2013. *Manual on Sewerage and Sewage Treatment Systems – 2013*, New Delhi: Ministry of Urban Development, Government of India.
10. CPHEEO. 2016. *Manual on Municipal Solid Waste Management – 2016*. New Delhi: Ministry of Urban Development, Government of India.
11. Ministry of Micro, Small and Medium Enterprises. 2006. *The Micro, Small and Medium Enterprises Development Act, 2006. 2nd October, 2006, vide notification No. S.O. 1154(E) dated 18th July, 2006, see Gazette of India, Extraordinary Part II sec.3(ii)*, Government of India.
12. *Plastic Waste Management Rules, 2016*. (G.S.R. 320 (E) [18-03-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
13. *Solid Waste Management Rules, 2016*. (S.O. 1357(E) [08-04-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
14. WILO. 2017. *Building Service Residential Selection Booklet*. Pune- WILO Mather and Platt Pumps Pvt. Ltd.