

**UPDATED REPORT OF OVERSIGHT COMMITTEE IN COMPLIANCE OF ORDER OF
HON'BLE NATIONAL GREEN TRIBUNAL PASSED IN O.A. NO. 107/2019 IN RE:
SHAH ALAM VERSUS STATE OF UTTAR PRADESH, WITH REGARD TO VIOLATION
OF ENVIRONMENTAL NORMS BY M/S JUBILANT GROUP OF INDUSTRIES AT
GAJRAULA, DISTRICT AMROHA IN THE STATE OF UP**

1. Introduction:

Hon'ble National Green Tribunal had taken up the matter of OA No. 107/2019, on several dates i.e 25.03.2019, 03.07.2019, 01.11.2019, 05.02.2020 and 26.08.2020. The issue considered is related to the violation of environmental norms by M/s Jubilant group of Industries at Gajraula, District Amroha, U.P. Vide order dated 01.11.2019 the Hon'ble NGT considered the alleged violation of environmental norms by M/s Jubilant group of Industries at Gajraula, District Amroha, U.P and directed the statutory regulators to take action, in accordance with law against alleged environmental violations. A joint committee was constituted, comprising representatives of CPCB, UPPCB, Health Department, District Administration, U.P Jal Nigam, Horticulture Department and the Krishi Vigyan Kendra, Amroha, which conducted the inspection and submitted its report to the Hon'ble NGT on 13.09.2019. The Oversight Committee has submitted its report on 24.08.2020 to the Hon'ble NGT.

2. NGT orders:

A. In its order dated 01.11.2019 the Hon'ble Tribunal observed the following:

1. *None of the units of Jubilant group of Industries in Gajraula Industrial Complex has requisite permission for ground water extraction but such extraction is continuing in violation of law.*
2. *Captive power plant is not complying with respect to NO2 standards.*
3. *The distillery plant as per the adequacy report of the Joint Committee indicates that the RO and MEE plants are not installed as per the requirements. Further, the compost yard*

is not maintained as per the guide-lines of CPCB and also the compost quality is not ascertained before providing it to the farmers.

- 4. The effluents of chemical unit 1 and the polymer unit are collectively treated in a chemical effluent treatment plant and both the units have been consented as Zero Liquid Discharge. The treated effluents from the chemical effluent treatment plant should operate on ZLD system and this effluent may not be consented for utilization for horticulture purpose.*
- 5. The 400 KLD of sewage after treatment is utilized for horticulture/agriculture. The treated sewage is not meeting with respect to faecal coliform. After treatment, it can be better utilized for industrial use so to reduce consumption of ground water.*
- 6. We have also observed that there have been several inspections carried out in the past with regard to all the industries and the actions required to be taken are well known. UPPCB has not taken any action to ensure compliance nor imposed environment compensation so far. As regulatory body, entrusted with statutory functions, has thus failed in its duty so far.*
- 7. Though we have yet not issued notice to the units in question which is to be considered in the light of action of the statutory authorities, Shri Sanjay Upadhyay, Advocate sought to appear for the industrial units to submit that once applications are filed for permission to extract groundwater, extraction of groundwater cannot held to be illegal. We are unable to accept this submission. As held by this Tribunal on several occasions, extraction of groundwater in semi critical, critical and over exploited areas is required to be regulated in view of judgment of the Hon'ble Supreme Court in M.C Mehta Vs. Union of India (1997) 11 SCC 312. The report notes that the area in question has deteriorated from semi critical to over exploited. In such a situation, while extraction of groundwater for drinking purposes may stand on different footing, there is no absolute right for such extraction for industrial purposes. Such extraction may lead to further deterioration of limited groundwater resource depriving the inhabitants of access to drinking water. The contention is thus rejected. We refrain from dealing with the merits of further remedial action which is yet to be taken by the statutory authorities after giving opportunities to*

the units in question in accordance with law except that in the light of facts found further action needs to be taken and report furnished to this Tribunal.”

On 31.10.2019 SPCB has issued show-cause notice to the Unit and imposed an EC of Rs 6.19 Cr for various environmental violations except the illegal withdrawal of groundwater. The State PCB on 30.10.2019 issued a show-cause notice to the Unit along with levying of environmental compensation of Rs 9.84 Cr for illegal drawl of groundwater.

B. The Hon’ble NGT in its order dated 26.08.2020, considered the report of Oversight Committee as follows:

1. The Unit has so far not paid EC of Rs 6.19 Crores for violation of environmental conditions, nor has it paid EC of Rs 9.84 Crores for illegal drawl of groundwater without CGWA permission. It has also not yet obtained CGWA permission for groundwater drawl however their application along with the recommendation to renew is pending before CGWA. Unit is extracting groundwater on the ground that their application is pending. Pendency of application with CGWA cannot be treated as their consent. We have also gone through the order of SPCB dated 30.06.2020 regarding conditional restoration. It needs further clarification that the restoration will be effective from the date these conditions have been fulfilled. The fulfillment can be verified by a Joint inspection of CPCB and SPCB.
2. NGT also had directed that a joint report of CPCB and SPCB may be filed. The plea of CPCB as expressed in their letter dated 18.08.2020 declining to conduct the joint inspection of the Unit on the ground that the case is *sub judice* in High Court does not appear to be acceptable as there is no stay on inspection and no order has been passed yet by Hon’ble High Court. CPCB and SPCB may be directed to conduct a joint inspection once the Unit has complied with the conditions as mentioned in the conditional revocation order of SPCB dated 30.06.2020.

3. CGWA may be directed to consider all relevant factors and decide on the groundwater permission issue in the light of orders of Hon'ble Supreme Court and Hon'ble NGT on the subject.
4. Also, the Hon'ble Tribunal directed "the State PCB needs to take further prompt action of not allowing the activities of the unit unless assessed compensation is paid and further remedial action is taken in the light of the CPCB and the oversight Committee report".

3. Compliance report received from CGWA

The Oversight Committee-NGT had sent a set of questions to CGWA, with regard to the Jubilant Group of Industries. The details received are as follows:

- The total consumption of water in different units is as follows:

JUBILANT LIFE SCIENCES			
S. No.	NAME OF THE UNIT	MAXIMUM ANNUAL CONSUMPTION AS PER NOC IN CUBIC METER.	ANNUAL CONSUMPTION BY THE INDUSTRY IN CUBIC METER
1	DISTILLERY UNIT	1065000	457232
2	CHEMICAL UNIT I	816500	582371
3	CHEMICAL UNIT II	923000	427560
4	POWER PLANT	1668500	1175586
	TOTAL	4473000	
JUBILANT AGRI AND CONSUMER PRODUCTS LTD			
5	POLYMER UNIT	90000	22956
6	FERTILIZER UNIT	497000	No dedicated bore well till recent past. BW2 of Polymer unit was supplying it. Now, the TW has been constructed
	TOTAL	587000	
	GRAND TOTAL	5060000	

- There are total six units in Jubilant Groups of Industries and the break of water utilized from different sources is as follows:

S. No.	NAME OF THE UNIT	Surface water/ Agency m ³ /day	Ground water m ³ /day	Treated water m ³ /day	Total m ³ /day
1	DISTILLERY UNIT	840	2918	3314	7072
2	CHEMICAL UNIT I	672	2236	1255	4163
3	CHEMICAL UNIT II	2498	2600	3133	8159
4	POWER PLANT	0.0	4571	0.0	4571
5	POLYMER UNIT	0.0	250	54	304
6	FERTILIZER UNIT	0.0	1325	92	1417

- The firm is not using any water from nearby drains or getting treated water supply from the nearby municipality. The industry do have a rainwater harvesting system, the details as per the NOC conditions and as per the inspection report are as follows:

S. No.	Unit	Annual Recharge condition as per NOC in m ³	Annual Recharge compliance as per inspection in m ³
1	DISTILLERY UNIT	1000000	1099863
2	CHEMICAL UNIT I	1060000	546914
3	CHEMICAL UNIT II	460000	499539
4	POWER PLANT	834250	1040224
5	POLYMER UNIT	59000	60147
6	FERTILIZER UNIT	334610	212836

- Detailed response received from CGWB, NR, Lucknow/CGWA, New Delhi is annexed as **Annexure 1.**

4. The compliance report received from UPPCB

The compliance report received from UPPCB as on date 14.10.2020 is as follows:

S.No .	Directions by Hon'ble NGT	Concerned Department	Compliance status By UPPCB
1	Status of Water consent of SPCB	UPPCB	<ul style="list-style-type: none"> •The RO UPPCB Bijnore Inspected the Unit on 18.08.2020. The Unit was found complying with the directions dated 30.06.2020 of UPPCB related to functioning of Slop Boiler and Zero Liquid Discharge norms. •Unit has obtained Consent to Operate which is valid till 31.12.2020. •In compliance of the directions issued by Hon'ble NGT vide order dated 26.08.2019 the Joint Committee comprising of Officials of CPCB and UPPCB inspected the Unit on 16.09.2020. The report of the Joint Committee is awaited from CPCB.
2	Status of Environmental Compensation: Rs 6.19 Crores for violation of environmental conditions and Rs 9.84 Crores for illegal drawl of groundwater without CGWA permission	UPPCB	<ul style="list-style-type: none"> •Unit vide letter dated 03.09.2020 submitted representation requesting for extra time for deposition of EC of Rs. 6.19 Cr. and 9.84 Cr. •UPPCB vide letter dated 16-09-2020 issued directions with show-cause notice under section 33A of Water (Prevention and Control of Pollution) Act 1974 against the Unit to deposit the EC of Rs. 9.84 Cr. and Rs. 6.19 Cr. in the account of UPPCB within 15 days, failing which action against the Unit shall be taken in compliance of the orders of Hon'ble NGT in order dated 26.08.2019 in O.A. 107/2019. •Unit has submitted representation dated 28-09-2020 regarding review of the amount of Environmental Compensation of Rs. 6.19 Cr. assessed by the joint committee and also requested for grant of additional time of two months for payment of EC.

			<ul style="list-style-type: none"> • The Joint committee constituted by Hon'ble NGT has earlier calculated the EC of Rs. 6.19 Cr. based on the Formula-$EC=PI \times R \times N \times LF$ as included in the methodology of CPCB. • Unit has deposited Environmental Compensation of Rs. 70 Lakh under protest on 01.10.2020.
3	Spent wash was limited to 17800 MT	UPPCB	The report of the Joint Committee's inspection dated 16.09.2020 is awaited from CPCB.
4	Compliance of recommendations of Joint committee	UPPCB	<ul style="list-style-type: none"> • Unit has complied with the recommendations made by the joint committee. The compliance-related to adequacy of ZLD infrastructure, maintenance of slop boiler, storage of concentrated spentwash within the permissible limits, cleaning of sludge dumped earlier etc. has been verified during the inspection dated 18.08.2020.
5	Permission of extraction of groundwater	CGWA	<ul style="list-style-type: none"> • The area of Unit is notified as "Over Exploited". Ministry of Jal Shakti (Department of Water Resources, River Development and Ganga Rejuvenation) Central Ground Water Authority vide notification dated 24.09.2020 has issued directions to the industrial units in over exploited area as follows- <ul style="list-style-type: none"> ➤ "In Over exploited assessment units, No Objection Certificate shall not be granted for ground water abstraction to any new industry except those falling in the category of Micro, Small and Medium Enterprise (MSME). ➤ All existing industries, drawing ground water in over-exploited assessment units shall be liable to pay ground water restoration charges as applicable as per Table 5.2 B and 5.3 B of the guide-lines of CPCB Annexed as Annexure 2. • The renewal application for NOC made by the Unit is under consideration with CGWA. However, as State Ground water Authority will be responsible authority for issuing of the NoC the Unit has to apply afresh to the SGWA.

5. The Compliance report received from the M/s Jubilant Group of Industries:

In response to the questionnaire send by the Oversight Committee on 25.10.2020 the response received from M/s Jubilant Group of Industries are as follows:

- The details of water consumption of the Unit along with Unit wise bifurcation for the Period Jan'20 to Sept'20 was as follows:

Unit wise Water consumption (Jan'20 to Sept'20)

Jan'20 to Sept'20	Unit Name : Water consumption (KL)						Total (KL)
	Chemical unit-1	Chemical Unit-2	Distillery Unit	Power plant Unit	Polymer Unit	Fertilizer Unit	
Jan-20	51128	25508	77699	64501	8538	2469	229843
Feb-20	46385	14783	62598	68114	3037	2305	197222
Mar-20	51620	17816	54691	65299	5423	3632	198481
Apr-20	48846	16196	60797	72546	8438	3351	210174
May-20	55487	28725	79432	83813	4593	3947	255997
Jun-20	52301	29521	65279	59118	5402	5044	216665
Jul-20	51787	18590	59028	53852	4643	6765	194665
Aug-20	41018	23158	64510	57740	5978	4068	196472
Sep-20	33420	20042	59851	75353	5578	3000	197244
Total (KL)	431992	194339	583885	600336	51630	34581	1896763

- The total production from Jan-Sept. 2020 at each Unit is as per following table:

Unit Name	Total production Jan'20 to Sept'20	Unit of Production
Jubilant Life Sciences Limited		
Chemical Unit-1	1,13,588.99	MT
Chemical Unit-2	26,422.070	MT
Distillery Unit	21,011.73	KL

Power Plant	1,13,161	MWH
Jubilant Agro Consumer Products Limited		
Polymer Unit	8,265.67	MT
Fertilizer Unit	1,76,035.29	MT

- The water utilisation break of Industry from different sources i.e. Surface water, groundwater, and reuse of treated water is as follows:

Unit Name	Jan-Sept 2020			
	Total Water Consumption KL	Fresh Water Consumption KL	Recycling /Reuse water KL	% Recycle /Reuse water
Jan-20	329132	229843	99289	30.2%
Feb-20	309560	197222	112338	36.3%
Mar-20	318198	198481	119717	37.6%
Apr-20	319090	210174	108916	34.1%
May-20	373598	255997	117601	31.5%
Jun-20	311411	216665	94746	30.4%
Jul-20	276690	194665	82025	29.6%
Aug-20	287405	196472	90933	31.6%
Sept-20	298516	197244	101272	33.9%

The source of freshwater in the industry is **groundwater**. To extract the ground water, there are 8 bore wells in the premises of the Industry. The photographs of all the bore wells are annexed as **Annexure-3**.

- As per the compliance report submitted by the industry, they have rainwater harvesting systems constructed for groundwater recharge inside the company premises as well in village ponds adopted from the local government. The details of the RWH structures are as follows:

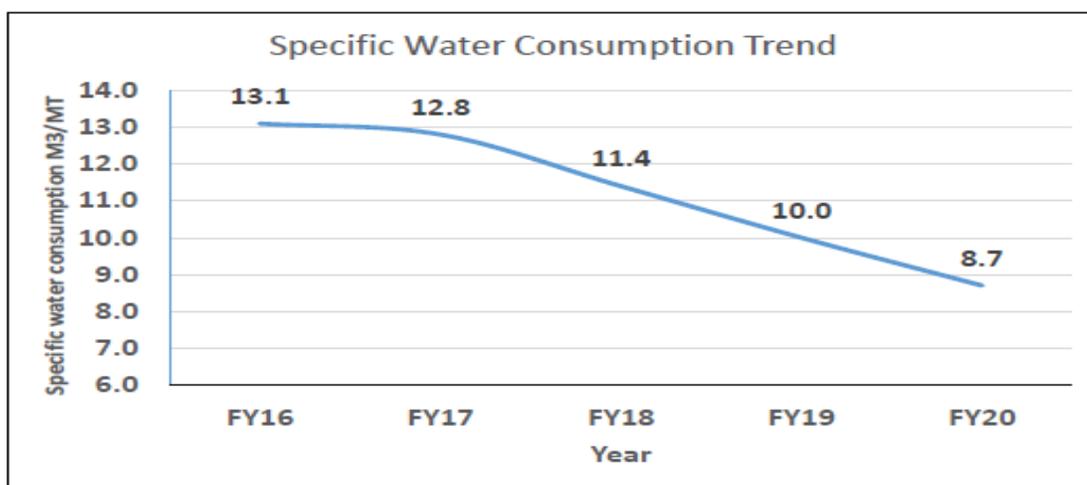
Details	Total number of RWH structures	Remarks
Within Premises	5	Photographs are Annexed as Annexure-4.
Chemical Unit-1	45	Unit wise List of RWH structure is annexed as
Chemical Unit-2	42	

Distillery Unit	56	Annexure-4.
Power Plant	52	
Polymer Unit	9	
Fertilizer Unit	50	
Total	259	

- The capacity of each rainwater harvesting structure is designed with a recharge capacity of about 500 CuM/day. The representative of the industry informed that they keep inspecting and clean the structures to remove silt and/or replace with fresh filter media if required, every year before monsoon.
- The industry has planned to reduce the overall water consumption in the Industry. The initiatives implemented for reduction in fresh ground water extraction are as follows:
 1. Collection of rainwater runoff from manufacturing plant area and reuse during monsoon season.
 2. Sourcing treated sewage from Gajraula municipality as and when STP is installed for sewage treatment, this is presently discharged to Bagad or Oxidation ponds.
 3. The specific water consumption trends are presented below:

Specific Water Consumption trend (FY16-FY20)

For the integrated Captive coal power, Molasses Distillery and Chemical manufacturing complex of M/s Jubilant Life Sciences Limited, Gajraula.



- The Water meters have been installed for every groundwater extraction well and supply to major consumption points in every Unit. The water consumption is metered and records are maintained through daily logbooks/Registers. The significant points of water meter installed are,
 1. Water Extraction at each Bore wells,
 2. Water consumption points,
 3. Water recycling/reuse,
 - a) RO permeates,
 - b) Evaporator Condensate
 - c) Treated Sewage Water

Periodic calibration of each meter is carried out by instrumentation department through a Calibration bench setup in-house with tractability from National Physical Laboratory.

- Environment Impact Assessment studies were conducted for the industry through MoEF&CC accredited consultants in 2013 by M/s EQMS Consultants, New Delhi for seeking Environment Clearance.
- Groundwater extraction impact assessment study was carried out by M/s NEER, Ghaziabad in June'2020, for all the units for assessing the impact of Ground Water Extraction and submitted to CGWA in June 2020.
- The industry presented that they have been implementing the Hon'ble NGT orders in OA No. 107 of 2019. The Joint Inspection team has duly verified the same in Sept 2020 Re-inspection.
- All units are operating in compliance to the standards laid down by different applicable statutes and the directions given by the Hon'ble NGT.
- A joint inspection was made by the team of CPCB and UPPCB during 17-19 Aug 2019. The pointwise compliance to the Joint Inspection Team (JIT) recommendations along with Photographs showing implementation of the actions recommended by the JIT is annexed as **Annexure-1.1**.

- Point-wise compliance report along with the responses to the questionnaire sent from Oversight Committee dated 25.10.2020 is annexed as **Annexure-4**. A brief is as follows:
 - i. The officers of the industry mentioned that they had complied with all the directions of Hon'ble NGT. As per the information provided the total consumption of water by the unit during the month of Jan to Sep 2020 was 1896763 Kl. The industry is using groundwater as source of fresh water as well as they are treating their waste water and recycling their water to reuse it. However, the unit is not using any treated water from the nearby drains or sourcing treated water from any municipality. The industry has adopted and constructed 259 rainwater harvesting structures (RWHS) within the premises as well as in the nearby villages. The capacity of each RWHS is 500 CuM/day. The industry has also taken initiatives to reduce their fresh groundwater extraction by collecting rainfall runoff from manufacturing plants area and reuse it during monsoon season. Also in future they plan to source treated sewage water from Gajraula municipality as and when STP is installed for sewage treatment. In the industry at major points of water extraction and consumption water meters have been installed to measure their consumption. The industry had also carried an EIA study in 2013 through MoEF&CC accredited consultant i.e. M/s EQMS Consultants, New Delhi. The industry has implemented all the observations made by Hon'ble NGT which was inspected in the joint inspection of UPPCB and CPCB on 16.09.2020.
- The Joint Committee of CPCB and SPCB had done a detailed technical inspection and submitted its report dated 13.09.2019. Various violations had been mentioned in detail in Hon'ble NGT's order dated 05.02.2020. The officers of M/s Jubilant Group of Industries mentioned that they had complied with all 52 points raised by the Joint Committee and the compliance is complete. While listening to their compliance, the Committee directed them to file written compliance of these pointed violations separately. The point-wise compliance of industry with regard to the violations mentioned in the order of Hon'ble NGT. The distillery unit was kept closed for over 90

days and was operational under capacity for the period of July and August to handle the rainwater/leachates. The industry concentrated the rainwater leachates in MEE and consumed it. Also, they are adhering to the guidelines for storing spent wash. They are adhering to the SOP for maintaining <50% moisture in windrows and storing the lagoon sludge in covered bio composting shed. They are also complying with the guidelines for Distiller, stipulating minimum 60% vol. reduction and >30% solids. The Air pollution Control Systems and OCEMS have been installed and connected to the CPCB and UPPCB. The industry is maintaining their records and submitting a quarterly report to the UPPCB on regular basis. They are obtaining 8-10 Cycle of Concentration (COC) based on the process requirements. The industry is using the treated sewage for campus green belt management and had stopped the use of treated effluents for horticulture. The reply of M/s Jubilant Group of Industries point-wise on the violations mentioned by the Hon'ble NGT is enclosed herewith as Annexure-2. In another representation they have mentioned that they have constructed >200 village ponds over 15000 Km². The UPPCB had issued a Show cause notice vide letter dated 30/10/2019 with a direction to deposit Rs. 30 Lakhs as EC. The industry had paid the said amount on 30/12/2019. Further in compliance to the EC imposed of Rs 6.19 Cr, the industry had paid Rs. 70 Lakh on 28/09/2020.

- M/s Jubilant Group of Industries made a representation seeking personal hearing against EC imposed on them on the ground that they were complying with all the conditions. However it was made clear to them that Oversight Committee is not the forum for hearing and they have been called to ensure compliance of NGT Order. The M/s Jubilant Group of Industries had presented the status of compliance to this committee with regard to the orders of the Hon'ble NGT. The details are as follows:
 - i. The industry had made representations to the UPPCB and CPCB based upon the observations and the inspection of the Joint Inspection Team conducted on 16.09.2020. The report of joint inspection is still awaited.
 - ii. The Industry stated that the EC calculated by CPCB which was submitted to the Hon'ble NGT during the hearing Dt. 05.02.2020 was Rs, 6.19 Crore. As per

Industry, the basis of EC calculation as accessed from the reports submitted to the Hon'ble NGT deviates from the guidelines of the CPCB for assessment of EC and is therefore over estimated and incorrect.

- The Ground Water Aquifer Impact Assessment Report and the Water Audit of the M/s Jubilant Group of Industries are annexed as Annexure-5 and Annexure-6.
- The industry had also submitted that the industry is maintaining the statute as the CPCB guide-lines for ZLD of distillery Dt. 07.12.2015 that stipulates volume reduction by 60% and minimum Solids as 30%. A detailed report is annexed as Annexure- 7.
- The MoEF&CCs vide its notification SO. 3305 (E) Dt. 07.12.2015 had given the guidelines with regard to CPP. The MoEFCC guidelines are annexed as Annexure8. Further, the MoEFCC vide its notification GSR 662 (E) Dt. 19.10.2020 has amended the notification Dt. 07.12.2015 with the norms for CPP during 01.01.2004 to 31.12.2016 as 450 mg/Nm³ against 300 mg/Nm³. The amended guidelines are annexed as Annexure-9.

6. Observations by the Oversight Committee

The Oversight Committee observed through the status of the compliance in the past three months i.e July, August and September on the directions. The point-wise state of progress is as follows:

1. **Status of Water consent of SPCB:** The Unit has consent to operate valid till 31.12.2020. The officials of CPCB and UPPCB did the joint inspection of the Unit on 16.09.2020. The detailed inspection report is still awaited.
2. **Unit was functioning without paying the EC imposed:** Hon'ble NGT vide its order dated 26.08.2020 had directed that the State Pollution Control Board to take further prompt action of not allowing the activities of the Unit unless assessed compensation is paid and further remedial action is taken in the light of the Central Pollution Control Board and the Oversight Committee report. It was brought to the notice of the Oversight Committee that State Pollution Control Board had conditionally revoked the closure order dated 30.06.2020 despite the Unit not depositing the Environmental

Compensation of Rs 6.19 crore and Rs 9.84 crore respectively. The State Pollution Control Board during the meeting of Oversight Committee dated 04.11.2020 was asked to inform the Oversight Committee, in writing, as to how despite the orders of the Hon'ble NGT for not allowing the activities of the Unit until payment of assessed compensation, the Unit had been allowed to function.

3. **Status of Environmental Compensation:** The Unit has submitted its representations on 17.08.2020 and further on 03.09.2020 praying thereby for extra time to deposit EC of Rs. 6.19 Cr. and 9.84 Cr.
4. **The UPPCB had issued show cause notices to the Unit twice i.e on 01.09.2020 and 16.09.2020 under** section 33A of Water (Prevention and Control of Pollution) Act 1974 against the Unit to deposit the EC of Rs. 9.84 Cr. and Rs. 6.19 Cr. in the account of UPPCB within 15 days, failing which action against the Unit shall be taken in compliance of the orders of Hon'ble NGT in order dated 26-08-2019 in O.A. 107/2019.
5. **Ground water abstraction charge:** As per the order of Hon'ble NGT dated 20.07.2020 in OA No. 176/2015, All existing industries, drawing ground water in Over exploited assessment units shall be liable to pay ground water restoration charges as applicable as per Table 5.2 B and 5.3 B. Has UPPCB assessed the restoration charges to be levied on M/s Jubilant group of Industries. Also, does the same exercise has been done with respect to all the industries operational in over exploited zones.
6. **Renewal application for NOC:** The Unit is functional and still withdrawing ground water. The application is still pending for consideration. Now, as SGWB will be issuing the NOC therefore industry has to apply afresh application with all the necessary documents.
7. **Report of Joint inspection:** Hon'ble NGT had also directed that the Central Pollution Control Board and the State Pollution Control Board may conduct the joint inspection of the Unit and file a compliance report. The joint inspection was conducted on 16.09.2020 and it is informed that the report is under preparation.
8. **Modification of conditional revocation order dated 30.06.2020:** Hon'ble NGT had directed the State Pollution Control Board to modify its conditional revocation order dated 30.06.2020 to the effect that the restoration will be effective from the date the

conditions have been fulfilled and fulfillment of these conditions would be verified by a joint inspection of Central Pollution Control Board and State Pollution Control Board. In the meeting held on 02.11.2020 the committee observed that the State Pollution Control Board had not yet modified its order dated 30.06.2020.

9. **Guide-lines for renewal of NOC:** The CGWA had come out with guide-lines dated 24.09.2020 and the matter of renewal of content was being considered under these guide-lines. These guide-lines would be applicable only to the case where State Government has not formed their own Ground Water Authority. In the meeting held under the Principal Secretary, Ground Water and it has been decided in that meeting that after 10th of October, 2020, all the cases of NOC would be dealt with by the State Ground Water Authority. Also, now all the units have to apply afresh to the State Ground Water Board along with all the documents required to issue NOC.
10. **Deeming provision under their guide-lines:** There is a deeming provision under their guide-lines whereby the decision of NoC has to be taken within thirty (30) days of receipt of complete application failing which the renewal shall be deemed to have been given.
11. **Issue of Ground Water:** A very important issue coming in this case is the issue of Groundwater extraction by the Unit without permission of CGWA after the NOC had lapsed, and continuation till today without permission on the plea that their application is pending with CGWA. However, the Unit has obtained Consent to Operate which is valid till 31.12.2020. This has to be looked at in the light of NGT's orders restricting groundwater extraction in OCS areas. There are a number of such units all over India and many fall in OCS blocks. NGT in its order dated 20.07.2020 in O.A. No. 176/2015 has directed that there must be no general permission for withdrawal of groundwater, particularly to any commercial entity, without environmental impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water

and not in perpetuity and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost. In the absence of a clear cut policy based on detailed study and reasoned logic as directed above, there will be confusion in the field more so for running units. CGWA has to come out with a clear policy in the light of NGT's orders on permissions for use of groundwater.

Moreover, not a penny has been paid for the extraction of groundwater by the Unit to CGWA. In the new guide-lines CGWA has come up with a guide-line for charging water tariffs for underground water (**Annexure 2**). CPCB has conducted a comprehensive exercise on 30.05.2019 and proposed groundwater charges for various uses and for different consumer categories which have been accepted by NGT in its order dated 21.5.2020 in **O.A. No. 593/2017** in re: *Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors.* based upon the above-mentioned formulas the EC should be charged for the previous period for which industry was functional without NOC without paying a penny towards the groundwater withdrawal. The Hon'ble NGT in its order dated 20.07.2020 in O.A. No. 176/2015 had also directed the following:

1. "MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure **sustainable ground water management** in terms of the Hon'ble Supreme Court mandate by which CGWA was created".
2. Let CGWA and MoJS should have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas. **Regard must be had to water availability and safe levels to which its drawal can be allowed, especially for commercial purposes, based on available and assessed data in each "Assessment unit"**. Procedures for assessment of individual applications and institutional mechanism may be clearly laid down.
3. Undertake an impact study in light of projected data for the next 50 years (in phased manner with action plan decade-wise).

4. **All OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Overexploited blocks. The Water Management Plans, data on water availability or scarcity and policy of CGWA must be uploaded on its website for transparency and public involvement. Such exercise may be done expeditiously, preferably within next three months.**

7. Recommendations:

In view of the above, the Oversight Committee would give its recommendations in two categories:-

- (A) Recommendations in the present case; and
- (B) Recommendations on the recent guidelines of CGWA dated 24.09.2020

(A) Recommendations in the present case:

Recommendations of the Oversight Committee are being made in the context of following issues:

1. Compliance of NGT orders
2. Fulfillment of all conditions of zero pollution discharge by the industry
3. Ground water extraction of the Industry as per NGT directions and CGWA/SGWA guidelines
4. Payment of Environmental Compensation by the Industry
5. General recommendations.

1. Compliance of NGT orders:

NGT vide its order dated 26.08.2020 had directed that the State Pollution Control Board should not allow activities of the Unit unless assessed compensation is paid and

further remedial action is taken. The State Pollution Control Board had earlier conditionally revoked the closure order through its order dated 30.06.2020 despite the unit not depositing the EC of Rs. 6.19 crore and Rs. 9.84 crore respectively. The Oversight Committee had asked the State Pollution Control Board to modify its conditional revocation order dated 30.06.2020 to the effect that restoration will be effective from the date when the conditions have been fulfilled and fulfillment of these conditions is verified by a Joint Inspection of CPCB and UPPCB. However, neither the conditional revocation order has been modified nor any explanation has been given in this regard. UPPCB needs to ensure compliance of NGT's order and explain reasons for non-compliance.

2. Fulfillment of all conditions of zero pollution discharge by the industry:

The Joint Inspection report dated 13.09.2019 had pinpointed detailed technical irregularities in the operation of the industry. These irregularities had been mentioned in detail in NGT order dated 05.02.2020. Hon'ble NGT had directed the CPCB and State Pollution Control Board to conduct a joint inspection of the unit and file a compliance report. The Oversight Committee had called the representatives of the industry as well as of CPCB, UPPCB, CGWA and SGWA on 02.11.2020 for discussion on the compliance. The representatives of the industry have mentioned that they have complied with all the 52 points raised by the Joint Committee and their compliance is complete. It was mentioned by CPCB and UPPCB that they have conducted a joint inspection on 16.09.2020 and their inspection report is under preparation. The Oversight Committee had asked for a copy of the inspection report so that it can be examined and recommendations on the compliance regarding fulfillment of zero pollution discharge can be sent to NGT. The Oversight Committee would send its recommendations on this point after examining the report which so far has not been sent by the CPCB to it.

3. Ground water extraction of the Industry as per NGT directions and CGWA/SGWA guidelines:

(a) Status: After keeping the renewal application with it for about one year, the CGWA has mentioned in the meeting on 02.11.2020 with Oversight Committee that though it has finalised its guidelines on 24.09.2020, yet they are not applicable to the State of UP, which has enacted its own Act and formed its own Ground Water Authority. The Director, State Ground Water Authority mentioned in the meeting that The UP Ground Water Act 2019 has been enacted, their Rules have been notified and their State Ground Water Authority has been set up. He mentioned that it has been decided to implement these Rules from October 2020 and all NOCs will be given by them online through a Portal which has been set up and is shortly going to be operational. He mentioned that the unit will have to apply afresh to them with all the documents for renewal. However the Oversight Committee wanted SGWA to clarify on the point that if application can only be accepted online on the portal and the portal is not working presently, how would the applicant apply for NOC.

(b) Criteria: The Director State Ground Water Authority mentioned in the meeting that there is a deeming provision under the Rules (Rule 15(2) whereby NoC will be given within 30 days of receipt of the application, failing which deemed renewal would become operative. It was further mentioned by the SGWA that the renewal of permission, as per their guidelines, shall be for five years. The Oversight Committee is concerned that the Water Levels of the area have been continuously falling and the area has come in the category of Overdrawn Area. No water mapping of the area has been done; no water management plan has been prepared; no piezometric study for depletion of ground water or impact assessment study has been done either by CGWA or SGWA nor have any timelines been set by CGWA/SGWA. They have inadequate manpower in

the field. Even the responsibility of departmental monitoring has been abdicated in favour of either a system of self certification or third party assessment. Whatever studies have been done are by the industry without any Departmental study.. In such a situation, such cursory provisions could have disastrous consequences for the environment. The State Act of 2019 and the State Rules (notification of Feb25, 2020) have not been examined in the light of NGT order dated 20.07.2020 in OA 176/2015. 30 days deemed criteria is too short a time to do any meaningful water study. Giving a licence to the industry for water abstraction for 5 years specially in Overdrawn Blocks without a system of comprehensive checks and balances appears to be too liberal approach that may lead to serious consequences as far as water depletion is concerned. The Oversight Committee has asked for a copy of the State guidelines so that they can be examined in the light of NGT orders. The Committee feels that there cannot be any general permission, particularly to commercial entities without Environment Impact Assessment studies covering carrying capacity aspects by some technical experts. The permission has to be as per water management plans based on mapping of individual units in over-exploited blocks. It needs to be given for a specified quantity of water and has to be annually reviewed. The review should be based on readings of digital flow meters which cannot be accessed by the proponent. These digital flow meters should be mandatorily calibrated annually by regulator at proponent's cost. There has to be a provision for annual audit by independent and expert evaluator. This annual audit should be published online and uploaded on the website. Due changes in the guidelines as per above observations need be incorporated before any permission can be given.

(c) Recommendation in case of existing running units: The latest CGWA guidelines provide for deemed extension of renewal till the actual date of renewal in case CGWA is unable to process the application in time. This is an open ended condition and puts premium on inaction with no responsibility being fixed on a lethargic regulator. This is a running unit and already for the past more than one year, the application is

pending with the CGWA with no groundwork done so far by the regulator in terms of any mapping studies. Temporary permission of specified quantity may be given at best for a limited period say six months with the conditions that within this period, the decision on NOC will be taken by CGWA/SGWA based on water mapping studies and water management plans which they will get prepared. Any further extension should be accompanied by fixing responsibility on the regulator for the delay. On the part of the unit:

- (1) Unit will have to ensure that there is no depletion of ground water;
- (2) Piezometers will be installed on the site of the industry, they will be calibrated and sealed by SGWA, piezometric readings will be recorded daily and they will be regularly monitored online by SGWA/ CGWA. The readings will be recorded by SGWA authorised personnel and not by industry personnel.
- (3) The Unit will submit Water Audit Report within next 3 Months inter alia certifying the minimum water requirements of the industry.
- (4) The Unit will submit EIA by an MOEF accredited agency/NEERI/IIT in the next three months.

(d) The NGT in its order dated 20.07.2020 in OA No. 176/2015 had mentioned that CGWA and MoJS should have institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas. Regard must be had to water availability and safe levels to which its drawal can be allowed, especially for commercial purposes, based on available and assessed data. All OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units based on mapping data starting with over-exploited blocks. The State Ground Water Authority would submit its guidelines to the NGT with a copy to Oversight Committee so that they can be

examined in the light of NGT orders and recommendations to NGT may be given by the Oversight Committee.

(e) The State Ground Water Act and the State Rules, the procedure , the date from which these rules are effective and the date from which the State Portal will start accepting NOC applications should be placed in public domain so that the public should know whom to approach regarding NOC, the documents required alongwith the application, the time-lines within which the NOC would be given and the process for monitoring the implementation of the rules.

4. Payment of Environmental Compensation by the Industry:

The unit has so far paid Rs. 30 lacs as EC on 30.10.2019 and Rs. 70 lacs on 28.09.2020 against total EC imposed of Rs. 6.19 crore and Rs. 9.84 crore respectively. It has neither complied with the assessment order nor obtained any stay order. UPPCB needs to explain the action it has taken in view of above.

5. General recommendations:

1. All Units abstracting ground water should be directed to get water audit conducted to assess the actual water requirement of the plant as well as for assessment of the requirement which could be met from other sources like surface water, reuse of treated water or water harvesting.
2. All such industries should discuss this issue with municipal bodies and find out the ways to use treated water for industrial purposes. A holistic plan which could lead to minimal wastage of water should be prepared and made operational.
3. The industries should be directed to install tertiary water treatment facilities to make the water suitable for drinking and consumption.
4. There should be some mechanism for providing some incentives to those industries which are using innovations/best practices while following all the environmental rules to prevent any kind of air, water and soil pollution during the production. Regarding this certification system, consumer awareness campaigns should also be launched.

5. Also, the Industries should harvest the rainwater and use it, rather than extracting groundwater. Thus they will reduce their dependency of groundwater resources. All the industrial units and industrial parks should be directed to construct their rain water reserves and run on the condition of zero ground water extraction unit.
6. All the small and large scale industries should be directed to develop a green belt in nearby areas equal to three times of their own land area and also to adopt wetlands of the nearby areas and create new ponds and to maintain the same as a component of their Corporate Social Responsibility (CSR) .

(B) Recommendations on the CGWA guidelines dated 24.09.2020:

The Committee discussed the recent Guidelines dated 24.09.2020 issued by the CGWA regarding grant of permission for ground water extraction to various industries. The guidelines mentioned that as far as renewal of NOC in over-exploited blocks is concerned, the renewal for all users would be for two years subject to inability of the local government water supply agency to supply water, use of water efficient technologies , annual water audit by the project proponent, monitoring of water level using piezometers by project proponent, compliance of rain water harvesting by the project proponent, payment of ground water extraction charges and water restoration charges as prescribed by him and submission of Impact Assessment Report and Socio-economic Impact Report by him. In case CGWA is unable to process the application within 90 days, there is a provision of deemed renewal which will be effective till the date of renewal.

The Oversight Committee examined these guidelines in the light of Hon'ble NGT order dated 20.07.2020 in **OA No. 176/2015** in re: *Shailesh Singh vs Hotel Holiday Regency, Moradabad and others*. Hon'ble NGT had directed that there will be no general permission for ground water extraction, particularly to commercial entities without Environment Impact Assessment covering carrying capacity aspects by expert committee. The permission would be granted as per Water Management Plan, based on mapping of individual units. It will be for specified time and specified quantity. Digital flow-meters would be used, which cannot be

accessed by the proponent. There will be mandatory annual calibration by the authorized agency at proponent's costs. There will be annual audit by independent and expert evaluators which will be published online. The audit report and record of ground water level would be uploaded on website. The complete exercise would be done within three months.

The Committee noted with satisfaction that the existing system of calculating the ground water recharge based on the notional Rule of Thumb (having water recharge pits with twice the volume of extracted water by industry) has been replaced by assessment of water recharge based on actual measurements of ground water levels by piezometers. However, monitoring of water level has been left to the project proponent who would record the observations of piezometers and submit to CGWA through a portal. This is in contradiction to the NGT directions which mentioned that digital flow-meters should be used for measurement, which cannot be accessed by the project proponent and which has to be mandatorily calibrated annually by the authorized agency. The Committee noted that while the CGWA guidelines mentioned about the water audit by individual units, there is no provision of water management plan of the area or mapping of the area which could decide the availability of water and determining the carrying capacity of that particular area. The Oversight Committee was concerned whether the function of regulation would be done by the Regulator itself based on technical inputs from experts or it would abdicate its role in favour of a system of self-assessment or at best Third Party Certification. The choice of methodology of regulation would make or mar the efficacy of regulation. The Oversight Committee felt that if strict monitoring of entire arrangement is not done by the regulating agency, there are full chances that this exercise will be only on paper and the users will be fudging the data and tampering with the measurement tools. Even the concept of annual audit by independent expert evaluators has not been provided in the central guidelines. The Oversight Committee felt that the CGWA should be asked to incorporate the directions of Hon'ble NGT fully in its right spirit in their existing guidelines in the light of the NGT order dated 20.07.2020. The committee examined these guidelines because the committee was informed by Director SGWA that the State guidelines are almost similar. It was also informed that in the State of U P the renewal of NOC

shall be issued for five years. The Committee directed Director State Groundwater Authority to send a copy of their guidelines so that they can be examined in the light of NGT directions.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the Hon'ble Tribunal with a copy to the Chief Secretary, Government of UP for necessary action. The report be uploaded on the website of the committee.

18-11-2020

18-11-2020

X Anup Chandra Pandey

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

Nov 18, 2020

Annexures: As above

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