

**NEXT DATE**  
**11/01/2024**

# 1380

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE

**O.A. NO. 102/2022 (WZ)**

BETWEEN

**Sagar Kantilal Devre** ..... **Applicant**

VERSUS

State of Maharashtra & Ors ..... Respondent

**REJOINDER TO REPLY FILED BY CPCB  
BY RESPONDENT NOS. 6 TO 12 AND 14**

## INDEX

Sr.	Particulars	Page
1	Written Submissions	1381
2	<b>Annexure A</b> CPCB Industry Categorization of July 2023	1384
3	<b>Annexure B</b> NGT Principal Bench Order dated 19/12/2023	1432
4	<b>Annexure C</b> Hon'ble High Court of Bombay Judgement Baramati Agro Pvt Ltd dated 19/10/2023	1437
5	<b>Annexure D</b> MPCB Enforcement Policy dated 01/03/2016	<b>1468- 1482</b>

Date : 09-01-2024

Place : Pune

Filed by:

A-202 Chandravijay, Phule Road, Opp. Bansuri Hotel,  
Mulund East, Mumbai - 400081, Maharashtra, India.  
**7400116222 mahabal60@gmail.com**



**Raghunath Mahabal रघुनाथ भालचंद्र महाबळ**  
BE (Mechanical), ME (Industrial Management) VJTI Mumbai  
Chartered Engineer, FIE, Arbitrator-IIE, LLM **ADVOCATE**

## MOST RESPECTFULLY SUBMITTED

1. This rejoinder is being collectively filed by Respondents Nos. 6 to 12 and 14 (hereafter collectively referred to as **Respondents**) to bring the additional information and development on record.

2. CPCB has not technically rebutted the marking system assailed by the Respondents in categorization of industries. If the marking and classification is done properly, by setting aside the Table-4 on Page 14, the Category of the RMC Plants will change from Green to White. The penalty would also reduce drastically. **Since the method of normalization of marks itself is technically and scientifically incorrect, now Hon'ble Tribunal will have to adjudicate on this issue on merit and record its findings.** This issue can't be left simply as it is without adjudication OR taken up in Hon'ble Supreme Court as the appeal u/s24 of the NGT Act 2010 would be heard there only on law points as per CPC s.100.

3. The only pollution from the RMC Plants is due to Air Pollution as admitted in the CPCB Industry Classification document. The Paryavaran Surksha formula was developed for the violations for not providing ETP/STP for effluent in several MLD quantity. That too was to be applied in categorically

deserving cases, as stipulated in the CPCB Guideline itself. As such, this formula can't be applied to Air Pollution (Fugitive form) form RMC plants.

**4.** MPCB has its own Gazetted Enforcement Policy which has been submitted in the NGT in the Vinesh Kalwal matter. MPCB itself has laid down the procedure to deal with the cases of violation and non-compliances, as per Point No. 2 and 3 (definitions of specific violations, Categorization of violations) and implementation of Polluter Pays Principle as laid down in it.

**5.** CPCB has already published DRAFT Categorization of industries in July 2023. Where there are only fugitive emissions, then the industry will fall under White Category.

**6.** The HC in Baramati Agro Ltd matter has directed MPCB to follow the principle of proportionality and steps in taking action. This judgement and the ratio is binding on this Hon'ble Tribunal.

**7.** Principal Bench in NGT OA 538/2023 (PB) has directed CPCB to use the EPC only for the purpose for which it was collected. Please see Para No. 8, 9 and 11 of the Order in this regard.

**8.** In light of the above, **the matter can be**

**disposed of by adjudicating the issue of the industry as White Category** and with the directions to MPCB to;

- A. Implement their own Enforcement Policy in identifying
- B. Recalculate the EPC / EDC as per revised White category
- C. Identify the damage to environment and cost of restoration and as to how it will be utilized in line with the Order of the NGT in OA 538/2023 directing CPCB to use it for the specific purpose of remediation.
- D. Follow principle as laid down in Baramati Agro Ltd. High Court Order.



Place: **Pune**  
Date: **9 January, 2024**

**Advocate for Respondent**  
**Nos. 6 to 12 and 14**

## Classification of Industrial Sectors into Red, Orange, Green and White Categories: A Tool for Progressive Environmental Management

The Central Pollution Control Board, in the year 2016, developed methodology for classifying industrial sectors and other polluting activities as Red, Orange, Green and White, primarily to facilitate uniformity and objectivity in streamlining enforcement mechanism.

In order to encourage the shift towards less polluting industries and cleaner technology options, resulting in improvement in their environmental performance, methodology for classification has been revised, by addressing the issues such as scoring methodology as well as the formula for computation of pollution index, weightages assigned to the scale of operations, consideration to cleaner technologies/fuels etc.

**Comments/Suggestions on this draft report may be sent to the Divisional Head, IPC-VI, CPCB, Delhi, preferably through email- [ipc6.cpcb@gov.in](mailto:ipc6.cpcb@gov.in), with the subject title: “Comments on draft report on classification”, latest by 31.08.2023**



**Central Pollution Control Board  
“Parivesh Bhawan”, East Arjun Nagar  
Delhi-110032**

**(July, 2023)**

T.C

**Table of content**

1. Introduction.....	1
2. Need and scope for revision of methodology .....	1
3. Modified methodology for classification of industrial sectors .....	3
3.1. Scoring criteria for water polluting industries .....	3
3.2. Scoring criteria for air polluting industries .....	3
3.3. Scoring criteria for hazardous waste generating industries .....	3
4. Computation of pollution index and criteria for deciding category of industrial sector.....	4
5. Sub-classification based on the measures for better environmental management.....	4
6. Type of sectors based on their activities .....	5
7. Usage of classification of industrial sectors.....	7
8. Implementation of methodology for classification of industrial sectors .....	6
Annexure-I: Scoring criteria for water polluting industries.....	8
Annexure-II: Scoring criteria for air polluting industries .....	9
Annexure-III: Scoring criteria for hazardous waste generating industries .....	10
Annexure-IV: List of industrial sectors classified by CPCB .....	11

## **Classification of industrial sectors into red, orange, green and white categories- A tool for progressive environmental management**

### **1. Introduction**

The notifications issued by the Ministry of Environment and Forest during 1989 for Doon Valley, Uttarakhand introduced the concept of classification of industries as red, orange and green. The purpose of this classification was to facilitate decisions related to location of these industries. Subsequently, the application of this concept was extended to other parts of the country not only for the purpose of location of industries, but also for the purpose of consent management and formulation of norms related to surveillance/inspection of industries. As the State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) were following different categorization of industries, in order to maintain the uniformity across the country, during 2012, CPCB issued a list of 244 industrial sectors, classified under red (85), orange (73) and green (86) categories.

In order to harmonize the criteria for categorization, during the year 2016, CPCB developed the scoring methodology to classify the industries based on the Pollution Index (PI) which was a function of water pollution, air pollution, hazardous waste generation, fuel consumption and amount of waste water generation. Based on this methodology, CPCB classified 254 industrial sectors under red (61), orange (90), green (65) and white (38) categories, and directed SPCBs/PCCs to adopt the same. This time CPCB also introduced white category as a new category, which included “practically non-polluting industries”. SPCBs/PCCs were also empowered to categorize any new/left-out sector at their own level, following the methodology prescribed by CPCB.

The concept of categorization is based on the “Precautionary Principle”, which focuses on potential of industries to pollute the environment. The purpose of categorization is to ensure that the industry is established in a manner consistent with the environmental objectives and to prompt industrial sectors to adopt cleaner technologies, ultimately resulting in generation of minimum pollutants.

### **2. Need and scope for revision of methodology**

The classification methodology of 2016 had scope of improvement in the following areas:

**i. Assessment of Pollution Index:**

The category of any industrial sector depends on the Pollution Index (PI), which comprises of scores of three pollutant groups i.e. air pollution, water pollution and hazardous waste. As per the classification methodology of 2016, in case of absence of any pollutant group, pollution index was normalized to 100. In some cases, the normalization led to inconsistency while comparing pollution potential among sectors, as it disproportionately increased the value of pollution index. It was also observed that in some sectors normalization involved subjectivity based on perception.

**ii. Size of operations of industrial activities:**

The classification methodology of 2016 considered scale of operations with the help of variables namely, quantity of water discharge and fuel consumption. However, it could not give appropriate weightage to micro, small, medium and large industries by capturing large variations in size of operations.

**iii. Consideration to segregated industrial activities:**

Although there were differences in pollution potential of integrated and segregated unit operations in a particular sector, the classification methodology (2016) did not consider their individual pollution indices. For example, standalone cement grinding units will have less pollution potential than integrated cement plants, but both were classified under red category.

**iv. Consideration of cleaner fuels:**

In industrial operations requiring fuels, the amount of emissions is governed by many factors such as the type of fuel and its calorific value, combustion efficiency, emission factors, etc. Use of biomass and cleaner gaseous fuels such as Piped Natural Gas (PNG), Liquefied Petroleum Gas (LPG), Compressed Natural Gas (CNG), bio-CNG etc. have increased significantly in recent years. Variation in pollution potential due to type of fuel used was not given adequate weightage in classification methodology of 2016.

**v. Motivation to industries for progressive environmental management:**

In the previous classification regime, there was no effective provision for change in category of industries based on the variation in pollution potential of a sector, even if the industries adopt

cleaner technologies or switch over to cleaner raw material/cleaner fuel etc., resulting into reduction in pollution index.

### **3. Modified methodology for classification of industrial sectors**

Considering the above issues, the classification methodology was modified on the basis of the presence of three pollutant groups, namely, water pollution, air pollution and hazardous waste generation, which have been given scores out of 100, each. These scores are used for computation of pollution index for deciding the category of industrial sector. The details of scoring criteria for water polluting, air polluting and hazardous waste generating industries are as follows:

#### **3.1. Scoring criteria for water polluting industries**

The water pollution score is the addition of three sub-scores which are based on oxygen demand of wastewater (W1), presence of type of pollutants (W2) and quantum of wastewater (W3). The weightages of W1, W2 and W3 in the water pollution score are 35%, 30% and 35%, respectively.

The higher scores are given to the sectors generating effluent of high BOD/COD, heavy metals/toxic compounds and large volume of wastewater as it has the high potential for creating the damage to the environment. The scoring criteria for water polluting industries is given at **Annexure-I**.

#### **3.2. Scoring criteria for air polluting industries**

The air pollution score is the addition of three sub-scores which are based on the presence of type of pollutants in emissions (A1), fugitive emissions & odour nuisance (A2), and, fuel type & quantity (A3). The weightages of A1, A2 and A3 in air pollution score are 35%, 30% and 35%, respectively.

The higher scores are given to the sectors generating emissions with hazardous air pollutants, process-based fugitive emissions and polluting fuels, as it has the high potential for creating the damage to the environment. The scoring criteria for air polluting industries is given at **Annexure-II**.

#### **3.3. Scoring criteria for hazardous waste generating industries**

For industries generating hazardous waste, as per the Hazardous and Other Wastes (Management & Trans-boundary Movement) Rules, 2016, the score for hazardous waste

generation comprises of two sub-scores H1 and H2, which are based on desirable/required waste management/disposal method and amount of hazardous waste, respectively. Both the sub-scores are given weightages 50% each. The scoring criteria for hazardous waste generating industries is given at **Annexure-III**.

#### 4. Computation of pollution index and criteria for deciding category of industrial sector

In the modified methodology of classification (2023), all three pollution scores due to water pollution, air pollution and hazardous waste generation are taken into account while computing pollution index. The formula for computing pollution index is as follows:

$$PI = i_{max} + (100 - i_{max}) \left( \frac{i_2 + i_3}{200} \right)$$

Where,

- $i_{max}$ , is the maximum score among water (W), air (A), and Hazardous (H) pollution scores.
- $i_2$  and  $i_3$  are the remaining pollution scores.

The category of the industrial sector will be decided based on the pollution index ranges given at **Table-4**.

**Table-4: Ranges of pollution index for different categories**

Pollution Index (PI)	Category of industrial sector
$PI \geq 80$	Red
$55 \leq PI < 80$	Orange
$25 \leq PI < 55$	Green
$PI < 25$	White

Modified methodology also considers the variation in pollution potential due to various type of activities and scale of operations in a particular sector.

#### 5. Sub-classification based on the measures for better environmental management

The modified methodology of classification (2023) includes the provision for modification/change in category of any sector based on the measures taken by that industry, such as cleaner production technology, cleaner raw material, cleaner fuel etc., for better environmental management, resulting into overall reduction of pollution index.

This provision will guide and motivate industries to reduce their pollution load. For example, if coffee seeds processing industries use eco-pulping technology, which generates less water pollution, the pollution index of the said sector reduces and category changes from orange to green.

Similarly, use of cleaner/gaseous fuel also results in reduction of overall pollution potential. For example, sectors like (i) Chlor-alkali units and (ii) Power generation by generator sets (more than 5 MVA), using cleaner/gaseous fuels are classified as orange, as compared to the units which are using other fuels such as coal, biomass, liquid fuel etc., which are classified as red category.

## **6. Types of sectors based on their activities**

On the basis of type of operational activities, the sectors are divided into two groups, namely, (i) Industrial operations and (ii) Non-industrial operations. The sectors which are involved in production of goods are considered under industrial operations. On the other hand, sectors which do not involve any manufacturing/production process but have pollution potential, are kept under non-industrial operations. These non-industrial operations may include infrastructure projects, service sector, and environmental management facilities.

The infrastructure projects may include projects, such as, airports, ports & harbours, highway projects, building & construction projects, oil and gas pipelines etc. The service sector may include sectors like healthcare establishments, mechanized laundries, automobile fuel stations, etc. Environmental management facilities are required for treatment and disposal of waste in order to protect the environment, such as, sewage treatment plants, common bio-medical waste treatment facilities, construction & demolition waste processing plants, municipal solid waste sanitary landfills etc.

Further, if any industry/activity has potential for ecological damage or grave injury to environment but cannot be given score based on the above methodology, then by following the “precautionary principle”, CPCB/SPCB may categorize the sector, accordingly.

Based on the modified methodology, the list of sectors and sector specific sub-classification is given as **Annexure-IV**. Summary of classified sectors is given in **Table-5**.

Table-5. Number of sectors classified under different categories

Sl. No.	Type of sector	Total number of sectors classified	Red	Orange	Green	White
1.0	Industrial operations	199	53	62	47	37
2.0	Non-Industrial operations					
2.1	Environment management facilities	4	3	1	0	0
2.2	Infrastructure facilities	7	2	2	3	0
2.3	Service sector	9	3	3	3	0
3.0	Special category projects	3	3	0	0	0
	<b>Total</b>	<b>222</b>	<b>64</b>	<b>68</b>	<b>53</b>	<b>37</b>

## 7. Usage of classification of industrial sectors

The classification of industrial sectors may be used for the following purposes:

- i. **Consent management:** SPCBs/PCCs may grant Consent to Operate (CTO) to red, orange and green categories of industries for validity up to 5 years, 10 years and 15 years, respectively. White category of industries may not require consent and only an intimation to SPCB/PCC shall suffice.
- ii. **Inspection frequency:** SPCBs/PCCs may prioritize their environmental surveillance for industries on the basis of their categories. SPCBs/PCCs are required to ensure inspection of red, orange and green category of industries at least once in six-months, one-year and two-years, respectively. Common facilities and 17 categories of industries are to be inspected at least once in every three-months.
- iii. **Siting criteria:** The categorization may be used as a tool for deciding the location/siting of an industry in a particular location.
- iv. **Sector specific plans for pollution control:** The plans for control of pollution may be prepared and implemented on priority for the sectors having higher pollution index and overall higher pollution load.

- v. **Levying environmental compensation:** Pollution index may be used for determining and levying environmental compensation on industries violating the environmental norms.
- vi. **A tool for progressive environmental management:** Industrial units may adopt cleaner technologies, cleaner fuels, etc. which may result in reduction of pollution index, thus, moving to lower pollution potential category. It will provide incentives to industries in terms of less consent renewal fees, less environmental surveillance/compliance burden, more validity period for consents/authorizations, etc.

### **8. Implementation of methodology for classification of industrial sectors**

The modified classification methodology (2023) and list of sectors classified by CPCB is required to be adopted and implemented by all SPCBs/PCCs. In case of any new or left-out sector, the SPCB/PCC may categorize the sector at its own level. For this purpose, a committee headed by the Member Secretary, SPCB/PCC and comprising of at least two senior cadre engineers/scientists of the SPCB/PCC will examine the matter and classify the sector in accordance with the methodology prescribed by CPCB.

In case, any industrial sector/unit adopts measures such as cleaner production technology, cleaner raw material, cleaner fuel etc., for better environmental management resulting into overall reduction of pollution index and change in category, then the request in this regard may be made to concerned SPCB/PCC. The state level committee for categorization of new/left-out industrial sector will evaluate the matter and take decision regarding change in category of the industrial sector, accordingly.

\*\*\*\*\*

## Annexure-I

## Scoring criteria for water polluting industries

Water Pollutant Group	Description	Score
<b>Score W1: Score based on the oxygen demand of wastewater.</b> (Maximum of the following scores to be considered)		
W11	BOD $\geq$ 5,000 mg/l or COD $\geq$ 10,000 mg/l	35
W12	1000 $\leq$ BOD < 5,000 mg/l or 5000 $\leq$ COD < 10,000 mg/l	30
W13	500 $\leq$ BOD < 1,000 mg/l or 1000 $\leq$ COD < 5,000 mg/l	25
W14	100 $\leq$ BOD < 500 mg/l or 250 $\leq$ COD < 1,000 mg/l	20
W15	BOD < 100 mg/l or COD < 250 mg/l	10
<b>Score W2: Score based on presence of pollutants in the wastewater.</b> (Maximum of the following scores to be considered)		
W21	Presence of pesticides, heavy metals and toxic compounds:  Aluminium, Ammonia, Anionic detergents, Barium, Chloramines, Copper, Fluoride, Total residual chlorine, Iron, Manganese, Mineral oil, Phenolic compounds, Selenium, Silver, Sulphide, Cadmium, Cyanide, Lead, Zinc, Mercury, Tin, Vanadium, Antimony, Benzene, Benzo-a-pyrene, Molybdenum, Nickel, Phosphates, Free ammonia, Polychlorinated biphenyls, Polynuclear aromatic hydrocarbons, Arsenic, Total/Hexavalent Chromium, Trichloroethane, Trichloroethylene, Adsorbable Organic Halogens (AOx), Pesticides compounds, Antimicrobial resistance, Radioactive materials, etc.	30
W22	Nitrate Nitrogen, Nitrate, Ammonical Nitrogen, Total Kjeldahl Nitrogen (TKN), Oil & grease, pH < 5.5 or > 9	25
W23	Wastewater with high TDS generated from fresh-water RO rejects, boiler blow-downs and brine solution rejects	20
W24	Wastewater from cooling towers and cooling-re-circulation processes	15
<b>Score W3: Score based on quantity of raw wastewater generation</b> (Maximum of the following scores to be considered)		
W31	Wastewater $\geq$ 500 KLD	35
W32	100 KLD $\leq$ Wastewater < 500 KLD	30
W33	50 KLD $\leq$ Wastewater < 100 KLD	25
W34	10 KLD $\leq$ Wastewater < 50 KLD	20
W35	Wastewater < 10 KLD	15
<b>Water Pollution Score (W) = W1+W2+W3</b>		

## Annexure-II

## Scoring criteria for air polluting industries

Air Pollutant Group	Description	Score
<b>Score A1: Score based on presence of pollutants in the emissions.</b> (Maximum of the following scores to be considered)		
A11	Presence of Hazardous Air Pollutants (HAPs), and heavy metals:  HAPs (Phosgene, Benzene, Benzo[a]pyrene, Butadiene, Toluene Diisocyanate, Methylenediphenyl Diisocyanate, Ethylene Oxide, Ethylene Di Chloride, Acrylonitrile, Propylene Oxide), Dioxins & Furans, Asbestos, Polycyclic Aromatic Hydrocarbons (PAHs), HCN, Cd, Th, Hg, Sb, As, Pb, Co, Cr, Cu, Mn, Ni, V, etc.	35
A12	Presence of halogens, acids and pesticides based pollutants:  H <sub>2</sub> S, HF, HBr, P <sub>2</sub> O <sub>5</sub> as H <sub>3</sub> PO <sub>4</sub> , NH <sub>3</sub> , TOC, Cl, HCl, SO <sub>3</sub> , CH <sub>3</sub> Cl, Total Fluoride, PM having pesticide compounds/other organic compounds, Acid mist, etc.	30
A13	Presence of pollutants due to combustion of fuel:  PM, CO <sub>2</sub> , CO, NO <sub>x</sub> , SO <sub>2</sub> , etc.	25
A14	Presence of Volatile Organic Compounds (VOCs):  Ethyl benzene, Styrene, Toluene, Xylene, Aromatics, Propylene Glycol, Ethylene Glycol, etc.	20
<b>Score A2: Score based on fugitive emissions and odour nuisance.</b> (Maximum of the following scores to be considered)		
A21	Fugitive emissions of Particulate Matters (PM) due to process operations	30
A22	Fugitive emissions due to handling of materials, etc.	25
A23	Odour nuisance, including odour due to use of binding gums, cements, adhesives, enamels etc.	20
<b>Score A3: Score based on the fuel quantity.</b> (Maximum of the following scores to be considered)		
<b>Coal or liquid fuels</b>		
A31	Fuel consumption $\geq$ 24 TPD	35
A32	12 TPD $\leq$ Fuel consumption < 24 TPD	30
A33	Fuel consumption < 12 TPD	25
<b>Biomass-based fuels</b>		
A34	Fuel consumption $\geq$ 48 TPD	25
A35	24 TPD $\leq$ Fuel consumption < 48 TPD	20
A36	Fuel consumption < 24 TPD	15
<b>Cleaner/gaseous fuels, such as, PNG, CNG, LPG, Compressed Bio-gas (CBG), propane, butane etc.</b>		
A37	Fuel consumption $\geq$ 120 TPD	20
A38	60 TPD $\leq$ Fuel consumption < 120 TPD	15
A39	Fuel consumption < 60 TPD	10
<b>Air Pollution Score (A) =A1+A2+A3</b>		
<b>Note:</b> In case, any sector/unit is using more than one type of fuel, the most polluting fuel category, will be consider		

## Annexure-III

## Scoring criteria for hazardous waste generating industries

Waste Pollutant Group	Description	Score
<b>Score H1: Score based on the hazardous waste management/disposal method.</b> (Maximum of the following scores to be considered)		
H11	Hazardous waste requiring disposal in secured landfill after stabilization	50
H12	Hazardous waste requiring disposal through incineration	40
H13	Hazardous waste requiring disposal in secured landfill without stabilization	30
H14	High volume and low effect hazardous wastes	20
<b>Score H2: Score based on quantity of hazardous waste generation</b> (Maximum of the following scores to be considered)		
H21	Hazardous Waste $\geq$ 5000 TPA	50
H22	1000 TPA $\leq$ Hazardous Waste $<$ 5000 TPA	40
H23	200 TPA $\leq$ Hazardous Waste $<$ 1000 TPA	30
H24	10 TPA $\leq$ Hazardous Waste $<$ 200 TPA	20
H25	Hazardous Waste $<$ 10 TPA	10
<b>Hazardous Waste Generation Score (H) = H1+H2</b>		

### List of sectors classified under red, orange, green and white categories

Sl. No.	Sector	W1	W2	W3	W	A1	A2	A3	A	H1	H2	H	Pollution Index (PI)	New Category	Old Category
<b>1. Industrial Operations</b>															
1.0	Automobile manufacturing (integrated facilities)	20	30	25	75	0	25	0	25	50	20	70	86.9	Red	Red
2.0	Diesel Generator (DG) Set														
2.1	DG Set of capacity $\geq 5$ MVA, using liquid fuel	0	15	15	30	25	20	35	80	40	10	50	88.0	Red	Red
2.2	DG Set of capacity $\geq 5$ MVA, using cleaner/gaseous fuel	0	15	15	30	25	0	20	45	40	10	50	68.8	Orange	
2.3	DG Set of capacity $\geq 1$ MVA but $< 5$ MVA, using liquid fuel	0	0	0	0	25	20	25	70	40	10	50	77.5	Orange	Orange
2.4	DG Set of capacity $\geq 1$ MVA but $< 5$ MVA, using cleaner/gaseous fuel	0	0	0	0	25	0	10	35	40	10	50	58.8	Orange	
3.0	Industrial carbon including electrodes and graphite blocks, activated carbon, carbon black														Red
3.1	Carbon black manufacturing	20	15	20	55	25	30	30	85	40	20	60	93.6	Red	
3.2	Industrial carbon including electrodes & graphite blocks and calcined pet coke	20	15	20	55	25	25	25	75	30	20	50	88.1	Red	
3.3	Activated carbon manufacturing (with steam activation)	20	15	15	50	25	25	15	65	0	0	0	73.8	Orange	
4.0	Power generation plants														Red

4.1	Power plants based on coal	10	25	35	70	35	25	35	95	20	50	70	98.5	Red	
4.2	Power plants based on liquid fuels	10	25	35	70	25	20	35	80	40	20	60	93.0	Red	
4.3	Waste to energy power plants	10	25	30	65	35	25	35	95	20	50	70	98.4	Red	
4.4	Biomass based power plants	10	25	35	70	25	25	25	75	20	40	60	91.3	Red	
4.5	Gas based power plants	10	25	35	70	25	0	20	45	40	20	60	85.8	Red	
5.0	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under Schedule IV of H&OW( M & TBM) Rules, 2016 - Items, namely, Spent catalyst containing nickel, cadmium, zinc, copper, arsenic, vanadium and cobalt, including cleared metal catalyst.													Red	
5.1	Hydro & pyro metallurgy	0	30	15	45	35	0	25	60	50	10	60	81.0	Red	
5.2	Hydro & pyro metallurgy (using cleaner/gaseous fuels & without crushing of materials)	0	30	15	45	35	0	10	45	50	10	60	78.0	Orange	
5.3	Pyro metallurgy (using coal/liquid fuels)	0	0	0	0	35	0	25	60	30	10	40	68.0	Orange	
5.4	Pyro metallurgy (using cleaner/gaseous fuels)	0	0	0	0	35	0	10	45	30	10	40	56.0	Orange	
5.5	Hydro metallurgy	0	30	15	45	30	0	0	30	50	10	60	75.0	Orange	
6.0	Sugar (excluding khandsari/jaggery)	30	25	35	90	25	0	25	50	40	10	50	95.0	Red	Red
7.0	E-Waste Dismantling / Recycling														

7.1	Industry engaged in recycling of e-waste generated from the electrical and electronic Equipment (EEE) listed in the E-Waste (Management) Rules 2022 using pyro/ hydro/ electro metallurgical processing and recycling of plastic separated from Waste EEE	30	30	20	80	35	25	15	75	50	20	70	94.5	Red	Red
7.2	Industry engaged in recycling of e-waste generated from the electrical and electronic equipment (EEE) listed in the E-Waste (Management) Rules 2022 (PCB processing limited to only mechanical processing and separation without pyro/ hydro/ electro metallurgical processing), production of Al, Cu and other metals from non PCB sources and/or recycling of plastic separated from Waste EEE.	0	15	15	30	20	25	15	60	50	10	60	78.0	Orange	Red
7.3	Industry engaged in dismantling (only) of e-waste generated from the electrical and electronic equipment (EEE) listed in the E-Waste (Management) Rules 2022	0	0	0	0	0	25	0	25	50	10	60	65.0	Orange	
8.0	Milk processes and dairy products (integrated project)														Red
8.1	Milk processes and dairy products(integrated project) using coal as fuel	30	25	30	85	25	20	30	75	0	0	0	90.6	Red	
8.2	Milk processes and dairy products(integrated project) using biomass as fuel	30	25	30	85	25	20	20	65	0	0	0	89.9	Red	
8.3	Milk processes and dairy products(integrated project) using cleaner/gaseous fuels	30	25	30	85	25	20	10	55	0	0	0	89.1	Red	



13.2	Organic chemicals (using cleaner fuel)	30	30	25	85	35	25	10	70	40	20	60	94.8	Red	
14.0	Asbestos and asbestos based industries	10	30	25	65	35	30	30	95	50	30	80	98.6	Red	Red
15.0	Cement plants														Red
15.1	With co-processing with CPP (Captive Power Plant)	20	25	35	80	35	30	35	100	20	40	60	100.0	Red	
15.2	With co-processing without CPP	0	0	0	0	35	30	35	100	40	20	60	100.0	Red	
15.3	Without co-processing with CPP	20	25	35	80	35	30	35	100	20	40	60	100.0	Red	
15.4	Without co-processing without CPP	0	0	0	0	25	30	35	90	40	20	60	93.0	Red	
15.5	Stand-alone grinding units with CPP	20	25	35	80	25	30	35	90	20	40	60	97.0	Red	
15.6	Stand-alone grinding units without CPP	0	0	0	0	25	30	0	55	40	20	60	71.0	Orange	
16.0	Dyes, Dye Intermediates and Pigments productions														Red
16.1	Dyes, Dye Intermediates and Pigments produced by chemical synthesis	35	30	25	90	30	20	25	75	40	20	60	96.8	Red	
16.2	Natural Dye and Pigments requiring acidic/ alkaline/ solvent extraction	30	30	20	80	25	20	25	70	30	10	40	91.0	Red	
16.3	Natural Dye and Pigments not requiring acidic/ alkaline/ solvent extraction	30	20	20	70	25	0	25	50	0	0	0	77.5	Orange	
17.0	Manufacturing of glue and gelatin														Red
17.1	Manufacturing of glue and gelatin using coal/liquid fuel	25	20	15	60	25	20	25	70	20	10	30	83.5	Red	
17.2	Manufacturing of glue and gelatin by using biomass	25	20	15	60	25	20	15	60	20	10	30	78.0	Orange	
17.3	Manufacturing of glue and gelatin by using cleaner/gaseous fuel	25	20	15	60	25	20	10	55	20	10	30	77.0	Orange	
18.0	Mining and ore beneficiation														Red

18.1	Open cast coal mining	10	25	35	70	25	30	35	90	20	50	70	97.0	Red	
18.2	Underground coal mining	10	25	35	70	25	30	35	90	0	0	0	93.5	Red	
18.3	Ferrous & non-ferrous mining and ore beneficiation	20	30	35	85	25	30	35	90	50	50	100	100.0	Red	
18.4	Minor minerals mining	10	0	20	30	25	25	25	75	0	0	0	78.8	Orange	
19.0	Pesticide industries														Red
19.1	Pesticide technical (organic chemicals based)	30	30	20	80	30	25	25	80	40	30	70	95.0	Red	
19.2	Pesticide technical (inorganic chemicals based like Zinc Phosphide and Aluminum Phosphide)	20	30	20	70	30	25	25	80	30	20	50	92.0	Red	
19.3	Pesticide formulation industries (Liquid formulation only) having boiler / thermopack	20	30	20	70	25	0	25	50	30	20	50	85.0	Red	
19.4	Pesticide formulation industries (Liquid formulation only) without having boiler / thermopack	20	30	20	70	0	0	0	0	30	20	50	77.5	Orange	
19.5	Pesticide formulation industries (having both liquid and dry formulation or dry formulation only) without having boiler / thermopack	20	30	20	70	30	30	0	60	30	20	50	86.5	Red	
19.6	Pesticide formulation industries (having both liquid and dry formulation or dry formulation only) having boiler / thermopack	20	30	20	70	30	30	25	85	30	20	50	94.0	Red	
20.0	Yarn/ Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring														Red

20.1	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring ( wastewater generation ≥100KLD )	30	30	30	90	25	0	35	60	50	30	80	97.0	Red	-
20.2	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring ( wastewater generation ≥100KLD & cleaner fuel	30	30	30	90	25	0	20	45	50	30	80	96.3	Red	-
20.3	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring ( wastewater generation <100KLD & cleaner fuel	30	30	20	80	25	0	20	45	50	30	80	92.5	Red	-
20.4	Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring ( wastewater generation <100KLD)	30	30	20	80	25	0	35	60	50	30	80	94.0	Red	-
21.0	Chlor Alkali													Red	
21.1	Chlor alkali	10	20	25	55	30	25	25	80	30	20	50	90.5	Red	
21.2	Chlor alkali using washed salt	10	20	15	45	30	25	25	80	30	10	40	88.5	Red	
21.3	Chlor alkali using cleaner/gaseous fuel	10	20	25	55	30	25	10	65	30	20	50	83.4	Red	
21.4	Chlor alkali using cleaner/gaseous fuel and washed salt	10	20	15	45	30	25	10	65	30	10	40	79.9	Orange	
22.0	Oil and gas extraction (offshore & on-shore extraction through drilling wells), CBM and shale gas	25	30	15	70	20	25	0	45	40	10	50	84.3	Red	Red
23.0	Industry or process involving metal surface treatment or process														Red

23.1	Industry or process involving metal surface treatment or process such as pickling/ electroplating/paint stripping/ heat treatment using cyanide bath/ phosphating or finishing and anodizing / enamellings/ galvanizing	25	30	20	75	30	0	0	30	0	50	30	80	90.5	Red	
23.2	Plasma electrolytic polishing (electroplating)	25	30	20	75	0	0	0	0	0	0	0	0	75.0	Orange	
24.0	Tanneries															Red
24.1	Tanneries (Raw to finish)	35	30	25	90	0	0	0	50	30	50	30	80	94.0	Red	
24.2	Tanneries (Raw to wet blue)	35	30	25	90	0	0	0	50	30	50	30	80	94.0	Red	
24.3	Tanneries (Wet blue to finish)	35	30	20	85	0	0	0	50	30	50	30	80	91.0	Red	
24.4	Vegetable tanning	20	25	25	70	0	0	0	0	0	0	0	0	70.0	Orange	
25.0	Synthetic fibers manufacturing															Red
25.1	Synthetic fibers including rayon, tyre cord, viscose filament yarn/staple fiber, acrylic fibers	25	20	25	70	30	20	25	75	30	30	10	40	88.8	Red	
25.2	Synthetic fibers including rayon, tyre cord, viscose filament yarn/staple fiber, acrylic fibers using cleaner/gaseous fuel	25	20	25	70	30	20	10	60	30	30	10	40	85.0	Red	
25.3	Synthetic fibers-PSF & PFY, generated from petrochemical	35	30	35	100	30	25	35	90	40	40	20	60	100.0	Red	
25.4	Synthetic fibers-PSF& PFY, generated from petrochemical, using cleaner/gaseous fuel	35	30	35	100	30	25	10	65	40	40	20	60	100.0	Red	-

26.0	Slaughter house (integrated) and meat processing industries, bone mill, processing of animal horns, hoofs and other body parts	30	25	30	85	25	20	25	70	0	0	90.3	Red	Red
26.1	Slaughter house (integrated plants)	30	25	30	85	25	0	25	50	0	0	88.8	Red	Red
26.2	Meat processing units without rendering plant	30	25	30	85	25	0	25	50	0	0	88.8	Red	Red
27.0	Aluminium processing													Red
27.1	Aluminium Refinery	10	30	35	75	25	25	35	85	20	50	95.9	Red	Red
27.2	Aluminium Smelter	10	30	35	75	30	25	35	90	50	40	98.3	Red	Red
28.0	Copper Smelter	10	30	35	75	30	25	35	90	20	50	97.3	Red	Red
29.0	Zinc smelter	10	30	35	75	30	25	35	90	50	40	98.3	Red	Red
30.0	Fertilizers production													Red
30.1	Fertilizers (Urea)	10	30	35	75	30	30	20	80	30	30	93.5	Red	Red
30.2	Fertilizers (Calcium Ammonium Nitrate / Ammonium Nitrate)	10	30	25	65	30	25	25	80	30	20	91.5	Red	Red
30.3	Fertilizers (NPK)	10	30	25	65	30	25	25	80	30	20	91.5	Red	Red
30.4	Fertilizers (Straight Phosphatic Fertilizers)	10	30	25	65	30	25	25	80	30	20	91.5	Red	Red
30.5	Fertilizer (granulation /formulation / blending) generating wastewater through floor washings, cooling towers etc.	10	30	15	55	30	30	0	60	20	10	77.0	Orange	Orange
30.6	Fertilizer (granulation /formulation / blending) not generating wastewater	0	0	0	0	30	30	0	60	20	10	66.0	Orange	Orange



---DRAFT---

---DRAFT---

---DRAFT---

35.1	Pharmaceuticals manufacturing	35	30	30	95	35	25	35	95	30	20	50	98.6	Red	
35.1	Pharmaceutical R&D facilities	20	15	15	50	25	0	25	50	20	10	30	70.0	Orange	
35.2	Pharmaceuticals manufacturing using cleaner/gaseous fuel	35	30	30	95	35	25	10	70	30	20	50	98.0	Red	
35.3	Pharmaceuticals (Formulation)	20	15	15	50	25	0	25	50	20	10	30	70.0	Orange	
35.4	Pharmaceuticals (Formulation) using cleaner/gaseous fuel	20	15	15	50	25	0	10	35	20	10	30	66.3	Orange	
35.5	Vaccine manufacturing	20	15	15	50	25	0	35	60	20	10	30	76.0	Orange	
35.6	Vaccine manufacturing using cleaner/gaseous fuel	20	15	15	50	25	0	10	35	20	10	30	66.3	Orange	
35.7	Ayurvedic or unani medicines manufacturing	20	15	15	50	25	0	25	50	20	10	30	70.0	Orange	
35.8	Ayurvedic or unani medicines manufacturing using cleaner fuel	20	15	15	50	25	0	10	35	0	0	0	58.8	Orange	
35.9	Ayurvedic or unani medicines manufacturing (Without boiler )	20	15	15	50	0	0	0	0	0	0	0	50.0	Green	
36.0	Food and food processing including fruits and vegetable processing													Orange	
36.1	Waste Water generation $\geq$ 500 KLD	25	15	35	75	25	0	25	50	0	0	0	81.3	Red	

36.2	Waste Water generation $\geq$ 100 to 500 KLD	25	15	30	70	25	0	25	50	0	0	0	77.5	Orange	
36.3	Waste Water generation 10 to 100 KLD	25	15	25	65	25	0	25	50	0	0	73.8	Orange		
36.4	Waste Water generation 10 to 100 KLD and using cleaner/gaseous fuel	25	15	25	65	25	0	10	35	0	0	71.1	Orange		
37.0	Manufacturing of silica gel	10	25	20	55	30	0	20	50	10	60	81.0	Red	Orange	
38.0	Refractories	10	30	25	65	25	25	25	75	0	0	83.1	Red	Orange	
39.0	Coal washeries	20	25	35	80	0	25	0	25	0	0	82.5	Red	Orange	
40.0	Mineral processing, industries involving ore sintering, pelletising, grinding & pulverization	0	0	0	0	25	30	35	90	0	0	90.0	Red	Orange	
41.0	Distilleries and fermentation industries													Red	
41.1	Distillery (molasses based)	35	25	35	95	25	20	35	80	0	0	97.0	Red		
41.2	Distillery (Grain based)	35	25	30	90	25	0	25	50	0	0	92.5	Red		
41.3	Distillery (Grain based) with DDGS as by product	25	25	20	70	25	0	25	50	0	0	77.5	Orange		

41.4	Standalone yeast manufacturing units	35	25	35	95	25	20	25	70	0	0	0	96.8	Red	
41.5	Breweries and malteries industry	30	15	25	70	25	0	25	50	0	0	0	77.5	Orange	
41.6	Potable alcohol by blending, bottling of alcohol products	20	0	25	45	0	0	0	0	0	0	0	45.0	Green	
42.0	Ferrous and Non-ferrous metal secondary processing/reprocessing units involving different furnaces through melting, refining, casting, alloy-making	20	15	20	55	25	25	25	75	15	10	25	85.0	Red	Orange
43.0	Non-alcoholic beverages (soft drink)	-	-	-	-	-	-	-	-	-	-	-	-	-	Orange
43.1	Waste Water generation ≥ 100 KLD	25	20	30	75	25	0	25	50	0	0	0	81.3	Red	
43.2	Waste Water generation < 100 KLD	25	20	25	70	25	0	25	50	0	0	0	77.5	Orange	
44.0	Rolling mills														Orange
44.1	Rolling and pickling	25	30	15	70	25	0	25	50	50	10	60	86.5	Red	
44.2	Rolling mills (oil and coal fired)	0	15	15	30	25	0	25	50	0	0	0	57.5	Orange	
44.3	Rolling mills (gas fired)	0	15	15	30	25	0	10	35	0	0	0	44.8	Green	
44.4	Cold rolling mill (without heat treatment)	0	0	0	0	0	0	0	0	0	0	0	0.0	White	
45.0	Edible oil mills														
45.1	Vegetable oil manufacturing including solvent extraction and refinery /hydrogenated oils	25	25	25	75	25	0	20	45	30	10	40	85.6	Red	Orange
45.2	Oil mills Ghani and extraction without boiler (no refining/ hydrogenation)	10	25	15	50	0	0	0	0	0	0	0	50.0	Green	Green
46.0	Battery manufacturing														Orange
46.1	Lead acid	0	15	20	35	35	25	25	85	50	30	80	93.6	Red	Red
46.2	Nickel-Cadmium	10	30	15	55				0			0	55.0	Orange	



50.2	CBG plants based on crop residue (paddy straw /wheat straw /corn sweet sorghum/ napier grass, etc.) as feed	30	25	25	80	0	20	0	20	0	0	0	82.0	Red	Green
50.3	CBG plants based on process waste (industrial/ process liquid effluent & solid waste like press mud, organic sludge, molasses, etc.) as feed	30	25	25	80	0	20	0	20	0	0	0	82.0	Red	Orange
50.4	CBG plants based on animal waste (dairy farms, poultry farms, and other animal waste) as feed	30	25	20	75	0	20	0	20	0	0	0	77.5	Orange	Green
50.5	CBG plants (irrespective of the type of feed) producing Fermented Organic Manure (FOM) & Liquid Fermented Organic Manure (LFOM) as by-products	0	0	0	0	0	20	0	20	0	0	0	20.0	White	White
51.0	Semiconductor manufacturing														
51.1	Semiconductor fabs manufacturing	25	30	35	90	35	30	25	90	50	20	70	98.0	Red	
51.2	Assembly and packaging of OSAT/ATMP	0	0	0	0	0	25	0	25	50	20	70	73.8	Orange	
52.0	Display fabs manufacturing	25	30	35	90	35	30	25	90	50	20	70	98.0	Red	
53.0	Compound semiconductors/ silicon photonics	25	30	35	90	35	30	25	90	50	20	70	98.0	Red	
54.0	Isolated storages (as defined under Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 as amended)														Red
54.1	Isolated storage for storing petroleum/ petroleum derived and other liquid chemical products that are in liquid state at normal temperature and pressure	0	25	15	40	0	25	0	25	40	10	50	66.3	Orange	

54.2	Isolated storage for storing petroleum products that are stored under high pressure like LPG, NG etc. and Volatile Organic Compounds (VOCs)	0	0	0	0	0	0	0	0	25	0	25	40	10	50	56.3	Orange	
54.3	Isolated storages of inorganic gases such as ammonia, chlorine, hydrogen, oxygen, nitrogen, CS2 etc.	0	15	15	30	0	0	0	0	25	0	25	0	0	0	38.8	Green	
55.0	Manufacturing of lubricating oils, grease and petroleum based products	20	15	15	50	20	20	20	10	50	10	40	40	10	50	75.0	Orange	Red
56.0	Fibre glass (Fibre reinforced plastic) production																	Red
56.1	Fibre glass (containing lead) production and processing (excluding moulding)	0	0	0	0	35	0	25	0	60	25	50	50	20	70	79.0	Orange	
56.2	Fibre glass (without lead) production and processing (excluding moulding)	0	0	0	0	25	0	25	0	50	25	50	50	20	70	77.5	Orange	
57.0	Fire crackers manufacturing																	Red
57.1	Fire crackers manufacturing and bulk storage facilities	0	0	0	0	0	25	0	25	25	0	50	50	20	70	73.8	Orange	
57.2	Green crackers manufacturing	0	0	0	0	0	0	25	0	25	0	25	0	0	0	25.0	Green	
58.0	Manufacturing of explosives, detonators, fuses including management and handling activities	25	30	15	70	0	0	0	0	0	0	40	40	10	50	77.5	Orange	Red

---DRAFT---

---DRAFT---

---DRAFT---

59.0	Industries engaged in recycling / reprocessing/ recovery/reuse of Hazardous Waste under schedule IV of H&OW( M & TBM) Rules, 2016 - Items namely - Lead acid battery plates and other lead scrap/ashes/residues not covered under Batteries (Management and Handling) Rules, 2001. [* Battery scrap, namely: Lead battery plates covered by ISRI, Code word “Rails” Battery lugs covered by ISRI, Code word “Rakes”: Scrap drained/dry while intact, lead batteries covered by ISRI, Code word “rains”.	0	30	15	45	35	0	25	60	30	20	50	79.0	Orange	Red
59.1	Lead Recycling ( Lead Acid Batteries with Acids; Lead Scrap Recycling) Rotary Furnace	0	30	15	45	35	0	25	60	30	20	50	79.0	Orange	
59.2	Lead Recycling ( Lead Acid Batteries with Acids; Lead Scrap Recycling) Pit Furnace (Mandir/Canopy Bhatti)	0	30	15	45	35	0	15	50	30	20	50	73.8	Orange	
59.3	Lead Recycling ( Drained Lead Acid Batteries; Lead Scrap Recycling) Rotary Furnace/Mandir Bhatti on Cleaner Fuel	0	0	0	0	35	0	25	60	30	20	50	70.0	Orange	
59.4	Lead Recycling (Drained Lead Acid Batteries; Lead Scrap Recycling) Pit Furnace (Mandir/Canopy Bhatti) on Biomass	0	0	0	0	35	0	15	50	30	20	50	62.5	Orange	
59.5	Lead Recycling Standalone (Battery Breaking unit)	0	30	15	45	0	0	0	0	30	10	40	56.0	Orange	
60.0	Photographic film and its chemicals	20	20	15	55	30	0	25	55	20	10	30	74.1	Orange	Red
61.0	Ship breaking industries	0	0	0	0	0	25	0	25	50	20	70	73.8	Orange	Red
62.0	Synthetic rubber excluding molding	20	15	15	50	20	0	25	45	30	10	40	71.3	Orange	Orange



68.0	Saree/fabric printing by screen / wooden block /hand block	25	0	25	50	25	0	20	45	40	10	50	73.8	Orange	Orange
68.1	Saree/fabric printing by screen / wooden block/hand block	0	0	0	0	25	0	20	45	0	0	0	45.0	Green	
68.2	Hand block printing without effluent generation	0	0	0	0	25	0	20	45	0	0	0			
69.0	Synthetic detergent and soaps													Orange	
69.1	Synthetic detergents and soaps	20	20	20	60	25	0	20	45	0	0	0	69.0	Orange	
69.2	Synthetic detergents and soaps (only formulation)	0	0	0	0	25	0	25	50	0	0	0	50.0	Green	
70.0	Thermometer manufacturing													Orange	
70.1	Glass (mercury based) thermometer manufacturing	10	30	15	55	25	0	10	35	50	10	60	78.0	Orange	
70.2	Digital thermometer manufacturing	0	0	0	0	0	0	0	0	0	0	0	0.0	White	
71.0	Cotton spinning and weaving mills (medium and large scale)	10	20	20	50	25	0	15	40	0	0	0	60.0	Orange	Orange
72.0	Aluminium & copper extraction from scrap using oil fired furnace (dry process only)	0	0	0	0	25	25	25	75	0	0	0	75.0	Orange	Orange
73.0	Brick manufacturing													Orange	
73.1	Brick kilns using coal as fuel	0	0	0	0	25	25	25	75	0	0	0	75.0	Orange	
73.2	Brick kilns using biomass as fuel	0	0	0	0	25	25	15	65	0	0	0	65.0	Orange	
73.3	Tunnel brick kilns (gas fired)	0	0	0	0	25	25	10	60	0	0	0	60.0	Orange	
74.0	Ceramics													Orange	
74.1	Ceramics/ Glass /Earthen potteries and tile manufacturing (using coal/oil fired kilns)	0	0	0	0	25	25	25	75	0	0	0	75.0	Orange	

---DRAFT---

---DRAFT---

---DRAFT---

74.2	Ceramics/ Glass /Earthen potteries and tile manufacturing (using gas fired kilns)/tunnel kiln	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60.0	Orange		
74.3	Ceramics/ Glass /Earthen potteries and tile manufacturing (using electrical kiln or not involving fossil fuel kiln)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25.0	Green	Green	
75.0	Manufacturing of mirror from sheet glass	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	70.0	Orange	Orange	
76.0	Dairy and dairy products (small scale)																						Orange	
76.1	Dairy and dairy products, using coal as fuel	25	25	20	70	25	0	25	0	25	0	25	0	50	0	0	0	0	0	0	77.5	Orange		
76.2	Dairy and dairy products, using biomass as fuel	25	25	20	70	25	0	25	0	25	0	15	40	0	0	0	0	0	0	0	76.0	Orange		
76.3	Dairy and dairy products, using PNG as fuel	25	25	20	70	0	0	25	0	25	0	10	10	0	0	0	0	0	0	0	71.5	Orange		
77.0	Fish feed, poultry feed and cattle feed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	70.0	Orange	Orange	
78.0	Fish processing and packing (excluding chilling of fishes)	25	25	20	70	0	0	20	0	20	0	20	20	0	0	0	0	0	0	0	73.0	Orange	Orange	
79.0	Forging of ferrous and non- ferrous metals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75.0	Orange	Orange	
80.0	Formulation/pelletization of camphor tablets, naphthalene balls from camphor/ naphthalene powders.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	55.0	Orange	Orange	
81.0	Gravure printing, digital printing on flex /vinyl	25	0	15	40	20	0	20	0	0	0	0	20	0	0	0	0	0	0	0	72.0	Orange	Orange	
82.0	Hot mix plants																						Orange	
82.1	Hot mix plants using oil as fuel	0	0	0	0	25	0	25	25	25	25	25	75	0	0	0	0	0	0	0	75.0	Orange		

82.3	Hot mix plants using gaseous as fuel	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60.0	Orange	Orange	
83.0	Ice cream																					Orange	
83.1	Ice cream using coal as fuel	25	25	20	70	25	0	25	0	25	0	25	0	50	0	0	0	0	0	77.5	Orange	Orange	
83.2	Ice cream using biomass as fuel	25	25	20	70	25	0	25	0	25	0	25	0	40	0	0	0	0	0	76.0	Orange	Orange	
83.3	Ice cream using PNG as fuel	25	25	20	70	25	0	25	0	25	0	25	0	35	0	0	0	0	0	75.3	Orange	Orange	
84.0	Industries engaged in recycling/reprocessing/recovery/reuse of Hazardous Waste under schedule IV of HW Rules, 2016 - Items namely -Paint and ink Sludge/residues	20	25	15	60	0	0	20	0	20	0	20	0	20	40	10	50			74.0	Orange	Orange	Orange
85.0	Industries engaged in recycling /reprocessing/ recovery/reuse of Hazardous Waste under schedule IV of H&OW( M & TBM) Rules, 2016 - Items namely - Brass Dross, Copper Dross, Copper Oxide Mill Scale, Copper everts, Cake & Residues, Waste Copper and copper alloys in dispersible form, Slags from copper processing for further processing or refining, Insulated Copper Wire, Scrap/copper with PVC sheathing including ISRI-code material namely "Druid" Jelly filled Copper cables, Zinc Dross-Hot dip Galvanizers SLAB,, Zinc Dross-Bottom Dross,, Zinc ash/Skimming arising from galvanizing and die casting operations, Zinc ash/Skimming/other zinc bearing wastes arising from smelting and refining,, Zinc ash and residues including zinc alloy residues in dispersible form.	0	30	15	45	35	0	25	60	30	10	40								77.0	Orange	Orange	Orange
86.0	Foundry operations																						Orange



---DRAFT---

---DRAFT---

---DRAFT---

94.0	Paint and varnishes (blending and mixing)	20	30	15	65	0	20	0	20	0	20	40	20	60	79.0	Orange	Orange
95.0	Ply-wood/board manufacturing (including Veneer and laminate) with biomass fired boiler / thermic fluid heater (without resin plant)	0	0	0	0	25	20	15	60	0	0	0	0	0	60.0	Orange	Orange
96.0	Printing ink manufacturing	20	30	15	65	0	20	10	30	40	10	40	10	50	79.0	Orange	Orange
97.0	Printing press	25	0	15	40	20	0	0	20	40	20	40	20	60	72.0	Orange	Orange
98.0	Spray painting, paint baking, paint shipping	0	0	0	0	0	25	0	25	40	10	40	10	50	56.3	Orange	Orange
99.0	Surgical and medical products including prophylactics and latex	10	25	15	50	25	0	10	35	0	0	0	0	0	58.8	Orange	Orange
100.0	Tephlon based products	10	0	15	25	25	25	25	75	0	0	0	0	0	78.1	Orange	Orange
101.0	Thermocol manufacturing (with boiler)	0	20	15	35	25	0	25	50	0	0	0	0	0	58.8	Orange	Orange
102.0	Tobacco products including cigarettes and tobacco processes	20	25	15	60	25	20	25	70	0	0	0	0	0	79.0	Orange	Orange
103.0	Transformer repairing/ manufacturing (dry process only)	0	0	0	0	0	25	0	25	40	10	40	10	50	56.3	Orange	Orange
104.0	Rubber products manufacturing															Orange	
104.1	Tyre and tube manufacturing	0	15	15	30	25	25	25	75	0	0	0	0	0	78.8	Orange	
104.2	Tyres and tubes vulcanization/ hot retreading	0	15	15	30	25	0	25	50	0	0	0	0	0	57.5	Orange	
104.3	Rubber goods industry (with boiler)	0	15	15	30	25	0	20	45	0	0	0	0	0	53.3	Green	
105.0	Wire drawing and wire netting															Orange	
105.1	Wire drawing and wire netting (with pickling)	25	30	15	70	0	0	0	0	0	0	0	0	0	70.0	Orange	

105.2	Wire drawing and wire netting (without pickling)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	White	
106.0	Cashew nut processing	20	0	15	35	25	20	15	60	0	0	0	0	0	0	0	0	0	0	67.0	Orange	Orange
107.0	Coffee seeds processing industry																					Orange
107.1	Coffee seeds processing (wet process)	35	0	20	55	25	0	15	40	0	0	0	0	0	0	0	0	0	0	64.0	Orange	
107.2	Coffee seeds processing with eco-pulper	20	0	15	35	25	0	15	40	0	0	0	0	0	0	0	0	0	0	50.5	Green	
108.0	Rice Mills																					Orange
108.1	Parboiled Rice Mill (with soaking and steam)	25	0	20	45	25	0	25	50	0	0	0	0	0	0	0	0	0	0	61.3	Orange	
108.2	Raw rice Mill (Without soaking and steam)/ hullers	0	0	0	0	0	30	0	30	0	0	0	0	0	0	0	0	0	0	30.0	Green	
109.0	Industries engaged in recycling / reprocessing/recovery/reuse of Hazardous Waste under schedule iv of HW( M, H& TBM) rules, 2008 - Items namely -"Waste Oils"	20	25	15	60	25	0	15	40	30	10	40	76.0								Orange	Orange
110.0	Scraping facilities for end-of-life vehicles, wagons and coaches																					Orange
110.1	Collection, Depollution and Dismantling Centers (Without shredding)	0	30	15	45	0	30	0	30	50	10	60	75.0								Orange	
110.2	Collection, Depollution, Dismantling and shredding Centers	0	30	15	45	0	30	0	30	50	10	60	75.0								Orange	
110.3	Common Shredders (Standalone)	0	0	0	0	0	30	0	30	50	10	60	66.0								Orange	
110.4	Collection Centers (Without Depollution, Dismantling and shredding)	0	0	0	0	0	0	0	0	0	0	0	0.0								White	
111.0	Dairy Farm																					Orange

---DRAFT---

---DRAFT---

---DRAFT---

111.1	Dairy Farm (having more than 500 animals)	30	25	25	80	0	20	0	20	0	0	0	0	82.0	Red	
111.2	Dairy Farm (having 101 to 500 animals)	30	25	20	75	0	20	0	20	0	0	0	0	77.5	Orange	
111.3	Dairy Farm (having 26 to 100 animals)	30	25	15	70	0	20	0	20	0	0	0	0	73.0	Orange	
111.4	Dairy Farm (having upto 25 animals)	30	25	15	70	0	20	0	20	0	0	0	0	73.0	Orange	
112.0	Manufacturing of pasted veneers using gas fired boiler or thermic fluid heater	0	0	0	0	25	20	10	55	0	0	0	0	55.0	Orange	Green
113.0	Fly ash bricks/ block manufacturing															White
113.1	Fly ash bricks/ block manufacturing (with boiler)	0	0	0	0	25	25	25	75	0	0	0	0	75.0	Orange	
113.2	Fly ash bricks/ block manufacturing (without boiler)	0	0	0	0	0	25	0	25	0	0	0	0	25.0	Green	
114.0	Manufacturing of coir and coir products															
114.1	Manufacturing of coir (wet/dyeing process)	20	30	15	65	0	25	0	25	0	0	0	0	69.4	Orange	White
114.2	Manufacturing of coir (dry process)	0	0	0	0	0	25	0	25	0	0	0	0	25.0	Green	White
114.3	Manufacturing of coir items (dry process)	0	0	0	0	0	20	0	20	0	0	0	0	20.0	White	White
115.0	Tyre Pyrolysis Oil	0	0	0	0	25	25	25	75	0	0	0	0	75.0	Orange	
116.0	Chanachur and laddoo from puffed and beaten rice (muri and Shira) using husk fired oven	20	0	15	35	25	0	15	40	0	0	0	0	50.5	Green	Orange
117.0	Coated electrode manufacturing	0	15	15	30	0	25	0	25	0	0	0	0	38.8	Green	Orange
118.0	Almirah, Grill Manufacturing (Dry Mechanical Process)	0	0	0	0	0	25	0	25	0	0	0	0	25.0	Green	Orange
119.0	Heat treatment using oil fired furnace (without cyaniding)	0	0	0	0	25	0	25	50	0	0	0	0	50.0	Green	Orange



128.2	Carpentry & wooden furniture manufacturing without spray painting (excluding saw mill) with the help of electrical (motorized) machines such as electrical wood planner, steel saw cutting circular blade, etc.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	White	Green
129.0	Precast cement products (without using asbestos/ boiler / steam curing) like pipe ,pillar, jafri, well ring, block/tiles etc.(should be done in closed covered shed to control fugitive emissions)	0	0	15	15	0	25	0	25	0	25	0	0	0	0	30.6	Green	Green
130.0	Ceramic colour manufacturing by mixing & blending only (not using boiler and wastewater recycling process)	0	0	0	0	0	25	0	25	0	25	0	0	0	0	25.0	Green	Green
131.0	Chilling plant, cold storage and ice making																	Green
131.1	Chilling plant	20	15	15	50	0	0	0	0	0	0	0	0	0	0	50.0	Green	
131.2	Cold storage	0	15	15	30	0	0	0	0	0	0	0	0	0	0	30.0	Green	
131.3	Ice making	0	20	15	35	0	0	0	0	0	0	0	0	0	0	35.0	Green	
132.0	Pulse/Dal Mills	0	0	0	0	0	30	0	30	0	30	0	0	0	0	30.0	Green	Green
133.0	Decoration of ceramic cups and plates by electric furnace	0	0	0	0	0	25	0	25	0	25	0	0	0	0	25.0	Green	Green
134.0	Digital printing on PVC clothes	0	0	0	0	0	25	0	25	0	25	0	0	0	0	25.0	Green	Green
135.0	Flour mills (dry process)	0	0	0	0	0	25	0	25	0	25	0	0	0	0	25.0	Green	Green
136.0	Glue from starch (physical mixing) with gas/ electrically operated oven /boiler.	0	20	15	35	25	0	10	35	0	35	0	0	0	0	46.4	Green	Green











1.1	Capacity ≥ 500 KLD	25	30	35	90	0	0	0	0	0	50	40	90	94.5	Red	
1.2	100 KLD ≤ Capacity < 500 KLD	25	30	30	85	0	0	0	0	0	50	30	80	91.0	Red	
1.3	50 KLD ≤ Capacity < 100 KLD	25	30	25	80	0	0	0	0	0	50	20	70	87.0	Red	
1.4	10 KLD ≤ Capacity < 50 KLD	25	30	20	75	0	0	0	0	0	50	20	70	83.8	Red	
1.5	Capacity < 10 KLD	25	30	15	70	0	0	0	0	0	50	10	60	79.0	Orange	
2.0	Sewage Treatment Plant	20	0	35	55	0	20	0	0	0	20	0	0	59.5	Orange	Red
3.0	Common Bio-medical Waste Treatment Facility (CBWTF)															Red
3.1	CBWTF	20	25	20	65	35	20	25	25	80	30	20	50	91.5	Red	
3.2	CBWTF using cleaner/gaseous fuel	20	25	20	65	35	20	10	65	30	30	20	50	85.1	Red	
4	Construction and Demolition (C&D) Waste Processing Plants	0	0	0	0	25	25	25	75	0	0	10	10	76.3	Orange	Orange
<b>B. Infrastructure Facilities</b>																
1.0	Airports															
1.1	Airports with hangers/freight handling/repairing facilities	20	25	35	80	25	0	25	50	40	10	50	90.0	Red	Red	
1.2	Airports without hangers/freight handling facilities	20	25	25	70	0	0	0	0	0	0	0	0	70.0	Orange	
2.0	Ports and harbours															Red
2.1	Ports and harbours, jetties and dredging operations	20	30	25	75	0	25	0	25	40	20	60	85.6	Red		
2.2	Ports and harbours (only containers handling)	20	25	20	65	0	25	0	25	40	10	50	78.1	Orange		





---DRAFT---

---DRAFT---

---DRAFT---

3. Special Category Projects															
1.0	Nuclear power plants												Red	Red	High potential to damage due to use of radio-active materials
2.0	Hydel power plants														High potential to damage river ecosystem
2.1	Hydel power plants (Capacity > 25 MW)												Red	Red	
2.2	Mini Hydel power plants (Capacity from more than 5 MVA and up to 25 MW)												Orange	White	
2.3	Mini Hydel power plants (Capacity ≤ 5 MW)												Green	White	
3.0	River sand mining														High potential to damage river ecosystem
3.1	River sand mining (>25 hectare)												Red		
3.2	River sand mining (>5 to 25 hectare)												Orange		
3.3	River sand mining (up to 5 hectare)												Green		

\*\*\*\*\*



Item Nos. 08 &amp; 09

Court No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 638/2023

In re: News item appearing in Times of India dated 10.10.2023 titled  
**“Feeling anxious? Toxic air could be to blame”**

**WITH**

Original Application No. 658/2023

In re: News item appearing in Times of India dated 10.10.2023 titled  
**“Delhi, Chennai studies hint at pollution link to diabetes”**

Date of hearing: 19.12.2023

**CORAM: HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. Avinash Sharma, Adv. for MoEF & CC (Through VC)  
Mr. Amit Singh Chauhan, Adv. for CPCB (Through VC)  
Mr. Arun Sanwal, Adv. for Indian Council of Medical Research

**ORDER**

1. This original application was registered *suo motu* on the basis of news item titled **“Feeling anxious? Toxic air could be to blame”** published in ‘The Times of India’ dated 10.10.2023. As per the said news item, long term exposure to air pollution could lead to higher risk of depression and anxiety besides respiratory disorder. People who breathe in polluted air experience changes within the brain that control emotions and chances of developing anxiety, depression, etc. are increased. The news item further contains details of following studies in this regard:

**“HAVING A BAD -AIR DAY?”**

- *A study from researchers at Harvard, published in March 2023, adds to the evidence connecting exposure to air pollution (small particulate matter (PM2.5), nitrogen oxide and nitrogen dioxide) to increased risk of dementia.*

- *A study published in journal Neuro Toxicology reveals that people who breathe polluted air are more likely to develop mental health problems than those who breathe clean air.*
- *Some researchers have associated air pollution with higher levels of stress, psychological distress, increased risk of dementia and Alzheimer's and depression.*
- *A study published in Environmental Health Perspectives found an association between short-term exposure to elevated levels of air pollution and increased emergency room psychiatric visits among children."*

2. The matter was examined by Tribunal on 31.10.2023 and it observed that the issue needs to be examined and original application is in respect of various chemical and physical components causing air pollution and adverse effect of each of such physical and chemical component on different organs of human body. Adequate measures are required for control of such air polluting components and their adverse effect on various organs of human body, especially those which are affecting the brain and emotional, psychological aspect.

3. Though in another matter i.e. OA No. 663/2023, by order dated 20.10.2023, larger issue relating to air pollution and dip in the quality of air in Delhi was already taken up, but Tribunal found that specific issue noted in present matter required further examination. Consequently, six respondents were impleaded and notices were issued.

4. Replies dated 09.12.2023 have been filed by Respondent 2, i.e., Central Pollution Control Board (hereinafter referred to as "**CPCB**") and dated 18.12.2023 by Respondent 1, i.e., Ministry of Environment Forest and Climate Change (hereinafter referred to as "**MoEF&CC**").

5. On behalf of Respondent 3, Shri Arun Sanwal, Advocate has put in appearance and he prays for and allowed three days' time to file its response.

6. Other respondents have not submitted/filed any response. As a last opportunity, we allow a month's time to Respondents 4 and 5 to file their response, failing which we may be compelled to summon Principal Officer/Head of Department of Respondents 4 and 5 in person.

7. We also find from reply submitted by CPCB that they admit presence of several metals and other polluted elements in air causing pollution for which National Ambient Air Quality Standards have been notified but, no effective steps have been taken by CPCB for controlling and preventing air pollution from these parameters and their prevalence levels that is for all 12 notified parameters.

8. We also find from Annexure II to reply at para 10.0 that CPCB is funding National Capital Region Urban Local Bodies for construction/repair of roads and mechanical road sweepers under EPC funds. Similar funds are being also made available to Ghaziabad Municipal Corporation and other local bodies without assigning specific reasons for doing so. From the reply, we also find that amount of environmental compensation deposited with CPCB is being diverted for unauthorized purposes. We find it appropriate in the present case to require CPCB to give complete details of entire amount of environmental compensation lying deposited with it and shall also give manner in which any amount out of above fund has been spent or utilized till 30.11.2023.

9. We asked learned Counsel appearing for CPCB as to how CPCB is concerned with construction/repair of roads which is the statutory responsibility of local bodies and funds of environmental compensation cannot be diverted for such activities which are not permissible to be undertaken by CPCB and this is a gross misuse and serious financial irregularity by diverting funds for unauthorized activities. We intend to

issue direction for recovery of the same from concerned officer(s) of CPCB who has/have sanctioned or diverted said funds for unauthorized purposes and having no explanation to do so. At this stage, learned Counsel appearing for CPCB stated that before passing any order, he may be granted some opportunity to seek instructions on this aspect and place specific reply before Tribunal. In view of above statement, we allow him a month's time to file reply and to ensure that amount deposited with CPCB under the head of "Environmental Compensation" is neither diverted nor there should be any financial irregularity as it amounts to misappropriation of funds on the part of CPCB by providing such funds for activities which are not within the domain of CPCB and in the garb of protection of environment, remediation and rejuvenation, the activities which are not directly or indirectly connected with the same but statutory duties of some other statutory bodies should not be undertaken by CPCB.

10. In reply of MoEF&CC also presence of several polluted elements in air are admitted and it is said that some directions have been issued by various authorities from time to time but we do not find that any effective action has been taken in the matter.

11. Learned Counsel appearing for MoEF&CC when asked as to what effective steps have been taken by MoEF&CC, he admitted that reply given by MoEF&CC is not clear on this aspect and despite repeated query, he could not give even a single step taken for effective control of air pollution by MoEF&CC. For filing such vague and irrelevant reply, we impose a cost of Rs. 25,000/- upon Respondent No. 1 and direct it to file a supplementary reply giving details of all steps taken for effective monitoring and control of air pollution within one month.

# 1436

12. The amount of cost shall be deposited with Registrar General of Tribunal by next date of hearing.

13. List on 14.02.2024.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

December 19, 2023  
Original Application No. 638/2023  
Original Application No. 658/2023  
DV



2023:BHC-AS:31297-DB



P

1

WPSt. 26702.2023.- Judt.doc

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION*

*WRIT PETITION (ST.) NO. 26702 OF 2023*

Baramati Agro Ltd.

A company registered under  
Companies Act, 1956

Having registered office at : A/P Pimpali,  
Tal. - Baramati, Dist. - Pune, Maharashtra – 413102

Having Corporate Office at : 4<sup>th</sup> Floor Farena  
Corporate Park, Kharadi Bypass Road, Hadapsar,  
Pune – 411 028

Through its Authorized Representative  
Mr. Devendra Vinayak Kulkarni

Age : 35 years, Occupation : Service

... Petitioner

V/s.

1. The Regional Officer,  
Maharashtra Pollution Control Board,  
Regional Office, Pune
2. Maharashtra State Pollution Control  
Board, Through its Member Secretary,  
Having head office at : Kalpataru Point,  
3<sup>rd</sup> and 4<sup>th</sup> floor, Opposite PVR Cinema,  
Sion Circle, Mumbai – 400 022  
Having regional office at : Jog Centre,  
3<sup>rd</sup> floor, Wakdewadi, Old Pune Mumbai  
Road, Pune – 411 003

3. State of Maharashtra  
Through office of Government Pleader

... Respondents

Mr. J.P. Sen, Senior Advocate i/b. Mr. Akshay Shinde with Mr. Rohan Sathaye, Mr. S.V. Abhang, Yadnaseni Gaikwad, Mr. Jeevanridya Joshi for the Petitioner

Dr. Milind Sathe, Senior Advocate with Ms. Jaya Bagwe for the Respondent Nos. 1 and 2

Ms. R.A. Salunkhe, AGP for the Respondent No.3 - State

*CORAM : NITIN JAMDAR &  
MANJUSHA DESHPANDE, JJ.*

*DATE : 19 OCTOBER 2023*

*JUDGMENT (Per Nitin Jamdar, J.):*

Rule. Rule made returnable forthwith. The Respondents waive service. Taken up for disposal.

2. The Petitioner – Baramati Agro Limited is a Company registered under the Companies Act. It is engaged in manufacturing sugar, allied products, and ethanol production. It also operates and manages distillery units. Respondent No.1 is the Regional Officer, Maharashtra Pollution Control Board, Pune. Respondent No.2 is the Maharashtra State Pollution Control Board through its Member Secretary. Respondent No.3 is the State of Maharashtra. The Respondent – Maharashtra State Pollution Control Board is empowered under the Provisions of Maharashtra (Prevention of

Control and Pollution) Act, 1974 (Act of 1974) and Air Prevention and Control of Pollution Act, 1987 (Act of 1987) to issue necessary directions in respect of water and air pollution.

3. Exercising power under Sections 33-A and 31-A of the Act of 1974 and Act of 1987, respectively, the Maharashtra State Pollution Control Board (the Board), by order dated 27 September 2023, directed the Petitioner to close down its manufacturing activities of the Petitioner's distillery unit at Shetphalgadhe, Taluka - Indapur, District – Pune within 72 hours of the order. The Petitioner has filed this Writ Petition challenging the order dated 27 September 2023.

4. The Petitioner's distillery unit at Shetphalgadhe, by the name of Baramati Agro Limited, has a capacity of 600 KLPD. The Unit commenced operations in the year 2007-08. Petitioner is the largest ethanol supplier in Maharashtra. The Petitioner had sought various permissions, which were renewed from time to time. The Petitioner applied on 4 October 2012 for a grant of Environmental Clearance (EC) under the Environmental Impact Assessment Notification, 2006, under the Environmental Protection Act, to the Ministry of Environment, Forest and Climate Change, Government of India. On 20 March 2017, EC was granted to the Petitioner for extraction of sugar from 4500 TCD to 1200 TCD and Co-generation power plan from 20 MW to 70 MW and a distillery unit

from 60 KLPD to 160 KLPD. The EC was on certain conditions. The Consent to Establish (Consent) was issued on 12 June 2021 from 160 KLPD to 500 KLPD to the Petitioner. The Petitioner was granted EC for the proposed extension of distillery capacity from 300KLPD to 600 KLPD for ethanol production. The EC was issued subject to specific and general conditions. The Petitioner also applied for and granted Consent to operate a 300 KLPD distillery from juice, syrup and molasses (a total of 600 KLPD) on 22 May 2023, valid until 31 August 2024.

5. On 22 August 2023, the officers of the Board intercepted two tankers in the area near the Unit, and they were found carrying distillery spent wash. According to the officers, the drivers stated that they were carrying spent wash from the Petitioner's distillery unit. An FIR was lodged against the drivers on 22 August 2023. On 22 August 2023, the Board Officers visited the Unit premises and prepared an inspection report. On 23 August 2023, the Petitioner submitted a letter to the Board based on observations made by the Board's Officers and the production details from 1 March 2023. On 4 September 2023, proposed directions were issued to the Petitioner by the Board under Section 33-A of the Act of 1974 and 31-A of the Act of 1987. The Petitioner submitted a reply on 7 September 2023 and a further detailed reply on 13 September 2023.

6. The Petitioner received an e-mail from the Board on 26 September 2023 at 7.39 p.m. calling the Petitioner for a personal hearing on 27 September 2023 at 4.00 p.m. in respect of the show cause notice dated 4 September 2023. The Petitioner was given a personal hearing on 27 September 2023. Thereafter, the impugned order was issued on 27 September 2023, directing to close down the manufacturing activities of the Petitioner's unit within 72 hours from the date of the order. The impugned order was on the following allegations against the Petitioner:

*“(1) The spent wash generated from your industry was disposed illegally & unscientifically by tankers as mentioned above at Village Vahyali, Tal. Indapur, Dist. Pune, which was confirmed by the Board Officials on 22/08/2023 and same was agreed by you, thereby violating the condition prescribed in Schedule –I, 1(A) of the consent.*

*(2) During the visit on 22/08/2023, found that you are operating your distillery plant at 50% capacity, inspite of this you have stored the spent wash of 3696 CMD, it reflects, you are not operating ZLD (Zero Liquid Discharge System) regularly, thereby violating the condition prescribed in Schedule-I, 1. (A) & (B) of the consent.*

*(3) You have stored the spent wash in two numbers of impervious lagoons unscientifically, which may leads ground water contamination.*

*(4) You have provided spent wash tanker filling station adjacent to the lagoon.*

*(5) The compost is still found stored in compost yard unscientifically during the rainy season.*

*(6) The online continues monitoring system is not yet*

*provided/connected to the 45 TPH Boiler.*

*(7) You have not replaced wet scrubber to bag filters for the 10 TPH Boiler till date, thereby violating Environmental Clearance Condition No. A (v).*

*(8) You have stored coal and boiler ash in the compost yard in an unscientific manner and thereby violating the conditions prescribed in Schedule –II at sr. no. 6 of the consent”.*

\*\*\*

The order was served on the Petitioner through e-mail on 28 September 2023 at 1.38 a.m. That day, 28 September 2023, being a public holiday, the Petitioner moved the Petition on 29 September 2023. While issuing the notice to the Respondents, by way of an ad-interim order, subject to further orders, the time mandate in the impugned order was extended till the next date. Thereafter, the Petitioner filed an additional affidavit, the Board filed a reply and also a rejoinder by the Petitioner after that.

7. We have heard Mr. J.P. Sen, Senior Advocate for the Petitioner, Dr. Milind Sathe, Senior Advocate for the Respondent Nos. 1 and 2 and Ms. R.A. Salunkhe, AGP for the Respondent No.3 – State.

8. The Respondents, in their reply affidavit, had taken a preliminary objection that the Writ Petition should not be entertained as the Petitioner has an alternate remedy of filing an appeal to the National Green Tribunal under Section 16 of the National Green Tribunals Act, 2010. The Petitioner submitted that

the impugned order being a composite order under the provisions of the Act of 1974 and Act of 1987, the Petitioner does not have the remedy of an appeal under Section 16 of the National Green Tribunals Act, 2010. The learned Senior Advocate for Respondent – Board did not press this preliminary objection, and we have heard the parties further on the challenge.

9. The first contention of the Petitioner is as follows. The order passed by the Respondent – Board is with undue haste and in breach of principles of natural justice. A show cause notice was issued on 4 September 2023, which was responded to by the Petitioner with two replies dated 7 September 2023 and 13 September 2023. The Petitioner received no communication from the Board from 14 September 2023 to 25 September 2023, and it was directly on 26 September 2023 that the Board sent an e-mail to the Petitioner at 7.39 p.m. that a personal hearing would be conducted on 7 September 2023 at 4.00 p.m. The Petitioner remained present at 4:00 p.m.; however, the hearing did not commence till 5:00 p.m. and concluded soon thereafter. Petitioner was not accorded a meaningful opportunity to show all the documents. The impugned order records that approval for the issuance of closure directions from the Competent Authority was received on 27 September 2023. Therefore, the competent authority did so after 5:45 p.m. on 27 September 2023, and it could not be possible for the Competent Authority to grant approval after the

application of mind. The order was passed on the same day, 27 September 2023. The order was served on the Petitioner in the early hours of 28 September 2023, giving 72 hours' notice, which included 28 September 2023 as a public holiday and the end of the week. All this showed that the Board had determined to close down the operations of the Petitioner's unit, timing it so that the Petitioner would not even have time to approach the court of law, and the entire action is arbitrary and high-handed. The impugned order has not referred to the reply dated 13 September 2023 nor the submissions made by the Petitioner in the hearing on 27 September 2023.

0. The Respondent – Board, in response, has contended as follows. There is no breach of the principles of natural justice, and the action is perfectly valid. On 22 August 2023, the two tankers were intercepted. On 4 September 2023, a show cause notice was issued. The Petitioner filed two replies. A personal hearing was given to the Petitioner, and an order has been passed under Section 33-A of the Act of 1974 and 31-A of the Act of 1981, which the Board is competent to issue. The argument based on the approval of the Competent Authority is irrelevant, as for directing closure, taking approval is only an internal safeguard, and ultimately, it is the Board which has to issue the directions. As the liberty to file a reply was given, a personal hearing was given, and no complaint could be made of breach of principles of natural justice.

11. We have considered the rival contentions on this issue. The Petitioner was given notice on 4 September 2023. The Petitioner has filed two replies. The first reply of 7 September 2023 is short; a further detailed reply is of 13 September 2023. Up to this point, the Petitioner cannot have a grievance; it is about how the hearing was conducted, and the order was passed that the Petitioner has made a serious grievance. It is not disputed before us that the hearing was given on 27 September 2023 at around 5.00 to 5.45 p.m., and after that, the order was issued on the same date with an e-mail sent to the Petitioner in the early hours (1.38 a.m.) on 28 September 2023. If the Petitioner had to take recourse to the court of law, the Petitioner only had Friday, i.e. 29 September 2023; that is the day when the Petitioner approached the court. The Respondent – Board may be correct in contending that sanction of the competent authority is only a procedural safeguard. However, this is not a valid explanation as, in this case, the sanction was not dispensed with. The impugned order refers to the sanction being obtained on 27 September 2023. There is no denial to the assertion of the Petitioner that, as per the procedure, the competent authority has to be apprised of the proposal for closure. There has to be an application of mind on the proposal, and thereafter, the approval is granted by the competent authority. The impugned order states that approval was granted. The approval was obtained between 27 September 2023 at 5.45 p.m. and 28 September 2023 at 1.38 a.m. after office hours.

This timeline has to be considered in the context of Petitioner's case that the course of action adopted was of deliberate and undue haste. The Board has not contended that this is how orders are routinely passed or that the grant of approval by the Competent Authority is an empty formality. Therefore, the aspect of the expedited timeline has gone unexplained.

12. It is not an absolute proposition of law that if the Board expeditiously carries out its functions, an adverse inference regarding its bona fides must be drawn solely on that basis. This is because the Board is entrusted with the responsibility of preventing environmental pollution, and unforeseen and severe crises may require the Board to take rapid measures, including immediate closures. Separate statutory provisions are in place to address such contingencies. Also, the Precautionary principle is part of the environmental jurisprudence in the country. However, in this case, neither the factual circumstances on record nor any independent evidence is provided to demonstrate the existence of a severe and imminent crisis in the case at hand. With this, an inquiry can be conducted into the reasons for and/or effects of this accelerated decision-making. During oral arguments, the petitioner has primarily emphasised, and we have examined, the consequences of this expedited decision-making. As our subsequent discussion will show, in its effort to issue the order speedily, the Board has overlooked various crucial aspects of the case.

13. First is the non-consideration of the reply of the petitioner. The Board issued a notice on 4 September 2023. The Petitioner responded on 7 September 2023 with a short reply. After that, the Petitioner submitted a detailed reply on 13 September 2023 dealing with each of the allegations. The reply of 7 September 2023 was an outline, elaborated in the reply of 13 September 2023. The impugned order dated 27 September 2023 refers to the reply submitted by the Petitioner on 7 September 2023. In the preamble of the impugned order, reference is made to 9 documents and vide reference no.6 to reply dated 7 September 2023, but it does not refer to the reply of 13 September 2023. The order lists the allegations made in the show cause notice and states that the reply was submitted, but the reply of 13 September 2023 is not referred to at all. In the reply affidavit filed in this Petition, the Board has only stated that there was an omission to mention the reply of 13 September 2023 in the order and the same; however, it was taken into consideration. This explanation is not satisfactory. Non-reference to the reply of 13 September 2023 cannot be a typographical error. In this reply, there were various positions that the Petitioner had pointed out which had a bearing on the allegations against the Petitioner. Therefore, the explanation of the Board that the reply of 13 September 2023 was taken into consideration cannot be accepted. Though it is correct that an order

passed under section 33A of the Act of 1974 and section 31A of the Act of 1987 is not to read like a judgment of the court, in the case at hand, there is no reference to one reply of the Petitioner, and only the allegations are repeated, it cannot be said that the reply was considered, and the non-mentioning of the reply of 13 September 2023 is only a clerical error.

14. Therefore, two key aspects come to the forefront. Firstly, the proceedings, the authorisation from the competent authority, and the issuance of the order were concluded with remarkable speed. Furthermore, the time to shut down the operational distillery was limited to a mere seventy-two hours. Secondly, the impugned order fails to make any reference to the main reply filed by the Petitioner. This has resulted in the neglect of various crucial considerations necessary for justifying the closure order. The initial decision-making process becomes flawed when these criteria are not adhered to.

15. Under section 33A of the Act of 1974, the Board has the power to give directions. This provision reads thus:-

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

*and such person, officer or Authority shall be bound to comply with such directions.*

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

*(a) the closure, prohibition or regulation of any industry, operation or process; or (b) the stoppage or regulation of the supply of electricity, water or any other service.”*

\*\*\*

Identical power exists under the Act of 1981 in Section 31A. This provision reads thus :-

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

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

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

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

\*\*\*

The Board thus has the power to direct closure, prohibition or regulation of any industry, operation or process.

16. The petitioner contends that it has given answers to all the allegations in the reply and during the personal hearing, and according to the Petitioner, they have not contravened even in the reply affidavit. The first allegation against the Petitioner is of interception of tankers carrying spent wash. These drivers, upon interception, stated that they were carrying spent wash from the Petitioner's Unit. In the reply affidavit, the officer of the Board stated that on 22 August 2023, he noticed suspicious activity whereby two tankers were intercepted, and it was found that they were carrying spent wash from the Petitioner's factory. The learned Counsel for the Board contended that this clearly shows that this spent wash was being dumped outside the unit; therefore, there is a clear breach of the Consent. It was contended that even the Petitioner had not denied this incident. The Petitioner, in its reply of 13 September 2023, which is elaborated before us, has sought to explain that a new lagoon was being constructed at the unit. On completion of such construction, a pipeline would have to be installed connecting the new lagoon with the old lagoon. The old lagoon was acting and would continue to act as the MEE Feed Tank. Meanwhile, until this pipeline was installed, tankers transferred the spent wash from the new lagoon to the old lagoon. Shifting of spent wash-through

tankers was a temporary activity. It was stated that the tankers, without authorisation or permission of the Petitioner's officers, changed course and took the spent wash to a plot of land at village Vahyali. The drivers of the tankers stated that the diversion of spent wash was done at the behest of a local villager, and the Petitioner had no role to play. It is contended that the Petitioner is not even named in the FIR. It is stated that disciplinary action has been taken against the security officer, and the services of the tanker operator have been discontinued. The Petitioner has also sought to contend that the Petitioner uses the spent wash for its internal process and is not taken outside the unit. The entire spent wash is incinerated inside the unit. Therefore, we find that assuming that the tankers were intercepted, the Petitioner had an explanation for the same, which the Board has to consider along with the Petitioner's explanation and decide whether this was a one-time default or it is a continuous or serious violation that would entail the closure of the unit or any other measure would have sufficed against the Petitioner.

17. The next ground is that during the visit on 22 August 2023, it was found that the Petitioner was operating its unit at 50% capacity, and the spent wash stored was 3,696 CMD, which shows that the Petitioner was not operating at zero liquid discharge regularly. The Respondent- The Board contends before us that this is a violation of the Consent. The Petitioner's response is that during summer and scanty rainfall, the unit could not get sufficient

water from the nearby dams and, consequently, could not operate up to its optimum consented capacity. The Petitioner states that raw spent wash is processed through Multi Effect Evaporator (MEE) whereby a portion of spent wash is converted into water vapour, and the balance is concentrated spent wash and is used as a source of fuel and burnt into boilers to generate steam which is reused in the distillery process. It is stated that these processes are ongoing activities, and sometimes, if the boilers are shut down, the spent wash is required to be stored, and during monsoon, the spent wash increases its volume due to increased rainwater. So, according to the Petitioner, that spent wash is used in its internal system and, therefore, the position of spent wash stored in lagoons can undergo change and, therefore, there is no nexus between the unit operating in 50% of the consented capacity and the spent wash stored in the lagoons. The Board has derived this conclusion from the visit to the unit on 22 August 2023 and as the water was seen there. According to the Petitioner, one visit cannot be the foundation of a negative conclusion.

18. This is the explanation given by the Petitioner. This aspect, we find, has not been satisfactorily dealt with in the impugned order nor the reply of the Respondent-Board. Whether there was seasonal variation in the degree of the spent wash, whether from one visit directly, an inference can be drawn that a mismatch

between the unit operating at consented capacity and quantity of spent wash are all factors that needed to be seen. If there was a mismatch, a corrective action could have been directed. If not in the impugned order, it could have been stated in the reply, but it is missing.

19. Another ground held against the Petitioner is that the spent wash is stored in lagoons unscientifically, which may lead to groundwater contamination. The Respondent- Board, in the reply affidavit, has stated that there is a mistake in the impugned order wherein it mentions that spent wash is stored in impervious lagoon unscientifically and it should have been *non*-impervious lagoons and absence of the word “non” in the impugned order is a typographical error. The Petitioner has taken a serious exception to the explanation the Respondent-Board gave that the absence of the word “non” is a typographical error. The Petitioner contends that the words “impervious lagoon” appears in the inspection report dated 22 August 2023 and even in the show cause notice dated 4 September 2023. It is contended that the inspection report is a hand-written document, so there cannot be a typographical error. The Petitioner has also asserted in the rejoinder that the said lagoons are, in fact, impervious. This is yet another instance of a crucial omission that is sought to be explained as a typing error.

20. Therefore, as of today there is no material is on record to show that the Petitioner has been storing spent wash in the non-impervious lagoons. The learned counsel for the Respondent- Board also sought to contend that there is groundwater pollution and storing spent wash in lagoons is not permitted. However, the impugned order states to the contrary that - the spent wash in two impervious lagoons *may* lead to groundwater contamination. The Petitioner also contends that storing spent wash in the lagoon is not an impermissible activity and that it could be stored for a limited duration of up to five days under the EC and Consent itself. Therefore, the Board had to consider the nature of the lagoon and whether, in fact, ground contamination was taking place or not or even when it records that the lagoons were impervious. Even for invoking the Precautionary Principle, elementary enquiry was necessary. This scrutiny is entirely absent from the impugned order and the reply filed before us.

21. The next ground against the Petitioner is that the Petitioner has provided a spent wash tanker filling station adjacent to the lagoon. The Petitioner's explanation is that the said filling station is not a spent wash filling station but is used for water filling, which is supplied to the trees. It is stated by the Petitioner that, in order not to have any objection, without prejudice, the Petitioner has even removed the said water-filling station. The impugned order and

the reply, except stating that there was a spent wash tanker filling station, do not elaborate on it. Even the subsequent development of removing this station is also something the Board needs to consider.

22. As regards the allegation that bio compost is still found stored in compost yard unscientifically during the rainy season, the Petitioner has sought to explain that it was temporarily accumulated and the Petitioner has removed the said compost and used it for the trees and plants and there is no compost stored, and the Petitioner has sought to rely upon the photographs.

23. The next allegation against the Petitioner is that an online continuous monitoring system is not provided or connected to the 45 TPH Boiler. The Respondent-Board states that providing an online monitoring system is crucial as it enables the Board to monitor the Petitioner's activities, which is an essential condition in Clause-XX of the EC. According to the Board, the Petitioner has admitted that the Petitioner does not have this online monitoring system. It is stated that from 28 November 2022, the system has not been provided and that the order for it is stated to be placed by the Petitioner for the same only in October 2023. Therefore, according to the Board, there has been a clear and direct breach of the conditions of EC for more than a year.

24. This aspect could also have been seen on a larger canvas of substantial compliance and the object of this condition. According to the Petitioner, apart from the online monitoring system, there are other methods by which monitoring can be done, and these measures are in place. It is stated that a logbook is maintained for spent wash, and various other means are available. The Petitioner has stated that outflow from MEE and inflow to the incinerator is monitored. The monitoring system by a flow meter, which is monitored through a software system in which information is available, and the Petitioner has been providing the spent wash generator data to the Board, which has not been questioned so far. The Petitioner also contends that the Petitioner has already purchased the hardware for this system, placed an order for the software, and has written to the Central Pollution Control Board, and the Central Pollution Control Board has informed the Petitioner on 3 October 2023 that its request for online connectivity will be considered within fifteen days. Therefore, the Petitioner seeks to advance a contention of substantial compliance, stating that one of the directions could have been issued to the Petitioner, giving time to install the system instead of directing closure. On this aspect, we find the scrutiny and the application of mind by the Board is missing as to what would have been the proper course of action.

25. One more allegation against the Petitioner is that the Petitioner has not replaced the wet scrubber to bag filter for the 10 TPH boiler. According to the Board, this inaction on the part of the Petitioner is a direct violation of the Environmental Clearance, more particularly Clause-V thereof. According to the Respondent-Board, once there are violations of this nature, the order of closure is proper, and the Petitioner should first comply with this condition and then apply for restarting. The Petitioner contends that the wet scrubber is in respect of bio compost, and bio compost has to be discarded within two years from the date of EC, which has not lapsed. According to the Petitioner, even otherwise, the Petitioner has phased out 10 TPH boiler, which was not in operation and without prejudice, the Petitioner has also stated that it is in the process of replacing the wet scrubber by bag filter. The order was already placed to ensure no adverse action was taken against the Petitioner on this count. Apart from reiterating the ground raised in the impugned order, the reply does not address this aspect. Again, this is an area where the Board's scrutiny is missing.

26. Regarding the allegation of storing coal and boiler ash in the compost yard, it is stated that coal was temporarily stored in the compost yard due to the ongoing construction of a new coal yard. The coal was stored on an impervious flooring base connected to a leachate tank, and even this has been shifted to a covered place.

According to the Petitioner, these facts have not been controverted in the reply affidavit. The Petitioner also states that boiler ash has been treated similarly, and subsequently, an entity called RK Agro Industries has started lifting the boiler ash, and even this has been redressed. The Petitioner has placed photographs on record to demonstrate all these steps taken.

27. One of the aspects that the Board had to consider, which we find not being adverted to even in the reply filed before us, is the doctrine of proportionality. Sections 33A of the Act of 1974 and section 31A of the Act of 1987 provide three options to the Board: regulation, prohibition and closure. The order of immediate closure of a unit under the Act of 1974 and the Act of 1987 and withdrawal of Consent is a stringent step. The Board has the discretion to choose the appropriate option. The discretion conferred on an authority under the statutes is not unfettered. Administrative law in our country has developed various guiding principles for the use of discretionary powers by administrative authorities. One such established principle is the "doctrine of proportionality." This doctrine focuses on the decision-making process, more particularly the approach to setting priorities while making decisions. Principally, a decision-making process involves allocating relative significance to the factors and considerations relevant to the issue at hand. The doctrine of proportionality focuses on the primary aspect of this

process, emphasising balancing a set of acceptable priorities. So that its power or discretion is used fairly, it is crucial for the authority to ensure the chosen measure is commensurate with the nature of the violation and the characteristics of the offender, avoiding any undue harshness. Thus, the principle of proportionality mandates that administrative measures should not exceed what is strictly necessary to achieve the desired outcome.

28. The Petitioner has placed before us various incidents where the Board has not taken deterrent measures of closure, which are as follows:

*“(a) Shriram Jawahar SSK Udyog (Sugar Unit)-  
Directions dated 6 June 2023*

*(b) Jai Bhawani SSK (Sugar Unit)- Directions dated 31  
May 2023*

*(c) Malegaon SSK Ltd.- Directions dated 16 June  
2023*

*(d) Vitthalrao Vikhe Patil SSK Ltd.- Directions dated  
26 September 2023*

*(e) Karmaveer Shankarrao Kale SSK (Distillery Unit)-  
directions dated 11 April 2023*

*(f) Sharad Sahkari Sakhar Karkhana Ltd.- Directions  
dated 15 March 2023*

*(g) Yashwantrao Mohite Krishna SSK Ltd.- Directions  
dated 19 January 2023*

*(h) Someshwar SSK Ltd.- Directions dated 6 June 2023*

*(i) Brima Sugar Maharashtra Distilleries Ltd. – Directions dated 26 May 2023*

*(k) Jarandeshwar Sugar Mills Pvt. Ltd. –Directions dated 24 May 2023.”*

All these directions were issued between January 2023 and September 2023. The Petitioner has asserted that in some of these cases, direct effluent/ spent wash was being discharged into flowing rivers or other water bodies, which were serious violations; however, these units were simply directed to rectify the same or very minimal action was taken against them. Even in the cases where there is a direct allegation of a serious violation, the action of closure is not taken. The Petitioner contends that there is no allegation or any report of any direct pollution of a grave nature that a closure is to be ordered in the Petitioner's case. Though the Board has tried to justify the actions, contending that there cannot be a comparison and each case has to be decided on its own merits, the Respondent- Board has not controverted these assertions of the Petitioner.

29. The Petitioner has also relied upon the Enforcement Policy of the Maharashtra Pollution Control Board, Mumbai, issued vide notification dated 29 February 2016. It refers to the order passed by the National Green Tribunal directing the Board to frame

a policy. The Enforcement Policy 2016 is framed to integrate various aspects, including inspections, monitoring, standards, compliances, directions, remedial measures and filing of complaints before various Courts. It deals with effective consent management, laying down the conditions for prevention, defining specific violations and classifying violations upon degree. In the definition of specific violation, the definitions have been incorporated in the Enforcement Policy with respect to the level of non-compliance. First is average compliance, where the compliance level is 75% and below 100%. Second is medium compliance, where the compliance level is from 25% but is less than 75%, and third is substantial non-compliance, where the compliance level is less than 25%, including environmental damage. Then, fourth is substantial/ total compliance, where the compliance level is 100%. There is also a category of zero liquid discharge and disposal on land. Accordingly, violations have been categorised as substantial non-compliance, medium compliance, average compliance and total compliance. The Enforcement Policy 2016 lays down the procedure for enforcing compliance with various environmental norms, particularly the Act of 1974 and the Act of 1987. The Enforcement Policy 2016 contemplates warning notice after the visit, show cause notice, proposed directions based on the analytical report and conditional directions to secure compliance within the stipulated period. After proposed directions, based on the reply after the grant of an opportunity of hearing, final conditional

directions with a time frame to comply with the conditions to be imposed within a particular time. If compliance is not done, a prohibitory order can be issued to stop polluted discharge or emissions under the Act of 1974 and the Act of 1987. If compliance is not done even after the prohibitory order, an application under these Acts can be filed before the Court of Judicial Magistrates for an appropriate order. The Enforcement Policy 2016 further contemplates conditional directions where serious non-compliances are observed based on the regular visit /surprise visit and investigation where exceedance is above 75%, directions of closure or disconnection of electricity can be issued till effective steps are taken. In grave and sudden circumstances, final directions can be immediately issued.

30. The Counsel for Respondent-Board contends that this Policy cannot take away the power of the Board under sections 31A and 33A of the Acts, and it is merely without an internal regulatory mechanism. Assuming it to be so, but it does not mean that the Policy is meaningless to be disregarded at will. The Policy is framed pursuant to the order passed by the National Green Tribunal to categorise the degree of violations and communicate appropriate responses to the degree of violations. The Policy also contemplates that for non-compliance with the conditions of consent, the bank guarantees will be proportionately forfeited, and proportionate time will be granted to secure compliance. Balancing compliance against

non-compliance in percentage has to be seen as to the installation of equipment for pollution control devices and overall steps taken by the unit against infractions.

1. Pointing to the consequences of the impugned order, the Petitioner seeks to place on record that the Petitioner is a significant contributor of ethanol to the Central Government and the largest ethanol supplier in Maharashtra. The Petitioner is also a major contributor of ethanol in the Ethanol Blending Programme of the Central Government. The Petitioner has supplied 27.89 crore litres of ethanol to oil management companies in the last three years. The Petitioner states that if the Unit is closed, it will directly hamper the ethanol supply made by the Petitioner to the Central Government. The Petitioner states that reducing crushing would necessarily impact the local farmers. The Petitioner states that 291 workers working in the Petitioner's Unit and 807 workers working in the sugar factory would be adversely impacted. The Petitioner contends that the Petitioner has taken the lead in tree planting. The Petitioner has planted 12,530 trees, invested Rs.122.85 crore towards technological advancements, and invested in equipment and infrastructure to protect the environment. The Petitioner has stated that the Petitioner has set up two carbon dioxide refinery plants on the premises of the said unit. These are some considerations to be balanced with the degree of violations and degree of immediate threat in deciding the course of action.

32. The Enforcement Policy itself contemplates proportionality in the actions of the Board. It is not established before us that any infraction of any degree of Consent or EC will *ipso facto* result in the order of urgent and immediate closure of a unit, regardless of any other circumstances. It cannot be argued that the Board can issue an order of closure merely because it has the power to do so. The Board had to consider whether, even proceeding on the basis that all the allegations in the show cause notice were proved against the Petitioner, whether the action of closure was warranted. It cannot be debated that the Board, an authority entrusted with the duty and power to deal with air and water pollution, has a range of options to achieve its statutory objective. The doctrine of proportionality also applies to the Board like any other authority. Therefore, the Board was obligated to scrutinise the relative merits of varying objectives and their consequences to ensure they were assessed and balanced fairly. While it is correct that the selection of options and their severity is within the purview of the Board and it is guided by the Precautionary principle, such choices must correspond to the breach of conditions and prevailing circumstances. The adopted measure should not be unduly severe. The impugned order does not state the presence of actual groundwater contamination or the petitioner's failure to take remedial action despite repeated warnings. As to whether stringent

immediate action of closure is required, whether phase-wise approach is necessary, and giving time for compliance monitoring the Petitioner's measures, the doctrine of proportionately will have to be applied in deciding the measures to be taken. Neither the impugned order nor the reply show that this crucial aspect has been considered.

33. Thus, we find that several errors have crept in the impugned order. They primarily stem from the expeditiousness of the decision-making process and the failure to duly consider the Petitioner's reply. The Petitioner has sought to address the violations levelled against it and has contended that it has substantially complied with the stipulated conditions of the Environmental Clearance. The impugned action directs the stringent measure of closure of the operational unit primarily on a single inspection report and the breaches. It is also not established before us the Petitioner has a history of recalcitrance. Even for the sake of argument, assuming that the Enforcement Policy is not mandatory, it should not be entirely disregarded unless the prevailing facts and circumstances provide sufficient justification for such a course of action. This holds especially true when the principle of proportionality is involved. The Petitioner is stated to have undertaken several corrective measures that would require scrutiny by the Board. Considering the totality of the circumstances which we

have narrated above, according to us, the proper course of action is to set aside the impugned order restoring the proceeding from the stage of the show cause notice dated 4 September 2023 and direct the Board to take a fresh decision after giving an opportunity to the Petitioner and setting up a time-table for the disposal of the said proceeding. In the facts and circumstances, the Board should pass a reasoned order.

34. To conclude, the Board, while taking the impugned decision in an expedited manner, has overlooked various important factors, such as the Petitioner's second reply, the Enforcement Policy, and the principle of proportionality. The Board had to consider aspects such as the extent of violations, degree of environmental threats, the option of setting compliance timelines, and the possibility of alternative deterrent measures. Neither the impugned order nor the reply affidavit show that a considered decision-making process was adopted before taking the decision. Therefore, it is necessary to remand this matter to the Board for decision afresh after taking into account the observations made in this judgment and after evaluation of the remedial actions taken by the Petitioner.

35. Accordingly, the impugned order dated 27 September 2023 is quashed and set aside. The show cause notice dated 4 September 2023 is restored to the file of the Respondent- Board.

The Petitioner may file an additional reply, if any, within two weeks. The Respondent- Board will direct inspection to be carried out as to the steps taken by the Petitioner within two weeks thereafter. After the inspection report is so received, an opportunity of hearing be given to the Petitioner with a copy of the inspection report within two weeks from the date of receipt of the report. After the opportunity is so given, the Respondent Board will pass a reasoned order as per law on its own merits after considering all the relevant aspects, including the Enforcement Policy.

36. Accordingly, the Writ Petition is disposed of. Rule is made absolute in the above terms. No order as to costs.

*(MANJUSHA DESHPANDE, J.)*

*(NITIN JAMDAR, J.)*

T.C



## MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 4010437 / 4014701 / 4020781  
Fax : 4024068 / 4023516  
Website : <http://mpcb.mah.nic.in>  
E-Mail : [ast@mpcb.gov.in](mailto:ast@mpcb.gov.in)



KALPATARU POINT, 3rd Floor,  
Sion-Matunga Scheme Road No.8,  
Opp. Sion Circle, Sion (East)  
Mumbai-400 022.

No. MPCB/AS(T)/TB/B-894

Date : 01/03/2016.

**CIRCULAR**

**Sub:- Implementation of the Enforcement Policy.**

**Ref.: 1) Board's Notification dtd. 29/02/2016.**

As per the directions vide judgment dtd.16/05/2014 of the Hon'ble National Green Tribunal, Western Zone Bench, Pune, Board has formulated the draft Enforcement Policy to integrate various aspects including inspections, monitoring, standards, compliances, directions, remedial measures and filing of complaints before various Courts as per the provisions of the Environment (Protection) Act, 1986 & other Environmental Laws, based on culpability, environmental damages, severity of pollution, repeated violations etc.

Board has finalized and published the Enforcement Policy vide Notification dtd. 29/02/2016 after obtaining comments of the CPCB and refining by conducting one day workshop of SPCBs officials.

Therefore, to comply with the directions of the Hon'ble National Green Tribunal, Western Zone Bench, Pune vide judgment dtd.16/05/2014, henceforth it is directed to implement the Enforcement Policy.

This Circular comes in force with immediate effect.

  
(Dr. P. Anbalagan, IAS)  
Member Secretary

For information:  
Hon'ble Chairperson, M.P.C. Board, Mumbai.  
To,  
All HODs/TA, CC-CAC Cell, M.P.C. Board, Sion, Mumbai.  
All ROs/ All SROs/ All FOs, M.P.C. Board.



## महाराष्ट्र शासन राजपत्र असाधारण भाग दोन

वर्ष २, अंक १३]

सोमवार, फेब्रुवारी २९, २०१६/फाल्गुन १०, शके १९३७

[पृष्ठे १४, किंमत : रुपये १२.००

असाधारण क्रमांक २०

प्राधिकृत प्रकाशन

MAHARASHTRA POLLUTION CONTROL BOARD, MUMBAI

ENFORCEMENT POLICY

NOTIFICATION

No.MPCB/AS(T)/B-848.—WHEREAS, Maharashtra Pollution Control Board (MPCB) had framed Uniform Integrated Policy for Consent Management. AND WHEREAS, in pursuance of the Judgment & Order passed by the Hon'ble National Green Tribunal (Western Zone) Bench, Pune in the Application No.30/2013 filed by Shri Vinesh M. Kalwal v/s State of Maharashtra & 3 Ors. dtd.16/05/2014, directed MPCB to frame the Enforcement Policy within a stipulated period ; AND WHEREAS, the Draft Enforcement Policy prepared by the MPCB was placed on the website of MPCB in the Public Domain, calling objections/ suggestions/recommendations for necessary modifications in the month of October, 2014 ;

AND WHEREAS, the Draft Enforcement Policy was further communicated *vide* letter dtd.3/11/2014 to the Environment Department, Urban Development Department, Rural Development Department, Public Health Department and Directorate of Municipal Administration, Government of Maharashtra. AND WHEREAS, further Public Notice was issued, calling the objections, suggestions & recommendations from the public at large within stipulated period. Similarly, the objections were called from all the CETPs, Industries Associations & all CHWTSDFs ;

AND WHEREAS, the Draft Enforcement Policy was further placed before the MPC Board in its 163rd Meeting held on 3/2/2015 for necessary approval and after necessary approval, it was further placed on the website of the Board. The Board has taken into consideration Enforcement Mechanism suggested in the Draft Enforcement Policy placed before it and decided to approve the norms laid down under the provisions of the Environment (Protection) Act, 1986 & Rules made thereunder by effective implementation thereof through Consent Management, subject to the condition that on the basis of adopting further changes in the policy taking into consideration experience & legal tools, necessary modifications can be done with the approval of the Member Secretary, MPCB from time to time ;

AND WHEREAS, in compliance of directions issued by Hon'ble National Green Tribunal in the disposed off an Application No.30(THC)/2013 (WZ), the Board has further decided to revise its policy and therefore, constituted a Committee for covering all the aspects of compliance verification, pollution intensity and impact of legal actions, culpability & remediation efforts in an integrated manner, of all HoDs by Office Order dtd.12/08/2015 ;

(१)

AND WHEREAS, the Draft Enforcement Policy duly modified by the Committee was further circulated to NEERI. However, in pursuance of the order dtd.30/10/2015, it was submitted to the CPCB for necessary comments and was further placed before 165th Meeting of the MPCB held on 14/10/2015 for kind perusal. AND WHEREAS, the Revised Draft Enforcement Policy after amendment, further placed on the website of the Board and a Public Notices were issued in the leading newspaper 'Indian Express' dtd.17/11/2015 and further submitted to CPCB *vide* letter dtd.9/11/2015 with a request to give its views ;

AND WHEREAS, a Joint Workshop was conducted on 23/2/2016 at MPCB (HQ) Office by circulating the comments received from the CPCB, as suggested by the CPCB. In the said Workshop, officials of Tamilnadu, Gujarat & Maharashtra State Pollution Control Boards along with Expert from NEERI and Pollution Control field participated. After due deliberations, the Board has finalized Enforcement Policy after perusal of Enforcement Policy and other details pointed out by both the Boards and taking into consideration the comments of the CPCB on the Enforcement Policy submitted to it, as under:

MPCB has framed the Enforcement Policy to integrate various aspects including inspections, monitoring standards, compliances, directions, remedial measures, filing of complaints before various Courts as per provisions of various Environmental Laws based on culpability, environmental damages, severity of pollution, repeated violations etc.

The Board has decided to take into consideration pollution potential, pollution load, serious damage caused or likely to be caused on the basis of verification report in respect of visit/s, surprise inspection/s, monitoring and sampling with reference to environmental standards/consented standards, compliance of consent conditions, environmental norms etc. The Board has further decided to concentrate more on highly polluted 17 categories of industries, operations or processes.

The Board will also take into consideration complaint/s investigation, report/s, more particularly recurring serious complaints in respect of serious environmental pollution causing nuisance/pollution or apprehended pollution for redressal of such complaints on the basis of facts and circumstances of the case/s.

The Board will further carry out cumulative and comprehensive environmental impact study in appropriate cases to identify various contributing factors responsible for causing damage to the environment through reputed institutions like IIT, Powai; NEERI; ICT; M.S. Baroda University; G.S.D.A. to decide remedial and restoration measures to be undertaken along with the cost of remediation to be borne by the polluters for taking time-bound remedial measures.

After due deliberations with the representatives of Tamil Nadu and Gujarat State Pollution Control Board, experts from the pollution control field as well as after perusal of the comments of C.P.C.B. on the Amended Draft Enforcement Policy, the MPCB has finalized general and specific Enforcement Mechanism to be followed on case to case basis as may deem fit necessary in the given situation as under:-

#### **1. Effective Consent Management:**

The Consent being the basic document through which stringent conditions are being imposed for prevention, control & abatement of pollution at source, so as to minimize and mitigate any such envisaged potential impact on environment / receiving bodies. Consent not only regulate establishment of new industry, expansion or modernization of existing industry, operation or process but also ensure compliances of existing industry, operation or process by imposing more stringent conditions to adopt Advanced Cleaner Technologies. The Board will concentrate more on precautionary principles while granting consents to the industries imposing the concept of Advanced Cleaner Technologies, adoption of concept of Waste Minimization, Resource Conservation, possibility of incorporating Life Cycle Approach and finally disposal of waste in an environmental sound & scientifically safe manner. The Board has already established Technology Development Cell for identification of above technologies.

**(A) MPCB's initiatives in effective consent management :—**

The Board has taken following effective measures with regard to the "Make-in-India Initiative" under State of Maharashtra for expediting the statutory permissions.

(a) Simplified application form has been devised to obtain consent for Green Category of industries ;

(b) The period for scrutiny of consent application and grant of consent has been reduced to 60 days from that of 120 days statutory period ;

(c) The visit and sampling norms have been made more easy to follow and reliance has been kept on self certification at the time of grant of renewal of consent ;

(d) The auto-renewal scheme on the basis of self certification has been made applicable to all category of industries, more particularly for Green and Orange Category industries, it has been made more simplified ;

(e) The online submission, scrutiny of application for consent and online grant thereof have been adopted in the MPCB ;

(f) The renewal of consent has been granted for minimum five years and maximum upto 05, 10 and 15 years for Green, Orange and Red category of industries respectively ;

(g) MPCB has joined the scheme of "Single-Window" system at MAITRI(Investment Facilitation Cell) for considering grant of consents after statutory period of 120 days from authority at Single-Window ;

(h) Randomized Risk Based inspection & Sampling (RRBIS) scheme has been introduced for monitoring of various polluting activities, where the Field Officer from other area will cause 25% visit, inspection and sampling from the randomized computer generated list, so as to bring the element of 3rd person monitoring in regular system to bring more reliability and transparency in monitoring ;

(i) In compliance of Maharashtra Right To Service Act, 2015, the provision for Appeals against non-grant of consent upto Regional Officer level consents have been introduced in the MPCB.

**(B) Refusal / Revocation of the Consents and Forfeiture of Bank Guarantee :—**

In case, the compliance is not secured within stipulated time provided to concern industry, the Board shall initiate action for forfeiture of Bank Guarantee and wherever there is evidence of substantial compliances provision for considering extension of time for securing complete and thorough compliance by forfeiting proportionate bank guarantees only. The uniform procedure for imposing bank guarantees and its forfeiture with reference to degree of non compliance has been already adopted from 2011 onward. Wherever there is continual non-compliance, in spite of sufficient opportunities and with extension of time is given by the Board (not more than 3 times), after third extension, further stringent actions such as refusal/revocation of consent and further final directions of closure etc shall be initiated. However, in cases of serious violations, no second opportunity and extension of time will be granted. The refusal / revocation order will be issued as may deem fit in the circumstances of particular case.

**(C) Uniform integrated approach for consent management :—**

The MPC Board has adopted "Uniform Integrated Approach for Consent Management." The said policy is under implementation. This policy basically takes into consideration material balance aspect to ensure that nothing is finding its way into the environment in contravention of consent conditions and to the extent possible, most conservative approach will be adopted in use of natural resources like water, raw material, energy etc. The sector specific approach by identifying highly vulnerable pollution streams and imposing more stringent conditions in the consent to regulate such streams have been adopted. Here, the classifications of industries by CPCB based on pollution potential, various directives issued by the CPCB and other Forums as well as various statutory guidelines and circulars issued by the Competent-Authorities from time to time shall be taken

into consideration. The following specific measures are taken by the Board for effective consent management for prevention, control and abatement of pollution.

**(a) Sector- Specific Approach for Consent Management**

In 2011, the CAC had taken review of earlier legal actions and decided to adopt Uniform Integrated Approach not only in grant of consent/s, but also issuance of directions and accordingly, decided to implement Enforcement Mechanism in respect of procedure to be followed uniformly while grant of consent/s and also about compliance matrix. Such implementation started of late in 2011 onwards. MPCB has identified sector specific industries for the purpose of imposing stringent conditions to regulate highly polluted stream of pollution arises from such activity, by adopting sector specific approach for sugar & distilleries, textile processing, steel industries, cement industries, power plants etc.

MPCB has initially identified highly polluting industries and accordingly adopted sector specific approach for regulating such type of industries through grant of consent/s from 2011 onwards. Sector-specific approach has been adopted for effective consent management and improving the compliance level up to 95% in respect of important conditions imposed in the consent granted to Sugar and Distillery, Textile Processing Cement Plants, Steel Plants and Power Plants respectively. For compliance of those important conditions, reasonable time period prescribed in the consent granted to such units and to ensure time bound compliance of such conditions, uniform BGs have been prescribed. While imposing such conditions the aspects of waste minimization, recycle/reprocess/reuse/re-circulate and recovery of material taken into consideration. The BG regime will be followed as a last resort to secure the compliance, but ensuring that the compliance will be more cheaper than submission of BG and forfeiture thereof, so that the industries will prefer to comply with the conditions rather than facing forfeiture of BG and continuing non-compliance. The element of remedial measures and restoration along with cost thereof will be incorporated in the Bank Guarantees, so that in case of failure to take remedial measures, out of forfeiture of bank guarantee, through reputed institutions, remedial measures can be taken with the cost of forfeiture of Bank Guarantee.

**(b) Stringent Conditions for Pollution Prevention :—**

The present approach is to impose and implement industry specific conditions for pollution prevention on the basis of its pollution potential in a time bound manner. While imposing conditions, the Consent Granting Authorities focus more on the waste minimization, by adopting waste reduction by insisting for providing of cleaner-technologies consisting of recycling, reuse, reprocess and recovery to the extent possible. Wherever possible, the Lifecycle Approach is adopted, by keeping proper material balance etc. Just to cite an example, the Bank Guarantee Regime for the power plant was discussed in the 13th Consent Appraisal Committee Meeting held on 5th October 2013 for sector-specific approach for the Power Plant. After due deliberations, it was decided to lay down specific separate BG Regime for old & new power plants with reference to different standards laid down under the provisions of the Environment (Protection) Rules, 1986. The necessary Guidelines have been formulated in respect of implementation of BG Regime for both the old and new power plants with reference to the exceeding percentage of non-compliance of the standards/conditions stipulated in the consent, on the basis of compliance percentage with reference to time frame given for compliance, taking into consideration verification report and the manner in which, the non-compliance is to be confirmed/decided.

However, as far as BG Regime for Power Plant is concerned, once the ESP is installed, the emissions are required to be defined with reference to the documentation on the basis of which, amount of BG can be forfeited with percentage of non-compliance, including handling & disposal of fly ash as well as CAAQMs results and operation & maintenance of pollution control devices. The forfeiture Regime for various bank guarantees in respect of the BG Regime for power plants has been defined. Similarly, BG Regime for old & new power plants,

as per Environment (Protection) Rules, 1986, has been specified on the lines of above Forfeiture Matrix. The sectorial review is being taken on yearly basis.

**(c) Target for securing sector-specific compliance :—**

In Sector-Specific Approach for Consent Management, the MPC Board has identified highly vulnerable aspects of pollution being caused from the identified sectors, such as Sugar and Distillery, Textile Processing, Cement Plants, Steel Plants and Power Plants respectively. In order to regulate highly vulnerable waste streams, MPCB has prepared an Action Plan to secure compliance of 80% initially and targeted compliance level upto 95% in a time-bound manner by imposing necessary conditions, granting reasonable time period in the consent renewal for taking improvement measures. After expiry of period granted for making improvement, MPCB takes action to secure the above compliance level through grant / refusal / revocation of consent/s of non-complied industries and initiating other stringent actions like issuance of prohibitory orders, filing of applications before appropriate Court of Law for various directions including restraining apprehended pollution, filing of prosecution and issuance of various directions including closure, prohibition or regulation of polluting activities.

More thrust has been given on the enforcement of conditions stipulated while granting consent through effective monitoring and surveillance at the field level. After expiry of the periods granted for implementation of the said conditions on the basis of monitoring reports, further actions shall have to be initiated including forfeiture of bank guarantees, regulation of highly polluting activities with reference to best available technologies (reduction of pollution load by imposing conditions for recycle, reuse of treated effluent, restricting generation of effluent commensurate with land availability/disposal system, reduction of production quantity in exceptional cases, imposing conditions for use of clean fuel- such as CNG/Natural Gases, refusal / revocation of consent; closure, prohibition or regulating highly polluting activities etc. However, depending upon seriousness, the Competent-Authority (Consent Granting Authority) may take decision for refusal/revocation of Consent with reference to the degree of pollution / impact on environment after giving one opportunity of hearing.

**2. Implementation of Polluter Pays Principle :—**

The Regime for forfeiture of BG on the basis of "Polluter Pays Principle" subject to the degree of non-compliance as stated above and for continuous non-compliance, it will be more costlier than securing compliance, so that the project will prefer to secure compliance, rather than "Pay for Pollution", which is decided as below :-

(i) In case of substantial compliance is secured, upto 25% of the bank guarantee to be forfeited and top up with double the amount of forfeiture by granting additional time of 25% proportionate time granted for securing total compliance as per earlier directions.

(ii) In case of medium compliance is secured as defined above, above 25% upto 50% of BG to be forfeited on the basis of % of non-compliance and top up with double the amount of forfeited BG and granting 50% proportionate time of total period granted as per earlier directions.

(iii) In case of non-compliance below 25%, above 50% upto 100%, BG to be forfeited on the basis of % of non-compliance and top up with double the amount of forfeited BG proportionately and giving additional proportionate period with reference to the earlier total period granted by the Board.

(iv) In case of 100% compliance, the earlier directions given for non-compliance will be withdrawn and bank guarantees will be returned immediately.

If non-compliance of conditions observed, based on the non-compliance level (25% - 50% - 75% and above), BGs will be proportionately forfeited and proportionate time will be granted with top up of forfeited BG while granting further extension of time to secure remaining compliance after obtaining double the amount of forfeited BG. After second extension, if physical steps are taken for compliance of conditions, on the basis of the progress, decision in respect of further

extension of time, if required or initiating further stringent action including refusal/revocation of consent, issuance of prohibitory orders, making applications to the JMFC for restraining apprehended pollution, filing of prosecution and/or stoppage of such polluting section etc. can be initiated on the basis of the recommendation of consent granting authority taking into consideration seriousness of non-compliances. While initiating actions for refusal/revocation/review of consent conditions, due procedure laid down by the Board will be followed, which is already placed on the website of MPCB in respect of consent management. The norms for visit and surprise inspections, investigation of complaints, formation of squads for surprise visits, inspections and sampling, and for initiating various legal actions will be prescribed separately in due course of time. While initiating actions, a number of visits, surprise inspections, sampling and analytical reports as well as investigation of complaint reports will be taken into consideration.

It was further decided that instead of procuring bank guarantees for compliance of all conditions, the bank guarantees will be insisted only for the purpose of up-gradation of Effluent Treatment Plants/Air Pollution Control Systems /Pollution Control Systems. The Gujarat Pollution Control Board's model for Bank Guarantee Regime in the cases of enforcement of up-gradation in the existing pollution control devices will be followed, after exhausting the initial remedies, such as show cause notice; in case of non-compliance of show cause notice, directions (proposed directions/interim directions/final directions) are issued, in appropriate cases filing of prosecutions and where no compliance is reported, after giving sufficient opportunity to the industry concern to secure compliance, then, forfeiture of bank guarantees.

It was also decided to discourage obtaining of the bank guarantees for various submissions of mandatory documents like hazardous waste returns, cess returns, e-waste submissions etc. Instead of that, in such cases, the consents will not be renewed / granted, so that without submission of mandatory returns on the basis of bank guarantees, consents will not be granted. This will automatically result into compliance in respect of mandatory submissions before grant of consent.

It was decided that more reliance will be on obtaining bank guarantees for further improvement in the form of performance bank guarantees, which will be maximum upto 10% of the capital investment proposed on the improvement of pollution control measures. The operational bank guarantees will be insisted more on 17 highly polluting category industries on the basis of operational cost of pollution control devices. The amount of bank guarantees will be further increased in cases of critically polluted industries identified by the Board on the basis of their performance in the last year and also on the basis of incidence of serious pollution caused damage to the environment etc. While imposing bank guarantees, the criteria for improvement measures capital expenditure proposed and the highly polluted industries with past record will be taken into consideration. However, the forfeiture of bank guarantees will be last resort for initiating actions.

The amount of forfeiture of bank guarantee will be deposited in separate fund in the account of "Environment Improvement & Environment Compliance Fund". This fund will be utilized for initially to take remedial measures in respect of incidence of pollution caused in that area, intensive monitoring of the said area, common environment issues to be solved in that area, installation of CCTV and link up to the Board's website, Data Management & Awareness etc. The guidelines issued by the CPCB in respect of expenditure to be incurred on environment improvement out of cess funds and the guidelines framed by the GPCB in respect of the utilization of amount of forfeiture of bank guarantees will be followed while spending the amount of forfeiture of bank guarantee credited to the above fund.

### 3. Miscellaneous :

#### (A) Definition of specific violations :

The following definitions have been incorporated in the Enforcement Policy in respect of level of non-compliances.

(I) **Average compliance- where compliance level is 75% and below 100% :-**It shall mean and include an act or omission or commission by a person causing damage to environment

due to failure of compliance of the provisions of this Act or rules made or order or direction issued there under in the manner as may be prescribed and is not a substantial damage or non-substantial damage to the environment.

(II) **Medium compliance – where compliance level is from 25% but is less than 75% :** It means damage to environment which is neither a minor violation or a substantial damage and shall be determined in the manner as may be prescribed;

(III) **Substantial non-compliance – where compliance is less than 25% (non-compliance is more than 75%) :** It means damage to environment whether by release of environment pollutant or environment pollution or handling of hazardous substance or any other substance or otherwise determined in the manner as may be prescribed, by which the environment is affected or likely to be adversely affected by such damage or by its consequences due to –

- (a) Direct violation of a specific statutory environmental obligation of the occupier; or
- (b) any act or omission of the occupier or negligence on his part (whether by an accident or otherwise); or
- (c) carrying out any project or activity or operation or process by the occupier ; which causes serious environmental damage.

(IV) **“Substantial / Total Compliance, where compliance level is 100% :** It means that the compliance is made in respect of all conditions/ standards / norms stipulated under various Environmental Laws.

(V) **Zero Liquid Discharge (ZLD) :** The earlier concept of ZLD which include not only zero liquid discharge in to environment by total recycling, reuse, reprocess, re-circulate or recover of liquid waste, thereby not discharging any waste into the environment but also application of treated liquid effluent after achieving standard on land for irrigation purpose, thereby ZLD was including disposal of treated effluent/application thereof on land for irrigation/plantation purposes.

**New definition of ZLD :** Now it has been decided that ZLD needs total utilization of liquid effluent in the process itself. Process includes recycle/ reuse/reprocess/recover or combination thereof, thereby nothing is discharged into the environment (stream or on land) therefore it becomes necessary to define separately land application or disposal on land.

(VI) **Disposal on land :** It was thought necessary that in order to avoid confusion about ZLD with that of disposal on land shall not be treated as ZLD because if standard is not achieved, discharge of liquid effluent will definitely cause environment damage. Therefore, disposal on land shall be strictly scientific in compliance of E(P)A Standards/Board Standards, whichever is stringent and will not cause any environment damage. Accordingly, above two definitions about ZLD and Disposal of treated effluent on land scientifically after achieving standard have been incorporated or strict implementations thereof.

Earlier, ZLD in respect of disposal of total treated effluent on land for irrigation purpose has been defined as per disposal on land and not ZLD. Similarly, discharge of effluent in violation of consent conditions, For example condition for disposal on land for irrigation purpose will be treated as violation, if the effluent is discharged into river or stream.

#### (B) Categorization of Violations :—

The policy frame work for initiating legal action has already been decided, wherein, the time limit to adopt improvement measures duly supported by the bank guarantees for various compliances have been spelt out. The proportionate compliance levels have been categorized in 3 categories as under:—

- (a) Substantial non-compliance – where compliance is less than 25% (non-compliance is more than 75%).
- (b) Medium compliance – where compliance level is from 25% but is less than 75%.
- (c) Average compliance- where compliance level is 75% and below 100%.
- (d) Substantial/Total compliance- where compliance level is 100%.

**The stages of compliance particularly for new installations of equipments, the exceedance of pollution discharge and submission of mandatory returns/documents :-** The compliance level *vis a vis* non-compliance in % will be decided with reference to not only the installation of equipments for pollution control devices, but also taking into consideration the discharge of pollutants on the basis of exceeding standards, observations in the visit and surprise inspections, investigation of complaint reports, compliance of statutory permissions including EC, C to E and C to O as well as mandatory submissions like hazardous wastes returns, cess returns, submission of feasibility/proposal for up-gradation on the basis of feasibility study for deciding adequacy of pollution control devices with regard to the up-gradation, environment statement, provision of online monitoring system / monitoring mechanism, operational issues like scientific operations, segregation of strong streams, leakages in processes, emission level in the environment, disposal of pollutants into environment, provision of adequate land for disposal, submission of bank guarantees and concrete proposal for further improvement etc.

It has been decided that 40% weightage will be given for installation of adequate and suitable pollution control arrangements (In case, the process is predominantly water polluting, then out of 40% weightage, 30% will be given for providing adequate and suitable ETP and Disposal arrangement and 10% will be given to other waste management. However, where process is predominantly (mainly) air pollution potential, 30% will be given for providing adequate and suitable APCS and 10% for other waste management (effluent/ HW/MSW etc.). But where the activity is mainly hazardous waste generating, 30% weightage will be given for scientific waste management and disposal. For example, in case of BMW generation, for proper collection, transportation and disposal to common facility, 30% weightage will be given. Similarly, where activity is generating MSW mainly, 30% weightage will be assigned to MSW generation, its collection, segregation, transportation and scientific disposal thereof). Thus depending upon the major source of pollution like water effluent/air emissions/ hazardous/ solid waste, out of 100% compliance, 40% weightage will be given to adequate waste management provision. The remaining 10% weightage will be given to other wastes other than predominant generation of waste.

Further out of 100% compliance level, 40% weightage will be given for proper operation and maintenance of waste management with reference to achieving standards. Further 20% weightage will be given to mandatory submission of documents, such as application for consent, cess returns, HW returns, environment statement submission etc. However, where inspite of provision of adequate waste management system, if it not operated, 40% weightage given to provision of waste management system will be treated as total non-compliance as if such waste management is not provided, on account of its non-operation in that particular month, even though such non-operation is reported once in a month whereas though it was operational on other days. The non-compliance observed on specific date will be treated as a non-compliance after the previous date of visit, when it was observed to be complied, if the concerned project proponent has not informed well in advance immediately about such non-compliances with appropriate reasoning to the satisfaction of the authority.

The weightage of non-compliance will be calculated on the basis of the period for the year, which will be further calculated for a month in percentage. Therefore, the non-compliance level will be decided on the basis of pollution potential annually, causing damage to the environment with reference to the non-compliance. In deciding such non-compliance level and remediation cost for the period of non-compliance, the criteria will be finalized in consultation with reputed institutions like NEERI, IIT Powai, Fisheries Department, NIO, Expert Agriculture Institute/ Department etc. As far as hazardous waste non-compliance is concerned, the cost of remediation is well defined in the rules itself taking into consideration land fillable/ Incinerable waste. Similarly, HW Rules further provide for imposition of fines with the approval of CPCB, which will be followed in cases of non-compliances of Hazardous Waste Management, causing pollution. It is understood that now the liability for environmental pollution in terms of cost of remediation is being incorporated under the Environmental Laws, which post facto such incorporation, the said provisions will be followed. MPCB will prepare appropriate manual/SOP for imposing the

liability for non-compliance with reference to a period of non-compliance in consultation with various reputed institutions/experts and will be separately followed such standard operating practice in due course of time.

The compliance criteria can be decided in three parts with reference to installation of adequate and suitable pollution control arrangements (overall 40% weightage with reference to Compliance);

Statement showing the % given to installation/completion of work in respect of adequate and suitable pollution control devices.

Sr. No.	Particulars of Compliance	% given for Compliance
1.	Submission of concrete proposal	10%
2.	Placing of order.	10%
3.	Actual % of work completed	
Out of remaining 20% weightage, actual % work completion will be calculated with reference to 100%- of 15% installation weightage excluding 5% for stabilization		
4.	100% completion of installation work	15%
5.	Stabilization of PCS after completion of 100% installations	5%

(A) Statement showing compliance level in respect of 40% weightage given for O & M

Sr. No.	Particulars of O&M with reference to source of pollution (water/Air/HW/MSW/Other Waste).	% given for Compliance
1.	O & M of PCS where process is water polluting in nature on the basis of last three samples-analytical reports	% of compliance will be decided on average basis w.r.t. EPA standards
2.	Where activity is having Air pollution potential in nature on the basis of last three samples-analytical reports	—do—
3.	Where activities are both air and water polluting	% of both reports of monitoring of effluent and emissions of last three results on average basis will be taken into consideration.
4.	Where activity is mainly generating HW/MSW/BMW as the case may be	% of compliance on the basis of proper collection, transportation, treatment and disposal will be taken into consideration.

Note : Where the activity is both water and air polluting and also generating other wastes like HW, BMW, MSW, Fly Ash etc., 40% weightage will be spread across on the basis of pollution potential of such mixed sources of pollution.

महाराष्ट्र शासन राजपत्र असाधारण भाग दोन, फेब्रुवारी २९, २०१६/फाल्गुन १०, शके १९३७

3. Statement showing 20% weightage given to mandatory submission of documents

Sr. No.	Particulars of documents to be submitted	% given for Compliance
1.	HW Returns	
2.	Environment Statement	
3.	Cess Returns	
4.	Battery collection and reprocessing returns (Wherever is applicable)	
5.	E waste ( Wherever is applicable)	
6.	Fly Ash ( Wherever is applicable)	
7.	Feasibility study of PCS	
8.	Any other submission (wherever is applicable)	

Note: 20% weightage will be divided into No. of mandatory submission equally.

Statement showing % non-compliances, which will be taken into consideration at the time of initiating various legal actions.

Sr. No.	Particulars of Non-compliances	Action proposed
(1)	(2)	(3)
1.	For achieving ZLD	On the basis of % of discharge into environment with reference to exceeding standards, non-compliance level will be decided. Where in-spite of ZLD condition, effluent/pollutants discharged into environment, it will be treated as violation of ZLD condition and for such discharge of pollution load; appropriate legal action will be initiated including measures for restoration by issuance of appropriate directions duly supported by BG of approximate restoration cost.
	Land Application for Treated Effluent	The disposal on land without achieving standards land application will be treated as non compliance and on the basis of % of exceedance of EPA standards, action will be initiated and the remediation cost for taking remedial measures for restoration will be recovered on the basis of the report from reputed institution/expert agency for utilization thereof for restoration.
2.	Scientific disposal of treated effluent	On the basis of % exceedance in respect of standards laid down under the provisions of EP Act, 1986 further action will be initiated including restoration measures by issuance of appropriate directions duly supported by BG of approximate restoration cost.
3.	Provision of adequate land for disposal	% of treated/undertreated/untreated effluent discharge outside land for disposal and % of exceeding parameters, non-compliance will be taken into consideration while initiating action. The effluent generation will be restricted with production quantity commensurate with availability of land.
4.	Discharge of effluent/ emissions in contravention of consent conditions	On the basis of discharge quantity and exceeding parameters %, further action will be initiated by issuance of appropriate directions duly supported by BG of approximate restoration cost.

However, where inspite of providing full-fledged treatment or without providing any treatment, pollutants are discharged into environment without any treatment, it will be treated as 100% non-compliance and accordingly, further action will be initiated.

**(C) Specific Actions in case of serious violations :—**

However, in case of serious environmental pollution, causing serious public nuisance, specific orders passed by the various quasi-judicial and judicial forums, the consent granting authority will initiate more stringent action including restraining apprehended or existing pollution, closer of highly polluting section of industries, making application to the Courts for appropriate orders, filing of prosecution, closure/prohibition/ regulation of activities etc. The consent granting authority may in appropriate cases refuse / revoke consents or review conditions granted in earlier consent as the case may be, till corrective actions are taken or effective steps are taken to prevent, control or abate pollution including remedial and restoration measures.

In cases of common facilities of local bodies, industries, it was decided that after exhausting necessary remedies and actions as per the provisions of various Environmental Laws, such as issuance of prohibitory orders restraining apprehended pollution, issuance of appropriate directions to the defaulters as per the provisions of the Water and Air Acts, issuance of proposed/ interim/final directions, grant of consent/authorization with more stringent conditions, refusal/ revocation of consent/authorization and filing of prosecution, CPCB directions etc., it was thought that the best course can be to approach Hon'ble NGT in unresolved substantial questions relating to the environment protection, which may arise due to continuous and serious non-compliances of important environmental norms, causing serious pollution, in spite of a number of remedies exhausted by the Board.

While granting "Consent to Establish," necessary stringent conditions will be imposed taking into consideration the local conditions. For example, in the dense industrial area, taking into consideration the nearby residential areas, cleaner technologies will be insisted for achieving most stringent standards. Precautionary measures will be suggested for such areas such as those in line with studying carrying capacity and determining emission cleansing potential of particular area in discussion and also assigning methods for enhancing environmental capacity for accommodation of emission of need be. While granting "Consent to Operate" to such type of industries, after due verification of the consent conditions and precautionary measures undertaken, "Consent to Operate" will be considered. While granting first "Consent to Operate," a detailed verification will be done, more particularly of highly polluting category of industries.

**(D) Conditions for Remediation / Restoration to be incorporated/ imposed for damage caused to the environment in Consents / Directions of Defaulting Industries :—**

While granting "Renewal of Consent," wherever the said industry found responsible for causing serious environmental pollution, the concerned industry shall be directed to prepare a comprehensive plan for remediation / restoration through the reputed institutes like NEERI / IIT Powai / ICT, Matunga / National Institute of Oceanography / Central Ground Water Board (CGWB)/ State Ground Water Board (SGWB) / Rahuri Krishi Vidyapeeth/Konkan Krishi Vidyapeeth / Fisheries Department /M.S. University of Baroda / NITIE / ARAI / Savitribai Phule Pune University, Pune / Central Institute of Road Transport (CIRT), Pune etc. and submit such report with time-bound action plan to the MPCB. Such report can also be directly got prepared at the cost of defaulting industries by the MPCB and based on the recommendations in respect of remedial and restoration measures, MPCB may issue appropriate directions to the concerned defaulting industries and also incorporate such conditions in the "Renewal of Consent" after extending an opportunity of hearing to them. Thus, through grant of "Renewal of Consent," the remediation and restoration plan will be implemented in a time bound manner. In case of non-compliances within stipulated time period, MPCB may consider refusal/revocation /review of earlier consent conditions. In appropriate cases, highly polluting activities can be stopped till effective steps are taken for implementing remediation / restoration plan.

#### 4. Enforcement of compliance of various environmental norms through various actions under the provisions of environmental laws (Violations & Actions) :—

The Board has been empowered to initiate various actions under the provisions of various Environmental Laws, more particularly the Water (Prevention & Control of Pollution) Act, 1974; the Water (Prevention & Control of Pollution) Cess Act, 1977; the Air (Prevention & Control of Pollution) Act, 1981; and the Environment (Protection) Act, 1986 respectively. It becomes necessary to formulate the priority and guidelines for integrating the actions with reference to no. of surprise/regular inspections, the reports of sampling in numbers, investigation of complaints, intensity of pollution, period of non-compliance and its impact on the surrounding environment. After due deliberations, the following criteria are adopted:-

Sr.No.	Category/ Scale of Organisation	No.of visits and samples with dates	Prescribed Standards	Actual Results	Disposal of the Pollutants into Environment	Period & Percentage of compliance - level	Action Proposed
1	Red / Orange / Green SSI/MSI/ LSI		pH BOD COD SS TDS HM TPM		On Land / Into Surface Water / Under ground resources / Atmosphere/ environment	a) Up to 25%, b) 25% up to 50% (c) 50% up to 75% d) above 75%	As mentioned below.

#### Actions Proposed:

(a) **Warning Notice (WN)/Letter of Warning/Visit and Inspection Report:** Where non-compliance is less than 25% not having serious impact, WN/Warning letter/Visit and Inspection report can be issued pointing out the observations in respect of a no. of earlier visits, the sample reports having exceedance in percentage, pointing out specific non-compliances observed in the visits and giving warning to take corrective measures within stipulated time period ;

This should be issued immediately after visit and inspection / surprise visits and sampling, pointing out specific non-compliances observed during said visit, without waiting for analytical reports or samples collected during the course of visit. The observations should be made to point out characteristics of pollutants, operation and maintenance of pollution control devices, requirement of improvement/up-gradation on the basis of earlier visits and analytical reports, specifying % non-compliance on the basis of weightage given for the compliance/non-compliance with recommendations to initiate further action as per delegation of powers.

(b) **Show Cause Notice (SCN) :** Where exceedance level is above 25% but not having serious impact on environment, SCN can be issued pointing out non-compliance % and observations with a no. of visits, and sampling as well as results thereof pointing out non-compliances and steps to be taken with show cause as to why further necessary action shall not be initiated in case, satisfactory reply not given and no effective steps are taken to comply with show cause notice. The % non-compliance on the basis of earlier record with reference to various parameters prescribed in the above statements should be pointed out with specific intimation to initiate further action including PD/Conditional Directions/filing of prosecution etc. The SCN will be issued under corresponding sections under which the conditions for compliances are imposed, such as Section 25/26/27 of the Water Act, Section 21 of the Air Act and concerned rules under which non-compliances are observed under the Environment (Protection) Act, 1986. The format for SCNs has been prepared and hosted on the Boards Web site.

(c) **Proposed Directions (PD)** : After SCN, if no steps are taken to comply within the reasonable time period or where the non-compliance and exceedance observed to be having impact on environment, PD can be issued on the basis of three analytical reports, pointing out the visits, sampling and exceedance above 50% with reference to standards and with reference to non-compliance of show cause notice as well as on the basis of % non-compliance/s given in the above statements.

(d) **Conditional Directions** : In order to secure compliance within stipulated time period, after issuance of the PD, on the basis of reply/no reply, subsequent to grant of opportunity of hearing, final conditional directions with time-frame to comply with the conditions imposed to be issued, within 45 days. If those conditions are not complied with, then prohibitory/restraining Orders to be issued to stop polluted discharge/emissions u/s 32 of Water & u/s 22 of Air Acts. If compliance is not done after issuance of prohibitory Order, then the application u/s 33 of Water/ u/s 22A of Air Act can be filed before JMFC / CJM for appropriate Orders.

(e) **Conditional Directions** : Where serious non-compliance is observed on the basis of regular/surprise visit / investigation of complaint and/or any report of committee, in such cases, where exceedance is above 75%, directions of closure/ disconnection of electricity/water supply/ essential service to the polluting activity can be issued and till effective steps are taken to comply with points addressed in respect of serious non-compliances, conditional permissions to restart manufacturing activities may not be granted. In order to incorporate the element of restoration/remediation, the Third Party will be appointed at the cost of polluter to prepare remedial / restoration plans with cost of remediation / restoration within stipulated period. Based on such report, while granting restart, conditions for taking restoration / remediation measures in a time-bound manner will be imposed and appropriate BG for ensuring the compliance of conditions imposed for restoration measures duly supported by cost shall be obtained. If non-compliance observed, BG can be forfeited and forfeited amount can be utilized on restoration measures through appropriate implementing agency.

(f) **Filing of prosecution** : After proper built-up of case in respect of continuous and serious non-compliances with documentary evidence, an action for filing of prosecution may be initiated. Wherever, non-compliances still continues, even after initiating various actions, in appropriate cases, Board may take recourse to approach Hon'ble NGT for specific performance. In appropriate cases of urgent nature, with the approval of Board, in the public interest, having no alternative, MPCB may execute certain works of pollution control, provided that the defaulter is not having the requisite resources and the activity needs to be continued in the interest of State and Public at large. However, this can be an exceptional remedy and the Board cannot be expected to perform the works of hardened defaulter, only because of it does not comply with environmental norms having sufficient resources.

Various aspects in respect of regular and surprise inspection, formation of a squad for such surprise inspection, monitoring of standards are being separately formulated. However, as far as visit, inspection and samplings norms are concerned, for each Field Officer, the frequencies prescribed by the MPCB from time to time shall be followed. As far as SCN is concerned, it will be issued on the basis of three consecutive analysis reports of joint vigilance sample. In case, after notice period, if no effective steps are taken, on the basis of further three reports, Proposed Directions (PD) shall be issued. If within 45 days no compliance steps are taken, then final conditional directions in respect of specific non-compliances shall be issued with implementation period. In spite of final conditional directions, if non-compliances continue, after the prescribed period in the said directions, then closure / prohibition / regulation of polluting activity, directions will be issued.

However, where grave and sudden circumstances exist, then final directions shall be directly issued pointing out grave and sudden circumstances, even without exhausting above actions in the manner prescribed therein, in order to prevent further serious damage to the environment or in order to prevent any unforeseen act, incidence / event causing apprehended pollution. However, while issuing final directions without exhausting above remedies/without extending opportunity

of hearing in exigencies of circumstances, the reasons for initiating such stringent action directly, will be incorporated in the final directions of closure, prohibition or regulation of polluting activities.

It was decided to define 3 incidences of violations for initiating actions, for Zero Liquid Discharge (ZLD):- It was decided to define specifically ZLD. It means that nothing is to be discharged into the environment and total treated effluent to be utilized in the manufacturing process itself.

It was decided that same level of violation should be penalized with same level of penalty and to do away with individual discretion, laying down objective tests for initiating various legal actions.

Since, enforcement mechanism is subject to improvement on the basis of execution of enforcement policy, in due course of time, the MPCB will make necessary improvement on the basis of its own experience, amendments in the various Environmental Laws and after perusal of various Orders passed by Hon'ble National Green Tribunal, High Court of Judicatures and Hon'ble Supreme Court of India.

This is issued with the approval of Hon'ble Chairperson,

DR. P. ANBALAGAN, IAS,  
Member Secretary.

