

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH AT PUNE****ORIGINAL APPLICATION NO. 138 OF 2024****IN THE MATTER OF:**

Surti Mohammed Irfan

...APPLICANT

Versus

M/s N.H.H. Textile Processors and Ors.

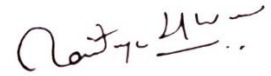
...RESPONDENT

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THROUGH



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Date: 28.11.2024

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**REJOINDER ON BEHALF OF THE APPLICANT TO AFFIDAVIT-IN-REPLY
DATED 20.11.2024 FILED BY RESPONDENT NO. 1**

1. It is submitted that the present application has been filed under Section 18(1) read with Section 14 and 15 of the National Green Tribunal Act, 2010 raising the substantial question regarding illegal discharge of hazardous chemicals and non-compliance with mandated environmental regulations by Respondent No. 1 M/s N.H.H. Textile Processors in operation of cloth processing unit (hereinafter referred to as the 'impugned industrial unit') located in Behrampura region, Ahmedabad.
2. That vide Affidavit-in-Reply dated 20.11.2024, Respondent No. 1 has filed their responses to the submissions made in the present Application.
3. At the outset, the Applicant denies each and every averment and conclusion made in said Affidavit which is contrary to and/or inconsistent with what has been submitted on record in the present Application. Furthermore, nothing stated in the present Rejoinder on behalf of the Applicant shall be construed as an admission for the want of any specific and para-wise denial or non-traverse unless and until the same is specifically admitted hereinafter.

4. That the following are the responses on behalf of the Applicant to the submissions made by the Respondent No.1 vide Affidavit dated 20.11.2024:

I. IMPUGNED INDUSTRIAL UNIT OF RESPONDENT NO. 1 HAS OPERATED FOR 355 DAYS WITHOUT VALID CCA

5. The Applicant submits that one of the primary grounds raised by the Applicant, as on **Para 7, Pg. 6**, pertained to the continuous operation of the impugned industrial unit without a valid Consolidated Consent of Authorization ('CCA'), after the expiration of the previous CCA dated 14.10.22 as on 26.11.23. The CCA dated 14.11.22 was issued to Respondent No. 1 by the GPCB under the Water Act, 1974, the Air Act, 1981, and the Environment (Protection) Act, 1986.
6. It is submitted that Respondent No. 1 in Affidavit-in-Reply dated 20.11.2024 has at no point denied the fact that the impugned industrial unit was operating without a valid CCA from 26.11.2023, i.e., the date of expiration of the CCA dated 14.10.2022, till 16.11.2024, i.e., the date on which the GPCB granted a Provisional CCA, which therefore amounts to a period of 355 days of unauthorized operation by Respondent No. 1 without valid CCA.
7. Furthermore, the Applicant submits that the fact that the impugned industrial unit was operational for the entire duration from the date of expiration of CCA to the date of grant of Provisional CCA is evident per GPCB Inspection Reports dated 30.01.2024 (annexed at **A-1, Pg. 11**), 16.05.2024 (annexed at **A-13, Pg. 53**). Such is also evident as per GPCB Inspection Report dated 26.09.2024 (annexed by GPCB as **Annexure R-II** vide GPCB Affidavit-in-Reply dated 21.11.2024) and GPCB Inspection Report dated 19.07.2024 annexed and marked herewith as **ANNEXURE A-14**.

8. Furthermore, Respondent No. 1 has submitted nothing on record which states that Respondent No. 1 was provided any ad-hoc or temporary allowance/permission/consent by the GPCB or any other authority to operate the impugned industrial unit without a valid CCA, while their CCA Renewal Application was pending approval.
9. In fact, the GPCB vide Rejection Order dated 21.05.2024, as annexed by the Applicant at **A-12, Pg. 52**, had categorically rejected the CCA Renewal Application submitted by Respondent No. 1. However, each GPCB Inspection Report has repeatedly observed the impugned industrial unit in operation.
10. Therefore, the Applicant submits that it is incontrovertible that the impugned industrial unit was being operated by Respondent No. 1 without a valid CCA from 26.11.2023 to 15.11.2024, i.e., for a period of 355 days. Accordingly, it is submitted that Respondent No. 1 is liable to pay compensation for the said period of violation and non-compliance with environmental regulations.
11. In support thereof, the Applicant relies on the order dated 1.02.2022 of this Hon'ble Tribunal in *O.A. 130/2021 in Re: News Item Published in The Times of India dated 08.06.2021 titled "18, mostly women, killed in fire at Pune chemical unit"*, wherein this Hon'ble Tribunal had directed imposition of compensation of Rs. 1,98,50,000/- upon an industrial unit specifically for operation of the concerned industrial unit without obtaining valid prior consent as per the provisions of the Water Act, 1974, and Air Act, 1981. A copy of the order dated 1.02.2022 of this Hon'ble Tribunal in *O.A. 130/2021 in Re: News Item Published in The Times of India dated 08.06.2021 titled "18, mostly women, killed in fire at Pune chemical unit"* is annexed and marked herewith as **ANNEXURE A-15.**

II. NO SCIENTIFIC JUSTIFICATION FOR OBSERVED AIR POLLUTION CAUSED BY RESPONDENT NO. 1

12. The Applicant has previously on **Para 12, Pg. 7**, submitted that the emissions analysis sample report for common stack of the impugned industrial unit dated 30.01.2024, as annexed at **Annexure A-4 Pg. 29**, clearly evidences that measured value of Particulate Matter ('PM') is 162 mg/Nm³, which exceeds the permissible limit of 150 mg/Nm³.
13. In response thereto, Respondent No. 1 has stated on **Para 4.12, Pg. 78** of the Affidavit-in-Reply dated 20.11.2024, that such violation in PM levels is due to the fact that "*Respondent No. 1 had not utilized its boiler for a period of 1 week prior to inspection...*". However, the Applicant rejects such submissions as being false, misleading, and untenable in law.
14. The Applicant states that Respondent No. 1 has submitted absolutely no scientific or other evidentiary documents on record which support the said contentions whatsoever. There is no scientific rationale as to why non-operation of boiler for any amount of time will result in any excessive PM levels being released, and in any case, no rationale is submitted by Respondent No. 1.
15. Furthermore, Respondent No. 1 has contradicted their own submissions within the same **Para 4.12, Pg. 78**, wherein it is mentioned that "*Respondent No. 1 took immediate corrective steps pursuant to site inspection report of 30th January 2024.*"
16. That if Respondent No. 1 on the one hand submit that the excessive PM levels were caused due to non-operation of boiler for 1 week, then there does not arise any requirement for taking any corrective steps whatsoever, except

- operating the said boiler. However, the fact that Respondent No.1 themselves have admitted to implementing corrective measures to control excessive PM levels is evidence that the justification provided by Respondent No. 1 for exceeding permissible PM level is misleading, unscientific and untenable in law.
17. Furthermore, the Applicant submits that excessive PM levels have been observed by the GPCB at another occasion as well, i.e., vide GPCB Rejection Notice dated 21.05.2024 sent to Respondent No. 1 rejecting their CCA Renewal Application, as has been previously annexed at **Annexure A-12, Pg. 52**.
18. That vide the said GPCB Rejection Notice dated 21.05.2024, the GPCB has clearly evidenced that Air Sample analysis of the impugned industrial unit shows results of PM level at 433 mg/Nm³, which is nearly 3 times the prescribed level.
19. In response thereto, Respondent No. 1 has submitted their reply to the GPCB vide Letter dated 27.05.2024, annexed at **Pg. 117**. Herein, Respondent No. 1 has yet again sought to further the same unscientific justification regarding non-operation of boiler for same period of one week leading to PM levels in exceeding mandated levels, i.e., 433 mg/Nm³ against 150 mg/Nm³ permitted.
20. The Applicant reiterates that the said contention of Respondent No. 1 is not supported by any scientific rationale or research whatsoever, and no documents or statements have been submitted on record in support of such contention.
21. Furthermore, such is also inconsistent in its logic, as Respondent No. 1 has claimed that non-operation of boiler for same period of one-week results in PM levels reaching both 162 mg/Nm³ and 433 mg/Nm³. That such a scientific inconsistency clearly evidences that Respondent No. 1 is misleading this Hon'ble Tribunal regarding air pollution being caused by the impugned industrial unit.

22. Furthermore, the Applicant submits that the stipulated Air Pollution Control Measures ('APCM') as mandated by the GPCB are designed to ensure that all polluting compounds as contained in the flue gas emissions are mitigated. Therefore, any submission regarding spike in PM levels due to non-operation of boiler are wholly unscientific and misleading, and in fact, only establish the inability of Respondent No. 1 in adhering to the mandated APCM. Accordingly, it is submitted that the justification provided for excess PM levels are liable to be rejected by this Hon'ble Tribunal and penalized with exemplary costs.

III. FAILURE TO ENSURE ZERO LIQUID DISCHARGE EVIDENT

23. The Applicant submits that the present Application as on **Para 11, Pg. 6**, had raised serious concerns regarding non-operation of Multiple Effect Evaporator (MEE) and the Agitated Thin Film Dryer (ATFD), which are essential components of the Zero Liquid Discharge (ZLD) system.

24. In response thereto, Respondent No. 1 has submitted on **Para 4.4, Pgs. 75-76** of the Affidavit-in-Reply dated 20.11.24, that *"the fact that Respondent No. 1 is undertaking industrial activities at the said premises by using ZLD and Dry Processing (in addition to existing Wet Processing) is apparent from the inspection reports of GPCB."*

25. However, the Applicant denies such statement as being misleading and untenable in law owing to the following assessment of the GPCB Inspection Reports being relied upon by Respondent No. 1.

26. The Applicant submits that for the purposes of clarity on the operation of ZLD, the Applicant details the following step-by-step procedure for operation of ZLD system within the impugned industrial unit:

- A. Industrial effluent is first sent to ETP (Effluent Treatment Plant) which consist of 3 process, coagulation, biological process and clarification. During this stage the BOD (Biological Oxygen Demand) and COD (Chemical Oxygen Demand) are lowered from the water and further clarified by sending it to the screening chambers.
 - B. Thereafter, waste-water from the ETP is sent to UF (Ultrasonic filter) where there is excessive filtration of particles having size less than 0.2um.
 - C. Followed by UF the waste-water is passed with multistage RO, (Reverse Osmosis) where the rejected water is sent further to MEE and ATFD while the reclaimed water is sent to reuse of the industry.
 - D. Followed by RO, the rejected water is sent to MEE (Multiple effect evaporator) where the rejected water is evaporated and the sludge containing moisture is settled down and then sent to ATFD (Agitated thin film dryer) where the sludge is dried and separated for the final disposal.
27. That such ZLD procedure is also evident per the multiple CCA Renewal Applications as submitted by Respondent No. 1 as on Pgs. 91, 103, and 117.
28. Accordingly, the Applicant submits the following non-compliances in ZLD Operation which have been observed in GPCB Inspection Reports dated 30.01.24, 16.05.24, 19.07.2024, and 26.09.24, in addition to GPCB Show Cause Notice dated 26.09.24.

III.1. Repeated Observance of non-operation of MEE and ATFD

29. It is submitted that the GPCB Inspection Reports dated 16.05.2024, 19.07.2024, and 26.09.2024 have all observed that the MEE and ATFD are not in operation at the time of inspection, despite unit being in operation.

30. Due to the observations of non-operation of MEE and ATFD made in the latest GPCB Inspection Report dated 26.09.2024, the GPCB have issued Show-Cause Notice dated 26.09.2024 to Respondent No. 1 directing Respondent No. 1 to within 10 days take corrective action and submit compliance reports including *inter alia* the following documentary evidence:

"1) Submit logbook of MEE operation of last six months along with month wise summary of effluent generation, RO reject evaporation and salt generation from MEE, etc."

31. In response thereto, Respondent No. 1 has submitted the Reply dated 29.10.2024 to Show Cause Notice dated 26.09.2024 wherein Respondent No. 1 has submitted the following:

*"We are informing you that we will assure your good office that we will comply all condition as per mention in CCA order which the board grants and we will update monthly return on regular basis. **We have attached herewith logbook for MEE operation for last six month along with summary of effluent generation, RO Reject evaporation and salt generation from the MEE.**"* (emphasis supplied)

32. The Applicant submits that a bare perusal of the said Reply dated 29.10.2024 reveals that the logbook for the months of May 2024 to August 2024 as submitted by Respondent No. 1 do not contain any data with regards to MEE operation whatsoever, but rather, said logbook has recorded values for certain other entries viz., Panel Power Kwh, Raw M3, Raw Water/Day M3, Difference Per Day, Ultra Filter M3, Total Permeate, Permeate/Day M3, RO Reject M3(Totalizer), Reject Per Day M3, Permit TDS, Reject TDS, and Bacteria/Ltr.

33. Therefore, it is evident that Respondent No. 1 has entirely avoided submission of information which would evidence operation of the MEE and ATFD in the impugned industrial unit.

34. That such deliberate avoidance of data submission has been considered to be an appropriate case for levying of Environmental Compensation, as per the order passed by this Hon'ble Tribunal in OA 593/2017. That in the said matter, this Hon'ble Tribunal had directed for CPCB to *inter alia* assess compensation for failure to maintain ETP, which included compensation for data avoidance.
35. Accordingly, the CPCB prepared its Report on the same, wherein it has clearly been mentioned in Para 1.3, that "Intentional avoidance of data submission" is a punishable offence for which compensation can be levied. A copy of the 'Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund' is annexed and marked herewith as **ANNEXURE A-16**.
36. Therefore, the Applicant submits that Respondent No. 1 is liable to pay environmental compensation for deliberate avoidance in submission of data pertaining to MEE, i.e., MEE logbook and other related data such as salt generation from MEE, etc.
37. Additionally, it is patently evident that a cumulative reading of the facts above-mentioned viz., repeated non-operation of MEE and ATFD observed by GPCB as well as the failure of Respondent No. 1 in submitting MEE logbook and other related data, point to the fact that Respondent No. 1 is in fact not operating the MEE and ATFD in the prescribed manner. The non-operation of MEE and ATFD ensures that ZLD cannot be achieved in operation of the impugned industrial unit. That such failure to ensure ZLD must necessarily mean that industrial effluent is being disposed in an unauthorized manner outside the premises of the impugned industrial unit, either on land or in water.

III. 2. Illegal Extraction of Groundwater by Respondent No. 1 Evident

38. It is submitted that the technologies of MEE and ATFD are not only responsible for treatment of the industrial effluent, but the Condensate (waste-water) derived from the MEE and ATFD also services the total water consumption of the impugned industrial unit.
39. That as per the Water Balance Diagram of the impugned industrial unit, 6 KLD of MEE Condensate and 2 KLD of ATFD Condensate form a part of the total 70 KLD water requirement of the impugned industrial unit.
40. That a non-functioning of the MEE and ATFD on a daily basis necessarily means that the same amount of water, i.e., 8 KLD, must be sourced from groundwater extraction, as no other source of water has been observed by GPCB or submitted to be utilized by Respondent No. 1 whatsoever.
41. In fact, such excessive extraction of groundwater has been observed by the GPCB as well. That such excessive groundwater extraction is recorded in Show Cause Notice dated 26.09.2024 wherein the GPCB has observed as follows:
- "AND WHEREAS during the inspection on 26/09/2024, following non-compliances/flaws were noticed:*
- 1) You have provided Primary-Secondary-Tertiary ETP units, UF, RO-1, RO-2, MEE and ATFD, **out of which MEE and ATFD were not found in operation**, during the inspection.*
 - 2) As per available record at site, flow meter reading was 2265 m³ on 25/09/2024 and the reading was noted as 2508.4 m³ during the inspection on 26/09/2024; **difference of these readings (243.4 m³/day) indicate that water consumption is higher than that shown in consent application**. Further, you have admitted vide your letter dated 02/10/2024 that the flow meter on the bore well line was faulty." (emphasis supplied)*
42. That the said Show Cause Notice dated 26.09.2024 clearly observes that groundwater consumption is 243.4 m³/day or 243000 Liters per day higher than the mandated levels of groundwater extraction.

43. It is submitted that Respondent No. 1 must necessarily have to over-extract groundwater so as to meet his total water requirement of 70 KLD, as there will necessarily be a shortfall in the 48 KLD to be received from recycled water.
44. It is submitted that Respondent No. 1 has themselves submitted that the impugned industrial unit will require 70 KLD of water, out of which 48 KLD will be met by recycled water from the industrial unit itself. That such has been evidenced in multiple Applications for CCA Renewal submitted by Respondent No. 1 to the GPCB dated 8.07.2022, 28.09.2023, and 27.05.2024 as annexed by Respondent No. 1 on Pg. 91, 103, and 117.
45. It is therefore submitted that the above facts read cumulatively lead to the conclusion that Respondent No. 1 has failed to ensure operation of MEE and ATFD which has resulted in Respondent No. 1's inability to generate the mandated quantity of recycled water of 48 KLD.
46. Accordingly, the Applicant submits that for illegal extraction of groundwater, Respondent No. 1 must necessarily be penalized through imposition of environmental compensation as per compensation regime evolved by CPCB, as previously annexed at Annexure A-16.

III. 3. Failure to undertake MEE and ATFD has likely resulted in significant land or water pollution as RO Reject Water is highly toxic

47. The Applicant submits that as per observations made in the GPCB Test Report dated 10.06.2024, the RO Reject Water contains values of Chloride, Sulphate, COD, BOD and TDS higher than the permissible levels, as was the case in GPCB Test Report dated 25.10.2024. A copy of GPCB Test Report No. 106539 dated 10.06.2024 is annexed and marked herewith as **ANNEXURE A-17.**

48. The Applicant further submits that the said RO Reject Water is to be treated in the MEE and thereafter in the ATFD by Respondent No. 1. However, Respondent No. 1 has been repeatedly observed to have MEE and ATFD not in operation, in addition to failing to provide MEE logbook.
49. Therefore, the Applicant submits that it is entirely likely that the RO Reject Water is being disposed by Respondent No. 1 at some location outside the premises of the impugned industrial unit, thereby causing land and/or water pollution as RO Reject Water contains high values of polluting elements.
50. Accordingly, the Applicant submits that relevant statutory authorities must necessarily be directed to investigate into and assess the pollution caused by Respondent No. 1 through illegal discharge of RO Reject Water.
51. The Applicant submits that the failure to achieve ZLD is further evidenced by the lack of ETP Sludge that has been observed by the GPCB at the impugned industrial unit. That as per GPCB Site Inspection conducted on 19.07.24, it has been observed that the stock of ETP Sludge amounted to 8 MT, which is equal to the total annual ETP Sludge generated at the impugned industrial unit.
52. However, as per the GPCB, the last disposal of ETP Sludge was on 31.12.21. Accordingly, as Respondent No. 1 has not disposed any ETP Sludge for over 2 years, the stored quantity thereof within the premises of the impugned industrial unit ought to have been greater than 8 MT.
53. Owing to *inter alia* the above-mentioned discrepancy in observed ETP Sludge quantum, the GPCB has issued Closure Notice dated 5.09.24 to Respondent No. 1 directing closure of industrial activity. A copy of GPCB Closure Notice dated 5.09.2024 is annexed and marked herewith as **ANNEXURE A-18.**

54. The submissions of Respondent No. 1 as on Para **4.9, Pg. 76-77** that evidence of effective functioning of ZLD is through sampling of effluent found in the 'final holding tank' must be rejected, as it is not clear which tank is being referenced as the 'final holding tank' whatsoever.
55. The Applicant submits that an observed shortfall in ETP Sludge generated at the impugned industrial unit can only mean that Respondent No. 1 is failing to achieve ZLD, as the ETP Sludge is the solid by-product generated after the industrial effluent is treated in the ZLD system.
56. Furthermore, despite the GPCB Closure Order dated 5.09.2024, the impugned industrial unit remained in operation, as has been evidenced by a newspaper report dated 11.10.24, wherein the news of death of a worker on 9.10.24 due to electrocution at the impugned industrial unit was published. A true-translated copy of article published in Gujarat Samachar dated 11.10.2024 is annexed and marked herewith as **ANNEXURE A-19.**
57. The Applicant submits that GPCB has evidently failed in ensuring any punitive action is taken against Respondent No. 1 for various non-compliances observed by GPCB themselves.
58. The Applicant submits that GPCB have failed in their duty of initiating any punitive action against Respondent No. 1, despite themselves issuing various Show Cause Notices and Closure Orders. However, it is submitted that such mere issuance of notice is not an end of responsibility of the GPCB when damage to environment is continuing without effective preventive and punitive action, as has been held this Hon'ble Tribunal vide Order dated 15.04.2019 in *O.A. No. 1021/2018 titled H.K. Kansal, President, Avantika Residents Welfare*

Association v. State of Uttar Pradesh. A copy of the Order dated 15.04.2019 in O.A. No. 1021/2018 is annexed and marked herewith as **ANNEXURE A-20**.

IV. CRIMINAL PROCEEDINGS INVOLVING APPLICANT ARE ENTIRELY UNRELATED TO THE PRESENT APPLICATION

59. It is submitted that Respondent No. 1 on **Pg. 73, Para 3.1.**, has stated that the present Application has been initiated in order to "pressurize" one Mr. Altaf Aslam Sagar into withdrawing criminal proceedings initiated against the present Applicant. That the said Mr. Altaf Aslam Sagar is allegedly the nephew of one of the partners of Respondent No. 1.

60. However, the Applicant summarily rejects such contentions as being false, baseless, and untenable in law. The Applicant submits that not only has the Respondent No.1 failed to annexe any evidence in furtherance of such a serious allegation, including any proof of relation, but also submits that such an allegation is untenable in law, owing to the fact that the criminal proceedings initiated against the Applicant are under Section 307 of the Indian Penal Code, 1860, which is a non-compoundable offence.

61. That therefore, any case registered under such Section 307 cannot be withdrawn by the complainant whatsoever, and accordingly, the present Application cannot be said to be initiated in order to pressurize one Mr. Altaf Aslam Sagar to withdraw the criminal proceedings, as such is entirely an untenable in law, and is liable to be rejected by this Hon'ble Tribunal. That in support of the said submissions, the Applicant relies on the order of the Hon'ble Supreme Court in **State of Madhya Pradesh v. Kalyan Singh** reported in **AIR 2019 SC 312** annexed and marked herewith as **ANNEXURE A-21**.

62. Furthermore, the Applicant rejects the submissions made by Respondent No. 1 on Para 3.1(c), Pg. 74, that litigation has been initiated by the Applicant raising "baseless" allegations in order to harass and arm-twist the Respondent No. 1.
63. The Applicant submits that multiple GPCB Inspection Reports as previously annexed by the Applicant, as well as the Show Cause Notice, CCA Rejection and Closure Orders, have all observed violations of environmental regulations being caused by Respondent No. 1. Therefore, Respondent No. 1 cannot state that any allegation has been baseless, as it has been corroborated by evidence.
64. That therefore, the Applicant submits that no baseless allegations have been raised by the Applicant whatsoever, and each assertion made by the Applicant in the present Application has been done after sufficient application of mind and stands corroborated by the evidence above-mentioned.
65. Additionally, the Applicant submits that all the other litigations mentioned by the Respondent No. 1 do not have any bearing on the merits of the present Application. Furthermore, all the mentioned litigations have distinct juristic entities and legal personalities as party Respondents, and therefore, the existence of such litigation cannot be conflated with the present Application.
66. The Applicants submits that all the mentioned litigation will necessarily be adjudicated on their own merits, and if anything, the evidence of such litigations only buttresses the fact that the Applicant is interested in undertaking public service activities for the betterment of his community, including addressing health risks caused due to industrial pollution in Ahmedabad.
67. In fact, the interest of the Applicant in working for his community is evidenced by his election to the 'Chhipa Samast Jamat Committee' which is dedicated to

working for the betterment of the Chhipa Muslim Community in Ahmedabad. A copy of List of Elected Members to Chhipa Samast Jamat Committee dated 23.07.2022 is annexed and marked herewith as **ANNEXURE A-22.**

V. THE PRESENT APPLICATION IS MAINTAINABLE BEFORE THIS HON'BLE TRIBUNAL

68. It is submitted that the Respondent No. 1 vide **Para 3.2, Pg 74**, has alleged that the Applicant has failed to point out any enactment specified in Schedule I out of which a substantial question relating to environment is arising. However, the Applicant rejects such assertions as being false, baseless, and misleading this Hon'ble Tribunal.
69. In response thereto, the Applicant submits that **Paras 11-13, Pgs. 6-7**, of the present Application clearly specifies that the Respondent No. 1 has caused water and air pollution while operating the impugned industrial unit. Furthermore, as on **Para 18, Pg. 8**, the Applicant has submitted that Respondent No. 1 is wilfully violated environmental regulations by operating the impugned industrial unit in absence of a valid CCA, which is a Consent issued under the Water Act, 1974, the Air Act, 1981 and the Environment (Protection) Act, 1986.
70. Furthermore, the Applicant states that the submissions made in the present Application have been done on well-founded concerns regarding the Respondent No.1's continued non-compliance in obtaining valid CCA prior to operation of the impugned industrial unit, as well as observed air pollution caused due to excessive PM levels, and failure to ensure ZLD is achieved.
71. Thus, the invocation of Section 14 is well within the scope of the National Green

Green Tribunal Act, 2010, as the substantial question raised clearly pertains to non-compliance of environmental regulations, air pollution and water pollution likely being caused by the impugned industrial unit.

58. Furthermore, Section 15 of the National Green Tribunal Act, 2010, allows this Hon'ble Tribunal to order relief and compensation to victims of environmental damage caused due to violations of the Water Act, 1974, the Air Act, 1981, and the Environment (Protection) Act, 1986. Accordingly, the Applicant prays for imposition of Environmental Damage Compensation ('EDC') as per the provisions of Section 15 of the National Green Tribunal Act, 2010, in adherence with the Polluter Pays Principle enshrined in Section 20 of the National Green Tribunal Act, 2010 for all the above-mentioned violations.

Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

Jetun. Y. Surti

APPLICANT

THROUGH



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VERIFICATION

I, Surti Mohammed Irfan, R/o 4051 Behind Old Anjuman School, Gollimda, Astodia Road, Ahmedabad - 380001 do hereby verify that the contents of the present Rejoinder abovementioned are true to my personal knowledge and nothing material has been concealed therefrom.

Date:

Place:

Surti Mohammed Irfan

APPLICANT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 138 OF 2024

IN THE MATTER OF:

Surti Mohammed Irfan

...APPLICANT

Versus

M/s N.H.H. Textile Processors and Ors.

...RESPONDENT

AFFIDAVIT

I, Surti Mohammed Irfan, R/o 4051 Behind Old Anjuman School, Gollimda, Astodia Road, Ahmedabad - 380001, do hereby solemnly affirm and state as under:



Surti Mohammed Irfan

1. That I am the Applicant in the above titled Original Application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.

Sushila Rami

DEPONENT

VERIFICATION

Verified on this ____ of _____ 2024 that the contents of the above-mentioned affidavit are true and correct and nothing material has been concealed therefrom.

Sushila Rami

DEPONENT



IDENTIFIED BY ME

ADVOCATE/PERSON

Name: _____
Saud No.: _____

SR. No. 3225/2024

Sushila Rami
SUSHILA RAMI
NOTARY
GOVT. OF INDIA

**SOLEMNLY AFFIRMED
BEFORE ME**

Sushila Rami
SUSHILA RAMI
NOTARY
GOVT. OF INDIA

28 NOV 2024

Sushila Rami



Gujarat Pollution Control Board

PCB Id: 12676

(Inspection Report) - Air, Water, Hazardous

(Under Section 23 of The Water Act 1974, Under Section 24 of The Air Act 1981 and Under Section 10 of EP Act 1986)

1 Industry Details N.H.H. Textile Processors
Outward No: 67151-12/08/2024
Email :
asifhokabaj@gmail.com

Plot No: Phase No: ,
OPP: NEW DHOR BAZAR, BAEHRAMPURA,
AHMEDABAD - 380022
Telephone :
25359132

DIST : Ahmedabad, TAL : Ahmedabad , SIDC : Dani Limda
Inspection Id : 811921 (After Notice of DIR)
Ro Name : Ahmedabad (City)
2 Type / Scale / Sector / Status : RED / SMALL / Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring / In Operation

3 Inspection Dt & Time : 19/07/2024 12:00 / Water **Person Contacted :** Mr. Asif Hokabaz

4 Env Audit Detail : Sch : N.A , Not Applicable . , Year : 2012 , On Dt : 28/12/2013
Commissioned Dt : 26/01/1997

Production Start Dt : 26/01/1997

Applicability of CRZ Rules : No

5 Water Consumption in Kilo Lts Per Day Ind : 70.000 Dom : 2.000 **Borewells: 0**
6 Waste Water generation / Discharge (klpd) : Ind : 50.000 Dom : 1.800 **Tubewells: 0**
7 Consumer No.(Electric Meter): **Source of Water Supply:** Borewell

8 Disposal Mode of Industrial / Domestic : Zero Discharge / Soak Pit

9 Discharge Pt / Final Receiving Body (Ultimate): Zero Liquid Discharge / No generation of industrial wastewater

10 Status of water consent Under the Water Act,1974: H-122042-25/11/2023 Last Inward:313621-25/07/2024[PRO]

11 Effluent Treatment plant (ETP) : Units, if provided and status :

ETP Details : P-Chemical Dousing Tank,P-Collection Cum Equalization,P-Flash Mixer,P-Floculator,P-Pri Settling Tank,S-Aeration Tank,S-Settling Tank,S-Sludge Dry Beds,T-Sand Filter

12 Whether Industry is a member of CETP ? No

13 Boilers=1 , DG Sets=0 , Flue Gas =2, Process =0 , ETP Cap = 356 , Capacity of All =

APCM Details : Bag Filter,Multi Cyclone

Fuel Used : Solid Fuel,Wood

Stack Attached to : Boiler,Fuel Heater(Thermic)

14 TSDF Name : Eco Care Infrastructures Pvt Ltd [48212]

15 Lab Charges Pending : NIL

Water Cess Charges Pending : NIL

16 Last Env. Form V : 2022-2023
Water Cess Return : 2017-2018
HW Monthly Return : 2024-06
17 Last 3 Legal Action :

Insp Dt	Act	Leg Dt	For	Insp ID	IR-Leg	Type	Out No
26/02/2024	NOT	24/05/2024	31A,,	773505	NOT	APP	812220
30/01/2024	SCN	20/03/2024		769851	SCN	COM	796933
12/07/2023	NOT	25/10/2023	33A,IMM,	744379	NOT	VIG	756987

Monthly Patrak Data : Last Return : 202406
HAZD Waste Disposal : 0.000 (0 Trucks)

Electricity Units Consumed in month	Water Consumed in month	Effluent Discharged in month
Production - 36355, ETP - 8568, APCM - 0	Meter Reading - 0, Kilo Litre - 1540	Meter Reading - 0, Kilo Litre - 0

12/08/2024

1/7 (Through XGN)



Gujarat Pollution Control Board

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One Time Updates

o	- Air - Water - Hazd ACTs Applicability ?	Air, Water, Haz	
e	- Electric Company Name (Power Supply)	Torrent Power Ltd.	
p	- On East Direction of the location of the Company	Factory	
p	- On North Direction of the location of the Company	AMC internal Raod	
p	- On South Direction of the location of the Company	Factory	
p	- On West Direction of the location of the Company	Open area	
o	- Production since (Date) or Proposed	26/01/1997	
k	- Recycler Registration Valid ??	Yes	
m	- W.W.G Treatment thru Pri / Sec / Tertiary / N.A :	Primary	
n	- Nos of Flow-Meters - W.C / W.W.G / ETP =	0, 0, 0	
d	- Is Industry ZERO DISCHARGE Catg (If Yes, HOW ?)	Yes	

General Observation

a	- Is the Industry in Operation ??	Yes	as per crux
a	- R.O File No	ABD-AMC-88	
b	- Industry Operating without CCA	Applied	applied for CCA renewal
c	- Has Production exceeded (last 3 MTHs) than CCA-Qty	No.	
d	- Any products-NOT in CCA, manufactured-Last 3 MTHs	No.	
e	- Foul Odour/Fugitive Emission/Bye Pass in Premises ??	No.	
f	- Industry Name CHANGED in recent times ??	No.	
g	- Has Regn with CETP or TSDF expired ??	No.	
h	- Seperate Energy Meter for A.P.C.M ?	N.A	
h	- Provision of any STAND-BY Pump ??	N.A	

Water Parameter

b	- Source of Water Supply	Borewell	
c	- W.W.G is EXCEEDING the CCA Limits	No.	
d	- W.W Disposal as per the Consent Conditions ?	Yes	
e	- Was the ETP in operation ?	Yes	
f	- Treatment System ADEQUATE to handle existing effluent	Adequate	
g	- Did u observe ANY ILLEGAL Discharge ??	No.	
h	- Nos of Samples collected	04	

Remarks :

Site Observations during Inspection, PCB-ID: (12676)

Inspection Crux:

Water Observation:

The source of water is bore well, unit has been asked to upload renewed permission of CGWA. During inspection the reading of flow meter at bore well shows 1326 m³. The wastewater generated from manufacturing activity is treated in provided ETP to achieve ZLD. Unit has provided P + S + T + UF + RO1 + RO2 + MEE + ATFD. During inspection the ETP is observed in operation except MEE and ATFD. As per flow meter provided the

12/08/2024

2/7 (Through XGN)



Gujarat Pollution Control Board

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(Inspection Report) - Air, Water, Hazardous

(Under Section 23 of The Water Act 1974, Under Section 24 of The Air Act 1981 and Under Section 10 of EP Act 1986)

readings observed are; 1) At ETP inlet – 13307 m³, 2) At UF inlet – Flow meter faulty, 3) MEE inlet – 36.73 m³. As during inspection MEE and ATFD are observed not in operation the clarification has been sought. Total 4 samples are collected stage wise for analysis. At site there is no ETP logbook and no bore well logbook shown of current month. ETP logbook of previous month is shown wherein there is discrepancy in RO reject reading in logbook on 31/05/2024 is 1128 m³ while the present flow meter reading at RO reject is 161.4 m³, for this clarification has been sought from unit. [664]-30/07/2024

Air Observation:

The provided utilities observed in operation. [664]-30/07/2024

Hazard Observation:

During inspection the stock of ETP sludge observed is around 8 MT. Lastly ETP sludge disposed as per XGN manifest record is on 31/12/2021, thus considering this fact the unit has been asked to submit clarification for no disposal of ETP sludge after 31/12/2021 and quantity of sludge stored i.e. 8 MT, which is not justifiable against the production taken. Unit has been instructed to store MEE salt and ETP sludge in different dedicated bags and area. [664]-30/07/2024

General Observation:

The visit of unit is carried out with HO reference under Water Act - 1974. The unit is engaged in Processing of Cloth and Dry Processing of cloth. The CCA of unit is expired 25.11.2023 and thereafter unit had applied for CCA Renewal which was rejected. Now, unit has re-applied CCA Renewal. Unit has provided 16 nos- jiggers, 2 nos. – jumbo jiggers, drying range – 02 nos., flat belt – 06 nos., JT – 03 nos., stentar – 02 nos., calendar – 01 no. During inspection dyeing, printing and finishing activity is going on. The drainage connection of unit is self-sealed, and unit has requested AMC to provide no drainage certificate, as drainage connection and disconnection comes under purview of AMC. Necessary instructions given to person contacted. Unit has uploaded compliance to given written instructions. [664]-30/07/2024

~ RO Query to Staff: attach main observations of visit [630]-05/08/2024~As discussed and instructed below are observations as per NEI issued; 1. Unit has been instructed to upload CGWA permission. 2. During inspection MEE and ATFD observed not in operation. 3. Flow meter provided at UF inlet is faulty, 4. At site there is no ETP logbook and no bore well logbook shown of current month. 5. ETP logbook of previous month is shown wherein there is discrepancy in RO reject reading in logbook on 31/05/2024 is 1128 m³ while the present flow meter reading at RO reject is 161.4 m³, for this clarification has been sought from unit. 6. During inspection the stock of ETP sludge observed is around 8 MT. Lastly ETP sludge disposed as per XGN manifest record is on 31/12/2021, thus considering this fact the unit has been asked to submit clarification for no disposal of ETP sludge after 31/12/2021 and quantity of sludge stored i.e. 8 MT, which is not justifiable. 7. Unit has been instructed to store MEE salt and ETP sludge in different dedicated bags and area. [664]-06/08/2024

~ RO Query to Staff: upload point wise compliance status of last rejection order [630]-06/08/2024~Point wise compliance against rejection order. 1. Unit has installed plant and machinery and observed in operation. Further unit has provided ETP as mentioned above and MEE + ATFD observed not in operation. 2. No sample taken as visit carried out under Water Act – 1974. 3. Unit has paid lab bill. [664]-06/08/2024

~ RO Comments/Reply : Looking to the IR observations. -12/08/2024

I recommend : e. Recommend Notice of Dirn

12/08/2024

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Gujarat Pollution Control Board

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(Inspection Report) - Air,Water,Hazardous

(Under Section 23 of The Water Act 1974, Under Section 24 of The Air Act 1981 and Under Section 10 of EP Act 1986)

Point to point reason of recommendation for this action

1. Unit has been instructed to upload CGWA permission. 2. During inspection MEE and ATFD was observed not in operation. 3. Flow meter provided at UF inlet was found faulty. 4. At site, during inspection there was no ETP logbook and no bore well logbook shown of current month. 5. ETP logbook of previous month was shown during inspection, wherein there was discrepancy in RO reject reading in logbook on 31/05/2024 is 1128 m³ while the present flow meter reading at RO reject is 161.4 m³, for this clarification has been sought from unit. 6. During inspection the stock of ETP sludge observed is around 8 MT. Lastly ETP sludge disposed as per XGN manifest record is on 31/12/2021, thus considering this fact the unit has been asked to submit clarification for no disposal of ETP sludge after 31/12/2021 and quantity of sludge stored i.e. 8 MT, which is not justifiable. 7. Unit has been instructed to store MEE salt and ETP sludge in different dedicated bags and area. Point wise compliance against earlier CCA rejection order: 1. Unit has installed plant and machinery and observed in operation. Further unit has provided ETP as mentioned above and MEE + ATFD observed not in operation. 2. No Air sample taken as visit carried out under Water Act – 1974. 3. Unit has paid lab bill.

W.C Notings: as per I.R.[4725-AEE]~



Gujarat Pollution Control Board

PCB ID: 12676

(Inspection Report) - Air, Water, Hazardous

(Under Section 23 of The Water Act 1974, Under Section 24 of The Air Act 1981 and Under Section 10 of EP Act 1986)

Annexure Details - Air, Stack, Hazardous Waste & Samples PCB-ID: (12676)

A Sample Details

Sr	Act	Ph/Temp/Air Sampled	Time	Type	Sampling Point	Col-Cond
1	W-11	@ 7-8 / 30	1240-1240	REP	ro reject (mee feed) ~	Pinkish
2	W-11	@ 7-8 / 30	1230-1230	REP	ro permeate (reuse water) ~	Colourless
3	W-11	@ 7-8 / 30	1220-1220	REP	after tertiary treatment ~	Pinkish
4	W-11	@ 7-8 / 34	1210-1210	REP	inlet of etp ~	Dark Pinkish

B Process Stacks
C Flue gases Stacks

Sr	Stack attached to	Mts	Remark	SMF	APCM	Fuel	Consp-Unit	Insp Remk
1	Fuel Heater (Thermic)	30	1000 U	YES	FIL,MUL	Wood	6.5 MT/D	
2	Boiler	30	2 TPH (Fuel-5 % of Total Solid Fuel)	YES	FIL,MUL	Solid Fuel	1.5 MT/D	

D Details about Hazardous Waste Management :

Sr	Source of Hazardous Waste	Catg	Qty/Year	HW Disposal Management
1	Chemical sludge from waste water treatment	I -35.3	8.000-M.T	COL,DST,STO,TRA
2	Empty barrels/containers/liners contaminated with hazardous chemicals /wastes	I -33.1	2.500-M.T	COL,REU,STO
3	Used or Spent Oil	I -5.1	0.016-M.T	COL,REU,STO

E Products :

Sr	Product Name	NOC Qty	CCA Qty	Applied Qty	Inspection Remark
1	bleaching & dyeing of cloth	0.000	0.000 - MTS	0.000	removed from List
2	Dry Processing of Cloth(Job work of Stentering & Finishing,of Calendering,Felt & Zero)	400000.000	400000.000 - MTS	400000.000	
3	proceesing of cloth	400000.000	800000.000 - MTS	400000.000	
4	stentering & calendaring of cloth	0.000	0.000 - MTS	0.000	removed from List

F Raw material :

Sr	Raw Material Name	Capacity - Unit / Month
1	caustic flakes	0.000 - KGS
2	Dextrine	0.000 - M.T
3	dyes	0.000 - KGS
4	grey cloth	0.000 - MTS
5	hydrogen peroxide	0.000 - KGS
6	Maize Starch	0.000 - M.T
7	PVA	0.000 - M.T
8	Silicon Oil	0.000 - KGS
9	soda ash	0.000 - KGS

G Water Consumption & Generation Break up

Sr	Water Code (Qty in klpd - Kilo Ltr per Day)	WC : 72.000	WWG : 51.800	Water Source	Remark
1	Boiler Feed	12.000	1.000	Borewell	
2	Cooling Water	3.000	1.000	Borewell	
3	Domestic Purpose	2.000	1.800	Borewell	
4	Mnfg Process	55.000	48.000	Borewell	Process & washing

H Solid Waste

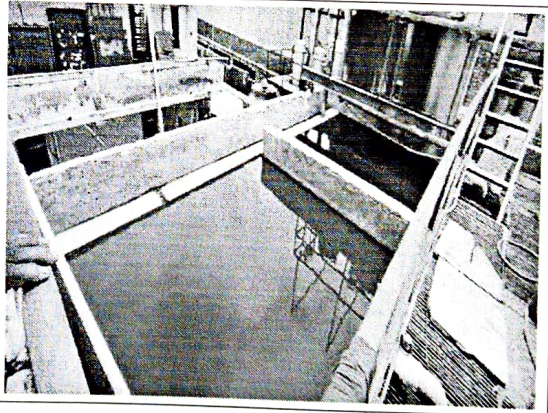
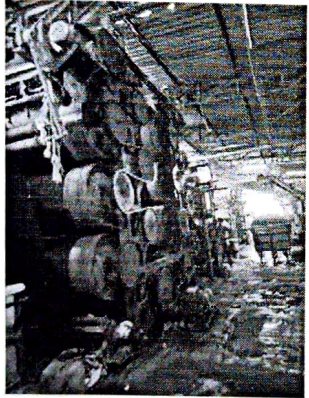
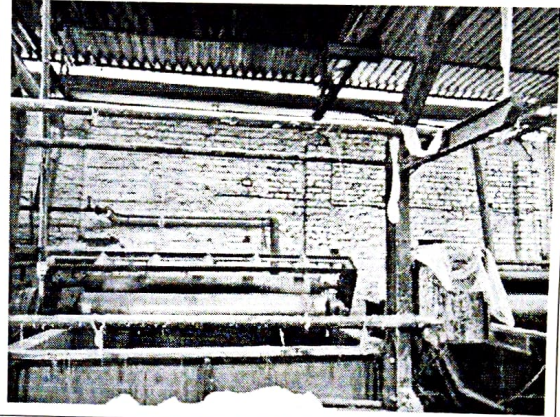
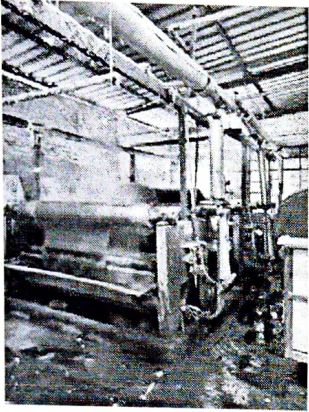
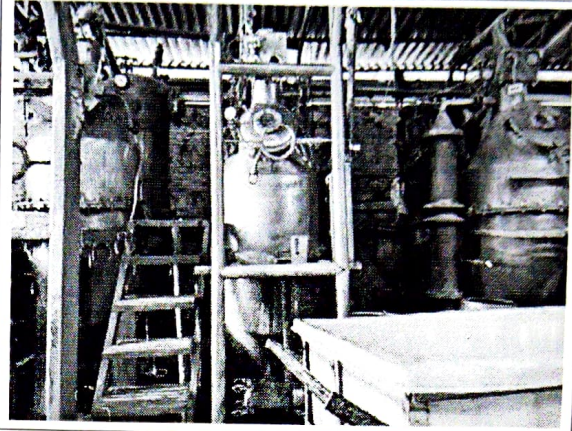
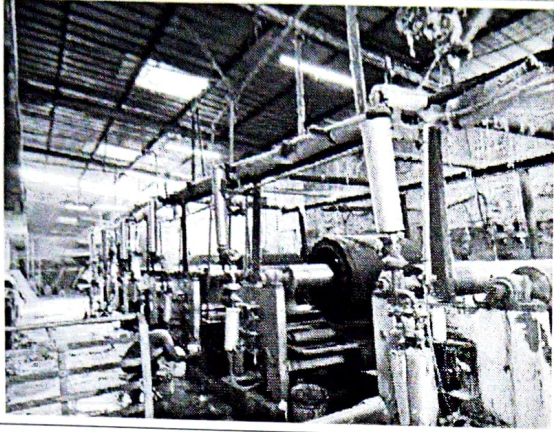
Inspection Team : D.S.Patel, SO - Ms. Prajapati Niyatiben R - MR. TEJAS GHANSHYAMBHAI METALIYA

I hereby affirm, that all the PDF, Data mentioned above, fees paid has been checked & certified.

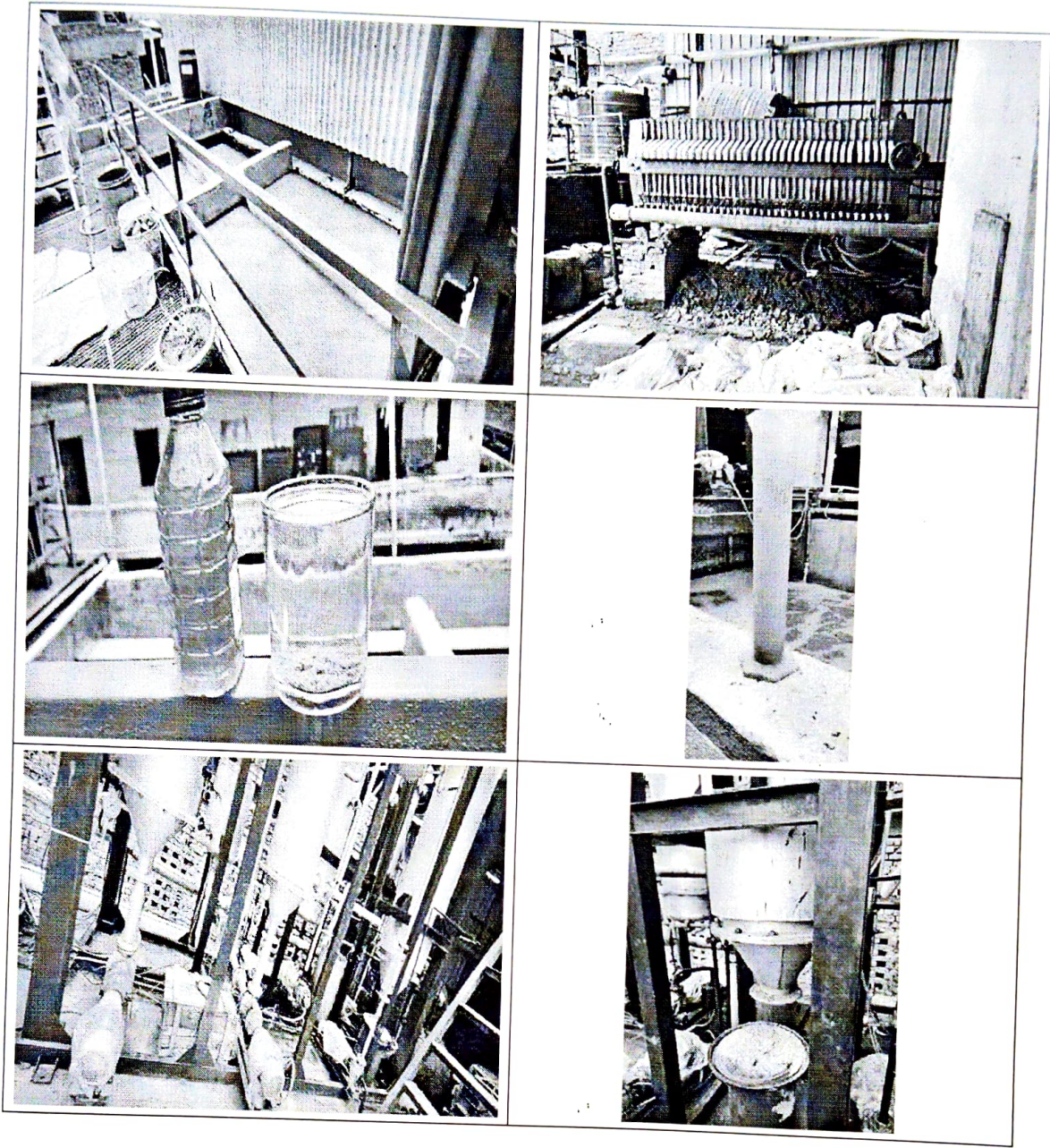
12/08/2024

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12676 n.h.h.textile processors 811921 NOT 19/07/2024 W 511,664,4725 0/4/0



12676 n.h.h.textile processors 811921 NOT 19/07/2024 W 511,664,4725 0/4/0



TRUE COPY

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Item No. 03

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 130/2021

(With report dated 28.01.2022)

In re : News item published in The Times of India dated 08.06.2021
titled "18, mostly women, killed in fire at Pune chemical unit"

Date of hearing: 01.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondent: Mr. Raj Kumar, Advocate for CPCB
Ms. Manasi Joshi, Advocate for MPCB
Mr. Saurabh Kulkarni, Advocate for SVS Aqua Technologies

ORDER

1. Proceedings have been initiated in the present matter on the basis of the media report dated 08.06.2021 in 'The Times of India' under the heading "18, mostly women, killed in fire at Pune chemical unit"¹ in the process of working of a chemical unit - SVS Aqua Technologies, Plot No.

¹ <https://timesofindia.indiatimes.com/city/pune/18-mostly-women-killed-in-fire-at-pune-chemical-unit/articleshow/83310219.cms>

43/44/45 Gut No. 411 at Village Urawade, Taluka, Mulshi, District Pune, Maharashtra.

2. The matter was earlier considered on 16.06.2021 after advance notice to Maharashtra State Pollution Control Board (Maharashtra State PCB), Central Pollution Control Board (CPCB), District Magistrate, Pune, Director, Industrial Safety and Health (DISH) Maharashtra and SVS Aqua Technologies. The Tribunal considered the report of the District Magistrate, Pune and Director, Industrial Safety and Health (DISH) Maharashtra on the subject of circumstances leading to the accident and the steps taken by the administration. The Tribunal noted that the raw material used in the unit was covered by Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (“the 1989 Rules”) which require the statutory safeguards to be followed. The Tribunal found it necessary to determine the issue of remedial action for violation of the Rules and also to prevent recurrence of such incident.

3. Accordingly, the Tribunal constituted a joint Committee comprising CPCB, Maharashtra State PCB, DISH, Maharashtra, District Magistrate, Pune and IIT Bombay (Chemical Engineering Department) to give a factual report to this Tribunal on the aspects of safety norms followed and remedial action required. The operative part of the order is reproduced below:-

“3. Response has been filed on behalf of the District Magistrate, Pune and DISH Maharashtra. In the response dated 14.06.2021 filed on behalf of the District Magistrate, Pune following version has been mentioned:

“xxx.....xxx.....
xxx

A Fire incidence occurred at a chemical factory in village Urawade, Tal. Mulshi, Dist. Pune on 07/06/2021. **Total 15 Women and 2 Male labours were deceased in the said incidence.** In view of the incidence occurred in the company namely SVS Acqua Pvt Ltd situated at village Urawade, Tal. Mulshi, Dist. Pune the District Magistrate took serious cognizance. The D.M. Pune being a President, Disaster Management Authority Pune by order dated 07/06/2021 constituted a committee under the Chairmanship of SDM Maval including, Additional Director, Industrial Safety and Health, Joint Director Industry, Deputy Commissioner Labour, Regional Officer MPCB, Executive Engineer MSEB (Rural), Fire Officer PMRDA and Tahsildar Mulshi. The D.M. Pune directed the committee to investigate deeply and to file a report. The order of constituting a committee is annexed for your kind perusal.

The said Committee inspected the site and each authority submitted the detail inquiry report on 09/06/2021.

The committee observed as follows:

The SVS Aqua Pvt. Ltd. is situated in Gat no.411/plot no.43, 44, and 45 at village Urawade, Tal. Mulshi, Dist. Pune. The factory is registered with the Department of Industrial Safety and Health. The factory is having a capacity of 48 workers. The factory is having permission of to produce Clo2 tablets and powder for water purification by formulation process. For that purpose **they are having raw material such as sodium chlorite, sodium bisulphate, sodium bicarbonate, adipic acid** and packing material. The MPCB has issued consent to operate on 10/09/2020 however the factory was running without any consent i.e. from year 2016 to 2020. The Additional Commissioner of Labour Pune Division stated in its report that, the said

factory is registered under the Factories Act, 1948 and produces chemical water purification tablets. On 07/06/2021 from 04.00 to 4.30pm there was a explosion and fire broke out in the packing department. The names of some deceased are not registered under the Employees State Insurance Scheme. The Fire Department and Office of Industrial Safety and Health submitted the same report.

After perusing the reports submitted by different departments, following discrepancies have been found at the factory place:

- a) Except the permission granted by the Industry and Health Department flammable substances were stored in the place.*
- b) The factory was not informed about the large stock of flammable substances to the Industry and Health Department.***
- c) The flammable raw material storage place and work place are same and hence large number of chemicals exploded and fire went out of control.***
- d) The company not submitted self certification before the Electric Inspector Yervada.***
- e) The fire may increase higher due to the stock of sanitizer and due to the sodium chloride there were spread of black smoke and hence the labour cannot exit safely.***
- f) Company only received primary no objection certificate from Fire Department. The Company and the work already started in new building however this fact never brought to the notice of fire department. The primary no objection certificate is not the final NOC from the said department.***
- g) There is no final NOC from the Fire Department.***
- h) There was no any fire extinguisher in the premises.***
- i) There is a possibility of production flammable material other than the product mentioned in the consent letter issued by MPCB.***
- j) At the time of investigation the company owner stated that, they have started production in the year 2016 without consent of MPCB. From the available documents it seems that, the MPCB***

issued consent on 10/09/2020 it means they have worked without any consent i.e. from year 2016 to 2020.

- k) In view of the information received from Labour Department and the interview of the workers against the said company, necessary action will be taken under the provisions of law. The report submitted by the committee is annexed herewith for kind perusal.**

The factory owner stated in written that, they are going to provide financial help of Rs. 5, 00,000/-per person to the legal heirs of the deceased. The State Government of Maharashtra, Chief Minister Relief Fund have granted Rs. 5,00,000/-per person to the legal heirs of the deceased. Further the Hon'ble Prime Minister has sanctioned Ex-gratia out of Prime Ministers Relief Fund of Rs. 2,00,000/-each to the legal heirs of the deceased. The Collector office assured that the same will be disbursed in to the account of the legal heirs as earlier as possible.

A FIR has been lodged against the owner of the factory and offence has been registered against them in Paud Police Station u/s 304, 285, 286 1/w of IPC. The factory owner is in police custody as on today.”

4. On behalf of the DISH Maharashtra, following action taken report has been filed:

“i. This office received the information about the incidence of fire in M/s SVS Aqua Technologies LLP., Sr No.43/44/45, Gat No.411,Uravade, Taluka:- Mulshi, District : Pune, - 412111.at @ 5.45 pm. on mobile (whatsapp). In this incident of fire, 17 workers including 15 female workers and 2 male workers died and two workers are injured and major damage to the plant, machinery, raw material & finished goods has taken place.

ii. Our officers from Pune office visited the site on the same day i.e on 07.06.2021 at @ 6.30 pm. Officers observed that.

a) There was smoke at the place and cooling and rescuing operation was going on.

- b) *During the visit, police and fire fighters informed that 17 workers were trapped in the fire and same were totally burnt.*
- c) *Till 11.30 pm cooling operation was going on by fire brigade.*
- d) *Shri S.P. Rathod, Director of Industrial Safety and Health, Maharashtra visited the site on 08.06.2021.*

iii. The respondent industry ie M/s SVS Aqua Technologies LLP., Sr No.43/44/45, Gat No.411,Uravade, Taluka:- Mulshi, District : Pune made an application for grant of licence under Factories act 1948 on 04.03.2021. Factory is having license number 13841 for 50 workers and 100 HP installed power valid till December-2022. But it was learnt that factory was operational since last 2 to 3 years.

iv. The factory has taken permission from this Department for manufacturing of chlorine dioxide tablets, powder and gel by using Sodium Bisulphate, sodium chlorite, Sodium per sulphate and Magnesium Sulphate. But at the time of visit, substantial stock of alcohol (IPA) based plastic sanitizer bottles was found in the factory. That means sanitizer packing/filling was also carried out in this factory. Documents found at the site and statements also confirms this.

v. Name of Directors of the factory : i) Shri Nikunj Bipin Shah ii) Shri Bipin Jayantilal Shah iii) Shri Keyur Bipin Shah

vi. About Incident of Fire : From site visit and statement of workers it was revealed that there were two rooms in the factory where manufacturing process was carried out. Commonly known as Process room-1 and Process room-2. On the day of accident workers reported factory at about 9:00 a.m. and started working in the process room-1 and room-2.

Workers were engaged in the filling of 5 kg pouches of Sodium Chlorite powder for making pouches of component A. On the day of accident 16 workers from the list of deceased workers were working in process room-2. One female worker was working in the laboratory located on first floor. In process room 2 components B of 5 Kg pouch packed in inner pouch was manufactured and stacked.

At @ 3.45 pm suddenly a major fire was observed in room no 1 and it spread into room no 2 within fraction of seconds as the door between room no 1 and 2 was kept open.

The worker working in room-1 escaped from the room. All person working in process room-2 was unable to escape from the room inspite of two exits available one from room 1 and one from room2. Heavy fire made it impossible for workers to escape from room 2 and total 17 workers died due to burn injuries.

vii. This Directorate has passed a closure order under section 40(2) of Factories Act- 1948 on 09.06.2021 to the factory.

viii. This directorate is carrying out a detail enquiry of this incident by collecting the necessary evidence, regarding of worker statements, inspection of the accident site etc.

ix. This directorate will be issuing show cause notice to the Occupier of this factory regarding the contraventions which will be observed during the course of enquiry and file the prosecution in the court of law under the Factories Act- 1948.

x. The management of factory has declared an ex-gratia amount of Rs. 5 lakh each to the legal heirs of the deceased. The Government of Maharashtra has declared an ex-gratia amount Rs. 5 lakh each to the legal heirs of the deceased and Rs. 50,000/- to the injured workers. The Central Government has declared an ex-gratia amount of Rs. 2 lakh each to the legal heirs of the deceased. This ex-gratia amount is in addition to legal compensation amount.

xi. Director of Industrial Safety and Health, Maharashtra and Additional Director (I/C) of Industrial Safety and Health, Pune will be joining the video conferencing on 16 the June 2021.”

5. We have heard learned Counsel appearing for the CPCB, State PCB, District Magistrate, Pune and DISH, Maharashtra in person. According to the stand of the District Magistrate, the unit in question started functioning in the year 2016 but ‘Consent to Establish’ was taken only on 10.09.2020 from the State PCB. It is

further clear that 17 persons died in the incident dated 07.06.2021. The unit is using raw material as sodium chlorite, sodium bisulphate, sodium bicarbonate, adipic acid, chlorine some of which are specifically mentioned in Part-II of Schedule 1 and also Schedules 2 and 3 to the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (“the 1989 Rules”) and thus covered by the definition of hazardous chemical under Rule 2(e) of the said rules. In such a case, the site has to be approved under Rule 7. Safety report has to be prepared and safety audits have to be conducted under Rule 10, onsite emergency plan is to be prepared under Rule 13 and off-site emergency plan is to be prepared under Rule 14. There is further requirement of conducting mock drills under Rule 13(4). The reports show that the cause of incident was explosion and fire in the packaging department. There were several deficiencies in functioning of the unit including storing flammable substances, not informing the concerned department about the same, not providing self-certification to the concerned authority, no final NOC has been taken from the fire department, there was no fire extinguisher. No compensation has been paid to the victims. There is no assessment of damage to the environment. The authorities have not shown what remedial measures are planned to prevent such incidents in future. Closure order has been passed under the Factories Act, 1948. Chemical Accidents (Emergency Planning, Preparedness and Response) Rules 1996 are also attracted. Breach of statutory authorities in performing their duties is also a question. There may be several other units similarly placed having potential of such incidents.

6. *We are informed by learned Counsel for the CPCB that all the State Boards/PCCs have been required to take precautionary measures in view of several recent incidents but the Maharashtra State PCB has failed to take requisite measures.*

7. *During the hearing, the DISH Maharashtra submitted that inspections are carried out only as per roster and thus no inspection was carried out in respect of the unit in question under the Factories Act. Attention of the officer has been drawn to the 1989 Rules under which the Chief Inspector of Factories is the authority specified for compliance of several Rules and the District Magistrate is the authority for preparation of off-site emergency plan and also for taking steps under the 1996 Rules. The District Magistrate is also the Chairman of the District Disaster Management Committee, apart from being head of the District Crisis Group under the 1996 Rules.*

8. *In view of above, substantial questions of environment relating to compliance of the 1989 and 1996 Rules, framed under the Environment (Protection) Act, 1986 (EP Act), falling in schedule to the NGT Act, 2010 arise. It is necessary to determine the above questions and if necessary, award relief under Section 15 of the NGT Act to the victims and for restoration of the environment after determining the liability of the persons engaged in such activity as well as require remedial action to prevent measures to avoid recurrence of such incidents in future. Further, it is necessary to consider how the PCB should ensure action for not taking CTE and CTO before production and what conditions should be imposed in CTE/CTO to ensure that such units take appropriate Risk Policy to cover such risks so as to make available promptly insurance amount to the victims.*

9. ***While issuing notice to SVS Aqua Technologies, District Pune, Maharashtra, MoEF&CC, CPCB, State of Maharashtra, DISH Maharashtra, Maharashtra State PCB and District Magistrate, Pune by e-mail, we constitute a five-member joint committee comprising of CPCB, Maharashtra State PCB, DISH, Maharashtra, District Magistrate, Pune and IIT Bombay (Chemical Engineering Department) to ascertain the cause of the incident, persons responsible, the extent of damage caused, the extent of compensation required to be paid for damage to the environment as well as for loss of lives, or the injuries and steps required to be taken for preventing any such occurrence in future on the same pattern as the Tribunal has dealt with such accidents in the recent past.² The nodal agency for coordination and***

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- i. Order dated 01.06.2020, relating to incident of gas leak dated 07.05.2020 in **LG Polymers India Pvt. Limited** at Vishakhapatnam, resulting in death of 11 persons and injuries to more than 100, apart from other damage (OA No. 73/2020, In re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village Visakhapatnam in Andhra Pradesh);
- ii. Order dated 03.02.2021, relating to incident dated 03.06.2020 in a chemical factory, **Yashyashvi Rasayan Pvt. Ltd.** at Dahej, District Bharuch, Gujarat resulting in deaths and injuries and other damage (OA No. 85/2020) (Earlier OA 22/2020) (WZ), Aryavart Foundation through its President vs. Yashyashvi Rasayan Pvt. Ltd. & Anr.);
- iii. Order dated 19.02.2021, in relation to incident of **oil well blow out on 27.05.2020 at Baghjan in the Tinsukia District of Assam** resulting in deaths, injuries and damage to the environment (OA No. 43/2020(EZ), Bonani Kakkar vs. Oil India Limited & Ors.).
- iv. Orders dated 06.07.2020 and 22.12.2020, relating to incident dated 30.06.2020 on account of gas leakage at **Sainor Life Sciences** factory at Parawada in industrial area on the outskirts of Vishakhapatnam (OA No. 106/2020, News item published in the

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- local daily “Economic Times” dated 30.06.2020 titled “Another Gas Leakage at Vizag Factory kills two, critically injures four...”);
- v. Orders dated 08.07.2020 and 22.12.2020, dealing with the incident dated 01.07.2020 resulting in death of 6 person and injury to 17 due to blast of boiler in **M/s Neyveli Thermal Power Station** (NLCIL), Cuddalore (OA No. 108/2020, News item published in the “Indian Express” dated 01.07.2020 titled “Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured”) and;
 - vi. Orders dated 23.07.2020 and 22.12.2020, in relation to incident of **fire engulfed the chemical plant of Visakha Solvents Ltd**, Vizag on 13.07.2020 at Ramky CETP Solvents building in Pharma City resulting in injuries (OA No. 134/2020, News item published on 13.07.2020 in the local daily named “India Today” titled “Massive fire engulf Vizag chemical plant, explosions heard, injuries reported”).
 - vii. Order **dated 18.12.2020**, in relation to incident of **explosion in a plastic recycling factory at Sujapur in Malda on 1.12.2020** resulting in death of six persons, including two minors and serious injuries to four persons (OA No. 272/2020, News item published in the “Times of India” dated 20.11.2020 entitled “Six killed as blast tears through Malda Plastic recycling factory”).
 - viii. Order dated **18.12.2020**, in relation to incident of **methane gas leak in a sugar factory** called Lokenete Bapurao Patil Agro Industries Ltd. in Mohol Taluka of Solapur District, Maharashtra on 21.11.2020 resulting in deaths and injuries and other damage (OA No. 274/2020, News item published in the “Indian Express” dated 23.11.2020 entitled “Maharashtra: Two Killed, eight injured in methane gas leak in sugar factory”).
 - ix. Order dated 08.01.2021, in relation **to Gas Leak in Agro Company** (O.A No. 107/2020, In RE: News item published in the local daily “Indian Express Sunday Express” dated 28.06.2020 titled “Gas Leak in Agro Company Claims life of one”)
 - x. Order dated **04.06.2021**, in relation to News item published in Navbharat Times dated 24.12.2020 titled **“Gas leaks in IFFCO Plant, 2 Officers dead”** (O.A No. 04/2021, In re : News item published in Navbharat Times dated 24.12.2020 titled “Gas leaks in IFFCO Plant, 2 Officers dead”)
 - xi. Order dated **11.02.2021**, in relation to accident of **toxic gas leak in Rourkela Steel Plant in Orissa**” (O.A. No. 09/2021, In re: News item published in The Indian Express dated 07.01.2021 titled “Four workers dead due to toxic gas leak in Rourkela Steel Plant”)
 - xii. Order dated **11.06.2021**, in relation to accident of **Virudhunagar firecracker factory blast** (O.A. No. 44/2021, In re: News item published in The News Indian Express dated 12.02.2021 titled “At least 19 dead in Virudhunagar firecracker factory blast, more than 30 injured”)
 - xiii. Order dated **11.06.2021** in relation to accident of **quarry blast in Hiremagavalli, Chikkaballapu, Karnataka** (O.A. No. 59/2021, In re: News item published in Times Now News dated 23.02.2021 titled “Karnataka: Six killed in quarry blast in Hiremagavalli, Chikkaballapur”)
 - xiv. Order dated **11.06.2021** in relation to accident of **fire at UPL plant, Jhagadia, District Bharuch, Gujarat** (O.A. No. 60/2021, In re: News item published in The Hindu dated 23.02.2021 titled “Two dead, 5 missing in fire at UPL Plant”)
 - xv. Order dated **02.03.2021** in relation to accident of **massive fire broke out at an illegal factory at Pratap Nagar, North Delhi** (O.A. No. 65/2021, In re: News item published in The Times of India dated 28.02.2021 titled “Delhi: Man charred to death as illegal factory catches fire”)
 - xvi. Order dated **16.03.2021** in relation to Incident of **explosion of 3,000 kg reactor at the production wing of Tyche Industries Limited, on the outskirts of Kakinada, Andhra Pradesh (AP) on March 11, 2021** (O.A. No. 79/2021, In re: News item published in The Hindu dated 14.03.2021 titled “Safety lapses led to reactor blast at pharma unit”)

compliance will be the CPCB and the State PCB. The committee may visit the site preferably within next two weeks and give its report within three months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. Simultaneously, the report may also be uploaded on the website of the State PCB to enable the concerned stakeholders to access the same and file their response, if any.

10. Except for visit to the site at least once, the Committee will be free to conduct its proceedings online. It will be free to take the assistance from any other expert/organization. The Committee may suitably interact with the stakeholders and, apart from considering the present incident, also consider remedial measures for preventing such incidents in the area or by other establishments even beyond the said area. The Committee may compile information about existence and working of onsite and offsite plans in terms of 1989 Rules and conducting of mock drills and safety SOPs., number of such units in the area and the carrying capacity of the area to sustain the same. Since in the recent past, the Tribunal has dealt with similar issues of industrial accidents resulting in deaths and injuries and Expert Committees in some of such accidents have given reports to this Tribunal, such reports may also be taken into account by the Committee to the extent relevant.”

4. Accordingly, the Committee has given its report dated 28.01.2022 after undertaking visit to the site, study of industrial process, looking into the circumstances leading to the accident, action taken by the concerned Departments, extent of damage to environment and to human lives, compensation paid, status of compliance of the statutory Rules and the recommendations to prevent recurrence of such accidents.

xvii Order dated **23.03.2021** in relation to Incident of **blast in chemical boiler factory at Pirana-Piplaj road in Ahmedabad, Gujarat** (OA No. 258/2020, In Re: News item published in the “Indian Express” dated 04.11.2020 titled “Ahmedabad: Nine killed as godown collapses after factory blast”)

5. The relevant extracts from the report are reproduced below:-

“5. ABOUT THE INDUSTRY- M/S SVS AQUA TECHNOLOGIES M/s SVS

Aqua Technologies (SVSAT) is engaged in manufacture, trade and export of a wide range of chemical products, which includes Chlorine Dioxide, Air Diffuser and Bubble Diffuser, Iso-propyl Alcohol (IPA) based sanitizer (for which license was not obtained from concerned authorities). These products are commonly used in pharma, food & beverages and other industries which include chemical, plastics and agriculture. (Source: <https://www.svsqua.co.in/>) These products are available in different packing options. The firm is having its registered office located at Mahavir Palace, 520, New Rasta Peth, Pune. The partners of the firm are Shri Bipin Jayantilal Shah, Shri Nikunjand Shri. Keyur Bipin Shah, Shri. Nikunj Bipinchandra Shah was nominated as occupier of the factory.

The manufacturing unit of the firm is located at Plot No.43/44/45, Gat No.411, Uravade, Taluka- Mulshi, District: Pune. The area of the factory is 1421 square meter.

The area where the industry located is not a designated industrial area. As per the record available with MPCB, in Urawade/Pirangut area, total 54 nos. of industries are established, out of which 16 nos are in Red category, 21 nos. are in Orange category and 17 nos. are in Green category.

*As per MPCB Consent (Annexure-II) (which is issued on 10.09.2020 and was valid up to 30.09.2021), **the products are Chlorine di oxide powder: 25 MT/M, Chlorine di oxide Tablet: 15 MT/M & Chlorine di oxide gel: 05 MT/M.***

At above manufacturing unit manufacturing of Chlorine di oxide powder and tablet were carried out. Also, at the said place repacking of IPA based hand sanitizer from 500 ml filled bottles to 100 ml and 5 Liter pack size was undertaken. At manufacturing unit there was total up to 50 persons engaged; also, there were support functions such as finance, marketing, HR. At manufacturing unit, Shri. Gaurav Shah was heading the plant and Shri. Sanjay

Mahajan was working as Production manager and Shri. Sundaresan Mohan Electrical Engineer was responsible for maintenance function. He was nominated as Factory manager under Factories Act (1948). The industry obtained License (Annexure-III) under Factories Act- 1948 for the duration 01.12.2020 to 31.12.2022 for up to 50 workers and up to 100 HP installed power.

5.1 THE MANUFACTURING PROCESS:

The factory is engaged in manufacturing of Chlorine dioxide tablets, powder and gel. There are two components i.e. Component A- Sodium chlorite (80%) powder and other called components B- mixture of Sodium Bisulphate, Sodium per Sulphate and Magnesium Sulphate in the ration of 70%, 20% and 10 % by weight respectively, for Manufacturing of Chlorine dioxide powder While preparing component A the pack size is 100 gms, 200 gms, 500 gms and 5 Kg similarly component B is made of same weight in proportion as described above. While manufacturing component A the powder from 50 Kg size drum is weighed on the weighing scale and is filled in the plastic pouches called inner pouch. After filling this the pouch are sealed on band sealer then it is further packed in another aluminized packing pouch called outer pouch. Similarly, the component B is packed in inner pouch and then outer pouch. It was further revealed that except in case 500 gms pack the component A and Component B are separately packed either in corrugated box or barrel as per quantity or customer requirement. In case of 500 gms pack the Component A with outer pack and Component B with outer pack is packed in combo pack and then further packed in box or drum as per the customer specification /requirement.

These components (Component A and B) are mixed at the site where it is to be used and after mixing chlorine di oxide is released from the reaction which is used mainly for disinfection purpose.

For manufacturing of tablet manufacturing Adipic acid, Sodium Chlorite, Sodium Bi carbonate, SDIC 60% granules, Calcium chloride, Lactose Fonterra and silica gel are used. First sieving is done followed by mixing it homogenously. The mixture is then compressed on tableting machine to form

tablets. These tablets are packed on strip packing machine as per the requirement. These tablets are directly used for disinfection. Batch size for tablet was about 55 Kgs. There was no facility for manufacturing Chlorine Di-oxide in gel form.

5.2 THE AIR HANDLING (AHU) SYSTEM

The process area temperature is required to be not more than 27°C and humidity maintained at less than 40%. There are two Air Handling Units (AHU) serving the manufacturing area. The AHU is provided with cooling arrangement. To maintain the required humidity and temperature two portable dehumidifiers were used in the manufacturing area. The working principle of dehumidifier is as follows: room air is drawn in and pre-cooled by a heat exchanger, which is partially filled with liquid refrigerant. With the passage of air over the exchanger, the refrigerant boils and due to a change in state, it cools the room air. The air then moves across the main cooling coil, which cools the air to dew point – and a blower pushes it back over the upper half of the heat exchanger. This cooled air condenses the refrigerant and consequently heats up. Lastly, the condenser releases the heat and reduces the relative humidity.

5.3 THREE-PHASE VOLTAGE STABILIZER PROBLEM

*The factory was having a three-phase voltage stabilizer to regulate the voltage. **As per the statement of workers it was revealed that there was problem in functioning of stabilizer which was there since about a week. Two days prior to accident there was failure of three tube lights in process room-1. Also, on the day of accident repair of the voltage stabilizer was going on due to which there was power failure at about 12:30 p.m. At the time of accident also the voltage regulator work was in progress.***

5.4 HAZARDOUS PROPERTIES OF SODIUM CHLORITE

The following key hazards are posed by sodium chlorite from its Material Safety Data Sheet (MSDS)

- *It is a strong oxidizer. It intensifies fire.*

- *As it is oxidizer if it is exposed heat or came in contact with flame cause fire to propagate in rapid way resulting in pressure built and supportive to intensify the fire.*
- *Its thermal decomposition generates corrosive vapors. Burning produces obnoxious and toxic fumes.*
- *Containers of sodium chlorite may explode when heated.*
- *Contact with combustible/organic material may cause fire. May ignite combustibles (wood paper, oil, clothing, etc.).*
- *Dry sodium chlorite can be explosive in contact with chlorine, acids or acid materials such as alum. Contamination by these materials may start a chemical reaction, causing generation of heat and emission of chlorine dioxide, a poisonous and potentially explosive gas.*
- *Run-off from fire-fighting should not enter drains or water courses.*

For further details on potential hazardous properties of sodium chlorite one may refer to the following document / source:

https://www.cdhfinechemical.com/images/product/msds/101_2095443146_SodiumChlorite-CASNO-7758-19-2-MSDS.pdf

6. DESCRIPTION OF THE ACCIDENT

From site visit of the committee, interaction with stakeholders, CCTV footage and the accident investigation reports of Directorate of Industrial Safety and Health (Pune) it was revealed that there were two rooms in the factory where manufacturing process was carried out. There are two rooms, Process room-1 and Process room-2 (Commonly known as AHU -1 AHU-2 respectively).

On the day of accident i.e., on 7 June workers reported to the factory at about 9:00 a.m. and started working in the process room-1 and room-2. There were four workers in process room 1 out of which Shri. Baban Margale and Shri Pravin Kavankar were engaged in the filling of 5 kg Pouches, Shri Sachin Sathe was engaged in pouch sealing work. They were given 21 drums weighing 50 Kg each of Sodium Chlorite powder for making 5 Kg pouches of component A. Shri

Rajendra Marne was repacking the damaged pouches of the last day packed tablets. About 2:30 p.m. they finished the work of making 5 Kg pouches. After which, making of 500 gms pouch of Component A was assigned to these workers; accordingly, Shri Pravin and Baban were filling the material in inner pouch; Shri Rajendra was sealing inner pouch, while Shri Sachin was sealing the outer aluminum pouch. The outer packet is an aluminum foil with plastic lamination. Two drums of 50 Kgs weight of sodium chlorite were issued. Filling of 500 gms pouches was in progress. At the same time, 15 workers except (out of 17 deceased workers) were working in process room-2. Additionally, Smt. Dhanshree Rajaram Shelar was working in the laboratory located on first floor.

In process room 2 components B of 5 Kg pouch packed in inner pouch was manufactured and stacked. At the same time there was packing of 100 gms pouches of Component A and packing of 500 gms size of component B. There was a large quantity (as seen in CCTV Footage) of material kept in process room -2 and 1150 kgs (21 drums of 50 Kgs. each) in process room 1. From CCTV footage and statement of workers it was further revealed that there were 3 band sealer machines in room-1 out of which one machines belt was not working and other two were in use. Out of these two machines one machine was having problem of overheating because of which the pouches were sticking to the machine due to high temperature at contact. The machine was operated by Shri Sachin Sathe. This problem was there since the previous fifteen days. In spite of reporting to supervisor and manager, the problem was not attended to and the workers were required to operate the defective machine. At the time of the accident the heating element of band sealer machine got overheated (as seen from reflection in SS cover of tablet machine in the CCTV footage) and the pouch under sealing caught fire. Both the pouch and the material inside pouch came in contact with heater and resulted in fire. Shri Rajendra Marne saw reflection of fire in the tablet machine cover placed in front of him and alerted other co-workers in the room. All the workers working in room-1 realizing that a fire had broken out rushed outside of the room.

There was no attempt to control the fire at this time, as the concerned workers self-evacuated. There were fire extinguishers available but from CCTV footage it is evident

that because of rapid spread of fire nobody tried to use them and tried to escape from the workplace. The fire thus intensified and spread to the pouches of sodium chlorite stored in the room. The entire powder filling was manual so there was a sizeable quantity of sodium chlorite spread on the floor and on the sealing machine. It is known that if sodium chlorite comes into contact with combustible materials, it can react rapidly and ignite. However, sodium chlorite will not normally burn by itself. Examples of combustible materials are oil or grease (such as from a forklift), wood (such as pallets), leather, cloth, paints, organics, and in some cases dirt. In the specific accident situation at SVS Aqua Technologies site, therefore, due to sudden combustion and as sodium chlorite is a strong oxidizer the fire spread in the area.

The stock of sodium chlorite in room no.1 was 1150 kgs, this huge quantity made fire more violent. As the doors of air lock present between these two rooms were open, possibly generated pressure wave and the burning sodium chlorite from room -1 reached the process room -2 very vigorously and all material kept in to the process room 2 where 16 workers were working also caught fire causing further increase in fire and pressure. As workers in process room-2 were also engaged in the filling of Sodium chlorite and Sodium per sulfate, both being oxidizing material, it possibly resulted in a heavy fire in the area causing entrapment of workers working in the process room -2.

Further, the workers were working in seating position so they were unable to escape from fire instantly. The fire engulfed most of the area in the room as it was filled with material resulted in enhancement of fire intensity within a very period of time (a few seconds, as seen from CCTV footage) due to the property of Sodium chlorite and Sodium Per Sulphate and other in process material. The workers working in room-1 escaped from the room and the workers Shri Adinath Sathe and Shri Santosh Sathe who were transferring filled 5 Kg component from room-1 to room-2 escaped with burn injuries. All persons working in process room-2 was working in seating positions and were, therefore, unable to escape from the room in spite of two exits being available, one from room 1 and another from room 2. Heavy fire and excessive storage of material made it impossible for workers to escape

from room 2 and they died due to burn injuries. Fire also immediately reached to first floor lab area causing burn injuries to Smt. Dhanshree Rajaram Shelar. In spite of having second exit from first floor she was unable to escape due fire intensity and smoke. She also died due to burn injuries. Table 2 provides name & age of persons who faced fatality from the accident.

During the investigation oversights relating to electrical system malfunctions were also revealed. The factory was having a three-phase voltage stabilizer to regulate the voltage. As per the statement of workers it was revealed that there was problem in functioning of stabilizer which was there since about a week prior to the accident. Two days before the accident there was failure of three tube lights in process room-1. Also, on the day of accident repair of the voltage stabilizer was going on due to which there was power failure at about 12:30 p.m. At the time of accident also the voltage regulator work was in progress.

TABLE 2 NAME & AGE OF DECEASED PERSON

Sr. no.	Name	Age	Sr. no.	Name of the deceased worker	Age
1.	Shri. Sachin Madan Ghodke	24	10.	Smt. Shital Dattatray Khopkar	43
2.	Smt. Manda Bhausahab Kulat	49	11.	Smt. Geeta Bharat Diwadkar	41
3.	Smt. Surekha Manohar Tupe	45	12.	Smt. Sarika Chandrakant Kudale	43
4.	Smt. Archana Venkat Kawade	36	13.	Smt. Seema Sachin Borade	34
5.	Smt. Mahadevi Sanjay Ambre	40	14.	Smt. Dhanshree Rajaram Shelar	22
6.	Smt. Mangal Baban Margale	29	15.	Smt. Sangita Ulhas Gonde	43
7.	Smt. Sunita Rahul Sathe	28	16.	Shri. Atul Laxman Sathe	23
8.	Smt. Trishala Sambhaji Jadhav	32	17.	Smt. Suman Sanjay Dhebe	38

9.	Smt. Sangita Maruti Polekar	43			
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In addition to the fatalities, Shri. Santosh Sathe, Shri. Adinath Sathe received serious burn injuries (about 40%), whereas Shri. Pravin Kavankar received minor injuries.

The overall sequence of events during the accident (07.06.2021-08.06.2021) was as follows.

3:55 p.m.: Commencement of Fire.

4:15 p.m.: Arrival of Police personnel and of local Administration

4:25 p.m.: Fire tenders from PMRDA and MIDC reaches accident site (3 Fire tenders from PMRDA and 2 from MIDC)

6:30 p.m.: Fire brought under control and bodies of deceased workers removed from the site and handed over to police, injured workers taken to Sanjivani Hospital, Deccan, Pune

8:00 p.m.: Major Fire was extinguished, but minor fires continued

11.30 p.m.: Minor fire extinguishing process was going on

The photographs taken during the Committee visit on 09.09.2021 and earlier photos taken during the fire incident on 07.06.2021 are provided at Annexure-IV.

7. PROBABLE CAUSE OF THE ACCIDENT

As mentioned earlier, the concerned factory site was engaged in the manufacturing of the Chlorine dioxide powder and tablet. The manufacturing was as per order and was intermittent. Unauthorized-packing of IPA based hand sanitizer was also carried out in the premises and at the time of accident a large stock of the IPA based sanitizer was kept in the factory. The bottles were stored in finished goods store and passage adjacent to the finished store area. The sanitizer bottle stock area measured. In finished store after fire, it was 5.4m(l) x 1.5m (height)x 2m(width) and 2.5m (l)x1.5m(h)x3.0m (width) and in the passage at the exit from room 2 and finished store it was 1.9m(w)x1.5m (h)x1.5 m (l). The fire accident was initiated by ignition from the faulty, overheated band sealer. From analysis of the CCTV footage,

it was also evident that the fire spread with extreme rapidity, and images caught by the CCTV suggests the occurrence of a flash fire like situation.

There could be two possible reasons for this:

- I. Sodium chlorite is extremely reactive and will explode in a violent reaction on contact with organic substances including basic items such as gloves and clothing, spillage control materials such as sawdust and cotton waste, or even oil and grease. Heat, friction or just impact can lead to an explosion. It is known to decompose rapidly at temperatures above 130°C, and can detonate if heated rapidly to 100°C. Also, contact with dust and other combustible material such as organic matter and sulfur can cause it to catch fire or explode. A possible scenario is an initial release of sodium chlorite followed by its ignition in contact with extraneous substances available on site and eventual escalation of fire into an explosion.***

- II. The other possibility is ignition of hydrocarbon (IPA) vapours present in reasonably large quantities in the work area due continuous leakages and volatilization from its handling processes. The work area was provided with Air Handling unit which constantly circulated air in the area, which could have caused a steady buildup of IPA concentration in air. Sodium chlorite, which is one of the products handled in the factory, being a strongly oxidizing material is also expected to be incompatible with IPA, and lead to ignition followed by flash fire***

As outlined earlier, the fire began in the defective band sealer machine causing Sodium Chlorite pouches to catch the fire and as there was large quantity of it present in room-1 where the fire began, there was a rapid escalation of the fire. This could have eventually led to ignition of the IPA in air in the room leading to a sudden escalation in the form of a flash fire. The CCTV footages reviewed suggests the occurrence of a sudden flame propagation via air from room 1 to room 2 where other workers were present, who suffered almost instantaneous engulfment by the fire. Also, in room 2 there was a large quantity of sodium chlorite containers and sodium per sulfate which could have contributed to the enhanced propagation of the fire which essentially entrapped

the workers making it practically impossible for them to escape, which eventually led to their fatality.

Unsafe work practices prevalent at the site seems to have also contributed to the escalation of the fire. The practice followed was to process large quantities of sodium chlorite and other material at the same time. This allowed a large inventory of partially packed hazardous materials to be available in room 1 where packet sealing machines – potential energy sources – were operated. Had the company decided to process a lower quantity of hazardous material, say handling a single 50kg container at a time for packing in pouches, the overall risk could have been significantly reduced. Awareness of the highly hazardous nature of sodium chlorite could have been low or non-existent, especially amongst the workers. Inculcation of such awareness and adoption of protective measures is a basic necessity, and a predominant responsibility of the organization’s management. There appears to be a clear lacuna on this account with SVS Aqua Technologies.

During the investigation it was revealed that two band sealers were connected to an extension board and this board was connected to a socket with loose wire (no plug top was used); also, board was also not in proper condition. Such poor condition of electrical systems on site and allowing work when there was repair/maintenance required on electrical system suggests a disregard for safety within the company. Also, that the faulty condition of the band sealers was reported by the workers to the supervisor a number of times well-ahead of the accident. But the concerned higher functionaries did not take timely maintenance measures to rectify the fault, forcing the workers to operate under hazardous conditions. Also, at the time of the accident an electrical maintenance of voltage stabilizer was in progress, but no responsible person was present such as electrical engineer or production manager or any other knowledgeable person. All these pre-conditions together are suggestive of a negligent attitude of the management towards safe work practices. This provision and maintenance of plant and systems of work in the factory was not safe. Also processing and storage of non-compatible material resulted in the accident.

Therefore, to summarize, the principal root causes that led to the accident are as follows:

- i. Unauthorized storage and handling of hazardous materials, i.e., IPA***
- ii. Use of incompatible materials – such as IPA and sodium chlorite – on site without requisite measures or practices to control the potential hazards***
- iii. Incompatible use of air handling unit in presence of a volatile, flammable substance such as IPA***
- iv. A work practice that allowed presence of large inventories of hazardous materials on site, that heightened the risk of a large-scale fire***
- v. Non-availability of trained personnel on site to manage emergencies***
- vi. Negligent attitude of senior management to safe work practices such as defective band sealer machine causing Sodium Chlorite pouches to catch the fire & electrical system malfunctions, i.e., three-phase voltage stabilizer***

8. PERSONS RESPONSIBLE FOR THE ACCIDENT

The occupier of the factory is responsible for the said accident and it was his absolute responsibility to ensure safety and health of worker and safety of the premises. It was also his responsibility to comply with the provisions of the applicable laws. Occupier himself is a chemical engineer and is expected to have through knowledge of the chemicals those were being handled and stored in the premises. In spite of having all knowledge about the process, materials and associated hazards he failed to ensure that necessary measures for safe operation were in place. DISH office regularly circulates various precautionary measures to be undertaken to prevent accidents. A similar communication was made to a group of factories including SVS on 12/05/2021. There were directives about protective components to be placed in electric circuit and other instruction about flameproof fittings, mock drill etc. If

occupier had followed the guidelines, then the said accident may not have occurred.

9. ACTION TAKEN BY VARIOUS DEPARTMENTS & UNDER VARIOUS ACTS/RULES:

The District Magistrate of Pune being President, Disaster Management Authority Pune, constituted a committee under the Chairmanship of SDM including, Additional Director, Industrial Safety and Health, Joint Director Industry, Deputy Commissioner Labour, Regional Officer MPCB, Executive Engineer MSEB (Rural), Fire Officer PMRDA and Tahsildar Mulshi. The DM Pune directed the committee to investigate the accident and file a report. The said Committee inspected the site and each authority submitted the detailed inquiry report on 09.06.2021. The DM constituted Committee Report is given at Annexure- V, whereas the reports of the various departments are appended as Annexure-VI (Annexure-VI (A) Fire Dept PMRDA, Annexure-VI (B) Police Dept (SDOP), Annexure-VI (C) Merged Individual reports of State Govt Departments (Industrial Security, DISH, Electricity (Mahavitaran), Fire, MPCB & Labour Commissioner) and Annexure-VI (D)-DISH.

9.1 ACTION TAKEN BY DIRECTORATE OF INDUSTRIAL SAFETY & HEALTH (DISH) UNDER FACTORIES ACT- 1948:

DISH issued order under Section-8/Section- 40 (2) of Factory Act 1948 to the industry and also filed cases in the Court of Chief Judicial Magistrate (CJM) Pune due to contraventions of various provisions of Factory Acts 1948. The copies of the order/ court cases letters etc are attached as Annexure-VII. The details of cases filed, contraventions and reasons are provided in following Table 3.

TABLE 3

ACTION TAKEN UNDER THE PROVISION OF FACTORIES ACT-1948 BY DISH OFFICE AGAINST THE OCCUPIER SHRI NIKUNJ SHAH

Case number	Contraventions	Reason
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S.C.C. 17663/ 2021	Factories Act, 1948 Section 7(A) (2)(a)	<p><i>System of work at factory was to process large quantity of sodium chlorite and other material at a time. Instead of processing large quantity at a time, only one 50 Kgs container ought to have been packed in to inner and outer pouches and sent to storage. After completion of one container then only a new container was taken for pouching. This system of work was safer and allowed a low risk of operation. But the system of work at the time of accident was to process a large quantity of Sodium Chlorite simultaneously while keeping a large quantity of partially packed material in the production area. The severity of accident increased because of large quantity of material accumulation in the manufacturing area.</i></p> <p><i>During enquiry it was revealed that two band sealers were connected to an extension board and this board was connected to a socket with loose wire (no plug top was used); in addition, the board was not in proper condition. There was thus a lack of proper maintenance of the electrical system. In spite of repeated reporting by worker about the problem of band sealing machine, its maintenance was not carried out and workers were required to work with the faulty machine.</i></p> <p><i>Also, electrical maintenance of voltage stabilizer was in progress around the time of the accident, but no responsible person was present on site, such as electrical engineer or production manager or any other knowledgeable person. Thus, the occupier has not ensured the due maintenance of plant and systems of work in the factory that are safe and without risk to health to health of all workers while they are at work in the factory. Hence on the day of accident the occupier has contravened the provisions of section 7(A)(2)(a) of Factories Act-1948.</i></p>
S.C.C.175 77/2021	Factories Act, 1948 Section 7(A) (2)(c)	<p><i>The workers were not made aware about the chemical names of materials processed and only code name was shared. Also, there was no display of material safety data sheets on site. Workers were not made aware about the hazards associated with the chemicals used in the factory. Also, there was no training provided to the worker about safe work practices.</i></p>

S.C.C. 175 97/2021	Maharashtra Factories Rules, 1963 Rule 4(2)	Repacking of 100 ml and 5 Liter pack size from 500 ml size filled bottles of sanitizer was carried out without approval from this office. DISH Office.
S.C.C. 175 69/2021	Clause 6(1)(a) of Schedule XXIII Annexed with rule 114 of Maharashtra Factories Rules, 1963	Non-provision of flameproof fittings in the area where highly flammable liquids were stored/handled.
S.C.C. 175 77/2021	Maharashtra Factories Rules, 1963 Rule 4(3)	Factory was employing more than 20 workers from March 2020 whereas application for registration and license was submitted from 01-Dec-2020

9.2 ACTION TAKEN BY MAHARASHTRA POLLUTION CONTROL BOARD (MPCB) UNDER THE WATER (P & CP) ACT, 1974 & AIR (P & CP) ACT, 1981

MPCB issued closure direction dated 08.06.2021 which is appended as Annexure-VIII and directed that -The waste generated due to fire incident shall be disposed to CHWTSDF immediately and report the compliance with manifest as per Hazardous & other Waste (T & TM) Rules, 2016 forthwith.

- i) You shall take scientific measures to avoid the nuisance due to generated waste in any form in the fire accident and dispose the same after suitable treatment, if necessary.
- ii) You shall not carry out your manufacturing activities till you obtain prior permission of the Maharashtra Pollution Control Board and Directorate of Industrial Safety and health (DISH).

9.3 ACTION TAKEN BY OFFICE OF DEPUTY COMMISSIONER OF LABOUR

Deputy Commissioner of Labour taken action/filed cases in the Court of Chief Judicial Magistrate (CJM) Pune under various provision of various Labour acts against the occupier Mr. Nikunj Shah, such as Minimum Wages Act,

1948; Payment of Wages Act, 1936; Payment of Gratuity Act, 1972; Under H R A Act, 1983; Maternity Benefit Act, 1961 and Equal Remuneration Act, 1976. The details of the case nos., contraventions & reasons are provided in Following Table 4.

TABLE 4

ACTION TAKEN BY OFFICE OF DEPUTY COMMISSIONER OF LABOUR

Sr. No.	Case Number	Contraventions	Reason
1	SSC 17158/2021 Under Minimum wages Act, 1948	<ol style="list-style-type: none"> 1. Section 18(1) R/w Rule 27(1) 2. Section 18(1)R/w Rule 27(4) 3. Rule 28 4. Section 18(3)R/w Rule 27(2) 5. Rule 30 	<ol style="list-style-type: none"> 1. The muster roll cum wage register in form II is not maintained. This is a breach of Section 18(1) R/w Rule 27(1). 2. The employer has not signed wage register. This is a breach of Section 18(1) R/w Rule 27(4) 3. A well bound inspection book is not kept. This is a breach of Rule 28 4. The attendance card come which sleep are not provided. This is a breach of Section 18(3) R/w Rule 27(2). 5. The record for last three years has not preserved. This is a breach of Rule 30.
2	SSC 17168/2021 Under Payment of Wages Act, 1936	<ol style="list-style-type: none"> 1. Section 5(1)(a) 2. Rule 8 3. Rule (20)2 4. Section 13A (2) R/w Rule 6 5. Section 25 6. Section 7 	<ol style="list-style-type: none"> 1. Employer has not made payment of wages is to the workers as on before 7th day of month. 2. Employer has not displayed the notice indicating the date of payment. 3. Employer has not displayed the notice indicating the rate of wages.

			<p>4. Employer has not preserved the record for last 3 years.</p> <p>5. Employer has not displayed the notice of abstract.</p> <p>6. Wages paid some/all workers with unlawful deduction.</p>
3	SSC 17175/2021 Under Payment of Gratuity Act, 1972	<p>1)Rule 3 (1)</p> <p>2)Rule 3 (2)</p> <p>3)Section 6 (7) R/W Rule 6 (1)</p> <p>4)Rule 4(1)</p> <p>5)Rule 20</p> <p>6)Rule 8 (4)</p> <p>7)Section 7 B (1)(a)</p> <p>0)Section 7 (2) Section 7 (3)</p>	<p>1. Notice of opening of the establishment in Form A has not been submitted to the controlling authority of area through statutory time limit of 30 days has already expired.</p> <p>2. Notice of change in Form B intimating the change in the name and address of employer business has not been submitted to the controlling authority of area even through a period of 30 days has expired.</p> <p>3. The employer has not accepted the nomination forms filled by the employees and also not acknowledge the receipt to the employee.</p> <p>4. The employer has not displayed the notice specifying the name of the officer with designation authority by him to receive on his behalf notice under this act for the rules.</p> <p>5. The employer has not displayed abstract of the act and rules framed there under conspicuous place at or the main entrance of the establishment.</p> <p>6. The employer has failed to issue notice in form L form M as the case may be to the application employee within 15 days receipt application endorsing copy to the controlling authority.</p>

			<p>7. On demand details of persons resigned/retired/died/disabled during the last three years gratuity entitlement and amount of gratuity paid to them with date as per their entitlement not provided.</p> <p>8. The employer failed to determine the amount of gratuity and give notice in writing to person whom gratuity is payable and also to the controlling authority.</p> <p>9. The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.</p>
4	SSC 17191/2021 Under H RA Act, 1983	<p>1. Section 08 R/w Rule4</p> <p>2. Section 8 r/w Rule 12</p> <p>3. Section 8 R/w Rule13</p>	<p>1. Register of house rent allowance in Form A is not maintained.</p> <p>2. Register of workmen in Form I is not maintained.</p> <p>3. Visit book is not maintained.</p>
5	SSC 17194/2021 Under Maternity Benefit Act, 1961	<p>1. Section 20 R/w Rule 12 (1)</p> <p>2. Section 19 R/w Rule 11.</p> <p>3. Rule 15</p> <p>4. Rule 16</p> <p>5. Section 5(1)</p> <p>6. Section 8(1) R/w Rule 4(1)</p> <p>7. Section 15</p> <p>8. Section 11 R/w Rule 6</p> <p>9. Section 9 R/w Rule 4(2)</p> <p>10. Section 9(a)</p> <p>11. Section 10 R/w Rule 4(2)</p>	<p>1. Maternity Benefit Register in FORM 10 is not maintained.</p> <p>2. Maternity Benefit Register is not produced for inspection.</p> <p>3. Abstract of the Act and Rules made there under in FORM 9 has not been displayed at conspicuous places.</p> <p>4. Annual Returns in FORM 11 for the year ending 2016 has not been sent to the competent authority before 15th Jan 2021.</p> <p>5. The records of last 3 years are not preserved.</p>

			<p>6. The Employer has not paid the maternity benefit to the women employee/workers</p> <p>7. The Employer has not paid the medical bonus to the employee /workers.</p> <p>8. On demand, Employer has not produced the proof of maternity benefits given to the employee /workers.</p> <p>9. Nursing breaks have not been given.</p> <p>10. The Employer has not paid leave with wages for miscarriage.</p> <p>11. The Employer has not paid the leave with wages for tubectomy operation.</p> <p>12. The Employer has not paid the leave with wages for illness arising out of pregnancy.</p>
6	SSC 17198/2021 Under Equal Remuneration Act,1976	<p>1. Section 09 (4)</p> <p>2. Section 8 R/w Rule 06</p> <p>3. Section 06(5)</p>	<p>1. Employer has not produced Muster Roll-Cum-Wages Register for Inspection.</p> <p>2. Register in Form D is not maintained.</p> <p>3. Employer failed to carry out such direction in respect of employment of women workers made by the appropriate government.</p>

9.4 ACTION BY POLICE DEPARTMENT

Police department has filed R.C.C./2671/2021 against Shri Nikunj Bipin Shah, Shri Bipin Jayantilal Shah, Shri Keyur Bipin Shah (Partners), Shri Sanjay Mahajan Production Manager, and Shri

Sundarshen Mohan Maintenance Engineer under the provision of Indian Penal Code section 304(2), 285, 286, 34. As per report of SDPO, Haveli dated 10.07.2021 (Annexure-VI B), accused no.1 Shri Bipin Nikunj Shah, age 39 was arrested on 08.06.2021 and obtained Court permission for Police Custody up to 15.06.2021, and under Magistrate Custody at Yerwada Jail, Pune. Accused no.2, Shri Bipin Jayantilal Shah, Age 68 obtained pre-arrest bail before arrest from Court of Additional Session Judge Hon'ble S. B. Salunkhe Pune on 22.06.2021 with terms & conditions. Accused No. 3 Shri Keyur Bipin Shah (Partners), is presently residing in Dubai and now, therefore, look out notice communication has been made with FRO Branch Pune Gramin.

9.5 RESPONSES FILED IN HON'BLE NGT BY DISTRICT MAGISTRATE, PUNE, DISH MAHARASHTRA AND MPCB

As mentioned in the Hon'ble NGT order dated 16.06.2021, reproduced below as...

"3. Response has been filed on behalf of the District Magistrate, Pune and DISH Maharashtra. In the response dated 14.06.2021 filed on behalf of the District Magistrate, Pune following version has been mentioned:

" xxx.....xxx.....xxx

*A Fire incidence occurred at a chemical factory in village Urawade, Tal. Mulshi, Dist. Pune on 07/06/2021. **Total 15 Women and 2 Male labours were deceased in the said incidence.** In view of the incidence occurred in the company namely SVS Acqua Pvt Ltd situated at village Urawade, Tal. Mulshi, Dist. Pune the District Magistrate took serious cognizance. The D.M. Pune being a President, Disaster Management Authority Pune by order dated 07/06/2021 constituted a committee under the Chairmanship of SDM Maval including, Additional Director, Industrial Safety and Health, Joint Director Industry, Deputy Commissioner Labour, Regional Officer MPCB, Executive Engineer MSEB (Rural), Fire Officer PMRDA and Tahsildar Mulshi. The D.M. Pune directed the committee to investigate deeply and to file a report. The order of constituting a committee is annexed for your kind perusal.*

The said Committee inspected the site and each authority submitted the detail inquiry report on 09/06/2021. The committee observed as follows:

The SVS Aqua Pvt. Ltd. is situated in Gat no.411/plot no.43, 44, and 45 at village Urawade, Tal. Mulshi, Dist. Pune. The factory is registered with the Department of Industrial Safety and Health. The factory is having a capacity of 48 workers. The factory is having permission of to produce Cl2 tablets and powder for water purification by formulation process. For that **they are having raw material such as sodium chlorite, sodium bisulphate, sodium bicarbonate, adipic acid** and packing material. The MPCB has issued consent to operate on 10/09/2020 however the factory was running without any consent i.e. from year 2016 to 2020. The Additional Commissioner of Labour Pune Division stated in its report that, the said factory is registered under the Factories Act, 1948 and produces chemical water purification tablets. On 07/06/2021 from 04.00 to 4.30pm there was a explosion and fire broke out in the packing department. The names of some deceased are not registered under the Employees State Insurance Scheme. The Fire Department and Office of Industrial Safety and Health submitted the same report.

After perusing the reports submitted by different departments, following discrepancies have been found at the factory place:

- a) Except the permission granted by the Industry and Health Department flammable substances were stored in the place.
- b) **The factory was not informed about the large stock of flammable substances to the Industry and Health Department.**
- c) **The flammable raw material storage place and work place are same and hence large number of chemicals exploded and fire went out of control.**
- d) **The company not submitted self-certification before the Electric Inspector Yervada.**
- e) **The fire may increase higher due to the stock of sanitizer and due to the sodium chloride, there were spread of black smoke and hence the labour cannot exit safely.**
- f) **Company only received primary no objection certificate from Fire Department. The Company and the work already started in new building however this fact never brought to the notice of fire department. The primary no objection certificate is not the final NOC from the said department.**
- g) **There is no final NOC from the Fire Department.**
- h) **There was no any fire extinguisher in the premises.**

- i) There is a possibility of production flammable material other than the product mentioned in the consent letter issued by MPCB.**
- j) At the time of investigation, the company owner stated that, they have started production in the year 2016 without consent of MPCB. From the available documents it seems that, the MPCB issued consent on 10/09/2020 it means they have worked without any consent i.e. from year 2016 to 2020.**
- k) In view of the information received from Labour Department and the interview of the workers against the said company, necessary action will be taken under the provisions of law. The report submitted by the committee is annexed herewith for kind perusal.**

The factory owner stated in written that, they are going to provide financial help of Rs. 5, 00,000/-per person to the legal heirs of the deceased. The State Government of Maharashtra, Chief Minister Relief Fund have granted Rs. 5,00,000/-per person to the legal heirs of the deceased. Further the Hon'ble Prime Minister has sanctioned Ex-gratia out of Prime Ministers Relief Fund of Rs. 2,00,000/-each to the legal heirs of the deceased. The Collector office assured that the same will be disbursed in to the account of the legal heirs as earlier as possible.

A FIR has been lodged against the owner of the factory and offence has been registered against them in Paud Police Station u/s 304, 285, 286 1/w of IPC. The factory owner is in police custody as on today.”

4. On behalf of the DISH Maharashtra, following action taken report has been filed:

- i. This office received the information about the incidence of fire in M/s SVS Aqua Technologies LLP., Sr No.43/44/45, Gat No., Taluka:- Mulshi, District : Pune, - 412111.at @ 5.45 pm. on mobile (whatsapp). In this incident of fire, 17 workers including 15 female workers and 2 male workers died and two workers are injured and major damage to the plant, machinery, raw material & finished goods has taken place.*
- ii. Our officers from Pune office visited the site on the same day i.e. on 07.06.2021 at @ 6.30 pm. Officers observed that:*

- a) *There was smoke at the place and cooling and rescuing operation was going on.*
 - b) *During the visit, police and fire fighters informed that 17 workers were trapped in the fire and same were totally burnt.*
 - c) *Till 11.30 pm cooling operation was going on by fire brigade.*
 - d) *Shri S.P. Rathod, Director of Industrial Safety and Health, Maharashtra visited the site on 08.06.2021.*
- iii. *The respondent industry ie M/s SVS Aqua Technologies LLP., Sr No.43/44/45, Gat No.411, Uravade, Taluka:- Mulshi, District : Pune made an application for grant of license under Factories act 1948 on 04.03.2021. Factory is having license number 13841 for 50 workers and 100 HP installed power valid till December-2022. But it was learnt that factory was operational since last 2 to 3 years.*
- iv. *The factory has taken permission from this Department for manufacturing of chlorine dioxide tablets, powder and gel by using Sodium Bisulphate, sodium chlorite, Sodium per sulphate and Magnesium Sulphate. But at the time of visit, substantial stock of alcohol (IPA) based plastic sanitizer bottles was found in the factory. That means sanitizer packing/filling was also carried out in this factory. Documents found at the site and statements also confirms this.*
- v. *Name of Directors of the factory: i) Shri Nikunj Bipin Shah ii) Shri Bipin Jayantilal Shah iii) Shri Keyur Bipin Shah*
- vi. *About Incident of Fire: From site visit and statement of workers it was revealed that there were two rooms in the factory where manufacturing process was carried out. Commonly known as Process room-1 and Process room-2. On the day of accident workers reported factory at about 9:00 a.m. and started working in the process room-1 and room-2. Workers were engaged in the filling of 5 kg pouches of Sodium Chlorite powder for making pouches of component A. On the day of accident 16 workers from the list of deceased workers were working in process room-2. One female worker was working in the laboratory located on first floor. In process room 2 components B of 5 Kg pouch packed in inner pouch was manufactured and stacked. At @ 3.45 pm*

suddenly a major fire was observed in room no 1 and it spread into room no 2 within fraction of seconds as the door between room no 1 and 2 was kept open. The worker working in room-1 escaped from the room. All person working in process room-2 was unable to escape from the room inspite of two exits available one from room 1 and one from room2. Heavy fire made it impossible for workers to escape from room 2 and total 17 workers died due to burn injuries.

- vii. *This Directorate has passed a closure order under section 40(2) of Factories Act- 1948 on 09.06.2021 to the factory.*
- viii. *This directorate is carrying out a detail enquiry of this incident by collecting the necessary evidence, regarding of worker statements, inspection of the accident site etc.*
- ix. ***This directorate will be issuing show cause notice to the Occupier of this factory regarding the contraventions which will be observed during the course of enquiry and file the prosecution in the court of law under the Factories Act- 1948.***
- x. *The management of factory has declared an ex-gratia amount of Rs. 5 lakh each to the legal heirs of the deceased. The Government of Maharashtra has declared ex-gratia amount Rs. 5 lakh each to the legal heirs of the deceased and Rs. 50,000/- to the injured workers. The Central Government has declared an ex-gratia amount of Rs. 2 lakh each to the legal heirs of the deceased. This exgratia amount is in addition to legal compensation amount.*
- xi. *Director of Industrial Safety and Health, Maharashtra and Additional Director (I/C) of Industrial Safety and Health, Pune will be joining the video conferencing on 16 the June 2021.”*

10. EXTENT OF DAMAGE

10.1 DAMAGE TO ENVIRONMENT

During the incident due to fire, emissions/smoke spread to the environment and water, which is used for the fire extinguishing, got contaminated. The contaminated water spread into the premises and in front of gate of industry in low laying area.

MPCB, Sub-Regional Office, Pune-2 carried out Ambient Air Quality Monitoring at three locations and wastewater (generated due to firefighting operation) sampling outside the premises near the gate of the industry the during day of incident. The analysis results are given in Table 5 & Table 6, respectively, as below-

TABLE 5 RESULTS OF AMBIENT AIR QUALITY MONITORING

Sr. No.	Location(s)	Parameter (s)	Concentration ($\mu\text{g}/\text{m}^3$)	NAAQ Standards# ($\mu\text{g}/\text{m}^3$)
1	In the premises of M/s. Brinton Carpets	SO ₂	23.15	80
		NO ₂	28.91	80
		PM ₁₀	60.19	100
2	Near M/s. Mahale Anand Filter Systems	SO ₂	8.33	80
		NO ₂	7.66	80
		PM ₁₀	161	100
3	Near M/s. Praj Industries	SO ₂	8.16	80
		NO ₂	35.16	80
		PM ₁₀	113	100

- The concentration of the pollution is expressed in $\mu\text{g}/\text{m}^3$
- The monitoring carried out during the period 07.06.2021-08.06.2021 (for 24 hrs)
- #NAAQS- NATIONAL AMBIENT AIR QUALITY STANDARDS Notification by CPCB dated 18th November, 2009 for Industrial, Residential, Rural and Other Areas for 24 hrs

The analysis results of the ambient air quality, shows the concentration of PM10 exceeds the NAAQ Standards at two locations out of three and concentration of Pollutants- SO₂ & NO₂ are within the NAAQ Standards.

TABLE 6 RESULTS OF WASTEWATER SAMPLING

Sr. No.	Parameter (s)	Results	Standards [#]
1	pH	1.4	5.5-9.0
2	BOD	11000.0	100
3	COD	25760.0	250

4	Oil & Grease	13.2	10
5	Suspended Solids	2194.0	100
6	Chlorides	4548.6	600
7	Sulphate	341.7	1000
8	TDS	11900.0	2100

- The values are expressed in mg/l except pH,
- \$- Standards prescribed for treated effluent disposal on land

The analysis results of the samples show that contaminated water which is resultant from fire dousing operation and incidental having high BOD and COD which is more than the standards for land disposal. The contaminated water spread in the premises and found its way outside the premises on open land in front of the gate of the industry in low lying area. During the visit of the committee on 06.08.2021, due to vegetation and monsoon after the accident, the committee could not observe any visual impact. MPCB has given direction (para 9.2) that waste generated due to fire incident shall be disposed to CHWTSDF immediately and report the compliance with manifest as per Hazardous & other Waste (T & TM) Rules, 2016 and to take scientific measures to avoid the nuisance due to generated waste in any form in the fire accident and dispose the same after suitable treatment, if necessary. Accordingly, the compliance from industry is needed to be ascertained by MPCB.

10.2 DAMAGE INVOLVING LOSS OF LIVES OR INJURIES

Due to incident, there is loss of 17 lives (15 –Females & 2- Males) as detailed in the Table 2. In addition to these fatalities, two persons sustained serious burn injuries (about 40%) whereas one received minor injuries. No loss to local animals are mentioned in any report.

11. COMPENSATION TOWARDS DAMAGE TO ENVIRONMENT AND DAMAGE TOWARDS LOSS OF LIVES OR THE INJURIES

11.1 COMPENSATION TOWARDS DAMAGE TO ENVIRONMENT:

Proper data/information viz stock of raw material/products before and after accident, are not available. It is informed by the Industry representative vide e-mail dated 18.10.2021 Annexure-IX to MPCB that physical documents have been destroyed in fire as entire office

file store room is burned & destroyed; and due to use of water & foam for the fire extinguishing process all the servers and computers peripherals have got burned, hence on-line data has been damaged and same can be provided after recovery. Further, unit is still waiting for insurance and court clearance for cleaning and removal of debris and burned wastage stock. The committee could not carry out the damage to environment based on the air quality data/emission due to burning of chemicals in the fire, because of non-availability of information on stock of raw materials/products.

However, as per report of the DM Constituted Committee (Annexure-V), the company started production in the year 2016 without consent of MPCB (as per statement of company owner) and MPCB issued consent in Sept 2020 i.e. industry operated without any consent i.e. from year 2016 to 2020. Further, the industry was engaged, in the bottling/handling of IPA alcohol-based sanitizer without license or consent up to date of accident i.e. 07.06.2021. Also various contraventions of provisions under Factory Acts, Labour Acts have been reported.

*Considering the above non-compliance, committee finds it appropriate to compute damages for contravening mandatory provisions of environmental laws and use methodology/formula which is given in **“Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund”** for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies listing the instances for taking cognizance of cases fit for violation and levy environmental compensation. The same has also been referred by the Hon’ble NGT in its order (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., and also used by various other committee’s constituted by Hon’ble NGT in various other matters.*

The instances considered for levying Environmental Compensation (EC) in the said report are:

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.*

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

Though such listed instances may not be directly applicable in the current matter for arriving at the damages amount for contravening mandatory provisions of environmental laws (i.e. establishment & operation of the industry without consents under the Water (P & CP) Act 1974 & Air (P & CP) Act 1981), an attempt is being made by this committee to assess the environmental compensation using the formula prescribed in the said CPCB report which may be taken as damages amount for contravening mandatory provisions of environmental laws. The same methodology/formula is used in other Hon'ble NGT matters. The formula takes into account of number of days violation took place, pollution index of unit, scale of operation, location factor based on population and an amount factor in Rupees including deterrent effect for repeated violations.

Environmental Compensation (EC) in Rupees as mentioned in the aforesaid CPCB report-

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

Where,

<i>EC</i>	<i>Environmental Compensation in Rs. (INR)</i>
<i>PI</i>	<i>Pollution Index of industrial sector. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.</i>
<i>N</i>	<i>Number of days of violation that took place</i>
<i>R</i>	<i>R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.</i>

S	Factor for scale of operation S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for Medium and 1.5 for large units.															
LF	<p>Location factor could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Sl.</th> <th style="text-align: center;">No. Population* (million)</th> <th style="text-align: center;">Location Factor# (LF)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">Less than 1</td> <td style="text-align: center;">1.0</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">1 to <5</td> <td style="text-align: center;">1.25</td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">5 to <10</td> <td style="text-align: center;">1.5</td> </tr> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">10 and above</td> <td style="text-align: center;">2.0</td> </tr> </tbody> </table> <p>*Population of the city/town as per the latest Census of India #LF will be 1.0 in case unit is located >10km from municipal boundary For critically polluted areas / Ecologically Sensitive areas, the scope of LF may be examined further.</p>	Sl.	No. Population* (million)	Location Factor# (LF)	1	Less than 1	1.0	2	1 to <5	1.25	3	5 to <10	1.5	4	10 and above	2.0
Sl.	No. Population* (million)	Location Factor# (LF)														
1	Less than 1	1.0														
2	1 to <5	1.25														
3	5 to <10	1.5														
4	10 and above	2.0														

The factors, considered for calculating Environmental Compensation for M/s SVS Aqua Technologies, are given in the following Table 7.

TABLE 7
FACTORS CONSIDERED FOR CALCULATING ENVIRONMENTAL COMPENSATION

Factor	Value
PI Pollution Index of Industrial Sector	80 (Red Category Industry as per Consent issued by the MPCB)
N Number of days the violation has taken place	1985 (01.01.2016 to 07.06.2021 i.e. Date of accident) As per report of the DM Constituted Committee, the company started production in the year 2016 without consent of MPCB (as per statement of company owner) and

		<i>MPCB issued consent in Sept 2020 i.e. industry operated without any consent i.e. from year 2016 to 2020. Further, the industry was engaged, in the bottling/handling of IPA alcohol-based sanitizer without license or consent up to date of accident i.e. 07.06.2021.</i>
<i>R</i>	<i>Factor of EC in Rupees</i>	<i>Rs. 250</i>
<i>S</i>	<i>Factor for scale of operation of industrial unit</i>	<i>0.5 (being small scale industry as per consent issued by MPCB)</i>
<i>LF</i>	<i>Location Factor</i>	<i>1.0 (Population less than 1 million nearby village)</i>

Thus, Environmental Compensation (EC) calculated as:

$$\begin{aligned}
 EC \text{ (Rs.)} &= PI \times N \times R \times S \times LF \\
 EC \text{ (Rs.)} &= 80 \times 1985 \times 250 \times 0.5 \times 1 \\
 EC \text{ (Rs.)} &= 1,98,50,000
 \end{aligned}$$

Thus, EC is Rs. 1,98,50,000/- (Rs. One crore ninety-eight lac fifty thousand only) towards damage to the environment due to non-compliances of provisions under Environmental Acts, i.e., operation without consent from MPCB, bottling/handling of IPA alcohol-based sanitizer without license or consent.

11.2 COMPENSATION TOWARDS LOSS OF LIVES

*Due to fire accident on 07.06.2021 at the industry, 17 people (Female-15, Male-02) lost their lives and two got injured. The information of deceased and injured persons provided by Sub-Divisional Officer Maval-Mulshi, Sub-Div Pune, where details including name of person, age, salary, education etc., are provided as **Annexure-X**. Two injured persons were admitted to Sanjivani Hospital, Deccan Pune and discharged from hospital after stay for about a month in Hospital for the treatment of burn injury. Medical expenses have been provided by Factory Management (SVSAT). The information on nature of injury and disability, if any, have not been provided.*

There is no loss of non-human life, public & damage to other property as per any reports prepared by concerned State Govt. departments.

11.2.1 INTERIM COMPENSATION/EX-GRATIA AMOUNT DECLARED/PAID TO THE DECEASED

The status of compensation/ex-gratia paid and also in process are given as per letter from Tahsildar, Ta- Mulsahi to District Magistrate, Pune dated 10.07.2021 (Annexure -XI) (regarding Govt of Maharashtra announced compensation/ex gratia amount) and Report of Labour Deputy Commissioner (Annexure- XII) with respect to amount paid and undertaking of factory management for education expenses and job to family members of deceased, as follows:-

- *The Government of Maharashtra has given Rs.5, 00,000/- to the legal heir of deceased workers (Rs,1,00,000/- from Chief Minister Relief Fund & Rs. 4,00,000/-State Disaster Fund) and have also paid (ex gratia) Rs.12700/- to the two seriously injured workers (Annexure- XI)*
- *The Government of India has declared ex-gratia payment of Rs. 2,00,000/- to the heir of deceased workers. It is informed by Sub-Divisional Officer Maval-Mulshi, Sub-Div Pune SDO that the ex-gratia payment is yet to be received from Central Govt and the District Administration is following up the matter with Central Govt. The same will be disburse to them as soon as it receives.*
- *The factory management has agreed to pay Rs. 10,00,000/- to legal heir of deceased workers out of which Rs. 5, 00,000/- is paid and cheque of Rs. 5,00,000/- is issued having date of Month of Dec- 2021. The factory management has undertaken to pay the fees of children of the deceased workers till their graduation. Further they agreed to give a job to a family member of deceased worker after restart of the factory. (Annexure-XII). Thus, total ex-gratia/ compensation as per announcement of State Govt / Central Govt and undertaking of Factory Management to the kin of each deceased person is Rs, 17,00,0000/-. Out of which, till now Rs. 15,00,0000/- to kin of each deceased person is paid (as declared/announced by State and Factory Management) and Rs. 2,00,000/- (as declared/announced by Central Govt) is remaining. The details of ex-*

gratia/compensation are provided at provided at Annexure-XIII.

11.2.2 COMPENSATION ASSESSMENT BY THE COMMITTEE FOR THE DECEASED PERSON

Seventeen persons lost their lives due to the unfortunate incident on 07.06.2021 due to fire accident. Two persons sustained injuries. All innocent workmen sustained injuries not on account of their act of neglect or while discharging their duties came in contact with machinery or the chemicals but died due to negligent attitude of senior management to safe work practices; such as operation of defective band sealer machine causing Sodium Chlorite pouches to catch the fire & electrical system malfunctions (three-phase voltage stabilizer), and also illegal, unauthorized storage and handling of hazardous materials, i.e., IPA, use of incompatible materials (such as IPA and sodium chlorite) on site without requisite measures or practices to control the potential hazards, incompatible use of air handling unit in presence of a volatile, flammable substance such as IPA, work practice that allowed presence of large inventories of hazardous materials on site, that heightened the risk of a large-scale fire and non-availability of trained personnel on site to manage emergencies.

The committee referred Employee's Compensation Act, 1923 and Hon'ble Supreme Court Cases (Sarla Verma (supra), National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680 etc) for assessment of compensation in line with various accidents matters dealt by Hon'ble NGT (orders & committee reports) as mentioned in para 09 of the order dated 16.06.2021, in this present matter (OA No.130 of 2021).

As per of order of Hon'ble NGT in O.A. No. 85/2020 (Earlier O.A.No.22/2020 [WZ]) (Aryavart Foundation through its President v/s Yashashvi Rasayan Pvt. Ltd &Anr) reads as: "...32. In view of frequent accidents resulting in deaths and injuries, the Chief Secretaries of all the States/UTs may evolve a mechanism to ensure that the companies dealing with hazardous substance must forthwith pay compensation for deaths and injuries to the victims at least as per Workmen Compensation Act, 1923 wherever applicable or the principle of restitution laid down in Sarla Verma (supra), National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680 to the victims either directly or through the District Magistrate.

A. COMPENSATION AS PER EMPLOYEE'S COMPENSATION ACT 1923

As per Employee's Compensation Act 1923 & amendments thereof, the compensation to the deceased persons have been calculated and are provided in the Table 8.

**TABLE 8
COMPENSATION AS PER EMPLOYEE'S COMPENSATION ACT 1923 &
AMENDMENTS THEREOF**

Sr. no.	Name of Deceased Person(S)	Age	Factor*	Salary# (INR)	Compensation Amount (INR)
1	Shri. Sachin Madan Ghodke	24	218.47	15000	16,38,525
2	Smt. Manda Bhausahab Kulat	49	156.47	15000	11,73,525
3	Smt. Surekha Manohar Tupe	45	169.44	15000	12,70,800
4	Smt. Archana Venkat Kawade	36	194.64	15000	14,59,800
5	Smt. Mahadevi Sanjay Ambre	40	184.17	15000	13,81,275
6	Smt. Mangal Baban Margale	29	209.92	15000	15,74,400
7	Smt. Sunita Rahul Sathe	28	211.79	15000	15,88,425
8	Smt. Trishala Sambhaji Jadhav	32	203.85	15000	15,28,875
9	Smt. Sangita Maruti Polekar	43	175.54	15000	1316550
10	Smt. Shital Dattatray Khopkar	43	175.54	15000	1316550
11	Smt. Geeta Bharat Diwadkar	41	181.37	15000	1360275
12	Smt. Sarika Chandrakant Kudale	43	175.54	15000	1316550
13	Smt. Seema Sachin Borade	34	199.4	15000	1495500
14	Smt. Dhanshree Rajaram Shelar	22	221.37	15000	1660275
15	Smt. Sangita Ulhas Gonde	43	175.54	15000	1316550
16	Shri. Atul Laxman Sathe	23	219.95	15000	1649625

17	Smt. Suman Sanjay Dhebe	38	189.56	15000	1421700
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Note:

**as per Employee's Compensation Act-1923, Schedule IV*

as per Notification S.O.71 (E) dated 03/01/2020 The Central government has changed the amount of wages to be considered for calculation of compensation to workers under the Employee's Compensation Act 1923 vide notification S.O.71 (E) dated January 3, 2020. The amount of wages considered previously for the calculation of compensation was just Rs 8,000. Now, it will be Rs 15,000, according to the notification by the Ministry of Labour and Employment.

The computation of compensation under the Act is done as per provisions on Section 4 of the Act:

1. *In case of accidents resulting in death: an amount equal to fifty per cent. of the monthly wages of the deceased multiplied by the relevant factor; or an amount of Rs 1,20,000, whichever is more;*

....

B. COMPENSATION AS PER HON'BLE SUPREME COURT CASES

- *The committee referred following Hon'ble Supreme Court Cases for assessment of compensation with different components, in line with various accidents matters dealt by Hon'ble NGT (orders & committee reports) as mentioned in para 09 of the order dated 16.06.2021 in this matter.*
- *Hon'ble Supreme Court of India, Sarla Verma & Ors vs Delhi Transport Corp.& Anr on **15 April, 2009**, Author: R.V.Raveendran, J Bench: R.V. Raveendran, J Lokeshwar Singh Panta J, CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO 3483 OF 2008(Arising out of SLP [C] No.8648 of 2007*
- *Supreme Court of India Amrit Bhanu Shali & Ors vs National Insurance Co. Ltd. & Ors on **4 April, 2012** Author: J. Bench: G.S. Singhvi, Sudhansu Jyoti Mukhopadhaya REPORTABLE IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO. 3397 OF 2012 (ARISING OUT OF SLP(C) NO.27751 OF 2011)*

- *Hon'ble Supreme Court of India, National Insurance Co. Ltd vs Pranay Sethi on 31 October, 2017, Author: M. Dipak CJI, Bench- CJI. (Dipak Misra) J. (A.K. Sikri) J. (A.M. Khanwilkar) J. (Dr. D.Y. Chandrachud) J. (Ashok Bhushan) New Delhi; , CIVIL APPELLATE JURISDICTION SPECIAL LEAVE PETITION (CIVIL) NO. 25590 OF 2014 with other Civil Appeals & Special Leave Petitions*
- *Hon'ble Supreme Court of India, Sunita Tokas vs New Inda Insurance Co. Ltd. on 16 August, 2019 Author: Hon'Ble Ms. Malhotra,J Bench: Hon'Ble Ms. Malhotra J, Sanjiv Khanna, J, CIVIL APPELLATE JURISDICTION, CIVIL APPEAL NO. 6339 OF 2019(Arising out of SLP (Civil) No. 2859 of 2018)*
- *As per para 5 of Judgement in case- Hon 'ble Supreme Court of India, Sunita Tokas vs New Inda Insurance Co. Ltd. on 16 August, 2019 Author: Hon'Ble Ms. Malhotra,J Bench: Hon'Ble Ms. Malhotra J, Sanjiv Khanna, J, CIVIL APPELLATE JURISDICTION, CIVIL APPEAL NO. 6339 OF 2019(Arising out of SLP (Civil) No. 2859 of 2018).*

.....5. *In light of the aforesaid discussion, the compensation awarded to the Appellants is being enhanced as follows:*

<i>Income</i>	<i>:</i>	<i>12,000/ PM</i>
<i>Future Prospects</i>	<i>:</i>	<i>4,800/ (i.e. 40% of the</i>
<i>Deduction towards personal</i>	<i>:</i>	<i>50%</i>
<i>Total income</i>	<i>:</i>	<i>8,400/ (i.e. 50% of 12,000 +</i>
<i>Multiplier</i>	<i>:</i>	<i>18</i>
<i>Loss of future income</i>	<i>:</i>	<i>18,14,400/ (i.e. 8,400 x 12 x</i>
<i>Loss of love and affection</i>	<i>:</i>	<i>Rs. 2,00,000/</i>
<i>Loss of estate and funeral</i>	<i>:</i>	<i>Rs. 50,000/</i>
<i>Total</i>		<i>Rs. 20,64,400/</i>

- *The factors considered for assessment of compensation in the present case is described as below;*
- i. **Monthly salary/Income of the deceased person**

Permanent employee- as per the information provided by District Administration/ Industry for Lab technician/helper -monthly salary

or total monthly wages as per information provided by Govt Labor Officer, Pune as per Govt of Maharashtra, whichever is higher.

ii. **Addition to Income for Future prospects**

We referred following paragraphs of *National Insurance Co. Ltd vs Pranay Sethi* on 31 October, 2017 IN THE SUPREME COURT OF INDIA, CIVIL APPELLATE JURISDICTION SPECIAL LEAVE PETITION (CIVIL) NO. 25590 OF 2014 *National Insurance Company Limited Petitioner(s) Versus Pranay Sethi and Ors. Respondent(s)*.

61. In view of the aforesaid analysis, we proceed to record our conclusions: -

- (i) The two-Judge Bench in *Santosh Devi* should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in *Sarla Verma*, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.
- (ii) As *Rajesh* has not taken note of the decision in *Reshma Kumari*, which was delivered at earlier point of time, the decision in *Rajesh* is not a binding precedent.
- (iii) While determining the income, **an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.**
- (iv) **In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warranted where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary**

method of computation. The established income means the income minus the tax component.

- (v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.
- (vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

iii. Deduction for personal and living expense

The committee has considered following criteria referring the judgement order of Sarla Verma & Ors Vs. Delhi Transport Corporation & Anr., Para 14, "Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4 th) where the number of dependent family members is 4 to 6, and one-fifth (1/5 th) where the number of dependent family members exceed six" and para15 "Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself.....",

iv. Multiplier

Multiplier considered as per para 44 of Judgment in the case- Hon'ble Supreme Court of India, National Insurance Co. Ltd vs Pranay Sethi on 31 October, 2017, Author: M. Dipak CJI, Bench-. CJI.(Dipak Misra) J. (A.K. Sikri) J. (A.M. Khanwilkar) J. (Dr. D.Y. Chandrachud) J. (Ashok Bhushan) New Delhi; , CIVIL APPEALTE JURISDICTION SPECIAL LEAVE PETITION (CIVIL) NO. 25590 OF 2014 with other Civil Appeals & Special Leave Petitions.

44. As far as the multiplier is concerned, the claims tribunal and the Courts shall be guided by Step 2 that finds place in paragraph 19 of Sarla Verma read with paragraph 42 of the said judgment. For the sake of completeness, paragraph 42 is extracted below:-

42. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M- 16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

v. Loss of love & affection and loss of Estate & Funeral Expenses-

The committee considered the para 5 of latest judgement in case Sunita Tokas vs New India Insurance Co. Ltd. on 16 August, 2019 out of four cases for the Loss of love & affection Rs.2,00,000/- & loss of Estate & funeral Expenses- Rs. 50,000/-

COMPUTATION OF COMPENSATION:-

(Income per month (considering the total monthly wages applicable in the state of Maharashtra, or income per month whichever is higher) + Income for Future prospects – Deduction for personal and living expense) x 12 months = Yearly compensation x Multiplier = Loss of Future Income + loss of love & affection+ Loss of estate & funeral expenses= Total Compensation.

Considering the above methodology and the information regarding deceased person- name, age, salary etc by SDO Office, Ta-Mulashi Dist Pune (Annexure-IX) and total monthly wage for skilled/unskilled labours by Govt Labour Officer, Pune (Annexure-XIV), the committee assessed compensation for the deceased persons are provided as Annexure-XV.

Thus, compensation as per assessment of committee considering Employee's Compensation Act, Hon'ble SC cases and ex-gratia/compensation paid/to be paid (as declared by the State Govt/Central Govt /industry) to the kin of each deceased person are tabulated in following Table-9.

TABLE-09

**DETAILS OF EX-GRATIA/COMPENSATION DECLARED/PAID TO KIN OF DECEASED PERSONS &
COMPENSATION ASSESSED BY THE COMMITTEE**

Sr. No.	Name of Deceased Persons	Age	M/F	Total Compensation (INR) Declared by State/Central Govt/industry (INR 17 lacs: INR 5 lacs-State+ INR 2 lacs Central + INR 10 lacs-Industry)			Compensation Amount (INR) As per Employee Compensation Act	Compensation (INR) AS per Hon'ble SC matter	
				Compensation (INR) paid- State Govt/industry	Compensation (INR) to be paid- Central Govt	Total			
	A	B	C	D	E	F = (D+E)	G	H	I (H-F)
1	Sachin Madan Ghodke	60	M	1500000	200000	1700000	1638525	14,92,000	-
2	Manda Bhausahab Kulat	27	F	1500000	200000	1700000	1173525	24,60,340	7,60,340
3	Surekha Manohar Tupe	50	F	1500000	200000	1700000	1270800	17,14,892	14,892

4	<i>Archana Venkat Kawade</i>	36	F	1500000	200000	1700000	1459800	22,00,300	5,00,300
5	<i>Mahadevi Sanjay Ambare</i>	42	F	1500000	200000	1700000	1381275	18,27,576	1,27,576
6	<i>Mangal Baban Margale</i>	34	F	1500000	200000	1700000	1574400	23,30,320	6,30,320
7	<i>Sunita Rahul Sathe</i>	30	F	1500000	200000	1700000	1588425	24,60,340	7,60,340
8	<i>Trishala Sambhaji Jadhav</i>	38	F	1500000	200000	1700000	1528875	22,00,300	5,00,300
9	<i>Sangita Maruti Polekar</i>	58	F	1500000	200000	1700000	1316550	11,47,138	-
10	<i>Sheetal Dattatray Khopkar</i>	48	F	1500000	200000	1700000	13165,50	17,14,892	14,892
11	<i>Geeta Bharat Diwalkar</i>	49	F	1500000	200000	1700000	1360275	17,14,892	14,892
12	<i>Sarikha Chandrakant Kudale</i>	43	F	1500000	200000	1700000	1316550	18,27,576	1,27,576
13	<i>Seema Sachin Borade</i>	60	F	1500000	200000	1700000	1495500	11,47,138	-

14	<i>Dhanashri Rajaram Shelar</i>	27	<i>F</i>	1500000	200000	1700000	1660275	33,10,000	16,10,000
15	<i>Sangita Ulhas Gonde</i>	50	<i>F</i>	1500000	200000	1700000	1316550	17,14,892	14,892
16	<i>Atul Laxman Sathe</i>	36	<i>M</i>	1500000	200000	1700000	1649625	22,30,000	5,30,000
17	<i>Suman Sanjay Dhebe</i>	42	<i>F</i>	1500000	200000	1700000	1421700	18,27,576	1,27,576

(Refer Annexure-IX, XII for deceased persons Details-Name, Age, Salary/Wages and Para 11.2.2 (B) for factors taken in computation)

11.3 COMPENSATION TOWARDS THE INJURED PERSONS

The State Govt has paid Rs. 12,700/- (Rs. Twelve thousand seven hundred only) to the two seriously injured workers though Rs. 50,000/- declared, as mentioned in the Para 9.2 above, as per order of Hon'ble NGT in this matter.

As per Hon'ble NGT order dated 18.12.2020 (para 15 & 16) in OA No. 274 of 2020, which are reproduced here, and also in similar accident matters/orders of Hon'ble NGT-

- “15. “.....6. ... we assess interim compensation for death to be 15 lacs each(considering multiplier of around 16 and loss of earning of about one lac a year, taking the minimum wage, apart from conventional sums), for grievous injury Rs. 5 lac per person, for other injuries of persons hospitalized Rs. 2.5 lac per person and for displacement at Rs. 25000/- per person.”
16. Accordingly, the said scale needs to be applied to the present case. Final compensation may be suggested by the Committee, including for restoration of environment. The industrial unit may deposit appropriate ”

As mentioned above, Rs.5 lac in case of grievous injury and Rs. 2.5 lac in case of other injury to be paid to injured (grievous/ minor injury) persons.

Therefore, the injured (grievous & minor) needs to get Rs. 5,00,000/- & Rs. 2,50,000 as interim compensations respectively, and based on the nature of injury/ disability certificate further compensation to be provided to them.

11.4 PENSION & OTHER LEGAL DUES

Employee's State Insurance Corporations (ESIC) (Ministry of Labour & Employment, Govt of India) pension disbursement status to the legal heirs of deceased workers and injured workers as per the ESI Act – 1948, are provided in letter dated 11.08.2021 from Sub-Regional Office, ESI Corporation, Pune to Additional Director, DISH, Pune (**Annexure-XVI**)

Legal dues (difference of minimum wages, bonus etc) paid to the deceased and injured workers by Factory management are provided in following **Table 10** and as per letter from Govt Labor Officer which is attached as **Annexure-XIV**.

TABLE 10 LEGAL DUES PROVIDED BY THE INDUSTRY

Sr No	Name of Deceased Person	M/F	Legal Dues (INR) from Industry
1	Sachin Madan Ghodke	M	72,024.00
2	Manda Bhausahab	F	20,898.00

3	Surekha Manohar Tupe	F	31,639.00
4	Archana Venkat	F	60,094.00
5	Mahadevi Sanjay	F	22,671.00
6	Mangal Baban Margale	F	31,962.00
7	Sunita Rahul Sathe	F	24,767.00
8	Trishala Sambhaji	F	20,898.00
9	Sangita Maruti Polekar	F	22,026.00
10	Sheetal Dattatray	F	20,737.00
11	Geeta Bharat Diwalkar	F	20,414.00
12	Sarikha Chandrakant	F	17,029.00
13	Seema Sachin Borade	F	21,220.00
14	Dhanashri Rajaram	F	15,000.86
15	Sangita Ulhas Gonde	F	31,317.00
16	Atul Laxman Sathe	M	23,059.00
17	Suman Sanjay Dhebe	F	30,994.00
		Total	4,86,748.86

As compensation/ex-gratia Rs 17 lacs (Industry+ State Govt+ Central Govt) declared for kin to each deceased person, out which Rs. 15 lacs already been paid to kin to each deceased person whereas Rs. 2 lacs yet to be paid.

In total, Rs. 2.55 Crore (Rs. Two Crore fifty-five lacs) i.e. Rs. 1.7 Crore by Industry & Rs. 85 lacs by State Govt) paid to the deceased persons (17 Nos) and Rs 25,400/- (Rs. Twenty-five thousands four hundred) injured persons (2nos.). The medical expenses (Medicine & hospital charges) for all injured persons have been given by the industry. The industry has paid total Rs. 4,86,748 towards legal dues to the deceased persons.

The committee recommends to give the compensation/ex-gratia amount which comes out to be maximum out of three compensations/ex-gratia amount viz (I) compensations/ex-gratia amount declared by State, Central & Industry Management (para 11.2.1) (II) As per Employee Compensation Act 1923 (para 11.2.2 (A)) (III) As per Hon'ble Supreme Court matters (para 11.2.2 (B), as given in Table 9). Accordingly, committee would request to Hon'ble NGT to consider additional compensation where it exceeds compensation/ex-gratia (i.e. Rs. 17 lacs) declared by State, Central Govt & Industry Management, as shown in Column I in Table 9 above, to the kin of deceased persons.

As very meagre amount (Rs. 12,700/- each) has been paid to the injured (grievous/minor) person, Rs. 5,00,000 in case of grievous injury and Rs. 2,50,000 in case of minor injury to be paid as interim compensations and final compensation may be paid based on the nature of injury/disability certificate by the District Administration.

12. APPLICABILITY OF MANUFACTURE, STORAGE AND IMPORT OF HAZARDOUS CHEMICAL RULES, 1989 (MSIHC RULES 1989) AND PROVISIONS THERE OFF

It is mentioned in the para 5 of the Hon'ble NGT order dated 16/06/2021 that "The unit is using raw material such as sodium chlorite, sodium bisulphate, sodium bicarbonate, adipic acid, chlorine some of which are specifically mentioned in Part-II of Schedule 1 and also Schedules 2 and 3 to the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 ("the 1989 Rules") and thus covered by the definition of hazardous chemical under Rule 2(e) of the said rules. In such a case, the site has to be approved under Rule 7. Safety report has to be prepared and safety audits have to be conducted under Rule 10, onsite emergency plan is to be prepared under Rule 13 and off-site emergency plan is to be prepared under Rule 14. There is further requirement of conducting mock drills under Rule 13(4)."

*Products, raw material (Chemicals) used by the Industry and its name as per list of chemicals part-1 Schedule-3 of MSIHC Rules 1989 & threshold quantity specified in the column 3 & 4 of Schedule-3 MSIHC Rule 1981 are given in following **Table-11**.*

TABLE 11

PRODUCTS, RAW MATERIAL (CHEMICALS) USED BY INDUSTRY

Sr. No.	Product(s)/ Raw Material(s)	Quantity per month	Sr No. of chemical as per list of chemicals part-1 Schedule-3 of MSIHC Rules 1989	Threshold quantity specified in the column 3 & 4 of Schedule 3 MSIHC Rule 1981
	PRODUCT(S)			
01	Chlorine Dioxide Powder	25 MT/M	Not Listed.	Not Listed.
02	Chlorine Dioxide Tablets	15 MT/M	Not Listed.	Not Listed.
03	Chlorine Dioxide Gel-	5 MT/M	Not Listed.	Not Listed.
	RAW MATERIAL(S)		Not Listed.	Not Listed.
01	Sodium Bisulphate	11 MT/M,	Not Listed.	Not Listed.
02	2 Blend Adipic Acid	1 MT/M	Not Listed.	Not Listed.

03	Sodium Bicarbonate	4 MT/M	Not Listed.	Not Listed.
04	SDIC 60% GR	MT/M,	Not Listed.	Not Listed.
05	Calcium Chloride	4MT/M,	Not Listed.	Not Listed.
06	Lactose Fonterra	3 MT/M,	Not Listed.	Not Listed.
07	Sodium Chlorite	2 MT/M	Not Listed.	Not Listed.
08	Sodium Persulphate	1 MT/M,	Not Listed.	Not Listed.
09	MgSo4-Magnesium Sulphate	1 MT/M	Not Listed.	Not Listed.
10	Copper Sulphate	0.6 MT/M,	Not Listed.	Not Listed.
11	Emulsifier	150 Kg/M,	Not Listed.	Not Listed.
12	Urea Technical	400 Kg/M,	Not Listed.	Not Listed.
13	Sodium Meta Silicate	300 Kg/M	Not Listed.	Not Listed.
14	Sodium CMC	260 Kg/M	Not Listed.	Not Listed.
15	Talk Soap Stone	100 Kg/M	Not Listed.	Not Listed.
16	Sodium Citrate	200 Kg/M	Not Listed.	Not Listed.
17	Sodium Pyrophosphate	200 Kg/M	Not Listed.	Not Listed.
18	Soda ash	200 Kg/M	Not Listed.	Not Listed.
19	Caustic Soda Prills	150 Kg/M	Not Listed.	Not Listed.
20	Sodium Poly Acrylate	80 Kg/M	Not Listed.	Not Listed.
21	Cross Providin	150 Kg/M	Not Listed.	Not Listed.
22	Sodium Sulphate	120 Kg/M	Not Listed.	Not Listed.
23	Very highly flammable liquids	Approximate 5 MT.	Part II Sr. no. 3 1500 Ton	10,000 Ton

The industry was using the hazardous chemicals like Sodium chlorite, Sodium Dichloro Iso Cyanurate 60%, Sodium Per Sulphate which meets the criteria laydown in the Part I of Schedule-1 and chemical Sodium Hydroxide which is listed in Part II of Schedule 1. Thus, all these chemicals are hazardous chemicals as per the rule 2(e) of Manufacture, Storage and Import of Hazardous Chemical Rules, 1989.

In addition, there was refilling and storage of Iso Propyl Alcohol-based sanitizer at the time of accident which is “very highly flammable liquids” as per part I of Schedule 1. Other than IPA although the chemicals satisfy the criteria mentioned in Part I of Schedule 1 and out of which Sodium Hydroxide is listed in Part II of Schedule 1, but the chemical other than IPA are not listed in Part I or Part II Schedule 3. Also, the quantity of chemical (IPA) is much less than threshold quantity mentioned in the said schedule.

In this regard, it is to submit that as per the Sub-rule 1 of Rule 6 of MSIHC Rules, 1989 “Rules 7 to 15 shall apply to - (a) an industrial activity in which there is involved a quantity of hazardous chemical listed in Column 2 of Schedule 3 which is equal to or more than the quantity specified in the entry for that chemical in Column 3 & 4 (Rules 10-12 only for Column 4); and (b) isolated storage in which there is involved a quantity of a hazardous chemical listed in Column 2 of Schedule 2 which is equal to or more than the quantity specified in the entry for that chemical in Column 3 [3 & 4 (rules 10-12 only for column 4).

As per information provided in Table 11, it can be inferred that threshold quantity of hazardous chemical used/ stored in the industry was less than threshold quantity specified in the column 3 & 4 of Schedule 3 appended to MSIHC Rules, 1989, therefore, rules 7 to 15 of said MSIHC Rule are not applicable to the industry. The industry is not a Major Accident Hazard (MAH) unit. The Rules 7 to 15 of the said Rules are:

7. Approval and notification of sites
8. Updating of the site notification following changes in the threshold quantity
9. Transitional provisions
10. Safety Reports and Safety audit reports
11. Updating of reports under rule 10
12. Requirement for further information to be sent to the authority
13. Preparation to on-site emergency plan by the occupier
14. Preparation of off-site emergency plan by the authority
15. Information to be given to persons liable to be affected by a major accident

13. THE OFFSITE DISASTER MANAGEMENT PLAN (DMP) FOR PUNE DISTRICT: A BRIEF OVERVIEW

A detailed offsite disaster management plan (DMP) for Pune district is available with the DISH authorities. The plan is prepared in accordance with the provisions of Rule 14 of The Manufacture, Storage and Import of Hazardous Chemical Rules, 1989. There are 59 Major Accident Hazard unit (MAH Unit) installed across the Pune district. Details pertaining to each MAH unit, the chemicals handled and stored, are also available. The DMP also contains the names of the key agencies, of responsible persons, along with their contact details. The DISH office also has fact sheet for each MAH installation which provides details about the hazard mitigation infrastructure available with respective MAH unit. There are two MAH Units are as detailed in following **Table-12** in the Mulshi Taluka of Pune District where the Industry where fire incident took place.

TABLE:12 MAH UNITS IN MULSHI TALUKA DIST PUNE

SR. NO.	NAME OF THE MAH INSTALLATIONS	HAZARDOUS MATERIAL STORED/USED (MAXIMUM QTY)	MAIN CONTROLLE R/ PHONE NO.	INCIDENT CONTROLLER
1	Adient India Pvt. Ltd., Plot No.1, Sr.No.235 & 245, Hinjewadi, Mulshi, Dist-Pune – 411 057.	Toluene Di-isocyanate- 60 Ton	Mr. Satish Kulkarni H.R. Manager 02066738766	Mr. Shrikant Bhosale HSE& E 02066738729
2	Dimple Chemicals and Services Pvt. Ltd, Gat. No. 281, Village Ghotawade, Tal. Mulshi, Dist. Pune.	Ethylene Oxide- 7 Ton	Mr. Yogesh Jadhav 9850055963	Mr. Haresh Patil 8308835125

There is also District Crisis Group in accordance with Rule 8 of The Chemical Accidents (Emergency Planning, Preparedness and Response) Rules – 1996. Further, there are 5 Local Crisis Groups formed according to the geographical densities of the industries. Contact details of the concern members are included in the list mentioned in the plan. Functions of various crisis groups are also described in the plan. Control measures in event of leakage of widely used chemicals are provided in the plan. Also, there is a directive to all stakeholders to install WISER mobile app which gives information regarding most of the chemicals along with dos and don'ts during an emergency.

The DMP describes the necessity of the mitigation of disasters and the roles of various stakeholders that is required to be performed during an emergency. The MAH installations conduct mock drills as per their onsite emergency plan; also, there is an involvement of NDRF team in few mock drills as its base camp is located in Pune Districts. Such drills are equivalent to the offsite drill. Other than district crisis group

members contact details of other important contact numbers are included in the plan. The complete details of the DMP are included as an **Annexure-XVII**.

14. CONCLUSIONS

Based on the Hon'ble NGT aforesaid order, the present report attempts to document the key aspects of the major chemical accident that occurred on 7th June 2021 at the site of M/s. SVSAT situated in the village of Urawade, Tal. Mulshi, Dist. Pune, which claimed the life of 17 employees. The immediate physical cause of the accident was an ignition which originated in a defective sealing machine, and escalated into a major fire due to the presence of an array of oxidizing and flammable substances that were available onsite. The root causes were identified to be human errors which issued out of a management failure to address the problem of the defective sealant machine ahead of the actual accident, in spite of sufficient a priori indications, that were also communicated by the employees to the senior officers. Post-accident investigations have revealed a significant number of non-compliances by the M/s. SVSAT, including unlicensed handling and trading in Iso-Propyl Alcohol (highly flammable substance) which is likely to have contributed to the escalation of the accident, received primary NOC but not obtained the final NOC from Fire Department, the work already started in new building without bringing in the knowledge of fire department etc

Various non-compliances observed, enlisted and different departments have initiated action, as above in para 9.0, against industry/owner under violations of various provisions under Acts/Rules such as Factories Acts 1948, Water (P & CP) Act 1974 & Air (P & CP) Act 1981, HOW (M & TM) Rules 2016, Labour Acts such as Minimum Wages Act, 1948; Payment Of Wages Act, 1936; Payment of Gratuity Act, 1972; Under H R A Act, 1983; Maternity Benefit Act, 1961 and Equal Remuneration Act, 1976. The cases are filed by DISH and Labour Department in CJM Pune against industry/owner under violations of various provisions under Acts/Rules such as Factories Acts 1948 and Labour Acts such as Minimum Wages Act, 1948; Payment Of Wages Act, 1936; Payment of Gratuity Act, 1972; Under H R A Act, 1983; Maternity Benefit Act, 1961 and Equal Remuneration Act, 1976.

Considering the non-compliance of provisions under Environmental Acts i.e. establishment & operation of the industry, bottling/handling of IPA alcohol-based sanitizer without consents under the Water (P & CP) Act 1974 & Air (P & CP) Act 1981, the committee has found appropriate to calculate Environmental Compensation (EC) as per CPCB Methodology/formula. Accordingly, EC i.e. Rs. 1,98,50,000/- (Rs. One crore ninety-eight lac fifty thousand only) is

calculated, and is recommended to impose towards damage to the environment. Further, waste generated due to fire incident shall be disposed to CHWTSDF immediately and report the compliance with manifest as per Hazardous & other Waste (T & TM) Rules, 2016 and to take scientific measures to avoid the nuisance due to generated waste in any form in the fire accident and dispose the same after suitable treatment.

Due to fire accident, 17 people (Female-15, Male-02) lost their life and two got injured. Two injured persons were admitted to Sanjivani Hospital Deccan Pune and discharged from hospital after stay for about a month's time in Hospital. Medical expenses have been provided by Factory Management. There is no loss of no-human life, public & damaged to other property.

As compensation/ex-gratia Rs 17 lacs (Industry+ State Govt+ Central Govt) declared for kin to each deceased person, out which Rs. 15 lacs already been paid to kin to each deceased person whereas Rs. 2 lacs yet to be paid which is not yet received by District Administration for the disbursement. In total, Rs. 2.55 Crore (Rs. Two Crore fifty-five lacs) i.e. Rs. 1.7 Crore by Industry & Rs. 85 lacs by State Govt) paid to the deceased persons (17 Nos) and Rs 25,400/- (Rs. Twenty-five thousands four hundred) injured persons (2nos.). The industry has paid total Rs. 4,86,748 towards legal dues to the deceased persons.

The committee recommends to give the compensation/ex- gratia amount which comes out to be maximum out of three compensations/ex-gratia amount viz (I) compensations/ex-gratia amount declared by State, Central & Industry Management (para 11.2.1) (II) As per Employee Compensation Act 1923 (para 11.2.2 (A)) (III) As per Hon'ble Supreme Court matters (para 11.2.2 (B), as given in Table 9). Accordingly, committee recommended to consider additional compensation where it exceeds compensation/ex-gratia (i.e. Rs. 17 lacs) declared by State, Central Govt & Industry Management, as shown in Column I in Table 9 above, to the kin of deceased persons.

As very meagre amount (Rs. 12,700/- each) has been paid to the injured (grievous/minor) person, Rs. 5,00,000 in case of grievous injury and Rs. 2,50,000 in case of minor injury to be paid as interim compensations and final compensation may be paid based on the nature of injury/disability certificate by the District Administration.

Legal dues (difference of minimum wages, bonus etc) paid to the deceased and injured workers by management of industry. Employee's State Insurance Corporations (ESIC) (Ministry of Labour & Employment, Govt of India) has processed the pension

disbursement to the legal heirs of deceased and injured persons as per the ESI Act – 1948.

As per information provided in Table 11 it may be inferred that threshold quantity of hazardous chemical used/stored in the industry was less than threshold quantity specified in the column 3 & 4 of Schedule 3 appended to MSIHC Rules, 1989, therefore, the rules 7 to 15 of said rule are not applicable to the industry. The industry is not a Major Accident Hazard (MAH) unit.

It is gathered that Urawade/Pirangut area are having sizable amount of industries, however, they are devoid of basic infrastructure such as road, health care centres / ambulance services, hospitals and fire stations which are very much essential in such accident cases.

Based on the findings of the present investigation, a set of future remedial measures and select general recommendations for systemic improvement in respect of all other similar factories in the region have been formulated. These are expected to be supported by the existent Disaster Management Plan for the Pune district.

15. RECOMMENDATIONS

- **Actions against the owners of the industry for the various non-compliances should be expedited by respective departments.**
- **Considering the non-compliance of provisions under Environmental Acts i.e. establishment & operation of the industry, bottling/handling of IPA alcohol-based sanitizer without consents under the Water (P & CP) Act 1974 & Air (P & CP) Act 1981, Environmental Compensation (EC) Rs. 1,98,50,000/- (Rs One crore ninety-eight lac fifty thousand only) towards damage to the environment may be recovered from the industry.**
- **Waste generated due to fire incident shall be disposed to CHWTSDF immediately and to take scientific measures to avoid the impact due to generated waste in any form and dispose the same as per Hazardous & other Waste (T & TM) Rules, 2016.**
- **Additional compensation where it exceeds compensation/ex-gratia (i.e. Rs. 17 lacs) declared by State, Central Govt & Industry Management, as shown in Column I in Table 9, to the kin of deceased persons may be considered based on the maximum out of three compensations/ex-gratia amount viz (I) compensations/ex-gratia amount declared by State, Central & Industry Management (para 11.2.1) (II) As per Employee Compensation Act 1923 (para 11.2.2 (A)) (III) As per Hon'ble Supreme Court matters (para 11.2.2 (B), as given in Table 9).**
- **Injured persons with grievous & minor injury should be paid Rs. 5,00,000/- & Rs. 2,50,000 as interim**

compensations respectively, and based on the nature of injury/disability certificate further compensation may be computed and may be provided to them, as Rs. 12,700/- paid to each injured person only.

16. SUGGESTED FUTURE REMEDIAL MEASURES

This section outlines a set of plausible remedial measures and recommendation to avoid similar accidents in future in respect of the factory under consideration. They are enumerated below.

- a. SVSAT need to restructure the work process so that the minimum possible hazardous raw materials are brought to the production area, and also need to ensure and after completion of the production process (i.e., packing) the same is transferred to a separate storage area so that there is no accumulation of hazardous materials in the production area.*
 - b. Flameproof fittings shall be used where highly flammable liquids or other materials are used/handled/stored/processed.*
 - c. MSDS of Chemicals used shall be displayed in work area in the language understood by majority of workers. Compatibility of chemical storage shall be checked as per MSDS of the chemical.*
 - d. In the event of any maintenance and / or repair activity which can affect the normal functioning of all/any equipment, all related equipment shall be shut down. Only when the maintenance activity is concluded satisfactorily and the necessary repair is undertaken should all other equipment be operated.*
 - e. During all maintenance/repair and normal operation a competent person with the requisite experience must be present at site. The same or additional person also need be available to manage any abnormality or emergency arising during operation.*
 - f. If there is change in production process the necessary approval from all concern departments shall be obtained.*
 - g. Periodic training of worker on normal and emergency management shall be conducted.*
- Safety audit shall be conducted as per safety audit rules-2014.*

17. GENERAL RECOMMENDATION FOR SYSTEMIC IMPROVEMENT IN RESPECT OF ALL OTHER SIMILAR FACTORIES

Hon'ble NGT order suggests for the development of a common set recommendations that may apply to all other factories engaged in similar operation and/or structure. While being specific to an extent, the measures mentioned in section 8 are generally applicable to all similar industries to improve internal process of safety management. However, these need to be coupled with broad systemic improvements for better

governance. Accordingly, the following additional recommendations are proposed.

- **Appropriate degree of co-ordination between the various concerned government agencies needs to be ensured so that all necessary compliances that need to be achieved by the industry in question are tracked and verified. The authorities need to be approached in the following order: District Administration, District Industries Centre, State Electricity Board, State Pollution Control Boards and Department of Industrial Safety and Health (DISH). On receiving any application from a prospective industry all agencies need to become informed simultaneously. An online portal may be developed to enable this information sharing.**
- **Provisions for fire prevention and fighting are more rigorous and hence updated in the Maharashtra Fire Prevention and Life Safety Measures Act, 2006 than provisions of Factories Act- 1948. Therefore, any manufacturing in a factory dealing with hazardous materials shall not be permitted unless final “No Objection” certificate is issued by respective authorities under said act.**
- **Approvals for establishment of an industrial unit shall be granted in the following sequence so as to ensure all necessary compliances: Consent to Establishment / Provisional Fire NOC / Plan Approval from DISH / Approval of Layout Drawing by local Planning Authority (such as Industrial Development Corporation and Regional Development Authority) / Plan approval by FDA (In case of Pharmaceutical and Food processing units). Drawing approval by PESO (If applicable) can occur in parallel. For allowing production to commence Consent to Operate followed by final Fire NOC, PESO approvals, FDA approval if applicable and finally license by DISH must be secured. Also, intimation need be given to ESIC and PF authorities for enrolment of workers for social security facilities.**
- **DISH Maharashtra is presently working with one third manpower of sanctioned post. There are two levels of the inspectors one is Deputy director and another is Assistant Director. For deputy director against sanction of 60 only 33 officers are on board. For the post of Assistant Director (sanction of 45 Posts) there is no officer available presently. This situation renders regulatory enforcement difficult and inefficient by the relevant enforcement departments. It is suggested that the Government of Maharashtra takes the necessary steps to recruit the necessary number of officers and also ensure their empowerment.**
- **Areas where Industrial development took place other than notified industrial area (MIDC) needs basic infrastructure such as road, health care centres/ ambulance services, hospitals and fire stations.”**

6. The unit in question has filed its response on 30.01.2022 opposing the recommendations in the report. It is stated that the land was purchased in 2014, decision to construct the factory was taken in 2016 for manufacturing of Chlorine Dioxide Tablets, Chlorine Dioxide Powder, Chlorine Dioxide Gel, Animal and Dairy Hygiene, ether treatment plant. The said molecule is a unique molecule and the same is not produced/manufactured anywhere in the country. Permission from Directorate of Industries, Maharashtra was taken in 2020. Consent to operate was granted in 2020. There was no manufacturing activity earlier, only research development and import trading was conducted. Accident took place on 07.06.2021 but no damage to environment was caused. Accident was due to storage of chemicals for distribution. Compensation of Rs. 1,70,00,000/- has been given to the heirs of the deceased with the rate of Rs. 10 lakhs each deceased. Medical expenses had been paid for the injured. Job offers has been given to eligible persons of the deceased apart from some other expenditure. The Committee has taken wrong date of starting of the manufacturing activities and environmental compensation assessed by the Committee is not called for.

7. We have heard learned Counsel for the industrial unit and for CPCB. The report of the Committee quoted above clearly establish that hazardous chemicals were being used by the industrial unit which was engaged in manufacturing activities without requisite safeguards which led to the accident. Workers were engaged in handling such hazardous chemicals in various processes, including packing and repacking. There was overheating of the machines in the process which resulted in the accident. Safety measures such as fire extinguishers were not effective. There was huge quantity of hazardous materials stored without requisite safeguards.

Absence of escape routes for the workers added to the problem. Electric systems were mal-functional. Unsafe work practices escalated the fire. Trained personnel were not available. The Committee has suggested remedial measures to be followed by the unit and the authorities in future apart from compensation for the past violations. Options considered for compensation level should be the one by which highest compensation is worked out as per law. The liability of the industrial unit for compensation has to be *de hors* the ex-gratia payments made by the State. We accept the report with all the recommendations for past violations and for future safeguards by the unit and the authorities. We place on record our appreciation for the exhaustive report prepared by the Committee which may be conveyed to the Members of the Committee by CPCB. Report may be kept on the website of CPCB for six months for perusal by any stakeholder/researcher. Payment of compensation be ensured by the State PCB and the District Magistrate, if necessary, by coercive measures, including closure till compliance.

8. We direct the Chief Secretary, Maharashtra to look into the recommendations and take remedial action for preventing any such incident in future in coordination with concerned Departments of the State for which a meeting be called within one month. Compliance report in the matter may be filed by the Chief Secretary, Maharashtra, State PCB and the District Magistrate with the Registrar, Pune Bench, NGT within three months by e-mail. If any direction is found necessary, the Registrar may place the matter before the Bench.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Maharashtra, CPCB, State PCB and District Magistrate, Pune by e-mail for compliance.

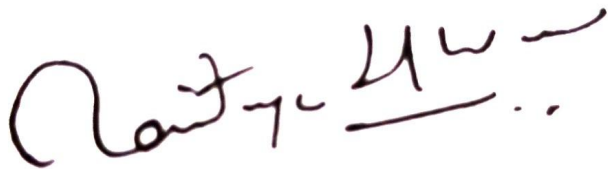
Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

February 01, 2022
Original Application No. 130/2021
SN

TRUE COPY



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



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

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Abstract

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

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

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

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

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

1.1 Background

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

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

1.2 Constitution of the Committee

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

1.3 Methodology for Assessing Environmental Compensation

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

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 27/03/2019. The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are attached as **Annexure-III**.

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

Cases considered for levying Environmental Compensation (EC):

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

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

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

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

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

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

After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as mentioned at *a, b and c* including non-compliance of the environmental standards / violation of directions.

The Environmental Compensation shall be based on the following formula:

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

Where,

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

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

Note:

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

Table No. 1.1: Location Factor Values

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

*Population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

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

- f. In any case, minimum Environmental Compensation shall be ₹ 5000/day.
- g. In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2 times on 1st repetition, 4 times on 2nd repetition and 8 times on further repetitions.
- h. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.
- i. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.

A sample calculation for Environmental Compensation (without deterrent factor) is given at Table No. 1.2. It can be noticed that for all instances, EC for Red, Orange and Green category of industries varies from 3,750 to 60,000 ₹/day.

Table No. 1.2: A sample calculation for Environmental Compensation

Industrial Category	Red	Orange	Green
Pollution Index (PI)	60-100	41-59	21-40
Average PI	80	50	30
R-Factor	250		
S-Factor	0.5-1.5		
L-Factor	1.00-2.00		
Environmental Compensation (₹/day)	10,000-60,000	6,250-37,500	5,000-22,500

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

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

1.4 Action Plan for Utilization of Environmental Compensation Fund

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

1.4.1. When Environmental Compensation is calculated through the Pollution Index:

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

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

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

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

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

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

1.5 Recommendations

The Committee made following recommendations:

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

- 1.5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.
- 1.5.3 The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed that all running industrial units which require "consent to operate" from concerned State Pollution Control Board, have a primary effluent treatment plant in place. Therefore, no industry requiring ETP, shall be allowed to operate without ETP.
- 1.5.4 EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts and Rules.

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

2.1 Background

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

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

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

2.2 Action Plan for Utilization of Environmental Compensation Fund

EC levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

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

3.1 Background

The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed State Governments (including the concerned Union Territories) to set-up Sewage Treatment Plants (STPs), which are already under implementation, within the time lines already postulated. Further, the STPs, which are yet to set-up, to be completed within a period of three years, from today, i.e. by 22.02.2020.

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

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

3.2 Ideology of Environmental Compensation Formula

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alternatively;

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

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

Quantity of Sewage is in MLD

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

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

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

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

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

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

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

Where;

Waste Quantity in tons per day (TPD)

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

Simplifying;

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

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

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Waste Generation (kg. per person per day)	0.6	0.5	0.4	0.4
Waste Generation (TPD)	9809.90	880.14	350.79	200.31
Waste Disposal as per Rules (TPD) (<i>assumed as 25% of waste generation for sample calculation</i>)	2452.47	220.04	87.70	50.08
Waste Management Capacity Gap (TPD)	7357.42	660.11	263.09	150.23
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1584.26	631.42	360.56
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1584.26	631.42	360.56
Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	13.20	5.26	3.00
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02

3.3 Action Plan for Utilization of Environmental Compensation Fund

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

3.4 Recommendations

1. The Committee recommended that to begin with, Environmental Compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid waste management rules may be calculated with the methodology described in the report.
2. If mixing of Bio-medical Waste or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.

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

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

4.1 Background

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

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

4.2 Constitution of the Committee

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

4.3 Methodology for Assessing Environmental Compensation

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

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

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

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

For Notified Areas:

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

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

For Non-Notified Areas:

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

4.5 Formula for Environmental Compensation for illegal extraction of ground water

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

EC_{GW}	=	Water Consumption per Day x No. of Days x Environmental Compensation Rate for illegal extraction of ground water (ECR_{GW})
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Where water Consumption is in m^3/day and ECR_{GW} in $Rs./m^3$

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

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

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

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

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

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

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

4.6.1 ECR_{GW} for Drinking and Domestic use:

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

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

4.6.2 ECR_{GW} for Packaged drinking water units:

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

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

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

4.6.4 ECR_{GW} for Industrial Units:

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

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

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

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

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

Daily Consumption = 3 x 0.5 = 1.5 m³

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

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

Total time period = 820 days

Then, ECR_{GW} = 6 x 820

Calculated ECR_{GW} = 4,920 Rs.

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

Example 2 (For Industrial Units):

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

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

Daily Consumption = 12 x 3 = 36 m³/day

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

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

Total time period = 365 days

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

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

4.7 Relaxation

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

4.8 Recommendations

The committee has given following recommendations:

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

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

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

TRUE COPY

Anty-44



Sample ID:445638 - Analysis Completion:30/05/2024

Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring / LAB Inward : 106359

TEST REPORT

Test Report No. : 106359

Date: 30/05/2024

1. Name of the Customer : N.H.H.Textile Processors -12676
2. Address : Plot No: Phase No: ,OPP: NEW DHOR BAZAR,BAEHRAMPURA AHMEDABAD-380022, Taluka : Ahmedabad, District : Ahmedabad,
3. Nature of Sample : REP-Representative/Grab, (Insp Type : COM-On Complaint)
4. Sample Collected By : M.J.Shah, SO
5. Quantity of Sample Received : 5lit
6. Code No. of the Sample : 445638
7. Date & Time of Collection & Inwarding : 16/05/2024 , (1505 to 1505) & 17/05/2024
8. Date of Start & Completion of Analysis : 17/05/2024 & 30/05/2024
9. Sampling Point : From Aeration Tank ~
10. Flow Details (Remarks) : -----
11. Mode of Disposal : Further teatment in ETP
12. Ultimate Receiving Body : No generation of industrial wastewater
13. Temperature on Collection : & pH Range on pH Strip :@ 7-8
14. Carboys Nos for : as per barcode & Color & Appearance :Brownish
: Ind :70.000 , Dom :2.000 & Ind :50.000 , Dom :1.800
15. Water Consumption & W.W.G (KLPD) : 2 ,Cap No & Weight :

Sr	Parameter	Unit	Test Method	Range of Testing	Result
1	M.L.S.S.	mg/l	Gravimetric method	-	984
2	M.L.V.S.	mg/l	Gravimetric method	-	538

Laboratory Remarks : Approved. By:682-ae_682 Dt.: 30/05/2024

Agravats
Dr. S. N. Agravat

Note :

1. The results refer only to the tested samples and applicable parameters. Endorsement of products is neither inferred nor implied.
2. Samples will be destroyed after 10 days from the date of issue of test report unless otherwise specified.
3. This report is not to be reproduced wholly or in part or used in any advertising media without the permission of the Board in writing.
4. The Board is not responsible for the authenticity for the samples not collected by the Board's officials.
5. Total liability of our laboratory is limited to the invoiced amount. Any dispute arising out of this report is subject to Gujarat Jurisdiction only.
6. Permissible Limits: as per Schedule VI of EPA Rules, 1986 as ammended by Second and Third ammendment 1993 for Effluents
7. Physicochemical and microbiological parameters, Std.Methods for Water and Waste Water- 23nd Edition by APHA.
8. Bioassay test (for toxicity) -IS:6582:Part-2:2001; Reaffirmed 2007.



Sample ID:445637 - Analysis Completion:10/06/2024

Yarn / Textile processing involving any effluent/emission generating processes including bleaching, dyeing, printing and colouring / LAB Inward : 106355

TEST REPORT

Test Report No. : 106355

Date: 10/06/2024

- 1. Name of the Customer : N.H.H.Textile Processors -12676
- 2. Address : Plot No: Phase No: ,OPP: NEW DHOR BAZAR,BAEHRAMPURA AHMEDABAD-380022, Taluka : Ahmedabad, District : Ahmedabad,
- 3. Nature of Sample : REP-Representative/Grab, (Insp Type : COM-On Complaint)
- 4. Sample Collected By : M.J.Shah, SO
- 5. Quantity of Sample Received : 5lit
- 6. Code No. of the Sample : 445637
- 7. Date & Time of Collection & Inwarding : 16/05/2024 , (1500 to 1500) & 17/05/2024
- 8. Date of Start & Completion of Analysis : 17/05/2024 & 10/06/2024
- 9. Sampling Point : From Collection Tank of ETP ~
- 10. Flow Details (Remarks) : -----
- 11. Mode of Disposal : Further teatment in ETP
- 12. Ultimate Receiving Body : No generation of industrial wastewater
- 13. Temperature on Collection : & pH Range on pH Strip :@ 8-9
- 14. Carboys Nos for : as per barcode & Color & Appearance :Blueish
: Ind :70.000 , Dom :2.000 & Ind :50.000 , Dom :1.800
- 15. Water Consumption & W.W.G (KLPD) : 11 ,Cap No & Weight :

Sr	Parameter	Unit	Test Method	Range of Testing	Result
1	Temperature	Centigrade	IS: 3025 (Part - 9) - 1984(Reaffirmed 2006)	Ambient oC - 60 oC	0
2	pH	pH Units	4500 H+ B APHA Standard Methods 23rd edi.2017	1 - 14 pH value As or	7.16
3	Colour	Pt.Co.Sc.	2120 B APHA Standard Methods 23rd edi. 2017	2 - to 99 Hazen & 1-50	890
4	Total Dissolved Solids	mg/l	Gravimetric method. (2540 C APHA Standard Method	10 - 200000 mg/L	2708
5	Suspended Solids	mg/l	Gravimetric method. (2540 D APHA Standard Method	2 - 10000 mg/L	296
6	Ammonical Nitrogen	mg/l	1).Titrimetric method (4500 NH3 B & C APHA Stand	1 - 2000 mg/l.	6.22
7	Chloride	mg/l	Argentometric method. (4500 Cl? B APHA Standard M	1 - 50000 mg/l	860
8	Sulphate	mg/l	APHA(23rd edi) 4500 SO4 E	2-40mg/l	598
9	Chemical Oxygen Demand	mg/l	APHA (23rd Edition)- 5220 B Open Reflux Method-2(5.0- 50000 mg/l	1105
10	Oil & Grease	mg/l	Liquid - Liquid Partition Gravimetric method. (5520 B	01 - 1000 mg/l	4.2
11	B.O.D (3 Days 27oC)	mg/l	3 - Day BOD test. (IS 3025 (Part 44) 1993 Reaffirm	05-50000 mg/l	256

Laboratory Remarks : Approved. By:682-ae_682 Dt.: 10/06/2024

Dr. S. N. Agravat

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4. The Board is not responsible for the authenticity for the samples not collected by the Board's officials.
5. Total liability of our laboratory is limited to the invoiced amount. Any dispute arising out of this report is subject to Gujarat Jurisdiction only.
6. Permissible Limits: as per Schedule VI of EPA Rules, 1986 as ammended by Second and Third ammendment 1993 for Effluents
7. Physicochemical and microbiological parameters, Std.Methods for Water and Waste Water- 23nd Edition by APHA.
8. Bioassay test (for toxicity) -IS:6582:Part-2:2001; Reaffirmed 2007.



ANALYSIS REPORT FOR **382**
WATER / WASTE WATER SAMPLE

Gujarat Pollution Control Board
Central Laboratory
Paryavaran Bhavan
Sector-10A
Gandhinagar-382010
Tel:23222756

372

Sample ID:445640 - Analysis Completion:10/06/2024

Yarn / Textile processing involving any effluent/emission generating processes
including bleaching, dyeing, printing and colouring / LAB Inward : 106357

TEST REPORT

Test Report No. : 106357

Date: 10/06/2024

1. Name of the Customer : N.H.H.Textile Processors - 12676
2. Address : Plot No: Phase No: ,OPP: NEW DHOR BAZAR,BAEHRAMPURA
AHMEDABAD-380022, Taluka : Ahmedabad, District : Ahmedabad,
3. Nature of Sample : REP-Representative/Grab, (Insp Type : COM-On Complaint)
4. Sample Collected By : M.J.Shah, SO
5. Quantity of Sample Received : 5lit
6. Code No. of the Sample : 445640
7. Date & Time of Collection & Inwarding : 16/05/2024 , (1515 to 1515) & 17/05/2024
8. Date of Start & Completion of Analysis : 17/05/2024 & 10/06/2024
9. Sampling Point : From R.O Reject ~
10. Flow Details (Remarks) : -----
11. Mode of Disposal : Evaporate through MEE
12. Ultimate Receiving Body : No generation of industrial wastewater
13. Temperature on Collection : & pH Range on pH Strip :@ 8
14. Carboys Nos for : as per barcode & Color & Appearance :Light Brownish
: Ind :70.000 , Dom :2.000 & Ind :50.000 , Dom :1.800
15. Water Consumption & W.W.G (KLPD) : 11 ,Cap No & Weight :

Sr	Parameter	Unit	Test Method	Range of Testing	Result
1	Temperature	Centigrade	IS: 3025 (Part - 9) - 1984(Reaffirmed 2006)	Ambient oC - 60 oC	0
2	pH	pH Units	4500 H+ B APHA Standard Methods 23rd edi.2017	1 - 14 pH value As or	7.92
3	Colour	Pt.Co.Sc.	2120 B APHA Standard Methods 23rd edi. 2017	2 - to 99 Hazen & 1-50	195
4	Total Dissolved Solids	mg/l	Gravimetric method. (2540 C APHA Standard Method 10 - 200000 mg/L		4940
5	Suspended Solids	mg/l	Gravimetric method. (2540 D APHA Standard Method 2 - 10000 mg/L		92
6	Ammonical Nitrogen	mg/l	1).Titrimetric method (4500 NH3 B & C APHA Standard 1 - 2000 mg/l.		3.86
7	Chloride	mg/l	Argentometric method. (4500 Cl? B APHA Standard 1 - 50000 mg/l		1388
8	Sulphate	mg/l	APHA(23rd edi) 4500 SO4 E	2-40mg/l	1779
9	Chemical Oxygen Demand	mg/l	APHA (23rd Edition)- 5220 B Open Reflux Method-2(5.0- 50000 mg/l		284
10	Oil & Grease	mg/l	Liquid - Liquid Partition Gravimetric method. (5520 B 01 - 1000 mg/l		1.0
11	B.O.D (3 Days 27oC)	mg/l	3 - Day BOD test. (IS 3025 (Part 44) 1993 Reaffirmed 05-50000 mg/l		43

Laboratory Remarks : Approved. By:682-ae_682 Dt.: 10/06/2024

Dr. S. N. Agravat
Dr. S. N. Agravat

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4. The Board is not responsible for the authenticity for the samples not collected by the Board's officials.
5. Total liability of our laboratory is limited to the invoiced amount. Any dispute arising out of this report is subject to Gujarat Jurisdiction only.
6. Permissible Limits: as per Schedule VI of EPA Rules, 1986 as amended by Second and Third ammendment 1993 for Effluents
7. Physicochemical and microbiological parameters, Std.Methods for Water and Waste Water- 23nd Edition by APHA.
8. Bioassay test (for toxicity) -IS:6582:Part-2:2001; Reaffirmed 2007.



Sample ID:445639 - Analysis Completion:10/06/2024

Yarn / Textile processing involving any effluent/emission generating processes
including bleaching, dyeing, printing and colouring / LAB Inward : 106356

TEST REPORT

Test Report No. : 106356

Date: 10/06/2024

1. Name of the Customer : N.H.H.Textile Processors - 12676
2. Address : Plot No: Phase No: ,OPP: NEW DHOR BAZAR,BAEHRAMPURA
AHMEDABAD-380022, Taluka : Ahmedabad, District : Ahmedabad,
3. Nature of Sample : REP-Representative/Grab, (Insp Type : COM-On Complaint)
4. Sample Collected By : M.J.Shah, SO
5. Quantity of Sample Received : 5lit
6. Code No. of the Sample : 445639
7. Date & Time of Collection & Inwarding : 16/05/2024 , (1510 to 1510) & 17/05/2024
8. Date of Start & Completion of Analysis : 17/05/2024 & 10/06/2024
9. Sampling Point : From R.O Permeate ~
10. Flow Details (Remarks) : ----
11. Mode of Disposal : Reuse in Premises
12. Ultimate Receiving Body : No generation of industrial wastewater
13. Temperature on Collection : & pH Range on pH Strip :@ 7-8
14. Carboys Nos for : as per barcode & Color & Appearance :Colourless
: Ind :70.000 , Dom :2.000 & Ind :50.000 , Dom :1.800
15. Water Consumption & W.W.G (KLPD) : 11 ,Cap No & Weight :

Sr	Parameter	Unit	Test Method	Range of Testing	Result
1	Temperature	Centigrade	IS: 3025 (Part - 9) - 1984(Reaffirmed 2006)	Ambient oC - 60 oC	0
2	pH	pH Units	4500 H+ B APHA Standard Methods 23rd edi.2017	1 - 14 pH value As or	7.38
3	Colour	Pt.Co.Sc.	2120 B APHA Standard Methods 23rd edi. 2017	2 - to 99 Hazen & 1-50	3.0
4	Total Dissolved Solids	mg/l	Gravimetric method. (2540 C APHA Standard Method	10 - 200000 mg/L	804
5	Suspended Solids	mg/l	Gravimetric method. (2540 D APHA Standard Method	2 - 10000 mg/L	2
6	Ammonical Nitrogen	mg/l	1). Titrimetric method (4500 NH3 B & C APHA Stand	1 - 2000 mg/l.	2.30
7	Chloride	mg/l	Argentometric method.:(4500 Cl? B APHA Standard	1 - 50000 mg/l	273
8	Sulphate	mg/l	APHA(23rd edi) 4500 SO4 E	2-40mg/l	199
9	Chemical Oxygen Demand	mg/l	APHA (23rd Edition)- 5220 B Open Reflux Method-2(5.0- 50000 mg/l	25
10	Oil & Grease	mg/l	Liquid - Liquid Partition Gravimetric method. (5520 B	01 - 1000 mg/l	BDL
11	B.O.D (3 Days 27oC)	mg/l	3 - Day BOD test. (IS 3025 (Part 44) 1993 Reaffirme	05-50000 mg/l	6

Laboratory Remarks : Approved. By:682-ae_682 Dt.: 10/06/2024

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Signature

Dr. S. N. Agravat

Note :

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- The Board is not responsible for the authenticity for the samples not collected by the Board's officials.
- Total liability of our laboratory is limited to the invoiced amount. Any dispute arising out of this report is subject to Gujarat Jurisdiction only
- Permissible Limits: as per Schedule VI of EPA Rules, 1986 as amended by Second and Third ammendment 1993 for Effluents
- Physicochemical and microbiological parameters, Std Methods for Water and Waste Water- 23nd Edition by APHA.
- Bioassay test (for toxicity) -IS 6582:Part-2:2001; Reaffirmed 2007.



GUJARAT POLLUTION CONTROL BOARD
PARYAVARAN BHAVAN, SECTOR 10-A
GANDHINAGAR-382010
(T) 079-23232152

By RPAD

NOTICE OF DIRECTION UNDER SECTION 33-A OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT-1974 (HEREINAFTER REFERRED TO AS THE WATER ACT) AS AMENDED FROM TIME TO TIME

WHEREAS you, M/s N.H.H Textile Processors are having an industrial unit project Opp: New Dhor Bazar, Behrampura, Ahmedabad-380022

AND WHEREAS the Board has granted you Consolidated Consent & Authorization (CC&A) under the provisions of Water Act-1974, Air Act-1981 and Hazardous and other Waste Rules-2016 by its order no H-122042 which is lapsed on 25/11/2023 for operations of the industrial plant with conditions mentioned therein.

AND WHEREAS your CCA Renewal application was rejected by the Board on 21/04/2024 for the reasons mentioned therein and therefore you are not having CC&A of the Board.

AND WHEREAS, during inspection of your industrial unit on 19/07/2024 under section-23 of Water Act by the authorized officers of the Board to verify the compliance of environmental norms/consent conditions it has been noticed that

- 1) **During inspection dyeing, printing and finishing activity is going on.**
- 2) **Unit has not renewed permission of CGWA**
- 3) **Flow meter provided at UF inlet is faulty**
- 4) **At site there is not ETP logbook and no borewell logbook shown of current month.**
- 5) **During inspection the stock of ETP sludge observed is around 8MT. Lastly ETP sludge disposed as per XGN manifest record is on 31/12/2021, thus considering this fact this unit has been asked to submit the clarification for no disposal of ETP sludge after 31/12/2021 and quantity of sludge stored i.e. 8MT, which is not justifiable.**
- 6) **Unit has not stored MEE salt and ETP sludge in different dedicated bags and area.**

AND WHEREAS, during the above inspection written instructions were issued to you for taking corrective measures for non-compliances observed.

AND WHEREAS you have submitted reply/compliance with respect to above written instructions which is not acceptable by the Board.

NOW THEREFORE I, **T.C Patel**, Unit Head of Gujarat Pollution Control Board in exercise of the powers conferred under Section 33-A of The Water Act proposes the following directions as under

1. **To close down your industrial activity under section 33-A of the Water Act-1974**
2. **To close down your industrial activity under section 33-A of the Water Act-1974 if your industrial activity runs by Captive power plant And/Or DG Set.**
3. **To direct the concerned authority to disconnect Electricity supply and Water supply of your unit under Section-33A of the Water Act-1974.**

You are hereby directed to submit the compliance of above-mentioned points with documentary evidences wherever applicable within **15 days** failing to which further action may be initiated against you by the Board under Section 33-A of The Water Act 1974 as proposed above.

For and on behalf of
Gujarat Pollution Control Board
(T.C Patel)
Unit Head

No:GPCB/ABD/AMC/ID-12676/CCA-796(2)/

Date: 05.09.2024

Outward No: 821028

Issued to:

M/s N.H.H Textile Processors

Opp: New Dhor Bazar, Baherampura, Ahmedabad:380022

TRUE COPY

Anty-44

દાણીલીમડામાં કામ કરતાં સમયે વીજ કરંટ લાગી જતાં યુવકનું મોત નિપજ્યું

અમદાવાદ : ઈસનપુરની ચંદનપાર્ક સોસાયટીમાં રહેતાં ૪૨ વર્ષીય અરુણકુમાર વૃંદાવનસિંગ શાક્ય ગતતા. ૯ના રોજ દાણીલીમડામાં એન.એચ.એચટેક્સટાઈલ કંપનીમાં કપડાંની ટ્રોલી લઈ જવાનું કામ

કરતાં હતાં. તે દરમિયાન ઈલેક્ટ્રિક પેનલને અડી જતાં વીજ કરંટ લાગવાથી યુવકનું મોત નિપજ્યું હતું. જેથી બનાવ અંગે દાણીલીમડા પોલીસે અકસ્માત મૃત્યુની નોંધ કરી વધુ તપાસ હાથ ધરી છે.

Translated version

Newspaper: Gujarat Samachar (Ahmedabad East)

Published on 11.10.2024

A YOUNG MAN DIED OF ELECTROCUTION WHILE WORKING IN DANILIMDA

Ahmedabad: A 42 year old, Mr. Arunkumar Vrundavansinh Shakya, residing at Isanpur, Chandanpark society, on 09.10.2024 he was performing the work for carrying the trolley loaded with cloth at N.H.H Textiles at Danilimda. He was electrocuted by hitting on the electric panel and found dead. Danilimda police officers have recorded the incident and further investigation is being carried out.

TRUE COPY

Anty 45

Item No. 06

Court No. 1

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

Original Application No. 1021/2018

H.K. Kansal, President, Avantika
Residents Welfare Association

Applicant(s)

Versus

State of Uttar Pradesh

Respondent(s)

Date of hearing: 15.04.2019

CORAM:**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s):

For Respondent (s): Ms. Akansha Sing, Advocate for GNN

ORDER

The question for consideration is remedial action against untreated sewage being thrown in open drains at Ghaziabad.

Vide order dated 08.01.2019, the UPPCB and Municipal Corporation, Ghaziabad were required to file a factual and action taken report. Accordingly, an affidavit has been filed on 25.03.2019 by the Municipal Corporation, Ghaziabad admitting that untreated sewage was flowing in open drains.

On directions of the Commissioner- Meerut Division, the Developer M/s Ansal Housing and Construction Limited was asked to set up STP, failing which a sum of Rs. 1 crore was to be recovered from the said company. The Municipal Corporation has written letters to the Developer. After order of this Tribunal, letter dated 11.03.2019 has been written to the Developer to deposit the amount of Rs. 8.27 crores with the Nagar Nigam for STP.

The above affidavit shows total failure of responsibility by the Uttar Pradesh State Pollution Control Board as well as Municipal Corporation, Ghaziabad. The Developer is found to be indulging in illegal activities of throwing untreated sewage in open drain which is a criminal offence. It is not clear why action has not been taken for initiating prosecution and stopping illegal activities. Mere issuance of notice is not an end of responsibility when damage to environment is continuing without effective preventive and punitive action.

Accordingly, we require the Additional Municipal Commissioner, Ghaziabad to remain present in person and show cause why he should not be proceeded against for failure unless appropriate further action is taken and report filed before the next date.

List for further consideration on 29.07.2019.

Adarsh Kumar Goel, CP

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

April 15, 2019
Original Application No. 1021/2018
AK

TRUE COPY

Anty 24/4/19

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 14 OF 2019

[Arising out of SLP (Crl.) No. 5632 of 2014]

State of Madhya Pradesh

.. Appellant

Versus

Kalyan Singh & Ors.

.. Respondents

J U D G M E N T**M. R. Shah, J.**

Leave granted.

1. Being aggrieved and dissatisfied with the impugned judgment and order dated 29.7.2018 passed by the High Court of Madhya Pradesh in Miscellaneous Criminal Case No. 6075 of 2013, by which the High Court has quashed the criminal proceedings pending against the present Respondent herein by Crime No. 23 of 2013 for the offences under Sections 307, 294

Signature Not Verified

Digitally signed by
VISHAL ANAND
Date: 2019.01.04
16:26:41 IST
Reason: 

Section 34 of the IPC registered at the Police Station

Maharajpur, District Gwalior, the State of Madhya Pradesh has preferred the present appeal.

2. That the Respondent No. 5 herein-the original Complainant one Birbal Sharma filed a complaint against Respondent Nos. 1 to 4 herein-the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC. That the said complaint was registered as Crime No. 23 of 2013 at the Police Station Maharajpur, District Gwalior. It appears that the original Accused filed an application for bail which came to rejected by the learned Sessions Court and, thereafter, the original Accused approached the High Court by filing the Miscellaneous Criminal Case No. 6075 of 2013 under Section 482 of the Cr.PC and requested to quash the criminal proceedings on the ground that the accused and the original Complainant have settled the dispute amicably. That the original Complainant submitted his affidavit stating that he has amicably settled the subject-matter of the crime with the original Accused and that he has no objection for dropping the criminal proceedings. That, by the impugned judgment and order, the High Court in exercise of power under Section 482 of the Cr.PC

has quashed the criminal proceedings against the original Accused which were for the offences under Sections 307, 294 read with Section 34 of the IPC, solely on the ground that the original Complainant and Accused have settled the dispute and the original Complainant does not want to prosecute the accused and, therefore, there is no change of recording conviction against the accused persons. At this stage, it is required to be noted that the said application was opposed by the State observing that the offences alleged against the accused are non-compoundable offences and, therefore, even if there is any settlement between the Complainant and the Accused, the complaint cannot be quashed. However, despite the above, the High Court quashed the criminal proceedings against the original Accused on the ground that there is a settlement between the Complainant and the original Accused and the original Complainant does not want to prosecute the accused further.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court quashing the criminal proceedings against the accused for the offences under

Sections 307, 294 read with Section 34 of the IPC, the State of Madhya Pradesh has preferred the present appeal.

3. We have heard Shri Ms. Swarupama Chaturvedi, learned Advocate appearing on behalf of the State of Madhya Pradesh, Ms. Malini Poduval, learned Advocate appearing on behalf of the original Accused and perused the impugned judgment and order passed by the High Court.

3.1 It is required to be noted that the original Accused was facing the criminal proceedings under Sections 307, 294 read with Section 34 of the IPC. It is not in dispute that as per Section 20 of the Cr.PC offences under Sections 307, 294 read with Section 34 of the IPC are non-compoundable. It is also required to be noted that the allegations in the complaint for the offences under Sections 307, 294 read with Section 34 of the IPC are, as such, very serious. It is alleged that the accused fired twice on the complainant by a country-made pistol. From the material on record, it appears that one of the accused persons was reported to be a hardcore criminal having criminal

antecedents. Be that as it may, the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused, we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute. At this stage, the decision of this Court in the case of ***Gulab Das and Ors. V. State of M.P.*** (2011) 12 SCALE 625 is required to be referred to. In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and the accused on the other, the criminal proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non-compoundable offence. Under the circumstance, the impugned judgment and order passed by the High Court quashing the criminal proceedings

against the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC cannot be sustained and the same deserves to be quashed and set aside.

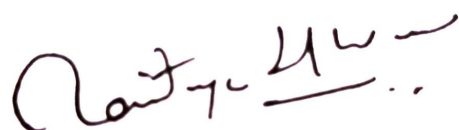
4. In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the High Court in Miscellaneous Criminal Case No. 6075 of 2013 is hereby quashed and set aside. Consequently, the criminal proceedings being Crime No. 23 of 2013 under Sections 307, 294 read with Section 34 of the IPC registered at Police Station Maharajpur, District Gwalior be proceeded further in accordance with law and on its own merits.

.....J.
(D. Y. CHANDRACHUD)

.....J.
(M. R. SHAH)

New Delhi,
January 4, 2019.

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**LIST OF ELECTED MEMBERS FOR THE ELECTION HELD AT
CHHIPA SAMAST JAMAT COMMITTEE**

With respect to the order passed by the Hon'ble High court of Gujarat in Petition 189/2022 on behalf of Chhipa Samast Jamat committee, the process of selection of the candidates by making an inspection on the time duration between 11.00 am to 03.00 has been done and finally at 10.00 pm the list of eligible candidates as per 8 areas are nominated below. This is informed to all the eligible candidates and the candidates who are not eligible will be informed by the letter that would be sent to them by means of Post.

Astodia

Nadiawad

Sr No	Name of Applicant	Sr No	Name of Applicant
1	Yusufbhai Ahmedji Kachrajiwala	1	MohammedHanif ganibhai chanodwala
2	Aiyubbhai A Karimbhai Khedawala	2	Abubakar samsuddin kucherawala
3	Hanifbhai Ismailbhai Khedawala	3	Yusufbhai ahmedji devdiwala
4	Shafimohammad yusufbhai Khedawala	4	Anwarbhai sulemanbhai navasherwala
5	Mo Irfan Dawoodbhai Balawala	5	Mohammedumar samsuddinbhai kucherawala
6	Anis Ahmedbhai Adenwala		
7	Yunusbhai yusufbhai Bangalawala		

Panchpipli

Motabamba

Sr No	Name of Applicant	Sr No	Name of Applicant
1	Harunbhai nabuji tetwala	1	Aiyubbhai Yusufbhai Bisalpurwala
2	Yasinbhai Mo.Sharifbhai paliwala	2	Shehzad Yasinbhai Penchi
3	Mo.Yasin Ahmedbhai Jawrawala	3	Baabar farukbhai Dhakkanjiwala
4	Firozbhai Jamalbhai Richhdiwala	4	Faruk Mo Hussain Balotrawala
5	Harunbhai Faridbhai Balluwala	5	Mehboob noormohammed subedarwala
6	Shabbirhuseen hajimohammed tetwala	6	Akbar Yusufbhai Mediwala
7	Mohammedaasif mohammed hanif dhallowala	7	Mo.Irfan Yakubbhai Surti
8	Tofik Yusufbhai Chawala		

Navi Masjid

Kajina Dhaba

Sr No	Name of Applicant	Sr No	Name of Applicant
1	Umarfaruk Ibrahimbhai Abrakhwala	1	Usmangani yakubbhai dhallowala
2	Salim yakubbhai bhavnagri	2	Aamir yunusbhai Radiowala
3	Yunusbhai yusufbhai Biramiwala	3	Irfan Iqbalbhai Hokabaj

4	Irfan Sabirbhai Rangwala	4	Yasinbhai Faridbhai Hokabaj
5	Aslam Mo.Hussain Jawrawala		
6	Rafik HajiMohammed chhipa		

Elephant Road**Outskirts**

Sr No	Name of Applicant	Sr No	Name of Applicant
1	Imran Mo.sharif Shayar	1	Riyaz Mo.Yasin Chhawaniwala
2	Harunbhai karimji Dhakkanjiwala	2	Sohel Yasinbhai Mendajiwala
		3	Sajid Nazirmohammed Madhupurwala

**Copy to
Observe Shri
V.K Kadiya
R.K Prajapati**

**Authorized Sign
Yasinbhai Mandosarwala
Central Election Officer
For,
Chhipa Samast Jamat
Committee**

Date: 23.07.2022 @ 10:30pm

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