

**BEFORE THE NATIONAL GREEN TRIBUNAL , WZ,
BENCH, AT PUNE**

ORIGINAL APPLICATION NO.73 OF 2022 WZ

Babasaheb Mahadeo Patil, - APPLICANT

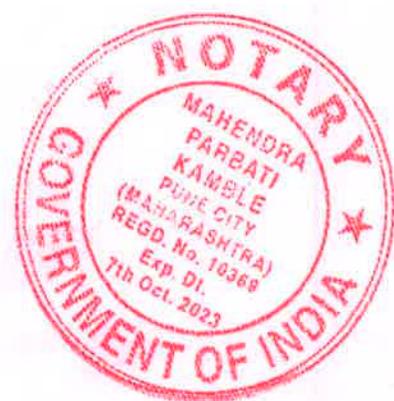
Versus

Shikshan Maharshi Dnyandeo Mohekar Agro Industries Ltd. & Ors - RESPONDENT

INDEX

<u>Sr.No.</u>	<u>Particulars of Document</u>	<u>Annexure</u>	<u>Pages</u>	
			<u>From</u>	<u>TO</u>
1)	<u>Index</u>		145	
2)	<u>Rejoinder</u>		146	153
3)	<u>Affidavit</u>		154	155
4)	<u>Annexure</u>	I	156	159

Dated this 28th day of November, 2022 at Pune.



Applicant

(Babasaheb Mahadeo Patil)

**BEFORE THE NATIONAL GREEN TRIBUNAL , WZ,
BENCH, AT PUNE
ORIGINAL APPLICATION NO.73 OF 2022 WZ**

Babasaheb Mahadeo Patil, - APPLICANT

Versus

Shikshan Maharshi Dnyandeo Mohekar Agro Industries Ltd. & Ors - RESPONDENT

REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLY AFFIDAVIT FILED BY THE RESPONDENT NO.1 M/S SHIKSHAN MAHARSHI DNYANDEO MOHEKAR AGRO INDUSTRIES LTD DATED 15-11-2022

MAY IT PLEASE YOUR HONOUR -



The Applicant hereinabove would like to file the Rejoinder to the Affidavit in Reply dated 15-11-2022 filed by the Respondent No.1 in compliance of the Order passed by this Hon'ble Tribunal to the main application filed by the Applicant u/s 14, 15, 18 and 20 of the National Green Tribunal Act, 2010 against the Respondents for non-compliance on the part of the large-scale jaggery unit for seriously violated environmental legislations, standards, norms, terms and conditions while producing the jaggery at Moha, Tal-Kalamb, District - Osmanabad of State of Maharashtra.

The Applicant has received affidavit in reply dated 15th November, 2020 to the main application filed by the Applicant.

The Applicant has carefully gone through the Affidavit in Reply filed by the Respondent No.1 by giving inadequate information and compliance steps taken by it. This Hon'ble Tribunal by its Order dated 18-11-2022 directed the MPCB to assess the damage caused to the environment with regard to the dust collector being inadequate and quantify the same. The TPM level were found to be 685.0 mg/Nm³ against the consented standards of 150 .0 mg/Nm³. This Hon'ble Tribunal also asked MPCB to assess compensation with respect to withdrawal of water from 29-05-2018 to 29-07-2022 after going through the public notice no.3/2022, whereby the permission was granted for making application for withdrawal of water from borewell before 30-09-2022.

There are the following important issues arise for the consideration of the Respondent-Board before making any assessment of compensation in respect of a number of important conditions of "Consent to Operate" has been violated and severe damage has been caused to the environment. The Applicant, therefore, is filing present Rejoinder-Application in the above matter as under :-

- 1) The Project-Proponent in its reply affidavit has stated that the directions of closure were issued and further improvement and upgradation measures were taken by the Respondent No.1 and therefore, the Application may be disposed of by appropriate Orders considering grant of restart Orders passed by the Respondnt -MPCB. Though,

the Advocate for the MPCB orally appraised Hon'ble Tribunal about the restart permission granted on 03-11-2022 with regard to the closure directions dated 19-07-2022 for the reasons mentioned in the Order of Closure. However, no specific visit, inspection and analytical report of sampling along with effective steps if any taken by the Respondent-Industry as well as whether the compliance is made in respect of all the points of non-compliance brought on record orally. Therefore, instead of making general statement about grant of restart order, the Respondent-Board should brought on record real compliance report in respect of not only the points raised in the closure and restart order issued it and duly verification report about all important points raised by the Applicant in the present application including compliance of CPCB - Guidelines and all consent conditions.

2) The Applicant specifically brought on record the non-compliance on the part of the Respondent No.1, which is Large-Scale Jaggery as well as serious violations of Environmental norms, standards and conditions which are not complied with more particularly as under :-

A) The test report dated 22nd November, 2021 in respect of nalla passing through the Respondent No.1 Unit clearly shows that the various parameters effluent characteristics are highly exceeding, for which the



Respondent No.1 is the only unit in the said area, which discharges its waste water.

B) It is surprising that the Respondent-Board has made available inadequate information under RTI Application dated 19th January, 2022 without supported by analytical reports of samples collected from the treated waste water direct discharge of untreated effluent and monitoring of Ambient Air Quality or Stacks, where the air quality is considerably deteriorated. It is more surprising that the copy of restart order is not made available and the applicant could have been extended an opportunity of hearing before grant of restart directions.

C) The Proposed Directions and Closure Directions issued by the Respondent-Board are silent about the generation of molasses and its proper disposal for which no 'Consent to Establish or Operate' obtained and it was reflected in the earlier report of Field Officer and also condition has been imposed to make amendment in the consent without taking any action about unauthorized generation of molasses.

D) It is submitted that the Respondent No.1 has not complied with the guidelines nos. 2, 3, 4, 5 and 8, which are issued in compliance of the Order passed by Hon'ble National Green Tribunal, Principal Bench in O.A.No.754 of 2017 filed by Anilkumar V/s Union of India & Ors for the protection of environment and ecology in relation to the



operation of KOLHUS (Jaggery Cake). The Respondent No.1 has been granted 'Consent to Operate' dated 28-11-2019 valid upto 31-10-2029 for the manufacturing of Jaggery (cake) - 300 MT/D and Jaggery Powder - 500 MT/D, which is LSI Unit and therefore, required to comply with the CPCB guidelines. The Respondent No.1 has provided three pans (furnaces for manufacturing of jaggery) with three separate chimneys of 10 feet height as against the specific guideline number 3 laid down by the CPCB with the condition that the three pans used for evaporation of juice to achieve the desired concentrations for making jaggery/gud more than one pan in series heating as shown in the figures at page no.42 (Annexure-A-1) of the application of the applicant. The hot flue gasses further transfer heat to pre-heat next pan number. The stack height shall not be less than 10 meter i.e. 30 feet, as against which, the Respondent No.1 has provided hardly 10 feet chimneys for three separate pans (furnaces). The Applicant rely upon those guidelines at Annexure-A-1 at page no.42 of his application and pray that the Respondent-Board should file a detailed report on the compliance of the guidelines of CPCB, for which both the directions of closure and restart are totally silent. The Applicant would like to get verified these compliances from the CPCB as MPCB is silent about its compliances.



E) The Applicant would like to draw attention to the inadequate ETP provided by the Respondent No.1 as on date (Page No,112-115). There is no provision of storage for monthly washing effluent for cleaning of process equipments more particularly to maintain BOD and COD standards, which is causing serious pollution in the surrounding areas on account of very high raw BOD of the range about 20,000 mg/l and about COD 50,000 mg/l.

F) In view of vague compliances observed by the MPCB. It becomes necessary that the performance efficiency and scientific operations of ETP needs to be checked by CPCB.

G) The restart order is silent about the efficiency of scrubbers and sampling and analysis done by the MPCB prior to grant of restart order. MPCB has also not verified as to when the closure directions were affected by the Respondent No.1 and what damage is caused to the environment due to the use of bore well water and also inadequate ETP and APC as well as disposal system. As usual, plain restart directions appeared to be issued without permission of this Hon'ble Tribunal pending this matter. The Applicant is of the considered opinion that the treatability study and assessment of environment compensation should be done by the CPCB.

H) This Hon'ble Tribunal directed CPCB to constitute Committee to arrive at appropriate scientific formula for



assessment of Environment Compensation. The Committee constituted by the CPCB prepared "Methodology for assessing the penalties and environment compensation with regard to extraction of ground water. The Respondent No.1 has extracted ground water of borewell from 29-05-2018 to 29-07-2022 (About 1120 days). The Formula to Compute Environmental Compensation dated 14-01-2020 provides that illegal extraction of ground water (for Packaged Drinking Water Unit for Mining, Infrastructure and dewatering projects and for industrial units will be Rupees 1/- Lakh (Rupees One lakh) per day. Therefore, the Environment Compensation approximately will be around Rupees 11.20 Crores for illegal extraction of ground water for 1120 days.

1) Besides that, the other Environmental Compensation will have to be assessed separately for inadequate ETP and inadequate APC separately for jaggery powder plant and jaggery cake plant (KOLHUS).

3) The Applicant has come across India's First Environmental Weekly Newspaper viz Enviro Annotations dated 24-08-2022, which specifically highlighted the Hon'ble National Green Tribunal, Principal Bench, New Delhi dissatisfaction over allowing use of potable water for industrial purposes and contaminating sewage water in nearby drains and rivers. "Hon'ble NGT specifically noted that prima facie

once there was illegal extraction of ground water, damage to the environment is required to be restored. It is not within the purview of CGWA to exempt liability to pay such compensation". Copy of the News Letter : Enviro Annotations dated 24-08-2022 is enclosed and marked as an Annexure-"1."

- 4) The Applicant is working in the field of environment at his own expenditures to ensure that the nearby affected people in the vicinity of polluted areas should not be affected and proper compliance should be secured by the Regulatory Authorities and therefore, cost of this particular filing of application and follow up may kindly be imposed on the Respondent No.1.

An affidavit in the support of this particular Rejoinder is enclosed for kind perusal.

Dated this 28th day of November, 2022 at Pune.

Applicant



(Babasaheb Mahadeo Patil)

**BEFORE THE NATIONAL GREEN TRIBUNAL , WZ,
BENCH, AT PUNE
ORIGINAL APPLICATION NO.73 OF 2022 WZ**

Babasaheb Mahadeo Patil,

- APPLICANT

Versus

Shikshan Maharshi Dnyandeo
Mohekar Agro Industries Ltd.
& Ors

- RESPONDENT



AFFIDAVIT IN THE SUPPORT OF REJOINER APPLICATION

I, Babasaheb Mahadeo Patil, the Applicant herein filing Rejoinder Application with respect to specific non-compliances reported in by Original Application No.73 of 2022 WZ and in compliance of the Order passed by this Hon'ble Tribunal Dated 18-11-2022 in order to ensure that the Environmental Compensation to be assessed by the MPCB in respect of all the violations mentioned in the Rejoinder Application as per the Formula approved by the CPCB for restoration of the environment.

The contents of Rejoinder Application filed hereinabove in respect of para 1 to 4 are true and correct to the best of my knowledge and belief. The Annexures thereto is true copy of the documents available with me.

Solemnly affirmed on this 28th day of November, 2022 at Pune.

Identified by

Affiant

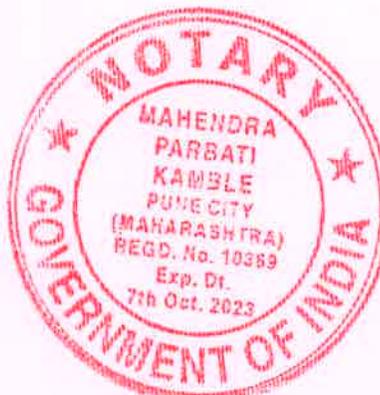


[Handwritten signature]
Adv. S. P. Patil

Advocate

[Handwritten signature]

(Babasaheb Mahadeo Patil)



29 NOV 2022

NOTED AND REGISTERER AT
SERIAL NUMBER 2782/W22

BEFORE ME

[Handwritten signature]

MAHENDRA PARBATI KAMBLE
NOTARY, GOVT. OF INDIA
PUNE CITY (MAHARASHTRA)
REGD. No.10369



Accredited auditors

ound Water Authority
ive agencies to carry
s as mandated in the
pproval policy. The
1) Confederation of
s (CII), (2) Federation
er of Commerce
FICCI), (3) National
ouncil (NPC), (4)
of Commerce &
CCI) and (5) Laghu
It has also mentioned
t reports prepared by
ertified auditors shall

Corporate Social Responsibility (CSR) disclosure

ies tops CSR spending
with Rs. 922 Crore.
to the Environmental
ector and Agroforestry
49.55% and 257%,
however, it swelled in
Pg.2

Commends proposal, angana purification

ved OMDC proposal
Forest Clearance co-
the extended mining
or Belakundi Iron &
ing Lease on the basis
▶ Pg.3

Exempting from Environmental Compensation is not within purview of CGWA, says NGT

Enviro Annotations
sk.Mishra.ca@gmail.com

New Delhi: The National Green Tribunal (NGT) has expressed dissatisfaction over allowing the use of potable water for industrial purposes and mix-up of the sewage water contaminating potable water in storm water drains and rivers.

The NGT Principal Bench headed by Justice Adarsh Kumar Goel, Chairperson, has stated that a comprehensive water management strategy may be required to prevent pollution and use of potable water for industrial purposes. For the purpose, the NGT Principal Bench has found it necessary to implead as party and to issue notice to the Ministry of Jal Shakti (MoJS) for its response.

The NGT Order Dated 18th August 2022 based on its hearing Date 1st August 2022 in the matter of Varun vs Central Pollution Control Board & Ors. vide Execution Application No. 30/2021 and Original Application No. 32/2020 deliberates "The fact remains that the issue of validity of exemption from liability for illegal extraction of groundwater remains to be addressed in the present matter."

The Green Court has deliberated on the undisputed fact that the units did extract groundwater without any permission for which compensation was assessed. Question is whether waiver of thereof is

permissible on the ground of subsequent filing of application and grant of permission. The units have taken the plea that Public Notices dated 17th June 2021 issued by the Ministry of Jal Shakti stating "No Environmental Compensation shall be imposed on such users if the said report is submitted in the prescribed time. The Environmental Compensation already paid by the project proponents shall be adjusted in the Abstraction/restoration Charges of the unit for subsequent years."

NGT noted "We are prima facie of the opinion that once there was illegal extraction of groundwater, damage to the environment is required to be restored. It is not within the purview of CGWA to exempt liability to pay such compensation."

Varun's grievance in the application was that despite an order dated 5th March 2021 of the Green Tribunal in OA No. 32/2021, the industrial units in question functioning at Barhi Industrial area in District Sonapat, Haryana were found to be violating the environmental norms by illegally extracting groundwater, remedial action has not been taken. Compensation was assessed but instead of being recovered and spent for restoration, the same was waived arbitrarily for extraneous reasons.

NGT's 18th August Order states "Original Application No. 32/2020 which was disposed of in view of levy of compensation which has been later revised,

will stand restored for validity of course of ac reducing the compensati of the matter by this Tribu permission for extraction c over exploited area. Order disposing of the OA i applicant is also given l the petition and file amen petition within two week may serve the added part amended petition may be weeks thereafter."

The Order also imple Ground Water Authorit party that may be put t response, if any, for justifi compensation for illega groundwater merely on application for such pern later filed and also for per groundwater in over-explo requisite safeguards.

Haryana Water Res (HWRA) is also implead notice may also be issued to issue whether permission c extraction of groundwater areas. Enviro Annotations 2022 issue Editorial "Blind Gold" has raised this issue. NGT intervention leads evidence of Illegal Sand l River bed area ▶ Pg.3

Ganga Model to contribute at least 3% of GDP from Ganga, says DG NMCG

Enviro Annotations
sk.Mishra.ca@gmail.com

National Mission for Clean organized a virtual session of the Stockholm World 2. The week starts from 24 inues upto 1st September. al, NMCG, G. Asok l the keynote address on Model for Economic River- ng Sustainable River ng Economic Bridge'.

Ganga".

Asok Kumar informed that Arth Ganga Model strives to contribute at least 3 percent of the GDP from the Ganga Basin itself, besides adding to India's Sustainable Development Goals.

Elaborating on the six verticals of Arth Ganga, he said that the most important aspect is Zero Budget Natural Farming that envisages chemical-free farming for 10 kms on either side of the river, generating "more income, per drop", and 'Gobar Dhan' for farmers. "We are planning to promote natural farming in a big way and will be conducting 'shibirs' on natural farming in Uttarakhand and Uttar Pradesh in the coming days to nudge the farmers towards natural farming," he added, while informing about the recent event in Shirdi, Maharashtra where 30 farmers were facilitated by NMCG to attend the 5-day Subhash Palekar Natural Farming workshop.

DG NMCG also mentioned that collaborations are undergrgoing between ministries and various organisations to monetize and reuse sludge and wastewater



Vardan EnviroLab
Vardan EnviroNet

www.var

Approvals & Accreditation



With a strength of over 250 professionals, Vardan Group comprises officers from various departments & Institutions like Pollution C Mines & Geology, SAIL, NEERI, CSIR, NABL & FRI.

Our state of the art laboratories are situated in prominent industrial areas like Manesar, Gurgaon, spread across more than 26000 sq. ft. area providing reliable consultancy and precise testing services.

- Environmental Testing
- Food Testing
- Drug and Pharmaceutical
- Ayurvedic Product Testing
- Cosmetics Testing
- Microbiological Testing
- Minerals and Building Materials
- Packaged & Natural Water Testing
- Environmental Impact Assessment
- Forest and Wildlife studies and monitoring
- Consultancy for Pollution Boards
- Social Impact Assessment
- Environmental and Pollution Monitoring
- Ground Water Impact Assessment
- GIS & Remote Sensing studies
- Geotechnical Investigation

ling for Water Wars?

ry pertinent question at a time when news of
ing rivers in several countries are making
Climate Change - I Care, a LinkedIn
tiated a poll and discussion on "Are We
For Water Wars? As many as 72% said
d 17% replied "Not Sure, May be". This
th over 30000 members has a purpose to
individuals on the factors affecting climate
id global warming as well as to influence
ake a contribution to stop its progression
green and sustainable way of life for the
ent.

Cooperation issues came up. Pros and
lesalination deliberated. Some expressed
a scarce resource, indispensable for life.
1 describes it as a war for resources in the
War Cycle.

: Dodds FRSA says "Conflict over water
; inevitable unless concerted international
nade to change everything we do on the
humanity's time is running out as we
ly squander our natural resources like a
aved child getting to a party early and
the sweets from a bowl he knows is there
one who's coming to the party."

Water Resources Society has explained
t has 1122 billion cubic meter (BCM)
of total utilizable quantity of water. The
ow in the rivers is only 1869 bcm out of
y 690 bcm can be put to use. Another 432
be used from ground water. Trans-basin
f water, also called interlinking of rivers,
le utilisation of an additional 200 bcm of
lia receives an estimated quantum of 400
recipitation per year. Some information
at India receives about 1,720 cubic metres
water per person every year. India currently
y 6% of its annual rainfall or 253 billion
tres. It's stated that India is not running
ter whereas water is running out of India
xtracting its full potential benefits.

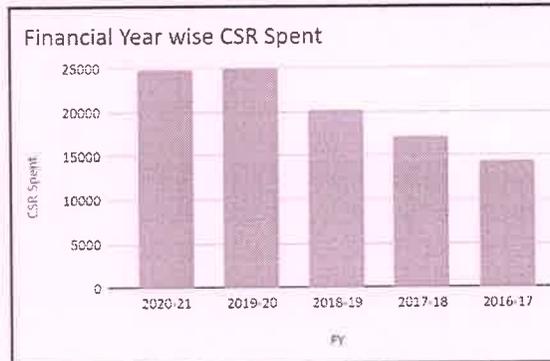
n it's perceived as land based water
construction is a very costly affair, India
ted a movement namely Mission Amrit
t was declared on 24th April 2022. The
aims at developing and rejuvenating 75
ies in each district of the country as a part
tion of Azadi ka Amrit Mahotsav.

heless, in India, there is intense competition
ter available in the inter state rivers such as
rishna, Godavari, Vamsadhara, Mandovi,
s-Sutlez, Narmada, Tapti, Mahanadi, etc.
e riparian states of India in the absence of
gmentation from the water surplus rivers
Brahmaputra, Himalayan tributaries of
d west flowing coastal rivers of western
ere is competition for water resources of
tate rivers except the main Brahmaputra
ng the riparian states of India. Also the
ng countries like Bangladesh, Bhutan,
pal, Pakistan have competition with India
There are treaties and agreements on water
id cooperation.

ery interesting note was from Lucio
. He says Ethiopia and Egypt are edging
water war, but too little water is not the
blem, as it is among the most recyclable
s in the world. The real issue is too much
a Level rise (SLR), which will affect
of million people in just a few decades. We
likely have wars due to that, and focusing
ecological issues, while not wrong, is at

The Corporate Social Responsibility (CSR)
concept in India is governed by Section
135 of the Companies Act, 2013, Schedule VII of
the Act and Companies (CSR Policy) Rules, 2014
wherein the criteria has been provided for assessing
the CSR eligibility of a company, Implementation
and Reporting of their CSR Policies.

According to CAClubIndia.com CSR is
nowhere defined in Companies Act, 2013, but as per
Rule 2(1) (d) of the CSR Rules "Corporate Social
Responsibility" means the activities undertaken
by a Company in pursuance of its statutory
obligation laid down in section 135 of the Act in
accordance with the provisions contained in these
rules. However, there are exclusions, namely:
(1) Activities undertaken in pursuance of normal
course of business of the company; (2) Any activity
undertaken by the company outside India except
for training of Indian sports personnel representing
any State or Union territory at national level or
India at international level; (3) Contribution of any
amount directly or indirectly to any political party
under section 182 of the Act; activities benefiting



employees of the company as defined in clause (k)
of section 2 of the Code on Wages, 2019 (29 of
2019); (4) activities supported by the companies on
sponsorship basis for deriving marketing benefits
for its products or services; (5) activities carried
out for fulfillment of any other statutory obligations
under any law in force in India.

As per the provisions of 135(1) of the
Companies Act, 2013 CSR provisions shall be
applicable to a company having either net worth
of Rs. 500 Crore or more, or Turnover of Rs. 1000
Crore or more, or Net profit of Rs. 5 Crore as
calculated in accordance with section 198, during
immediately preceding financial year.

The provisions of 135(5) of the Companies
Act, 2013 mandates companies falling under CSR
regulations, need to spend at least two per cent
(2%) of the average net profits earned during the
three immediately preceding financial years on
CSR activities specified in Schedule VII of the Act.

Companies (Corporate Social Responsibility
Policy) Rules, 2014 came into force from the 1st
day of April, 2014. Rule 6 deliberates on CSR
Policy to be devised by a company. It should
include (a) a list of CSR projects or programs
which a company plans to undertake falling
within the purview of the Schedule VII of the Act,
specifying modalities of execution of such project
or programs and implementation schedules for the
same; and (b) monitoring process of such projects
or programs. The CSR activities must not include
the activities undertaken in pursuance of normal
course of business of a company.

A report shared by CorporateCases shows as on
31st March 2021, there were 21,51,349 registered
companies in India. Out of these 12,44,857

Activities which may be in their CSR Policies

- Activities relating to:—
- (i) eradicating extreme hunger and
 - (ii) promotion of education;
 - (iii) promoting gender equality and women;
 - (iv) reducing child mortality and im health;
 - (v) combating human immunodeficient acquired immune deficiency syndrome and other diseases;
 - (vi) ensuring environmental sustain
 - (vii) employment enhancing vocat
 - (viii) social business projects;
 - (ix) contribution to the Prime Minist Relief Fund or any other fund set u Government or the State Governm
 - conomic development and relief a
 - welfare of the Scheduled Castes, t
 - Tribes, other backward classes, mi
 - women; and
 - (x) such other matters as may be p

FY 2020-21 the number of compa
25.13% as compared to the previc
fall was 9.5% in FY 2019-20 as
2018-19.

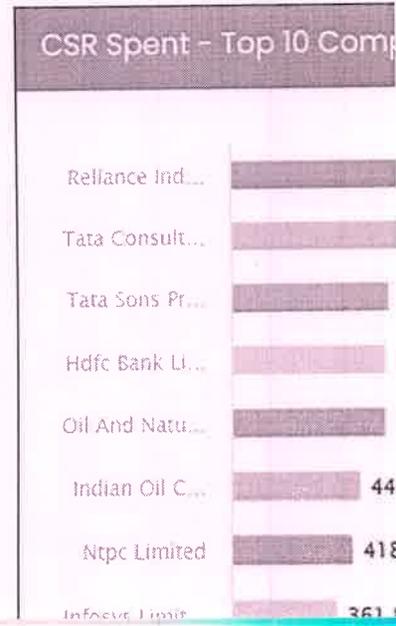
However, the CSR spending
mere 0.105% during FY 2020-21
FY 2019-20. The amount of CS
increased in the last five years fro
Crore during FY 2016-17 to Rs.
during FY 2020-21. Except for a
in the FY ending 31st March 20
years, the CSR spending has swell

Public Sector Undertakings (I
only 18%. Remaining was by the

Reliance Industries tops the l
Crore spent on CSR, followed b
Crore, Tata Sons Rs. 545.83 Cro
was in 4th place, while ONGC an
in 5th and 6th position in terms o
None of the Adani group comp
traced in the top 10.

Maharashtra, which has the m
of industries, got the maximum sha
Maharashtra got Rs. 3306.72 Cro
Gujarat Rs. 1397.26 Crore, Karna
Crore, Tamil Nadu Rs. 1082.33
Pradesh Rs. 826.67 Crore CSR
during FY 2020-21.

During FY 2020-21, He
attracted maximum CSR spendin
developmental sectors, followed b
6946.75 Crore was spent in the He
while the Education sector fetc
Crore. There was an increase of ab
funding in Health Care, while ther
of above 12% in the educatio
Funding to Environmental Sust
and Agroforestry fell by almost 49
respectively. The Safe Drinking V
saw a reduction of CSR funding b
However, CSR spending swelled
in the Animal Welfare sector and
Clean Ganga Fund.



Environmental Activist Varun Gulati raised issue of illegal sand mining in the river bed of a Yamuna Tributary in Gwalior

Enviro Annotations
sk.Mishra.ea@gmail.com

Nations Environment (NEP) describes sand as used resource worldwide critical to economic development to produce concrete infrastructure ranging from roads to hospitals. By its destruction and breeding grounds and fauna, sand also plays a role in supporting biodiversity, and plants that act as carbon sinks. The resource will be depleted faster than it can be replenished, so its responsible use is crucial.

It is estimated that 50 billion tons of sand are used annually to build a wall 27 metres high around planet Earth. Its extraction and use is a major environmental concern.

Environmental Activist Varun Gulati raised the issue of illegal sand mining in the river bed of River Sindh, a Tributary of River Yamuna, in district Gwalior, Madhya Pradesh. In his Original Application No. 03/2022(CZ) against the Union of India and Others, he sought justice from the National Green Tribunal

In addition to destruction of rivers ecosystem and disruption of environmental services to riparian communities, the illegal and unsustainable sand mining practices in India have also been causing avoidable violence and accidents resulting in scores of human deaths and injuries on annual basis. However, there is no comprehensive picture emerging on this man made disaster. To fill the gap, SANDRP has been trying to compile available information on human toll from river bed mining activities across the country since the last few years.

The Government of India, Ministry of Environment, Forest and Climate Change has formulated "Sustainable Sand Mining Management Guideline-2016", "Enforcement & Monitoring Guidelines for Sand Mining" and "Enforcement & Monitoring Guidelines for Sand Mining-2020". Nevertheless, the contentious issues of illegal sand mining prevailing across the country.

Environmental Activist Varun Gulati has raised the issue of illegal sand mining in the river bed of River Sindh, a Tributary of River Yamuna, in district Gwalior, Madhya Pradesh. In his Original Application No. 03/2022(CZ) against the Union of India and Others, he sought justice from the National Green Tribunal

(NGT) against the unscientific matter of sand mining. He filed his application on 13th January 2022 with Advocate Mansi Chahal. The NGT Central Zone Bench at Bhopal found it as "A substantial issue of environment has been raised". Since the date of filing, the NGT Central Bench has conducted six hearings. The NGT Bench also constituted a Joint Committee consisting District Magistrate/Collector, Gwalior and a representative from Madhya Pradesh Pollution Control Board. The committee was directed to visit the place and submit the factual and action taken report. Recently, the Joint Committee has submitted a report comprising 447 pages.

Out of 14 villages and ghats situated on river Sindh, inspected by the Joint Committee, 3 were found to be without Environmental Clearance and Consent to Operate. At several sites there were marks of sand excavation found. The joint committee also reported underwater mining by use of the Pandubby system observed at 1 site and at 4 sites use of earth moving machinery for sand mining from illegal sites. The joint committee however failed to assess the depth of sand mining inside the river since the river bed is submerged. It was also reported that the Pandubby was destroyed at site. Further, 11 check posts and 3 Flying Squads have

been constituted for to stop illegal sand transport.

As UNEP 20 Recommendations and mapping, monitoring and sand resources for trans based and data-driven it's necessary to inculcate Further, promotion of res and circularity by redu sand, substituting with vi and recycling products when possible would res the environment. Unlike mineral materials, sand recyclable countless tim its applications without Moreover, there are vario naturally occurring sand. and Demolition Waste c than 80% inert material recycled as long as the ha inert waste materials are inert material during d Construction and Demol feedstock to produce recy With NGT insisting on cr Environmental Plans, c greater role in finding loc the help of national and g and appropriate implem solutions.

Advisory Committee recommends OMDC approval, seeks clarity from Telangana Govt on Mining Lease Renewal

Enviro Annotations
sk.Mishra.ea@gmail.com

The Forest Advisory Committee (FAC) of Environment, Forest and Climate Change, in its 1st August 2022 okayed the proposal for Forest Clearance co-terminus with the extended period for Belakundi Iron & Manganese Mines (M/S) OMDC Ltd. The Government of Telangana in December 2021 had submitted a proposal for renewal of forest clearance to make it co-terminus with the validity of lease granted under the MMDR Act, 1987. The State for a period expiring on 15th August 2022. The total area of mining lease is 1276.79 ha. The FAC has recommended on the basis of 3 conditions: (1) The State Government should provide for penal compensatory afforestation within the next financial year (2) The State Government has to

ensure that proper protection measures are implemented in the area afforested in lieu of forest land diverted to check felling of trees and local biotic pressure and (3) creation of additional Forest Ranges in the Division to protect the good quality sal forest in the total area of the Division is 6267 sq. km. The Committee has also asked the Odisha Government to fill up all the vacant posts of RFOs and forest Guards should be filled up on urgent basis. Deliberating on the application of Singareni Collieries Company Limited for 2nd Renewal of Indaram Mining Lease over 929.29 ha. of forest land, the Committee noted that the proposal lacks clarity. It has advised Government of Telangana that forest area overlapping in the underground and opencast mines needs to be worked out and forest area proposed for renewal in the extant proposal may accordingly be rationalized. The FAC has also sought a relook on the compliance status of conditions laid down in the existing forest clearance.

Thursday-Wednesday Hebdomadal AQI Data Analysis

Davanagere goes least polluted, AQI 14 in 6 days, while Delhi and Kolkata record highest AQI

Enviro Annotations
amar.Pratap.ea@gmail.com

EA brings out Thursday - Wednesday Hebdomadal monthly reports on air quality. The Quality Index (AQI) are based on the National Control Board (CPCB) data. Analysis between 18th and 24th August 2022 shows that 9 cities were received from various cities, against 19 as compared to 150 during the previous

last seven days, average number of Good AQI rose from 64 from previous 75, Satisfactory AQI rose up to 70 from 68, while Moderate AQI

National Capital Regional (NCR) in 1 of the 7 days. Daily maximum AQI was recorded on 2 days in Punjab's Mandi Gobindgarh and Purnia in Bihar. Other cities with daily maximum AQI value are - Ambala, Faridabad, and Saharsa. The lowest AQI was in the range of 12 - 20. The lowest AQI of the period was recorded to be 14 in Davanagere. The city registered the lowest daily AQI in 6 days. Aizawl and Gummidiipoondi also found to be hitting the lowest daily AQI value for one day each.

Among the four metro cities, the maximum daily AQI was found to be 114 in Delhi, followed by 90 in Kolkata, 69 in Chennai and 58 in Mumbai. The 7-day average AQI rose from 73 to 83 in Delhi, and from 45 to 54 in Kolkata. It went down in Mumbai (55) and Chennai (57). However, Kolkata recorded the lowest 7-day average.



EA brings out Q & A as and we are received from various sources for clarifications.

Q1: Does an MSME in withdrawing less than 10 KLD get NOC from CGWA?

Answer: As per S.O. 3289(E) September 2020 issued by Central Authority, Department of Water River Development and Ganga Ministry Of Jal Shakti the Micro Enterprises drawing groundwater less than 10 kiloliter per day are exempted No Objection Certificate. However, small Enterprises need to apply for only. Application for such register submitted to the concerned State authority. In absence of such a should get in touch with District Authority for appropriate guidance.

Q2: We have a manufacturing unit operating from an industrial area. If sewage is used for watering green spaces, how to calculate the water pollution load part C of the Form V?

Answer: Yes. Though the treatment is not discharged outside industry premises, it is discharged onto the land. So, there is a need to calculate the water pollution load.

Q3: Is it necessary to provide for Battery Waste in the Form V?

o Annotations
tap.ea@gmail.com

The Indian Institute of Chapter is organizing the International Conference (MMMM2022) during 22 at Hall No. 5, Pragati Vihar. The theme of this is "Resource Efficiency in Mineral & Metal Industry". The conference aims to identify ways to promote circular economy, minimize dependency on natural virgin ore and prepare strategies and approaches for the

metal industry to evolve environmentally friendly, cost-effective, energy efficient strategies, policies and practices. The metal sector is considered as a "hard to abate" sector due to large greenhouse gas (GHG) emission and lack of availability of technological options to combat the same. This can be addressed by adopting the principle of circular economy as energy requirement in recycling is reduced by 70-90%. Adoption of circular measures based on relevant technologies can contribute to creating a sustainable metal sector adopting the 6Rs principles of reduce, recycle, reuse, recover, redesign, and remanufacture for a robust circular economy.

Steel is regarded as the backbone of the economy and non-ferrous metals, such as aluminium, copper, zinc and lead are widely used in power transmission, electrical appliances, aviation and other industrial applications. India has sizable reserves of iron, aluminium, copper, zinc, lead, chromium, manganese, etc. Both ferrous and non-ferrous metal industries play an important role in the country's economic growth. Many leading experts, scientists, technologists representing the metal and mineral industries in the country and abroad will be participating in the Conference. The Conference will provide a platform to

discuss latest trends and its place in areas such as re-utilization of lean grade of slag and co-product environment, decarbonization of metal production. Along with the Conference, an Exhibition in association with Hyve with participation of national and international organizations other exhibitions on Cutting equipment, Machine Tool Engineering and Manu Tools and Fastner is also of the exhibition.

Delhi Government Winter Plan to curb air pollution

o Annotations
ra.ea@gmail.com

The Delhi Government has announced its winter action plan under the leadership of Minister Gopal Rai, officials from the Delhi Environment Committee, as well as Forest and Development Dept. Delhi Govt. The plan is to address the issue of pollution in the coming winters. Environment Minister Rai has said that the government's action plan will be to break the cycle of pollution. The plan's focal points are to analyze the same and make it a topic of discussion at the government will work on the coming days. The

Delhi Government will launch many campaigns to reduce pollution on the basis of this. The Minister further said, "In the 25th August meeting we will review what the agencies have done over the previous year to reduce pollution, the amount of Green App complaints received, and which departments responded quickly to those complaints. At this meeting, we'll also review everything that happened during and after the previous winter season. Based on this, the Winter Action Plan will be finalised." Gopal Rai also underlined several factors including dust, vehicle pollution, and stubble burning contributing to it, Delhi-NCR may experience a considerable increase in air pollution throughout the winter. He informed that various campaigns shall be launched through the Winter Action Plan to involve and educate Delhi residents to get rid of pollution.

Govt to fund MAHAPREIT for Energy Projects

o Annotations
vari.ea@gmail.com

Indian Renewable Energy Development Agency Ltd. (IREDA) has signed a MoU with Mahatma Phule Renewable Energy and Infrastructure Development (MAHAPREIT) on 21st August. MAHAPREIT is a wholly owned subsidiary of MPBCDC 49% of India and 51% owned by Maharashtra. As per the MoU, IREDA will provide financing facilities to MAHAPREIT for the Renewable Energy projects implemented for state and the infrastructure Energy Parks. The MoU was signed by Mr. Pradip Chakrabarti, Chairman & Managing Director, IREDA and Mr. Bipin Chandra, Chairman, MAHAPREIT. Under the MoU, IREDA will also provide financial due diligence and Energy

Efficiency & Conservation projects for MAHAPREIT. Expressing pleasure on the occasion, CMD said that IREDA will offer techno-financial expertise to MAHAPREIT for the sustainable development of Maharashtra. Through this kind of collaboration, IREDA will be able to support the Govt. of India in achieving targets of 50% share of energy from non-fossil fuels by 2030. IREDA established a specialised Business Development and Consultancy division two years ago to meet the growing demand in the Renewable Energy sector. This is the ninth MoU inked by IREDA in the last two years to provide consultation services for the sustainable development of the country. SJVN, NHPC, TANGEDCO, NEEPCO, BVFCL, THDCIL, GSL, and CIPET have signed MoUs with IREDA to enhance their techno-financial expertise for green energy projects and IREDA has already started work on most of the MoUs.

Scindia calls upon Indian and Mineral Industry for 3 CO₂ emission cut by 2030

o Annotations
Samar.Pratap.ea@gmail.com

New Delhi: Union Minister of Civil Aviation and Steel, Jyotiraditya M Scindia, on Tuesday called upon India's mines and mineral industry to reduce carbon emission by 30-40 per cent by the year 2030 to enable India make an impact globally for its growth, expansion and exports. Addressing the two-day conference 'Indian Minerals & Metals Industry: Transition Towards 2030 & Vision 2047', organized in New Delhi, by NMDC in association with FICCI, the Minister emphasized that the industry will grow at the rate of 7-8 per cent and is critical to streamline its production processes to make India globally competitive and impactful particularly in view of emerging global challenges. Mr. Scindia asserted that we need to promote Made in India. "While we look at branding through our companies, we must also look at branding the mother brand 'Made in India' and that mother brand must be associated with the highest quality of product," he added.

Parliamentary Affairs, Pr "Government has introduced a sharing model as per which a rebate is entailed on revenue production of minerals." Act was amended to allow a mining lease of limestone bauxite blocks having depth of exploration instead of G2 level exploration. Full composite license for all at G4 level of exploration mandated G3 level exploration blocks of various major minerals successfully auctioned in. In the present fiscal, the auctioned 36 mineral blocks last fiscal the total revenue auctioned mines is more Cr. The mineral and metal need to adopt sustainable to bring sustainability, it the Indian mineral and adopt best practices available increasing productivity added. Leading industrialists world renowned associations steel, minerals and mining take part in the two-day c

Union Minister of Mines, Coal and

Govt. seeks applications 4th Round of Accreditation Groundwater Professionals

o Annotations
Komal.Tiwari.ea@gmail.com

New Delhi: Rajiv Gandhi National Ground Water Training & Research Institute (RGNWTRI), Naya Raipur, Chhattisgarh invites applications from willing and eligible individuals/institutions for accreditation of Ground Water Professionals, as per Accreditation Policy (December 2021) of Central Ground Water Authority, Corrigendum of Accreditation Policy dated 04.02.2022 and other subsequent notices. Such accredited consultants shall be responsible to prepare

an Impact Assessment Comprehensive Hydrogeology which are required for preparation of applications submitted Infrastructure Projects/Ministry to obtain NOC from CGWA. Interested applicants required to deposit the accreditation fees as Paragraph 5.7 of the Accreditation Policy for Ground Water Professionals, Bharat Kosh. Last date of application to be 5th September 2022. Examination of shortlisted candidates will be conducted tentatively in November 2022.

Thakur new MD at Mahindra Susten

o Annotations
atap.ea@gmail.com

Susten, part of the Reliance group and a leading player in the Indian energy sector, announced the

Solarize & Mahindra TEQO apart from Mahindra Susten. Prior to Mahindra, Deepak Thakur was Executive Vice President, Leader of Renewables & Energy Storage at the Reliance Group. He was part of the core group for building the strategic plan for the New Energy

Advertise with Enviro Annotations
Call at 9312491427 Advertisement Rates

Black & White	One Time Single Advertisement			Annual Plan Advertisement	
	Page 1	Page 3	Page 4	Page 1	Page 3
Full Page	-NA-	₹15,000	₹10,000	-NA-	-NA-

Item No. 04

Court No. 1

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

Original Application No. 32/2020

Varun

Applicant

Versus

Central Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 29.11.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondent(s): Mr. Rahul Khurana, Advocate for HSPCB & Haryana Water
Resources Authority
Mr. Gigi.C.George, Advocate for CGWA

ORDER

1. Issue for consideration is compliance of directions of the Hon'ble Supreme Court in MC Mehta v. UOI, (1997) 11 SCC 312 on the issue of regulating extraction of groundwater for commercial purposes, to the detriment of environment.

2. The main application alleged violation of environmental norms, including extraction of groundwater by 28 industries, respondents Nos. 4 to 32 herein, viz. Samarth Industries, Denimo Design Washing Pvt. Ltd., Jyoti Dhaga Udyog Pvt. Ltd., Nutex Knit Fab, Sonu Enterprises, Shivam Enterprises, Addingo Knit Creations, Magnet Industries, Vihan Textiles, Spectrum Washing, Oasis Tex Fab, Anand Knit, Denim Art, Supreme Fashions, Sidhi Vinayak Apparels, Denim Craze, Shadex Creations, Color Zone, M.S. Creations, Tabi Creations, Shivam Fab, M. K. Dyeing, Flora Dyeing House, Gee Aar Threads, Shri Sidhi Vinayak Tex Colour, Fine

Dyeing, New Garments, Generous Textiles and Modern Dyeing functioning at Barhi Industrial area in District Sonapat, Haryana.

3. The application was considered and disposed of vide order dated 05.03.2021 in the light of report of the State PCB dated 07.01.2021 with a direction that the State PCB may take remedial action for compliance of environmental norms with regard to discharge of effluents and groundwater extraction.

4. Execution Application No. 30/2021 was filed to the effect that compensation was initially assessed by the State PCB properly but the same was later waived for extraneous reasons. The compensation initially assessed was as follows:-

a.	<i>M/s. Shivam Enterprises</i>	:	₹74,88,000/-
b.	<i>Addingo Knit Creations</i>	:	₹8,67,24,000/-
c.	<i>Vihan Industries</i>	:	₹81,39,600/-
d.	<i>Spectrum Washing</i>	:	₹05,22,72,000/-
e.	<i>Anand Knit</i>	:	₹76,91,200/-
f.	<i>Shadex Creations</i>	:	₹15,17,30,400/-
g.	<i>Color Zone</i>	:	₹65,60,640/-
h.	<i>M.S. Creations</i>	:	₹2,86,07,040/-
i.	<i>Tabi Creations</i>	:	₹5,44,32,000/-
j.	<i>M.K. Dyeing</i>	:	₹1,22,40,000/-
k.	<i>Flora Deying House</i>	:	₹8,68,32,000/-
l.	<i>Shri Sidhi Vinayak Tex Color</i>	:	₹8,70,48,000/-
m.	<i>Fine Dyeing</i>	:	₹2,23,20,000/-
n.	<i>Denim Art</i>	:	₹60,48,640/-
o.	<i>M/s. Denimo Design</i>	:	₹05,70,240/-
p.	<i>Denim Craze</i>	:	₹04,05,41,520/-
q.	<i>New Garment</i>	:	₹03,18,05,400/-
r.	<i>Modern Dyeing</i>	:	₹17,89,17,120/-
s.	<i>M/s. Jyoti Dhaga Udhog</i>	:	₹38,88,000/-
t.	<i>Nutex Knit Fab</i>	:	₹73,44,000/-
u.	<i>Sonu Enterprises</i>	:	₹6,50,16,000/-
v.	<i>Generous Textile</i>	:	₹71,01,120/-
w.	<i>Sidhi Vinayak Apparel</i>	:	₹43,16,000/-
x.	<i>Supreme Fashion</i>	:	₹25,07,920/-”

5. Vide order dated 21.10.2021, the Tribunal issued notice to the State PCB to examine the allegations in the execution application.

6. Vide order dated 18.08.2022, reply of the State PCB dated 30.07.2022 was considered. The reply justified waiver on the ground that the units had been permitted withdrawal of water. Since this found unjustified having regard to the fact that the area was over exploited in terms of availability of ground water, it was held that waiver of compensation was uncalled for. It was further held that there was need to adjudicate upon the issue of validity of permissions and revisiting waiver based on such permissions in the light of mandate in the judgment of the Hon'ble Supreme Court in MC Mehta, supra.

7. Accordingly, order dated 05.03.2021 disposing of the OA was recalled and the OA was restored for consideration. CGWA and Haryana Water Resources Authority were impleaded as parties and notice was issued to them to enable them to explain how permission could be granted for extraction of groundwater in over exploited area.

8. Operative part of the order is reproduced below:-

“1&2.....xxx.....xxx.....xxx

3. Accordingly, the State PCB has filed its reply on 30.07.2022. It is stated that initially compensation was assessed by the State PCB on account of the violations of the units in question in the matter of extraction of ground water. **Against such assessment, representation dated 25.02.2021 was filed by Industrial Association, HSIIDC BARHI named as Barhi CETP Association before the Deputy Commissioner, Sonapat to the effect that they have already applied for NOC before 31.03.2020. The Deputy Commissioner sought response of the PCB and the Deputy Commissioner formed a Committee of Hydrologist, Rohtak & Regional Officer, HSPCB, Sonapat under the supervision of Additional Deputy Commissioner. The Committee held that units withdrawing ground water without valid NOC were liable to pay compensation but if they had applied for NOC before 31.03.2020, the compensation was not liable to be paid. “Haryana Water Resource Authority” (HWRA) was constituted for granting such permissions and time for filing applications was extended upto 22.12.2021. 21 units applied for permission before 31.03.2020 while five applied after 31.03.2020. Two units have been closed. The Committee held that those who applied for permission before 31.03.2020 may not be charged any compensation and those who have applied after**

31.03.2020 may be charged fixed compensation of Rs. 1 lakh, besides sealing the borewells of the units who applied after the last date. Out of 28 units, 25 have been granted NOC, the remaining three are lying closed. Monitoring of CETP has been done. As per joint inspection conducted on 04.01.2022, sample from discharging point of CETP was found to be non-compliant. Similar, non-compliance was seen on 24.03.2022 near plot no. 460, HSIIDC Barhi, Sonapat and final discharging point of CETP, HSIIDC Barhi into drain no. 6. Compensation has been levied for such violations.

4. Reply has also been filed by respondents (5, 6, 7, 8, 9, 10, 12, 13, 15, 18, 19, 20, 21, 22, 23, 25, 28, 29, 30, 31, 32) to the effect that the units in question applied for NOC within the timeline and NOCs had been granted. Thus, no compensation is liable to be paid.

5. We have heard learned Counsel for the parties. Contention of the applicant is that liability to pay compensation cannot be waived only on the ground that application for permissions are filed by any specified date and such permissions are later granted. Accountability has to be fixed for the past illegal extraction impacting environment when the area is ranked as 'over exploited' by the CGWA. Reference has been made to Annexure- R/4 to the report of the State PCB filed on 04.03.2021, which is a certificate of exemption for ground water withdrawal issued by the CGWA showing that the area in question is over exploited. The same is quoted below for ready reference:-

Government of India
Ministry of Jal Shakti
Department of Water Resources,
River Development & Ganga Rejuvenation
Central Ground Water Authority

Certificate of Exemption for Ground Water Withdrawal

Project Name	Oasis Texfab India		
Project Address	Plot No. 500 Hsiidc Phase II Barhi Sonipat		
Town:	Bari (4)	Block:	Ganaur
District:	Sonipat	State:	Haryana
Pin Code:			
Communication Address:	Plot NO. 500 Hsiidc Phase-ii Barhi Sonipat, Ganaur, Sonipat, Haryana - 131101		
Address of CGWB Regional Office :	Central Ground Water Board North Western Region, Bhujal Bhawan, Plot No. 3b Sector - 27-a, Chandigarh, Chandigarh- 160019		

1. Application No.: 21-4/3254/HR/IND/2020

2. Category: **Over Exploited**
(GWRE 2017)

3. Project Status: Existing Project

4. Valid From 31/12/2020

5. Ground Water Abstraction Permitted:

Fresh Water		Saline Water		Dewatering		Total	
m3/day	m3/year	m3/day	m3/year	m3/day	m3/year	m3/day	m3/ye
9.00							---

This is to certify that as per information furnished by the applicant, M/s OASIS TEXTFAB INDIA comes under Micro and Small Enterprises category and has ground water withdrawal of less than 10 cum/day. As per S.O. 3289(E) dated 24/09/2020 by Department Of Water Resources, River Development And Ganga Rejuvenation, Guidelines to regulate and control ground water extraction in India, 2020 Micro and small Enterprises drawing ground water less than 10 cum/day are exempted.

The firm is exempted from seeking NOC

This certificate is generated based on information provided by the applicant, CGWA has not verified the claim made by applicant. Any false information furnished by the applicant, shall invite legal action against him/her as per S.O. 3289(E) dated 24/09/2020.”

6. *The units in their reply have annexed Public Notices dated 17.06.2021 issued by the Ministry of Jal Shakti dated 15.10.2019, 26.10.2020 and 17.06.2021. As per Notice dated 15.10.2019, if NOC is not applied for, compensation is liable to be paid. As per Notice dated 26.10.2020, it is stated that in terms of Guidelines for regulation of ground water dated 24.09.2020, Micro and Small Enterprises (MSEs) drawing less than 10 KLD of ground water are exempted from NOC. Others have to pay ground water extraction charges except those exempted. Those who have obtained NOC will be eligible for rebate of 50% of the extraction charges. Digital water flow meters are to be installed. As per Notice dated 17.06.2021, there is provision that no compensation is liable to be paid in certain situations. The said provision is:*

“No Environmental Compensation shall be imposed on such users if the said report is submitted in the prescribed time. The Environmental Compensation already paid by the project proponents shall be adjusted in the Abstraction/restoration Charges of the unit for subsequent years.”

7. *It remains undisputed that the units did extract ground water without any permission for which compensation was assessed. Question is whether waiver of thereof is permissible on the ground of subsequent filing of application and grant of permission. We are prima facie of the opinion that once there was illegal extraction of ground water, damage to environment is required to be restored. It is not within the purview of CGWA to exempt liability to pay such compensation.*

8. *Present proceedings are for execution of order 05.03.2021 in Original Application No. 32/2021 whereby matter was disposed of in view of action taken by the State PCB, which has been later revised. Case of the execution- applicant is that there is no basis of revision while stand of the respondents is that basis is CGWA notices. However, there was no adjudication of validity of such notices of the CGWA in absence of which going into this question in execution proceedings may be inappropriate and proper course may be to restore the OA on that ground and then to go into the issue.*

9. At the time of concluding the hearing on 01.08.2022, we gave liberty to the parties to file written submissions. It is not necessary to express any final opinion on the said submissions as procedurally we consider adjudication of the issue may be after notice to necessary parties, who are not presently before us. The same may be gone into in the OA instead of in Execution Application. We propose to restore OA to original position for this purpose.

10. As already noted, the issue which has emerged in EA is validity of exemption from compensation and permission for extraction of groundwater in over exploited area. The said issue could not be finally gone into in view of the stand of the State PCB that remedial action had been taken which was later withdrawn.

11. The matter is primarily governed by judgment of the Hon'ble Supreme Court in M.C. Mehta v. Union of India & Ors. (1997) 11 SCC 312, wherein approach to be adopted to tackle the falling groundwater level was laid down. The Hon'ble Supreme Court observed that management of water resources has to be to achieve sustainable development goal which requires legal intervention based on the principle of inter and intra-generational equity. This further required constitution of a regulatory authority with the mandate of planning for sustainable water resource management, land use plans, including agricultural practices, human settlement patterns and industrial typology based on water supportive capacity, encouraging judicious use of water resources, reviewing groundwater level and adopting appropriate strategy, ensuring minimum e-flow in the rivers, appropriate reuse of treated sewage for agriculture or industrial processes, augmenting traditional water retaining structures, conserving wetlands, promoting rain water harvesting, arresting decline of snowline, protecting catchment areas, implementation of afforestation programmes and other measures.

12. The Tribunal considered the issue in the light of the said approach inter-alia vide order dated 20.07.2020 in OA No. 176/2015, Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors. The Tribunal referred to the constitution of CGWA and its working. It was noted that CGWA had failed to regulate drawl of groundwater even after mapping the water scarce areas as 'over exploited', 'critical' and 'semi-critical'. **The extraction of groundwater for commercial/industrial purposes was being allowed even in over exploited area where recharge was not taking place, defeating the 'sustainable development' principle. There was no effective regulatory framework to assess the extent of replenishment which was a condition for permitting extraction of groundwater. It was such failure that was resulting in further depletion of groundwater tables. Though there were provisions for rain water harvesting and other measures, the compliance of such policies remained a challenge. Mechanical imposition of conditions which were never monitored was another failure due to which depletion of groundwater could not be checked. Liberalized extraction of ground water for commercial purposes in 'over exploited' areas without ensuring replenishment was not conducive to sustainable development and defeated the directions of the Hon'ble Supreme Court. No**

*adequate compensation was recovered for illegal extraction of groundwater. Liberalized policies encouraged violations. Result was further scarcity of drinking water. The Tribunal constituted a Committee to study measures to prevent depletion of groundwater and to check unauthorized extraction and mechanism to deal with the violators sternly. It was, however, noted with disappointment that there was no satisfactory plan to control depletion of groundwater or to discourage the violations of laid down norms. There was practically no monitoring of compliance. The core issues the Tribunal considered included absence of institutional monitoring mechanism, study of impact in the light of projected data for next few decades and effective plan for preventing depletion and unauthorized extraction of groundwater. It was observed that permitting extraction of groundwater required appraisal of availability, justification and extent of groundwater which could be allowed to be extracted and conditions subject to which such extraction could be allowed. It was held that in view of principles laid down in *Vellore Citizen's Welfare Forum v. Union of India & Ors.* (1996) 5 SCC 647,¹ *Pubic Trust Doctrine* laid down in *M.C. Mehta v. Kamal Nath & Ors.*² (1997) 1 SCC 388, *sustainable development principle* laid down in *A.P. Pollution Control Board II v. Prof. M.V. Nayudu (Retd.) & Ors.*³, (2001) 2 SCC 62, *no exemption could be granted from accountability being fixed for illegally extraction of groundwater. The Tribunal also noted that deep underground water belongs to the State as laid down in (2004) 10 SCC 201, State of W.B. v. Kesoram Industries Ltd. & Ors. and illegal extraction of water was amounted to theft under Section 379/425 IPC as held by Madras High Court in judgment dated 03.10.2018 in M/S. Sarooja Agro Foods v. The Chief Engineer. The Tribunal accordingly issued following directions:**

“xxx.....xxx.....xxx

39. In the light of the above discussion, we direct as follows:

- a. MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure **sustainable ground water management** in terms of the Hon'ble Supreme Court mandate by which CGWA was created.
- b. Let CGWA and MoJS comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas. **Regard must be had to water availability and safe levels to which its drawal can be allowed, especially for commercial purposes, based on available and assessed data in each "Assessment**

¹ ¶ 11 to 15

² ¶ 25 & 34

³ ¶ 44

unit”. Procedures for assessment of individual applications and institutional mechanism may be clearly laid down.

- c. As per orders dated 3.1.2019, undertaking an impact study in light of projected data for the next 50 years (in phased manner with action plan decade-wise).
- d. There must be **no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee.** Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents’ cost. **An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission.** Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime. Records must be maintained online and for a sufficient and reasonable time.
- e. As observed in para **Error! Reference source not found.(a)** and **Error! Reference source not found.(a)** above, **all OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Over-exploited blocks. The Water Management Plans, data on water availability or scarcity and policy of CGWA must be uploaded on its website for transparency and public involvement. Such exercise may be done expeditiously, preferably within next three months.”**

13. **It is a matter of regret that inspite of the said judgment which attained finality, the situation remained unchecked and a fresh notification dated 24.09.2020 was issued purporting to regulate and control groundwater abstraction but in substance further liberalizing the same, encouraging illegal extraction of groundwater.** The Tribunal vide judgment dated 25.02.2020, in OA No. 69/2020, Sushil Bhatt vs. Moon Beverages Ltd. & Ors. dealt with the issue in continuation of the earlier proceedings and directions. It was observed:

“xxxxxx.....xxx

269. Unfortunately, **Guidelines 2020**, though have sought to meet some of the infirmities, pointed out by Tribunal, but the crucial infirmities, irregularities and the areas uncovered in the earlier Guidelines, pointed out by Tribunal in various orders, still have not been taken care. Guidelines 2020 suffers the same shortcomings, causing constant depletion of ground water level across the country, including State of UP, and in particular, district Gautam Buddha Nagar and Ghaziabad where units of PP-1 to 3 are located.

270. CGWB, MOWR,RD&RR, has published '**GROUND WATER YEAR BOOK UTTAR PRADESH (2019-2020)** in April 2021. It is said therein that declining trend is observed in 72.30% of the monitoring wells (556) covering ten years period. Decline of 0-20cm/yr. is commonly observed in 43.30% wells followed by 20-40cm/yr. in 16.64% >40cm/yr. in 12.35%. The low decline is spread all over the State but dominant in eastern and central parts and along Terai belt of the state. Higher decline occurs in most of the districts of western and southern regions. This is pre-monsoon DWL Trend. Post- monsoon DWL Trend is also not very encouraging. There is declining trend in 66.78% of the monitoring wells over 10 years period. Decline of 0-20cm/yr. is mostly observed in 34.39% wells followed by 20-40cm/yr. in 17.13% wells and more than 40cm/yr. is found in 15.24% wells. Higher decline is mostly in western, north western and southern parts and along Yamuna River.

271. In view of the above facts, we have no manner of doubt that CGWA though possesses powers to regulate ground water by taking all appropriate steps, but unfortunately, it has failed. Deprecation by Tribunal, repeatedly, has also not caused any impact or impression upon CGWA and it has continued in its attitude of defiance, for the reasons best known to it. We hold that neither CGWA has functioned as desired by order of Supreme Court in **M.C.Mehta vs UoI (supra)** nor the directions and guidelines issued by it were/are consistent with EP Act 1986. Instead of protection and preservation of ground water table, CGWA is more interested in allowing charitably abstraction of ground water even in stressed areas without study of water audit, without having IAR, without examining carrying capacity and other relevant factors.”

14. We note that the judgment of this Tribunal dated 25.02.2022 has been stayed by the Hon'ble Supreme Court vide order dated 19.05.2022 in Civil Appeal No(s). 2901/2022, Moon Beverages Limited & Anr. vs. Sushil Bhatt & Ors.

15. **The fact remains that the issue of validity of exemption from liability for illegal extraction of groundwater remains to be addressed in the present matter.**

16. **Even if CGWA notices are alleged to be illegal, independent adjudication thereof may be the appropriate course instead of execution of order which does not specifically adjudicate on the issue. CGWA is also required to be impleaded.**

17. Accordingly, Original Application No. 32/2020 which was disposed of in view of levy of compensation which has been later revised, will stand restored for adjudicating the validity of course of action adopted in reducing the compensation after disposal of the matter by this Tribunal and grant of permission for extraction of groundwater in over exploited area. Order dated 05.03.2021 disposing of the OA is recalled. The applicant is also given liberty to amend the petition and file amended and updated petition within two weeks. The applicant may serve the added parties. Response to amended petition may be filed within four weeks thereafter.

18. CGWA is impleaded as party and may be put to notice for its response, if any, for justification of waiving compensation for illegal extraction of groundwater merely on the ground that application for such permission has been later filed and also for permission to extract groundwater in over-exploited area without requisite safeguards. Haryana Water Resource Authority is also impleaded as party and notice may also be issued to it to consider the issue whether permission can be granted for extraction of groundwater in over-exploited area.

19. We note that on the one hand, potable water is being allowed to be used for industrial purposes, on the other hand, the sewage water which can be used for such purposes is being mixed with potable water in storm water drains and rivers resulting in contamination of potable water. Comprehensive water management strategy may require preventing pollution and use of potable water for industrial purposes. For this purpose, we find it necessary to implead as party and to issue notice to the Ministry of Jal Shakti (MoJS) for its response."

9. It is in above background that the OA has been listed for further consideration.

10. Learned counsel for the CGWA also submits that waiver of compensation was uncalled for and since the matter is now be dealt with by the Haryana Authority.

11. The Haryana Water Resources Authority has filed reply to the effect that it is functioning under the Haryana Water Resources (Conservation, Regulation and Management) Authority Act, 2020 and has issued guidelines dated 23.12.2020 which have been revised on 10.09.2021 to the effect that NOC cannot be granted in over exploited assessment units except in the category of Micro, Small and Medium Enterprises (MSME).

NOC only for drinking domestic use for work force can be granted. No NOC shall be granted to the new industries in over-exploited areas as the Authority is conscious about the groundwater conditions in the over exploited areas. Therefore, it is submitted that the permissions are not given to the new industries in over exploited areas.

12. Learned Counsel for the State PCB fairly states that it will revisit the waiver, following due process of law.

13. There is no appearance for the concerned industries or any other authority who were appearing on last date or who were impleaded and put to notice.

14. In view of the above, waiver of compensation needs to be recalled by the State PCB to give effect to the mandate of law laid down in MC Mehta, supra and waiver being clearly unjustified.

15. Let the issue be finalised preferably within three months, following due process of law.

The application stands disposed of.

Adarsh Kumar Goel, CP

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

November 29, 2022

O.A. No. 32/2020

A