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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

IN
OA. No. 03/2023

IN THE MATTER OF:

CAESAR SEN.

.....APPLICANTS

VERSUS

WEST BENGAL POLLUTION
CONTROL BOARD & ORS.

.....RESPONDENTS

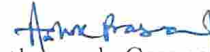
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(Mrinal Kanti Biswas)

Regional Director & Scientist E,
CPCB, Kolkata



Filed through Counsel

Dated: 11/07/2023, 2023

Place: Kolkata



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REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2 i.e.,
CENTRAL POLLUTION CONTROL BOARD

I, Mrinal Kanti Biswas, S/o Shri Saroj Kumar Biswas, aged about 41, by Religion - Hindu, by Occupation - Service, having office at the Regional Directorate, Central Pollution Control Board, 1582, Rajdanga Main Road, Kolkata-700107 do hereby solemnly affirm and declare as under:

1. That I am working as Scientist 'E' and Regional Director in the Central Pollution Control Board (hereinafter referred to as 'CPCB'), Regional Directorate Kolkata and have been authorized to file the present affidavit on behalf of the Respondent No. 02 i.e. the Member Secretary of CPCB. I am well conversant with the facts of the application from the records maintained by the offices of the CPCB hence, I am competent to swear this independent response on behalf of the CPCB.

2. That I have read and understood the contents of the present Reply Affidavit. The contents thereof are true and correct and nothing material has been concealed therefrom.



3. That the applicant under the present application highlights the running of a restaurant by the Respondent No.5 by releasing smoke onto the window and home of the present applicant and dumping of solid and liquid waste onto the common pathway on the street and thereby allegedly causing severe pollution of the environment and affecting the health and life of the applicant.
4. That it is humbly submitted that in compliance to an order dated 19.09.2019 passed by Hon'ble NGT, in the matter of *OA No. 400/2017 titled as Westend Green Farms Society Vs Union of India & Ors*, a "Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishments and the Area/ Cluster of Restaurants/ Hotels/ Motels/ Banquets etc" was prepared and submitted before the Hon'ble Tribunal by CPCB on the basis of information received from the State Pollution Control Boards (SPCB)/Pollution Control Committees (PCCs), technical inputs taken from CPCB inspection reports and relevant literature survey, guidelines/mechanisms for control of pollution and enforcement of environmental laws in marriage halls, banquets, etc.

Copy of the Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishments and the Area/ Cluster of Restaurants/ Hotels/ Motels/ Banquets etc prepared and submitted by CPCB is annexed herewith and marked as **Annexure R2-I**

5. That in reply to the averments made under Para 1 under Facts of the present Original application, is relating to the details of the present applicant and hence needs no comments from this Answering Respondent.



6. That in reply to the averments made under Paras 2 to 11, it is submitted that as per the above mentioned Mechanism/Guidelines, the Environment Protection (EP) Rules specify that in case of a restaurant with minimum seating capacity of 36 shall install Effluent Treatment Plan (ETP). Furthermore, the units shall properly channelize the fugitive emissions including emissions from cooking & kitchen operations by providing proper ducting / hood arrangement and proper exhaust system and emissions. The units shall properly handle, manage and dispose the solid waste generated and comply with the provisions of the Solid Waste Management Rules, 2016 and no waste generator shall throw, burn or bury the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.

7. That in reply to the averments made under Paras 12 to 14 of the Original Application, it is submitted that violation/non-compliance of stipulated conditions under Water Act, Air Act and Solid Waste Management Rules may lead to environmental degradation/pollution and therefore, such activities if occurring ought to be regulated by concerned State Agencies.

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No. 2 i.e. CPCB shall abide by any order or directions passed by this Hon'ble Tribunal.

Identified by me
[Signature]
 Advocate

[Signature]
 DEPONENT

Solemnly Affirm & Declared
 Before Me on Identification
 of Ld. Advocate

[Signature]
 SHYAM NARAYAN PANDEY
 NOTARY, GOVT. OF INDIA
 REGN. NO. 13824/2018
 11.06.2023



11 APR. 2023

VERIFICATION

I, Mrinal Kanti Biswas, the above-named deponent do hereby verify that, the contents of the above affidavit are true and correct to my knowledge based on official records, no part of it is false and nothing material has been concealed there from.

Signed and verified on this 11th Day of April, 2023 at Kolkata.

Mrinal Kanti Biswas
DEPONENT

Counsel for CPCB

Identified by me
Ashim Basu
ABV -



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Mechanism/Guidelines
for
Control of Pollution and Enforcement of Environment Norms
at
Individual Establishments and the Area/Cluster of Restaurants/Hotels/Motels/Banquets
etc.

Prepared by

Central Pollution Control Board
Pariviesh Bhawan, East Arjun Nagar, Delhi – 110032

(In compliance with the Hon'ble NGT Order dated 19.09.2019 in the matter of OA No. 400/2017 titled as Westend Green Farms Society Vs Union of India &Ors.)



Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishments and the Area/ Cluster of Restaurants/ Hotels/ Motels/ Banquets etc.

1.0 Background

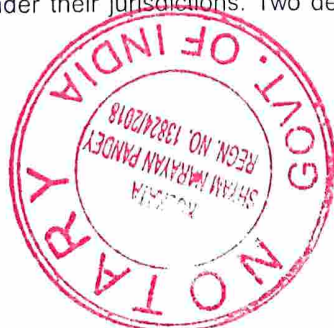
Hon'ble NGT vide Order dated 19.09.2019 in the matter of OA No. 400/2017 titled as Westend Green Farms Society Vs Union of India & Ors. stated that –

“12. There can be no dispute that violation of environment norms having adverse impact on environment and public health cannot be ignored. Apart from formalizing and enforcing the action plan reproduced above, the MoEF&CC may evolve appropriate siting guidelines as well as mechanism for undertaking impact assessment either of individual establishments or of the area/cluster to ensure that activities beyond carrying capacity of the area are duly regulated to enforce the 'Precautionary' principle as well as 'sustainable development'. The MoEF&CC may also review the reports which may be furnished by the CPCB in respect of progress made by the SPCBs/PCCs. We direct the MoEF&CC to entrust the responsibility of evolving mechanism for mitigation to the CPCB which is a statutory body under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 and/or any other expert/institution. It will be appreciated if the CPCB can lay down suitable guidelines for the regulation of such entities, within the framework of law. The guidelines must provide for coercive measures in case of violations and also a monitoring mechanism.”

Further, Hon'ble NGT, vide Order dated 17.12.2019 on the matter highlighted various practical issues and requirements like parking provisions, rain water harvesting system, installation of CCTV cameras, GPS systems and the likes (paras 20 & 21) for consideration and incorporation in CPCB's mechanism/guidelines et also passed the following relevant direction-

“22. (i). CPCB may finalize its draft guidelines dated 16.12.19 referred to in para 13 above in light of observations in paras 20 and 21 above and circulate the same to all the States/UTs within one month. The PCBs/PCCs may, in consultation/coordination with concerned State Authorities, adopt the same with necessary modifications but without diluting its essence and furnish status report about compliance to CPCB within three months but before 30.04.2020.”

In compliance with the above Order, Central Pollution Control Board (CPCB) approached all the State Pollution Control Boards/Pollution Control Committees (vide letter dated 24.10.2019, **Annexure-I**) requesting them to provide relevant information about operation and pollution control initiatives/policy (if any) adopted in case of marriage halls, banquets, restaurants and similar other venues of mass gatherings. Only three PCBs/PCCs namely Tamil Nadu State Pollution Control Board, Meghalaya State Pollution Control Board and Madhya Pradesh Pollution Control Board replied submitting limited data and information about marriage halls/banquets operating under their jurisdictions. Two detailed inspection reports prepared by



CPCB in connection with NGT O.A. No. 1008/2018 and O.A. No. 412/2018 were also available for reference. Based on information submitted by the SPCBs/PCCs, technical inputs taken from CPCB inspection reports and relevant literature survey, guidelines/mechanisms for control of pollution and enforcement of environmental laws in marriage halls, banquets, etc. has been prepared and presented below.

2.0 Major Environmental Issues related to marriage halls, banquet halls, party venues

With the paucity of space, marriage halls, banquet halls, party venues, etc., have now become a social necessity. Apart from marriages, these venues are also increasingly being used for celebrating birthdays, organizing religious functions, get-togethers and other events. Unlike the bigger star hotels doing business all throughout the year, marriage halls, banquets, party venues, etc. are essentially operated occasionally particularly during marriage seasons, religious festivals, etc. Party venues, including smaller and bigger ones, hold approximately 15 to 30 events per year. For hosting a single big event, these halls/venues generally remain operational for about 05 days (including 02 days before the event for preparations, the event-day and 02 days after the event for clearing and dismantling temporary fixtures/stages, etc.). All banquets and party halls may not have indigenous kitchens for cooking and serving foods. Banquets/party halls having no kitchens normally outsource cooking/food requirements to some outside caterers/agencies who cook/prepare foods at a different place and transport the same to the party halls/banquets for serving guests. Banquets/party halls having own kitchens/cooking arrangements may be more polluting than the ones having no kitchens of their own.

In general, marriage halls, party venues and the likes end up creating water pollution, air pollution, solid waste problems, noise pollution and also cause public inconveniences due to lack of adequate infrastructures like - vehicle parking space, proper waste collection and disposal systems, improper storage provisions etc. Following are the major environmental issues concerning marriage halls, banquets, party venues, etc. particularly identified after reviewing the available information/reports.

2.1 Water Pollution

Major sources of Water pollution include:

- Washing of utensils and food items
- Washing of kitchen floors
- Poor housekeeping
- Laundry (as applicable)
- Improper maintenance of connecting drains
- Sewage

Further, such party halls are also found to extract groundwater indiscriminately without taking proper permission from the concerned local authority. Lackluster attitude towards implementation of water conservation measures and adoption of rainwater harvesting provisions also results in large quantity of water consumption

2.2 Air Pollution



Major sources of Air pollution include:

- Kitchen: Inadequate exhaust treatment options like proper ducting, hooding, draft fans, etc. and use of conventional fuels
- DG Sets: Inadequate stack height and improper maintenance of DG sets,
- Bursting of fire crackers
- Coal fired tandoors
- Traffic congestion due to improper parking

2.3 Solid Waste Management

Source of solid waste include:

- Kitchen waste
- Plastic waste from Packaging and use of disposable plastic items such as cups, plates, glasses etc.
- Left over food items

Haphazard collection, storing and careless disposal of wastes are real concerns in case of such establishments.

2.4 Noise pollution

Major source of Noise pollution include:

- Loudspeakers and DJ music,
- Bursting of crackers,
- Operation of DG sets without having proper acoustic enclosures
- Traffic congestion due to improper parking

2.5 Infrastructure issues related to parking etc.

Most of the existing banquet halls are found to be adjacent to the main roads without having any indigenous parking facilities of their own. Therefore, during occasions, large numbers of cars/vehicles are parked on the main road thereby causing huge congestion and nuisance in the adjoining areas.

3.0 Mechanism/Guidelines/Mitigation measures

The mechanisms and options for control of pollution and enforcement of environmental laws with particular focus on the common environmental issues symptomatic to such establishments are outlined below.

3.1 Water Pollution

(i) Effluent Treatment Plant

- The units shall provide effluent/sewage treatment plant. Entire waste water generated from kitchen, laundry and domestic sewage should be treated in ETP.
- EP Rules specify effluent discharge norms for (A) Eateries/ restaurants along roadside having minimum seating capacity of 36 numbers & (B) Hotels. Details of same are as given below:



(A) Eateries/ restaurants along roadside having minimum seating capacity of 36 numbers.

A restaurant with minimum seating capacity of 36 shall install ETP and treated effluent water from ETP installed should meet existing Environmental Standard notified by the MoEF&CC vide GSR 794(E) dated 04.11.2009 and reproduced as under. The standard may be made stringent by concerned SPCB/PCCS.

Parameters	Effluent Standards (Limiting concentration in mg/l, except pH)	
	Inland surface water	On land for irrigation
pH	5.5-9.0	5.5-9.0
BOD _{3days, 27°C}	100	100
Total Suspended Solids	100	100
Oil & Grease	10	10

(B) Effluent discharge norms for hotels

Hotel type	Parameters	Effluent Standards (Limiting concentration in mg/l, except pH)	
		Inland surface water	On land for irrigation
Hotel with at least 20 bedrooms	pH	5.5-9.0	5.5-9.0
	BOD _{3 days, 27°C}	30	100
	Total Suspended Solids	50	100
	Oil & Grease	10	10
	Phosphate as P	1.0	-
Hotel with less than 20 bedrooms or a banquet hall with minimum floor area of 100 m ² or a restaurant with minimum seating capacity of 36	pH	5.5-9.0	5.5-9.0
	BOD _{3 days, 27°C}	100	100
	Total Suspended Solids	100	100
	Oil & Grease	10	10

Effluent from the unit shall comply with the above norms as applicable

- c) The units shall provide effluent treatment plant as proposed and maximize reuse of treated sewage in toilet flushing, floor washing, gardening and other non-potable purposes.
- d) The unit shall install water meters to record the daily consumption of water and separate electromagnetic flow meter at the inlet and outlet of effluent treatment plant to record actual flows on a daily basis.



- e) The unit shall install separate energy meters also to record the daily energy consumption of the effluent treatment plant on daily basis prior to completion of the project.
- f) The treated water has to be discharged as per conditions specified by the SPCBs/PCCs
- g) The quality of treated sewage and trade effluent should be analyzed regularly once in a month and report shall be furnished to SPCB/PCC. Moreover, SPCBs/PCCs are required to carry out surprise cross-checks.
- h) In case of bigger halls/star hotels with the capacity of hosting more than 500 people/guests, the halls shall install water meters to record daily consumption of water along with separate electromagnetic flow meters at the inlet and outlet of effluent treatment plants to record actual flows during events. The units having capacity of hosting less than 500 people/guests are required to install water meters only for recording consumption.
- i) Provisions/arrangements for utilizing treated wastewater for gardening and non-potable uses need to be done in case of all such units (smaller & bigger).
- j) The local authorities to ensure that necessary arrangement for collection and treatment of waste water generated from these units

(ii) Ground water extraction

- a) Necessary permissions should be obtained from concerned Authorities for extraction of groundwater.
- b) SPCB/ PCC to take action against units for unauthorized or illegal ground water extraction without proper permissions from concerned Authorities.
- c) Groundwater extraction pits/points should have required meters for recording flow/quantity of water extraction and the same shall be within the limit/quantity approved by the concerned Authority.

(iii) Water Conservation Measures

- a) Maximize reuse of treated water for non-potable purpose/gardening, etc.
- b) All the units shall furnish quarterly reports to the concerned SPCBs/PCCs showing quantity of water consumption (month-wise) and quality of treated water.
- c) Rain water harvesting systems must be installed by all units in consultation with the concerned Agency. Bigger hotels/halls need to make arrangements for both roof-top and ground-based harvesting of rain water. In case roof-top harvesting is not possible/viable, the smaller halls/venues having hosting capacity of less than 500 persons/guests should then go for ground-based/artificial storage systems, storage tanks and other similar arrangements.
- d) Along with bigger hotels, all marriage halls/venues need to use efficient fixtures such as low flow shower heads, bath, sink faucet aerators, low flow toilets etc.



3.2 Air Pollution

(i) Gensets and Fuel

- a) Units to use approved fuel (e.g. LPG, PNG, Charcoal for tandoor, boiler, etc.). Preference should be given to cleaner fuels in such cases
- b) The units shall properly channelize the fugitive emissions including emissions from cooking & kitchen operations by providing proper ducting / hood arrangement and proper exhaust system and emissions
- c) Only Gensets having necessary Type Approval for emissions/ Noise level from the concerned agencies to be installed at the premises
- d) The unit shall provide stack for the emissions from the generator as well as acoustic enclosure for Gensets as per the specified norms

(ii) Energy Conservation Measures

- a) Application of solar energy in various areas such as illumination, water heating should be promoted
- b) Use of inverters instead of Diesel Generator Sets to be encouraged
- c) Use of LED bulbs should be adopted

(iii) Consent to establish and Consent to operate

- a) As per the Water Act 1974 and Air Act 1981 units obtain Consent to Establish (NOC) before commencement of the construction activities and Consent to Operate (CTO) before starting operation of the Units (individual establishments and the area/ cluster of restaurants/ hotels/ motels/ banquets etc.) from the concerned SPCB/PCC.
- b) Further, the SPCB/PCC to direct the defaulting units for paying environmental compensation for damaging the environment considering their operations despite being non-compliant.
- c) The SPCB/PCC may workout and assess the amount of environmental compensation in-line with the mechanism for charging environmental compensation as evolved by the CPCB.

3.3 Solid Waste Management

- (a) The units shall properly handle, manage and dispose the solid waste generated and comply with the provisions of the Solid Waste Management Rules, 2016.
- (b) As per clause 3 (8) of the Solid Waste Management Rules, 2016, marriage halls generating waste of more than 100 kg/day fall under the category of 'Bulk Waste Generator' and should ensure compliance with the provisions of the Rules, and in specific the following::
 - 13(1)(d) Store horticulture waste and garden waste generated from such premises separately in within the own premises and
 -
 - 13 (2) No waste generator shall throw, burn or bury the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.



- 13 (8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.
- (c) The segregated food waste from the solid waste generated in the unit shall be treated in organic waste converter and the treated compost shall be used as manure.
- (d) The unit shall ensure that the hazardous waste (used oil, used batteries) generated in the premises are collected properly and disposed only to authorized recyclers registered with MoEF&CC/CPCB and valid operating license of SPCB/PCC.
- (e) The unit shall minimize use of disposable plastic on its premises and ensure its disposal through recyclers registered with SPCB/PCC for recycling plastic waste
- (f) *The concerned local authorities shall make necessary arrangement for collection and processing of waste from these units in accordance with provisions of SWM Rules*

3.4 Noise pollution

- (a) The unit shall obtain permission from designated authorities as per provisions of Noise Pollution (Regulation & Control) Rules, 2000.
- (b) The unit shall comply with provision of Noise Rules specifically Rule 5 and Rule 6 of the Noise Rules.
- (c) DJ Set, if used should be operated within the premises till 10 PM only. No loudspeakers and bands should be permitted beyond 10 PM.
- (d) D.G. sets shall comply with the provisions of Noise Pollution control limits.
- (e) Use of only green crackers to be permitted upto 10 PM as per Hon'ble Supreme Court Guidelines.

3.5 Infrastructure issues & Other Requirements

- (a) Infrastructure requirement

The units come up in a cluster leading to severe stress on basic infrastructure including traffic management, parking as well as pose a fire hazard etc. Accordingly the following to be complied with:

- (i) Parking facilities
- Adequate infrastructure arrangements may be made w.r.t parking in the area by Local Authorities. The parking capacity to be in line with the hosting capacity of such units.



- In areas where public parking is not commonly possible, banqueting area may be restricted and provision for parking to be made within the units' premises. Alternatively, the units may outsource parking to authorized parking lots subject to satisfaction of traffic authorities. Valet parking facilities may be provided in such areas

(ii) Traffic movement

- The local authorities to ensure adequate space for movement of vehicles
- Since it has been observed that due to the use of horse drawn carriages during Barat Processions the traffic crawls due to narrowing of the Right of Way (ROW), to ban the use of such carriages should be banned in areas not having adequate space for movement of vehicles
- The use of DG sets kept on trucks/trolleys during the Barat Processions also causes air and noise pollution, apart from creating traffic congestion; hence, the use of DG sets during such processions needs to be prohibited in not having adequate space for movement of vehicles.
- Prior permission for such processions to be taken from local authorities

(iii) Fire safety

The units to make adequate arrangements for fire safety and obtain fire safety certificate from the respective State Government agencies

The units to take permission from the local authorities for the hosting capacity of such units ; which is to be commensurate with the facilities provided within the unit as well as the common infrastructure facilities of the area. Local Authorities to ensure adequacy of infrastructure facilities. for existing units before granting necessary permissions. In case it is not possible to provide these facilities required for existing units, such units may be shifted out of the area. Fresh approval to new units to be considered based on the adequacy of these facilities

- (b) Building plans to be approved by concerned authorities. Local Authorities to ensure that these units are operating in compliance with approved building plans and without any parking & traffic issues.
- (c) Bigger units/star hotels shall develop green belt on its premises and shall furnish the green belt development plan while applying for consent to operate

5.0 Conclusion

- a) Individual units to provide necessary facilities for control of air, water & noise pollution, solid waste management, etc as enumerated in the previous sections.
- b) Individual units to take necessary approvals from the concerned authorities as listed below:
 - Consent to Establish under Air/Water Act
 - Consent to operate under Air/Water Act
 - Permission for concerned Authorities in accordance with provisions of Noise Rules
 - Permission for Ground Water Extraction from concerned Authorities , if required



- Building Plan Approval from concerned Authorities
 - Fire Safety Certificate/NoC from concerned Authorities
- c) Local Authorities to ensure provision of adequate common facilities for water pollution, solid waste management, parking etc
- d) The State Board to have robust monitoring mechanism to evaluate compliance with norms of such units atleast twice a year. As per NGT Directions, SPCBs/PCCs are required to submit compliance report to CPCB as per the enclosed format (Annexure I)
- X-----

