

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN BENCH) PUNE**

Appeal No. 34/2021

In the matter of:

M/s. Phoenix Park Inn

...Appellant

Versus

Goa State Pollution Control Board

...Respondent

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT GOA
STATE POLLUTION CONTROL BOARD (GSPCB)**

I, Dr. Shamila Monteiro, daughter of Shri. Augusto Monteiro aged about 50 years, Indian National, residing at House No. 5, Uttam Darshan, Opp. Sai Baba Temple, Kadamba Plateau, Chimbhel, Tiswadi –Goa, do hereby solemn affirmation, state and submit as under:

1. I am presently working as the Member Secretary, Goa State Pollution Control Board, and the Respondent herein. I have been authorised to file the present Affidavit in reply on behalf of the Respondent.
2. The Respondent has received a notice issued by this Hon'ble Tribunal in the above matter returnable on 08.10.2021 along with memo of appeal and documents annexed thereto and are filing its response by way of this reply.
3. That the Respondent Board is filing the present reply affidavit to the Appeal instead of a paragraph wise reply and craves liberty of this Hon'ble Tribunal to file a detailed further affidavit if so required or as directed by this Hon'ble Tribunal.

4. That the Respondent Board had issued the Appellants Hotel unit Consent to Operate under section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974, vide order dated 16-08-2020 which was valid upto six months from the date of issue.

5. That condition no. 3(x) of the aforesaid Consent Order stipulates as follows:

3(x) – The hotel industry should maintain and operate machinery/equipment/facility for converting bio degradable/organic waste generated from the hotel to compost so as to meet the standard for compost prescribed in the Solid Waste Management Rules, 2016.

Annexed herewith and marked as EXHIBIT R-1 is a copy of the Consent to Operate order dated 16.08.2020.

6. That the Consent to Operate order dated 16.08.2020 issued to the Appellant by this Respondent Board has expired on 16.02.2021 and the Appellant has submitted an application for Renewal of the said Consent to Operate to the said Respondent Board on 14/02/2021.

That presently the hotel unit of the Appellant does not possess valid Consent of the Board as required under the Water Act.

7. The issue of collection, transportation and treatment of waste generated in the State of Goa is otherwise subjudice before the Hon'ble High Court of Bombay at Goa in Suo Motu Writ Petition No.2/2007. The Hon'ble High Court from time to time has issued directions to this Respondent and other statutory bodies in this regard.

8. The Hon'ble High Court from time to time issued orders and directions to this Respondent to take appropriate steps to ensure

installation and operation of composting facilities within the units premises that generates more than 100 kg of solid waste per day.

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9. That in this regard the Respondent Board through its officials had conducted site inspections of the Appellant Unit on 19.01.2021 for verification of the installation and operation of the Organic Waste Treatment/Disposal facility by the unit. During the course of the said inspection it was observed that the Appellant's organic waste composter was not in operation. **Annexed herewith and marked as EXHIBIT R-2 is a copy of the Report of inspection conducted on 19.01.2021.**

 10. The Hon'ble High Court vide its order dated 04.03.2020, had directed this Respondent to take appropriate action against the Hotel units that are found to have not installed/operated such Organic Waste Treatment/Disposal facility. **Annexed herewith and marked as EXHIBIT R-3 is a copy of order dated 04.03.2021 passed in Suo Motu Writ Petition No.2/2007.**

 11. Pursuant to the said inspection, the Respondent Board issued the Appellant Unit a Show Cause Notice dated 05.02.2021 directing it to Show Cause as to why a Penalty under the Polluter Pays Principle should not be levied against it for non-operation of the Organic Waste Composter. **Annexed herewith and marked as EXHIBIT R-4 is the copy of Show Cause Notice dated 05.02.2021**

 12. Thereafter the Respondent Board was in receipt of a reply from the Appellant Unit dated 11.02.2021, wherein the Appellant unit admitted that due to Covid-19 pandemic and low occupancy of the hotel, the wet waste generation was low, the composting machine was not in operation. **Annexed herewith and marked as EXHIBIT R-5 is the copy of reply dated 11.02.2021.**



13. The Board after considering the reply filed by the Appellant re-inspected the hotel unit on 10.03.2021 to verify the exact position of the composting facility. During the inspection the Appellant unit provided information to the inspecting Officer that the composting facility has commenced operation from 01.10.2020. Pursuant to the second inspection and upon consideration of the information provided by the Appellant during the course of inspection it was established that the Appellant had commenced operation of the hotel unit from 01.10.2020 and that the appellant was not operating the composting facility from 01.10.2020 to 01.02.2021 that is for a period of 123 days. **Annexed herewith and marked as EXHIBIT R-6 is the copy of report dated 10.03.2021.**

14. The Board after considering the reply and findings recorded in the inspection report dated 11.03.2021 issued further directions under section 33(A) of the Water Act and directed the Appellant unit to pay Rs. 7,68,750 /- as a Penalty towards Environmental Compensation under the Polluter Pays Principle within a period of 15 days from the date of receipt of the said direction. The direction dated 12.03.2021 recorded that the Appellant unit was not operating the composting facility which is in clear violation of the conditions of Consent to Operate order dated 16.08.2020. The Board has followed the formula for assessing environmental compensation. The formula adopted by the Board for assessing environmental compensation of Rs.7,68,750/- was also provided to the Appellant along with the direction dated 12.03.2021. **Annexed herewith and marked as EXHIBIT R-7 collectively is the copy of direction dated 12.03.2021 along with the enclosures.**

15. Thereafter the Respondent Board afforded the unit an opportunity of personal hearing in the matter and the Appellant was heard on 26.05.2021.

16. On proper consideration of the submissions made by the unit vide its replies and the personal hearing, the Board concluded that the unit had not operated the composting facility at its premises from 01.10.2020 to 01.02.2021 and as such had violated the condition no. 3(x) as contained in the Consent to Operate Order dated 16.08.2020 issued to the unit by the Board.

17. The Board vide further Directions dated 19.07.2021 reiterated the directions to the unit to pay an amount of Rs. 7,68,750/- as Environmental Compensation that was imposed upon the unit as a Penalty under the Polluter Pays Principal.

18. The Board vide its Directions dated 19.07.2021 specifically informed the Appellant unit that the Principal Bench of this Hon'ble Tribunal vide orders passed in OA 606/2018 has directed State Pollution Control Boards to initiate action against the units in the matter of violation in the management of solid waste which includes recovery of environmental compensation through the imposition of the penalties under Polluter Pays Principal. The direction further put the Appellant on notice that failure to comply with the directions of this Board would compel the Board to initiate stringent legal action against the unit which will include issuance of closure directions.

19. In so far as the issue of imposition of Penalty under the Polluter Pays Penalty is concerned the Board has considered the following:

- a) Report of the CPCB in house committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund.
- b) Decisions taken by the GSPCB at its 144th Board Meeting Held on 06.07.2020.

Annexed herewith and marked as EXHIBIT R-8 collectively are the copies of the Report of the CPCB and Board Meeting Held on 06.07.2020.

20. That the Board in the present case has adopted the following formula while computing the penalty of Rs. 7,68,750/- that was imposed upon the Appellant vide the Directions:

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

Here, EC = Environmental compensation in Rs.

PI = Pollution Index of industrial factor

(For Red, PI = 80, Orange, PI = 50, Green, PI = 30)

N = No. of days violation took place

R = 250 (Factor in Rs. For EC)

S = Factor of scale of operation,

(For Small scale, S = 0.5, for Medium, S = 1.0, Large, S = 1.5)

LF = 1.0 (Location factor)

N is an actual number of days, the hotel unit has not operated the composting facilities.

In the instant case the days are considered from the date on which the hotel unit had resumed its operation post Covid'19 lockdown / restrictions till the date either on which the respective hotel unit has started operating its composting facilities or the date on which GSPCB inspected the respective hotel units for verification of the operation of the composting facilities.

In the instant case concerning the present appellant;

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

$$= 50 \times 123 \times 250 \times 0.5 \times 1.0$$

$$= \text{Rs. 7,68,750/-}$$

N = 123 days, is considered from 01/10/2020 (date of resumption of operation of the hotel unit post Covid'19 lock down / restriction) to 01/02/2021 (date of commencement of operation of composting facilities ation).

21. That in light of the aforesaid submissions, the Impugned Order warrants no interference from this Hon'ble Tribunal and the Appeal is liable to be dismissed outrightly with costs.

22. That the annexures are all true copies of their respective originals.



[Signature]
DEPONENT

Member Secretary
Goa State Pollution Control Board

Verification:

Verified in Panaji- Goa on this 27th day of October, 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and as per the records duly maintained. No part of it is false and nothing material has been concealed therefrom.

[Signature]
DEPONENT

Member Secretary
Goa State Pollution Control Board

Filed by:

Counsel for GSPCB

Dated: 27/10/2021

SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME

Dr. Shainila Monteiro

WHO IS IDENTIFIED BEFORE ME

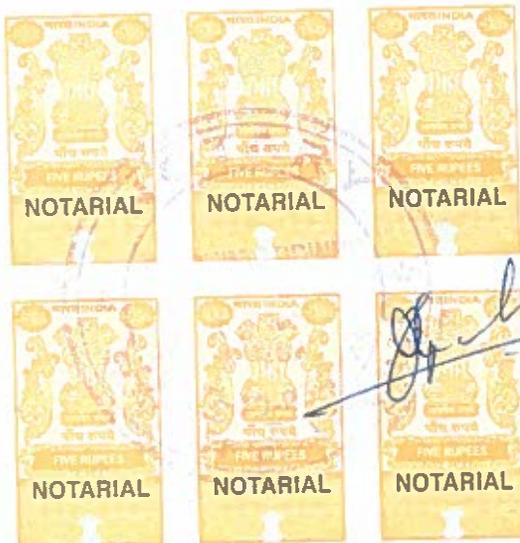
BY A/C/.....

WHOM I..... personally known.....

SERIAL NO. 9260 DATED 27.10.2021.....

VALID UPTO 19-05-2024

JOAQUIM GODINHO-NOTARY-PANAJI-GOIA



[Signature]
27.10.2021
JOAQUIM GODINHO
B. Com., LL.B
Advocate High Court
& Notary
Navelkar Trade Centre
C/S-3, 2nd Floor, M.G. Road,
Panjim-Goa. Ph.: 2422113

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015, OHSAS 18001:2007 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407702
Tel/Fax No: 0832- 2407700



Email Ids:
Chairman, GSPCB, chairman-gspcb.goa@nic.in
Member Secretary, GSPCB, ms-gspcb.goa@nic.in
Environment Engineer, GSPCB, ee-gspcb.goa@nic.in
Scientist, GSPCB, scientist-gspcb.goa@nic.in
Office, goapcb@gspcb.in

No.12/2020-PCB/581424/O0004432

Date: 16/08/2020

Renewal of Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Renewal of Authorisation under Rule 6(i) of the Hazardous And Other Wastes (Management and Transboundary Movement) Amended Rules 2018
[To be referred as Water Act, Air Act and HW (M & T) Rules respectively]

RENEWAL OF CONSENT TO OPERATE AND AUTHORISATION is hereby granted to:

**M/s. PHOENIX PARK INN
(UNIT OF PHOENIX TOWNSHIP LIMITED)
(Represented by: Shri. Deepak Pednekar)
(Orange Category)**

**Survey No. 226/8A, 226/8B, 226/8D, 226/9, 226/10 & 226/14,
Sequeira Waddo, Candolim, Bardez Goa**

Located in the area declared under the provisions of the Water Act, Air Act and Authorization under the provisions of HW (M & T) Rules, subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This Renewed Consent to operate is issued in supersession of the earlier Consent Orders issued vide Order No. 5/184/09-PCB/CI-535 dt. 26/08/2015 & No. 5/184/09-PCB/CI-3230 dt. 21/09/2017 is valid for a period of six months from the date of issue.

2. This Consent to operate and Authorization is valid for the operation of:

Sr. No	Description	Capacity
1.	Hotel	92 rooms
2.	Restaurant (2 Nos)	60 persons (seating capacity)
3.	Spa	1 nos

3. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:**

- (i) The daily quantity of effluent from the hotel (sewage & sullage) shall not exceed 30 K.L.D.

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

(ii) **Sewage Treatment Plant:**

The hotel shall treat domestic effluent in existing sewage treatment plant (80 KLD capacity) of MBBR technology consisting of primary treatment comprising of oil & grease tank, equalization tank, secondary treatment comprising of aeration cum MBBR tank, settling tank and tertiary treatment comprising of pressure sand filter & activated carbon filter as is warranted with reference to influent quality and operate & maintain the same continuously so as to achieve the quality of the treated effluent to the following standards:

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	100 mg/l
BOD, 3 days, 27° C	Not to exceed	30 mg/l
COD	Not to exceed	250 mg/l
Oil & Grease	Not to exceed	10mg/l

- (iii) In view of the directions issued by the Central Pollution Control Board vide order File No. A19014/43/06 – Mon dated 21st April 2015, the unit is required to upgrade its sewage treatment plant within five years from the date of the directions issued, ie 21st April 2015, to achieve following standards and submit the plan of action regarding the same, within six months from the date of issue of this consent.

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	Not more than 20
BOD, 3 days, 27° C	Not to exceed	10 mg/l
COD	Not to exceed	50 mg/l
Oil & Grease	Not to exceed	10mg/l
NH4-N	Not to exceed	5mg/l
N-total	Not to exceed	10mg/l
Fecal Coliform	Less than	100 MPN/100ml

(iii) **Sewage Disposal:**

The treated effluent shall be recycled to the maximum extent and remaining shall be used on land for gardening. There shall not be any discharge outside the hotel premises.

- (iv) The hotel shall provide a proper Oil and Grease Trap for effluent arising from its kitchen and laundry and shall have to comply with the 'General Standards for Discharge of Environmental Pollutants Part-A: Effluents' notified under Schedule-VI
- (v) The hotel unit shall at his own cost get the effluent samples collected both before and after treatment and analyse, every month the parameters indicated above from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and rules there under and results shall be submitted regularly to this Board.
- (vi) A good house-keeping shall be maintained within the hotel premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.

(vii) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the hotel premises shall be properly classified and disposed off to the satisfaction of the Board.

The total quantity shall be segregated and treated as follows:

Sr. no.	Type of segregated solid waste	Quantity	Disposal
1.	Dry waste	20 kgs/day	To be Disposed through Village Panchayat
2.	Wet waste	25 kgs/month	
3.	Used Cooking Oil	300 Litres/month	To be disposed through authorized Dealers

(viii) The applicant should upload monthly statement (below format) regarding the solid waste generation online.

Sr. No.	Date	Quantity of wet/dry waste	Name of agency collecting the wet/ dry waste	Authorized Signatory

(ix) The hotel unit should implement rain water harvesting and ground water re-charge measures in consultation and approval of the Water Resource Department, Govt. of Goa and Directorate of Industries, Trade and Commerce, Govt. of Goa.

(x) The hotel industry should install/establish machinery/equipment/facility for converting bio-degradable /organic waste generated from the hotel to compost so as to meet the standard for compost prescribed in the Solid Waste Management Rules, 2016

(xi) The Industry should have zero discharge policy. i.e. the treated waste water may be re-used in process/green belt development/or any other use as deemed fit by the unit with due permission from the Board.

4. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE AIR ACT

(i) The hotel unit shall maintain and operate air pollution control system of adequate capacity for the following equipments

Sr. No.	Name of Equipments/ Installation	No of Installation	Capacity	SO ₂ Kg/Hr	NO _x	(g/kw-hr)			PM
						HC	CO		
1.	D.G. Set	1	380 KVA	1.98	9.2	1.3	3.5	0.3	
2.	D.G. Set	1	250 KVA	0.9	9.2	1.3	3.5	0.3	

Sr. No.	Name of Equipments/ Installation	No of Installation	Capacity	SO ₂ Kg/Hr	Particulate Matter mg/Nm ³
1.	Boiler	01	75,000 kcal/hr	0.17	150
2.	Boiler	01	50,000 kcal/hr	0.15	150

(ii) The hotel unit shall erect the chimney(s) of the following specifications:

Sr. No	Chimney attached to	Height
1.	D.G. Set (380KVA)	6 mtrs
2.	D.G. Set (380KVA)	8 mtrs
3.	Boiler (75,000 kcal/hr)	10 mtrs
4.	Boiler (50,000 kcal/hr)	10 mtrs

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

- (iii) The hotel unit shall observe the following standards:-

Sr. No	Type of fuel	Quantity /hr
1.	HSD for D.G. Set (380KVA)	55 ltrs/hr
2.	HSD for D.G. Set (250KVA)	25 ltrs/hr
3.	HSD for Boiler (75,000 kcal/hr)	4.78 ltrs/hr
4.	HSD for Boiler (50,000 kcal/hr)	4.25 ltrs/hr

- (iv) The Stack Port Hole and Platform is to be designed as per CPCB guidelines Method 1 Part 1 of Stack Monitoring –Material & methodology for isokinetic sampling.
- (v) The hotel unit should comply with all the standards for D.G. Sets prescribed at Sr. no. 94, 95 and 96 of Schedule I of the Environment (Protection) Rules, 1986.
- (vi) The hotel unit should carry out emission monitoring from the stacks annually and other stacks once in 3 months from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and the result shall be submitted to this Board by the 15th of subsequent month.
- (vii) The hotel unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

5. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDRY MOVEMENT) AMENDED RULES 2018:

- (i) The hotel unit is hereby granted authorization to operate a facility for collection, storage and disposal of hazardous wastes as specified below:

Sr. No.	Category	Type of waste	Quantity	Mode of disposal
1.	5.1	Used/Spent oil	400 litres/annum	To recycler registered with CPCB and having valid authorization of SPCB

- (ii) The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rule made there under.
- (iii) The person authorized shall not rent, lend, sell or transfer or otherwise transport the hazardous waste without obtaining prior permission of the Goa State pollution Control Board.

Near Pilerne Industrial Estate, Opp.- Saligao Seminary, Saligao-Bardez Goa-403511

- (iv) Any unauthorized change in personnel, equipment or working conditions as mentioned in the hotel unit by the person authorized shall constitute a breach of his authorization.
- (v) It is a duty of the authorized person to take permission of the Goa State Pollution Control Board to close down the facility.
- (vi) The inner bottom surfaces of the tank shall be impervious enough to prevent leakage or seepage of these wastes into the sub surface soil or ground water.
- (vii) The occupier shall maintain a manifest system as per Rule 19 for disposal of hazardous wastes to ensure that these wastes are delivered to the designated facility preventing pilferage and clandestine disposal due to unforeseen events that may occur during transit.
- (viii) The manifest shall be endorsed by the dispatcher, transporter and receiver of hazardous wastes. The endorsed copy shall be furnished to the Goa State Pollution Control Board.
- (ix) Under any circumstances the hazardous waste shall not be disposed to unauthorized facilities.
- (x) The occupier shall maintain the records for collection, storage and disposal of hazardous waste in Form 3 of as per Hazardous And Other Waste (Management & Transboundary Movement) Rules Amended 2018.
- (xi) The occupier shall furnish monthly returns for collection, storage and disposal of hazardous waste through online OCCMS systems.
- (xii) The hotel unit shall put up an online board (minimum size 6x4 Feet) at prominent location near the main gate providing details as follows in English and Konkani languages:-
 - Hazardous Waste category number.
 - Hazardous Waste quantity number.
 - Treatment facility for each category.
 - Mode of disposal for each category.
 - Hazardous Waste Authorization number, date and validity period.
 - Water Consent number, date and validity period.
 - Air Consent number, date and validity period.
 - Quantity and Nature of Hazardous Chemicals being used.
- (xiii) The occupier shall ensure that the Hazardous Wastes are not allowed to be stored for more than 90 days.
- (xiv) The unit shall submit online annual returns prescribed format on or before 30th June of every year.

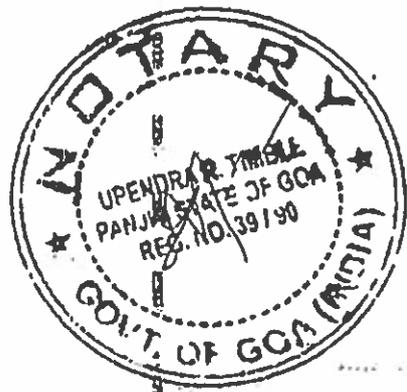
6. GENERAL CONDITIONS:

- (i) The hotel unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipments provided for without previous permission of the Board.
- (ii) The hotel unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.

- (iii) An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.
- (iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.
- (v) This Consent to operate is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force.
- (vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.
- (vii) The hotel unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30th September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- (viii) This Consent does not entitle the party to commence activities until and unless all the other Permissions as required under the relevant statutes are obtained by the party and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.
- (ix) Reliable flow meter shall be installed to maintain record of water consumption/waste water generation per day. The records so maintained shall be made available to the Board officials whenever required.
- (viii) The industry shall bear the cost of analysis / monitoring in case of complaints received by the Board/ reinspections due to non compliances observed by the Board & monitoring carried by the Board.
- (x) The unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.
- (xi) The unit shall submit returns for disposal of batteries under the Batteries (Management & Handling) Rules 2001, if applicable.
- (xii) The unit shall submit returns for disposal of e - waste under the E- Waste (Management) Amended Rules 2018, if applicable.
- (xiii) The unit shall submit returns for disposal of plastic waste under the Plastic Waste (Management) Amended Rules 2018, if applicable.



गोंय गोवा GOA Date 18/6/11 Ser. No. 2020 value 20/-
 Name of purchaser Phoenix Township Ltd 03AA 288721
 Resident of _____ purpose _____
 Place of vendor: Panaji
 Sign. of purchaser _____ Sign. of Vendor _____
 Belarmis P. Silva
 Lic. No. AC/578/EN 99/2000



AFFIDAVIT

I, Mr. CHARUDATTA POROBO, Son of late CUTU POROBO, aged 62 years, Indian National, of ALTO-BETIM – GOA, hereby solemnly declare an oath as follows :

1. I say that I am the Authorised Signatory of Phoenix Park Inn Resort (Unit of M/s Phoenix Township Limited), an industrial unit located at Candolim, Goa.

2. I say that the Gross Fixed Asset Value/Gross Estimated Value so far (in case of NOC) of our unit of 128 rooms in year 2010 as follows :

	<u>Amount in Lacs</u>
Land Cost	Rs. 132.80
Building Cost	Rs. 1622.12
Plant and Machinery Cost (Air Condition/DG Set/Hot Water Boiler etc.	Rs. 240.07
Furniture and Fixture	Rs. 108.70
TOTAL	Rs. 2103.69

(Rupees Two Thousand One Hundred Three lacs and Sixty Nine Thousand Only)

I say that I am filing this Affidavit for the limited purpose of producing it before The Goa State Pollution Control Board for obtaining the consent to operate WATER & AIR and consent to operate DG SET and HOT WATER BOILER.

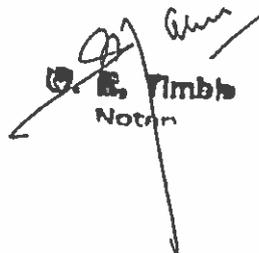
Solemnly affirmed at Panaji – Goa

Date : 25/06/2011

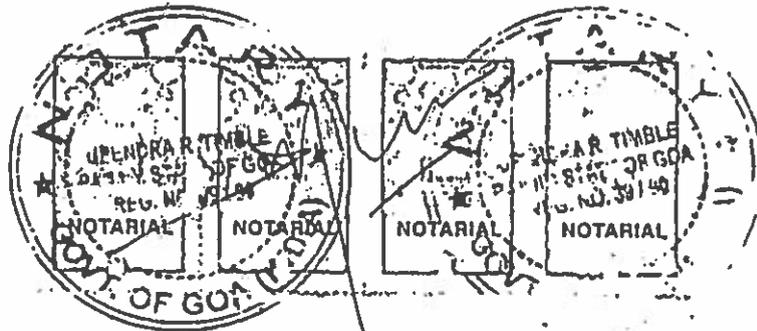


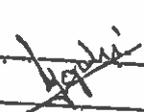
DEPONENT
Name / Signature
(MR. CHARUDATT POROBO)

swearing
This affidavit / documents executed before me and / attest its execution
S+No:- 2411 / W/2011
Dated:- 25/06/2011



G. R. Timble
Notary

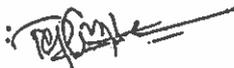


Inspection of Hotels for verification of organic waste treatment/ disposal		
Ref:- Order dated 11/7/2016 passed by Hon'ble High Court of Bombay at Goa in SMWP/2/2007		
Sr.No.	Description	Details
1	Name of Hotel	M/s. Phoenix Park Inn
2	Address	(Unit of Phoenix Township Limited) Sy. No. 226/8A, 8B, 226/8B, 9, 10, 14. Sequeira Waddo, Candolim, Bardez, Goa.
3	Consent validity	Upto 16/02/2021
4	Daily quantity of Bio-degradable and Non-biodegradable waste generated.	Wet - 20 kg/day Dry - 50 kg/day
5	Mode of treatment/disposal of Non-biodegradable waste.	Handed over to Village Panchayat -
6.	Mode of treatment/disposal of biodegradable waste i.e Whether Organic waste is composted (Yes/No)	Handed over to Village Panchayat partly and Partly Composted.
7	If not, mode of treatment/ disposal of organic waste.	-
8	If so, make of the composting facility	M/s. Ecocare.
9	Capacity in kg/day	25 kg/day
10	Whether operational during inspection	Not in operation.
11	Whether log book maintained, and is in confirmation with waste generated	Not maintained.
12	Any other observations	Part of wet waste only is composted and part handed over to v.p.
13	Name and designation of the unit representative present during inspection	Mr. Jayram Navada Chief Engineer 9923436910
14	Signature of unit representative	

Name of the inspecting team

: Mangi Kudalkar (JEE)

Signature

: 

Date of the inspection

: 19/01/2021

EXHIBIT - R3

1

SMWP 2/2007

IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTU WRIT PETITION NO. 2 OF 2007

..... Petitioner

Versus

STATE OF GOA THROUGH CHIEF
SECRETARY AND 44 ORS.,

.... Respondents

Ms. Norma Alvares, Amicus Curiae.

Mr. A. Talaulikar, Additional Government Advocate for the State in
WP No. 935 of 2017.

Mr. Pravin Faldessai, Additional Government Advocate for the State in
SMWP No.2 of 2007.

Mr. Shailesh Redkar, Additional Government Advocate for the State in
PILWP No.39 of 2018.

Mr. Sagar Dhargalkar, Additional Government Advocate for the State
in PILWP No.20 of 2017.

Mr. S.P. Munj, Additional Government Advocate for the State in CP
No. 31 of 2010.

Ms. Sulekha Kamat, Additional Government Advocate for the State in
CP No. 43 of 2017.

Mr. Geetesh Shetye, Additional Government Advocate for the State in
PIL WP No. 4/2007.

Mr. A. D. Bhoje with Ms. K. Govekar, Advocates for Respondent
Nos. 11, 15 in SMWP No. 2 of 2007, for Respondent Nos. 1 and 2 in
CP No. 43 of 2017, PILWP No. 4 of 2007, for Respondent No.2 in
PILWP No.20 of 2017, for the Petitioner in WP No.935 of 2017.

Mr. Z. D'Souza, Advocate for Respondent Nos. 35 and 36.

Mr. S.D. Padiyar with Mr. P. Shirodkar, Advocates for Respondent
Nos. 14, 19 and 47.

Mr. Amey Kakodkar, Advocate for Respondent No.49.

Mr. Somnath Karpe with Mr. Abhishek Sawant, Advocates for
Respondent No.16.

Mr. H. D. Naik, Advocate for Respondent No.10.
Mr. D. Lawande with Mr. P. Dangui, Advocates for the GSPCB.
Mr. Sudesh Usgaonkar with Ms. Maria Rosette Pereira, Advocates for Respondent No.27.
Mr. A. Palekar, Advocate for Respondent Nos. 29,30,31,34 and 35.
Ms. Susan Linhares, Advocate holding for Ms. Anita Thorat, Advocate for Respondent No. 37.
Mr. D. Naik, Advocate for Respondent No. 48.
Mr. Vinoj Daniel, Advocate for V.P., Savordem and for Respondent No. 51.
Mr. P. A. Kamat, Advocate for Respondent No. 53.
Mr. Kapil Kerkar, Advocate for Village Panchayat of Colvale.
Mr. Nikhil D. Pai with Mr. Rohit Shirodkar, Advocates for Respondent No. 26.
Mr. Byron Rodrigues, Advocate for Respondent No. 2.
Mr. V.V. Pednekar, Advocate for Respondent No. 9.
Mr. Aires Rodrigues, Petitioner in CP No. 43/2017.
Mr. Galileo Teles, Advocate for Respondent No. 32.

Coram:- M.S. SONAK &
SMT. M.S. JAWALKAR, JJ.

Date:- 4th March, 2020

P.C.

Mr. Lawande, the learned Counsel for the GSPCB states that the Village Panchayats of Calangute and Velguem had in fact made applications for establishment of Material Recovery Facilities (MRF). However, by inadvertence, a statement was made on the previous occasion that these Panchayats had failed to apply. On the basis of such statement, we had issued notices to the Sarpanch and the

Secretary of the Village Panchayat of Calangute and further, directed the Director of Panchayats to issue notices to the Sarpanch and Deputy Sarpanch of the Village Panchayat of Velguem.

2. Now that the aforesaid position is clarified, we recall the notices issued to the Sarpanch and the Secretary of the Village Panchayat of Calangute, by our order dated 12.02.2020. Similarly, we recall our direction to the Director of Panchayats to issue notices to the Sarpanch, Deputy Sarpanch or Secretary of these two Panchayats.

3. Mr. Faldessai, the learned Additional Government Advocate pointed out that before our order dated 12.02.2020 was modified, notices have been issued to the Secretaries of about 69 Panchayats by Director of Panchayats. There is no question of taking any action against the Secretaries of the Panchayats by resort to Section 50(4) of the Panchayat Raj Act. However, since, it is pointed out that notices have been issued to the Secretaries under the CCS (Conduct) Rules, such notices can be disposed off in accordance with law, depending upon the responses of the Secretaries.

4. Similarly, notices issued to the Sarpanches and Deputy Sarpanches under Section 50(4) of the Panchayat Raj Act will also have to be disposed off by the Director of Panchayats in accordance with law and on their own merits, depending upon the explanation

furnished by such Sarpanches and Deputy Sarpanches.

5. This exercise of disposal of show cause notices to be completed by the Director of Panchayats, within six months from the date of issue of the notices.

6. Mr. Bhobe, the learned Counsel for M.K. Aromatics states that necessary undertaking to furnish bank guarantee by 15.03.2020 has already been filed. He states that M.K. Aromatics consistent with their undertaking will furnish the bank guarantee by 15.03.2020.

7. Mr. Faldessai, the learned Additional Government Advocate states that the Director of Panchayats, Director of Municipal Administration has already written to the Village Panchayats and the Municipal Councils/ City Corporation of Panaji (CCP) to prevail upon the five agencies to apply for authorization from the GSPCB. Mr. Lawande, the learned Counsel for the GSPCB states that he will file the status report within a period of two weeks from today.

8. Mr. Lawande, the learned Counsel for the GSPCB states that he will also file status report in relation to composting facilities of local bodies for wet waste, within two weeks from today.

9. Mr. Lawande, the learned Counsel for the GSPCB states that inspection of units, which *prima facie* generate waste of more than 100 kgs. per day was undertaken and the details of such inspection have been set out in the status report today filed before us. In fact, such details are to be found at Annexure-E of the status report. On perusal of the same, we find that inspection has been carried out of all 44 units and some of establishments have not installed the waste composting units.

10. Mr. Lawande, the learned Counsel for the GSPCB states that notices/directions have already been issued to the establishments, which have not installed such facilities or where such facilities is not found in operation. He states that these notices/directions will be taken to its logical conclusion and further status report will be filed within four weeks from today.

11. On the next occasion, the GSPCB to also report on the issue of dry waste generated by these 44 establishments referred to in Annexure-E.

12. The learned Counsel appearing on behalf of Village Panchayat of Assagao, Calangute and Colva state that black spots within their jurisdiction have been duly cleared. Compliance report on

behalf of Village Panchayat of Calangute and Colva are being filed today. Mr. Somnath Karpe, the learned Counsel appearing for Village Panchayat of Assagao states that compliance report will be filed during the course of this week.

13. Mr. Faldessai, the learned Additional Government Advocate states that officials and the BDO have verified the position and they have reported that there are no black spots within the jurisdiction of these three Panchayats.

14. Mr. Faldessai, the learned Additional Government Advocate states that even a mechanism has been developed for surprise check so that the black spots do not recur. Mr. Faldessai, the learned Additional Government Advocate also pointed out that service of order upon these three Panchayats as well as on other Panchayats is complete.

15. The concerned Deputy Collector to file affidavit regards dumping of construction debris within the jurisdiction of St-Cruz Village Panchayat. This is in context of our earlier directions issued to the Deputy Collector. Such affidavit along with photographs to be filed within one week from today. If the Deputy Collector notices any unauthorized dumping or unauthorized construction, then, the Deputy Collector to indicate action, if any, taken in the matter.

16. Insofar as KTC bus stand at Panaji is concerned, Mr. Bhobe, the learned Counsel for the CCP states that the Directorate of Transport has entered into an agreement with the CCP. Mr. Bhobe, the learned Counsel for the CCP states that CCP will take steps to ensure that KTC bus stand is not littered with garbage/waste.

17. Mr. H.D. Naik, who appears for Mapusa Municipal Council states that necessary affidavit will be filed on the next date with regard to the issue of garbage/waste at Mapusa market.

18. Mr. Byron Rodrigues, the learned Counsel for Village Panchayat of Sancoale states that some steps will be taken for removal of waste/garbage dumped along the side of NH-17A within the jurisdiction of the Village Panchayat of Sancoale. He states that necessary affidavit will be filed in this regard including explaining the use of pits around this stretch for dumping garbage.

19. Mr. Faldessai, the learned Additional Government Advocate also states that the Goa Waste Management Corporation (GWMC) has appointed an agency to ensure that the highways are maintained litter free.

20. Leave is granted to file affidavits.

21. Stand over to 15.04.2020.

SMT. M.S. JAWALKAR, J.

M. S. SONAK, J.

EV

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015. OHSAS 18001:2007 Certified Board)

Phone Nos. : 0832-2407700
2407701, 2407702
2407703



Tel/Fax No. : 0832-2407700

Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary GSPCB: ms-gspcb.goa@nic.in
Environment Engineer, GSPCB: ee-gspcb.goa@nic.in
Scientist, GSPCB: scientist-gspcb.goa@nic.in
Office: goapcb@gspcb.in

No.10/1/20-PCB/Leg/19887

By Regd. A.D.

Date: 02/02/2021

SHOW CAUSE NOTICE

WHEREAS, the Hon'ble High Court of Bombay at Goa vide order dated 11/07/2019 passed in Sou Motu Writ Petition no. 02 of 2007 has issued the Goa State Pollution Control Board (hereinafter referred to as the "Board", in short) the following directions amongst others;

"(xiii) In the meantime, the Pollution Control Board itself would formulate, based on the verification carried out by it, requisite directions to be issued to individual local bodies with a view to see that the directions of this Court and various statutory provisions bearing on the subject of solid waste disposal are complied with. This exercise shall be completed by the Pollution Control Board within a period of four weeks of the verification referred to above;"

WHEREAS, in this regard the officials of the Board carried out inspections of hotels on 19/01/2021 and 20/01/2021 for verification of organic waste treatment/ disposal in terms of the directions of the Hon'ble High Court as aforesaid.

WHEREAS, during the course of the said inspection, the Board inspected the unit M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited), Survey No.226/8 A, 226/8B, 226/8 D, 226/9, 226/10 and 226/14, Sequeira Waddo, Candolim, Bardez Goa and it was observed that the part of wet waste is composter and part is handed over to the Village Panchayat. The composting machine was not in operation.

NOW THEREFORE, in exercise of the powers vested with the undersigned under section 33(A) read with section 25/26 of the Water (Prevention and Control of Pollution) Act,

ISSUED
02/02/21

1974, and under section 31(A) read with section 21 of the Air (Prevention and Control of Pollution) Act, 1981, notice is hereby served on M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited), Survey No.226/8 A, 226/8B, 226/8 D, 226/9, 226/10 and 226/14, Sequeira Waddo, Candolim, Bardez Goa to show cause within a period of 7 days from the date of receipt of this notice as to why the Polluter Pay Principle Fine should not be levied against you for non-operation of the composting machine.

TAKE NOTE, that failure to comply with the aforesaid show cause notice will compel the Board to initiate stringent legal action against you under the provisions of the said Act.

Issued on this 05th-day of February, 2021.



(Sanjeev Joglekar)
Environmental Engineer
For Goa State Pollution Control Board

To,

M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited),
Survey No.226/8 A, 226/8B, 226/8 D, 226/9, 226/10 and 226/14,
Sequeira Waddo, Candolim, Bardez Goa

Copy to:-

- 1) The Collector (North), North Goa District, Collectorate Building, Panaji Goa.
- 2) The Secretary, Village Panchayat Candolim Goa.
- 3) Office copy.
- 4) Guard file.

20515

Ref No: PPIR/HR/014/2021

Date: 11.02.2021

To

Environmental Engineer,

Goa State Pollution Control Board,

Saligao, Bardez, Goa – 403511

Sub: Reply to Show Cause Notice with respect to inspection carried for verification of Organic waste treatment/disposal in terms of directions of the Hon'ble Court.

Ref: SCN bearing no. 10/1/20-PCB/leg/19887 Dated. 05/02/2021.

Respected Sir,

With reference to your Show Cause Notice Dated 05/02/2021 by registered AD received on 10th February 2021, regarding non operation of composting machine.

We would like to inform you that our composting machine is in operation. Our Organic Waste Converter machine is having Composting capacity of 50 kgs per day whereas our daily wet garbage generation is around 20 – 25 Kgs/day.

Due to Covid & Low occupancy of the hotel, wet waste generation is low as compared to earlier, for that reason composting machine was not in operation during the inspection by Board Official.

The copies of photographs showing operation of OWC is attached as Annexure A.

However, now composting machine is fully in operation. If your personnel would like to visit our premises, kindly visit us for the inspection during office hours.

Considering the above facts we request you to kindly drop the show cause notice and not levy fine under Polluters pay principle as we have complied to the show cause notice by taking most suitable action from our side.

We shall submit any further information/ clarification as may be required by your good selves in near future.

Thanking You,

For PARK INN by RADISSON (Unit of Phoenix Township Limited)

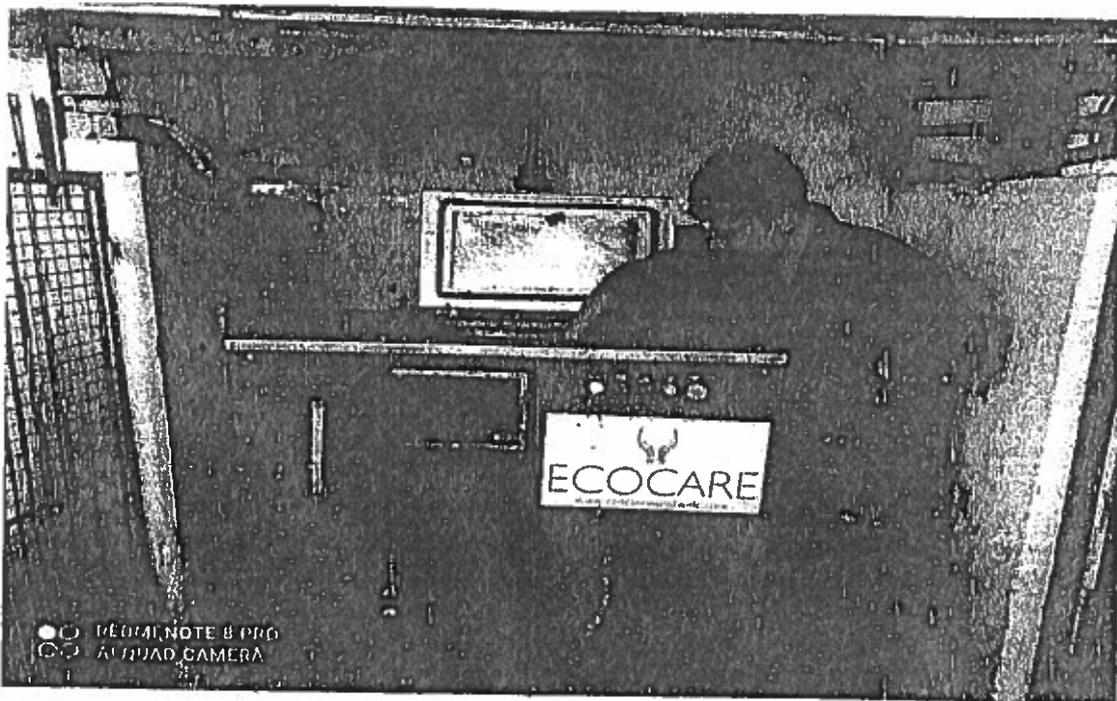
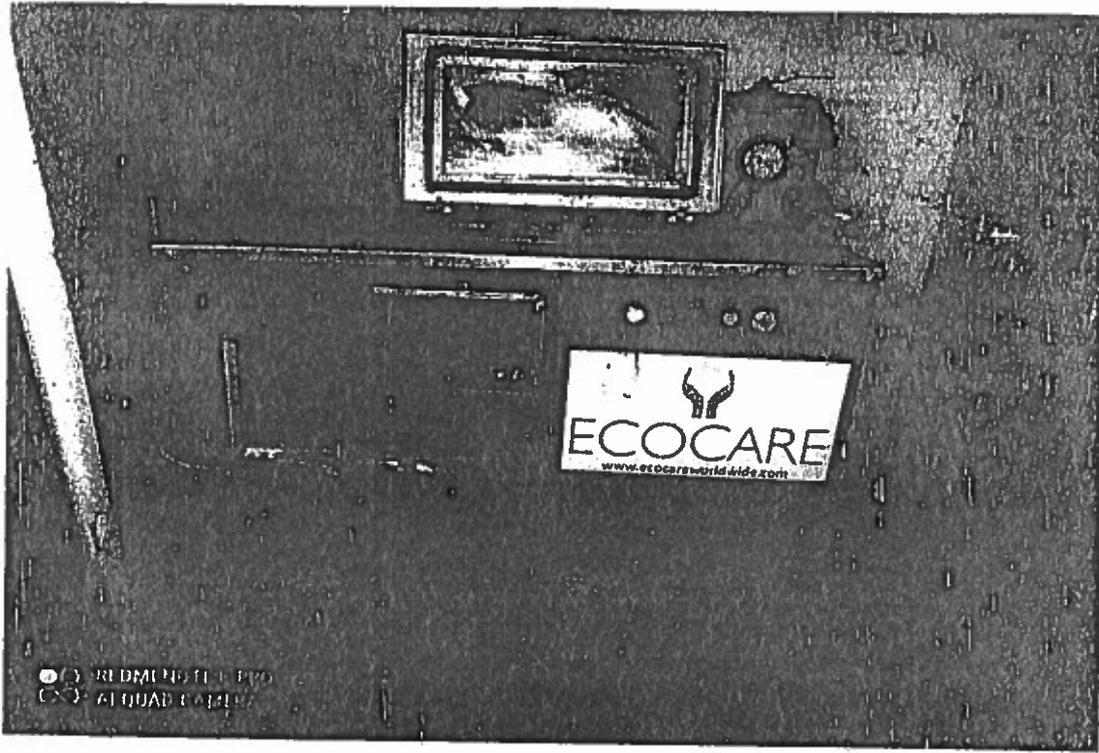

Authorized Signatory



CC

1. The Collector (North) North Goa District, Collectorate building, Panaji, Goa.
2. The Secretary, Village Panchayat, Candolim, Goa.

ANNEXURE A



Handwritten signature and a circular official stamp.

INSPECTION OF VARIOUS HOTEL UNITS IN THE HON'BLE HIGH COURT MATTER, 2/2007 W. R. T. VERIFICATION OF PRESENT STATUS OF OPERATION OF THE COMPOSTING FACILITIES.

The inspection of the various hotel units were carried out by the undersigned, Mr. Manoj Kudalkar, JEE, in Hon'ble High Court matter w. r. t. verification of present status of operation of the composting facilities on 10/03/2021. The unit wise observations are as follows.

1. M/s. Colonia Santa Maria Hotel Pvt. Ltd., Calangute, Bardez, Goa.

The unit was in operation. The unit has provided vermi-composting facilities and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 03/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 20/01/2021.

2. M/s. Nelam's Hotels Pvt. Ltd. (Neelam's The Grand), Calangute, Bardez, Goa.

The unit was in operation. The unit has provided composting machine, "Kwikcomposter" and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 22/01/2021. The composting facility is also shared with M/s. Neelam's Hotels Pvt. Ltd. (Neelam's The Glitz).

3. M/s. Nelam's Hotels Pvt. Ltd. (Neelam's The Glitz), Calangute, Bardez, Goa.

The unit was in operation. The unit has provided composting machine, "Kwikcomposter" and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 22/01/2021. The composting facility is also shared with M/s. Neelam's Hotels Pvt. Ltd. (Neelam's The Grand).

4. M/s. Riviera de Goa Resorts and Hotels Pvt. Ltd., Arpora, Bardez, Goa.

The unit was in operation. The unit has provided vermi-composting facilities and was found to be in operation during the inspection. Only the part of waste (approx. 50 %) is composted within the premises, remaining is handed over to the piggery. As per the information provided by the unit official the unit has commenced its operation from 01/10/2020 post Covid pandemic lockdown and the composting facility is made operational from 10/02/2021.

5. M/s. Riverside Resorts and Holiday Homes Pvt. Ltd. Arpora, Bardez, Goa.

The unit was in operation. The unit has provided composting facilities and was found to be not in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 17/10/2020 post Covid pandemic lockdown and the composting facility is not made operational.

6. M/s. Castle Royal (unit of M/s. Deltin Suites), Nerul, Bardez, Goa.

The unit was in operation. The unit has a common composting facility at Reis Magos which is also shared by the Deltin Casinos. The composting machine was inspected and found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 05/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 28/02/2021.

7. M/s. Phoenix Park Inn (Unit of M/s. Phoenix Township Limited), Candolim, Bardez, Goa.

The unit was in operation. The unit has a composting machine installed within the premises and found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/10/2020 post Covid pandemic lockdown and the composting facility is made operational from 01/02/2021.

8. M/s. Ashley Resorts Pvt. Ltd. (Adamo The Bellus), Calangute, Bardez, Goa.

The unit was in operation. The unit has a vermi-composting facility within the premises and found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 28/01/2021.

9. M/s. Mabarest Hotels Pvt. Ltd. (Hotel Fidalgo), Panaji, Goa.

The unit was in operation. The unit had a organic waste convertor installed within which is now removed and the unit has now proposed to install a new composting machine as noted during the inspection. As per the information provided by the unit official the unit has commenced its operation from 16/12/2020 post Covid pandemic lockdown and the composting facility is not available now.



(Manoj Kudalkar)

Junior Environmental Engineer

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ**

(An ISO 9001:2015, ISO 14001:2015, OHSAS 18001:2007 Certified Board)

Phone Nos. : 0832-2407700
2407701, 2407702
2407703

Tel/Fax No. : 0832-2407700



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary GSPCB: ms-gspcb.goa@nic.in
Environment Engineer, GSPCB: ee-gspcb.goa.nic.in
Scientist, GSPCB: scientist-gspcb.goa@nic.in
Office: goapcb@gspcb.in

No.12/2020-PCB/581424/O0004432/Tech | GSO By Regd A.D. 12/03/2021

**DIRECTIONS UNDER SECTION 33(A) OF THE WATER
(PREVENTION AND CONTROL OF POLLUTION) ACT, 1974**

*Ref: - Show Cause Notice bearing no. 10/1/20-PCB/Leg/19887 dated
05/02/2021*

WHEREAS, vide Show Cause Notice bearing no. 10/1/20-PCB/Leg/19887 dated 05/02/2021 your unit namely M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited, located at Survey No.226/8A, 226/8B,226/8D, 226/9,226/10 and 226/14, Sequeira Waddo, Candolim, Bardez Goa, was directed by the Goa State Pollution Control Board (herein after referred to as 'the Board' in short) to Show Cause within a period of 7 days from the date of receipt of the Notice as to why a Polluter Pays Fine/Penalty should not be levied against you for non-operation of the composting machine.

WHEREAS, in this regard the Board is in receipt of your reply to the aforesaid Show Cause Notice dated 05/02/2021, wherein you have stated that Composting facility is now in operation, Due to covid and low occupancy the Composting facility was not in operation.

WHEREAS, upon perusal of your reply as aforesaid officials of the Board have conducted a site inspection at your unit on 10/03/2021. During the course of the said site inspection it was observed as follows:-

1. The unit started on 1/10/2020 (post covid 19 lockdown)..

2. The Composting facility started on 1/2/2021.

Copy of the Report of inspection conducted on 10/03/2021 is enclosed.

WHEREAS, the observations as above indicate that you have commenced operation of the Composting facility at your unit on 1/2/2021 and have not operated the Composting facility at your unit from 1/10/2020 to 31/1/202. You have failed to commence operation of the Composting facility or make any arrangements for treatment of wet waste generated at your unit in terms of the Consent to Operate order issued to you by this Board under the Water Act.

WHEREAS, the aforesaid observations further indicate that your reply to the Show Cause Notice dated 05/02/2021 issued to you by the Board is unsatisfactory and that your delayed operation of the Composting facility at your unit/ failure to operate the Composting facility at your unit amounts to a violation of the Consent to Operate order dated 16/8/2020 issued to your unit under the Water Act.

WHEREAS, such delayed operation of the Composting facility at your unit/ failure to operate the Composting facility at your unit amounts to a violation of the conditions as contained in the Consent to Operate Order dated 16/8/2020 issued to your unit by the Board and also amounts to violation by you in the management of Solid waste generated by your unit.

WHEREAS, the Principal Bench of the National Green Tribunal vide orders passed in OA/606/2018 has directed the State Pollution Control Boards to initiate action in the matter of violations by various units/establishments etc. in the management of Solid Waste that include recovery of Environmental

Compensation through the imposition of Penalties under the Polluter Pays Principal upon such violators.

WHEREAS, in this regard the Board at its 144th meeting held on 06/07/2020 has established the procedure to be followed by it for the imposition of Penalties under the Polluter Pays Principal, to violators.

Copy of the decision taken by the Board in this regard is enclosed.

WHEREAS, in this regard and on account of the aforestated violation by you, the Board has calculated the amount of environmental compensation to be paid by your unit to the Board as a penalty under the Polluter Pays Principal, that amounts to Rs. 7,68,750/- (Seven Lakhs, Sixty Eight Thousand, Seven Hundred Fifty rupees) for delayed operation of the Composting facility at your unit/ failure to operate the Composting facility at your unit till date.

A copy of the document indicating the aforesaid computation is enclosed.

NOW THEREFORE in light of the above and in exercise of the powers vested with the Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and as delegated to the undersigned by the Board vide resolution dated 8/5/2019 passed by Board at its 139th meeting held on 8/5/2019 ; the management of M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited, located at Survey No.226/8A, 226/8B,226/8D, 226/9,226/10 and 226/14, Sequeira Waddo, Candolim, Bardez Goa is hereby directed to pay an amount of Rs. 7,68,750/- (Seven Lakhs, Sixty Eight Thousand, Seven Hundred Fifty rupees) to the Board as Environmental Compensation, that is imposed upon you as a Penalty under the Polluter Pays Principal, within a period of 15 days from the date of receipt of this Direction.

TAKE NOTE that failure to comply with the aforesaid directions within the stipulated time period will compel the Board to initiate stringent legal action against you that will include issue of closure directions to your unit without any further notice.

Issued on this day of March 2021.



(Sanjeev Joglekar)
Environmental Engineer
Goa State Pollution Control Board

To,
M/s. Phoenix Park Inn, (Unit of Phoenix Township Limited,
located at Survey No.226/8A, 226/8B,226/8D, 226/9,226/10 and 226/14,
Sequeira Waddo, Candolim, Bardez Goa

Copy to:

1. *The Director, Department of Tourism, 1st Floor, Paryatan Bhavan, Patto, Panaji, Goa, 403001*
2. *The Secretary, Village Panchayat of Candolim, Bardez Goa.*
3. *The Director, Directorate of Panchayat, Junta House, Panaji Goa.*
4. *The Director, Department of Environment, 1st Floor, Pandit Deendayal Upadhay Bhavan, Behind Pundalik Devasthan, Near Sanjay School, Porvorim, Bardez Goa.*
5. *Office copy.*
6. *Guard file.*

INSPECTION OF VARIOUS HOTEL UNITS IN THE HON'BLE HIGH COURT MATTER, 2/2007 W. R. T. VERIFICATION OF PRESENT STATUS OF OPERATION OF THE COMPOSTING FACILITIES.

The inspection of the various hotel units were carried out by the undersigned, Mr. Sebastiao Barreto, EA, in Hon'ble High Court matter w. r. t. verification of present status of operation of the composting facilities on 11/03/2021. The unit wise observations are as follows.

1. M/s. The Golden Crown Hotel and Spa., Colva, Goa.

The unit was in operation. The unit has started the operation (only with 10 rooms) from 1st Janaury, 2021 Kitchen and Restaurant not in operation. Since no wet waste generated, OWC is not operated. Occupancy was nil on the day of inspection. As per the information provided by the unit official the dry waste generated is handed over to private vendor. As per the information provided by the unit official the unit has commenced its operation from 01/01/2021

2. M/s. Triumph Reality Pvt. Ltd(Azaya Beach Rresort), Benaulim, Goa.

The unit was in operation. The unit has not installed OWC. The earlier composting facility has been removed. Wet and dry waste generated is disposed through private vendor. As per the information provided by the unit official the unit has commenced its operation from 01/10/2020

3. M/s. Prestige Holiday Resorts Pvt. Ltd.(Haathi Mahal), Cavelossim

The unit was in operation. The unit has provided OWC and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 . The composting facility is started from 10/02/2021



(Sebastiao Barreto)
Engineering Asistant

MINUTES OF THE 144th MEETING OF THE GOA STATE
POLLUTION CONTROL BOARD HELD ON 6th JULY, 2020 AT 3.00
pm IN THE CONFERENCE HALL OF THE BOARD.

I. The 144th meeting of the Goa State Pollution Control Board was held on 6th July at 3.00 pm in the Conference hall of the Board.

The following members attended the meeting:

1.	Mr. Ganesh B. Shetgaonkar, Chairman
2.	Director of Industries, Trade and Commerce was represented by Shri Prashant Kamat, F.M.- I
3.	Mr. Shrikant Patil, Chief Engineer, Water Resource Dept.
4.	Director of Mines was represented by Ms. Nelita D'Silva, Assistant Geologist
5.	Director of Tourism was represented by Mr. Subhash Kavlekar, Asst. Director
6.	Director of Health Services was represented by Dr. S. Parulekar Chief Medical Officer
7.	Mr. Shawn Brian Martins, Panch Member, Village Panchayat Calangute
8.	Mrs. Unnati Sahastrabudhe, Panch Member, Village Panchayat Velguem
9.	Mr. Rajsingh Rane, Councillor Mapusa Municipal Council
10.	Mr. Sanjay Naik, Panch Member, Village Panchayat Sanvordem
11.	Mr. Blaise Costabir, Chairman, Confederation of Indian Industries
12.	Mr. Nilesh Shah, President Travel and Tourism Association of Goa
13.	Mr. Nikhil Dessai, Managing Director, Goa Tourism Dev. Corpn.
14.	Dr. (Mrs.) Shamila Monteiro, Member Secretary

II. Member Secretary welcomed the members for the meeting. The agenda items for the meeting were then taken for discussion.

Agenda Item no. 01

Confirmation of the minutes of the 143rd meeting of the Goa State Pollution Control Board held on 22nd May, 2020.

The minutes of the 143rd meeting of the Board held on 22nd May, 2020 were forwarded to all the members vide this office letter no. 4/143/20-

~~4/143/20-~~

However Members sought to know and peruse the material and evidence available with the Board that indicated that the stone crushing unit of M/s Jolly Metals initially operated without the consent of the Board. This was required as all the issues for determination before the Board primarily relate to this aspect. It was also decided that this material and evidence would have to be provided to M/s Jolly Metals prior to the next date of hearing in order to enable him to deal with the same during his submissions to the Board.

In this regard the hearing in the matters arising out of WP/501/2019, WP/504/2019 and WP/437/2019 was differed till the next meeting in order to enable the material and evidence available with the Board that indicated that the stone crushing unit of M/s Jolly Metals initially operated without the Consent of the Board; to be placed before the Board members and also to be provided to M/s Jolly Metals.

Agenda item no. 04:
Review of Polluter Pays Penalty:

A. Member Secretary informed the members that the Board had approved the Polluters Pay principle in its 138th Board meeting. However, it was noticed that the PPP levied per day violation amounts to more than the investment of the industries / establishments. Member Secretary also brought to the notice of the members that Central Pollution Control Board has prepared an in-house Report on Methodology for Assessing Environmental Compensation and Action Plan to utilize the funds. It was informed that since CPCB has come out with a detailed report, it would be advisable to follow the report prepared by CPCB, as the same would hold grounds in the Court of Law. After deliberations it was decided to adopt the report as prepared by Central Pollution Control Board

B. Member Secretary informed the members that the Board at its 139th meeting had decided to levy penalty to industrial sectors based on the category that is Red, orange and Green and Scale of industry that is Large, medium and Small. She further informed the members that the Board is now in receipt of latest Directions that certain units are categorized under Non Industrial Sectors such as cannot be classified under Large, Medium and Small based on cost of Plant and machinery. Similarly, residential complexes cannot be classified as Large, medium and Small. Members perused the Classification prepared for such sectors and approved the same and decided to penalise the below mentioned sectors as per the Polluter Principle Pay as adopted from the Central Pollution Control Board.

Sr No.	Sector	Category	Scale
1	Airports and Commercial Strips - waste water generation more than 100 KLD	Red	Large
2	Airports and Commercial Strips - waste water generation less than 100 KLD	Orange	Large
3	Health-care Establishments - waste water generation more than 100 KLD OR incinerator	Red	Medium
4	Health - care Establishments - waste water generation less than 100 KLD but having beds above 50	Orange	Medium
5	Health - care Establishments - Having beds below 50	Orange	Small
6	Hotel - waste water generation more than 100 KLD	Red	Medium
7	Hotel - waste water generation less than 100 KLD and rooms more than 20	Orange	Medium
8	Hotel - waste water generation less than 10 KLD, having no boiler, No Hazardous waste generation and rooms less than 20	Green	Small
9	Railway locomotive workshop / Integrated road transport workshop / authorized service centre - more than 100 KLD	Red	Medium
10	Workshops - waste water generation less than 100 KLD	Orange	Medium
11	Ports and Harbours - major	Red	Large
12	Ports and Harbours - Minor	Red	Medium
13	Jetties and dredging operations	Red	Small
14	Common Treatment and Disposal Facilities (CETP, TSDF, CBWTF, effluent conveyance project, incinerator, MSW sanitary landfill site)	Red	Large
15	Residential and Commercial complexes - waste water generation more than 100 KLD and built up area more than 20000 sq.m	Red	Large
16	Residential and Commercial complexes - waste water generation less than 100 KLD and built up area more than 20000 sq.m	Orange	Medium
17	Residential and Commercial complexes - built up area less than 20000 sq.m	Green	Small

Member Secretary further informed the members that a Committee needs to be constituted to calculate the penalty so as to maintain uniformity. After deliberations, it was decided to entrust the said responsibility to the Technical Advisory Committee of the Board.

CALCULATION OF FINES UNDER POLLUTER PAYS PRINCIPLE
FOR M/S. PHOENIX PARK INN (UNIT OF PHOENIX TOWNSHIP
LIMITED), CANDOLIM

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

EC = Environmental compensation

PI = Pollution Index, Red = 80, Orange = 50, Green = 30

N = No. of days

R = 250

S = Scale, Small = 0.5, Green = 1.0, Large = 1.5

LF = 1.0

Therefore,

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

$$= 50 \times 123 \times 250 \times 0.5 \times 1.0$$

$$= \text{Rs. } 7,68,750/-$$

LSM

INSPECTION OF VARIOUS HOTEL UNITS IN THE HON'BLE HIGH COURT MATTER, 2/2007 W. R. T. VERIFICATION OF PRESENT STATUS OF OPERATION OF THE COMPOSTING FACILITIES.

The inspection of the various hotel units were carried out by the undersigned, Mr. Manoj Kudalkar, JEE, in Hon'ble High Court matter w. r. t. verification of present status of operation of the composting facilities on 10/03/2021. The unit wise observations are as follows.

1. M/s. Colonia Santa Maria Hotel Pvt. Ltd., Calangute, Bardez, Goa.
The unit was in operation. The unit has provided vermi-composting facilities and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 03/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 20/01/2021.
2. M/s. Nelam's Hotels Pvt. Ltd. (Neelam's The Grand), Calangute, Bardez, Goa.
The unit was in operation. The unit has provided composting machine, "Kwikcomposter" and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 22/01/2021. The composting facility is also shared with M/s. Neelam's Hotels Pvt. Ltd. (Neelam's The Glitz).
3. M/s. Nelam's Hotels Pvt. Ltd. (Neelam's The Glitz), Calangute, Bardez, Goa.
The unit was in operation. The unit has provided composting machine, "Kwikcomposter" and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 post Covid pandemic lockdown and the composting facility is made operational from 22/01/2021. The composting facility is also shared with M/s. Neelam's Hotels Pvt. Ltd. (Neelam's The Grand).
4. M/s. Riviera de Goa Resorts and Hotels Pvt. Ltd., Arpora, Bardez, Goa.

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



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

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Abstract

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

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

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

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

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

1.1 Background

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

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

1.2 Constitution of the Committee

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

1.3 Methodology for Assessing Environmental Compensation

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

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

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

Cases considered for levying Environmental Compensation (EC):

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

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

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

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

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

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

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

The Environmental Compensation shall be based on the following formula:

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

Where,

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

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

Note:

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

Table No. 1.1: Location Factor Values

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

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

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

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

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

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

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

Table No. 1.2: A sample calculation for Environmental Compensation

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

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

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

1.4 Action Plan for Utilization of Environmental Compensation Fund

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

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

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

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

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

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

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

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

1.5 Recommendations

The Committee made following recommendations:

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

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

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

2.1 Background

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

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

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

2.2 Action Plan for Utilization of Environmental Compensation Fund

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

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

3.1 Background

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

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

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

3.2 Ideology of Environmental Compensation Formula

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alternatively;

$EC \text{ (Lacs Rs.)} = [17.5(\text{Total Sewage Generation} - \text{Installed Treatment Capacity}) + 55.5(\text{Total Sewage Generation} - \text{Operational Capacity})] + 0.2(\text{Sewage Generation} - \text{Operational Capacity}) \times N + \text{Marginal Cost of Environmental Externality} \times (\text{Total Sewage Generation} - \text{Operational Capacity}) \times N$

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

Quantity of Sewage is in MLD

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

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Sewage Generation (MLD) (as per the latest data available with CPCB)	4195	381	486	37
Installed Treatment Capacity (MLD) (as per the latest data available with CPCB)	2500	220	404	45.5
Operational Capacity (MLD) (as per the latest data available with CPCB)	1900	140	300	24.5
Treatment Capacity Gap (MLD)	2295	241	186	12.5
Calculated EC (capital cost component for STPs) in Lacs Rs.	29662.50	2817.50	1435.00	0.00
Calculated EC (capital cost component for Conveyance System) in Lacs. Rs.	127372.50	13375.50	10323.00	693.75
Calculated EC (Total capital cost component) in Lacs Rs.	157035.00	16193.00	11758.00	693.75
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (Total Capital Cost Component) in Lacs Rs.	2000.00	1000.00	1000.00	693.75
Calculated EC (O&M Component in Lacs Rs./day)	459.00	48.20	37.20	2.50
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5	Min. 0.5 Max. 5
Final EC (O&M Component) in Lacs Rs./Day	20.00	10.00	5.00	2.50
Calculated Environmental Externality (Lacs Rs. Per Day)	2.0655	0.2049	0.1395	0.0094
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)	Min. 0.60 Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Lacs Rs. Per day)	0.80	0.25	0.10	0.05

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

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

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

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

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

Where;

Waste Quantity in tons per day (TPD)

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

Simplifying;

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

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

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

3.3 Action Plan for Utilization of Environmental Compensation Fund

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

3.4 Recommendations

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

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

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

4.1 Background

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

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

4.2 Constitution of the Committee

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

4.3 Methodology for Assessing Environmental Compensation

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

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

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

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

For Notified Areas:

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

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

For Non-Notified Areas:

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

4.5 Formula for Environmental Compensation for illegal extraction of ground water

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

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

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

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

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

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

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

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

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

4.6.1 EC_{GW} for Drinking and Domestic use:

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

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

4.6.2 EC_{GW} for Packaged drinking water units:

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

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

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

4.6.4 ECR_{GW} for Industrial Units:

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

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

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

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

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

Daily Consumption = 3 x 0.5 = 1.5 m³

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

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

Total time period = 820 days

Then, EC_{GW} = 6 x 820

Calculated EC_{GW} = 4,920 Rs.

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

Example 2 (For Industrial Units):

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

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

Daily Consumption = 12 x 3 = 36 m³/day

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

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

Total time period = 365 days

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

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

4.7 Relaxation

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

4.8 Recommendations

The committee has given following recommendations:

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

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

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

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

**Original Application No. 593/2017
(W.P. (Civil) No. 375/2012)**

In the matter of:

**Paryavaran Suraksha Samiti & Anr.
Vs.
Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant:	Mr. Rohit Prajapati, Applicant in person
Amicus Curiae:	Mr. Jai A. Dehadrai, Adv.
Respondent Nos.	Mr. Nishe Rajan Shonker, Adv. for State of Kerala
	Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar
	Mr. Sandeep Mishra Advs. for GNCTD
	Mr. Anil Shrivastava Mr Rituraj Bswas and
	Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh
	Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board
	Mr. Avijit Roy, Adv. for Assam Pollution Control Board
	Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur
	Mr. Nikhil Nayyar, Mr. Dhananjay Bajjal, Advs. for APPCB and TSPCB
	Mr. Mukesh Verma, Adv.
	Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv.
	Mr. Dinesh Jindal, LO for DPCC
	Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim
	Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB
	Mr. Edward Belho, AAG, Mr. K. Luikang Michael and Ms. Hoineithiam, Advs. for State of Nagaland
	Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board
	Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCB, Odisha
	Mr. Dhruv Pal, Adv. for State of Gujarat
	Mr. V.K. Shukla, Adv. for State of MP
	Mr. Jayesh Gaurav, Adv. for R-47
	Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board
	Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs.
	Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar
	Ms. Aprajita Mukherjee, Adv.
	Ms. G. Indira, Adv. for UT of Andaman & Nicobar
	Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change
	Ms. Puja Kalra, Adv. for SDMC & NDMC
	Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.
 Ms. Priyanka Sinha, Adv. for State of Jharkhand
 Mr. Rajul Shrivastav, Adv. for MPPCB
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB
 Mr. Shubham Bhalla, Adv.
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board
 Mr. G. M. Kawoosa, Adv. for State of J & K
 Mr. Divya Prakash Pande, Adv. For HPSPCB
 Mr. Manish Kumar, Adv.

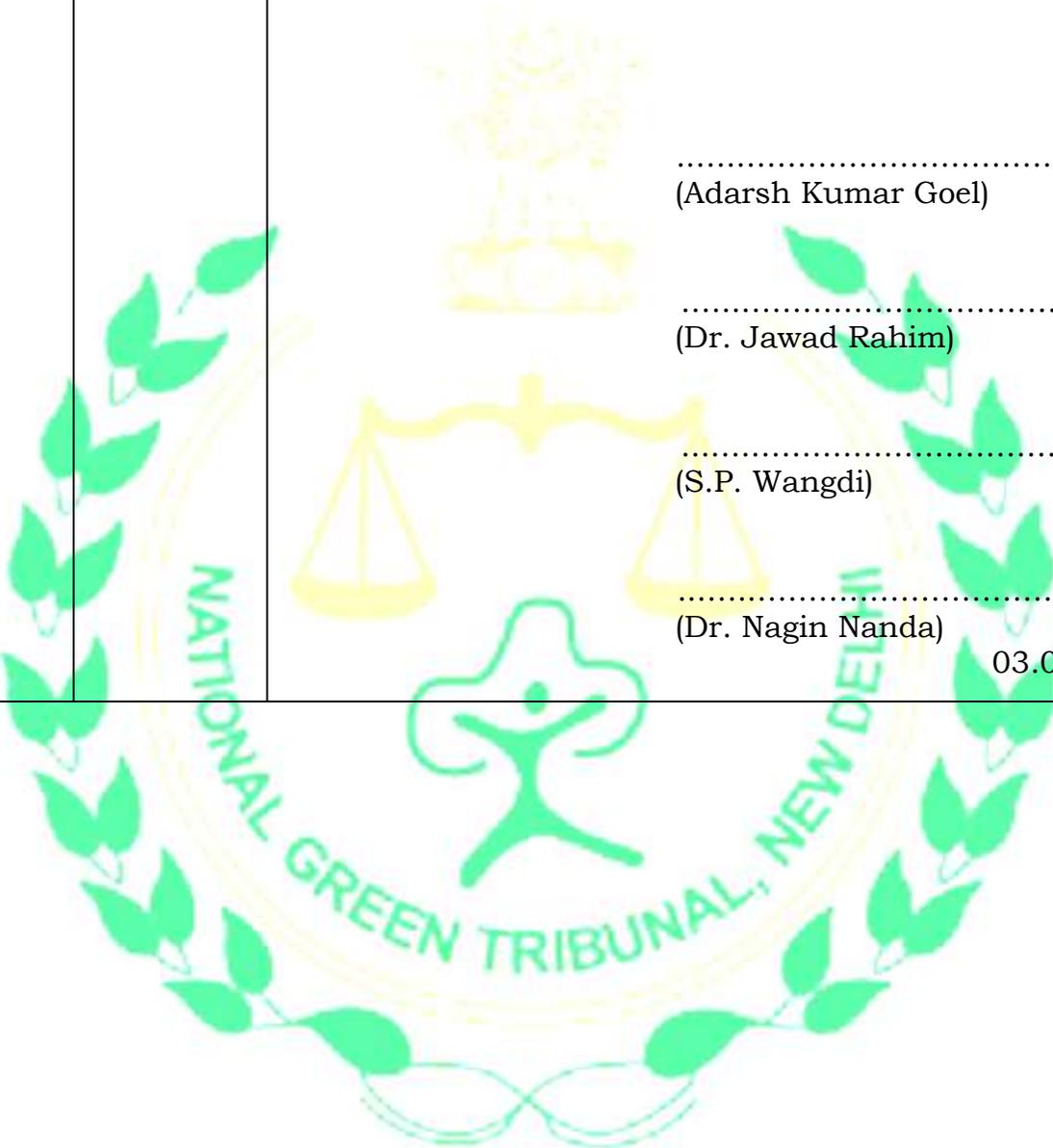
Date and Remarks	Orders of the Tribunal
<p>Item No. 12 August 03, 2018 A</p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04th July, 2017 stating as follows:</p> <p style="padding-left: 40px;">“4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</p>

	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62nd Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report, which has been summarized at Annexure-I.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act, 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issue to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process”.</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant</p>
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	<p>Item No. 12</p> <p>August 03, 2018 A</p>	<p>(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at filing.ngt@gmail.com.</p>
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	<p>Item No. 12</p> <p>August 03, 2018</p> <p>A</p>	<p>(7) Proceedings are disposed of.</p> <p>However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018.</p> <p>We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p>03.08.2018</p>
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Annexure-II

Comments Received from Various RDs on Draft Report for Environmental Compensation		Annexure-II	
S. No.	Items	RD Vadodra	RD Lucknow
1	Case-3, B, A, C Bypassing of effluent/emission should be given special consideration. EC based on BOD5 categories of industries should be on the basis of inspection by CPCB, consistent verification and routine inspections.	Instead of 'Compensation' word should be used. In case serious facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure orders for pre-barged and gross non-compliance.	The Committee discussed brief points highlighted by RDs. Points are already the part of cases for violation and any environmental compensation. However, if questioned by RDs Vadodra, word 'Penalty' may be used for case 2, 3 and 4. For CETPs, a factor may be considered in future based on the capacity of the plants.
2	Case-4, e, a, f Higher rates for irreparable damages crop, soil, health etc. Technology/spillage should have different compensation value.	Similar to guidelines on Liabilities for Environmental Damage due to Handling & Disposal of Hazardous Waste and Penalty, Guidelines may be prepared.	Suggestions made by RD Kolhata and Vadodra has already been taken care. Concept of environmental compensation is based on the philosophy of 'polluters pay' and for giving rigidity to environment, compensation will be charged as per the assessment of remedial cost and case by case basis.
3	Pollution Index (PI)	Instead of average PI, Actual PI may be used.	Concept of weighted PI will make the implementation of EC simpler and easy, use of average PI may be considered for calculation of EC.
4	K-factor	May be classified based on the contribution of pollution load based on quantity of effluent/concentration emissions.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	L-factor	May be redefined based on the features, activities involved and habitation.	L-factor may be covered in future as already indicated in the report.

S.No.	Item	RD Kolkata	RD Vadodra	RD Bengaluru	RD Lucknow	Committee Deliberations
16	Defining period of violations for which EC will be levied		Duration of violation needs more clarity.	For industry having DCEMS, no. of days may be provided based on the recorded data.	May be clearly defined as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PPC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PPC.
17	Repeated violations		Some number of days may be specified after which the penalty amount may get a factor of 1.5 or 2.	Industry without DCEMS based on break down of ETP/APCD, disturbance of power supply or any failure of auxiliary machines or of A.C. control system.	Multiplying factor for repeated violations may be included. For 1 st Repetition - 25% 2 nd Repetition - 50% 3 rd Repetition - 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
18	Utilization of fund	An environmental damage assessment cell may be created. Expenditure in the cell may be achieved by involving scientist/engineers and providing them training in country/abroad.	Amount should not be utilized for: a) Industrial inspections for compliance verification b) Installation of toxicous water quality monitoring stations / continuous ambient air quality monitoring stations for strengthening of existing monitoring network c) Preparation of Comprehensive Industry Documents on Industrial Sectors / clean technology d) Funding to financially weaker municipalities for installation of STPs The amount should not be utilized solely for damage assessment, remediation of affected sites or urban contaminated sites and creating awareness. The purpose should not get inclined towards revenue generation.			RD Vadodra suggested that amount should be utilized only for remediation purpose. However committee discussed that the proposal for utilization of fund is prepared considering the other aspects (i.e. direct and indirect) for protection of environment which include research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

St	Others	Higher GC for non-installation of pollution control measures. Exposure controls should have different scoring methodologies based on their weightings.	Thus, the functional failure of CPCB shall remain intact.			The committee discussed that CPCB is already taking appropriate measures in taking down the dusts, and the independent nature of the WHO air pollution control measures.
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Annexure-III

Comments Received from Various Expert Institutions on the Report on Environmental Compensation

As per the Hon'ble NGT suggestion, CPCB has invited comments from expert institutions namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG), and the Energy Research Institute (ERI). The CRPB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The committee's deliberations are summarized in table below.

S.No.	Item	Comments from ERI	Comments of CSE	Comments of IEG	Continued Deliberations
12	Cases of and (Distinction (between categories of and for not clear. Cases investigations should be made separately with inter-state and inter-territorial cases but sometimes they are not easy to establish)		Why cases 1 and 2 are not included in remediation and study?	There may be a vested damage to the environment, as considered in cases 1 and 2. Such cases require a separate study and remediation measures. The committee has taken into account the comments on the inter-territorial compensation may be linked based on the detailed investigation made by Expert Institution (Organization).
12	R factor		R factor should be less than 2,000/day	Why R factor is kept as 250 although the value range is between 2000 to 5000?	In the Environmental Compensation policy, average value of the R factor is 250. The committee has suggested a range of 2000 to 5000 which may be linked to the population density for surrounding industrial areas. The R factor will be simple because it will vary depending on areas used for industrial or population density. Industrial areas are generally less populated than residential areas. More people live in the areas population exposure to the R factor. The industry located in the City of population less than 100,000 should be considered as 2000. The industry located in the City of population more than 100,000 should be considered as 5000.
13	R factor		R factor should be based on the population density of surrounding areas of the population of the area (city/town/village)	For nearby city, having population less than 100,000, the R factor should be 250. For population more than 100,000, the R factor should be 500. Industries located in ecologically polluted areas/ ecologically fragile areas should be considered as 1000.	Population density for surrounding industrial areas will be simple because it will vary depending on areas used for industrial or population density. Industrial areas are generally less populated than residential areas. More people live in the areas population exposure to the R factor. The industry located in the City of population less than 100,000 should be considered as 2000. The industry located in the City of population more than 100,000 should be considered as 5000. Considering the local environmental conditions, the restriction on expansion and modernization of industries in ecologically fragile areas should be in line with the prevailing policy of the Government of India. Similar restriction on expansion of industries in ecologically fragile areas should be considered as per prevailing policy of CPCB/SEPCO. The Committee agreed that for ecologically fragile areas, R factor may be considered as 2000. For ecologically polluted areas, R factor may be considered as 5000.

S.No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
1	S-factor	Classification of industries should be based on profit/turnover basis	S-factor should be based on the turnover of the industrial unit	Presently, industrial units are classified into small, medium, and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complicate the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
2	Level of non-compliance	Pollution index shall be used to measure the level of pollution. Further, a separate PI eliminates the variation in the nature/extent of pollution that PI tries to capture. Further, the feed Category itself is too wide and some sort of sub-classification should be undertaken.	For different level of non-compliance, such as gross polluting and low PI factor, the intensity of violation factor should be incorporated in the formula.	Pollution Index (PI) itself covers the potential of environmental pollution for a calculator considers variation in pollution load. The Industrial sectors have been categorized into Red, Orange and Green based on their Pollution Index in the range of 50 to 100, 41 to 50 and 21 to 40, respectively. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the processing. Therefore, for calculating the Environmental Compliance Average (ECA), 50, 40 and 30 may be used for Red, Orange and Green category of industries, respectively. To keep the formula simple for better implementation, the K factor may not be considered as there are different environmental parameters such as environmental standards and for each standard, calculation of level of violation and its weightage will be a tedious task which may bring difficulty in implementation of EC Concept.
3	Utilization of funds	The rate of the penalty should increase with the extent of violation. The penalty should increase proportionally as per the required violations. The objective should be that the penalty should be such that operations when violations cannot be brought under control in the specified time.	Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	The Committee has agreed that in order to achieve deterrent effect for repeated violations, EC may be increased on exponential basis i.e. by 2, 4 and 8 times on each similar violation. Further, if the violator continues his operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 1 st , 2 nd and 3 rd quarter, respectively. Besides EC penalty may be provided in (charge directions) may be issued whenever required. EC is not a substitute for taking actions under EIA Act, Water Act or Air Act. In fact, units found polluting should be closed/prospected as per the Act. Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) (capacity building of SPCBs/PCCs) already covers in the report. Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP		Size of the construction sites more than 20,000 sqm area are considered for EC. Although small sites cumulatively impact significantly. Illegal dumping of municipal solid waste, regardless of the place should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm area are required to have environmental clearance, therefore, the same cut-off is maintained here. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others:(a)	Severity of violations should be measured in terms of hours of violation because frequency pollutants even a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of levels which is not the case presently for most limits. Therefore, continuous monitoring should be implemented urgently to begin with for all red and orange categories.		Daily, online continuous effluent/effluent monitoring system (OCES) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, stringent practice the compliance of industries to be ascertained by physical monitoring and compensation may be imposed based on the financial health. The idea of measurement of violation hourly basis may be considered in future, when OCES is widely installed and included in policy.
(b)				CEEPs are already categorized under Red Category of Industries.
9				The power of imposing Penalty lies in the jurisdiction of the Principle Units and NGI only. The CCEB is empowered to levy environmental compensation by the Hon'ble NGI in its order dated 13.08.2018 (OA No.593/2017). Therefore, term "Environmental Penalty" is avoidable.