

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 756/2023

IN THE MATTER OF:

SACHIN TYAGI

...APPLICANT

VERSUS

RITESH SHARMA & ANR.

...RESPONDENT(S)

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DATED: 18.09.2025



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 756/2023

IN THE MATTER OF:  
SACHIN TYAGI

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VERSUS

RITESH SHARMA & ANR.

...RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.-3,  
UTTAR PRADESH POLLUTION CONTROL BOARD, IN  
COMPLIANCE OF THE ORDER DATED 07.08.2025 PASSED  
BY THIS HON'BLE TRIBUNAL

I, Bhuvan Prakash Yadav, S/o. Shri C.L. Yadav, aged about 46 years,  
Regional Officer, Uttar Pradesh Pollution Control Board, Meerut,  
U.P. do hereby solemnly affirm and state on oath as under:

1. That I in the abovenoted capacity, am well conversant with the facts and records of the present case and have been duly authorized, hence am competent to swear this affidavit.
2. That by mean of the present Application the Applicant has raised the grievance that Respondent No. 5, M/s. Royal Construction Company had done illegal sand mining from the river bed of Yamuna by using JCB machines and dumpers and had stocked the illegally mined sand in front of Gaon Garhi Kewal at Hathwala Road. It is further alleged by the Applicant that on account of such illegal mining, the flow of river

Yamuna was diverted towards Village Hathwala resulting in destruction of sugarcane crops and causing loss to the villages.

3. That the above Application was taken up on 07.08.2025 when this Hon'ble Tribunal upon considering the Joint Committee report dated 01.04.2025 has passed the following directions:

*“...6. The report of the joint Committee was uploaded on the website and by the order dated 04.04.2025, parties were permitted to download it and they were also granted opportunity to file objection to the report of the joint Committee within four weeks. No objection to the report of the joint Committee has been filed till now, therefore, the findings of the joint Committee are treated to be final.*

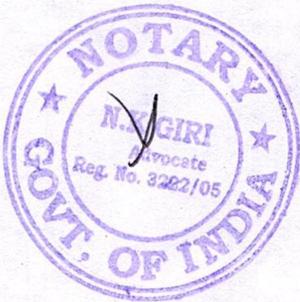


*7. Learned Counsel appearing for Respondent No. 4 submits that the Respondent No. 4 will ensure that requisite action for levy of penalty for illegal mining is taken in accordance with law against Respondent No. 5. Learned Counsel for Respondent No. 3, UPPCB is also directed to calculate the environmental compensation taking into account the extent of illegal sand mining reflected in the report of the joint Committee and file the said calculation after supplying an advance copy thereof to Counsel for Respondent No. 5 within four weeks. Respondent No. 5 will have an opportunity to respond to the calculation of the environmental*

*compensation done by the UPPCB within three weeks thereafter..."*

4. That it is pertinent to mention here that UPPCB had already imposed an Environmental Compensation (EC) against M/s Royal Construction Company in compliance of the orders passed by this Hon'ble Tribunal in OA No. 579/2024 and 580/2024, Yashveer Singh Vs State of UP & Ors., amounting to Rs. 17,55,891/- for illegal/excess mining of 1352.25 m<sup>3</sup> sand at Village Chhaprauli Khadar, Tehsil Baraut, Bagpat.

A true copy of imposition order containing calculation of Environmental Compensation (EC) is being annexed herewith and marked as **Annexure-1**.



5. That it is also worthwhile to mention here that UPPCB had further calculated an Environmental Compensation (EC) regarding illegal sand mining of 578 m<sup>3</sup> against M/s Royal Construction Company in accordance with the methodology developed by the Central Pollution Control Board (CPCB) and issued a Show Cause Notice dated 02.05.2025 as to why Environmental Compensation(EC) amounting to Rs. 7,61,265/- for illegal/excess mining of 578 m<sup>3</sup> sand at Village Chhaprauli Khadar, Tehsil Baraut, Bagpat be not imposed.

It is further submitted this calculation has been done in respect of extraction of 578 m<sup>3</sup> of sand on 18.06.2024 as found by the Joint Committee.

A true copy of show cause notice containing calculation of Environmental Compensation (EC) report is being annexed herewith and marked as Annexure-2.

6. That it is evident from perusal of abovementioned submission that thus Respondent No. 5, M/s. Royal Construction Company has to pay total Environmental Compensation(EC) of Rs 25,17,156/- (Rs. 17,55,891 + Rs. 7,61,264.95) in respect of illegal sand mining.
7. That further it is most respectfully submitted that Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Writ Petition (C) No. 4816 of 2024, vide its Judgment dated 17.07.2025, directed as under:

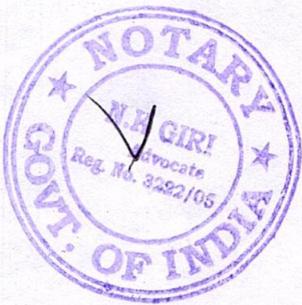
...“(82) *In view of the foregoing discussion, we hold that the State Pollution Control Board has no power to impose environmental compensation upon any person or Industry and it can merely file an application before the NGT under Section 15 read with Section 18 of the NGT Act for issuance of a direction to the person concerned for payment of compensation.*

(83) *Accordingly, all the Writ Petitions are allowed. All the orders passed by the State Pollution Control Board imposing environmental compensation upon the petitioners, which are under challenge in the Writ Petitions, are quashed. The State Pollution Control Board*



*will be at liberty to file applications before the NGT for award of compensation. Costs made easy.”.*

8. That in view of the above judgment, the Hon'ble High Court of Allahabad has categorically held that UPPCB has no authority to impose environmental compensation directly. The Board may only approach this Hon'ble Tribunal under Sections 15 and 18 of the NGT Act for such relief. Accordingly, no EC has been further imposed by UPPCB in the present matter.
9. That it is also necessary to submit here that the Hon'ble Supreme Court of India vide its order dated 04.08.2025 passed in Civil Appeal No(s). 757-760 of 2013, D.P.P.C. Versus Lodhi Property Co. Ltd. Etc., has observed that though the concerned State Pollution Control Board has a power to impose Environmental Compensation, however, the same will be imposed subject to framing of Rules. Hon'ble Supreme Court has further directed that Union of India be impleaded in the above case and will inform the Hon'ble Court about the Rules and Regulations to be framed by it. True copy of proceedings as well as order dated 04.08.2025 passed by Hon'ble Supreme Court in Civil Appeal No(s). 757-760 of 2013, D.P.P.C. Versus Lodhi Property Co. Ltd. Etc. is being enclosed herewith and marked as Annexure-3.



The above facts are being placed for kind consideration of this Hon'ble Tribunal.

*N.K. Giri*  
DEPONENT

**VERIFICATION**

Verified at Meerut on this 12<sup>th</sup> day of September, 2025 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

*N.K. Giri*  
DEPONENT



ATTESTED NOTARY  
N. K. GIRI  
Advocate Meerut  
Reg. No.-5282/05  
*N.K. Giri*



# उत्तर प्रदेश दूषण नियंत्रण बोर्ड

## UTTAR PRADESH POLLUTION CONTROL BOARD

# Annexure 71

संदर्भ संख्या: 125826 / सी-3 / जल-2.84 / प्रो/2025

दिनांक: 18/2/2025

सेवा में,

पंजीकृत

मै0 रायल कंस्ट्रक्शन कंपनी,  
द्वारा ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत  
एवं कोताना खादर, तहसील बड़ौत  
जनपद बागपत। 7906265603

विषय:- पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु कारण बताओ नोटिस के संबंध में।

महोदय,

कृपया मा0 राष्ट्रीय हरित अधिकरण, दिल्ली, में योजित ओ0ए0 संख्या-579/2024 एवं 580/2024 यशवीर सिंह बनाम उ0प्र0राज्य व अन्य में पारित आदेश दिनांक-31/01/2025 का संदर्भ ग्रहण करने का कष्ट करे, जिसके के सुसंगत अंश निम्नवत हैं-

" 3. Learned Counsel for the CPCB has informed that for sand mining in the area, some heavy machinery was also used and he also informed that Respondent No.-8 had done illegal mining in some areas. He submitted that now the Pollution Control Board will impose the cost. We fail to understand what kind of cost the Pollution Control Board will impose and under which provision. He has submitted that for using heavy machinery, the cost will be imposed. The Member Secretary, UP PCB, is directed to appear virtually and explain under which provision the cost will be imposed upon the Project Proponent for doing illegal mining"

क्षेत्रीय अधिकारी मेरठ की आख्या दिनांक 25.02.2025 के अनुसार मा0 एनजीटी द्वारा गठित समिति द्वारा दिनांक-07/01/2025 को स्थल निरीक्षण किया गया एवं समिति की आख्या मा0एनजीटी में दाखिल की गयी है। अग्रेतर खनन विभाग, बागपत द्वारा अपने ईमेल दिनांक-11/02/2025 एवं 14/02/2025 के माध्यम से छपरौली खादर एवं कोताना खादर में खनन विभाग द्वारा किये गये निरीक्षण में पाये गये उल्लंघन एवं तत्कालीन में अधिरोपित शास्ति का विवरण इस कार्यालय को उपलब्ध कराया गया है, जो कि निम्नवत है-

ग्राम छपरौली खादर-			
क्रमांक	उल्लंघनकारी तिथि	illegal/excess खनन	खनन विभाग द्वारा अधिरोपित शास्ति
1	01/04/2024	210 m <sup>3</sup>	281900 /-
2	06/04/2024	जल स्तर से नीचे खनन चिन्ह पाये जाने पर	500000 /-
3	03/06/2024	1142.25 m <sup>3</sup>	645477.5 /-

ग्राम कोताना खादर-			
1	11/02/2024	173 m <sup>3</sup>	67470/- एवं 25000/-
2	22/04/2024	जल स्तर से नीचे खनन चिन्ह पाये जाने पर	550000/-
3	06/05/2024	352 m <sup>3</sup>	387250/-

खनन विभाग से प्राप्त सूचना के अनुसार मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में स्वीकृत पट्टा क्षेत्र के बाहर (1142.25 + 210 = 1352.25) घनमीटर अवैध/excess खनन किया गया है (संलग्नक-1)। इसी प्रकार उक्त परियोजना प्रस्तावक द्वारा ग्राम कोताना खादर तहसील बड़ौत जनपद बागपत में स्वीकृत पट्टा क्षेत्र में एवं इसके बाहर कुल (173 + 352 = 525) घनमीटर अवैध/excess खनन किया गया है एवं इस हेतु पर्यावरणीय स्वीकृति तथा राज्य बोर्ड से सहमति प्राप्त नहीं की गयी है (संलग्नक-2)।

खनन पट्टा इकाई मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम छपरौली खादर, तहसील बड़ौत एवं ग्राम कोताना खादर तहसील बड़ौत जनपद बागपत में किये गये खनन के विरुद्ध मा0एनजीटी में माईनिंग से संबंधित एक अन्य वाद ओ0ए0 संख्या-360/2015 नेशनल ग्रीन ट्रिब्यूनल बार एसोसियेशन बनाम वीरेन्द्र सिंह(गुजरात) में केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा प्रस्तुत मेथेडोलाजी दिनांक-29/01/2020 एवं तत्कम में पर्यावरणीय संरक्षण अधिनियम, 1986 की धारा-5 के अंतर्गत जारी निर्देश दिनांक-11/06/2021 के आधार पर बिना राज्य बोर्ड से सहमति प्राप्त किये एवं बिना पर्यावरणीय स्वीकृति प्राप्त किये गये खनन के सम्बन्ध में इकाई के विरुद्ध छट्ट के आधार पर पर्यावरणीय क्षतिपूर्ति की गणना निम्नवत् है :-

1. मै0 रायल कंस्ट्रक्शन कंपनी, ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत की गणना-

खनन विभाग के शासनादेश के अनुसार खनन की दर (65 रूपये प्रतिघन मीटर x 5=325 रु0) के आधार पर खनिमुख मूल्य (Pit mouth value) = 1352.25x65x5=439481.25/= एवं रायल्टी रु0 1352.25x65=87896.25/= सहित कुल मार्केट वैल्यू धनराशि 527377.5/-आंकलित होता है।

**Approach 2: Computing a Simplified NPV(Net Present Value) for ecological damages.**

In this approach, the criteria adopted is:

Total Benefits (B) = Market Value of illegal extraction: D

Total Ecological Costs = Market Value Adjusted for risk factor: D\*RF

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor(RF)	0.25	0.50	0.75	1.0
Discount(r)	8%	7%	6%	5%

Market value of illegally mined materials  $D=Z \times \text{market value of the material per MT or m}^3$   
 $= 1352.25 \times 65 \times 6$   
 $D = 527377.5/-$

Present value of foregone Ecological values @ 5% discount rate and over 5 years  
 $= D \times RF$   
 $= 527377.5 \times 1 (RF = 1.0; \text{ Severe as being illegal})$   
 $= 527377.5/-$

$$PV = \sum_{t=1}^5 \frac{(D \cdot RF)}{(1+r)^t}$$

$$= \frac{(527377.5)}{(1+0.05)^1} + \frac{(527377.5)}{(1+0.05)^2} + \frac{(527377.5)}{(1+0.05)^3} + \frac{(527377.5)}{(1+0.05)^4} + \frac{(527377.5)}{(1+0.05)^5}$$

$$= 502264.28 + 478346.93 + 455568.51 + 433874.77 + 413214.07 =$$

$$= 2283268.56/=$$

Net Present value(NPV)=PV-D  
 $= 2283268.56 - 527377.5/-$   
 $= 1755890.75/=$

Compensation Charge in above case:

<b>Approach 2 (explicit accounting of NPV)</b>
@ 5% discount rate and over 5 years
Rs. 1755890.75/=
Rs 1755891/= (say)

2. मै0 रायल कंस्ट्रक्शन कंपनी, ग्राम कोताना खादर, तहसील बड़ौत जनपद बागपत की गणना—

खनन विभाग के शासनादेश के अनुसार खनन की दर (65रुपये प्रतिघन मीटर x 5=325 रु0) के आधार पर खनिमुख मूल्य (Pit mouth value) =  $525 \times 65 \times 5 = 1,70,625/=$  एवं रायल्टी रु0  $525 \times 65 = 34,125/=$  सहित कुल मार्केट वैल्यू धनराशि 2,04,750 /—आंकलित होता है।

Approach 2: Computing a Simplified NPV(Net Present Value) for ecological damages.

In this approach, the criteria adopted is:

Total Benefits (B) = Market Value of illegal extraction: D

Total Ecological Costs = Market Value Adjusted for risk factor:  $D \cdot RF$

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor(RF)	0.25	0.50	0.75	1.0
Discount(r)	8%	7%	6%	5%

Market value of illegally mined materials  $D=Z \times \text{market value of the material per MT or m}^3$   
 $= 525 \times 65 \times 6$   
 $D = 2,04,750/-$

Present value of foregone Ecological values @ 5% discount rate and over 5 years  
 $= D \times RF$

=204750 x 1(RF = 1.0; Severe as being illegal)

=204750/-

$$PV = \sum_{t=1}^5 \frac{(D+RF)}{(1+r)^t}$$

$$= \frac{(204750)}{(1+0.05)^1} + \frac{(204750)}{(1+0.05)^2} + \frac{(204750)}{(1+0.05)^3} + \frac{(204750)}{(1+0.05)^4} + \frac{(204750)}{(1+0.05)^5}$$

$$= 195000+185714.28+176870.74+168448.33+160426.98/=$$

$$= 886460.33/=$$

Net Present value(NPV)=PV-D

$$= 886460.33- 204750$$

$$= 681710.33/=$$

Compensation Charge in above case:

<b>Approach 2 (explicit accounting of NPV)</b>
@ 5% discount rate and over 5 years
Rs. 681710.33/=
Rs 681710/=(say)

उपरोक्त तथ्यों के दृष्टिगत क्षेत्रीय अधिकारी मेरठ द्वारा अपने पत्र दिनांक 25.02.2025 के द्वारा मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेंट भूरा चौराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध एप्रोच-2 के आधार पर ग्राम छपरौली खादर तहसील बड़ौत जनपद बागपत पर रू0 1755891/= (रू0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं ग्राम कोताना खादर तहसील बड़ौत जनपद बागपत पर रू0 6,81,710/=(रू0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने की संस्तुति की गयी है।

क्षेत्रीय अधिकारी मेरठ के पत्रांक-1165/जी/ ओ0ए0-579/2024 यशवीर सिंह/बीपीटी/2025 दिनांक-17/02/2025 द्वारा द्वारा जिला खान अधिकारी, बागपत को जल स्तर से नीचे खनन चिन्ह पाये जाने के संबंध में स्पष्ट सूचना प्रेषित करने हेतु पत्र प्रेषित किया गया (संलग्नक-3)। इस संबंध में खनन विभाग के पत्रांक-47/खनन अनु0-बागपत/2025 दिनांक-20/02/2025 के माध्यम से अवगत कराया गया कि मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम कोताना खादर में जल स्तर से नीचे खनन पर दिनांक-22/04/2024 को रूपये 5,50,000/- की शास्ति एवं ग्राम छपरौली खादर में जल स्तर से नीचे खनन के चिन्ह पाये जाने पर दिनांक-06/04/2024 को रूपये 500000/- की शास्ति खनन विभाग द्वारा अधिरोपित की गयी है एवं अवगत कराया गया है कि उक्त खनन की गहराई पर्यावरण मंजूरी में निहित गहराई के अधीन थी एवं पट्टेदार के द्वारा स्वीकृत क्षेत्र में ही खनन किया जा रहा था(संलग्नक-4)।

क्षेत्रीय अधिकारी मेरठ द्वारा प्रेषित आख्या एवं संस्तुति दिनांक 25.02.2025 के अनुपालन में सक्षम अधिकारी से प्राप्त अनुमति के उपरान्त उद्योग मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम छपरौली खादर में किये गये अवैध खनन के विरुद्ध रूपये 17,55,891/= (रु0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम कोताना खादर में किये गये अवैध खनन की विरुद्ध रूपये 6,81,710/=(रु0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने से पूर्व निम्न कारण बताओ नोटिस जारी किया जाता है।

“यह कि क्यो न मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेण्ट भूर चौराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध अवैध खनन किये जाने एवं पर्यावरणीय स्वीकृति में निहित शर्तों के उल्लंघन किये जाने के कारण उपर्युक्त गणना अनुसार ग्राम छपरौली खादर तहसील बड़ौत जनपद बागपत पर रु0 1755891/= (रु0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं ग्राम कोताना खादर तहसील बड़ौत जनपद बागपत पर रु0 6,81,710/=(रु0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुए नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जाए।

उपरोक्त पर अपना पक्ष/प्रत्युत्तर/स्पष्टीकरण 07 दिन के अन्दर राज्य बोर्ड को प्रेषित किया जाना सुनिश्चित करे अन्यथा मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेण्ट भूर चौराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध ग्राम छपरौली खादर तहसील बड़ौत जनपद बागपत पर रु0 1755891/= (रु0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं ग्राम कोताना खादर तहसील बड़ौत जनपद बागपत पर रु0 6,81,710/=(रु0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुए नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जाएगी, जिसका सम्पूर्ण उत्तरदायित्व स्वयं आपका होगा।  
सक्षम अधिकारी के द्वारा पत्र निर्गमन हेतु अधिकृत।



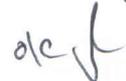
पर्यावरण अभियन्ता,  
प्रभारी वृत्त-3

प्रतिलिपि:-

1. मुख्य विधि अधिकारी, (प्र), उ.प्र. प्रदूषण नियंत्रण बोर्ड, लखनऊ को सूचनार्थ एवं अग्रिम आवश्यक कार्यवाही हेतु प्रेषित।
2. क्षेत्रीय अधिकारी, उ.प्र. प्रदूषण नियंत्रण बोर्ड, मेरठ को इस निर्देश के साथ प्रेषित कि उक्त कारण बताओ नोटिस को अपने स्तर से भी उद्योग को प्राप्त कराते हुए 15 दिवस में अपनी आख्या स्पष्ट संस्तुति सहित प्रेषित किया जाना सुनिश्चित करें।



पर्यावरण अभियन्ता,  
प्रभारी वृत्त-3





उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड  
UTTAR PRADESH POLLUTION CONTROL BOARD

12

संदर्भ संख्या 127414 / सी-3/जल-784/मेरठ/25

दिनांक 25-4-25

सेवा में,

पंजीकृत

मै0 रायल कंस्ट्रक्शन कंपनी,  
द्वारा ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत  
एवं कोताना खादर, तहसील बड़ौत  
जनपद बागपत। 7306 265603

विषय: पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने के संबंध में।

महोदय,

उपरोक्त विषयक बोर्ड के पत्र संख्या एच 25826/सी/3/जल-784/मेरठ/2025 दिनांक 18.03.2025 का संदर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा परियोजना के विरुद्ध पर्यावरणीय क्षतिपूर्ति अधिरोपित किए जाने के संबंध में कारण बताओ नोटिस जारी किया गया है। मा0 राष्ट्रीय हरित अधिकरण, दिल्ली, में योजित ओ0ए0 संख्या-579/2024 एवं 580/2024 यशवीर सिंह बनाम उ0प्र0राज्य व अन्य में पारित आदेश दिनांक-31/01/2025 के द्वारा गठित समिति द्वारा दिनांक-07/01/2025 को किये गये स्थल निरीक्षण एवं खनन विभाग, बागपत द्वारा अपने ईमेल दिनांक-1/02/2025 एवं 14/02/2025 के माध्यम से छपरौली खादर एवं कोताना खादर में खनन विभाग द्वारा किये गये निरीक्षण में पाये गये उल्लंघन एवं मा0एनजीटी में माईनिंग से संबंधित एक अन्य वाद ओ0ए0 संख्या-360/2015 नेशनल ग्रीन ट्रिब्यूनल बार एसोसियेशन बनाम वीरेन्द्र सिंह(गुजरात) में केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा प्रस्तुत मेथेडोलाजी दिनांक-29/01/2020 एवं तत्कम में पर्यावरणीय संरक्षण अधिनियम, 1986 की धारा-5 के अंतर्गत जारी निर्देश दिनांक-11/06/2021 के आधार पर बिना राज्य बोर्ड से सहमति प्राप्त किये एवं बिना पर्यावरणीय स्वीकृति प्राप्त किये गये खनन के सम्बन्ध में इकाई मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेंट भूरा चौराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध ग्राम छपरौली, खादर, तहसील बड़ौत जनपद बागपत में किये गये अवैध खनन के दृष्टिगत रू0 1755891/= (रू0 सत्रह लाख पचपन हजार आठ सौ इक्यान्वे रूपये मात्र) एवं ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में किये गये अवैध खनन के दृष्टिगत रू0 6,81,710/= (रू0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) की पर्यावरणीय क्षतिपूर्ति आंकलित करते हुये कारण बताओ नोटिस जारी किया गया है।

उक्त के अनुक्रम में क्षेत्रीय कार्यालय, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, मेरठ के पत्र संख्या 73/सी/आर0सी0सी0/बागपत/2025 दिनांक 22.04.2025 द्वारा अवगत कराया गया है कि परियोजना प्रस्तावक द्वारा अपने पत्र दिनांक 04.04.2025 जोकि ई-मेल के माध्यम से प्राप्त है, के माध्यम से कारण बताओ नोटिस का प्रतिउत्तर/स्पष्टीकरण प्रस्तुत किया गया है तथा आख्यानसार परियोजनाओं की स्थिति पूर्ववत है। क्षेत्रीय अधिकारी द्वारा पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने की संस्तुति की गयी है।

क्रमशः.....2

अतः उपरोक्त के दृष्टिगत सक्षम स्तर से अनुमोदनोपरान्त बोर्ड के पत्र संख्या एच 25826/सी/3/जल-784/मेरठ/2025 दिनांक 18.03.2025 द्वारा मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेंट भूर चौराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में किये गये अवैध खनन के दृष्टिगत रू0 1755891/= (रू0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में किये गये अवैध खनन के दृष्टिगत रू0 6,81,710/= (रू0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) की पर्यावरणीय क्षतिपूर्ति आंकलित करते हुये जारी कारण बताओ नोटिस की पुष्टि की जाती है तथा निर्देशित किया जाता है कि उपरोक्तानुसार अधिरोपित पर्यावरणीय क्षतिपूर्ति की धनराशि रू0 1755891/= (रू0 सत्रह लाख पचपन हजार आठ सौ इक्यानवे रूपये मात्र) एवं ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में किये गये अवैध खनन के दृष्टिगत रू0 6,81,710/= (रू0 छह लाख इक्यासी हजार सात सौ दस रूपये मात्र) कुल धनराशि रूपये 24,37,601/- (चौबीस लाख सैंतीस हजार छः सौ एक) को विलम्बतम् 15 दिवस में निम्नलिखित Payment Gateway एवं विवरण के माध्यम से जमा किया जाना सुनिश्चित किया जाये:-

Payment Gateway- <https://erp.eshiksa.net/DirectFeesv3/UPPCB>

Nature of Pollution- Air Pollution

EC imposed in compliance- UPPCB Order

उक्त जमा की गयी धनराशि का साक्ष्य क्षेत्रीय कार्यालय, मेरठ एवं बोर्ड मुख्यालय, लखनऊ को भी प्रेषित करना सुनिश्चित करें।

सक्षम अधिकारी के द्वारा पत्र निर्गमन हेतु अधिकृत।

*Pleee*

पर्यावरण अभियन्ता, प्रभारी वृत्त-3

प्रतिलिपि: निम्नलिखित को सूचनाार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. जिलाधिकारी मेरठ।
2. मुख्य विधि-अधिकारी, प्रभारी, उ.प्र. प्रदूषण नियंत्रण बोर्ड, लखनऊ।
3. जिला खनन अधिकारी, जनपद- मेरठ।
4. क्षेत्रीय अधिकारी, उ.प्र. प्रदूषण नियंत्रण बोर्ड मेरठ को इस निर्देश के साथ प्रेषित कि इकाई पर अधिरोपित पर्यावरणीय क्षतिपूर्ति की वसूली हेतु आवश्यक कार्यवाही किया जाना सुनिश्चित करें।

*Pleee*

पर्यावरण अभियन्ता, प्रभारी वृत्त-3

*over*



# उत्तर प्रदेश दूषण नियंत्रण बोर्ड

UTTAR PRADESH POLLUTION CONTROL BOARD

संदर्भ संख्या: H27724 / सी-3 / जल संशोधन / 2025

दिनांक: 2/5/2025

सेवा में,

पंजीकृत

मै0 रायल कंस्ट्रक्शन कंपनी,  
ग्राम छपरौली खादर, तहसील बड़ौत  
जनपद बागपत। 7306265603

**विषय:- पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु कारण बताओ नोटिस के संबंध में।**

महोदय,

कृपया मा0 राष्ट्रीय हरित अधिकरण, दिल्ली, में योजित योजित ओ0ए0 संख्या-756/2023 सचिन त्यागी बनाम रितेश शर्मा व अन्य में पारित आदेश दिनांक-19/12/2024 के पैरा नं0-5 में निम्नवत निर्देश निर्गत हैं-

" 5. The Applicant has pointed out that such illegal midstream sand mining by using heavy machines is still going on between Baghpat and Panipat. Hence, we constitute a fresh Committee comprising of the representative of MoEF&CC, representative Member Secretary, CPCB and RO, MoEF&CC Chandigarh and Lucknow. The RO, MoEF&CC, Lucknow will act as the Coordinating Agency. The Committee will visit the site in question specifically the sites disclosed in the photographs enclosed along with objections of Applicant and the area where the lease has been granted to the Respondent No. 5. "

क्षेत्रीय अधिकारी मेरठ की आख्या दिनांक 26.04.2025 के अनुसार मा0 एनजीटी द्वारा गठित समिति द्वारा गठित समिति द्वारा रिपोर्ट दिनांक-01/04/2025 मा0एनजीटी में दाखिल की गयी है। प्रस्तुत रिपोर्ट के पैरा नं0-3.2.1 (a) एवं (c) में निम्नवत उल्लिखित किया गया है-

a. The joint committee tried to obtain free satellite images of the area for the period corresponding to the dates mentioned in the photographs submitted by the applicant by plotting the coordinates of the leased mining area on the Google Earth platform and accessing open-source satellite images from Airbus (EU) for the year 2014 for the mining lease of M/s Royal Construction Co. The Joint Committee was able to access a satellite image dated 18/06/2024 (Annexure-3 I), which depicts illegal mining activities outside the leased mining area in the state of Uttar Pradesh. The image also revealed multiple trucks and earth-moving machinery, along with vehicles using the leased area of M/s Royal Construction Co. to access the illegally mined area. However, no mining activities were observed within the leased mining area of M/s Royal Construction Co.

c. Since no mining activity was observed within the leased area of M/s Royal Construction Co. in the satellite image, it indicates that the company may have illegally mined the material from outside its designated lease area, as visible in the image.

उक्त से स्पष्ट है कि इकाई द्वारा दिनांक-18/06/2024 को स्वीकृत खनन क्षेत्र के बाहर खनन कार्य किया गया है। समिति के अनुसार upmines.upsdc.gov.in के अवलोकन से दिनांक-18/06/2024 को इकाई द्वारा कुल 578 घनमीटर साधारण बालू का अवैध खनन/परिवहन किया गया है।

अग्रतर खनन विभाग, बागपत द्वारा अपने ईमेल दिनांक-25/04/2025 के माध्यम से छपरौली खादर में खनन विभाग द्वारा किये गये निरीक्षण में पाये गये उल्लंघन एवं तत्कालीन में अधिरोपित शास्ति का विवरण इस कार्यालय को उपलब्ध कराया गया है, जो कि निम्नवत है:-

ग्राम छपरौली खादर-			
क्रमांक	उल्लंघनकारी तिथि	illegal/excess खनन	खनन विभाग द्वारा अधिरोपित शास्ति
1	18/06/2024	578 m <sup>3</sup>	4,25,420/-

खनन विभाग से प्राप्त सूचना के अनुसार मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में स्वीकृत पट्टा क्षेत्र के बाहर 578 घनमीटर अवैध/excess खनन किया गया है एवं इस हेतु पर्यावरणीय स्वीकृति तथा राज्य बोर्ड से सहमति प्राप्त नहीं की गयी है। खनन पट्टा इकाई मै0 रायल कंस्ट्रक्शन कंपनी द्वारा ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत में किये गये खनन के विरुद्ध मा0एनजीटी में माईनिंग से संबंधित एक अन्य वाद ओ0ए0 संख्या-360/2015 नेशनल ग्रीन ट्रिब्यूनल बार एसोसियेशन बनाम वीरेन्द्र सिंह(गुजरात) में केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा प्रस्तुत मेथेडोलाजी दिनांक-29/01/2020 एवं तत्कम में पर्यावरणीय संरक्षण अधिनियम, 1986 की धारा-5 के अंतर्गत जारी निर्देश दिनांक-11/06/2021 के आधार पर बिना राज्य बोर्ड से सहमति प्राप्त किये एवं बिना पर्यावरणीय स्वीकृति प्राप्त किये गये खनन के सम्बन्ध में इकाई के विरुद्ध NPV के आधार पर पर्यावरणीय क्षतिपूर्ति की गणना निम्नवत् है :-

1. मै0 रायल कंस्ट्रक्शन कंपनी, ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत के संबंध में पर्यावरणीय क्षतिपूर्ति की गणना-

खनन विभाग के शासनादेश के अनुसार खनन की दर (65रूपये प्रतिघन मीटर x 5=325 रू0) के आधार पर खनिमुख मूल्य (Pit mouth value) = 578x65x5=187850/= एवं रायल्टी रू0 578x65=37570/= सहित कुल मार्केट वैल्यू धनराशि 225720/-आंकलित होता है।

Approach 2: Computing a Simplified NPV(Net Present Value) for ecological damages.

In this approach, the criteria adopted is:

Total Benefits (B) = Market Value of illegal extraction: D

Total Ecological Costs = Market Value Adjusted for risk factor: D\*RF

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor(RF)	0.25	0.50	0.75	1.0
Discount(r)	8%	7%	6%	5%

Market value of illegally mined materials  $D=Z \times \text{market value of the material per MT or m}^3$   
 $= 578 \times 65 \times 6$

$$D = 225420/-$$

Present value of foregone Ecological values @ 5% discount rate and over 5 years

$$= D \times RF$$

$$= 225420 \times 1 (RF = 1.0; \text{ Severe as being illegal})$$

$$= 225420/-$$

$$PV = \sum_{t=1}^5 \frac{(D*RF)}{(1+r)^t}$$

$$= \sum \frac{(225420)}{(1+0.05)^1} + \frac{(225420)}{(1+0.05)^2} + \frac{(225420)}{(1+0.05)^3} + \frac{(225420)}{(1+0.05)^4} + \frac{(225420)}{(1+0.05)^5}$$

$$= 225420.05 + 204462.58 + 194726.27 + 185453.59 + 176622.46/= = 986684.95/=$$

Net Present value(NPV)=PV-D

$$= 986684.95 - 225420/-$$

$$= 761264.95/=$$

Compensation Charge in above case:

<b>Approach 2 (explicit accounting of NPV)</b>
@ 5% discount rate and over 5 years
Rs.761264.95 /=
Rs 761265/= (say)

उपरोक्त तथ्यों के दृष्टिगत क्षेत्रीय अधिकारी मेरठ द्वारा अपने पत्र दिनांक 26.04.2025 के द्वारा मै0 रायल कंस्ट्रक्शन कंपनी, द्वारा श्री दयाचन्द बरगौती पुत्र हरस्वरूप, मकान नंबर-5, नई ब्रेक प्वाइंट रेस्टोरेंट भूराहा के पास यमुनापुरम, बुलंदशहर-203001 के विरुद्ध एप्रोच-2 के आधार पर ग्राम छपरौली खादर तहसील बड़ौत जनपद बागपत पर रू0 761265/= (रू0 सात लाख इकसठ हजार दो सौ पैंसठ रुपये मात्र) पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने की संस्तुति की गयी है।

क्षेत्रीय अधिकारी मेरठ द्वारा प्रेषित आख्या एवं संस्तुति के अनुपालन में सक्षम अधिकारी से प्राप्त अनुमति के उपरान्त उद्योग के विरुद्ध रुपये 761265/= (रू0 सात लाख इकसठ हजार दो सौ पैंसठ रुपये मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने से पूर्व निम्न कारण बताओ नोटिस जारी किया जाता है।

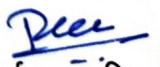
"यह कि क्यो न मै0 रायल कंस्ट्रक्शन कंपनी, ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत के विरुद्ध अवैध खनन किये जाने, पर्यावरणीय स्वीकृति में निहित शर्तों के उल्लंघन किये जाने उपर्युक्त गणना अनुसार रुपये 761265/= (रू0 सात लाख इकसठ हजार दो सौ पैंसठ रुपये मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुए नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जाए।

उपरोक्त पर अपना पक्ष/प्रत्युत्तर/स्पष्टीकरण 15 दिन के अन्दर राज्य बोर्ड को प्रेषित किया जाना सुनिश्चित करे अन्यथा मै0 रायल कंस्ट्रक्शन कंपनी, ग्राम छपरौली खादर, तहसील बड़ौत जनपद बागपत के विरुद्ध रुपये 761265/= (रू0 सात लाख इकसठ हजार दो सौ पैंसठ रुपये मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित करते हुए नियमानुसार अग्रिम कार्यवाही प्रारम्भ कर दी जाएगी, जिसका सम्पूर्ण उत्तरदायित्व स्वयं आपका होगा।  
सक्षम अधिकारी के द्वारा पत्र निर्गमन हेतु अधिकृत।

  
पर्यावरण अभियन्ता,  
प्रमारी वृत्त-3

प्रतिलिपि:-

1. मुख्य विधि अधिकारी, (प्र), उ.प्र. प्रदूषण नियंत्रण बोर्ड, लखनऊ को सूचनार्थ एवं अग्रिम आवश्यक कार्यवाही हेतु प्रेषित।
2. क्षेत्रीय अधिकारी, उ.प्र. प्रदूषण नियंत्रण बोर्ड, मेरठ को इस निर्देश के साथ प्रेषित कि उक्त कारण बताओ नोटिस को अपने स्तर से भी उद्योग को प्राप्त कराते हुए 15 दिवस में अपनी आख्या स्पष्ट संस्तुति सहित प्रेषित किया जाना सुनिश्चित करें।

  
पर्यावरण अभियन्ता,  
प्रमारी वृत्त-3



ITEM NO.1501.1

COURT NO.6

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 757-760/2013

D.P.C.C.

Appellant(s)

VERSUS

LODHI PROPERTY CO. LTD.ETC.

Respondent(s)

WITH

C.A. No. 1977-2011/2013 (XIV-A)

Date : 04-08-2025 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE ATUL S. CHANDURKARFor Appellant(s) : Mr. Pradeep Misra, AOR  
Mr. Ninad Laud, Adv.(A.C.)

For Respondent(s) :

UPON hearing the counsel the Court made the following  
O R D E R

1. We have delivered our judgment in the case of DPCC v. Lodhi Properties today.

2. While considering the matter, certain amount of asymmetry in the governing statutes, the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control of Pollution) Act 1981, and Environment (Protection) Act 1986, has come to light. This asymmetry seems have been aggravated with the advent of the amendments introduced in 2024 to the Water and Air Acts.

Signature Not Verified  
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KAPIL TANDON  
Date: 2025.08.14  
19:37:05 IST  
Reason: [ ]

The Water Act, 1974 was amended through the Water (Prevention and Control of Pollution) Amendment Act, 2024. The

amendments to the Water Act have come into force only in the States of Himachal Pradesh and Rajasthan and the Union territories on 15.02.2024, and will come into force in other states as and when suitable resolutions are passed by the State Legislatures. Through the passage of the Jan Vishwas (Amendment of Provisions) Act, 2023, the Air Act was amended, and the amendments came into force on 01.04.2024.

4. Significant part of the amendments has been the substitution of imprisonment with fines for a large number of offences and the introduction of a civil adjudicatory process. This is in line with the objective stated in the preamble of the two amending statutes. The preamble to the Water (Prevention and Control of Pollution) Amendment Act, 2024 declares the purpose of the amendment as, *“AND WHEREAS it is considered necessary to make certain amendments thereto for decriminalising and rationalising minor offences to further enhance trust-based governance for ease of living and doing business;”*

5. The Jan Vishwas Act 2023, similarly introduced amendments to the Air Act and the Environment (Protection) Act 1986, with the same purpose declaring, *“An Act to amend certain*

*enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.”*

6. After amendments, several offences under Chapter VII and VI of the Water and Air Acts respectively can be addressed through a monetary penalty and not by way of imprisonment. The maximum penalty that may be imposed is fifteen lakh rupees. Punishment by way of imprisonment is however retained only for a limited number of contraventions, such as failure to comply with requirements of obtaining consent and failure to pay penalty or the additional penalty amount.<sup>1</sup>

7. To determine the penalty under the amended provisions, the Central government has to appoint officers not below the rank of Joint Secretary to the Government of India, or a Secretary to the State Government as Adjudicating Officers.<sup>2</sup> Once a complaint is filed, the Adjudicating Officers are expected to hold an inquiry to determine whether the contravention has taken place and if it has, to impose and collect the penalties. In case of contravention or non-compliance of directions issued under Section 33A of the

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<sup>1</sup> Section 45E of Water Act and Section 39D of Air Act.

<sup>2</sup> Section 45B of Water Act and Section 39A of Air Act.

Water or Section 31A of the Air Act, the Adjudicatory Officer has jurisdiction to decide a complaint. An appeal against the order of an Adjudicating Officer lies before the National Green Tribunal.<sup>3</sup>

8. To guide the adjudicatory process, the Central Government has issued the Water (Prevention and Control of Pollution) (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024 on 11.11.2024. Similar Rules have been issued under the Air Act on 12.11.2024.

9. It is important to note that Section 33A of the Water Act and Section 31A of the Air Act have not been amended. At the same time, the legal regime regarding offences and consequent penalties under the two Acts, that were identical, are now in variance. The reason is that the amended Water Act has not come into effect in all the states.

10. *Statutory framework lacks clarity* - The Water Act, the Air Act, and the Environment (Protection) Act, were legislated in 1974, 1981 and 1986 respectively, in a very different environment from the one we inhabit now. There has been a persistent demand to amend these laws and to reform the environmental

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<sup>3</sup> Section 45C of Water Act and Section 39B of Air Act.

regulatory framework to cope with the rapidly changing environmental demands. Impact of climate change is bound to bring about transformative changes and our regulations need to be one step ahead of times. We need to augment and redesign our regulatory capacity in ways that help us adapt to these transformations and minimize damage to the environment and protect public health.

11. The statutory framework lacks clarity, for instance–

- i) Under the Water Act, any person aggrieved by an order of the State Board under Section 25, 26 and 27 has to approach the Appellate Authority constituted under the Water Act by the State Government. However, the Appellate Authority under the Air Act has jurisdiction over *all* orders passed by the State Boards.
- ii) The State Governments have revisional powers under Section 29 of the Water Act, but do not have similar powers under the Air Act.
- iii) An appeal against directions issued by the State Boards under Section 33A of the Water Act lies before the NGT under Section 33B. However, there is no statutory appeal

against directions issued by the State Boards under Section 31A of the Air Act.

12. Quite often common orders invoking provisions of both laws are issued against polluting entities. To have such variation in the appellate process under the two laws is not desirable. This Court in *Tamil Nadu Pollution Control Board v. Sterlite Industries (India) Ltd.*<sup>4</sup>, highlighted the distinction between the Water Act and the Air Act with respect to the appeal process against State Board's directions –

*“36. ... What is important to note is that whereas Section 33-B(c) of the Water Act read with Section 16(c) of the NGT Act make it clear that directions issued under Section 33-A of the Water Act are appealable to the NGT, directions issued under Section 31-A of the Air Act are not so appealable. In fact, the statutory scheme is that directions given under Section 31-A of the Air Act are not appealable. This being the case, all the aforesaid orders, being composite orders issued under both the Water Act and the Air Act, it will not be possible to split the aforesaid orders and say that so far as they affect water pollution, they are appealable to the NGT, but so far as they affect air pollution, a suit or a writ petition would lie against such orders. ... In the present case, we have seen that so far as directions issued under Section 31-A of the Air Act are concerned, there is no right of appeal conferred by the Air Act read with the NGT Act. The ingenious argument made by Shri Sundaram that, in any case, a “direction” under Section 31-A of the Air Act is nothing but an “order”, and would, therefore, be appealable as such under Section 31-B of the Air Act read with Section 16(f) of the NGT Act would drive a coach-and-four through the statutory scheme that has just been adverted to. ... Also, “directions” that are issued under*

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<sup>4</sup> (2019) 19 SCC 479.

*Section 31-A of the Air Act are of a different quality from “orders” referred to in Section 31 of the same Act. Directions are issued in the exercise of powers and performance of functions under the Act and are not quasi-judicial in nature, whereas orders that are appealed against under Section 31 are quasi-judicial orders made, inter alia, under Section 21 of the Air Act. For this reason also, we cannot accept the aforesaid argument of Shri Sundaram. However, Shri Sundaram argued, with particular reference to the Explanation to Section 31-A of the Air Act that “directions” partake of the nature of “orders” when closure of any particular industry or stoppage of supply of electricity qua any single industry is made, and therefore, such directions are appealable as orders under Section 31 of the Air Act. This argument is also of no avail as Section 33-A of the Water Act contains an identical explanation to that contained in Section 31-A of the Air Act. Despite this, the legislative scheme, as stated hereinabove, is that so far as directions under the Water Act are concerned, they are appealable, but so far as directions under the Air Act are concerned, they are not appealable. Hence, reference made to P. Ramanatha Aiyar’s Law Lexicon and Black’s Law Dictionary, which state that in certain circumstances, orders are also directions and vice versa, would not apply to the present case, given the express statutory scheme. In this connection, Shri Sundaram cited Kanhiya Lal Omar v. R.K. Trivedi [Kanhiya Lal Omar v. R.K. Trivedi, (1985) 4 SCC 628], and relied upon para 17, where this Court held, referring to Article 324(1) of the Constitution of India, that a “direction” may be equated with a specific or a general order. The context of Article 324 being wholly different, it is obvious that this authority also has no application, given the statutory scheme in the present case.”*

13. There is no logic or justifiable reason for variation in the two laws.

14. Given the undisputed reality that climate change is no longer a mere threat for the future as well as present generations, it is compelling to have an effective and efficient legal regime in place. Inconsistencies and lack of certainty about the powers and duties of the statutory regulators will not only delay the process but also generate unnecessary litigation.

15. In order to examine the legal position, it is necessary to hear the Union of India, through the Ministry of Environment, Forest and Climate Change. We, therefore, implead the MoEFCC as a party respondent. Mr. Pradeep Misra, learned counsel for the appellant, will file the necessary application for impleadment. Upon filing of such application, let notice be issued to the Union of India. The Registry will accordingly amend the cause title confining the Union of India as the sole respondent.

16. We also appoint Ms. Shibani Ghosh and Mr. Ninad Laud, Advocates of this Court, as *amici curiae* to assist the Court.

17. List on 15.09.2025.

(KAPIL TANDON)  
COURT MASTER (SH)

(NIDHI WASON)  
COURT MASTER (NSH)

ITEM NO.1501

COURT NO.6

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 757-760/2013

D.P.C.C.

Appellant(s)

VERSUS

LODHI PROPERTY CO. LTD.ETC.

Respondent(s)

[HEARD BY : HON. PAMIDIGHANTAM SRI NARASIMHA AND HON. MANOJ MISRA,  
JJ.]

WITH

C.A. No. 1977-2011/2013 (XIV-A)

Date : 04-08-2025 These appeals were called on for pronouncement of  
judgment today.

For Appellant(s) : Mr. Pradeep Misra, AOR  
Mr. Daleep Dhyani, Adv.  
Mr. Dinesh Jindal, Adv.  
Mr. Suraj Singh, Adv.

Mr. Ninad Laud, Adv.(A.C.)  
Mr. Ivo M.S. D'Costa, Adv.  
Mr. Rashika Narain, Adv.  
Ms. Ishani Shekhar, Adv.

For Respondent(s) : Mr. Pinaki Misra, Sr. Adv.  
Mr. Pravin Bahadur, Adv.  
Mr. Kishan Rawat, Adv.  
Mr. Rajan Narain, AOR

Mr. S. S. Shroff, AOR  
Mr. Ajit Warriar, Adv.  
Mr. Angad Kochhar, Adv.  
Ms. Sakshi Agarwal, Adv.

Mr. Mohit D. Ram, AOR  
Ms. Nayan Gupta, Adv.

Mrs. Priya Puri, AOR  
Mr. Navin Prakash, AOR  
Mr. Umesh Kumar Khaitan, AOR

1. Hon'ble Mr. Justice Pamidighantam Sri Narasimha pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Manoj Misra.

2. The appeals stand allowed in terms of the signed reportable judgment.

(KAPIL TANDON)  
COURT MASTER (SH)

(NIDHI WASON)  
COURT MASTER (NSH)

(Signed Reportable Judgment is placed on the file)



2025 INSC 923

REPORTABLE

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO(S). 757-760 OF 2013**

**DELHI POLLUTION CONTROL COMMITTEE ...APPELLANT(S)**

**VERSUS**

**LODHI PROPERTY CO. LTD. ETC. ...RESPONDENT(S)**

**WITH**

**CIVIL APPEAL NO(S). 1977-2011 OF 2013**

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Signature Not Verified  
Digitally signed by  
KAPIL TANDON  
Date: 2025.08.04  
19:14:07 IST  
Reason:

### **1. Introduction.**

1. The Delhi Pollution Control Committee (DPCC)<sup>1</sup> is in appeal against the judgment of the Division Bench of the High Court holding that it is not empowered to levy compensatory damages in exercise of powers under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981<sup>2</sup> on the ground that such an action amounts to imposition of penalty provided for in Chapters VII and VI of the respective Acts, and as such, procedure contemplated thereunder will be the only method for imposing and collecting compensatory damage.

2. Having considered the principles that govern Indian environmental laws, we have held that the environmental regulators, the Pollution Control Boards exercising powers under the Water and Air Acts, can impose and collect restitutionary or compensatory damages in the form of fixed sum of monies or require furnishing of bank guarantees as an *ex-ante* measure to prevent potential environmental damage. These powers are

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<sup>1</sup> DPCC is a regulatory body in the National Capital Territory of Delhi, established as a 'State Board'. These Boards are constituted under section 4 of the Water Act and under section 4 or section 5 of the Air Act, and exercise powers granted under section 33A of the Water Act and section 31A of the Air Act. Our interpretation of section 33A and 31A herein will apply to any such body established under said Acts.

<sup>2</sup> Hereinafter referred to as the Water Act and Air Act respectively.

incidental and ancillary to the empowerment under Sections 33A and 31A of the Water and Air Acts. At the same time, we have directed that the powers must be exercised as per procedure laid down by subordinate legislation incorporating necessary principles of natural justice, transparency and certainty.

## **2. Facts.**

3. It is the case of the Delhi Pollution Control Committee that pursuant to the directions of the Ministry of Environment, Forest and Climate Change (MoEFCC) to take appropriate action against certain entities operating in violation of the environmental norms, show cause notices were issued for violation of Section 25 of the Water Act and Sections 21 and 22 of the Air Act. These entities were either residential complexes, commercial complexes or shopping malls. The show cause notices were issued on the ground that they proceeded with construction and in fact, were operating without obtaining the mandatory “consent to establish” and “consent to operate” under Section 25 of the Water Act and Section 21 of the Air Act. The show cause notices were challenged by way of 38 writ petitions before the Delhi High Court. The challenge culminated in the judgement of a single judge dated 30.09.2010 in

the case of *Splendor Landbase Ltd. v. DPCC*<sup>3</sup>. The learned single judge considered the question as to whether a State Board can levy environmental damages in the form of fixed sums of money or require an entity to furnish a bank guarantee as a condition for grant of consent under Section 33A of Water Act and/or Section 31A of Air Act. Similar writ petitions were considered and decided by another single judge bench in *Bharti Realty Ltd. v. DPCC* and *Anush Finlease and Construction v. DPCC* on 20.07.2011 and 15.09.2011 and were disposed of in terms of the decision in *Splendor Landbase Ltd. v. DPCC*. The reasoning adopted in the judgement and orders passed by the Single Judges are as follows.

### **3. Single Judge's Judgement and Orders.**

4. In *Splendor Landbase Ltd. v. DPCC*<sup>4</sup>, the ld. single judge by his judgement dated 30.09.2010 dealt with two major issues – firstly, whether proprietors of properties over 20,000 square meters are required to obtain *consent to establish* and *consent to operate* under Water Act and Air Act independently, despite obtaining EIA Clearance from the Ministry; and secondly, whether Boards can levy penalties, fines, environmental damages in form

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<sup>3</sup> 2012 (195) DLT 177.

<sup>4</sup> Hereinafter referred to as *Splendor*.

of fixed sums of monies or call for bank guaranties as a condition to grant consent under Water and Air Acts? While the first question was answered in the affirmative, the second was answered in the negative.

4.1 It was held that the power to levy penalty is in the nature of a penal power and as such a penalty cannot be imposed without there being an enabling statutory power. For this reason, the single judge held that Board has no power to levy penalty or damage, even on the basis of the general powers under Sections 31A or 33A of the Acts. The learned Judge criticized the monetary demand as a pre-condition for grant of consent under the Acts on the ground that it has no statutory backing.

4.2 In the other batch of cases i.e. in *Bharti Realty Ltd. v. DPCC* and *Anush Finlease and Construction Ltd. v. DPCC*, decided on 12.07.2011 and 15.09.2011, the learned Single Judge was constrained to enquire into the matter in detail as writ appeals against the judgement in *Splendor* were already pending before a Division Bench. Therefore, the Single Judge allowed the writ petitions following the decision in *Splendor* and holding that the Board has no power to impose and collect compensatory damages. In these cases, the learned Judge also directed refund of the

amounts collected. However, no interest was granted to the respondents as they chose to comply with the demand instead of challenging the same at the relevant point in time.

#### **4. Impugned Order of the Division Bench.**

5. The decisions of the single judges were challenged by the appellant before the Division Bench of the High Court. By the judgement impugned before us, the Division Bench upheld the findings of the Single Judge in *Splendor* that the power to issue directions under Sections 33A and 31A under the two Acts does not confer the power to levy ‘penalty’. The High Court further observed that under Chapter VII and Chapter VI of the Water and Air Acts penalties can be levied only by courts and that too after taking cognizance of offences specified under the two Acts. Provided that the procedure so prescribed under the statute has to be followed mandatorily, the Division Bench held that the appellant would not be entitled to impose compensation or direct deposit of bank guarantees. The relevant portion of the Division Bench of the High Court is as follows –

*“37. We concur with the reasoning of the learned Single Judge in paras 58 to 64 of the impugned decision and thus do not elaborate any further, but would additionally highlight that, the power to issue directions under Section 33A of the Water Act and the power to issue directions under Section 31A of the*

*Air Act, on their plain language, does not confer the power to levy any penalty. We would further highlight that under Chapter VII of the Water Act and under Chapter VI of the Air Act penalties and procedure to levy the same have been set out. A perusal of the provisions under the Water Act would reveal that penalties can be levied as per procedure prescribed and only Courts can take cognizance of offences under the Act and levy penalties, whether by way of imprisonment or fine. Similar is the position under the Air Act. The legislature having enacted specific provisions for levy of penalties and procedures to be followed has specifically made the offences cognizable by Courts and the power to levy penalties under both Acts has been vested in the Courts. The role of the Pollution Control Boards is to initiate proceedings before the Court of Competent jurisdiction and no more.*

*40. The language of Sub-Section 5 of Section 25 of the Water Act makes it plain clear that the only solution to a situation of a building being constructed to establish an industry, operation or process without obtaining prior consent of the State Pollution Control Board is the power of the Board to serve upon the person concerned a notice imposing such conditions as might have been imposed on an application, seeking prior consent and we find that the learned Single Judge has correctly so opined and has rightly issued the direction that the only way out, pertaining to the Water Act is to permit DPCC to inspect the shopping malls and the shopping commercial complexes and if it is found that pertaining to discharge of sewage from these buildings any steps are required to prevent water pollution DPCC would be authorized to issue notices requiring the owner of the building to take steps in terms of the notice issued. Pertaining to the Air Act notwithstanding there being no similar provision, but the concept of a post decisional hearing may be made applicable with the modification that no hearing would be required inasmuch as there is no decision, but DPCC should be empowered to inspect the shopping malls and the shopping, commercial complexes and pertaining to air pollution, if the owners of the buildings do not take corrective action, DPCC would always have the power to file criminal complaints before the Courts of Competent Jurisdiction, which Courts would alone have the power to impose fine and additionally impose sentence of imprisonment upon the offending persons.*

*42. In a few cases, we find that since DPCC was not permitting the buildings to be occupied, under protest, the owners paid the penalty to DPCC and have immediately approached the Court seeking refund and the same has been ordered for the reason neither under the Water Act nor under the Air Act there exists any power in DPCC to levy penalty or impose conditions*

*of furnishing bank guarantee. The decision of the learned Single Judge is correct in directing the bank guarantees to be discharged and penalties levied to be refunded for the reason the said act of DPCC is ultra-vires its power under the two statutes and the levy of penalty is without any authority of law. In the decision reported as 1997 [5] SCC 535 Mafatlal Industries Ltd. & Ors. Vs UOI & Ors., under writ jurisdiction refund can be directed where the levy is without jurisdiction and the same would include a penalty levied without any jurisdiction. In the instant case the penalty levied is unconstitutional being not sanctioned by any power vested in DPCC either under the Water Act or the Air Act. The impugned decisions where penalty levied has been directed to be refunded are upheld.”*

### **5. Submissions.**

6. Mr. Pradeep Mishra appearing on behalf of the appellant DPCC submitted that the High Court erred in holding that the State Boards are not empowered to impose environmental damages under Sections 33A and 31A of Water and Air Acts. He has argued that the application of the principle of *Polluter Pays* is distinct from the requirement of authority of law to impose tax or penalty.

7. On behalf of the respondents, Mr. Ninad Laud has submitted that as per broad scheme of the Acts and also the statement of objects and reasons, State Boards are empowered to act on their own while enforcing Sections 25 and 26 and also while issuing directions under Sections 33A and 31A. However, when faced with non-compliances, recourse to judicial process is contemplated

under Sections 49 and 43 of Water and Air Acts respectively. Further, neither Rule 34 of Water (Prevention & Control of Pollution) Rules 1975 nor Rule 20A of Air (Prevention & Control of Pollution) Rules 1983, while providing a mechanism to administer Section 33A and Section 31A, contemplate monetary penalties. Countering the submission of Mr. Pradeep Misra on the principle of *Polluter Pays* to encourage reading the power to impose and collect environmental damages under Sections 33A and 31A of the respective Acts, he would submit such an approach is impermissible as the said power is specifically and separately provided under Chapters VII and VI therein. Relying on the decision of this Court in *MC Mehta v. Kamal Nath*<sup>5</sup>, he would submit, after considering the scheme of penal provisions under Water Act, Air Act and Environment (Protection) Act 1986, the Supreme Court held that penalties under the Acts befall a person only after finding of guilt upon trial by a court of law. Referring to the legitimacy of State Board's action demanding bank guarantees to secure compliance with conditions, he would submit that no penalty, other than that contemplated in the statute or statutory

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<sup>5</sup> (2000) 6 SCC 213, para 13-17.

scheme can be imposed.<sup>6</sup> We have also heard Mr. Pinaki Misra, Senior Advocate and other learned counsel and they have strongly supported the decision of the Division Bench.

7.1 Counsel for M/s Laxmi Buildtech Pvt Ltd<sup>7</sup> has submitted that they have neither violated nor acted in breach of any provision of environmental laws and therefore they cannot be subjected to any penalty or criminal prosecution. Counsel for other respondents further submitted that they have deemed consent as well as EIA clearance from the Ministry. They have also submitted that imposition and collection of damages by the State Boards is outside the powers vested in them under the Water and Air Acts.

7.2 Counsel for M/s Bharti Realty Ltd has submitted that it is a settled principle of law that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and no other.<sup>8</sup> This principle, according to the learned counsel, squarely applies to the present case as Chapter VII and Chapter VI of the Water and Air Acts have a prescribed procedure to be followed before imposing penalties. It is further argued that the

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<sup>6</sup> *State of MP v. Centre for Environment Protection Research & Development*, (2020) 9 SCC 781.

<sup>7</sup> Civil Appeal No. 2001 of 2013.

<sup>8</sup> *Chandra Kishore Jha v. Mahavir Prasad & Ors*, (1999) 8 SCC 266.

role of any State Board is in the nature of a complainant and not that of an adjudicatory authority. In this vein, it is submitted that any other interpretation would render the chapter on 'Penalties and Procedures' nugatory and otiose. It is also submitted that the power to give directions under Sections 33A and 31A of the Water and Air Acts is "subject to provisions of this Act". Written submissions also refer to the recent amendments to the Water and Air Acts, empowering an Adjudicating Officer, not below the rank of Joint Secretary of Government of India or Secretary to State Government, for imposing penalties for contravention of provisions of the Acts.

**6. Issue.**

8. The core question in these appeals is - whether the regulatory boards can, in exercise of powers under Section 33A of the Water Act and Section 31A of the Air Act, impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage?

## **7. Existing Legal Regime for Pollution Control in India.**

9. Under the Water Act and the Air Act, the State Boards have a broad statutory mandate to prevent, control and abate water pollution and air pollution. Under Section 17 of the Water Act, the State Boards are to shoulder enormous responsibilities and their functions are reproduced herein for ready reference -

**“Section 17. Functions of State Board** – (1) Subject to the provisions of this Act, the functions of a State Board shall be—  
(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;

(c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

(i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

(j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;

(k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;

(l) to make, vary or revoke any order—

(i) for the prevention, control or abatement of discharges of waste into streams or wells;

(ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or adopt such remedial measures as are necessary to prevent, control or abate water pollution;

(m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;

(n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;

(o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.

(2) The Board may establish or recognize a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.”

10. Section 17 of the Air Act<sup>9</sup>, substantially similar to its equivalent under the Water Act, also indicates the crucial

<sup>9</sup> Section 17 of Air Act states –

**17. Functions of State Boards.**— (1) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974, the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement relating to air pollution;

responsibilities of the State Boards in discharge of their mandate. Chapter V of the Water Act and Chapter IV of the Air Act include provisions that prescribe the regulatory powers of the State Boards. These powers include the power to issue, modify or withdraw consent<sup>10</sup>, power to obtain information<sup>11</sup>, power of entry and inspection<sup>12</sup> and power to take samples<sup>13</sup>.

### **8. Insertion of Sections 33A & 31A in Water and Air Acts.**

11. In 1988, both Acts were amended. Notably, through amendments the State Boards were further empowered to give

- 
- (c) to collect and disseminate information relating to air pollution;*
  - (d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise a mass-education programme relating thereto;*
  - (e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;*
  - (f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;*
  - (g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft: Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;*
  - (h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;*
  - (i) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;*
  - (j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.*

*(2) A State Board may establish or recognise a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.*

<sup>10</sup> Sections 25, 27 of Water Act and Section 21 of Air Act

<sup>11</sup> Section 20 of Water Act and Section 25 of Air Act

<sup>12</sup> Section 23 of Water Act and Section 24 of Air Act

<sup>13</sup> Section 21 of Water Act and Section 26 of Air Act

directions under Section 33A of the Water Act and Section 31A<sup>14</sup> of the Air Act. These two provisions are identically worded. Section 33A of the Water Act is as under;

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

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

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

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

12. The directions contemplated under Sections 33A and 31A of the Water and Air Acts must be in furtherance of the powers and functions of the Boards and they must be in writing. These provisions, declares that the power to issue directions will include the power to direct closure, prohibition or regulation of any

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<sup>14</sup> Section 31A of the Air Act states –

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

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

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

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

industry, operation or process. Further, this power extends to directing the stoppage or regulation of supply of electricity, water or any other service. The power to give directions has been worded broadly, and it allows the Boards significant flexibility in deciding the nature of directions. The legislative intention of granting these powers through the 1988 amendment can be inferred from the Statement of Objects and Reasons of the Water Act, which reads as follows –

*“2. The Water Act is implemented by the Central and State Governments and the Central and State Pollution Control Boards. Over the past few years, the implementing agencies have experienced some more administrative and practical difficulties in effectively implementing the provisions of the Act. The ways and means to remove these difficulties have been thoroughly examined in consultation with the implementing agencies. Taking into account the views expressed, it is proposed to amend certain provisions of the Act in order to remove such difficulties....*

*3. The Bill, inter alia, seeks to make the following amendments in the Act, namely:—*

*....*

*(iv) in order to effectively prevent water pollution, the penal provisions of the Act are proposed to be made stricter and bring them at par with the punishments prescribed in the Air (Prevention and Control of Pollution) Act, 1981 as amended by Act 47 of 1987;*

*....*

*(vi) it is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending industry, operation or process or stoppage or regulation of supply of services such as water and electricity;”*

13. Similar objective is expressed for the amendment introduced in the Air Act.<sup>15</sup>

14. An appeal against directions issued under Section 33A of the Water Act by the State Board can be filed before the National Green Tribunal under Section 33B, introduced in 2010<sup>16</sup>. Unlike the Water Act there is no specific Appeal provision against directions issued under Section 31A of the Air Act. This asymmetry must be addressed legislatively.

15. Offences and penalties under the two Acts, and the related procedures, are covered in Chapter VII of the Water Act and Chapter VI of the Air Act. These chapters have undergone significant and substantial amendments. Prior to the amendments, the two Acts stipulated penalties in the form of

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<sup>15</sup> Statement of Objects and Reasons for Air Act states, “2. *The Air Act is implemented by the Central and State Governments and the Central and State Boards. Over the past few years, the implementing agencies have experienced some administrative and practical difficulties in effectively implementing the provisions of this Act and have brought these to the notice of Government. The ways and means to remove these difficulties have been thoroughly examined in consultation with the concerned Central Government departments, the State Governments and the Central and State Boards. Taking into account the views expressed, the Government have decided to make certain amendments to the Act in order to remove such difficulties.* 3. *The Bill, inter alia, seeks to make the following amendments in the Act, namely—*

....  
*iv) In order to prevent effectively air pollution, the punishments provided in the Act are proposed to be made stricter.*

....  
*(vii) It is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending establishments or stoppage or regulation of supply of services such as, water and electricity. (viii) It is proposed to empower the Boards to approach courts to obtain orders restraining any person from causing air pollution.”*

<sup>16</sup> Act 19 of 2010.

imprisonment, monetary fine or both for offences under the statute. Courts could only take cognizance of an offence if a complaint was filed by a Board or any officer authorized by it, or by any person who had given notice of the alleged offence and of his intention to make a complaint. No court inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first class can try an offence punishable under the two Acts. Be that as it may, for the present purpose we have to examine and interpret Sections 33A and 31A of the Water and Air Acts.

### ***9. Interpretation of and for Environmental Institutions.***

16. Our constitutionalism bears the hallmark of an expansive interpretation of fundamental rights. But such creative expansion is only a job half done if the depth of the remedies, consequent upon infringement, remain shallow. In other words, remedial jurisprudence must keep pace with expanding rights and regulatory challenges. It is not sufficient that courts adopt injunctory, mandatory and compensatory remedies, but our regulators also must be empowered in that regard. However, the legislative grammar must be elastic for us to infuse the regulators with power to fashion different remedies. This infusion must also be tampered with the necessary guidelines and parameters of

exercise of remedial powers, failing which such infusion would aid arbitrary use. Our firm view is that remedial powers or restitutionary directives are a necessary concomitant of both the fundamental rights of citizens who suffer environmental wrongs and an equal concomitant of the duties of a statutory regulator, which are informed by Part IV A of the constitution. To that extent, the functions and powers of a regulator must be inspired by the obligation in Part IV A and Article 48 A. The State's '*endeavour to protect and improve the environment*' will be partial, if it does not encompass a duty to retribute.

17. Of all the duties imposed under Article 51A, the obligation to conserve and protect water and air, is perhaps the most significant, amidst our climate change crisis. The Water Act and the Air Act institutionalised all efforts and actions that need to be taken to protect air that we breathe and water that we consume by creating the Pollution Control Boards. These Boards functioning as our environment regulators are expected to act with *institutional foresight* by evolving necessary policy perspectives and action plans. Working with perpetual seal and succession, they are to develop and retain *institutional memory* so that they can act on the basis of the experience, data and information that they would have

gathered and processed. *Institutional expertise* is critical, and these bodies are to employ human resource which have domain expertise and talent. These bodies are intended to maintain *institutional integrity* by taking independent and objective decisions without governmental or industrial control. These values flow naturally if there is *institutional transparency and accountability*. It is in this perspective that we need to interpret Section 33A of the Water Act and 31A of the Air Act.

**10. Duty to Restitute v. Power to Punish and Penalise.**

18. There is a distinction between an action for environmental damages for restitution or remediation and imposition of penalties or fines levied at the culmination of a punitive action. This Court in *M.C. Mehta* (supra), while referring to the provisions of the Water Act, Air Act and the Environment Protection Act observed –

*“17. All the three Acts, referred to above, also contemplate the taking of the cognizance of the offences by the court. Thus, a person guilty of contravention of provisions of any of the three Acts which constitutes an offence has to be prosecuted for such offence and in case the offence is found proved then alone can he be punished with imprisonment and fine or both. The sine qua non for punishment of imprisonment and fine is a fair trial in a competent court. The punishment of imprisonment or fine can be imposed only after the person is found guilty.”*

*“24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay*

damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender....”

19. Therefore, Indian law distinguishes between the imposition of a monetary penalty or fine, which constitutes punitive action following a determination of guilt after adherence to the statutorily prescribed procedure, and the payment of damages for restitution or remediation as compensatory relief.

20. In this context, it is important to turn to one of the key principles of Indian environmental law – the *Polluter Pays* principle. This principle has been a part of Indian jurisprudence since 1996. In *Indian Council for Enviro-Legal Action v. Union of India*<sup>17</sup>, this Court held that according to the *Polluter Pays* principle the responsibility for repairing the damage is that of the offending industry. The Court further held that the powers of the Central Government to issue directions under Section 5 read with Section 3 of the Environment Protection Act include the power to impose costs for remedial measures -

*“60. ... Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government (or its delegate, as the case may be) to “take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment...”. Section 5 clothes the Central Government (or its delegate) with the power to issue*

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<sup>17</sup> (1996) 3 SCC 212

*directions for achieving the objects of the Act. Read with the wide definition of ‘environment’ in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are “necessary or expedient for the purpose of protecting and improving the quality of the environment”. The Central Government is empowered to take all measures and issue all such directions as are called for for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. ...*

*67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the “Polluter Pays” principle. ...Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, RPCB or such other agency or authority, as they think fit.”*

(emphasis added)

21. Subsequently, the Court in *Vellore Citizens’ Welfare Forum v. Union of India*<sup>18</sup>, has held that the liability for environmental damage includes both a compensatory aspect and a restorative or remedial aspect-

*“12. ... The “Polluter Pays Principle” as interpreted by this Court means that the absolute liability for harm to the*

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<sup>18</sup> (1996) 5 SCC 647

*environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.”*

(emphasis added)

22. Application of the *Polluter Pays* principle not only includes payment for restoring the damaged environment, taking remedial action to deal with the damage and compensating for the direct harm caused, but also for avoiding pollution. In *Research Foundation for Science (18) v. Union of India*<sup>19</sup>, this Court held -

*“29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.”*

(emphasis added)

23. The Court further held that the observations of the Court in *Deepak Nitrite Ltd. v. State of Gujarat*<sup>20</sup> that “mere violation of the law in not observing the norms would result in degradation of environment would not be correct” were confined to the facts of that

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<sup>19</sup> (2005) 13 SCC 186.

<sup>20</sup> (2004) 6 SCC 402

case. The Court clarified that the actual degradation of the environment is not a necessary condition for the application of polluter pays principle, as long as the offending activities have the potential of degrading the environment -

*“30...The decision also cannot be said to have laid down a proposition that in the absence of actual degradation of environment by the offending activities, the payment for repair on application of the polluter-pays principle cannot be ordered. The said case is not relevant for considering cases like the present one where offending activities have the potential of degrading the environment. In any case, in the present case, the point simply is about the payments to be made for the expenditure to be incurred for the destruction of imported hazardous waste and amount spent for conducting tests for determining whether it is such a waste or not...”*

(emphasis added)

24. The distinction between a punitive action and a direction to pay environmental damages was made by the National Green Tribunal in *State Pollution Control Board, Odisha v M/s Swastik Ispat Pvt Ltd and Others*<sup>21</sup>. The Tribunal in this case was considering the legality of forfeiture of bank guarantees in case a defaulting industry did not comply with the regulatory conditions within the stipulated timeframe. The Tribunal expressly considered the opinion of the High Court in the impugned judgment before us today and held -

*“45. It is evident from the above facts and the reasoning that there was actual levy of penalty or damages by the DPCC and*

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<sup>21</sup> 2014 SCC OnLine NGT 13.

*it was in consequence of such imposition of penalty/ damages that the Units were called upon to furnish bank guarantees for granting of consent. In other words, bank guarantee was required to be furnished in furtherance to the imposition of a penalty or damages in that case. It was not an act de hors the imposition of penalty and had the element of punitive action. In the present case, it is not a consequence of a punitive or penal action but is in exercise of the powers vested in the Board in relation to recalling the conditions of consent and ensuring their implementation while also making compensatory provision for remedying the apprehended wrong to the environment. In the cases in hand, the Board has not imposed any penalty upon the units but has granted consent to them on certain conditions, none of which is punitive. They squarely fall within the power of the Board to prevent and control pollution in consonance with the scheme of the Acts concerned. Thus, on facts, the judgments of the High Court in Splendor (supra) do not have any application to the present case. In any case, we are of the considered view that asking for a bank guarantee as an interim measure for due performance of the conditions of the consent order being compensatory in nature, is not punitive.*

*46. We have already noticed above that there is a clear distinction between a penal and a compensatory provision. In such matters, the paramount question that would normally fall for determination before a court or tribunal would be whether the action contemplated is penal or compensatory. This issue shall have to be decided with reference to the facts of the case, the provisions of the law applicable and the intent of the authority concerned. Once it falls in the 'compensatory' field, then it will necessarily be beyond the purview of penalty...."*

(emphasis added)

25. In *Swastik Ispat*, the Green Tribunal correctly interpreted Sections 33A and 31A of the Water and Air Acts. The judgment of the High Court in *Splendor* had not yet been taken up or considered by this Court at that time, the Tribunal had to distinguish the facts of *Splendor* to arrive at its own conclusion. In view of our reasoning and interpretation of Sections 33A and 31A

of the Water and Air Acts, we have no hesitation to hold that the Green Tribunal is correct in its approach.

26. More recently, in *T.N. Godavarman Thirumulpad, In Re v. Union of India*<sup>22</sup>, this Court while considering the issue of illegal construction in the Corbett Tiger Reserve drew the distinction between action against persons violating the law and measures for restoration of the environmental damage. The Court held -

*“173. ... However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localised to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged.*

*175. We find that, bringing the culprits to face the proceedings is a different matter and restoration of the damage already done is a different matter. We are of the considered view that the State cannot run away from its responsibilities to restore the damage done to the forest. The State, apart from preventing such acts in the future, should take immediate steps for restoration of the damage already done; undertake an exercise for determining the valuation of the damage done and recover it from the persons found responsible for causing such a damage.”*

(emphasis added)

### **11. Principles.**

27. Based on a review of precedents on this issue, the following legal position emerges –

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<sup>22</sup> (2025) 2 SCC 641

- I. There is a distinction between a direction for payment of restitutionary and compensatory damages as a remedial measure for environmental damage or as an *ex-ante* measure towards potential environmental damage on the one hand; and a punitive action of fine or imprisonment for violations under Chapters VII of the Water Act and VI of the Air Act on the other hand.
- II. If directions in furtherance of restitutionary and compensatory measures are issued, these are not to be considered as punitive in nature. Punitive action can only be taken through the procedure prescribed in the statute for example under chapters VII and VI of the Water and Air Acts respectively.
- III. Indian environmental law has assimilated<sup>23</sup> the principle of *Polluter Pays* and there is also a statutory incorporation of this principle in our laws.<sup>24</sup> The invocation of this principle is triggered in the situations<sup>25</sup>; i) when an established threshold or prescribed requirement is exceeded or

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<sup>23</sup> *Indian Council for Enviro-Legal Action* (supra n.12); *Vellore* (supra n 13).

<sup>24</sup> **Section 20. Tribunal to apply certain principles-** *The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.*

<sup>25</sup> Loveleen Bhullar, 'The Polluter Pays Principle: Scope and Limits or Judicial Decisions'; in Shibani Ghosh (ed.), *Indian Environmental Law* (Orient BlackSwan 2019).

breached, and it does result in environmental damage, ii) when an established threshold or prescribed requirement is not exceeded or breached, nevertheless the act in question results in environmental damage and also iii) when a potential risk or a likely adverse impact to the environment is anticipated, irrespective of whether or not prescribed thresholds or requirements are exceeded or breached.

IV. Environmental regulators have a compelling duty to adopt and apply preventive measures irrespective of actual environmental damage. *Ex-ante* action shall be taken by these regulators and for this purpose a certain measure in exercise of powers under Sections 33A and 31A of the Water and Air Acts is necessary.

V. The powers of the Boards under Sections 33A and 31A of the Water and Air Acts are identical to that of Section 5 of the Environment Protection Act. Under Section 5, the Central Government or its delegate has the power to issue directions to the polluting industry to pay certain amounts and utilise the said fund for carrying out remedial measures. The Boards are empowered to take similar actions under Sections 33A and 31A of the Acts.

28. Having considered the principles that govern our environmental laws and on interpretation of Sections 33A and 31A of the Water and Air Acts, we are of the opinion that that the Division Bench of the High Court was not correct in restrictively reading powers of the Boards. We are of the opinion that these regulators in exercise of these powers can impose and collect, as restitutionary or compensatory damages fixed sum of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential or actual environmental damage.

29. There is no doubt that Section 33A of the Water Act and Section 31A of the Air Act give the State Boards powers to issue necessary directions for environmental restoration, remediation and compensation and for the payment of costs for the same. The National Green Tribunal's judgment in *Swastik Ispat* correctly identified the Boards powers to issue directions for payment of environmental damages under Section 33A of the Water Act and the Section 31A of the Air Act. A restrictive interpretation which fails to differentiate between environmental damages and punitive action significantly encumbers the Boards ability to discharge its duties.

30. The Board's powers under Section 33A of the Water Act and Section 31A of the Air Act have to be read in light of the legal position on the application of *Polluter Pays* principle as formulated and explained. This means that State Board cannot impose environmental damages in case of every contravention or offence under the Water Act and Air Act. It is only when the State Board has made a determination that some form of environmental damage or harm has been caused by the erring entity, or the same is so imminent, that the State Board must initiate action under Section 33A of the Water Act and Section 31A of the Air Act.

31. At this stage, we must also take note of the recent 2024 amendments<sup>26</sup> to the Water and Air Acts. Two major changes relevant for our consideration are that of decriminalisation<sup>27</sup> and introduction of the office of "Adjudicatory Officer"<sup>28</sup>. Even after the

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<sup>26</sup> The Water (Prevention and Control of Pollution) Amendment Act, 2024, Jan Vishwas (Amendment of Provisions) Act, 2023.

<sup>27</sup> Section 41 in the erstwhile Water Act has been substituted by sections 41 and 41A, whereby contravention of directions issued under section 20 (for obtaining information), 32 (for imposing emergency measures in case of pollution), 33 (for restraining apprehended pollution) or 33A would now be punishable by penalty alone; thereby replacing the earlier penal framework comprising of imprisonment *and* fine. Similar amendments done for section 42 (penalty for certain acts), section 43 for contravention of directions under section 24 (prohibiting use of stream or well), section 44 (prohibiting alteration of meter, etc.), and section 45A (residuary). Correspondingly, under the Air Act criminal liability under section 37 for contravention of directions under section 22 (restricting emission beyond standards) or section 31A has been restricted to fine alone. Similar amendments have been brought in section 38 and 39 (residuary). Punishment for imprisonment has been retained only for violation of section 21 and failure to pay penalty or additional penalty under section 39D.

<sup>28</sup> In the Water Act, section 45B puts in place a new office by the title of 'Adjudicating Officer', who would be an officer not below the rank of Joint Secretary to the Centre or Secretary to the State, appointed by the Central Government. Adjudicating Officer is empowered to inquire

amendments, in our opinion, there is no conflict between the powers of the State Boards to direct payment of environmental damages under Sections 33A and 31A of the Water and Air Acts and the powers of the Adjudicating Officer to impose penalties under Chapter VII of the Water Act and Chapter VI of the Air Act. The decriminalization of offences under these Chapters has not removed the punitive nature of actions that can be taken under them. There remains a clear distinction between the nature of directions that the State Boards can issue under Sections 33A and 31A of the Water and Air Acts for payment of environmental damage and the determination by Adjudicating Officers. The former is compensatory in nature and will be resorted to when remedial measures are being undertaken to restore the degraded environment or pollution caused. The latter is a penalty for an offence under the law and is imposed with the objective of punishing the offender. This penalty collected here will not be specifically directed towards the restoration of the degraded environment (for instance, to decontaminate a pond that has been

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and impose penalties under sections 41, 41A, 42, 43, 44, 45A and 48. Appeal against such imposition lies before the National Green Tribunal as per section 45C. The Adjudicating Officer is further empowered to file a complaint for cognizance under section 49. Corresponding additions have been made under the Air Act as well under sections 39A (Adjudicating Officer), 39B (Appeal to NGT) and 43 (Cognizance of offences).

polluted due to discharge of untreated sewage). It will be deposited in the Environmental Protection Fund that is to be set up under Section 16 of the Environment (Protection) Act. According to Section 16(3) of the EP Act, the Fund shall be used for, (a) the promotion of awareness, education and research for the protection of environment; (b) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act; and (c) such other purposes, as may be prescribed.

***A. Board's Responsibility to Choose Appropriate Course of Action.***

32. Given their broad statutory mandate and the significant duty towards public health and environmental protection the Boards must have the power and distinction to decide the appropriate action against a polluting entity. It is essential that the Boards function effectively and efficiently by adopting such measures as is necessary in a given situation. The Boards can decide whether a polluting entity needs to be punished by imposition of penalty or if the situation demands immediate restoration of the environmental damage by the polluter or both.

**B. Powers Must Be Guided by Transparency and Non-Arbitrariness.**

33. While we hold that the Boards have the power to direct the payment of environmental damages, we make it clear that this power must always be guided by two overarching principles. First, that the power cannot be exercised in an arbitrary manner; and second, the process of exercising this power must be infused with transparency.

34. This Court has underscored the importance of strong institutional frameworks in environmental governance that are effective, accountable and transparent. In *Bengaluru Development Authority v. Sudhakar Hegde*<sup>29</sup>, this Court held -

*“95. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision-making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognised value under Article 21 of the Constitution, proper structures for environmental decision-making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place.”*

(emphasis added)

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<sup>29</sup> (2020) 15 SCC 63

35. To ensure that the Boards impose restitutionary and the compensatory environmental damages in a fair transparent, non-arbitrary manner, with procedural certainty, necessary subordinate legislation in the form of rules and regulations must be notified. This shall include methods by which environmental damage is determined, and the consequent quantum of damages are assessed. They may also incorporate certain basic principles of natural justice for fairness in action. At present environmental damages are being levied by the Boards on the basis of certain guidelines issued by the Central Pollution Control Board in its document “*General framework for imposing environmental damage compensation*” issue in December, 2022. These guidelines seem to have been issued pursuant to the directions of the NGT.<sup>30</sup> It is important that these guidelines are reviewed thoroughly and issued in the form of Rules and Regulations. This will enable declaration of a law that applies and ensures its recognition and easy implementation.

36. These Rules must also create enabling framework for citizens to file complaints about environmental damage. Public participation in environmental protection has assumed great

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<sup>30</sup> Pursuant to the NGT in its order in O.A. No. 606/2018 dated 24.04.2019.

importance with climate change threatening to drastically disrupt our way of living. Boards, being the first line of defence against polluting activities, must provide easy accessibility and encourage public participation in their function and decision making.

37. While we have reversed the decision of the High Court on the principle of law and hold that the environmental regulators, the Pollution Control Boards, can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts, we issue the following consequential directions.

38. In view of the fact that the show cause notices in these cases relate to the year 2006 and those show cause notices were set-aside by the Single as well as by the Division Benches of the High Court, we are of the opinion that no purpose will be served in reviving the said show cause notices at this point of time. In the facts and circumstances of the case while we allow the appeal on the principle of law there shall not be any consequential direction for reviving the show cause notices which have been set-aside concurrently by the Single as well as by the Division Bench of the

High Court. If certain amounts have been collected on the basis of the said show cause notices they shall be returned by DPCC within a period of six weeks from the date of this order, and if amounts are not deposited or collected the appellant, DPCC shall not take any further action.

39. For the reasons stated above:

(a) we allow these appeals and set aside the judgement and order dated 23.01.2012, passed by the Division Bench of the High Court of Delhi to the extent of declaration of law but direct that the show cause notices that have been set aside by the High Court shall not be revived.

(b) we direct that the Pollution Control Boards can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an *ex-ante* measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts.

(c) it is further directed that the power to impose or collect restitutionary or compensatory damages or the requirement to furnish bank guarantees as an *ex-ante* measure under Sections 33A and 31A of the Water and Air Acts shall be enforced only after

detailing the principle and procedure incorporating basic principles of natural justice in the subordinate legislation.

.....J.  
**[PAMIDIGHANTAM SRI NARASIMHA]**

.....J.  
**[MANOJ MISRA]**

**NEW DELHI;  
AUGUST 04, 2025**

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## BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI

Appeal/OA NO.

756

of 2023

In re:

Sachin TyagiPlaintiff/Appellants/  
Petitioner/Complainant

VERSUS

Ritesh SharmaDefendant/Respondent/  
Accused

KNOW ALL to whom these present shall come that I/We  
Anuj Kumar Chaubey the above named Law Officer  
do hereby appoint (herein after called the advocate/s) to be my/our Advocate in the above  
noted case & authorize :-

**Mr. Pradeep Misra, Mr. Daleep Dhyani, Advocates,  
138, New Lawyers Chamber, Supreme Court of India,  
New Delhi, Ph. :011-23070011, Mob. 9810252518, 9811070721**

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on my/our behalf.

AND I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

AND I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

AND I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

AND I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I/we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 12 day of 09 2025

Accepted subject to the terms of fees.

(Signature)  
**(PRADEEP MISRA)(DALEEP DHYANI)**  
Advocate Advocate (D/435/01)

(Signature)  
**Anuj Kumar Chaubey**  
Client  
Law Officer-I  
U.P. Pollution Control Board  
Lucknow

