

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

Appeal No. 26/2024

In the matter of:

Reliance Industries Limited

Appellant

Vs

Central Pollution Control Board

Respondent

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*Pankaj Agarwal*

**(Pankaj Agarwal)**  
Scientist 'F'

Central Pollution Control Board

Date: - 19.08.2024

Place: Delhi

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
APPEAL No. 26 OF 2024**

Reliance Industries Limited

Appellant

Vs

Central Pollution Control Board

Respondent

**REPLY TO THE APPEAL ON BEHALF OF CENTRAL POLLUTION  
CONTROL BOARD i.e. CPCB**

**MOST RESPECTFULLY SUBMITTED AS UNDER: -**

1. That, Hon'ble NGT vide order dated 19.07.2024 has sought the reply of CPCB in the instant appeal. Thereby, the reply is made in succeeding paragraphs.
2. That at the outset, the answering respondent deny all claims, contentions, allegations and averments against answering respondent CPCB in the above Appeal contrary to anything stated or submitted in this reply. Nothing in the Appeal may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial or on the ground of non- traverse, save any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and control of Pollution) Act, 1974, The Air (Prevention and control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986.

**PRELIMINARY SUBMISSION :**

4. That the timelines extended by the Hon'ble Supreme Court were only applicable to the three public sector oil marketing companies which had approached it, seeking

extension. The extended timeline was not considered for M/s Reliance Industries Limited since it was neither a litigant in the Hon'ble Supreme court matter, nor did it seek extension of time or otherwise any relief from the Hon'ble court regarding installation of Vapor Recovery System (hereafter referred as VRS) at its storage terminal.

**REPLY ON MERIT: -**

5. That, no comments are offered by this Answering Respondent over the averments made at para 1 to 3 of the instant appeal being matter of records.
6. That, no comments are offered by this Answering Respondent over the averments made at para 4 (a to n) of the instant appeal being matter of records.
7. That the averments made in para no.4 (o) of the appeal are not admitted and are vehemently denied, except those which are related with record. It is humbly submitted that the timeline extended by the Hon'ble Supreme Court were only applicable to the three public sector oil marketing companies which had approached the Hon'ble Supreme Court, seeking extension in timelines. It is further submitted that the extended timeline was not considered for M/s Reliance Industries Limited because M/s Reliance Industries Limited was neither a litigant in the Hon'ble Supreme court in the said case, nor had sought extension of time or otherwise any other relief from the Hon'ble court regarding installation of VRS at its storage terminal.
8. That the contents of para no. 4 (p to r) of the appeal are not admitted and vehemently denied, except those which are related with record. It is submitted that the Hon'ble National Green Tribunal, Principal Bench vide order dated 28.09.2018 in Original Application No.147/2016: Aditya N. Prasad & Ors. v/s Union of India & Ors. had directed CPCB to issue directions to Oil Marketing Companies (OMCs)

to ensure installation of VRS in petrol pumps located in Delhi selling more than 300 Kilo Litre Per Month (KLPM) on or before 31.10.2018 and with regard to remaining on or before 31.12.2018, and ensure that necessary steps to be taken by all the concerned. It is further submitted that on 25.10.2018, CPCB had issued directions to M/s. Reliance Industries Limited for installation of VRS in petrol pumps in Delhi within the prescribed timeline and the same be reported to the CPCB.

Further, Hon'ble NGT vide order dated 1.11.2018 extended the applicability of order for VRS installation at petrol pumps from Delhi to NCR, and, vide its further order dated 22.11.2018 directed OMCs for ensuring compliance by 30.4.2019.

It is further submitted that the Hon'ble National Green Tribunal, Southern Zone, Chennai, vide order dated 23.12.2021 (annexed at **Annexure – I**) in Original Application No. 138 of 2020: V.B.R. Menon v/s The Chief Secretary to Government of Tamil Nadu and Ors., directed CPCB to take appropriate action against those petroleum outlets/storage depot those are located in cities having population of more than 10 Lakh and are having turnover of more than 300 KL/Month and above, for non- installation of VRS within the time frame fixed by the CPCB in direction dated 12.02.2016 or extended by the Hon'ble Apex Court, by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India & Ors.). It is further submitted that the said direction of the Hon'ble NGT was upheld by the Hon'ble Supreme Court and the Hon'ble Court vide order dated 14.03.2023 (annexed at **Annexure – II**) in Civil Appeal No. 2039 of 2022 directed CPCB to ensure that the directions issued by the Hon'ble NGT are fully complied with.

It is further submitted that in view of the aforementioned order and in view of the status submitted by M/s Reliance Industries Limited indicating delay in VRS

installation at 01 storage terminal located at Rewari and 01 retail outlet (RO), i.e. Bahadurgarh, Jhajjar, located in NCR, in violation of the timelines prescribed by the Hon'ble National Green Tribunal, CPCB on 12.10.2023 had issued directions to M/s Reliance BP Mobility Ltd. (Reported to be handling fuel retail outlet operations) to deposit Environment Compensation of Rs. One Crore to CPCB.

It is further submitted that in response to the said directions, M/s Reliance BP Mobility Limited vide letter dated 20.10.2023 provided its submissions regarding the VRS installation at the retail outlet, and further informed that terminals come under domain of M/s Reliance Industries Ltd. Considering the same, CPCB on 15.02.2024 issued directions to M/s Reliance Industries Ltd. directing it to deposit EC of Rs. One crore for the delay in VRS installation at its storage terminal located at Rewari.

9. That the averments made in para no.4 (s and t) of the appeal are not admitted and vehemently denied, except those which are related with record. It is humbly submitted that in response to CPCB directions dated 15.02.2024, M/s Reliance Industries Ltd vide letter dated 08.03.2024 submitted that it had completed installation within the timelines extended by the Hon'ble Supreme Court vide order dated 14.02.2019 in Civil Appeal nos. 161 to 163 of 2019, Civil Appeal nos. 256 to 258 of 2019 and Civil Appeal nos. 253 to 255 of 2019.

It is further submitted that the response of M/s Reliance Industries Ltd. was examined and after examination of reply CPCB vide letter dated 13.06.2024 informed M/s Reliance Industries Ltd that the timelines extended by the Hon'ble Supreme Court are not applicable to it, since the appellant was not a litigant in the case before the Hon'ble Supreme Court, therefore, the benefit of extension of timeline cannot be granted. Accordingly, M/s Reliance Industries Ltd. was again directed to deposit EC of Rs. One Crore to CPCB, failing which the operation of the said terminal would be closed.

It is further submitted that the timelines extended by the Hon'ble Supreme Court were only applicable to the three public sector oil marketing companies those which had approached to the Hon'ble Supreme Court for seeking extension of time for installation of VRS. It is further submitted that the extended timeline was not considered for M/s Reliance Industries Limited/appellant since the appellant was neither the party before the Hon'ble Supreme court in those matters nor they had filed any appeal before the Hon'ble Supreme Court for extension of time for installation of VRS at its storage terminal.

10. That, no comments are offered by this Answering Respondent over the averments made at para 5 of the instant appeal as being related to limitation clause.

**REPLY TO THE GROUNDS: -**

11. That the averments made in para no.6A of the grounds are not admitted and vehemently denied. It is humbly submitted that in view of the VRS installation status submitted by M/s Reliance Industries Limited indicating delay in VRS installation at 01 storage terminal located at Rewari i.e. beyond the timelines prescribed by Hon'ble NGT, CPCB had issued the directions to appellant to deposit Rs. One Crore to CPCB as Environmental Compensation.
12. That the averments made in para no.6B of grounds are not admitted except those which are related with record. It is humbly submitted that the need of show cause notice was not there to be issued to M/s Reliance Industries Limited, as the Hon'ble NGT had directed CPCB to take appropriate action against the petroleum outlets/storage depot those have not complied with the timelines by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India & Ors.). Also, the order of the Hon'ble NGT was upheld by the Hon'ble

Supreme Court for installation of VRS within the timeline given by the Hon'ble NGT.

13. That the averments made in para no.6C of grounds are not admitted except those which are related with record. It is humbly submitted that the response of M/s Reliance Industries Limited dated 08.03.2024 was duly considered by CPCB, and thereafter, CPCB vide letter dated 13.06.2024 (annexed at **Annexure – III**) informed RIL/appellant that the timeline extended by the Hon'ble Supreme Court is not befitted to the appellant as the appellant was neither the party before the Hon'ble Supreme Court in the stated matter nor the appellant had filed any appeal before the Hon'ble Supreme Court for extension of time for installation of VRS at its storage terminal.
14. That the averments made in para no.6D of grounds are not admitted except those which are related with record. It is humbly submitted that in 2019, CPCB had come out with a *Report of the In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund* (annexed at **Annexure – IV**). in compliance with the order of Hon'ble National Green Tribunal, Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/ 2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. That as per the said report, EC of Rs. 1 crore has been prescribed for failure to install Vapour Recovery System (VRS) at Outlets of Oil Companies within the targeted date. Therefore, on failure to do so, similar EC was imposed on M/s Reliance Industries Limited for violation of timelines for installation of VRS in Rewari terminal.
15. That the averments made in para no.6E of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 6B of grounds of appeal may kindly be considered in reply and the same is not repeated herein for the sake of brevity.

16. That the averments made in para no.6F of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 6C of grounds as well as para 4 (o) of appeal may kindly be considered in reply and the same is not repeated herein for the sake of brevity.
17. That the averments made in para no.6 G-L of grounds are not admitted except those which are related with record. It is humbly submitted that the timelines extended by the Hon'ble Supreme Court was only applicable to the three public sector oil marketing companies who had approached the Hon'ble Supreme Court for seeking extension of time. Thereby, the extended timeline was not considered for M/s Reliance Industries Limited since the appellant herein was neither a party before the Hon'ble Supreme court in those matters nor did the appellant had sought extension of time or otherwise any other relief from the Hon'ble court regarding installation of VRS at its storage terminal. It is submitted that in view of the VRS installation status submitted by M/s Reliance Industries Limited indicating delay in VRS installation at 01 storage terminal located at Rewari i.e. beyond the timelines prescribed by Hon'ble NGT, CPCB, issued directions to the appellant to deposit EC of Rs. One Crore to CPCB.
18. That the averments made in para no.6M of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 4 (p, q and r) of the appeal may kindly be considered in reply and the same is not repeated herein for the sake of brevity.
19. That the averments made in para no.6N of grounds are not admitted except those which are related with record. It is humbly submitted that the timelines extended by the Hon'ble Supreme Court is only applicable to the three public sector oil marketing companies those had approached the Hon'ble Supreme Court for seeking extension of time for installation of VRS. The extended timeline has not been considered for M/s Reliance Industries Limited or for any other OMC since they were neither a party before the Hon'ble Supreme court, nor did they seek

extension of time or otherwise any other relief from the Hon'ble court regarding installation of VRS at their retail outlets/ storage terminals.

It is further submitted that in compliance of the order of the Hon'ble NGT and the Hon'ble Supreme court, CPCB had also issued directions to M/s Nayara Energy Ltd for levying of EC due to delay in installation of VRS at retail outlets in NCR.

20. That the averments made in para no.6 O of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 4 (o) of the appeal kindly be considered in reply and the same is not repeated herein for the sake of brevity.
21. That the averments made in para no.6P of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 4 (p, q, r, s and t) of appeal may kindly be considered in reply and the same is not repeated herein for the sake of brevity.
22. That the averments made in para no.6Q of grounds are not admitted except those which are related with record. It is humbly submitted that in compliance to the order of the Hon'ble NGT and Hon'ble Supreme Court, CPCB had issued directions on 15.02.2024 to M/s Reliance Industries Ltd. directing M/s Reliance Industries Ltd, the appellant herein, to deposit EC of Rs. One Crore for the delay in VRS installation at its storage terminal located at Rewari. The submissions made by M/s Reliance Industries Ltd vide letter dated 08.03.2024, that the appellant had completed installation within the timelines extended by the Hon'ble Supreme Court vide order dated 14.02.2019 in Civil Appeal nos. 161 to 163 of 2019, Civil Appeal Nos. 256 to 258 of 2019 and Civil Appeal Nos. 253 to 255 of 2019, were examined and CPCB vide letter dated 13.06.2024 informed RIL that the timelines extended by the Hon'ble Supreme Court is not applicable to the case of appellant herein, because the appellant was neither the party in those cases

nor had filed any appeal before the Hon'ble Supreme Court. It is humbly submitted that the timelines extended by the Hon'ble Supreme Court is only applicable to the three public sector oil marketing companies those which had approached Supreme Court and sought extension of time for installation of VRS. The timeline was not considered for M/s Reliance Industries Limited in view of the above submissions.

It is submitted that the matter of closure of operation of the terminal was only taken up after providing an opportunity to M/s Reliance Industries Ltd. of 15 days vide letter dated 13.6.2024 (copy enclosed at **Annexure - III**). No response in this regard has been received by this Answering Respondent from the Appellant. However, no such action has been taken in view of the stay order passed by the Hon'ble Tribunal on 19.7.2024.

23. That the averments made in para no.6R of grounds are not admitted except those which are related with record. It is humbly submitted that the reply to the Para 4 (p, q & r) of the appeal may kindly be considered in reply and the same is not repeated herein for the sake of brevity.
24. That the averments made in para no.6S of grounds are not admitted except those which are related with record. It is humbly submitted that the submissions made in the above preceding paras may kindly be considered in reply and the same are not repeated herein for the sake of brevity.
25. That, the answering respondent craves leave of the Hon'ble Tribunal to file additional reply, in future, if required.

26. In view of the above facts and circumstances, it is humbly prayed to the Hon'ble Tribunal that the Hon'ble Tribunal may kindly dismiss the present appeal in view of the reply of the answering respondent in the interest of justice and this answering Respondent undertakes to abide by the orders/directions passed by this Hon'ble Tribunal in the instant matter.



(Pankaj Agarwal)

Scientist 'F'

Central Pollution Control Board

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
APPEAL No. 26 OF 2024**

Reliance Industries Limited

Appellant

Vs.

Central Pollution Control Board

Respondent

**AFFIDAVIT**

I, Pankaj Agarwal, working as Scientist 'F' in Central Pollution Control Board,

Pariyesh Bhawan, East Arjun Nagar, Delhi, in the above matter, do hereby

solemnly affirm, declare on oath and state as under:-

1. That I, the deponent herein is authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



*Pankaj Agarwal*

**DEPONENT**

**पंकज अग्रवाल / Pankaj Agarwal**  
वैज्ञानिक 'एफ' / Scientist 'F'  
**केंद्रीय प्रदूषण नियंत्रण बोर्ड**  
**Central Pollution Control Board**  
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)  
(M/o Environment, Forest & Climate Change, Govt. of India)  
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032  
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION:

Verified at New Delhi on this day of 19, Aug 2024 that the contents of the above reply are correct and true on the basis of the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

*Pankaj Agarwal*

DEPONENT

पंकज अग्रवाल / Pankaj Agarwal  
वैज्ञानिक 'एफ' / Scientist 'F'  
केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
Central Pollution Control Board  
(पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार)  
(M/o Environment, Forest & Climate Change, Govt. of India)  
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032  
Parivesh Bhawan, East Arjun Nagar, Delhi-110032



**ATTESTED**

*[Signature]*  
NOTARY PUBLIC DELHI  
GOVT. INDIA

19 AUG 2024

पंकज अग्रवाल / Pankaj Agarwal  
वैज्ञानिक 'एफ' / Scientist 'F'  
केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
Central Pollution Control Board  
(पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, भारत सरकार)  
(M/o Environment, Forest & Climate Change, Govt. of India)  
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032  
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

**Item No.1:-****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****Original Application No. 138 of 2020 (SZ)***(Through Video Conference)***IN THE MATTER OF**

V.B.R. Menon, B.E. (Mech), MBA (IIMA), LLB,  
Advocate,  
Flat No.4B, Brook Dale Apartments,  
No.12, P.T. Rajan Salai,  
K.K. Nagar, Chennai - 600 078.

...Applicant(s)

**Versus**

The Chief Secretary to Government of Tamil Nadu,  
Fort St. George, Secretariat,  
Chennai and Ors.

...Respondent(s)

**For Applicant(s):**Mr. V.B.R. Menon (*Party in person*)**For Respondent(s):**

Dr.D. Shanmuganathan for R1 and R2.

Mr. T.N.C. Kaushik for R3.

Mr. Abdul Saleem,

Mr. S. Saravanan and E. Karthikeyan for R5 &amp; R6.

M/s. King &amp; Patridge for R7.

Mr. Jose John for R8.

**Judgment Pronounced on: 23<sup>rd</sup> December, 2021.****CORAM:****HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER****HON'BLE Mr. SAIBAL DASGUPTA, EXPERT MEMBER**

ORDER

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment.

Pending interlocutory application, if any, shall stand disposed of.

Sd/-

.....J.M.  
(Justice K. Ramakrishnan)

Sd/-

.....E.M.  
(Shri. Saibal Dasgupta)

O.A. No.138/2020 (SZ)  
23<sup>rd</sup> December, 2021. Mn.

NGT

**Item No.1:-****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****Original Application No. 138 of 2020 (SZ)***(Through Video Conference)***IN THE MATTER OF**

V.B.R. Menon, B.E. (Mech), MBA (IIMA), LLB,  
Advocate,  
Flat No.4B, Brook Dale Apartments,  
No.12, P.T. Rajan Salai,  
K.K. Nagar, Chennai - 600 078.

...Applicant(s)

**Versus**

- 1) The Chief Secretary to Government of Tamil Nadu,  
Fort St. George, Secretariat,  
Chennai - 600 009.
- 2) The Secretary to Government of Tamil Nadu,  
Health and Family Welfare Department,  
Fort St. George, Secretariat,  
Chennai - 600 009.
- 3) The Chairman,  
Central Pollution Control Board,  
Parivesh Bhawan, East Arjun Nagar,  
New Delhi - 110 032.
- 4) Joint Controller of Explosives,  
A and D Wing, Block 1 - 8,  
2<sup>nd</sup> Floor, Shastri Bhavan,  
No.26, Haddows Road, Nungambakkam,  
Chennai - 600 006.  
*(Deleted from the party array as per order dated 04.08.2020)*
- 5) M/s. Indian Oil Corporation Limited,  
Rep. by the Executive Director (Retail),  
Indian Oil Bhawan,  
No.139, Nungambakkam High Road,  
Chennai - 600 034.

6) M/s. Bharat Petroleum Corporation Limited,  
Rep. by the State Head (Retail),  
Southern Regional Office,  
No.1, Ranganathan Gardens,  
Off. 11<sup>th</sup> Main Road, Anna Nagar,  
Chennai - 600 040.

7) M/s. Hindustan Petroleum Corporation Limited,  
Rep. by the Zonal Manager,  
GMO SZ - Retail,  
Thalamuthu Natarajan Building,  
4<sup>th</sup> Floor, No.3045, Gandhi Irwin Road,  
Chennai - 600 008.

8) M/s. Shell India Markets Private Limited,  
Rep. by the Regional Manager,  
South Zone Office,  
Campus - 4A, RMZ Millenia Business Park,  
No.143, Dr. M.G.R. Road,  
Perungudi, Chennai - 600 096.

9) M/s. Nayara Energy Limited,  
Rep. by the Divisional Manager,  
Chennai Divisional Office,  
No.58, New Avadi Road,  
Thandavaraya, Kilpauk,  
Chennai - 600 010.

...Respondent(s)

**For Applicant(s):** Mr. V.B.R. Menon (*Party in person*)

**For Respondent(s):** Dr.D. Shanmuganathan for R1 and R2.  
Mr. T.N.C. Kaushik for R3.  
Mr. Abdul Saleem,  
Mr. S. Saravanan and E. Karthikeyan for R5 & R6.  
M/s. King & Patridge for R7.  
Mr. Jose John for R8.

**Judgment Reserved on: 03<sup>rd</sup> December, 2021.**

**Judgment Pronounced on: 23<sup>rd</sup> December, 2021.**

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Mr. SAIBAL DASGUPTA, EXPERT MEMBER

Whether the Judgment is allowed to be published on the Internet - Yes/No

Whether the Judgment is to be published in the All India NGT Reporter - Yes/No

**JUDGMENT**

*Delivered by Justice K. Ramakrishnan, Judicial Member.*

1. The grievance in this application is regarding non-installation of Vapour Recovery Systems (VRS) in the petroleum outlets by the oil marketing companies as directed by the Principal Bench of National Green Tribunal.
2. It is also alleged in the application that it is a well known fact that the fumes coming out of petroleum outlets have impact on air quality in the area and affect the health of the people. It was recognised by the Hon'ble High Court of Madras in B. Moorthi vs. The District Revenue Officer and ors<sup>1</sup> and also by the Principal Bench of National Green Tribunal in Aditya N. Prasad &Ors. Vs. Union of India and Ors.<sup>2</sup>. Considering these aspects the Principal Bench of National Green Tribunal in Aditya N. Prasad case directed the Central Pollution Control Board (CPCB) to prepare an action plan for the oil marketing companies to implement the installation of VRS in the retail outlets and accordingly, CPCB had evolved an action plan in

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1W.P. No. 23546 of 2017

2O.A. No. 147 of 2016

coordination with the Ministry of Petroleum and Natural Gas and also MoEF&CC and issued directions that they will have to install VRS during fuelling of vehicles at all retail outlets in Delhi and all high selling outlets that is selling more than 300 KL per month in the country.

3. Central Pollution Control Board had mentioned that they have issued directions under Section 5 of the Environment (Protection) Act, 1986 to the following petroleum companies (Indian Oil Corporation Ltd, Bharat Petroleum Corporation Ltd and Hindustan Petroleum Corporation Ltd) for installation of Stage-I and Stage-II VRS in petrol re-filling stations located in the cities with population having more than a million and they have directed the State Pollution Control Boards to monitor the same. After considering those aspects, the Principal Bench of National Green Tribunal had directed the oil marketing companies to complete the process by 31.10.2018 in respect of petrol pump selling more than 300 KL per month and with regard to remaining on or before 31.12.2018. It is also observed therein that if it is not done, the Chairman of the oil companies will have to be prosecuted for violation. The Central Pollution Control Board was directed to submit the report of compliance by the oil companies on or before 15.01.2019. On that basis since there was failure of the implementation, the CPCB had imposed environmental compensation of Rs. One crore each against those oil marketing companies which have not complied with the same within the time line. The same was challenged before the Hon'ble Supreme Court by

M/s Indian Oil Corporation Limited as Civil Appeal Nos. 161-163 of 2019 and by other companies as Civil Appeal Nos. 253-258 of 2019 and all these cases were disposed of by the Hon'ble Apex Court without interfering with the necessity for installation of these systems but only extended the time in respect of Stage-IA till 31.03.2020 and as regards Stage-IB and II to 31.08.2020. As regards the retail outlet which are selling less than 300 KL per month for implementation of Stage-IA and IB in NCR areas, time was extended till 31.03.2020 and as regards Stage-II it was extended till 30.09.2020. With these modifications the appeals were disposed of.

4. According to the applicant, the Principal Bench has again considered these aspects in *K. Sathyadevan vs. Union of India and Ors*<sup>3</sup> and *Gyanprakash @ Pappu Singh vs. Union of India and Ors*.<sup>4</sup> and directed the authorities to implement the same and also directed to conduct the feasibility study of establishing more retail outlets and come with a guideline as to how this will have to be carried out and after considering the report by order dated 22.07.2019 directed to install VRS in all new petrol pumps and also issued guidelines regarding sitting criteria and directed the Central Pollution Control Board to implement the same and disposed of the applications with above directions.

5. On the basis of the directions issued by the Principal Bench dated 22.07.2019 in O.A. No. 31 of 2019 and O.A. No. 86 of 2019, the Central Pollution Control Board issued an office memorandum no. B-

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<sup>3</sup> O.A. No. 31 of 2019

<sup>4</sup> O.A. No. 86 of 2019

13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 directing installation of VRS in the new petroleum retail outlets subject to the sales volume restrictions. Though the Ministry of Petroleum and Natural Gas decided to establish more number of petroleum outlet, none of them were complying with the direction issued by the Principal Bench and even in the in the existing petrol pumps also the directions were not strictly complied with as far as State of Tamil Nadu is concerned. Though this was brought to the notice of authorities, no action was taken. That prompted the applicant to file this application seeking following interim as well as final reliefs:

**Interim Relief**

- A. Injunct the respondents 5 to 9 from commissioning and operating any new petroleum retail outlets in Tamil Nadu without installing Vapour Recovery Systems, Stage 1 and 2 in good working condition, pending disposal of this application and
- B. Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case

**Prayer**

- A. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems, Stage 1 and 2, in good working condition before opening and commissioning of any new petroleum retail outlets in Tamil Nadu.
- B. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems Stage 1 and 2, in all the existing petroleum retail outlets in Tamil Nadu within a time schedule to be prescribed by this Hon'ble Tribunal for each city, town and rural area situated in Tamil Nadu.
- C. Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

6. Central Pollution Control Board has filed their reply affidavit contending that on the basis of the direction issued by the Principal Bench of National Green Tribunal in Gyanprakash @ Pappu Singh vs. Union of India and Ors.<sup>5</sup> they have issued guideline for setting up new petrol pumps prepared by the Expert Committee constituted by

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<sup>5</sup> O.A. No. 86 of 2019

the Central Pollution Control Board including the various measures for prevention and control of pollution that is likely to be caused on account of operation of the retail petrol pumps with sitting criteria for setting up new petrol pumps and circulated the same on 07.01.2020 to the oil marketing companies, State Pollution Control Boards for implementation evidenced by Annexure-1.

7. Subsequent to the order dated 22.07.2019, the guidelines prepared by Expert Committee for setting up new petrol pumps which inter-alia recommended installation of VRS in new petrol pumps were placed on CPCB website for public comments and the comments received were reviewed by Expert Committee and guidelines were circulated on 07.01.2020 to the oil marketing companies, State Pollution Control Board for implementation.
8. Following criteria were specified in the guidelines with respect to VRS installation and oil marketing companies were required to install VRS and State Pollution Control Board was directed to take action in case of non-compliance:
  - i. Installation of VRS in all new retail outlets set up with sale potential of 300KL per month and located in cities with population of more than 1 lakh, and that VRS should be functional by the time monthly sales touch 300 KL.
  - ii. Installation of VRS in all new retail outlets set up in cities having population more than 10 lakh and having sale potential of 100 KL per month, within a period of 03 months from the day monthly sales touch 100 KL.
9. The Hon'ble National Green Tribunal as well as Hon'ble Supreme Court directed installation of VRS in all the petrol pumps in Delhi-NCR. The compliance of these directions for both Stage-IB and Stage-II has been installed in at all petrol pumps in Delhi. In case of NCR,

VRS stage IB has been installed at all petrol pumps selling fuel more than 300 KL per month and less than 300 KL per month. VRS stage II has been installed at all petrol pumps selling fuel more than 300 KL per month and further work in the matter is underway for those petrol pumps selling less than 300 KLPM. The timeline given by the Hon'ble Supreme Court for installation of VRS Stage II in petrol pumps selling fuel less than 300 KL per month is September 30, 2020 and the detailed status on installation has been annexed as Annexure-2 to the counter.

**10.**The guidelines issued by the Central Pollution Control Board vide OM dated 07.01.2020 was supplementary to all the existing guidelines rules, orders etc., Central Pollution Control Board on 12.02.2016 issued directions to oil marketing companies (except M/s Shell India Markets Private Limited) for installation of Stage I & II VRS in retail outlets with sales more than 300 KL per month and located in 46 cities with million plus population. All new retail outlets selling more than 300 KL per month shall have in-built VRS. Updated status with respect to VRS installation by Oil marketing companies against the total number of petrol pumps in 46 million plus cities was produced as Annexure 3 and further, updated compliance status with respect to VRS installation in million plus cities of Tamil Nadu is produced as Annexure 4.

**11.**Subsequent to the order of Principal Bench of National Green Tribunal dated 22.07.2019, CPCB sought concurrence of Ministry of Petroleum and Natural Gas on following timelines for installation of

VRS at retail outlets selling more than 100 KL per month and located in million plus cities and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million:

Public Sector Oil Marketing Companies (IOCL, BPCL and HPCL):

VRS stage II: 100 % retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September 2021.

VRS stage IB: 100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.

VRS stage IA (storage terminals): March 2024.

Private Sector Oil Marketing Companies (RIL, Shell, Nyara):

VRS at all existing retail outlets by July 2021

**12.**The criteria for VRS installation based on sale and population was recommended by expert members in the meeting held on 11.03.2019 which was reported to Hon'ble NGT in CPCB report dated 20.03.2019 in O.A. No. 31/2019. The Ministry of Petroleum and Natural Gas vide letter dated 22.08.2019 provided concurrence on timelines for installation of VRS by OMCs and informed that OMCs (Indian Oil Corporation Ltd, Bharat Petroleum Corporation Ltd and Hindustan Petroleum Corporation Ltd) have been advised to comply with the timelines. The progress on installation of VRS in the State of Tamil Nadu was directed to be informed by the respective oil marketing companies. They also issued directions to (IOCL, BPCL and HPCL), on 18.9.2020 to meet the timelines. They have also issued direction to (RIL, Shell, Nayara) to meet the timelines and copies of said directions were annexed as Annexure-5 series.

**13.**Necessary directions have been issued by the Central Pollution Control Board in this regard and it is for the oil marketing companies

to install the same and the failure of the same will be considered by the CPCB and appropriate action will be taken. They prayed for accepting the contention and passing appropriate order.

**14.**M/s Shell India Markets Private Limited (amended 7<sup>th</sup> respondent) filed their report stating that they were not party to the proceedings mentioned in the application before the National Green Tribunal, Principal Bench, New Delhi but they have provided VRS across all its outlets. They have commenced construction post July, 2019. All company and dealer owned sites have provisions readily kept in place for installing and commencing the operation of VRS I and VRS II once the threshold level of sales is reached.

**15.**This Tribunal vide order dated 04.08.2020 directed oil marketing companies including this respondent to file a status report on implementation of VRS in relation to their petroleum outlets. In the meanwhile, the CPCB had directed this respondent to install VRS at all existing retail outlets by July, 2021 vide letter dated 18.09.2020 in terms of its guidelines dated 07.01.2020. The status of installation of VRS by this respondent company is as follows:

- a. In Greater Chennai and surrounding districts, this Respondent has 25 retail outlets that are covered by the CPCB directions. Out of the 25, this respondent company has installed VRS in 8 outlets. In the remaining 17 outlets, this respondent company will comply with the timelines specified by CPCB.
- b. This respondent company has 1 retail outlet that is covered by the CPCB directions. The VRS will be installed in the retail outlet in accordance with the CPCB directions.
- c. To summarise, 26 retail outlet of the respondent company are covered by the Directions. Out of which 8 retail outlets have been fitted with the VRS system and in the remaining 18 outlets, VRS will be installed in accordance with the timelines in the CPCB directions.

16.They prayed for accepting their status report and passing appropriate orders.

17.4<sup>th</sup> respondent (M/s Indian Oil Corporation Limited) filed their status report as follows: Principal Bench has disposed of the matter, namely, O.A. No. 31 of 2019 and 86 of 2019 by order dated 22.07.2019 with following directions:

2. In the order dated 29.01.2019, this Tribunal noted that as per the Central Pollution Control Board (CPCB) guidelines, VRDs are required to be installed if capacity of the outlet is more than 300 KL per month and population of the city is 10 lakhs. The Tribunal, however, sought opinion of the CPCB whether such requirement should be laid down for cities of lesser population or outlets of lesser business and also feasibility of number of outlets.

3. As per report furnished by the CPCB on 20.03.2019, it was suggested that installation of Vapour Recovery System (VRS) should be applicable to petrol pumps selling 100 KL of oil per month in cities with population of 10 lakhs and 300 KL per month in cities with population of ten lakhs. Regarding feasibility of more outlets, it is stated that the same is considered while permitting every new outlet.

18.Pursuant to the direction of the Principal Bench, the Central Pollution Control Board issued its notification no. B-13011/1/2019-20/AQM/10824 dated 07.01.2019 wherein they have given the following directions:

**"D. Installation, Operation and maintenance of Vapour Recovery System:**

1. All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/PCCS equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

2. All new retail outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be installed within a period of 3 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCB/PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance".

*m. d. s. reddy*

19. Further, they have also issued another direction under Section 5 of the Environment (Protection) Act, 1986 dated 18.09.2020 to all oil marketing companies both public sector and private sector for installation of the VRS with specific timeline which reads as follows:

**"Public sector Oil Marketing Companies:**

*Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakhs to 1 million (except Delhi-NCR) as per the prescribed timelines:*

**VRS stage II:**

*100% retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September 2021.*

**VRS 1B:**

*100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.*

**VRS stage 1A (storage terminals):**

*March 2022:*

**Private sector Oil Marketing Companies:**

*Install VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million by July 2021".*

*Antony*

20. As per the above guidelines, public sector oil companies are having time up to mid of 2022 and private sector oil companies are having time up to July, 2021 and they are submitting the installation status of VRS in Tamil Nadu to CPCB which is produced as annexure 1 to the counter statement. So they prayed for passing appropriate orders accepting their contention.

21. In annexure 1, they have shown the progress of installation of VRS in State of Tamil Nadu which reads as follows:

**ANNEXURE - I**

SL. NO.	NAME OF THE CITY IN THE STATE OF TAMIL NADU	NO. OF OUTLETS HAVING SALE POTENTIAL OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
		100 KL		300 KL		Existing	New
		Existing	New	Existing	New		
1	Chennai	68	0	6	0	3	0
2	Coimbatore	15	0	1	0	1	0
3	Madurai	15	0	0	0	0	0
4	Pondicherry	0	0	1	0	0	0
5	Mettupalayam	0	0	1	0	0	0

Note-1 : Work Order placed on vendor for the balance 3 ROs having sales of more than 300 KL MS per month in Chennai city. Work completion by 30.03.2021.

Note-2 : Proposal for providing VRS at two ROs having sales of 300 KL per month located in Pondicherry and Mettupalayam and 98 ROs selling more than 100 KL MS per month located in the 45 select cities has been initiated.

22.5<sup>th</sup> respondent (M/s Bharat Petroleum Corporation Limited) has filed their status report more or less reiterating the contentions of 4<sup>th</sup> respondent regarding the timeline etc and also produced the status of implementation of VRS in State of Tamil Nadu as annexure 1 to their counter statement which reads as follows:

SN	NAME OF THE CITY IN THE STATE OF TAMIL NADU & PONDICHERRY	District	Population as per 2011 CENSUS	NO. OF OUTLETS HAVING SALE OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
				100 KL		300 KL		Existing	New
				Existing	New	Existing	New		
1	Chennai	Chennai	86,96,010	72	NIL	18	NIL	14	0
2	Coimbatore	Coimbatore	21,51,466	29	2	NIL	NIL	0	Budget being taken
3	Madurai	Madurai	14,62,420	12	NIL	1	NIL	1	0
4	Tiruchirappalli	Tiruchirappalli	10,21,717	12	NIL	NIL	NIL	0	0
5	Tiruppur	Tiruppur	9,62,982	5	NIL	NIL	NIL	0	0
6	Salem	Salem	9,19,150	9	NIL	NIL	NIL	0	0
7	Erode	Erode	5,21,776	5	NIL	NIL	NIL	0	0
8	Tirunelveli	Tirunelveli	4,98,984	5	NIL	NIL	NIL	0	0
9	Vellore	Vellore	4,81,966	4	NIL	NIL	NIL	0	0
10	Thoothukkudi	Thoothukkudi	4,10,760	3	NIL	NIL	NIL	0	0
11	Dindigul	Dindigul	2,92,132	2	NIL	NIL	NIL	0	0
12	Thanjavur	Thanjavur	2,90,724	4	NIL	NIL	NIL	0	0
13	Ranipet	Ranipet	2,62,346	0	NIL	NIL	NIL	0	0
14	Sivakasi	Virudhunagar	2,34,688	0	NIL	NIL	NIL	0	0
15	Karur	Karur	2,33,763	3	NIL	NIL	NIL	0	0
16	Udhagamandalam	The Nilgiris District	2,33,374	1	NIL	NIL	NIL	0	0
17	Hosur	Krishnagiri	2,29,507	3	NIL	NIL	NIL	0	0
18	Nagercoil	Kanyakumari	2,24,329	2	NIL	NIL	NIL	0	0
19	Kancheepuram	Kanchipuram	2,21,749	3	NIL	NIL	NIL	0	0
20	Kumarapalayam	Namakkal	1,94,992	1	NIL	NIL	NIL	0	0
21	Karaikkudi	Sivaganga	1,81,347	3	NIL	NIL	NIL	0	0
22	Neyveli	Cuddalore	1,78,925	0	NIL	NIL	NIL	0	0
23	Cuddalore	Cuddalore	1,73,361	2	NIL	NIL	NIL	0	0
24	Kumbakonam	Thanjavur	1,67,098	0	NIL	NIL	NIL	0	0
25	Tiruvannamalai	Tiruvannamalai	1,44,683	3	NIL	NIL	NIL	0	0
26	Pollachi	Coimbatore	1,35,235	3	NIL	NIL	NIL	0	0
27	Rajapalayam	Virudhunagar	1,30,119	1	NIL	NIL	NIL	0	0
28	Gudiyatham	Vellore	1,24,274	1	NIL	NIL	NIL	0	0
29	Pudukkottai	Pudukkottai	1,17,215	0	NIL	NIL	NIL	0	0
30	Vaniyambadi	Tirupathur	1,16,712	1	NIL	NIL	NIL	0	0
31	Ambur	Tirupathur	1,13,856	1	NIL	NIL	NIL	0	0
32	Nagapattinam	Nagapattinam	1,02,838	1	NIL	NIL	NIL	0	0
33	PONDICHERRY	PONDICHERRY	241773	6	NIL	1	NIL	1	0
34	KARAIKAL	PONDICHERRY	200222	1	NIL	NIL	NIL	0	0

23.6<sup>th</sup> respondent (M/s Hindustan Petroleum Corporation Limited) also filed status report more or less reiterating the contentions regarding the timelines provided for installation as mentioned by respondents 4 and 5 and then annexed their status report as annexure to their counter statement which reads as follows:

**ANNEXURE - I**

SL. NO.	NAME OF THE CITY IN THE STATE OF TAMIL NADU	NO. OF OUTLETS HAVING SALE POTENTIAL OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
		100 KL		300 KL		Existing	New
		Existing	New	Existing	New		
1	Chennai	47	2	5	0	7	
2	Coimbatore	6	-	-	-	-	
3	Madurai	2	-	-	-	-	
4	Tirupur			1	-	-	

24. The applicant has filed common objections to the status report filed by respondents 4 to 7 wherein he had categorically stated that for existing outlets, the present notifications are not applicable as CPCB had issued direction under Section 5 of the Environment (Protection) Act, 1986 on 12.02.2016 to all petroleum retail outlets with monthly sales over 300 KL and situated within 45 numbers of cities having more than one million population across India and directed them to complete installation of VRS Stage-IB and II before 31.12.2017. In respect of non-compliance of the said directions in respect of Delhi region, Principal Bench of National Green Tribunal has imposed Rupees One Crore as penalty and this was confirmed by the Hon'ble Apex Court in Civil Appeal No. 161-163 of 2019. But the Hon'ble

Apex Court has modified the time schedule while disposing of the same by final order dated 14.02.2019.

**25.**The direction dated 12.02.2016 was equally applicable to petroleum outlet having more than 300 KL monthly sales in Chennai, Coimbatore, Madurai and Trichy where population was over one million as per 2011 census. The status report produced as annexure by respondents 4 to 6 will go to show the dismal compliance of the above directions. So respondents 4 to 8 are also liable for payment of penalty and other penal action for non-compliance of the direction within the time limit of 31.12.2017.

**26.**Directions issued to respondents 4 to 8 by CPCB on 18.09.2019 under Section 5 of the Environment (Protection) Act, 1986 is in addition and not a substitute or modification of earlier direction issued on 12.02.2016. As categories of outlet covered by second direction are separate and distinct. The direction dated 12.02.2016 shall apply to those outlets having monthly sales over and above 300 KL and situated within 45 million population cities in India and the subsequent direction dated 18.09.2020 shall apply only to the other two category of outlets one situated within million population cities and having monthly sales of 100 KL to 300 KL and those (2) situated within other cities having population above one lakh and less than one million and having more than 300 KL on monthly basis. There were no over lapse of the time line provided in the directions dated 12.02.2016 and 18.09.2020.

27. The documents produced by them will go to show that they were not properly complying with the direction and no action has been taken.

The applicant also produced certain replies obtained under Right to Information Act, 2005 and also the notices issued by the CPCB to some of the oil companies.

28. Central Pollution Control Board in compliance with the order of this Tribunal dated 22.11.2020 produced status report which reads as follows:

Annexure-I

Delhi VRS status

OMC	No. of petrol pumps < 300 KLPM	No. of pump installed VRS	No. of petrol pumps > 300 KLPM	No. of pump installed VRS
IOCL	109	109	77	77
BPCL	56	56	47	47
HPCL	66	66	32	32
Reliance	2	2	0	0
Nayara	1	1	1	1

NCR VRS status

OMC	No. of petrol pumps < 300 KLPM	No. of pump installed VRS	No. of petrol pumps > 300 KLPM	No. of pump installed VRS
IOCL	1398	1398	18	18
BPCL	444	444	11	11
HPCL	666	666	12	12
Reliance	48	48	1	1
Nayara	272	264*	2	2

\* For remaining 8 petrol pumps, contract termination of 4 petrol pumps is under process, 03 petrol pumps VRS installation delayed due to COVID-19 and 01 station dispensing unit not functional. Motor Spirit sale stopped from all 08 pumps since 01.10.2020.

## Status of VRS installations at petrol pumps in 46 million plus cities (Sale &gt;300 KLPM)

OMC	Existing as on date of directions (E)/ Newly installed (N)/ Sales crossed 300 klpm post directions (S)	No. of petrol pumps	No. of pump installed Stage IB	No. of pump installed Stage II
IOCL	E	154	115	143
	S	62	45	51
	N	5	2	3
BPCL	E	128	34	128
	S	53	13	41
	N	06	0	0
HPCL	E	90	35	89
	S	48	3	48
	N	7	0	6
Reliance	E	03	03	03
	S	12	12	12
Nayara	N	9	9	9

**STATUS OF VRS INSTALLATION IN MILLION PLUS CITIES IN TAMIL NADU  
(Sale>300KLPM)**

**Chennai**

	<b>Total</b>	<b>Stage IB installed</b>	<b>Stage II installed</b>
IOCL	6	3	3
BPCL	18	0	16
HPCL	6	3	6
RIL	0	0	0
Nayara	0	0	0

**Coimbatore**

	<b>Total</b>	<b>Stage IB installed</b>	<b>Stage II installed</b>
IOCL	2	1	1
BPCL	0	0	0
HPCL	0	0	0
RIL	0	0	0
Nayara	0	0	0

**Madurai- Nil**

29.They also issued directions to the oil companies to comply with their directions and the reply received from several oil companies.

30. The applicant also produced further memo along with certain documents obtained under Right to Information Act, 2005 regarding the installation of these systems.

31. 8<sup>th</sup> respondent (Nayara Energy Limited) also filed status report wherein they have reiterated the contentions raised by the respondents 4 to 6 regarding the timeline provided and status of compliance report of installation of VRS as annexure-1 which reads as follows:

- i. Status Report of Operating RO's under the category Cities having population above 1 Million & Monthly Sales Volume above 100 KL and below 300KL

Sl. No.	Outlet Name	City	Status	Work completed in %
1	Visvin Agencies	Chennai	Will be Complied on or before July 2021	In progress
2	T.Ganesan Petro Agency	Chennai	Will be Complied on or before July 2021	In Progress
3	Sri Ramachandran Agencies	Chennai	Installation under Process	In progress
4	Munishwar Enterprises	Chennai	Will be Complied on or before July 2021	In progress
5	V R N Enterprises	Chennai	Will be Complied on or before July 2021	In progress
6	Kamaldeep Enterprises	Chennai	Installation under Process	In progress
7	Thilaga Agency	Chennai	Will be Complied on or before July 2021	In progress
8	Malar Agencies	Chennai	Will be Complied on or before July 2021	In progress
9	Universal Fuels	Chennai	Will be Complied on or before July 2021	In progress
10	Shrivaaru Filling Station	Chennai	Will be Complied on or before July 2021	In progress
11	Masi Reddi Enterprises	Chennai	Will be Complied	In progress



			on or before July 2021	
12	Sai Baba Fuels	Chennai	Will be Complied on or before July 2021	In progress
13	Meena Fuels	Trichy	Installation under Process	In progress
14	Subbu Fuels	Coimbatore	Installation under Process	In progress
15	Sai Siddhi Infrastructures	Coimbatore	Installation under Process	In progress
16	Inndway Agency	Coimbatore	Installation under Process	In progress
17	Palaniswamy Agencies	Coimbatore	Will be Complied on or before July 2021	In progress
18	SUBBIAH GOUNDER FUELS	Coimbatore	Will be Complied on or before July 2021	In progress
19	Raamasamy Gounder Agency	Coimbatore	Will be Complied on or before July 2021	In progress
20	J S Enterprises	Coimbatore	Installation under Process	In progress
21	Adinath Enterprises	Chennai	Will be Complied on or before July 2021	In progress

- ii. Cities having population above 1 Lakh but less than one million & Monthly Sales Volumes above 300KL

**NIL**

They prayed for passing appropriate orders accepting their contention.

32.4<sup>th</sup> respondent (M/s Indian Oil Corporation Limited) also filed reply statement stating that the CPCB has given an instruction to install VRS in 46 selected cities by 31.12.2017. The modified dispensing units are to be approved by Department of Legal Metrology, for which oil companies got approval only on 05.02.2018. After series of deliberation with oil industry and Ministry of Power and Natural Gas, the Hon'ble Supreme Court has directed to complete 2900 retail outlets falling under NCR and NCT region to be completed on

priority. Since, there were only two qualified/PESO approved vendors during that time, priority was assigned as per the direction of the Hon'ble Supreme Court. Once the same was completed, the State of Tamil Nadu was given subsequent priority and accordingly, the work was completed at four retail outlets in the State of Tamil Nadu by 2019.

33.As per the list of cities attached in circular dated 12.02.2016 only Chennai, Coimbatore and Madurai were appearing in the list. However, Trichy was not in the list. The implementations of VRS in these three cities were already explained in their status report. While three ROs were falling under this category in Chennai and one RO was falling under this category in Coimbatore. No RO was selling more than 300 KL per month in Madurai. So no notice was issued to ROs under Tamil Nadu.

34.The CPCB issued latest direction dated 18.09.2020 where certain additional guidelines were also issued.By adopting the same, the work will have to be completed by August, 2022. Due to delay in getting permission from Department of Legal Metrology and the Hon'ble Supreme Order to complete retail outlets in NCR and NCT on priority, the work of Tamil Nadu was taken later and completed in 2019. VRS stage-II is a technical job for which only limited vendors are available. VRS Stage-II can be done by doing retrofitting.The dispensing units of oil companies can order for new dispensing units which has an in-built VRS system. Provisions of Stage IB are more of

piping and civil works which can be done at local level even without floating a tender.

35. The oil companies have submitted a joint representation dated 06.01.2021 to CPCB that VRS may not be required in ROs cited under circular dated 18.09.2020 and selling between 150 KL to 300 KL. This representation was made based on a study conducted by Council of Scientific and Industrial Research, Indian Institute of Petroleum, Dehradun.

36. In spite of the above representation, this respondent is contemplating to procure in build VRS DUs which is being done by the Head Office. Simultaneously one tender vide Ref No. HCC/RA04/PT61/2021 for retrofitting of VRS Stage II has been finalised by the Head Office on 27.09.2020 for procuring retrofitting equipment's for 635 DUs. Similarly, another tender Ref No. HCC/RS-02/GT-05/2020-21 has been floated for procuring 2710 in-build VRS DUs for which tender opening dated was 15.03.2021 which is under finalisation.

37. In the meantime, the oil marketing companies have made a request to the CPCB to extend the timeline for installation of VRS in their respective retail outlets, which was considered by CPCB in its letter dated 04.06.2021 and issued following directions:

“Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million (except Delhi-NCR) as per the prescribed timelines:

VRS Stage : 100% retail outlets by October 2022 out of which 50 % of retail outlets shall have VRS by June 2022.

VRS Stage IB :100% retail outlets by June, 2022 out of which 50% of retail outlets shall have VRS by Dec 2021

It is to further mention that these amended timelines are timelines till final selection of vendors is done for installation of all Dispenser Units, which shall be intimated to CPCB by OMCs, by July end as indicated in the said letter.”

**38.**VRS Stage-IA is applicable for depots and terminal and not for retail outlets. Tenders for these works at IOC terminal have already been floated and will be completed well with the timeline of March 2024. Regarding Stage-II and Stage IB which pertains to retail outlets, necessary action has been initiated and the installations were completed in all respect. In this regard only four ROs qualified for providing VRS which was completed by the respondent during the year 2019-20. Three more ROs have qualified for providing VRS during the 2020-21 for which work order has already been placed by them on 21.10.2020. The ROs falling within the Municipal limits of the 46 selected cities alone were considered.Hence the retail outlet in Mettupalayam, Coimbatore zone will be covered by 18.09.2020 circular.

**39.**VRS Stage-IA is not applicable for retailoutlets.However, VRS Stage-IB and Stage II by IOC are in working conditions which can be ascertained by regulatory authorities by conducting inspection. CPCB is monitoring the progress work regarding implementation of VRS in the retail outlet and the status reports are being sent to CPCB on monthly basis. In compliance of the direction of the CPCB, they have sent detailed compliance statement to CPCB by their letter dated 16.07.2021.

40. Respondents 5 and 6 also filed similar further status report. 5th respondent had detailed the present status of installation of VRS in para 7 of that counter which reads as follows:

Sl.No	District	Location / Area	MS sales Volume in KL	Status of installation of Stage 2 in %	Status of installation of Stage 1B in %
1	Chennai	St. Mary's Road	323	Completed	Completed
2	Chennai	Anna Nagar	647	Completed	80%
3	Chennai	T Nagar	380	Completed	80%
4	Tiruvallur	AVADI	283	Completed	80%
5	Chengalpet	SELAYUR	407	Completed	Completed
6	Chennai	GUINDY	413	90%	Completed
7	Tiruvallur	AMBATTUR	325	Completed	Completed
8	Chennai	KOTTIVAKKAM	202	Completed	80%

  
Territory Manager (Retail)  
Bharat Petroleum Corporation Ltd.  
35, Vaidyanathan Street,  
Tondiarpet, Chennai - 600 081.

9	Chennai	Ullagaram	344	Completed	Completed
10	Tiruvallur	Ayyappanthan gal	357	Completed	Completed
11	Chennai	Anna Nagar	431	70%	Completed
12	Chengalpet	Tambaram	427	Completed	80%
13	Chennai	ST.Thomas Mount	290	Completed	80%
14	Chennai	Velacherry	477	Completed	Completed
15	Chengalpet	Medavakkam	284	Completed	50%
16	Chengalpet	Gowrivakkam	257	Completed	50%
17	Chennai	Meenambakkam	620	50%	30%
18	Chennai	Kandanchavadi	391	Completed	80%
19	Chengalpet	Vandalur	365	70%	50%
20	Kanchipuram	Nazratpet	365	50%	50%
21	Chennai	Kodambakkam	337	30%	50%
22	Chennai	Thoraipakkam	395	50%	40%
23	Chengalpet	Maraimalai Nagar	679	50%	40%
24	Pondicherry	Pondicherry Town	414	100%	50%
25	Madurai	Madurai Town	304	80%	50%

41.6<sup>th</sup> respondent also filed their status of completion along with the status report in para 7 which reads as follows:

Status Plan	Stage I	Stage II
Completed as on date	20	8
Proposed to complete in Q2 of 21-22	6	0
Proposed to complete in Q3 of 21-22	8	0
Proposed to complete in Q4 of 21-22	11	10
Proposed to complete in Q1 of 21-22	15	14
Proposed to complete in Q2 of 21-22	0	28
Total	60	60
Plan to complete 50% by	31.12.2021	30.06.2022
Plan to complete 100 % by	30.06.2022	31.10.2022

42.7<sup>th</sup> respondent has produced a letter dated 12.07.2020 issued by CPCB and the directions issued in respect of them was modified and they have been permitted to complete the work of installation of VRS at all retail outlets selling more than 100 KL per month and located in million plus cities and retail outlets selling more than 300 KL per month and located in cities within population of one lakh and 10 lakh by January, 2022 and they have been directed to submit the compliance report.

43. The applicant also filed additional affidavit giving the details of the directions given in a tabular form which reads as follows:

Sl. No	Category	Date of Direction U/s. 5	Target Date for completion	Present Status
1	Turnover > 300 KLPM Population > 1 Million  (Ref: Pages nos. 29 to 36 of Objections filed by the Applicant on 31.12.2020)	12.12.2016	December, 2017	<b>Incomplete.</b> Outlet-wise details are not given by the Respondents for physical verification.

2	Turnover > 100 KLPM Population > 1 Million  (Ref: PP 16 to 30 of Reply filed by CPCB on 21.09.2020)	18.09.2020	(i) <b>VRS-1B;</b> <b>50% by Dec. 2021 and</b> <b>balance</b> <b>by June, 2022</b>  (ii) <b>VRS-2 :</b> <b>50% by June,,</b> <b>2022 and balance</b> <b>by October, 2022</b>	Extended by CPCB vide letter dated 04.06.2021  (Ref; Status Report dated 02.08.21 by the 6 <sup>th</sup> Respondent )
3	Turnover > 300 KLPM Population: 1 L to 1 Million  <b>Ref:</b> PP 16 to 30 of Reply filed by CPCB on 21.09.2020	18.09.2020	<b>Same as above</b>	Extended by CPCB vide letter dated 04.06.2021  (Ref; Status Report dated 02.08.21 by the 6 <sup>th</sup> Respondent )

**Note:** In respect of the 7<sup>th</sup> Respondent, the first direction dated 12.12.2016 is not applicable. Further, the 7<sup>th</sup> Respondent has been directed vide modified direction dated 12.07.2021 to complete installation of VRS Stage-1B and 2 by January, 2022 in respect of all the Outlets coming under the categories 2 and 3 above i.e. above 100 KLPM and Population above 1L (Ref: Addl. T.S. filed by R-7 on 29.07.2021)

44. According to the applicant the subsequent directions issued did not modify the direction dated 12.12.2016 which is applicable to retail outlets which were having more than 300 KL per month sale and situated in cities having more than 1 million population.

45. Heard the applicant who appeared in person and also the Learned Counsel appearing for Central Pollution Control Board and Oil Marketing Companies and also perused their status reports and the written submission submitted by them and their pleadings.

46. The point that arises for consideration are:

- i) What is the nature of direction to be given for implementation of VRS in the retail outlets and the depots in view of the directions issued by the Principal Bench in Aditya N. Prasad & Ors. Vs. Union of India and Ors.<sup>6</sup> and subsequent decisions in K. Sathyadevan vs. Union of India and Ors<sup>7</sup> and Gyanprakash @ Pappu Singh vs. Union of India and Ors.<sup>8</sup>

**Point:**

47. There is no dispute regarding the fact that the volatile vapours containing inorganic substances such as Benzene, Toluene and Xylene (BTX) released from petroleum products reaches the atmosphere and will have great impact on human health. There is also no dispute regarding the fact, on the basis of the studies conducted on these aspects show that persistent exposure to high levels of BTX may cause injury to human bone marrow, DNA damage in mammalian cells and damage to the immune system. Mild exposure causes irregular heartbeat, headache, dizziness, nausea and even unconsciousness, if exposure is continued for a long time. Early manifestation of toxicity is in the form of anaemia, leucocytopenia and thrombocytopenia. Benzene is a known human carcinogen. The World Health Organization (WHO) estimates four in one million risk of leukemia on exposure to a concentration of 1 microgram per cubic meter.

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<sup>6</sup> O.A. No. 147 of 2016

<sup>7</sup> O.A. No. 31 of 2019

<sup>8</sup> O.A. No. 86 of 2019

48. It is also an admitted fact that considering these health hazardous that is likely to be caused on account of mixing of the seinorganic substance in the atmosphere, on the basis of the recommendations made by the Expert Committee appointed by Central Pollution Control Board, the Ministry of Petroleum and Natural Gas has agreed with the suggestions of Central Pollution Control Board for installation of VRS to control pollution that is likely to be caused on account of release of volatile organic compounds from the retail outlets and also in the storing depots of petroleum products.

49. It is also not in dispute that they have evolved a policy for installing the same in the retail outlets in Delhi and also all high selling retail outlets of more than 300KL per month in the country. It is also not in dispute that this aspect was considered by the Principal Bench in Aditya N. Prasad & Ors. Vs. Union of India and Ors.<sup>9</sup> by order dated 28.09.2018 directing the oil companies based on the guidelines issued by the Central Pollution Control Board dated 18.07.2016 issued under Section 5 of the Environment (Protection) Act, 1986 observed that the timelines prescribed by Central Pollution Control Board have expired and there was no justification for the long delay which has already taken place in the matter in taking requisite steps necessary for protection of environment and public health. The Tribunal had directed all the companies present before this Tribunal to complete the process by 31.10.2018. It was also further directed therein that in respect of petrol pumps selling more than 300 KL per month, the

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9 O.A. No. 147 of 2016

directions must be required to comply with preferably on or before 31.10.2018 and with regard to remaining petrol pumps on or before 31.12.2018.

50. Further, it is also not in dispute that since those directions were not complied with, the Central Pollution Control Board has imposed an environmental compensation of Rs. One Crore for non-compliance of installation of Stage-I and Stage-II of VRS in petrol retail stations to Bharat Petroleum Corporation Ltd and other oil companies and that was challenged before the Hon'ble Apex Court by filing Civil Appeal Nos.256-258 of 2019 to 161-163 of 2019- M/s Indian Oil Corporation Limited vs. Aditya N. Prasad & Ors and other connected cases and the Hon'ble Apex Court by Judgement dated 14.02.2019 confirmed the observations made by the National Green Tribunal but only modified the timeline and passed the following Judgement:

*"Having heard Mr. Tushar Mehta, learned Solicitor General and Mr. Aditya N. Prasad, we are cognizant of the fact that by a letter dated 12.02.2016 sent by the Central Pollution Control Board to all the oil companies, the equipment in question was to have been installed in 46 cities insofar as (above 300 KLD is concerned) by December, 2017 and that this has not yet been done.*

*The National Green Tribunal's order is, therefore, correct in principle. However, under the aegis of the learned Solicitor General, a meeting has been called in which certain time-lines were discussed so that the aforesaid equipment could be set up within a realistic time-frame both in the NCT as well as in NCR.*

*So far as Stage 1-A is concerned, a device is installed at the filling depots/terminals. So far as the Stage 1-B is concerned, a separate device (VRD) is installed on the tanks of the retail outlets i.e. petrol pumps where petroleum products are stored underground.*

*Stage 2 is where a third category of device (VRD) is fitted in the dispensing units of each retail outlet. Each such dispensing unit has more than one nozzle and all the nozzles will have to be fitted with the aforesaid device.*

*Insofar as the NCT of Delhi is concerned, the learned Solicitor General has informed us that Stage 1-A has been completed by all the three oil companies.*

*So far as State 1-B is concerned, he says a realistic estimate of time would be by 30.06.2019.*

*We, therefore, extend the time so far as Stage 1-B & Stage 2 are concerned to 30.06.2019.*

*We have also taken on record the undertakings given by the authorized persons of each of the three oil companies to see that the aforesaid time-line is strictly adhered to.*

*Insofar as the NCR is concerned, this has been divided into two different groups : those are selling more than 300 Klspm and those selling less than 300 Klspm.*

*Insofar as the first category is concerned, the time schedule is extended, insofar as Stage 1-A is concerned till 31.03.2020. So far as the Stage 1-B and 2 are concerned, the time schedule is extended till 31.08.2019.*

*Insofar as retail outlets selling less than 300 Klspm in the NCR are concerned, so far as Stages 1-A and 1-B are concerned, time is extended till 31.03.2020. So far as Stage 2 is concerned, time is extended till 30.09.2020.*

*For this also, we have taken on record the requisite undertakings to adhere strictly to the aforesaid time-lines.*

*In this view of the matter, the NGT orders stand substituted.*

*The appeals are disposed of accordingly.*

*Pending applications also stand disposed of."*

**51.** Further, the same issue has been considered by the Principal Bench in *K. Sathyadevan vs. Union of India and Ors*<sup>10</sup> and *Gyanprakash @ Pappu Singh vs. Union of India and Ors.*<sup>11</sup> and reiterated the importance of installation of VRS in the retail outlets in respect of new petroleum outlets to be established and also considered the question of extending the same to lesser population area and selling lesser to quantity as well and directed the Central Pollution Control Board to conduct a study in this regard as per order dated 01.04.2019. Thereafter, the matter was again considered by the National Green Tribunal on 22.07.2019 and the Tribunal had considered the report of

<sup>10</sup> O.A. No. 31 of 2019

<sup>11</sup> O.A. No. 86 of 2019

the Expert Committee dated 08.07.2019 which was extracted in para 6 of the order which reads as follows:

**“A. Containment and treatment of spillages from fuel filling operations at petrol pumps.**

1. Petrol pumps located in areas with high groundwater table shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. Ground water level of less than 4m shall be considered for such provision, to be verified from online data being reported by State/ Central Ground Water Board/ Authority. In such case, measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.

2. All new retail outlets shall have underground tanks and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials conforming to IS standards with required protective coating as applicable.

3. Any major spillage of Petrol, Diesel, Lube Oil (more than 1 barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

Operation of such Retail Outlet shall be stopped immediately.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

Operation of retail outlet shall not be resumed till corrective measures to contain and stop spillages are implemented to the satisfaction of PESO and concerned SPCB.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.

5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.

6. Two pane swivels shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidentally.

7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.

8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with mechanical leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.

9. Emergency stop button switch shall be provided on the MultiProduct Dispenser (MPD) to stop the dispensation in case of emergency.

10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system.

11. All Retail Outlets shall provide overfill alarm through automation.

12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.

**B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination**

1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil / groundwater contamination:
  - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such Retail Outlet shall be stopped immediately.
  - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.
  - c. OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.
  - d. Operation of retail outlet shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.
4. All underground tanks and pipelines shall be subjected to test for leaks every 5 years.

**C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:** Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.

**D. Installation, Operation and maintenance of Vapour Recovery System**

1. All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 16 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
2. Any new retail outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be functional by the time of sale of MS touch 100 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
3. In case of Stage II VRS, dispensers shall be provided with flexible cover flap or other alternate system for proper covering of filling tank and therefore proper recovery of vapors.

4. OMCs are responsible for maintain installed YRS systems. They have to maintain periodic inspections for AIL regulator as prescribed by Legal Metrology. Proper record shall be maintained.

5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMC. YRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fuelling station. Proper records of operation of YRS shall be maintained.

6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OHSAS norms and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of voes.

**E. Ground water and soil quality monitoring within petrol pump** selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OM Cs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

- I. Total petroleum hydrocarbons
- II. BTEX
- III. Ethanol
- IV. Methyl Tertiary Butyl Ether 7
- V. PAH

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination.

**F. Measures for protection of Worker's Health**

1. All workers engaged at retail outlets are being covered under ESL OMC dealers shall implement the personal protective equipment (PPE) as per labor laws.

2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions.

**G. Audit of all protection measures and monitoring system implemented at petrol pumps:** PESO shall conduct audit of tanks and fuel equipments including pipes, overfill protection equipments and alarm system on annual basis and maintain records.

**H. Siting criteria of Retail Outlets:** New retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ underground storage tanks/ vent pipe whichever is nearest) from schools and hospitals (10 beds and above). In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet and sensitive areas shall be less than 30 meters. No high tension line shall pass over the retail outlet.

**2. Feasibility study of new petrol pumps:** MoPNG in the meeting convened by CPCB on February 08, 2019 in compliance of order dated 18.1.2019 OA No. 86/2019: Gyanprakash @ Pappu Singh vs Uol informed that the any new outlet proposed to be set up by oil marketing company is after conducting feasibility study.

As regard to preventive measures for minimizing pollution, all new petrol pumps shall have VRS as per CPCB plan, and, shall follow guidelines for setting up of petrol pumps."

And then passed the following order:

7. The report states that the timeline for installation of VRS as per above plan was to be finalized in a separate meeting before today's hearing and the CPCB was to place the guidelines on its website.

8. Learned Counsel appearing for the CPCB states that the guidelines have now been placed on the website. He is not aware of further steps.

9. We may note that installation of VRS is important as in addition to reducing the release of VOC, VRS also help in reduction of particulate matter 2.5 concentration. The VOCs released are converted into semi volatiles and these subsequently results in formation of secondary organic aerosols which may contribute to 12-15% of particulate matter of 2.5 concentrations.1 Installation of vapour recovery systems is necessary to reduce the risks of toxic chemicals such as benzene, toluene and ethyl benzene. Cars and gasoline-burning engines are large sources of volatile organic compounds (VOCs). VOCs are a precursor to ground level ozone, the main constituent of summer time smog. Exposure to ozone can damage crops and ecosystems, and presents a direct risk to human health. Benzene, for example, is a genotoxic human carcinogen. Benzene is a potent carcinogen and is blamed for leukemia. The WHO estimates a 4 in 1 million risk of leukemia on exposure to benzene to a concentration of 1µg/m<sup>3</sup>.4 Thus, Vapour recovery systems need to be installed at service stations to reduce emissions of VOCs. The impact of VOCs on the environment and public health has been noted by this Tribunal even earlier.

10. Mr.Rakesh Kumar, learned Counsel appearing for the oil marketing companies seeks to appear on behalf of oil marketing companies, only to seek adjournment for which we find no justification.

11. In view of the above, the Expert Committee having already gone into the matter, finalization of timelines as contemplated in the report, if not yet done, may be done within one month from today which will be the responsibility of the Secretary, MoPNG and the Chairman, CPCB. Further action in terms of the report may be ensured. We may also add that a safe distance from the residential areas must be maintained for any new outlet to be set up which may also be specified within one month, keeping in view the health and safety of the inhabitants.

The applications are disposed of.

**52.**It is clear from this, that in order to protect the environment and also to avoid air pollution being caused on account of emission of volatile organic compound from the petroleum retail outlets and also storing stations, installation of VRS is highly necessary and that was the reason why, certain guidelines were issued by the Central Pollution Control Board (CPCB) in consultation with the Ministry of Petroleum and Natural Gas which have to be complied with by the oil marketing companies. When the Government undertake their

commercial activities through their public sector undertakings and in order to promote that industry as a growing commercial activity, then there is a corresponding responsibility on the Government to provide necessary protective mechanism as well to monitor such activities which are classified as Hazardous Industry and regulate their activities conducive with environment. With this principle in mind, applying the "Precautionary Principle", the Principal Bench of National Green Tribunal, New Delhi had directed the CPCB to conduct a study and regulatory mechanism including siting criteria and on the basis of the study conducted by the CPCB with Expert Committee, that the guidelines given by the CPCB were accepted by the Principal Bench of National Green Tribunal, New Delhi and directed the oil marketing companies to install the VRS in the Retail Petrol pumps with certain timeline, which in fact, in principle was accepted by the Hon'ble Apex Court as well in the decision referred to above, where that was challenged by the oil marketing companies before the Hon'ble Apex Court, except with certain modifications regarding time line for implementation of the same.

53. It will be seen from the documents produced by both sides and also from the contentions raised by the parties that in respect of petrol outlets which were in existence in cities having more than one million population and sale turnover of 300 KL/Month or more of petroleum products, the CPCB in concurrence of the concerned Ministry had directed the oil marketing companies who have arrayed as

Respondents No.5 to 9 in this original application, that the same will have to be implemented on or before December 2017, vide their Communication dated 12.12.2016 and they were directed to produce the compliance report as well.

54. The subsequent decision of the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.) dated 28.09.2018 is in respect of implementation of the same viz., installation of VRS not only in outlets situated in cities more than one million population and selling turnover of more than 300 KL/Month in NCR and NCT Region alone, but to extend the same to throughout the country and they were directed to implement the same as follows:-

*“10. Accordingly, we direct that all the oil companies present before this Tribunal must complete the process by 31.10.2018. The CPCB and the Ministry Petroleum and Natural Gas are directed to issue directions and ensure that necessary steps are taken by all the concerned. In respect of petrol pumps selling more than 300 KL per month, the directions must be required to comply with preferably on or before 31.10.2018 and with regard to remaining on or before 31.12.2018. The Tribunal may have to consider directing prosecution of the Chairman of the oil companies for violation.”*

55. But, that timeline was extended by the Hon'ble Apex Court in M/s. Indian Oil Corporation Limited Vs. Aditya N. Prasad and Ors. and connected appeals (Civil Appeal Nos.161-163 of 2019, Civil Appeal Nos.253-258 of 2019) dated 14.02.2019.

56. Further, the same aspect has been considered by the Principal Bench in O.A. No.31 of 2019 (K. Sathyadevan Vs. Union of India &Ors.) and O.A. No.86 of 2019 (Gyanprakash @ Pappu Singh Vs. Union of India &Ors.) wherein, the same has been extended at outlets with sale of petrol more than 300 KL/Month located in cities with population of 10 Lakhs and the same also should be installed where sale of petrol is between 100 KL/Month to 300 KL/Month located in cities with population of more than 10 Lakhs and to outlets selling more than 300 KL/Month in cities with population above one lakh. So, irrespective of the population depending upon the quantity of petrol being sold, installation of VRS in the outlets was made mandatory by virtue of this Judgment dated 22.07.2019. Further, the siting criteria were also made mandatory for this purpose.

57. Further, in the same decision, it was mentioned that in case of failure of installation of VRS, environmental compensation will have to be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance. Certain other protective measures were also provided which will have to be implemented by them. Since this was not implemented by the Oil Marketing Companies in the State of Tamil Nadu, the present application has been filed to enforce the same.

58. It is true that as per the direction of the Principal Bench, CPCB had issued the direction under Section 5 of the Environment (Protection) Act, 1986, fixing the timeline for installation of VRS in respect of

outlet selling more than 100 KL/Month and located in million plus population city and retail outlet selling more than 300 KL/Month and located in cities with population between one lakh to one million as follows:-

*“Public Sector Oil Marketing Companies (IOCL, BPCL and HPCL)*

*VRS Stage II: 100% retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September, 2021.*

*VRS Stage IB: 100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.*

*VRS Stage IA (Storage Terminals): March 2024.*

*Private Sector Oil Marketing Companies (RIL, Shell, Nyara):*

*VRS at all existing retail outlets by July 2021.”*

59. So, it is clear from this that the same will not apply to the existing outlets which are existed prior to the pendency of this case and who are selling more than 300 KL/Month and located in cities having population of more than one million as per the direction dated 12.12.2016. But, the subsequent relaxation of timeline given will not be applicable to those outlets mentioned above and this is intended for the purpose of installation of the same throughout the country, irrespective of the population, but depending on the quantity that is being sold.

60. Further, in the same directions, it has been mentioned that VRS Stage 2 has to be completed by August 2022, of which, 50% of retail outlets shall have VRS by September 2021 and VRS Stage 1B has to be completed 100% by February 2022, out of which, 50% retail outlets shall have VRS by July 2021. VRS Stage 1A (Storage Terminals) has

to be completed by March 2024. As regards private sector oil marketing companies are concerned, they will have to install VRS at all existing outlets by July 2021 which was later extended to January 2022.

**61.** Further, as per the letter issued by the CPCB dated 04.06.2021, further extension was granted for implementation of the same which reads as follows:-

*“Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 Lakh to 1 Million (except Delhi-NCR) as per the prescribed timelines:*

*VRS Stage II: 100% retail outlet by October 2022 out of which 50% of retail outlets shall have VRS by June 2022.*

*VRS Stage IB: 100% retail outlets by June 2022 out of which 50% of retail outlets shall have VRS by December 2021.*

*VRS Stage IA (Storage Terminals): March 2024.*

*It is to further mention that these amended timelines are timelines till final selection of vendors is done for installation of all Dispenser Units, which shall be intimated to CPCB by OMCs, by July end as indicated in the said letter.”*

**62.** Here also this was only intended for the outlets which are located in areas less than population of 10 Lakh and not to those which were already covered by the direction dated 12.12.2016.

**63.** So, we are not inclined to accept the contentions raised by the public sector undertakings that they have got time till June 2022 for implementation of the same, as it is not the intention of the CPCB while issuing the guidelines and a reading of the directions also will go to show otherwise.

64. Further, the status reports filed by the public sector undertakings will go to show that none of the public sector undertakings have achieved the target as specified by the CPCB. In cases where target as directed by them have not been implemented, then the CPCB is bound to implement the direction of imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.31 of 2019 (K. Sathyadevan Vs. Union of India &Ors.) and O.A. No.86 of 2019 (Gyanprakash @ Pappu Singh Vs. Union of India &Ors.) by Judgment dated 22.07.2019.

65. So under such circumstances, there is some force in the submission made by the applicant that unless certain directions are given to implement the same in its letter and spirit, no purpose will be served by making orders by the Tribunal, applying the "Precautionary Principle", as the Government has intended to enhance the number of petroleum outlets throughout the country, so as to improve their income through the sale of petroleum products by the public sector undertakings to achieve the economic development.

66. Considering the number of outlets that are likely to come in future and also the possibility of pollution being caused, though there is a direction in the guideline that it should be monitored by the State Pollution Control Board/Central Pollution Control Board as well as directed by the Principal Bench of National Green Tribunal, New Delhi, unless, it is brought under the direct regulating mechanism under the Pollution Control Board, we do not think that such an

exercise could be possible by them. The categorization made by the CPCB of industries, though it falls under the "Orange Category" as per the original categorization, but as per the subsequent categorization, it falls under "Green Category", they will have to obtain Consent from the Pollution Control Board. But, later when subsequent categorization was made, it was exempted from obtaining Consent from the Pollution Control Board. But only in the State of Kerala, it was made mandatory for obtaining Consent to Establish and Consent to Operate for retail petrol pumps to be established. Once such mechanism is followed, all guidelines issued by the CPCB in respect of siting criteria, installation of VRS etc. can be strictly scrutinized by the Pollution Control Board while issuing the consent. Otherwise, there will not be any proper regulating mechanism to supervise as to whether the conditions are being complied with by other agencies which are expected to give No Objection Certificate for such establishment. So, it is high time that the State Pollution Control Boards and the Central Pollution Control Board must bring the Consent mechanism for establishment of new petrol pumps and also to get consent for the existing petrol pumps in future, if they want to continue with the operation has to be made mandatory. We feel that it is a fit case where such a direction can also be given, so that regulation mechanism can made more effective and that will help to prevent the pollution being caused on account of emission of volatile organic compound from the petroleum outlets. So, we direct the State Pollution Control Boards as well as the Central

Pollution Control Board to issue circular, making it mandatory for obtaining Consent to Establish and Consent to Operate as a condition precedent for establishing new petroleum outlets, so that the Pollution Control Board can verify the siting criteria as well as impose conditions for installation of VRS and violation of which will attract the penal as well as regulatory mechanism which will avoid evasion of such mandatory provision by oil marketing companies which is required in the interest of protection of environment, applying the "*Precautionary Principle*".

67. So under such circumstances, we feel that following directions can be given to implement the establishment of VRS in the petroleum outlets:

- a. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not complied with the same by imposing environmental compensation as directed by the

Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).

- b. As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage 1A (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).
- c. The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future and even to those which are under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply

for Consent to Establish and Consent to Operate before its establishment.

d. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.

68. The point is answered accordingly.

**69. In the result, this application is disposed of as follows:-**

i. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not

complied with the same by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).

**ii.** As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage 1A (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India &Ors.).

**iii.** The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future and even to those which are

under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply for Consent to Establish and Consent to Operate before its establishment.

- iv. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.
- v. Considering the circumstances, parties are directed to bear their respective cost in the application.
- vi. The Registry is directed to communicate this order to the Ministry of Environment, Forests & Climate Change (MoEF&CC), Central Pollution Control Board, New Delhi, Integrated Regional Office of the Central Pollution Control Board, Bangalore and Chennai, State Pollution Control Boards of Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Karnataka and also to the Pollution Control

Committee of Union Territory of Puducherry for  
their information and compliance of the direction.

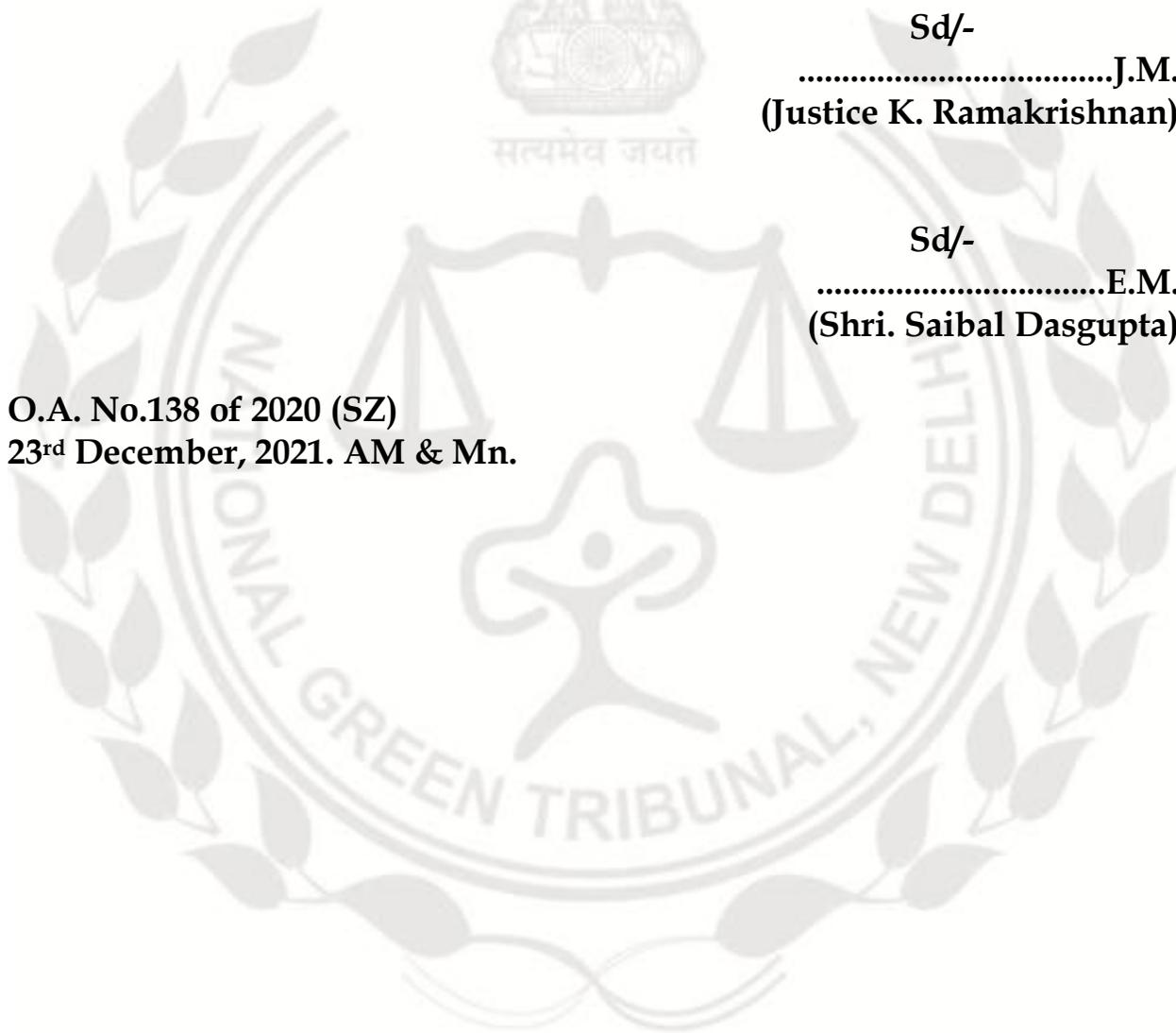
70. With the above observations and directions, this Original Application  
is disposed of.



Sd/-  
.....J.M.  
(Justice K. Ramakrishnan)

Sd/-  
.....E.M.  
(Shri. Saibal Dasgupta)

O.A. No.138 of 2020 (SZ)  
23<sup>rd</sup> December, 2021. AM & Mn.



NGT

**REPORTABLE****IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 421 OF 2022****M/s Indian Oil Corporation Limited ...Appellant(s)****Versus****V.B.R. Menon & Others ...Respondent(s)****WITH****CIVIL APPEAL NO. 494 OF 2022****CIVIL APPEAL NO. 1695 OF 2022****CIVIL APPEAL NO. 2039 OF 2022****CIVIL APPEAL NO. 1758 OF 2022****CIVIL APPEAL NO. 1912 OF 2022****J U D G M E N T****J.B. PARDIWALA, J. :**

Since the issues raised in all the captioned appeals are the same and the challenge is also to the self same order passed by the National Green Tribunal, Southern Zone, Chennai, (for short, “NGT, Chennai”), those were

taken up for hearing analogously and are being disposed of by this common judgment and order.

2. For the sake of convenience, the Civil Appeal No. 2039 of 2022 is treated as the lead matter.

3. This appeal is filed by an oil marketing company viz. the Reliance BP Mobility Limited incorporated under the Companies Act, 2013 and is directed against the judgment and order dated 23.12.2021 passed by the NGT, Chennai in the Original Application No. 138 of 2020 (SZ) insofar as the impugned order directs the Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards to issue directions to make it mandatory to obtain Consent to Establish (“CTE”) and the Consent to Operate (“CTO”) for new retail petroleum outlets as well as the existing retail petroleum outlets.

**FACTUAL MATRIX:**

4. It appears from the materials on record that the respondent No. 2 herein Mr. V.B.R. Menon, a resident of Chennai, filed the Original Application No. 138 of 2020 (SZ) before the NGT, Chennai raising the issue in regard to the

non-installation of Vapour Recovery Systems (VRS) in the petroleum outlets by the oil marketing companies (OMCs).

In the Original Application No. 138 of 2020, the applicant (respondent No. 2 herein) prayed for the following reliefs:-

**“Reliefs:**

A. Injunct the respondents 5 to 9 from commissioning and operating any new petroleum retail outlets in Tamil Nadu without installing Vapour Recovery Systems, Stage 1 and 2 in good working condition, pending disposal of this application and

B. Pass such further order or orders as may fit proper and necessary in the facts and circumstances of the case

**Prayer**

A. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems, Stage 1 and 2, in good working condition before opening and commissioning of any new petroleum retail outlets in Tamil Nadu.

B. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems Stage 1 and 2, in all the existing petroleum outlets in Tamil Nadu within a time schedule to be prescribed by this Hon’ble Tribunal for each city, town and rural area situated in Tamil Nadu.

C. Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.”

5. The basis for filing of the original application as aforesaid before the NGT, Chennai was the order passed by the Principal Bench of the NGT in the Original Application No. 147 of 2016 wherein the Principal Bench of the NGT issued directions to install Stage-I and Stage-II vapour recovery devices (VRD) at all fuel stations, distribution centers, terminals, railway loading/unloading facilities and airports in the National Capital Territory of Delhi. Vide order dated 28.09.2018 passed in the O.A. No. 147 of 2016 by the Principal Bench of the National Green Tribunal, the time line of installation of VRD was extended.

6. The NGT, Chennai adjudicated the O.A. No. 138 of 2020 (SZ) and disposed of the same vide order dated 23.12.2021 by issuing the following directions:-

“69. In the result, this application is disposed of as follows:-

i. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the

Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not complied with the same by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India & Ors.).

ii. As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage 1A (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India & Ors.).

iii. The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future

and even to those which are under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply for Consent to Establish and Consent to Operate before its establishment.

iv. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.

v. Considering the circumstances, parties are directed to bear their respective cost in the application.

vi. The Registry is directed to communicate this order to the Ministry of Environment, Forests & Climate Change (MoEF&CC), Central Pollution Control Board, New Delhi, Integrated Regional Office of the Central Pollution Control Board, Bangalore and Chennai, State Pollution Control Boards of Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Karnataka and also to the Pollution Control Committee of Union Territory of Puducherry for their information and compliance of the direction.”

7. Being dissatisfied with the aforesaid directions issued by the NGT, Chennai, the appellant is here before this Court.

8. The other oil marketing companies (OMCs) before this Court seeking to challenge the very self same order passed by the NGT are : (1) M/s Indian Oil Corporation Limited, (2) M/s Hindustan Petroleum Corporation Limited; (3) M/s Bharat Petroleum Corporation Limited, (4) M/s Nayara Energy Limited, and (5) M/s Shell India Markets Private Ltd.

**Submissions on behalf of the appellant:**

9. At the outset, the learned counsel appearing on behalf of the appellant herein submitted that it does not seek to challenge the directions contained in para 69(i) and 69(ii) resply of the impugned order i.e. regarding the installation of the VRS/VRD. The learned counsel would like to confine his challenge only to the direction issued in para 69(iii) and para 69(iv) resply referred to above i.e. in regard to the Consent to Establish (CTE) and Consent to Operate (CTO).

10. The learned counsel submitted that the present appeal gives rise to three substantial questions of law which read thus:-

A. Whether the NGT can issue directions which are in the nature of legislative functions?

B. Whether the public sector and private sector OMCs and/or ROs (Retail Outlets) are required to obtain Consent to Establish and/or Consent to Operate for operation, establishment and carrying on the business of ROs?

C. Whether the NGT can impose requirement of obtaining an additional approval merely to provide for a regulating mechanism to supervise compliance of the existing guidelines issued by the CPCB?

11. The learned counsel submitted that the directions issued in para 69(iii) and 69(iv) respily of the impugned order are legislative in nature and therefore beyond the jurisdiction of the NGT. He would submit that the directions issued by the NGT, Chennai to the CPCB making it mandatory to obtain CTE and CTO for ROs would amount to enacting a law under the guise of judicial order. It was further submitted that there is no rational basis to

issue the directions making it mandatory for the ROs to obtain CTE and/or CTO. According to the learned counsel, the only basis for the NGT to issue such directions is to ensure proper regulatory mechanism and/or to secure compliance of the guidelines issued by the CPCB regarding installation of VRS, etc. It was also submitted that the impugned directions are directly in conflict with the object with which the reclassification of industries has been done by the CPCB. It was pointed out that the petroleum retail outlets fall within the green zone and for any industry falling within the green zone, it is not mandatory to obtain CTO and/or CTE. It was further submitted that the process of setting up of a RO requires obtaining of numerous approvals and the same takes a considerable period of time. For instance, even prior to the construction of ROs, the OMCs are required to obtain approvals from *inter alia* (1) Petroleum & Explosives Safety Organisation (PESO), (2) Town and Country Planning Officers, (3) National Highway Authority of India, (4) District/Divisional Forest

Officer/Regional Forest Officer, (5) approvals from the State Cabinet, etc. Furthermore, the OMCs are also required to obtain No-Objection Certificate from the concerned District Magistrate. Such NOC from the District Magistrate comprises of approvals from various authorities, such as – the fire department, Police Department, PWD, Health and Safety, concerned Municipality and/or any other authority that the District Magistrate may consider necessary. Thereafter, upon construction of the ROs, the OMCs are required to obtain final approvals from inter alia PESO, National Highway Authority of India, Legal Metrology Department Labour Department and the concerned Municipality. The timelines for some of the aforesaid approvals range over 120 to 240 days. In such circumstances, according to the learned counsel, by making it mandatory to obtain the CTO and CTE for setting up/operating a RO would cause lot of hardship and also delay the setting of ROs.

12. The learned counsel laid much stress on the fact that the CPCB its vide Office Memorandum dated 07.01.2020 had issued guidelines for setting up of new petroleum pumps in compliance of the order passed by the NGT dated 18.01.2019 in O.A. No. 86 of 2019 titled **Gyanprakash @ Pappu Singh v. GoI & Ors.** The guidelines are very exhaustive and they take care of the apprehension expressed by the NGT in its impugned order. Once these guidelines are scrupulously observed and followed, there is no need thereafter to obtain CTO and/or CTE.

13. In such circumstances referred to above, the learned counsel appearing for the appellant prayed that there being merit in his appeal, the same may be allowed and the directions issued in para 69(iii) and para 69(iv) of the impugned order passed by the NGT, Chennai be set aside.

**Submissions on behalf of the respondent No. 2 – the original applicant before the NGT:**

14. The learned counsel appearing for the respondent No. 2 (the original applicant) vehemently submitted that no error, not to speak of any error of law, could be said to have

been committed by the NGT in issuing the impugned directions. It was submitted that no interference is warranted at the hands of this Court in an appeal filed under Section 22 of the National Green Tribunal Act, 2010 (for short, 'the NGT Act'). According to the learned counsel, an appeal under Section 22 of the NGT Act is restricted to substantial questions of law. There is no substantial question of law involved in the present appeal. In such circumstances referred to above, the learned counsel prays that there being no merit in the present appeal, the same may be dismissed.

**Submissions on behalf of the respondent No. 1- CPCB:**

15. Mr. Tushar Mehta, the learned Solicitor General submitted that there was no need for the NGT to issue the impugned directions as contained in para 69(iii) and para 69(iv) resply, more particularly in view of the detailed guidelines issued by the CPCB vide the Office Memorandum dated 07.01.2020. According to Mr. Mehta, what is sought to be achieved by asking the ROs to obtain

CTE and/or CTO can very well be taken care of by ensuring that all the existing ROs and the ROs that may come up in future scrupulously abide by the guidelines issued by the CPCB. The CPCB has ensured that all the State Pollution Control Boards keep a very strong vigil on the ROs across the country so as to ensure that the guidelines issued by it are scrupulously followed. Even, according to Mr. Mehta, to ask all the existing ROs to obtain CTO is something very unreasonable. According to Mr. Mehta, the same requires a lot of paper work and is very time consuming.

16. Mr. Mehta would submit that it is highly debatable that the NGT could have directed the CPCB that it should in exercise of powers under Section 5 of the Environment (Protection) Act, 1986 (for short, 'the Act 1986') make it mandatory to obtain CTE and/or CTO.

17. Mr. Mehta in the last submitted that so far as directions contained in para 69(i) & 69(ii) respaly are concerned, the same shall be complied with in its true perspective and the State Pollution Control Boards shall

ensure due compliance of the same. He would submit that the CPCB shall also ensure that the guidelines issued by it referred to above are strictly adhered to by the all State Pollution Control Boards and, if there is any lapse at the end of any retail outlet, then necessary action shall be taken in accordance with law.

18. In such circumstances referred to above, Mr. Mehta prays that the directions contained in para 69(iii) and 69(iv) may be set aside or modified appropriately.

**Analysis:**

19. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is : (i) whether the NGT has the jurisdiction to direct the CPCB that it should in exercise of its powers under Section 5 of the Act 1986 make obtaining of the CTE and CTO resply mandatory for all the petroleum retail outlets across the country?

20. This Court, while issuing notice vide order dated 07.02.2022 in one of the connected appeals i.e. Civil Appeal 494 of 2022, observed thus:-

“Issue notice, returnable in six weeks.

Meanwhile, the directions issued vide impugned order of the National Green Tribunal dated 23.12.2021 shall remain stayed provided the petitioner complies with the directions issued by the Central Pollution Control Board (CPCB) dated 04.06.2021 prescribing fresh timeline for completion of installation of Vapor Recovery Devices (VRD).

Mr. Sanjay Kapur, learned counsel appearing for the appellant has stated that in terms of the said directions of CPCB dated 04.06.2021, Vapor Recovery Devices have already been installed in 50% retail outlets by December, 2021 in the specified category and the remaining timeline shall also be complied with.”

21. As the principal argument of all the learned counsel appearing for the respective oil marketing companies in the present litigation is in regard to the jurisdiction of the NGT to issue the impugned directions, it is necessary to first understand the entire scheme of the NGT Act.

**Scheme of the NGT Act, 2010:**

22. The preamble to the NGT Act reads as follows:-

“An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of population and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution.

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conference and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment.”

23. The jurisdiction and powers of the NGT are to be found in Sections 14 to 20 respily. A close look at these provisions would show that the NGT has both original as

well as appellate jurisdiction. The range of powers that the NGT has include:-

(i) the power to adjudicate upon civil cases where a substantial question relating to environment is involved (Section 14(1));

(ii) the power to grant relief and compensation to the victims of pollution (Section 15(1)(a); and

(iii) the power to order restitution of either property damaged or of the environment (Section 15(1)(b).

24. A person in whose favour the NGT passes an award or order, is entitled to two types of remedies, if the award or order or the decision of the NGT is not complied with. The first is a right to seek execution of the award under Section 25 and the second is to seek the prosecution of the offenders before a criminal court under Section 26.

25. Apart from the bar of jurisdiction of civil courts under Section 29, the NGT Act is also conferred the

overriding effect upon any other law under Section 33, which reads as follows:

**“Section 33. Act to have overriding effect:—**The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

26. Sub-section (1) of Section 38 of the NGT Act repeals the following enactments:-

(i) The National Environment Tribunal Act, 1995

(ii) The National Environment Appellate Authority Act, 1997

27. Apart from repealing the above two enactments expressly under sub-section (1) of Section 38, the NGT Act also contains a provision in sub-Section (8) of Section 38 which deals with implied repeal. Sub-Section (8) of Section 38 reads as follows:-

“(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.”

28. In so far as the execution of the orders of NGT are concerned, Section 25 confers two types of powers as noted below:-

(a) The power to execute the award by itself, as if the award is a decree of a civil court and

(b) The power to transmit the award to a civil court for its execution.

29. As stated earlier, the failure of any person to comply with the award of the NGT is also made punishable under Section 26, with imprisonment for a term that may extend to three years or with fine which may extend to ten crore rupees or with both. Section 27 makes every company and every person directly in charge of the affairs of the company liable to prosecution. Section 28 makes even the Government Departments liable to be prosecuted and punished. Such powers are not available for the Loss of Ecology Authority.

30. Though Sub-Section (2) of Section 26 makes offences under the AGT Act known cognizable, Section 30(1)(b) entitles any person who has given notice of not less than sixty days in the prescribed manner, of the alleged offences and of his intention to prosecute, to file a complaint before the competent court. Interestingly, Section 30(1)(b) does not even use the expression “aggrieved person”. It uses only an expression “any person”.

31. The 186<sup>th</sup> Report of the Law Commission, submitted in 2003, eventually paved the way for the enactment of the NGT Act. This can be seen from the relevant portion of the Statement of Objects and Reasons of the NGT Act which read as follows:-

“4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The

National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialised environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialised tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment.”

32. From the 186<sup>th</sup> Report of the Law Commission and the salient features of the Act, the following could be deduced:

(1) The creation of the National Green Tribunal, was in pursuance of the repeated directions issued by this Court in at least four cases namely, *M.C. Mehta v. Union of India* [(1986) 2 SCC 176], *Indian Council for Enviro Legal Action v. Union of India* [(1996) 3 SCC 212], *A.P. Pollution Control Board v. M.V. Nayudu* [(1999) 2 SCC 718], *A.P. Pollution Control Board v. M.V. Nayudu* [(2001) 2 SCC 62].

(2) The object of creation of the National Green Tribunal was to provide, what could be called a one-stop-shop solution, for all types of issues such as Environmental clearances, settlement of disputes relating to environment, relief and compensation for victims of pollution and environmental damage, restitution of property, restitution of environment etc.

(3) The Tribunal was to have both original and Appellate jurisdiction, with enormous powers not only to execute its orders as decrees of civil courts, but also to punish those who fail to comply with its orders.

(4) The Tribunal was to collect a court fee and entertain claims preferred within a period of limitation.

33. Under the NGT Act, the Act 1986 was also amended. By Section 36 of the NGT Act, Section 5A was inserted in the Act 1986. Under this Section, any direction issued by the Central Government under Section 5, either for the closure, prohibition or regulation of any industry, operation or process or the stoppage or regulation of the supply of electricity or water or any other service, was made appealable to the National Green Tribunal.

34. The legal effect of Section 5A of the Act 1986, if juxtaposed in to Section 5 read with Section 3(3) will be:—

(1) that Central Government is competent to issue certain directions under Section 5;

(2) that the power under Section 5 can also be exercised by the Authority constituted under Section 3(3); and

(3) that the directions issued under Section 5, either by the Central Government itself or by the Authority constituted under Section 3(3) are amenable to the appellate jurisdiction of the National Green Tribunal.

35. We now proceed to consider whether the NGT has the power & jurisdiction to issue directions to the CPCB/its delegates to take all such measures if in a given case the NGT finds that such directions are necessary in the interest of justice.

36. Section 3 of the 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 directions for achieving the objects of the Act. Read with the wide definition of "environment" in Section 2(a), Sections 3 and 5 resply 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 the above purpose.

37. We take notice of the fact that the Central Government has framed the National Green Tribunal (Practices and Procedures) Rules, 2011 (for short, 'the NGT Rules'). For our purpose, Rule 24 is important which reads thus:-

**“Rule 24. Order and directions in certain cases.—**  
The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.”

38. The aforesaid Rule 24 fell for the consideration of this Court in ***Municipal Corporation of Greater Mumbai v. Ankita Sinha***, 2021 SCC OnLine SC 897. We quote the few relevant observations made by this Court in ***Ankita Sinha*** (supra) as regards the powers of the National Green Tribunal:-

“16.3 The said Rules make it clear that the NGT has been given wide discretionary powers to secure the ends of justice. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

16.4 By choosing to employ a phrase of wide import, i.e. secure the ends of justice, the

legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

16.5 Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

21.6 ... The above would show that from the very inception, the role of the NGT was not simply adjudicatory in the nature of a lis but to perform equally vital roles which are preventative, ameliorative or remedial in 17 (1999) 2 SCC 718 nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate.

#### IX. AUTHORITY WITH SELF-ACTIVATING CAPABILITY

25.1 Given the multifarious role envisaged for the NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard the NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with

the authority to take suo motu cognizance of matters, for effective discharge of its mandate.

25.7 The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialized forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to the NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application.

26.3 As earlier seen, S.20 of the NGT Act which includes the term “decision”, in addition to “order” and “award”, also require the Tribunal to apply the ‘Precautionary Principle’ and the statutory mandate being relevant is extracted:-

“20. Tribunal to apply certain principles.

- The Tribunal shall, while passing any order or decisions or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.”

26.4 The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other ‘decisions’ or ‘orders’ to governmental authorities or polluters, when they fail to “to anticipate, prevent and attack the causes of environmental degradation”. Two aspects must

therefore be emphasized i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain."

**CONSENT TO ESTABLISH & CONSENT TO OPERATE:**

39. What is "Consent to Establish" (CTE) and what is "Consent to Operate" (CTO)? Consent to Establish (CTE) means the prior permission of the pollution control board to begin the work of construction of petrol retailing outlet at any place. At this stage, the ground water level in the proposed site, nature of the ground water, its corrosive properties, availability of residential premises, schools, probable danger to environment from the proposed outlet, etc. would be considered by the Pollution Control Board. In case consent to establish is given, the conditions to be complied with would be prescribed in order to safeguard the air ambience and ground water quality and also the

soil. The power in this regard is available under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974.

40. Consent to Operate (CTO) means after the establishment of the retail petroleum outlets, a certificate is issued permitting to commence operation. At this stage, the actual compliance of the conditions imposed while issuing the “consent to establish” are ascertained. In case, any additional measures are required to be undertaken, further orders would be issued. After satisfying about the complete safeguard to environment such certificate is issued. In case of a new outlet, the company will first get the consent to establish and after establishment and before operationalizing the petrol bank, the consent to operate is to be obtained. In existing outlets, the safeguards available in their units will have to be shown, thereby indicating & assuring the pollution control board that the unit would not cause damage to the environment. After such satisfaction, the pollution control board would issue a certificate permitting them to operate continuously. The

object of the last direction is to ensure that the existing outlets are safe not only regarding air pollution but also against seepage to the ground water and soil. NGT has inherent power to issue this direction since it is only to ensure the safety of the existing units.

41. The fundamental documents required for seeking CTE and CTO are as under:-

***Consent to Establish:***

- Site plan of the production unit/project
- Brief project report which covers the details of raw material, proposed product, the capital cost of the establishment (land and plant machinery), water-balance, water source, and its proposed quantity
- Land documentation such as rent deed/ Registration deed/ Lease deed
- Details of air pollution control/ Water Pollution control equipment

- MOA /Partnership Deed

***Consent to Operate:***

- Copy of the last Consent granted by competent Authority
- Layout schematics manifesting the detail of manufacturing processes
- Latest analysis report of effluent, solid wastes, fuel gases, and hazardous wastes.
- Balance sheet copy attested by CA
- Detail relating to land in case trade effluent is discharged on land for percolation
- Occupation registration accorded by Town & Country Planning Department in case of area development projects/ Building & construction projects
- MOA /Partnership Deed

42. It will be in the fitness of things to incorporate in this judgment the guidelines issued by the CPCB vide its Office Memorandum dated 07.01.2020 for setting up new petroleum pumps. The guidelines are as follows:-

**“GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS**

**A.** Containment and treatment of spillages from fuel filling operations at petrol pumps:

1. Petrol pumps located in areas with high groundwater table i.e. groundwater levels less than 04 meters shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. It shall be the responsibility of OMC to properly get measured groundwater level at the site of proposed petrol pump and ensure implementation of these adequate protection measures for such sites. Details of measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.
2. All new retail outlets shall have underground tanks/ above ground tank and its ancillary components such as pipes, flexible connectors, pumps fittings etc( protected from leaks due to corrosion by adopting materials (HDPE/ Mild Steel etc.) with required protective coating, as applicable, duly approved by PESO.
3. Any major leakage/ spillage of Petrol, Diesel, Lube Oil (more than barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within

24 hours of occurrence.

Operation of concerned underground storage tank (UST) and its ancillary components shall be stopped immediately and not be resumed till corrective measures to contain and stop leakage/spillages are implemented to the satisfaction of PESO and concerned SPCB.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 5 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.
5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.
6. Single/double plane swivel with breakaway coupling shall be installed for all the dispensing units for better positioning of nozzle while refueling does not fall off accidentally.
7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.
8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with line leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.

9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.
  10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system approved by PESO.
  11. All Retail Outlets shall provide overfill alarm through automation.
  12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.
- B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination:
1. All new retail outlets *will* have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
  2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
  3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil/groundwater contamination:
    - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such underground storage tank (UST) and its ancillary components shall be stopped immediately.
    - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent

explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.

- c. OMCs will be held liable for Environmental compensation (imposed by SPCBs/PCCS) and assessment of environmental damage ( depending on extent of contamination in soil and groundwater) and site remediation.

Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 05 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

- d. Operation of Underground tank and its ancillary components shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.

4. All underground tanks and pipelines shall be subjected to test for leaks every 7 years.

- C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:

**D. Installation, Operation and maintenance of Vapour Recovery System:**

1. All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with YRS. YRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

2. Any new retail outlet set up in cities having

population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with YRS. YRS should be installed within a period 03 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

- 3.**In case of Stage II VRS, nozzle shall be provided with flexible cover flap or other alternative system for proper covering of filling tank and therefore proper recovery of vapors.
- 4.**OMCs are responsible for maintaining installed VRS. They have to maintain periodic inspections for AJL regulator as prescribed by Legal Metrology. Proper record shall be maintained,
- 5.**Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of YRS, the same shall be automatically reported to concerned OMC. YRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fueling station. Proper records of operation of YRS shall be maintained.
- 6.**Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OSHA norms (Time-Weighted Average) and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of VOCs.

E. Ground water and soil quality monitoring within

petrol pump selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OMCs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

**Permissible Limit**

S.No.	Parameter	Permissible Limit
1.	Total petroleum hydrocarbons	600 pg/I
2.	BTEX	i. Benzene-950 pg/I ii. Toluene-300 pg/I iii. Zylenes- a. O-xylene-350 pg/I b. M&p-xylene-200 pg/I
3.	Ethanol	1400 Pg/I
4.	Methyl Tertiary Butyl Ether	13 Pg/I
5.	PAH	0.000 Pg/I

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination

**F. Measures for protection of Worker's Health**

1. All workers engaged at retail outlets may be covered under ESI, OMC dealers shall implement the personal protective equipment (PPE) in par labor laws.
2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions,

**G. Audit of all protection measures and monitoring system implemented at petrol pumps:**

PESO shall conduct audit of tanks and fuel equipment including pipes, overfill protection equipment and alarm system on annual basis and maintain records.

**H. Siting criteria of Retail Outlets:**

In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters. No high tension line shall pass over the retail outlet.”

43. Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 places restrictions, both on establishment and operation of any industrial plant located

in an air pollution control area without previous consent of the Board. The legislative intent behind this provision would lead to decipher two concepts - one, the consent for the purpose of establishing an industrial plant while the other for operation of that plant. The purpose of this Section is to ensure that when a unit or an industrial plant is given consent to operate, the unit ought to have satisfied all the conditions stated in the order of consent to establish and would have installed the requisite effluent treatment plants and other anti-pollution devices to ensure that it causes no pollution.

44. The upshot of our aforesaid discussion is that the NGT was well within its powers and jurisdiction to issue the directions which have been impugned before us. However, we would like to address on the question — whether the impugned directions are reasonable and whether the same may lead to unnecessary harassment and cause immense hardships to the retail outlets?

45. We take notice of the fact that all the appellants before us have installed VRS and VRD at their sites and retail outlets. We also take notice of the fact that the respondent No. 2 (original applicant) had not prayed before the NGT, Chennai to make CTE and CTO mandatory. The prayers in O.A. No. 138 of 2020 (SZ) were limited to the State of Tamil Nadu only. However, the NGT, Chennai by its impugned order has directed all the petroleum ROs in cities having more than 10 lakh population to install VRS mechanism which are having turnover of more than 300 KL/Month. We also take notice of the fact that the CPCB in consultation with the Ministry of Petroleum and Natural Gas has issued circulars/guidelines from time to time for installation of VRS (also known as Vapour Recovery Device circular). We are not inclined to disturb the impugned directions issued by the NGT, Chennai in regard to installation of the VRS. The CPCB shall ensure that these directions are scrupulously followed and complied with.

46. What is important for us to note is that in the directions/guidelines issued by the CPCB dated 30.04.2020 and 07.03.2016 resply the automobile fuel outlets have been classified as “green” which may be exempted from consent management. The learned Solicitor General submitted that it is only after due consideration and deliberations that the CPCB issued the said directions. The NGT itself in para 66 of its impugned order has noted that the oil industry is characterized as “green category” and the CTE and CTO was not required. It appears to us that the apprehension on the part of the NGT that the installation of VRS may not be strictly monitored by the State Pollution Control Boards, led the NGT to issue directions to the CPCB & State Pollution Control Boards to issue a circular making it mandatory for obtaining the CTE and CTO as a condition precedent for establishing new petroleum outlets. What has been argued before us and also on the basis of the materials on record, we are convinced that it is not necessary to make obtaining of CTE and CTO mandatory.

We would like to impress upon the CPCB to ensure that its guidelines referred to above are scrupulously followed and once the guidelines are scrupulously adhered to, no direction to obtain CTE and CTO for starting/operating a RO is warranted. We are at one with the learned counsel appearing for the respective appellants that asking the existing ROs to obtain CTO is something very unreasonable and may lead to various difficulties. Even directing the ROs that may come up in future to obtain the CTE and CTO would be cumbersome and time consuming and thus we do not find it reasonable.

47. In such circumstances, while holding that the National Green Tribunal has the power to direct the CPCB that it should exercise its powers under Section 5 of the Act 1986 for the purpose of protecting the environment, we are inclined to modify the impugned directions issued by the NGT, Chennai as contained in para 69(iii) and 69(iv) resply of the impugned order.

48. In view of the aforesaid, we dispose of the Civil Appeal No. 2039 of 2022 in the following terms:-

(a) The CPCB shall ensure that all the retail petroleum outlets located in different cities having population of more than 10 lakh and having turn over of more than 300 KL/Month shall install the VRS mechanism within the fresh timeline as prescribed in its Circular dated 04.06.2021. To put it in other words, the CPCB shall ensure that the directions issued by the NGT as contained in para 69(i) and (ii) of the impugned order is fully complied with. It shall be the legal obligation of all the State Pollution Control Boards to ensure that the directions issued by the NGT in regard to the installation of the VRS mechanism is complied with within the fresh timeline as prescribed by the CPCB.

(b) We set aside the directions issued by the NGT in the impugned order as contained in para 69(iii) and (iv). Instead, we direct the CPCB to instruct all the

State Pollution Control Boards to ensure that the guidelines issued by it vide the Office Memorandum dated 07.01.2020 are strictly adhered to. If there is breach of any of the guidelines issued by the CPCB vide Office Memorandum dated 07.01.2020, then the concerned State Pollution Control Board shall proceed against the erring outlet in accordance with law at the earliest.

49. The connected Appeals are also disposed of in the aforesaid terms.

50. There shall be no order as to costs.

51. Pending application, if any, stands disposed of.

.....**J.**  
**(SUDHANSHU DHULIA)**

.....**J.**  
**(J.B. PARDIWALA)**

**NEW DELHI;**  
**MARCH 14, 2023**



केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
CENTRAL POLLUTION CONTROL BOARD  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार  
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA

**SPEED POST/E-MAIL**

EQ-11099/20/2021-AQM-HO-CPCB-HO

June 13, 2024

The Chairman,  
M/s Reliance Industries Limited,  
Maker Chambers IV, 3<sup>rd</sup> Floor, 222 Nariman Point  
Mumbai - 400021

**Sub: Direction under Section 5 of Environment (Protection) Act, 1986 for non-installation of Vapour Recovery Systems at storage terminals dated 15.02.2024**

Sir,

This has reference to letter dated 08.03.2024 of M/s Reliance Industries Limited submitted in response to CPCB directions dated 15.02.2024. The matter of applicability of extension of deadline of VRS installation in storage terminal in NCR by Hon'ble Supreme Court in case of M/s Reliance Industries Limited was examined and it is to inform that the same is not applicable as M/s Reliance Industries Limited was not a litigant in the case.

Accordingly, M/s Reliance Industries Limited is directed to comply with the CPCB directions dated 15.02.2024 and deposit Environmental Compensation of Rs. 1 crore with CPCB within 15 days from the date of issue of the letter, failing which CPCB shall be constrained to close operation of the concerned terminal in NCR.

(Bharat Kumar Sharma)

Member Secretary

4

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**Annexure-IV**

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



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

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## Abstract

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

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

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

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

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

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### 1.1 Background

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

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

### 1.2 Constitution of the Committee

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

### 1.3 Methodology for Assessing Environmental Compensation

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

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

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

**Cases considered for levying Environmental Compensation (EC):**

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

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

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

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

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

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

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

The Environmental Compensation shall be based on the following formula:

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

Where,

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

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

Note:

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

**Table No. 1.1: Location Factor Values**

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

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

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

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

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

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

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

**Table No. 1.2: A sample calculation for Environmental Compensation**

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

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

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

#### **1.4 Action Plan for Utilization of Environmental Compensation Fund**

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

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

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

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

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

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

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

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

**1.5 Recommendations**

The Committee made following recommendations:

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

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

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

### 2.1 Background

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

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

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

### 2.2 Action Plan for Utilization of Environmental Compensation Fund

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

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

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### 3.1 Background

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

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

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

### 3.2 Ideology of Environmental Compensation Formula

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Alternatively;*

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

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

*Quantity of Sewage is in MLD*

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

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

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

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

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

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

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

Where;

Waste Quantity in tons per day (TPD)

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

Simplifying;

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

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

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

### 3.3 Action Plan for Utilization of Environmental Compensation Fund

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

### 3.4 Recommendations

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

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

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

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### 4.1 Background

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

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

### 4.2 Constitution of the Committee

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

### 4.3 Methodology for Assessing Environmental Compensation

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

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

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

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

#### For Notified Areas:

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

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

#### For Non-Notified Areas:

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

#### 4.5 Formula for Environmental Compensation for illegal extraction of ground water

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

$$EC_{GW} = \text{Water Consumption per Day} \times \text{No. of Days} \times \text{Environmental Compensation Rate for illegal extraction of ground water (} EC_{RW} \text{)}$$

Where water Consumption is in  $m^3/\text{day}$  and  $EC_{RW}$  in  $Rs./m^3$

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

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

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

#### 4.6 Environmental Compensation Rate ( $EC_{RW}$ ) for illegal use of Ground Water

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

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

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

#### 4.6.1 $ECR_{GW}$ for Drinking and Domestic use:

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

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

#### 4.6.2 $ECR_{GW}$ for Packaged drinking water units:

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

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

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

**4.6.4 ECR<sub>GW</sub> for Industrial Units:**

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

For better understanding of implementation of EC<sub>GW</sub> policy, some example calculations are given below:

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

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

**Solution:** Pump Yield (Please refer Annexure-VI) = 3 m<sup>3</sup>/hr  
Daily Consumption = 3 x 0.5 = 1.5 m<sup>3</sup>  
ECR<sub>GW</sub> = 4 Rs./m<sup>3</sup> (Please refer para 4.6.1)  
EC to be levied = 4 x 1.5 = 6 Rs./day  
Total time period = 820 days

Then, EC<sub>GW</sub> = 6 x 820

Calculated EC<sub>GW</sub> = 4,920 Rs.

**EC<sub>GW</sub> to be levied = 10,000 Rs. (minimum prescribed EC<sub>GW</sub>, please refer para 4.6.1)**

**Example 2 (For Industrial Units):**

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

**Solution:** Pump Yield (Please refer Annexure-VI) = 12 m<sup>3</sup>/hr  
Daily Consumption = 12 x 3 = 36 m<sup>3</sup>/day  
ECR<sub>GW</sub> = 60 Rs./m<sup>3</sup> (Please refer para 4.6.4)  
EC to be levied = 60 x 36 = 2,160 Rs./day  
Total time period = 365 days

Then, EC<sub>GW</sub> = 2,160 x 365

**EC<sub>GW</sub> = 7,88,400 Rs.**

#### 4.7 Relaxation

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

#### 4.8 Recommendations

The committee has given following recommendations:

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

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

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

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**Annexure-I****BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI****Original Application No. 593/2017  
(W.P. (Civil) No. 375/2012)****In the matter of:****Paryavaran Suraksha Samiti & Anr.  
Vs.  
Union of India & Ors.****CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

<b>Present:</b>	<b>Applicant:</b> Mr. Rohit Prajapati, Applicant in person <b>Amicus Curiae:</b> Mr. Jai A. Dehadrai, Adv. <b>Respondent Nos.</b> Mr. Nishe Rajan Shonker, Adv. for State of Kerala Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar Mr. Sandeep Mishra Advs. for GNCTD Mr. Anil Shrivastava Mr Rituraj Bswas and Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board Mr. Avijit Roy, Adv. for Assam Pollution Control Board Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur Mr. Nikhil Nayyar, Mr. Dhananjay Baijal, Advs. for APPCB and TSPCB Mr. Mukesh Verma, Adv. Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv. Mr. Dinesh Jindal, LO for DPCC Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB Mr. Edward Belho, AAG, Mr. K. Luikang Michael and Ms. Hoineithiam, Advs. for State of Nagaland Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCB, Odisha Mr. Dhruv Pal, Adv. for State of Gujarat Mr. V.K. Shukla, Adv. for State of MP Mr. Jayesh Gaurav, Adv. for R-47 Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs. Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar Ms. Aprajita Mukherjee, Adv. Ms. G. Indira, Adv. for UT of Andaman & Nicobar Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change Ms. Puja Kalra, Adv. for SDMC & NDMC Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB
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Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECEB  
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change  
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board  
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha  
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.  
 Ms. Priyanka Sinha, Adv. for State of Jharkhand  
 Mr. Rajul Shrivastav, Adv. for MPPCB  
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB  
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB  
 Mr. Shubham Bhalla, Adv.  
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board  
 Mr. G. M. Kawoosa, Adv. for State of J & K  
 Mr. Divya Prakash Pande, Adv. For HPSPCB  
 Mr. Manish Kumar, Adv.

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

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

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
1	Case- a, b & c	By passing of effluent/emission should be given special consideration. EC levied on ROG categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection.	Instead of "Compensation", "Penalty" word should be used. In case common facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure directions for pro-longed and gross non-compliance.			The Committee discussed that the points highlighted by RD Kolkata are already the part of cases fit for violation and levy environmental compensation. However, as mentioned by RD Vadodara, word "Penalty" may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.
2	Case- d, e & f	Higher rates for irreparable damages crop, soil, health etc. Leakages/spillage should have different compensation value.	It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to 'Guidelines on Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty', Guidelines may be prepared.		Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation is based on the philosophy of "polluters pay" and for grievance injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	Pollution Index (PI)			Instead of average PI, Actual PI may be used.		Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.
4	R-factor	Should be based on pollution load. For ex. Amount of BOD/NOx etc. discharged.		May be classified based on the contribution of pollution load based on quantity of effluent, concentration, emissions	May be as per the category of industry, for ex. Red-500, Orange-300, Green-100.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	L-factor			May be redefined based on the features, activities involved and habitation.		L-factor may be covered in future as already indicated in the report.

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

9	<b>Others</b>		Higher EC for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.	Thus, the functional fabric of CPCB shall remain intact.					The committee discussed that CPCB is already taking appropriate action including closure direction against the industries found operating without pollution control measures.
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**Annexure-III****Comments Received from Various Expert Institutions on the Report on Environmental Compensation**

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are summarized in table below:

S. No.	Item	Comments from TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	Cases d, e and f	Distinction between categories "a, b, c" and "d, e, f" is not clear. Case specific investigations should be minimized. Proposed cases deals separately with intentional and accidental cases but sometimes they are not easy to establish.	-	Why cases 'e' and 'f' are left for later remediation and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigation made by Expert Institutions/Organizations.
2	R-factor	-	R-factor should be Rs. 1,000/day.	Why R-factor is kept as 250, although the value ranges between 100 to 500?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, which may be further revised in future.
3	L-factor	-	L-factor should be based on the population density of surroundings, instead of population of the nearby city/town.  For critically polluted areas/ ecologically fragile areas LF should be considered as 2.	For nearby city, having population less than 1 million, the LF is 1. This implies that we care only for populated regions only.  Industries located in critically polluted and ecologically fragile area should be closed down.	Population density for surrounding of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units are generally away from population.  More weightage is given to the higher population exposure to the risk. In case the industry is located in the city of population less than one million than the LF Factor will be 1.  Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination, as per prevailing policy of MoEFCC/SPCB.  The Committee agreed that for notified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

S. No.	Item	Classification of industries should be based on profit/turnover basis.	Comments of CSE	Comments of IEG	Committee's Deliberations
4	S-factor	Classification of industries should be based on profit/turnover basis.	S-factor should be based on the turn-over of the industrial unit.	-	Presently industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complicate the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
5	Level of non-compliance	Pollution Index does not measure the level of pollution. Further, averaging PI eliminates the variation in the nature/ impact of pollution that PI tries to capture. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken  The rate of the penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The objective should be that units should choose to shut down operations when violations cannot be brought under control in the specified time.	For different level of non-compliance such as gross, moderate and low, a factor for 'intensity of violation', IV-factor should be incorporated in the formula.	-	Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers variation in pollution load.  The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the processing. Therefore, for calculating the Environmental Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively.  To keep the formula simple for better implementation, the IV factor may not be considered as there are different environmental parameters such as environmental standards and for each standard calculation of level of violation and its weightage will be a tedious task, which may bring difficulty in implementation of EC concept.  The Committee has agreed that in order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4 and 8 times on each similar violation. Further, if the violator continues its operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> quarter, respectively.  Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.  EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts.  Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs is already covered in the report  Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.
6	Utilization of fund	Funds may be utilized for building monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance especially in the MSME sector.	-	Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP	-	Size of the construction sites more than 20,000 sqm. area are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the place should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cut-off is maintained here.  Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of stacks, which is not the case presently for most units. Therefore, continuous monitoring should be implemented urgently, to begin with for all red and orange categories.	-	Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and compensation may be imposed based on the manual testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.
	(b)	CETP should be categorized under Red Category of industries. Some sub-classification should be undertaken under red categories of industries.	-	CETPs are already categorized under Red Category of Industries
	(c)	Based on the spirit behind the proposed charge, it should therefore be called an "environmental penalty" rather than "environmental compensation".	-	The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 03.08.2018 (OA No.593/2017). Therefore, term "Environmental Penalty" is avoidable.

**Annexure-IV**

Item Nos. 01 &amp; 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHIOriginal Application No. 125/2017  
(M.A. No. 1337/2018)

With

Original Application No. 217/2017  
(M.A. Nos. 761/2017, 1073/2017,  
1098/2017 & 1471/2017)

Court on its own Motion

Applicant(s)

Versus

State of Karnataka

Respondent(s)

With

D. Kupendra Reddy

Applicant(s)

Versus

State of Karnataka

Respondent(s)

Date of hearing: 06.12.2018

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

Original Application No. 125/2017  
(M.A. No. 1337/2018)

For Applicant(s):

Mr. Sajan Poovayya, Sr. Advocate and Mr. Saransh Jain,  
Advocate for impleaded applicant - Namma Bengaluru  
Foundation  
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s):

Mr. Devraj Ashok, Advocate  
Mr. Rajkumar, Advocate and Ms. Sonia, LA  
Ms. Nidhi Mehrotra, AdvocateOriginal Application No. 217/2017  
(M.A. Nos. 761/2017, 1073/2017,  
1098/2017 & 1471/2017)

For Applicant(s):

Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr.  
P. Ramaprakash and Mr. Sandeep Mishra, Advocates

For Respondents (s):

Dr. Abhishek Atrey, Advocate  
Mr. Rajkumar, Advocate and Ms. Sonia, LA**ORDER**

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

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

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs, based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

**Annexure-V**

Item Nos. 1 to 11

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015  
(M.A. No. 1332/2015)  
&  
Original Application No. 59/2012  
(M.A. No. 34/2016 & M.A. No. 190/2016)  
&  
Original Application No. 108/2013  
(M.A. No. 489/2015)  
&  
Original Application No. 179/2013  
(M.A. No. 866/2014 & M.A. NO. 644/2015)  
&  
Appeal No. 67/2015  
(M.A. No. 652/2015)  
And

Original Application No. 484/2015  
(M.A. No. 155/2017, M.A. No. 567/2017  
& M.A. No. 927/2017)  
And

Original Application No. 327/2018  
(M. A. No. 1282/2018)  
And

Original Application No. 115/2017  
(M.A. No. 442/2017)  
And

Original Application No. 411 of 2018  
And

Original Application No. 613/2017  
And

Original Application No. 614/2017

Shailesh Singh		Respondent(s)
	Versus	
Hotel Holiday Regency, Moradabad & Ors.		Applicant(s)
With		
Legal Aid, National Green Tribunal Bar Association		Applicant(s)
	Versus	
NCT of Delhi & Ors.		Respondent(s)
With		
Raj Hans Bansal		Applicant(s)
	Versus	
Ministry of Water Resources & Ors.		Respondent(s)
With		
Apex Chambers of Commerce and Industries of N.C.T. of Delhi & Ors.		Applicant(s)
	Versus	
Govt. of NCT Delhi & Ors.		Respondent(s)
With		
Vikrant Tongad		Applicant(s)

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Versus

Union of India &amp; Ors. Respondent(s)

With  
Shailesh Singh Applicant(s)

Versus

Hotel The Oberoi Amarvilas &amp; Ors. Respondent(s)

With  
Shailesh Singh Applicant(s)

Versus

Panchsheel Buildtech Pvt. Ltd. &amp; Ors. Respondent(s)

With  
Shailesh Singh Applicant(s)

Versus

Central Ground Water Board &amp; Ors. Respondent(s)

With  
M/s A-One Mineral Water Industry Applicant(s)

Versus

Central Ground Water Authority &amp; Ors. Respondent(s)

With  
Mohd. Javed Asghar Applicant(s)

Versus

M/s Upper Ganges Sugar and Industries Ltd.  
(Distillery Unit) & Ors. Respondent(s)With  
Mohd. Javed Asghar Applicant(s)

Versus

State of U.P. &amp; Ors. Respondent(s)

Hearing concluded on: 18.12.2018

Order uploaded on: 03.01.2019

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

For Applicant(s): Mr. Raj Pajwani, Senior Advocate and Mr. Rahul Choudhary, Advocate (In O.A. Nos. 59/2012 & 108/2013)  
Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam Jaiswal, Advocates (In O.A. Nos. 176/2015, 484/2015, 327/2018 & 115/2017)  
Mr. Amrendra Kumar Dubey, Advocate (O.A. No. 411/2018)

For Respondent (s): Ms. Sakshi Popli, Advocate for DJB (O.A. No. 59/2012)  
Mr. Sumeet Pushkarna, Mr. Devanshu, Advocates with Mr. Sudhir Chauhan, E.E., Delhi Jal Board (O.A. No. 108/2013)  
Mr. Ajay Jain, Advocate for GNCTD  
Mr. Ardhendumauli Kumar Prasad, Mr. Shashank Saxena, Ms. Diksha Gera, Mr. Amritesh Raj, Advocates for CGWA  
Mr. Pradeep Mishra, Mr. Daleep Dhyani, Advocates for UPPCB  
Ms. Sakshi Popli, Advocate for NDMC  
Mr. Amit Tiwari, Mr. Rohit Pratap Singh, Advocates for State of UP

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appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CPCB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured for as well as to sustain the floodplains of rivers in terms of e-flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain *inter-se* with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF &CC and this Tribunal in two months by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com).

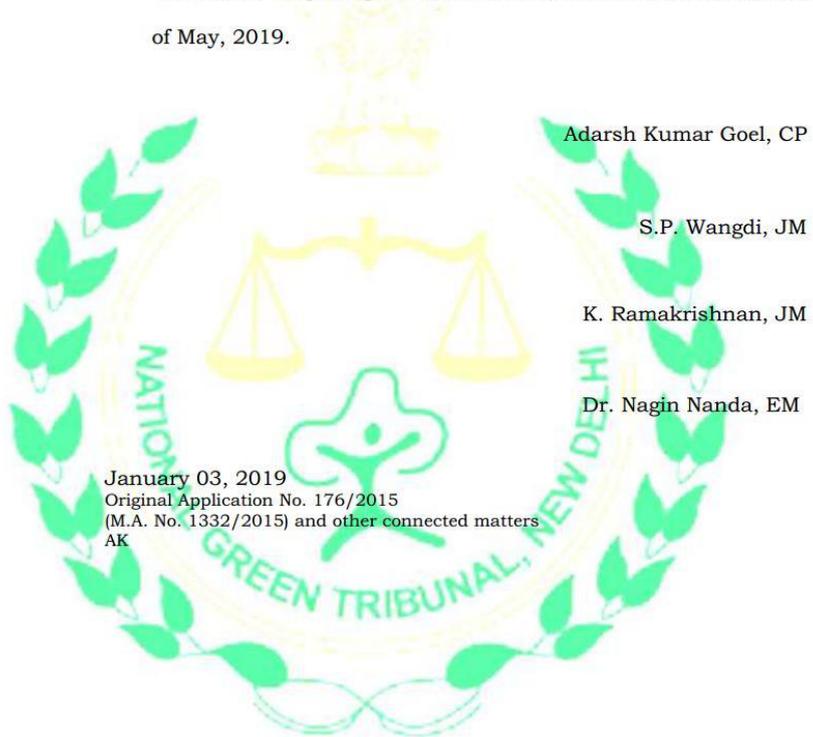
31. The Committee may also indicate the projection of its impact study in light of projected data for the next 50 years (in phased manner with action plan for each decade). Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CPCB may constitute a mechanism to deal with individual cases of violations of norms, as existed prior to Notification of 12.12.2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per

law. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.



**Annexure-VI****CRITERIA TO CALCULATE WATER CONSUMPTION****Table 1: Discharge of 4" Dia and 1 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m <sup>3</sup> /hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

**Table 2: Discharge of 4" Dia and 2 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m <sup>3</sup> /hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

**Table 3: Discharge of 6" Dia and 3 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m <sup>3</sup> /hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

**Table 4: Discharge of 6" Dia and 5 HP Pump**

Sl. No.	Depth (Meter)	Discharge	
		LPM	m <sup>3</sup> /hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

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Item No. 01

Court No. 3

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

Appeal No. 26/2024  
(IA No. 313/2024, IA No. 312/2024  
& IA No. 311/2024)

Reliance Industries Limited

Appellant

Versus

Central Pollution Control Board

Respondent

Date of hearing: 19.07.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Pinaki Misra, Senior Advocate with Mr. K.R. Sasiprabhu, Mr. Shubhanshu Padhi, Mr. Vishnu Sharma AS, Mr. Prakhar Agarwal & Mr. Gaurav Thakur, Advocates

Respondents: Mr. Raj Kumar, Advocate for CPCB

**ORDER**

1. The appellant Reliance Industries Ltd. has filed the present appeal under Section 18(1) read with 16(g) of the National Green Tribunal Act, 2010 against the directions under Section 5 of the Environment (Protection) Act, 1986, dated 13.06.2024 issued by the Central Pollution Control Board ("**CPCB**") directing the Appellant to pay Environmental Compensation of Rs. 1 crore for allegedly failing to meet the timeline prescribed under the orders passed by this Tribunal for installation of Vapour Recovery System ("**VRS**") in petrol refueling stations and storage terminals in National Capital Region ("**NCR**").

2. Vide the impugned direction the CPCB has directed the Appellant "to deposit Environmental Compensation of Rs. 1 crore with CPCB within 15 days from the date of issue thereof, failing which CPCB shall be constrained to close operation of the concerned terminal in NCR."

3. Learned Senior Counsel appearing for the Appellant has submitted that Indian Oil Corporation Ltd. (**IOCL**), Hindustan Petroleum Corporation Ltd. (**HPCL**) and Bharat Petroleum Corporation Ltd. (**BPCL**) approached Hon'ble Supreme Court by filing Civil Appeals No. 161-163 of 2019 titled as *M/s. Indian Oil Corporation v. Aditya N. Prasad & Ors.* against orders passed by this Tribunal and by order dated 14.02.2019 Hon'ble Supreme Court extended time and substituted the order passed by this Tribunal. No show cause notice was issued by CPCB prior to issue of the direction dated 13.06.2024 to Reliance Industries Ltd. by CPCB. The impugned direction being violative of principles of natural justice and also the principle of parity with abovesaid PSUs is illegal and liable to be set aside.

4. Learned Counsel appearing for CPCB has conceded that no show cause notice was issued by CPCB prior to issue of the direction dated 13.06.2024 to Reliance Industries Ltd. by CPCB. However, he seeks four weeks time to place on record the factual position in this matter.

5. List for further consideration on 20.08.2024.

6. In the meanwhile operation of the impugned direction issued by CPCB shall remain in abeyance.

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

July 19, 2024  
Appeal No. 26/2024  
(IA No. 313/2024, IA No. 312/2024  
& IA No. 311/2024)  
DV