

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

Appeal No. 18 of 2025

In the matter of

M/s Punjab Dyers Association

..... Applicant

V/s

Punjab Pollution Control Board

..... Respondent

Reply by way of affidavit of Er. Gurmit Singh, Environmental Engineer,
Regional Office-3, Ludhiana on behalf of respondent Punjab Pollution Control Board.

I, the above-named deponent, do hereby solemnly affirm and state as
under:

RESPECTFULLY SHOWETH

Preliminary submissions

- 1) That the Punjab Dyers Association, 50 MLD CETP, Adjoining Central Jail, Tajpur Road, Ludhiana has filed the present appeal u/s 16 of the National Green Tribunal Act, 2010 against the order passed by the Punjab Pollution Control Board on 31.12.2024/03.01.2025 for imposition of Environmental Compensation with a prayer to set aside the impugned order dated



31.12.2024/03.01.2025 and to grant interim stay on the said orders till the disposal of the appeal.

- 2) That briefly submitted the competent authority namely the Chairman, Punjab Pollution Control Board has passed an order bearing no. 513 dated 31.12.2024 for imposing of Environmental Compensation upon appellant Common Effluent Treatment Plant of 50 MLD capacity installed at Tajpur Road, Ludhiana for violation of provisions of the environmental laws. The order bearing no. 513 dated 31.12.2024 has been conveyed to the Chairman, Punjab Dyers Association, 50 MLD CETP Plant Backside Central Jail, Tajpur Road, Ludhiana by the Environmental Engineer, Punjab Pollution Control Board, Zonal Office-2, Ludhiana vide letter no. 48 dated 03.01.2025.
- 3) That by passing of the detailed order bearing no. 513 dated 31.12.2024 (conveyed to the appellant vide letter no. 48 dated 03.01.2025), the Chairman, Punjab Pollution Control Board has imposed Environmental Compensation amounting to Rs. 2,49,90,000/- (Rs. Two Crore Forty Nine Lac Ninety thousand only) upon 50 MLD CETP for violation of the provisions of the Environmental Laws in accordance with the formula and methodology evolved by the Central Pollution Control Board and adopted by the Punjab Pollution Control Board.
- 4) That vide the said order no. 513 dated 31.12.2024, the Environmental Compensation amounting to Rs. 2,49,90,000/- (Rs. Two Crore Forty Nine Lac Ninety thousand only) was imposed for the period of violation of 833 days from 09.06.2022 (date of commissioning of 50 MLD CETP) to 18.09.2024 (date of hearing before the competent authority), as per the following details

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

PI = Violation under Water Act, 1974 by red category unit = 32

N= Number of days = 833 (09.06.2022 to 18.09.2024)

R= A factor in Rupees = 500 (Large Scale red category project)

S=Large Scale project = 1.5

LF = Municipal Corporation i.e. Ludhiana having population between one million to five million = 1.25

for

EC = 32 x 833 x 500 x 1.5 x 1.25 = Rs. 2,49,90,000/- (Rs. Two Crore Forty Nine Lac Ninety thousand only.

- 5) That it is relevant to mention here that the Board has earlier imposed Environmental Compensation upon the SPV of 50 MLD CETP amounting to Rs. 1,24,50,000/- vide order no. 383 dated 04.09.2024 for the period of violation from 09.06.2022 to 28.07.2023; the Environmental Compensation amounting to Rs. 25,00,000/- vide order no. 380 dated 03.09.2024 (as per the decision of the personal hearing dated 14.06.2024) and the Environmental Compensation of Rs. 58,80,000/- (Rs. 18,30,000/- for period of violation from 01.08.2023 to 30.09.2023 and Environmental Compensation of Rs. 40,50,000/- for period of violation from 01.10.2023 to 12.02.2024) vide order no. 465 dated 27.11.2024, totaling of Rs. 2,08,30,000/-
- 6) That the amount of Environmental Compensation of Rs. 2,08,30,000/- was deducted from the total amount of Environmental Compensation of Rs. 2,49,90,000/- at the time of passing the order no. 513 dated 31.12.2024 and the balance amount of Rs. 41,60,000/- was directed to be paid to the Board by the SPV of 50 MLD CETP.
- 7) That the SPV of 50 MLD CETP is liable to pay Environmental Compensation amounting to Rs.2,49,90,000/- to the Punjab Pollution Control Board for the violation of the environmental laws for the period of violation of 833 days from 09.06.2022 to 18.09.2024 as explained herein above.

Reply on merits

- 1) That the contents of para no. 1 of the appeal relating to the order dated 31.12.2024 / 03.01.2025 issued by the Punjab Pollution Control Board for imposition of Environmental Compensation of Rs. 2,49,90,000/- upon SPV of the appellant for 833 days of violation from the date of commissioning of the CETP are a matter of record.

The main issues which have been alleged by the appellant in para no. 1 of the appeal in sub para (i) to (v) are reproduced below for kind perusal and reference. The alleged issues mentioned in sub para (i) to (v) are interrelated as the appellant in these sub paras has alleged that the State

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Pollution Control Board is not having any power to impose and recover any Environmental Compensation. The reply of the Board to the said sub paras may kindly be read as under.

- i. Whether Respondent PPCB has any powers to impose Environmental Compensation under Water Act 1974.
- ii. Whether Respondent PPCB has powers to issue order to impose Environmental Compensation under garb of Polluters Pay Principle propounded by Hon'ble Supreme Court in 1996.
- iii. Whether Respondent PPCB can impose Environmental Compensation in the face of express powers vested in Hon'ble NGT to impose Environmental Compensation /Environmental Damages under Sec 15 of NGT Act 2010 and absence of such express power with PPCB under Water Act 1974.
- iv. Whether Respondent PPCB can impose Environmental Compensation in the facts and circumstances of the case from date of commissioning of CETP to date of hearing by it in pursuance of notice under section 33A of Water Act 1974 issued on 29.8.2024.
- v. Whether the Environmental Compensation imposed by order dated 31.12.2024/3.1.2025 by Respondent Board is Environmental Compensation or Environmental damages.

Reply

- a) The Hon'ble Supreme Court has considered the concept of Polluter Pays Principle in Indian Council for Enviro Legal Action and other v/s Union of India and Others (1996) 3 SCC 212 para 16; Vellore Citizens Welfare Forum v/s Union of India (1996) 5 SCC 647 para 12-18 and held that Polluter Pays Principle is accepted principle and part of environmental law of the Country even without specific statute.
- b) The Hon'ble National Green Tribunal was established under the provisions of the National Green Tribunal Act, 2010.
- c) According to the provisions of the section 19 of the National Green Tribunal Act, 2010, the Tribunal shall not bound by the procedure laid

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down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice. The Tribunal shall have the power to regulate its own procedure. The Tribunal shall also not bound by the rules of evidence contained in the Indian Evidence Act. However, for the purpose of discharging its functions, the Tribunal shall exercise powers of the Civil Court as prescribed under Civil Procedure Code.

- d) According to Section 20 of the National Green Tribunal Act, 2010 the Tribunal shall apply the Principles of Sustainable Development, precautionary Principle and the Polluter Pay's Principle while passing any other, decision or award.
- e) In the exercise of its powers and performance of its functions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, the State Pollution Control Boards are empowered under section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 to issue any directions in writing to any person, officer or authority and such person, officer or authority shall be bound to comply with the directions issued by the Board.
- f) The Hon'ble National Green Tribunal (NGT) through its various orders / Judgments (order dated 3.8.2018, 19.2.2019 passed in Original Application No. 593 of 2017, order dated 6.12.2018 passed in Original Application No. 125 of 2017 and M.A No. 1337 of 2018, order dated 13.12.2018 passed in Original Application No. 1038 of 2018, order dated 12.3.2019 passed in Original Application No. 710 of 2017 Original Application No 711, 712 of 2017) has empowered the Central Pollution Control Board (CPCB) to lay down the methodology to assess and recover compensation for not setting up of ETP, CETP, STP for damage to the environment and utilize such amount in terms of an action plan for protection of the environment. On the directions of Hon'ble NGT dated 03.08.2018 in the matter of OA No. 593/2017 (WP (CIVIL) No 375/2012, Paryavaran Suraksha Samiti &Anr. Vs. Union of



India &Ors, the CPCB has prepared Methodology for Assessing Environmental Compensation. The Methodology prepared by CPCB has been accepted by the Hon'ble National Green Tribunal vide orders dated 28.08.2019 in same case.

- g) The formula/methodology framed by CPCB and accepted by National Green Tribunal is being followed by the State Pollution Control Boards including the Punjab Pollution Control Board for imposition of EC on the units violating environmental norms.
 - h) The Punjab Pollution Control Board has drawn powers from the judicial pronouncement of the Hon'ble Supreme Court of India, the Hon'ble National Green Tribunal and statutory provisions mentioned above for the imposition and recovery of Environmental Compensation from the defaulters of pollution.
- 2) That the contents of para no. 2 of the appeal may please be considered as matter of record.
 - 3) That the contents of para no. 3 of the appeal are a matter of record.
 - 4) That the contents of para no. 4 of the appeal are a matter of record.
 - 5) That the contents of para no. 5 of the appeal may be considered as matter of record. The Government of Punjab has extended financial assistance / subsidy of Rs. 7.5 Crore for the installation of the common effluent treatment plant for dyeing and textile units of capacity 50 MLD by the appellant.
 - 6) That the contents of para no. 6 of the appeal are correct hence admitted to the extent of issuance of notification dated 01.01.2016 by the Ministry of Environment, Forest and Climate Change notifying the effluent standards for common effluent treatment plants.
 - 7) That the contents of para no. 7 of the appeal may please be considered as matter of record.
 - 8) That the contents of para no. 8 of the appeal relating to the Punjab Pollution Control Board letter dated 03.09.2012 may be considered as matter of record.



- 9) That the contents of para no. 9 of the appeal relating to Environmental Clearance dated 03.05.2013 are a matter of record.
- 10) That the contents of para no. 10 of the appeal are a matter of record.
- 11) That the contents of para no. 11 of the appeal are correct to the extent that the 50 MLD CETP of the appellant was sanctioned by the Ministry of Environment, Forest and Climate Change under Central Assistance Scheme in November 2019 on the basis of recommendation of PPCB and evaluation of project report by IIT Roorkee. In reply to the remaining contents of this para, it is submitted that the appellant has never achieved the parameter of 10 mg/L in respect of treated BOD.
- 12) That the contents of para no. 12 of the appeal relating to the order dated 20.01.2020 passed by the Hon'ble National Green Tribunal in IA No. 13 of 2020 in EA No. 21 of 2019 in OA No. 410 of 2017 are a matter of record.
- 13) That the contents of para no. 13 of the appeal relating to the copy of consent to establish granted by the Board in Annexure A-8 are a matter of record.
- 14) That the contents of para no. 14 of the appeal are correct to the extent of issuance of an Office Order dated 16.01.2020 by the Punjab Pollution Control Board whereby guidelines for the utilization of Grant-in-Aid received from the Government of India and the Government of Punjab for setting up of CETPs were framed. The primary objective of the Board was that the Grant-in Aid received from the Government of India and Government of Punjab is spent by the appellant on the installation of Common Effluent Treatment Plant. The Board has only facilitated the setting up of Common Effluent Treatment Plant of the appellant association, however, the technicalities of the plant had to be ensured by the appellant association.
- 15) That in reply to the contents of para no. 15 of the appeal, it is submitted that the appellant SPV is constantly being pursued by the Board to submit proposal / feasibility report to reuse the treated effluent on to land irrigation as a condition of the consents to operate granted temporarily under the Water (Prevention and Control of Pollution) Act, 1974 as well as in various hearings afforded to the appellant SPV by the Chairman of the Board, but the



SPV has failed to submit any proposal in this regard and thus the SPV is violating the provisions of Environmental Clearance obtained from the Ministry of Environment, Forest and Climate Change, Government of India. The SPV has failed to achieve the standards prescribed in the Detailed Project Report (DPR). The Board has constituted an expert committee to finalize the inlet standard for CETP. It is proposed to notify the standards prescribed in the DPR of the appellant at the inlet. May be, the Common Effluent Treatment Plant of 50 MLD capacity has been designed to achieve the best possible results, but it is not achieving the standards prescribed in its DPR.

- 16) That the contents of para no. 16 of the appeal are denied being incorrect that the 50 MLD CETP is running satisfactory and meets with the standards prescribed by the Ministry of Environment, Forest and Climate Change vide notification dated 01.01.2016. Most of the time the CETP 50 MLD capacity is not meeting with standards prescribed vide notification dated 01.01.2016 and TDS standard has never been achieved.
- 17) That in reply to the contents of para no. 17 of the appeal, it is submitted that the Board has shown its inability to fund the project of Rs. 35.97 Crore of the Government of Punjab, Department of Water Resources to utilize the wastewater of Buddha Nallah for irrigation through lower Buddha Nallah.
- 18) That the contents of para no. 18 of the appeal are a matter of record.
- 19) That the contents of para no. 19 of the appeal are admitted to the extent of reply submitted by the appellant to the show cause notice dated 29.08.2024 issued by the Board and the submissions made therein.
- 20) That the contents of para no. 20 of the appeal are correct hence admitted to the extent of issuance of directions dated 25.09.2024 to the appellant CETP u/s 33-A of the Water (Prevention and Control of Pollution) Act, 1974 by the Board.
- 21) That the contents of para no. 21 of the appeal relating to the order dated 04.11.2024 passed by the Hon'ble National Green Tribunal in Appeal No. 40 of 2024 filed by the appellant against the directions dated 25.09.2024 of the Board are a matter of record.



- 22) That the contents of para no. 22 of the appeal relating to the dispatch of one of the effluent samples collected and sealed by the Central Pollution Control Board of 50 MLD CETP on 24.12.2024 and the sampling done by the Thapar Technology Campus, Patiala are denied for want of knowledge. However, it is submitted the Central Pollution Control Board has placed on record the copy of the analysis report of the samples of effluent (50 MLD CETP) drawn on 24.12.2024 and tested by the Central Pollution Control Board laboratory before the Hon'ble National Green Tribunal on 19.03.2025 and the analysis report has shown the failure of samples.
- 23) That the contents of para no. 23 of the appeal are correct hence admitted to the extent that the Board has passed order dated 31.12.2024 thereby imposing Environmental Compensation upon the 50 MLD CETP for 833 days of violation from the date of commissioning of the CETP on 09.06.2022 upto the date of hearing against notice on 18.09.2024. The reasons for imposition of Environmental Compensation have been mentioned in the detailed order dated 31.12.2024 passed by the Board which was conveyed to the appellant vide letter dated 03.01.2025.
- 24) That in reply to the contents of para no. 24 of the appeal, it is submitted that the Board has rightly calculated the amount of Environmental Compensation which has been imposed upon the appellant SPV of 50 MLD CETP for the period of 833 days from 09.06.2022 to 18.09.2024 as per the following formula

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

PI = Violation under Water Act, 1974 by red category unit = 32

N = Number of days = 833 (09.06.2022 to 18.09.2024)

R = A factor in Rupees = 500 (Large Scale red category project)

S = Large Scale project = 1.5

LF = Municipal Corporation i.e. Ludhiana having population between one million to five million = 1.25

EC = $32 \times 833 \times 500 \times 1.5 \times 1.25 = \text{Rs. } 2,49,90,000/-$ (Rs. Two Crore Forty Nine Lac Ninety thousand only).



The contents of preliminary submissions may also be read as reply to the contents of this para of the appeal.

- 25) That the contents of para no. 25 of the appeal are denied being incorrect the Board is not vested with any powers to impose Environmental Compensation under the Water (Prevention and Control of Pollution) Act, 1974. In this regard, the contents of the reply given in para no. 1 above on merits may kindly be read.
- 26) That the contents of para no. 26 of the appeal may kindly be considered as matter of record being reproduction of the provisions of National Green Tribunal Act, 2010. However, the contents of the reply given in para no. 1 above on merits may kindly be read as reply to the contents of this para of the appeal.
- 25) That due to some mistake, para no. 25 has again been written in the appeal whereas this para should have been numbered as para no. 27. The contents of para no.25 are a repetition of the facts of the case to which appropriate reply has already been given in the preceding paragraphs. The reply given in the preceding paragraphs may kindly be read as reply to the contents of this para of the appeal.
- 26) That due to some mistake, para no. 26 has again been written in the appeal whereas this para should have been numbered as para no. 28. The contents of para no.26 are a repetition of the facts of the case to which appropriate reply has already been given in the preceding paragraphs. The reply given in the preceding paragraphs may kindly be read as reply to the contents of this para of the appeal.
- 27) That due to some mistake, para no. 27 has been written in the appeal whereas this para should have been numbered as para no. 29. That appropriate reply has already been given by the Board and as such, the reply given in the preceding paragraphs may kindly be read as reply to the contents of this para of the appeal.



It is, therefore, prayed that the appeal filed by the appellant may kindly be disposed of with appropriate orders.

Submitted by



(Gurmit Singh)

Environmental Engineer,
Punjab Pollution Control Board
Regional Office-3, Ludhiana

(On behalf of Punjab Pollution Control Board)

Date: 04-04-2025

Place: Ludhiana

Verification:

Verified that the contents of paragraphs 1 to 7 of the preliminary submissions and that of paragraphs 1 to 27 of the reply on merits by way of affidavit are true and correct to my knowledge as derived from the official record. No part of the above written statement is false and nothing material has been kept concealed or suppressed therein.



(Gurmit Singh)

Environmental Engineer,
Punjab Pollution Control Board
Regional Office-3, Ludhiana

(On behalf of Punjab Pollution Control Board)

Date: 04-04-2025

Place: Ludhiana