

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

ORIGINAL APPLICATION NO 366 / 2023

In the matter of:

Rajesh Kumar Dokwal

..... Applicant

Versus

Govt. of NCT of Delhi

..... Respondent(s)

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Filed by:

(Delhi Pollution Control Committee)
Respondent

New Delhi:
Dated: 18.12.2024

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

ORIGINAL APPLICATION NO 366/2023

In the matter of:

Rajesh Kumar Dokwal

..... Applicant

Versus

Govt. of NCT of Delhi

..... Respondent(s)

**COMPLIANCE REPORT IN FORM OF AFFIDAVIT ON BEHALF
OF DELHI POLLUTION CONTROL COMMITTEE (DPCC) WITH
RESPECT TO ORDER DATED 10.07.2024.**

I, Deepak Kumar Singh, Additional Director, Delhi Pollution Control Committee, 3rd Floor, Block-B, IT Park, Shastri Park, Delhi- 110053, do hereby solemnly affirm and state as under:

1. That, I am working as Additional Director, Delhi Pollution Control Committee and am conversant with the facts of the present case on the basis of record maintained by Delhi Pollution Control Committee in its ordinary course.

2. That this Hon'ble Tribunal has disposed of the matter on 10.07.2024 with the direction to initiate appropriate proceedings for imposition and realization of environmental compensation on DJB and M/s VA Tech Wabag Limited in accordance with law and on realization thereof, and further utilize the



environmental compensation amount for restoration of the environment in the area.

3. That as Kondli STP of 45 MGD capacity was found to be non-compliant, therefore DPCC imposed Environmental Compensation of Rupees Ten Lakh on M/s VA Tech Wabag Limited (operator of the plant) vide order dated 19.11.2020. The order dated 19.11.2020 was challenged by M/s VA Tech Wabag Limited by filing W. P. (C) 4391/2021 before Hon'ble High Court of Delhi. Vide order dated 08.04.2021 Hon'ble High Court of Delhi directed that subject to deposit of a sum of Rs. 3,00,000/- with DPCC within a period of four weeks, no coercive measures shall be taken by DPCC against the petitioner. In compliance of said order, M/s VA Tech Wabag Limited deposited Rs. 3,00,000/- (Rupees Three lakh Only) vide DD No. 553413 dated 23.04.2021 issued by ICICI Bank. W. P. (C) 4391/2021 was disposed of by Hon'ble High Court of Delhi vide order dated 28.11.2023 directing DPCC to consider the representation of the petitioner and pass a detailed order after affording an oral hearing to the petitioner. That in compliance with the orders passed by the Hon'ble High Court of Delhi, Member Secretary has given a personal hearing to the petitioner on 01.02.2024 and an order dated 10.07.2024 was issued to M/S VA Tech Wabag Limited mentioning that M/S VA Tech Wabag Limited is liable to pay remaining amount of Rs Seven lakhs for not meeting the prescribed standards for sample collected on 10.09.2020, within 15 days.

Copy of order dated 10.07.2024 issued by DPCC to M/s VA Tech Wabag Limited is enclosed herewith as Annexure-1.

4. That Environmental Compensation imposed by DPCC vide order dated 10.07.2024 has not been deposited by M/s VA Tech Wabag Limited and therefore, a letter has been issued to District Magistrate (East) on 07.10.2024



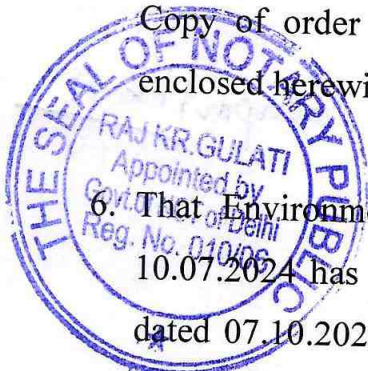
for recovery of Environmental Compensation amount of Rs. 7,00,000/- (Rs. Seven Lakh Only) from M/s VA Tech Wabag Limited.

Copy of the letter issued by DPCC to District Magistrate (East) on 07.10.2024 is enclosed herewith as Annexure- 2.

5. That DPCC also imposed Environmental Compensation of Rs. Ten Lakh on Delhi Jal Board vide order dated 06.08.2021 for violations observed during inspection of 45 MGD STP at Kondli on 10.09.2020 and for not meeting the prescribed standards. The said Order was challenged by Delhi Jal Board by filing W.P. (C) 11751/2021 before the Hon'ble High Court of Delhi. Hon'ble High Court of Delhi vide order dated 12.10.2021 set aside the aforementioned order dated 06.08.2021 of DPCC directing the DPCC to treat the writ petition as a representation and pass a fresh order dealing with the pleas raised by the petitioner in its reply dated 22.12.2020 after granting opportunity of hearing to the petitioner. That in compliance with the orders passed by the Hon'ble High Court of Delhi, Member Secretary has given a personal hearing to the Petitioner (Delhi Jal Board) on 02.04.2024 and an order dated 10.07.2024 was issued mentioning that Delhi Jal Board is liable to pay Environmental Compensation amount of Rs. 10,00,000/- (Rs. Ten Lakh Only) for not installing the Odour Control Device, within 15 days.

Copy of order dated 10.07.2024 issued by DPCC to Delhi Jal Board is enclosed herewith as at Annexure-3.

6. That Environmental Compensation imposed by DPCC vide order dated 10.07.2024 has not been deposited by Delhi Jal Board and therefore, letter dated 07.10.2024 has been issued to District Magistrate (East) for recovery of said amount of Rs. 10,00,000/- (Rs. Ten Lakh Only) from Delhi Jal Board.



Copy of the letter issued by DPCC to District Magistrate (East) on 07.10.2024 is enclosed herewith as Annexure- 4.

7. That as per the Analysis Report of DPCC for the STPs at Kondli Phase-I (10 MGD), Phase- II(25 MGD), Phase-III (10 MGD) & Phase-IV (45 MGD) for the samples collected on 22.11.2024, STPs are meeting the prescribed standards.

Copy of the Analysis Reports of DPCC for STPs at Kondli for the month of November, 2024 are collectively enclosed as Annexure-5 (Colly).

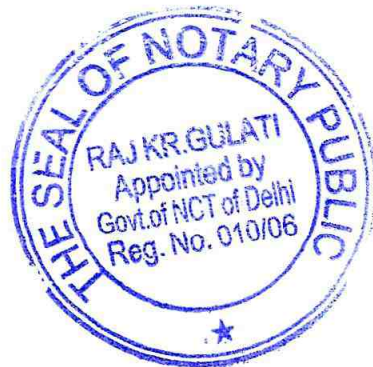
8. That, above Compliance Report of DPCC may please be taken on records.



DEPONENT

VERIFICATION

I, the above-named deponent, declare the contents of the present affidavit are true and correct to the best of my knowledge based upon the documents and records available in the office and nothing material has been concealed therefrom.

Verified at New Delhi on this 18th day of December, 2024.

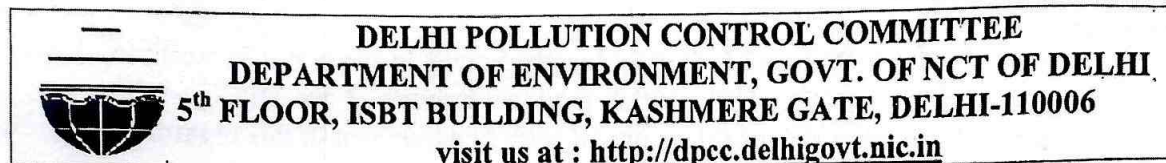



ATTESTED
NOTARY PUBLIC
GOVT OF NCT OF DELHI


DEPONENT

18 DEC 2024

By Speed Post/ Email



F. No.: DPCC/ (13)(9)(0073)/ PLG-13/ 1053-54

Dated: 10/07/2024

ORDER**1. Introduction:**

1.1 A Hearing was held before Member Secretary, DPCC, on 01.02.2024 in compliance with the Order dated 28.11.2023 passed by the Hon'ble High Court of Delhi in W.P.(C) No. 4391/2021 titled as, "VA Tech Wabag Limited Versus Delhi Pollution Control Committee & Anr."

1.2 Following representatives from M/s VA Tech Wabag Limited & Delhi Jal Board attended the aforesaid hearing:

- i. Sh. Mayank Kumar (Plant In charge, VA Tech Wabag Limited)
- ii. Sh. Chandra Prakash (Deputy Project Manager, VA Tech Wabag Limited)
- iii. Smt. Meenakshi Jha (Advocate, VA Tech Wabag Limited)
- iv. Sh. Ashish Kumar Gupta, EE, (SDW)-IV, DJB
- v. Sh. Himanshu Sharma, AE, DJB

1.3 Following representatives from Delhi Pollution Control Committee attended the aforesaid hearing:

- i. Sh. S.K. Goyal, Environmental Engineer,
- ii. Sh. Ashish Uniyal, Jr. Environmental Engineer

1.4 During the Hearing, the representative of the VA Tech Wabag Limited submitted the following:

- i. M/s VA Tech Wabag Limited is legally bound to meet the Prescribed Standards i.e. BOD: TSS: 20:30 mg/l which is as per the Contract Agreement with Delhi Jal Board. Due to excess sulphide level at the Inlet, characteristics of raw sewage changed which affected the efficiency of the Plant in the past. Therefore, Prescribed Standards could not be achieved.
- ii. DPCC has imposed Environmental Compensation for a violation on two entities i.e. on operator (M/s VA Tech Wabag Limited) as well as on owner of STP (i.e. DJB), which is not legal & to be re-considered by DPCC.
- iii. Representative asked for Two weeks' time for submitting fresh representation in the matter along with all the documentary proof. However, no reply/ document received from the M/s VA Tech Wabag Limited in this regards, so far.

1.5 During the Hearing, the representative of the Delhi Jal Board submitted the following:

- i. M/s VA Tech Wabag Limited is legally bound to meet the Prescribed Standards i.e. BOD: TSS: 10:10 mg/l as prescribed by DPCC. DJB ensured to submit documentary proof/ copy of agreement in this regard.

2. Brief History:

- i. A letter dated 09.09.2020 was received from Executive Engineer (SDW)-IV of Delhi Jal Board informing that M/S VA Tech Wabag Limited operator of 45 MGD STP at Kondli was bypassing the Raw / Untreated sewage on 23.08.2020 & 28.08.2020 in the night resulting into diversion of untreated sewage directly into Yamuna River causing pollution and requested for necessary action.
- ii. Number of complaints were also received in DPCC, in addition to above, with regard to bad odour due to improper operation & maintenance of the 45 MGD STP at Kondli, causing problems to the residents in the nearby areas / colonies.
- iii. Inspection of the above mentioned 45 MGD STP was carried out by the officials of DPCC along with DJB and operator of the plant on 10.09.2020. During the said inspection it was found that the plant was not stabilized. Bulking of sludge was seen in the Primary Settling Tanks (PSTs) and Secondary Settling Tanks (SSTs), out of 04 units, 03 units of SST were found operating. The effluent in the Aeration Tanks (04 Nos.) was dark grey to black colour which indicated that the aeration process was not proper. To know the concentration of MLSS (Mixed Liquor Suspended Solids) in the Aeration Tank, a Jar Test was conducted in 1000 ml cylindrical measuring jar. The settled solids in the measuring jar was found dark grey to black which indicated that there was insufficient microorganism/ bacteriological growth in the Aeration Tanks.
- iv. During the inspection dated 10.09.2020, effluent samples from inlet and outlet of the said STP were also collected. As per the Analysis Report of DPCC Laboratory for the samples collected on 10.09.2020, BOD (58 mg/l against the prescribed standard of 10 mg/l), TSS (88 mg/l against the prescribed standard of 10 mg/l), COD (152 mg/l against the prescribed standard of 50 mg/l), Ammonical Nitrogen (15.9 mg/l against the prescribed standard of 5 mg/l) and Phosphate (6.0 mg/l against the prescribed standard of 2 mg/l) were not meeting the prescribed standards at the outlet point of the STP and also not meeting the prescribed standards in respect of sample taken 50 meter below the outlet point.
- v. Based on the observations made during the inspection on 10.09.2020, a Show Cause Notice u/s 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and u/s 31(A) of the and u/s 31(A) of the Air (Prevention and Control

of Pollution) Act, 1981, was issued to M/s. VA Tech Wabag Limited on 18.09.2020 for imposition of Environmental Compensation (EC) of Rs. Ten Lakhs only and also for taking rectification measures with respect to the deficiencies observed during the inspection on 10.09.2020.

- vi. M/s. VA Tech Wabag Limited filed Writ Petition before the Hon'ble High Court of Delhi against the said order of DPCC regarding Environmental Compensation imposed on the said Firm.
- vii. Hon'ble High Court of Delhi vide order dated 08.04.2021 in WP(C) No. 4391 of 2021 has directed the petitioner to submit Rupees 3 Lakh to DPCC within 4 weeks. The said amount has been deposited by the petitioner on 07.06.2021. DPCC filed Counter Affidavit before the Hon'ble High Court in this matter.
- viii. Hon'ble High Court vide Order dated 28.11.2023 disposed of the case and directed as follows:

"In the present case, undoubtedly, the DJB was the complainant and on the complaint of the DJB, an inspection has been conducted and it has been found that the STP in question is not functioning properly. This Court is not going into the question as to whether it is the fault of the DJB or the Petitioner in discharging of the untreated sewage into river Yamuna. In view of the fact that this Court has given an opportunity to the DJB, who have been found guilty of the same violation, this Court is inclined to direct the DPCC to consider the representation of the Petitioner and pass a detailed Order after affording an oral hearing to the Petitioner."
- xi. In compliance of order dated 28.11.2023 in WP(C) No. 4391 of 2021, M/s VA Tech Wabag Limited was called for personal hearing before Member Secretary DPCC on 01.01.2024 at 12:00 Noon. However, M/s VA Tech Wabag Limited vide letter dated 01.01.2024 requested for adjournment of the said personal hearing on 01.02.2024. DPCC again provided the opportunity of hearing to M/s VA Tech Wabag Limited on 01.02.2024 and the said hearing was held on 01.02.2024 at 12:00 Noon before Member Secretary, DPCC.

3. Reply/Representation Dated 01.10.2020 of M/S VA Tech Wabag Limited:

Reply/ Representation dated 01.10.2020 was received from M/s VA Tech Wabag Ltd. in response to Show cause notice issued 18.09.2020; the main submissions in the representation are briefed as below:

- i. Denied the allegations that they were by-passing the untreated sewage on the night of 23.08.2020 and 28.08.2020.
- ii. During monsoon the inlet flow to the Kondli phase-IV reached upto 20,000 m³ and which is much beyond the designed capacity of the plant, which leads to

- over flow from various units and also disturbed the plant performance and treated sewage parameters.
- iii. The DJB has allowed bypass during the monsoon season and high inlet flow in order to maintain flow level and save the plant.
 - iv. It was also denied that the allegation regarding bad odour has been developed due to improper upgradation / maintenance of the plant and further stated that due to high sulphide contained in the sewage resultant to release of the Hydrogen Sulphide Gas. This is the main cause of the smell.
 - v. A self-sample analysis effluent test report from Shri Ram Laboratory was also enclosed by the company.
 - vi. For the installation of odour control unit the company has stated that installation of odour control unit is not in the scope of the work of Wabag.
 - vii. It was submitted and stressed by the representative of Wabag with regard to the odour control that the design criteria of STP and due to high inlet flow and high sulphide contained in the raw sewage are the main reason for the ongoing disturbance in the plant process and which are purely attributable to the inability of DJB to control high flow and high sulphide in the raw sewage.
 - viii. On the issue of the increase in flow often results into:
 - a. The increased hydraulic/organic load, due to which the biomass cannot be optimised in the aeration tank
 - b. Increased demand of oxygen, due to which blowers cannot meet the additional oxygen demand and hence it will lead to destabilizing the process
 - c. The increased flow will also result in wash out of biomass thus increasing the TSS of the treated sewage.
 - ix. The plant is receiving extended hours of peak flow against the designed hours of peak flow of maximum 2-4 hours in a day and justifying this by the jar test conducted resulted into reduced retention time and increased oxygen demand. The sulphide presents in the influent and increased oxygen demand imparting dark colour to the MLSS. It is mentioned that due to high inlet flow and high sulphide contents are the main reason for the on-going disturbance in the plant process thus it is the inability of the DJB to control the high flow and high sulphides in the raw sewage.
 - x. Any violation of the section 31 (A) of Water Act and 31 (A) of Air Act is against DJB who is responsible for the violation. The issues and the concerns arising out of the violation needs to be addressed/ directed to DJB. DPCC has not given them any opportunity to defend their case and to clarify their position and has unilaterally imposed the unreasonable and undue penalty on the basis of Polluters Pay Principle. This is not only an unjustified and arbitrary decision but is a violation of natural justice also.
 - xi. M/s Wabag Limited submitted documents including permission of bypass at the time of heavy flow and rain dated 29.06.2020, sulphide test reports, abstract of IIT Delhi report, and hourly flow record from 21.08.2020 to 23.09.2020.

(9)

At last requested DPCC to review the order imposing EDC, Analysis Results of effluent samples and also considering the representation dated 01.10.2020 on an unbiased manner and recall the order for imposition of Environmental Compensation of Rs. Ten Lakhs only on 19.11.2020 to M/s. VA Tech Wabag Limited.

4. Addressal of Submissions of M/s VA Tech Wabag Limited:

- i. The plea of Applicant that M/s VA Tech Wabag Limited was legally bound to achieve standards i.e. BOD: TSS: 20:30 mg/l which is as per the contract agreement with Delhi Jal Board is not accepted. Also, all the parameters of treated effluent prescribed by DPCC including BOD: TSS: 10:10 mg/l to be met by STP. The said firm even could not achieve the BOD: TSS: 20:30 mg/l as claimed liable to be achieved as per the Contract Agreement with Delhi Jal Board during the samples collected by DPCC on 10.09.2020. As per the Analysis Report of DPCC the samples collected on 10.09.2020 in respect of STP Kondli Ph-IV, BOD (58mg/l against the prescribed standards of 10 mg/l), TSS (88 mg/l against the prescribed standards of 10 mg/l), COD (152 mg/l against the prescribed standards of 50 mg/l), Ammonical Nitrogen (15.9 mg/l against the prescribed standards of 5 mg/l) and Phosphate (6.0 mg/l against the prescribed standards of 2 mg/l) were found not meeting the prescribed standards at the outlet point of STP and also not meeting the prescribed standards in respect of sample taken 50 meter below the outlet point.
- ii. On the question of double jeopardy it is pertinent to note that the installation of odour control unit was beyond the purview of M/S VA Tech Wabag Ltd. & was within the purview of DJB which was not installed. No documents was shown/submitted wherein M/s Wabag Ltd. has requested to DJB to install the same, in terms of the DPCC direction, which were issued in compliance to the Hon`ble Green Tribunal orders.
- iii. As, prescribed discharged standards were not meet out, which is the sole responsibility of M/s Wabag, therefore, firm is not liable for any immunity.
- iv. The order whereby DPCC imposed EDC, was due to harm caused by the mal-operation of the STP Kondli Ph-IV, which is the sole responsibility of M/S Wabag Ltd.
- v. Both EDC of Rs. 10 Lakhs imposed on M/s VA Tech Wabag Ltd. & Delhi Jal Board having being imposed due to two different contentions respectively i.e. for improper management of Kondli STP- IV by M/S VA Tech Wabag Ltd. & on non- installation of Odour Control Unit (OCU) at earlier phase prior to 2023 by DJB. Thus, the concept of Double Jeopardy does not apply.

- vi. On the plea of M/S VA Tech Wabag Ltd. about the non-installation of the Odour Control Unit as beyond the scope of its work & upon its plea about the inability of the Delhi Jal Board in respect of the non-installation & improper functioning of the Odour Control Unit, it is to be reiterated that M/S VA Tech Wabag Ltd. cannot hide itself behind the inaction of DJB regarding the non-installation of the Odour Control Unit as it is the apparently negligent act on the side of M/S VA tech Wabag Ltd. that it failed to inform about such prevailing irregularity on the side of the DJB.
- vii. In this regard, it is to be stated that it is against the spirit of law that one should be allowed to enjoy upon the omission of someone else regarding the act/work which it is duty bound to perform. It was the foremost duty of M/s VA Tech Wabag Ltd. that it ought to have informed about the inability of the DJB in controlling the odour by installation of the Odour Control Unit & other irregularity. Hence, M/s VA tech Wabag Ltd. is equally at fault with DJB & must not be spared about the same.

5. Discussion:

This is undisputed that M/s VA tech Wabag Ltd. is responsible to operate the sewage treatment plant and has to discharge the treated sewage as per the prescribed standards of DPCC. There was no dispute about the prescribed standards and it was specific. The treated sewage ultimately discharged into the river Yamuna impacting grossly on the water quality of river Yamuna. One single drop of untreated effluent ruins the effort of Government to protect and save the River, which is life line of Delhi and its downstream. The act of M/s VA tech Wabag Ltd is contributing in burdening public exchequer. Therefore, plant operator deserves no leniency at all.

Environmental crime is one of the criminal acts that may lead to significant negative impact and/or damage to human sustainability. The right to get a clean environment is the right of every person protected by the state, therefore the state is obliged to enforce it so that every citizen able to enjoy this right. According to the doctrine of strict liability, a person can be accounted for certain criminal acts even though in that person there is no guilty mind (*mens rea*). In short, strict liability is defined as a liability without fault. Not only limiting here, the *Polluter pay* Principle also comes into the motion in the present scenario/case.

No direct or indirect evidence was produced before the undersigned to substantiate the claim of leniency by M/s VA tech Wabag Ltd, thus all the contention raised by M/s VA tech Wabag Ltd are hereby rejected.

(11)

6. Decision:

The DPCC imposed EDC only for Rs 10 Lakhs which is very less in comparison to the standards/ amount laid down by the Hon'ble Green Tribunal from time to time. The EDC imposed by DPCC for an amount of Rs.10,00,000/- seems to be as a symbolic EDC.

Since, the act of M/S VA Tech Wabag Ltd. is so heinous & therefore, I am constrained to pass this order in view of the Hon'ble High Court of Delhi vide order dated 28.11.2023 in WP(C) No. 4391 of 2021 by which undersigned only can reduce or sustain the quantum of EDC but not to enhance the same. The Environmental Compensation (EC) has been imposed by DPCC by following the principles of natural justice.

Therefore, EDC of Rs 10.00 lakhs imposed vide order dated 19.11.2020 is justified and cannot be relaxed and thus it was directed that same may be deposited at the earliest.

Hon'ble High Court of Delhi vide order dated 08.04.2021 in WP(C) No. 4391 of 2021 has directed the M/S VA Tech Ltd. petitioner to submit Rupees 3 Lakhs to DPCC within 4 weeks. The said amount has been deposited by the petitioner on 07.06.2021.

Thus, M/s VA Tech Wabag Limited is liable to pay remaining amount i.e. Rs 7,00,000/- (Rs. Seven lakhs only) for not meeting the prescribed standards for the sample collected on 10.09.2020 within 15 days from the date of issuance of this Order.

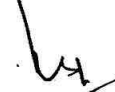

(Dr. K.S. Jayachandran)
Member Secretary, DPCC

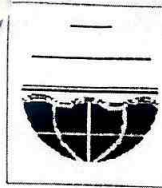
To,

M/s VA Tech Wabag Limited, Graphics Tower, 13A,
Block A, Industrial Area, Sector -62, Noida,
Uttar Pradesh-201309.

Copy to,

Chief Executive Officer, Delhi Jal Board, Varunalaya Phase-II, Jhandewalan, Karol Bagh,
New Delhi-110005.


(Dr. K.S. Jayachandran)
Member Secretary, DPCC



DELHI POLLUTION CONTROL COMMITTEE
DEPARTMENT OF ENVIRONMENT, GOVT. OF NCT OF DELHI
3rd FLOOR, DMRC BUILDING, DELHI IT PARK,
SHASTRI PARK, DELHI 110053
 visit us at : <https://dpcc.delhigovt.nic.in>



(12)

F. No.: DPCC/ (13) (9)(0073)/PLG-13/3095-98

Dated: 07/10/2024

To,

The District Magistrate (East)

LM Bund, Shastri Nagar, Delhi-110031.

Subject: Recovery of Environmental Compensation of Rs. Seven Lakh imposed by DPCC on M/s VA Tech Wabag Limited.

Sir/ Madam,

This has reference to the Order dated 19.11.2020 issued by DPCC to M/s VA Tech Wabag Limited (copy enclosed), Order dated 28.11.2023 of Hon'ble High Court of Delhi in W.P.(C) No. 4391/2021(copy enclosed) & CM APPL. 13366/2021 in the matter of "M/s VA Tech Wabag Limited Vs Delhi Pollution Control Committee & Anr.", Order dated 10.07.2024 of Hon'ble NGT in OA No. 366/ 2023 in the matter of "Rajesh Kumar Dokwal Vs. Govt. of NCT of Delhi" (copy enclosed) & Order dated 10.07.2024 of DPCC to M/s VA Tech Wabag Limited regarding Environmental Compensation of Rs 7,00,000/- (Rs. Seven Lakh) imposed by DPCC on M/s VA Tech Wabag Limited (copy enclosed) .

Vide said Order dated 10.07.2024, M/s VA Tech Wabag Limited, Graphics Tower, 13 A, Block-A, Industrial Area, Sector-62, Noida, Uttar Pradesh-201309 was directed to deposit Environmental Compensation of Rs 7,00,000/- (Rs Seven Lakh only) within 15 days from the date of issuance of said Order. However, above mentioned Environmental Compensation of Rupees Seven Lakh has not been deposited by M/s VA Tech Wabag Limited to DPCC so far.

Hon'ble National Green Tribunal vide order dated 10.07.2024 in OA No. 366/ 2023 in the matter of "Rajesh Kumar Dokwal Vs. Govt. of NCT of Delhi" has given directions including following:

".....34. In view of the above referred statutory provision and orders passed by Hon'ble High Court of Delhi, DPCC is directed to initiate appropriate proceedings for imposition and realization of the environmental compensation on DJB and M/s VA Tech Wabag Limited in accordance with law and on realization thereof, to utilize the amount of environmental compensation for restoration of the environment in the area.....".

In view of the above, you are requested to direct the concerned Sub Divisional Magistrate (SDM) to take urgent necessary action for recovery of the said Environmental Compensation from M/s VA Tech Wabag Limited and for deposition of the said amount to DPCC within 15 days from the date of issue of this letter.

Yours Sincerely,

(Dr. K.S. Jayachandran)

Member Secretary, DPCC

Enclosures: As Above.**Copy to:**

1. Divisional Commissioner, Revenue Department, Govt. of NCT of Delhi, 5 Shamnath Marg, Delhi-54
2. P.A to Chairman, Delhi Pollution Control Committee.
3. M/s VA TECH WABAG LIMITED, Graphics Tower, 13 A, Block-A, Industrial Area, Sector-62, Noida, Uttar Pradesh-201309.

(Dr. K.S. Jayachandran)

Member Secretary, DPCC

By Speed Post/ Email

13



DELHI POLLUTION CONTROL COMMITTEE
DEPARTMENT OF ENVIRONMENT, GOVT. OF NCT OF DELHI
5th FLOOR, ISBT BUILDING, KASHMERE GATE, DELHI-110006
 visit us at : <http://dpcc.delhigovt.nic.in>

F. No.: DPCC/ (13)(9)(0073)/ PLG-13/ 1052

Dated: 10/07/2024

ORDER**1. Introduction:**

1.1 A Hearing was held before Member Secretary, DPCC, on 02.04.2024 in compliance with the Order dated 12.10.2021 in W.P.(C) No. 11751/2021 in the matter of Delhi Jal Board Vs. Delhi Pollution Control Committee & Anr.

1.2 Following representatives from Delhi Jal Board attended the aforesaid hearing:

- i. Sh. Bhupesh Kumar, CE, SDW, (DJB)
- ii. Sh. Ashish Kumar Gupta, EE, (SDW)-IV, DJB
- iii. Sh. Himanshu Sharma, AE, E&M, DJB
- iv. Sh. Gaurav Tanwar, JE, DJB

1.3 Following representatives from Delhi Pollution Control Committee attended the aforesaid hearing:

- i. Sh. D.K. Singh, Additional Director
- ii. Sh. S.K. Goyal, Environmental Engineer,
- iii. Sh. Ashish Uniyal, Jr. Environmental Engineer

1.4 During the Hearing, the representative of the Delhi Jal Board informed that they have submitted their reply dated 22.12.2020 in response to the Show Cause Notice of DPCC dated 19.11.2020 and no other submission is required from Delhi Jal Board. Further, plant was being operated by M/s VA Tech Wabag Limited, who is legally bound to meet the Prescribed Standards mainly, BOD: TSS: 10:10 mg/l as prescribed by DPCC.

2. Brief History:

- i. A letter dated 09.09.2020 was received from Executive Engineer (SDW)-IV of Delhi Jal Board informing that M/s VA Tech Wabag Limited, operator of 45 MGD STP at Kondli was bypassing the Raw / Untreated sewage on 23.08.2020 & 28.08.2020 in the night resulting into diversion of untreated sewage directly in the Yamuna River causing pollution and requested for necessary action.

- ii. In addition to above, number of complaints were also received in DPCC, with regard to bad odour due to improper operation & maintenance of the 45 MGD STP at Kondli, causing problems to the residents in the nearby areas / colonies. (14)
- iii. Inspection of the above mentioned 45 MGD STP was carried out by the officials of DPCC along with DJB and operator of the plant on 10.09.2020. During the said inspection it was found that the plant was not stabilized. Bulking of sludge was seen in the Primary Settling Tanks (PSTs) and Secondary Settling Tanks (SSTs), out of 04 units, 03 units of SST were found operating. The effluent in the Aeration Tanks (04 Nos.) was dark grey to black colour which indicated that the aeration process was not proper. To know the concentration of MLSS (Mixed Liquor Suspended Solids) in the Aeration Tank, a Jar Test was conducted in 1000 ml cylindrical measuring jar. The settled solids in the measuring jar was found dark grey to black which indicated that there was insufficient microorganism/ bacteriological growth in the Aeration Tanks.
- iv. During the inspection dated 10.09.2020, effluent samples from inlet and outlet of the said STP were also collected. As per the Analysis Report of DPCC for the samples collected on 10.09.2020, BOD (58 mg/l against the prescribed standard of 10 mg/l), TSS (88 mg/l against the prescribed standard of 10 mg/l), COD (152 mg/l against the prescribed standard of 50 mg/l), Ammonical Nitrogen (15.9 mg/l against the prescribed standard of 5 mg/l) and Phosphate (6.0 mg/l against the prescribed standard of 2 mg/l) were not meeting the prescribed standards at the outlet point of the STP and also not meeting the prescribed standards in respect of sample taken 50 meter below the outlet point.
- v. Based on the observations made during the inspection on 10.09.2020, a Show Cause Notice u/s 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and u/s 31(A) of the Air (Prevention and Control of Pollution) Act, 1981, was issued to Delhi Jal Board on 19.11.2020 for imposition of Environmental Compensation (EC) of Rs. Ten Lakh and also for taking rectification measures with respect to the deficiencies observed during the inspection on 10.09.2020.
- vi. Considering all the facts, Analysis Results of effluent samples and also considering the reply/ representation dated 22.12.2020 submitted by Delhi Jal Board, DPCC issued order for imposition of Environmental Compensation of Rs. Ten Lakh on 06.08.2021 to Delhi Jal Board.
- vii. Delhi Jal Board filed Writ Petition before the Hon'ble High Court of Delhi against the order dated 06.08.2021 issued by DPCC regarding Environmental Compensation imposed on DJB. Hon'ble High Court of Delhi vide order dated 12.10.2021 in WP(C) No. 11751 of 2021 pleased to pass following direction:

"... the impugned order is set aside by directing the respondent no.1 to treat the present writ petition as a representation and pass a fresh order dealing with the pleas raised by the petitioner in its reply dated 22.12.2020. Before passing the order, the respondent no.1 will also grant an opportunity of hearing to the petitioner."

viii. In compliance of order dated 12.10.2021 in WP(C) No. 11751 of 2021 of Hon'ble High Court, a hearing was given to Delhi Jal Board on 02.04.2024.

3. Reply/Representation Dated 22.12.2020 of Delhi Jal Board:

Reply/ Representation dated 22.12.2020 received from Delhi Jal Board on 24.12.2020 and the writ petition filed before the Hon'ble High Court are briefed as below:

- i. Regarding bypassing of untreated / raw sewage directly into River Yamuna, DJB submitted that they informed DPCC about bypassing of the raw sewage by the operating agency M/s. VA TECH WABAG LIMITED without any permission on the basis of surprise inspection conducted by JE(E&M) of DJB on 23.08.2020 and requested DPCC to take actions as per the provision of relevant Environmental Act. They also submitted that the operating firm was allowed to use provision of bypass during the rainy days only however operating firm was caught for illegal use of bypass gates during non-rainy days/ lean period.
- ii. Regarding non stabilisation and disturbance in quality of treated effluent parameters while inspection carried out by DPCC on 10.09.2020, DJB submitted that the responsibility of operation and maintenance of the 45 MGD STP lies solely with M/s VA TECH WABAG LIMITED for 10 years which was valid till February, 2026. DJB also debarred the firm from participating in further tenders/ works of DJB for next 3 years.
- iii. Regarding installation of odour control device w.r.t. Hon'ble NGT order dated 27.09.2019 & 26.08.2020 in OA No. 429/2019, DJB submitted that the division had initiated the case regarding installation of odour control unit at 45 MGD STP Ph-IV and the dosing of ferric chloride was being applied to reduce the bad odour from the plant.

4. Redressal of Submissions of Delhi Jal Board:


- i. Installation of odour control unit was beyond the purview of M/s VA Tech Wabag Ltd. & was within the purview of DJB which was not installed.
- ii. Due to harm caused by the mal-operation of the STP Kondli Ph-IV, DJB is liable for the said Environmental Compensation of Rs. 10 Lakhs. Both Environmental Compensation of Rs. 10 Lakhs imposed on M/s VA Tech Wabag Ltd. & Delhi Jal Board having being

imposed due to two different contentions respectively i.e. for improper management of Kondli STP- IV by M/s VA Tech Wabag Ltd. & on non- installation of Odour Control Unit (OCU) at earlier phase prior to 2023 by DJB. Thus, the concept of Double Jeopardy does not apply.



5. Discussion and Order:

- i. The concept of vicarious liability is very different and it totally depends upon the facts and circumstances of the case.
- ii. Numerous factors as mentioned herein above had prompted the DPCC to initiate action against the Delhi Jal Board, which has been damaging the environment with impunity. DPCC issued show cause notice before imposing Environmental Compensation (EC), which was duly responded to by Delhi Jal Board. It is thus clear that Environmental Compensation (EC) imposed by DPCC was after following principles of natural justice.

Thus, Delhi Jal Board is liable to pay Environmental Compensation amount i.e. Rs 10,00,000/- (Rs. Ten Lakhs only) for not installing the Odour Control Device, within 15 days from the date of issuance of this Order.


(Dr. K.S. Jayachandran)
Member Secretary, DPCC

To,
Chief Executive Officer,
Delhi Jal Board, Varunalaya Phase-II,
Jhandewalan, Karol Bagh, New Delhi-110005.

	<p align="center">DELHI POLLUTION CONTROL COMMITTEE DEPARTMENT OF ENVIRONMENT, GOVT. OF NCT OF DELHI 3rd FLOOR, DMRC BUILDING, DELHI IT PARK, SHASTRI PARK, DELHI 110053 visit us at : https://dpcc.delhigovt.nic.in</p>	
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F. No.: DPCC/ (13) (9)(0073)/PLG-13/3091-94

Dated: 07/10/2024

To,

The District Magistrate (East)
LM Bund, Shastri Nagar, Delhi-110031.

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Subject: Recovery of Environmental Compensation of Rs. Ten Lakh imposed by DPCC on Delhi Jal Board.

Sir/ Madam,

This has reference to the Order dated 06.08.2021 issued by DPCC to DJB (copy enclosed), Order dated 12.10.2021 of Hon'ble High Court of Delhi in W.P.(C) No. 11751/2021 & CM APPL. 36391/2021 in the matter of "Delhi Jal Board Vs. Delhi Pollution Control Committee & Anr." (copy enclosed). Order dated 10.07.2024 of Hon'ble NGT in OA No. 366/ 2023 in the matter of "Rajesh Kumar Dokwal Vs. Govt. of NCT of Delhi" (copy enclosed) & Order dated 10.07.2024 of DPCC to DJB regarding Environmental Compensation of Rs 10,00,000/- (Rs. Ten Lakh) imposed by DPCC on DJB (copy enclosed).

Vide said Order dated 10.07.2024, Delhi Jal Board, Varunalaya Phase- II, Jhandewalan, Karol Bagh, Delhi-110005 was directed to deposit Environmental Compensation of Rs 10,00,000/- (Rs Ten Lakh only) within 15 days from the date of issuance of said Order. However, Environmental Compensation of Rs. 10 Lakh has not been deposited by Delhi Jal Board to DPCC so far.

Hon'ble National Green Tribunal vide order dated 10.07.2024 in OA No. 366/ 2023 in the matter of "Rajesh Kumar Dokwal Vs. Govt. of NCT of Delhi" has given directions including following:

".....34. In view of the above referred statutory provision and orders passed by Hon'ble High Court of Delhi, DPCC is directed to initiate appropriate proceedings for imposition and realization of the environmental compensation on DJB and M/s VA Tech Wabag Limited in accordance with law and on realization thereof, to utilize the amount of environmental compensation for restoration of the environment in the area".

In view of the above, you are requested to direct the concerned Sub Divisional Magistrate (SDM) to take urgent necessary action for recovery of the said amount of Environmental Compensation from Delhi Jal Board and for deposition of the said amount to DPCC within 15 days from the date of issue of this letter.


Yours Sincerely,


(Dr. K.S. Jayachandran)
Member Secretary, DPCC

Enclosures: As Above.

Copy to:

1. Divisional Commissioner, Revenue Department, Govt. of NCT of Delhi, 5 Shamnath Marg, Delhi-110054.
2. Chief Executive Officer, Delhi Jal Board, Varunalaya Phase- II, Jhandewalan, Karol Bagh, Delhi-110005.
3. P.A to Chairman, Delhi Pollution Control Committee.


(Dr. K.S. Jayachandran)
Member Secretary, DPCC

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DELHI POLLUTION CONTROL COMMITTEE
 (Government of N.C.T. of Delhi) 4th & 5th Floor, ISBT Building
 Kashmere Gate, Delhi 110006
 (Visit us at <https://www.dpccomms.nic.in>)



Report Number: DPCC/W/STP/24-25/212/ 1458

Dated 03/12/2024

ANALYSIS REPORT OF STP FOR THE MONTH OF NOVEMBER-2024

1. Name of STP : Kondli
2. Sampling location : Inlet and Outlet of STP
3. Date of Inspection : 22.11.2024
4. Samples collected by : DPCC Lab
5. Parameters analyzed and results :

Sf. No.	Installed Capacity (MGD)	STP Standard	Parameters										Remarks
			pH	TSS (mg/l)	BOD (mg/l)	COD (mg/l)	Oil & Grease (mg/l)	Ammonical Nitrogen (mg/l)	Dissolved Phosphate as P (mg/l)	Fecal Coliform MPN/100ml			
1	Ph-I (10)	Inlet	7.6	266	160	272	16.8	18.7	19.6	-	180	Meeting the standards.	
		Outlet	7.4	6	4	24	1.2	1.2	1.4	-	140		
		OLMS	7.5	8.6	4.4	28.3	-	0.2	-	-	-		
2	Ph-II & III (25+10)	Outlet	7.7	7	5	20	0.8	1.1	1.5	-	140	Meeting the standards	
		OLMS	7.8	9.6	7.4	28.4	-	0	-	-	-		
Total 45													

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M. V. K.
I/C Water Laboratory
 Scientist 'D'

Shash
 SSA/Analyst/SLA

ANNEXURE-5 (Contd.)

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DELHI POLLUTION CONTROL COMMITTEE

(Government of N.C.T. of Delhi) 4th & 5th Floor, ISBT Building

Kashmere Gate, Delhi 110006

(Visit us at <https://www.dpcccomms.nic.in>)



LIFE
Lifestyle for
Environment

Report Number: DPCC/W/STP/24-25/213/ 1459

Dated 03/12/2024

ANALYSIS REPORT OF STP FOR THE MONTH OF NOVEMBER-2024

- 1. Name of STP : Kondli New
- 2. Sampling location : Inlet and Outlet of STP
- 3. Date of Inspection : 22.11.2024
- 4. Samples collected by : DPCC Lab
- 5. Parameters analyzed and results :

Sr. No.	Installed Capacity (MGD)	STP Standard	Parameters										Remarks
			PH	TSS (mg/l)	BOD (mg/l)	COD (mg/l)	Oil & Grease (mg/l)	Ammonical Nitrogen (mg/l)	Dissolved Phosphate as P(mg/l)	Fecal Coliform MPN/100ml			
1	Ph-IV (45)	Inlet	6.5-9.0	10	10	50	10	5	2	230	Meeting the Standards.		
		Outlet	7.5	176	150	256	17.2	21.3	17.9	-			
		OLMS	7.2	9	7	36	1.6	0.8	1.2	180			
Total 45			7.5	5.5	3.1	18.5	-	3.3	-				

M. Mittal
I/C Water Laboratory

SSA Analyst/SLA

Dr. Vandana Mishra
Scientist 'D'