

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, PUNE**

Original Application No. 49 of 2019 (WZ)

IN THE MATTER OF:

Sarang Yadwadkar & Ors.

Applicant

Versus

Pune Municipal Corporation & Ors.

Respondent(s)

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(Bharat Kumar Sharma)

Regional Director

Central Pollution Control Board

Regional Directorate, Pune

Date: 18.01.2021

Place: Pune

Report on calculation of environmental compensation for the delay and not complying the Solid Waste Management Rules according to the parameter laid down by the Hon'ble Principal Bench of Tribunal in compliance with order dated 16/10/2020 of the Hon'ble National Green Tribunal in the matter of Original Application No. 49/2019 (WZ); Sarang Yadwadkar & Ors. Versus Pune Municipal Corporation & Ors.

1. Background

In the matter of Original Application No. 49/2019 (WZ) titled Sarang Yadwadkar & Ors. Versus Pune Municipal Corporation & Ors, the Hon'ble National Green Tribunal (NGT) directed the following vide the order dated 16/10/2020:

“...4. Further, Pune Municipal Corporation is directed to explain as to why the environmental compensation be not imposed on the Municipal Corporation for not complying the Solid Waste Management Rules.

5. Central Pollution Control Board and State Pollution Control Board is directed to calculate the environmental compensation for the delay and not complying the Solid Waste Management Rules and calculate the environmental compensation according to the parameter laid down by the Principal Bench of Tribunal.

6. List it on 20.01.2021.”

Copy of the aforesaid order dated 16/10/2020 of the Hon'ble Tribunal is given at Annexure-I.

In order to comply with the aforesaid order of the Hon'ble Tribunal, the following officials calculated the aforesaid environmental compensation for the delay and not complying the Solid Waste Management Rules according to the parameter laid down by the Hon'ble Principal Bench of Tribunal:

- (i) Shri Bharat K Sharma, Regional Director, Central Pollution Control Board (CPCB), Regional Directorate, Pune, and;
- (ii) Shri Pratap Jagtap, Sub Regional Officer, Pune-I, Maharashtra Pollution Control Board (MPCB)

The officials also held meeting with officials of Pune Municipal Corporation (PMC) on 05/1/2021 to discuss on information required and to be provided by PMC for the aforesaid environmental compensation calculation.

This report outlines methodology adopted in calculating the said environmental compensation according to the parameter laid down by the Hon'ble Principal Bench of the Tribunal and environmental compensation amount thereof.

2. Methodology

Taking references from paras 14 and 16 of the order dated 28.08.2019 of the Hon'ble Principal Bench of the Tribunal in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., the Environment Compensation (EC) to be levied on concerned Individual/Authority for Improper Solid Waste Management is as below:

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

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

The above formula has been used taking various relevant parameters applicable for Construction & Debris (C&D) waste as per information provided by the PMC vide email dated 06/1/2021, as majorly C&D wastes have been reported to be dumped which were directed to be removed vide the order dated 26/9/2019 of the Hon'ble Tribunal in the matter under reference (OA No. 49/2019 (WZ)).

3. Calculation of Environmental Compensation (EC) on Pune Municipal Corporation (PMC)

Pune Municipal Corporation (PMC) vide email dated 06/1/2021 informed that:

- (i) As per the action plan submitted by PMC to the Hon'ble NGT in compliance with order dated 26/9/2019:
- (a) Total quantity of debris lying at various sites along river site which required to be removed is 2,70,000 cubic meters. The same is equivalent to approximately 1,72,800 Tones (T);
 - (b) The proposed time frame for removal of the said debris is two years excluding monsoon.
- (ii) 7,855 Tones of debris have been removed during Jan-May 2020.
- (iii) Capital cost of C&D waste processing plant installed in Pune is Rs. 49 Lakhs.
- (iv) Capacity of the aforesaid installed C&D waste processing plant is 250 Tones/day.
- (v) O&M cost of the said C&D waste processing plant, including labour, transportation, etc. is Rs. 1.675 Lakh per day
- (vi) As per the annual report submitted to MPCB, the average generation of construction and demolition waste is 200 TPD.

3.1 Calculation of various factors/parameters of the EC formula

From the above information, various factors/parameters mentioned in the aforesaid Environmental Compensation (EC) formula may be considered as below:

- (i) Marginal Average Cost for Waste Management

$$= \text{Capital cost of C\&D waste processing plant installed in Pune (in Lakh Rupees) / Capacity of the said installed C\&D waste processing plant (in Tones per day)}$$

$$= 49 / 250 = 0.1960$$

- (ii) Marginal Average O&M Cost

$$= \text{O\&M cost of the said C\&D waste processing plant, including labour, transportation, etc. (in Lakh Rupees per day) / C\&D waste processed in the plant in T per day}$$

$$= 1.675/250 = 0.0067$$

- (iii) Per day waste generation

PMC's action plan (as submitted to the Hon'ble NGT in compliance with order dated 26/9/2019 of the Hon'ble Tribunal in the matter under reference (OA No. 49/2019 (WZ)) of removal of 1,72,800 T was in two years excluding monsoon. "Per day waste

generation” may, therefore, be considered for the above EC calculation formula as
 $(1,72,800 \text{ T}) / (365+365 \text{ days}) = 236.712 \text{ T/day}$

(iv) Per day waste disposed as per the Rules

Per day waste disposed as per the Rules may be considered for the purpose of EC calculation as quantity of debris viz. 7,855 T removed during Jan-May 2020 = 7,855 T/150 days = 52.3667 T/day applicable during 01-1-2020 to 31-5-2020 only.

(v) Capital Cost Factor, O&M Cost Factor and Environmental Externality

Referring CPCB’s “Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund”, various other factors in the aforesaid Environmental Compensation (EC) formula are as below:

Capital Cost Factor as 0.1 and O&M Cost Factor as 1 since it has been suggested in the aforesaid CPCB’s report 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 management system, 100% of the O&M cost saved may be considered as O&M cost factor.

With reference to the aforesaid CPCB’s report, Environmental Externality is being considered as 0.01.

3.2 Environmental Compensation Calculation

Relevant order at the para 17 (refer page 21) of the order dated 28.08.2019 of the Hon’ble Principal Bench of the Tribunal in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors. is reproduced below:

“...Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on ‘Polluter Pays’ principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect

from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies...”

Therefore, environmental compensation (EC) calculation till the aforesaid order dated 16/10/2020 in the matter under reference (wherein CPCB and MPCB have been directed to calculate EC) is being presented in two scenarios viz. (i) w.e.f. 01/4/2020 as referred at the aforesaid para 17 in the order dated 28.08.2019 of the Hon’ble Principal Bench of the Tribunal in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., and; (ii) w.e.f. order dated 26/9/2019 of the Hon’ble Tribunal in the matter under reference (OA No. 49/2019 (WZ)) wherein it was directed to immediately act in terms of the recommendations for removal of all unauthorized constructions raised within the prohibited areas and restore the rivers to its original form.

Considering the above various factors, as under para 3.1 above, EC amount are presented in the aforesaid two scenarios, as below:

Environmental Compensation						
Sl. No.	Factors/Particulars	EC w.e.f. 26-9-2019 to 16-10-2020			EC w.e.f. 01-4-2020 to 16-10-2020	
		(Scenario- I)			(Scenario- II)	
		26-9-2-2019 to 31-12-2019	01-1-2020 to 31-5-2020	01-6-2020 to 16-10-2020	01-4-2020 to 31-5-2020	01-6-2020 to 16-10-2020
1	Capital Cost Factor	0.1000	0.1000	0.1000	0.1000	0.1000
2	Marginal Average Cost for Waste Management (Rs. Lakh/Tone)	0.1960	0.1960	0.1960	0.1960	0.1960
5	O&M Cost Factor	1.0000	1.0000	1.0000	1.0000	1.0000
6	Marginal Average O&M Cost	0.0067	0.0067	0.0067	0.0067	0.0067
7	Environmental Externality	0.0100	0.0100	0.0100	0.0100	0.0100
8	Per day waste generation	236.7123	236.7123	236.7123	236.7123	236.7123

9	Per day waste disposed as per the Rules	0	52.3667	0	52.3667	0
10	Number of days violation took place	96	0*	16 ^{\$}	0*	16 ^{\$}
11	N	96	151	137	60	137
	EC (Rs. in Lakhs)	157.85293	5.12317	31.38512	4.21317	31.38512
Total EC in Rupees		1,94,36,123/-			O	35,59,830/-
					R	

* Number of days violation took place have been considered as 0 considering that wastes (4,910 Tones) were removed during these period (January 2020 – May 2020) as reported by PMC.

^{\$} Number of days violation took place have been considered as 16 instead of 137 considering that PMC, in its action plan submitted to the Hon'ble Tribunal in compliance with order dated 26/9/2019 of the Hon'ble Tribunal, has submitted time period to remove the total quantum in approx. 24 calendar months, excluding monsoon period. Accordingly, period of monsoon (considering June-September as monsoon period of 121 days) has not been considered as days violated. However, the said period has been included w.r.t. Environmental Externality.

4. Conclusions:

- (i) Environment Compensation (EC) formula for levying EC on concerned Individual/Authority for Improper Solid Waste Management, as mentioned under paras 14 and 16 of the order dated 28.08.2019 of the Hon'ble Principal Bench of the Tribunal in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., have been used to calculate the EC for the delay and not complying the Solid Waste Management Rules. Various factors/parameters in the said formula have been derived considering C&D wastes as majorly C&D wastes have been reported to be dumped which were directed to be removed vide the order dated 26/9/2019 of the Hon'ble Tribunal in the matter under reference (i.e. OA No. 49/2019 (WZ)).
- (ii) Environmental Compensation for the delay and not complying the Solid Waste Management Rules till the order dated 16/10/2020 of the Hon'ble Tribunal has been calculated in the two scenarios considering action plan submitted by PMC in compliance with order dated 26/9/2019 of the Hon'ble Tribunal in the matter under reference (i.e. OA No. 49/2019 (WZ)). The same are as below:

(a) Rs. 1,94,36,123/- (Rupees One Crore ninety four lakhs thirty six thousand one hundred and twenty three only) when w.e.f. order dated 26/9/2019 of the Hon'ble Tribunal in the matter under reference (OA No. 49/2019 (WZ)) is considered wherein it was directed to immediately act in terms of the recommendations for removal of all unauthorized constructions raised within the prohibited areas and restore the rivers to its original form.

OR

(b) Rs. 35,59,830/- (Rupees Thirty five lakhs fifty nine thousand eight hundred and thirty only) when w.e.f. 01/4/2020, as referred under the aforesaid para 17 of the order dated 28.08.2019 of the Hon'ble Principal Bench of the Tribunal in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., is considered.

The above Environmental Compensation calculation amount is submitted for kind consideration of the Hon'ble Tribunal among either of the two scenarios (a) and (b), as above.



(Bharat K Sharma)
Regional Director
Central Pollution Control Board
Regional Directorate, Pune



(Pratap Jagtap)
Sub Regional Officer, Pune-I
Maharashtra Pollution Control Board

Item No. 02 (Pune Bench)

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

(Through Video Conferencing)

Original Application No. 49/2019 (WZ)

Sarang Yadwadkar & Ors.

Applicant(s)

Versus

Pune Municipal Corporation & Ors.

Respondent(s)

Date of hearing: 16.10.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s) : Mr Ritwick Dutta, Ms. Kanika Sood Mr. Maitreya
Ghorpade, Advocates
Mr. Sarang Yadwadkar, Applicant-in-person

For Respondent(s) : Mr. P. S. Suryavanshi, Advocate for R-1
Pune Municipal Corporation-In-person
Mr. Amol Patayeet, Mr. Amit Lanke, Mr. Sanjana
Tupe, Advocates and Mr. Makrand Nikam, City
Engineer, PCMC for R-2
Mrs. Supriya Dangare, Advocate for R-3
Mrs. S. B. Vaidya Pandit, Law Officer,
Collectorate, Pune for R-5
Mr. Mukesh Verma for Ms. Manasi Joshi,
Advocate for MPCB

ORDER

1. It is argued that the reply of the respondents has not been fled till date. Respondents are directed to submit their replies within four weeks.
2. The Pune Municipal Corporation has submitted action taken report, which is as follows:

"1. Due to Covid-19 pandemic situation, Pune city was under lockdown since March 2020. All the activities were are stand still in the city. Before lockdown, PMC had removed approx 1450 m3 of debris using own machinery and manpower as per our previous action plan submitted on 26th Feb 2020. However, despite lockdown and restrictive situation, Pune

Municipal Corporation had continued its efforts to remove debris from the riverbed. The works were carried out till the end of summer season by end of May 2020. Total of 7672 m³ (1534 truck loads) of debris has been removed till end of May 2020.

2. Notices have been issued by Pune Municipal Corporation to all the land owners for removal of debris and encroachments within the blue line. The plot owners at Yerwada, Shivane Uttamnagar, Warje, Baner, Balewadi, Wadgaon Sheri, Kharadi have been issued notices under MRTP Act 1966, Section 53(1). At Shivane site, approx 1600 sq metres of illegal shades and compound walls have been demolished. At Sangamwadi 8 notices, At Warje, Shivane, Uttamnagar; 169 notices, At Baner Balewadi; 50 notices, At Wadgaon Sheri, Kharadi 17 notices are issued. As a result, some of the land owners have started removal of debris on their own. The sample of notices issued is attached in Annexure II. At Yerwada, FIR has been lodged to the plot owners under MRTP Act 1966 section 52. Against the notices, some of the plot owners have moved to the court.

3. Metro has written to PMC in their letter dated 20- July - 2020, mentioning that a temporary road which was created for construction of pillars measuring approximately 970 m. had been removed by Maha metro for length of 750 m by 18th July 2020. The remaining 220 m was in progress at that time.

4. The staff of Pune Municipal Corporation has been delegated duties for various activities related to testing, tracking, creating isolation centres, data management, awareness activities, hospital bed management and medical emergencies during the Covid situation in Pune city. During the monsoon season starting from June 2020, the access to the river was restricted for deploying machinery and trucks. Owing to these situations, the debris removal work is held up. The work will be continued after the Covid situation comes under control within the city. We request Hon NGT to consider the present circumstances for the future progress of work.”

3. Further action taken report be submitted before the date of listing.
4. Further, Pune Municipal Corporation is directed to explain as to why the environmental compensation be not imposed on the Municipal Corporation for not complying the Solid Waste Management Rules.
5. Central Pollution Control Board and State Pollution Control Board is directed to calculate the environmental compensation for the

delay and not complying the Solid Waste Management Rules and calculate the environmental compensation according to the parameter laid down by the Principal Bench of Tribunal.

6. List it on 20.01.2021.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

October 16, 2020
Original Application No. 49/2019 (WZ)
MN