

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi
In
Original Application No. 26/2019**

In the Matter of:

Abhay Dahiya & Ors.

Applicant(s)

Vs.

State of Haryana

Respondent(s)

INDEX

S. No.	Particulars	Page No.
1.	Status Report in compliance to Hon'ble Tribunal order dated 11.09.2020 in O.A. No. 26/2019 in the matter of Abhay Dahiya & Ors. Vs. State of Haryana.	
2.	Annexure- I: A copy of Hon'ble NGT order dated 11.09.2020.	



(N.K. Gupta)

Scientist 'E'

Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi-110032

Place: Delhi

Date: 26th February, 2021

Status Report in the matter of OA No. 26/2019 titled as Abhay Dahiya & Ors. Vs State of Haryana

1.0 Background

Hon'ble NGT vide Order dated 11.09.2020 in the matter of OA No. 26/2019 titled as Abhay Dahiya & Ors. Vs State of Haryana stated that –

“ Let the CPCB finalise an appropriate Standard Operating Procedure (SOP) integrating its guidelines already prepared and incorporating such of the provisions in the above policy as are found appropriate so that the SOP prepared by the CPCB will cover the entire field. If no change is required in the guidelines already prepared by the CPCB, the already prepared guidelines may continue. Decision by the CPCB may be taken within two months. The State of Haryana may thereafter finalise its action plan within one month, consistent with such SOP but its norms should not dilute the said SOP. Action taken reports may be furnished by the CPCB and the State of Haryana before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

In compliance with the above Order, Central Pollution Control Board (CPCB) requested Government of Haryana for providing copy of latest policy/guidelines framed by the Government of Haryana.

CPCB is in receipt of the Policy Document titled as – *“Policy Document for the Scientific Handling and Reuse of Liquid Waste, Solid Waste and Ground Water Extraction, by Restaurants/Dhabas/Motels/Hotels/Marriage Gardens/Banquet Halls”* in compliance of order dated 25.02.2020.

2.0 Compliance to directions

In compliance to direction of Hon'ble NGT, following documents were analyzed:

1. *“Policy Document for the Scientific Handling and Reuse of Liquid Waste, Solid Waste and Ground Water Extraction, by Restaurants/Dhabas/Motels/Hotels/Marriage Gardens/Banquet Halls prepared by Government of Haryana.*
2. CPCB's *“Guidelines for Compliance of Environmental Norms by Roadside Esateries/Restaurants and other establishments”* prepared by CPCB in the matter of OA No. 26/2019 titled as Abhay Dahiya & Ors. Vs State of Haryana
3. *“Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishments and the Area/Cluster of Restaurants/Hotels/Motels/Banquets etc.”* prepared by CPCB in the matter of Hon'ble NGT O.A. No. OA No. 400/2017 titled as Westend Green Farms Society Vs Union of India & Ors.

3.0 Recommendation:

It is observed that *Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at Individual Establishments and the Area/Cluster of Restaurants/Hotels/Motels/Banquets etc.* prepared by CPCB in the matter of Hon'ble NGT O.A. No. OA No. 400/2017 is comprehensive and covers all aspects of Policy document of State Government of Haryana and Guidelines of CPCB on Eateries/Restaurant. These guidelines may be adopted by Government of Haryana for control of pollution and can be modified as per bye laws of Urban Local bodies.

Item No. 04

Court No. 1

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

(By Video Conferencing)

Original Application No. 26/2019

(With report dated 09.09.2020)

Abhay Dahiya & Ors.

Applicant(s)

Versus

State of Haryana

Respondent(s)

Date of hearing: 11.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**Respondent(s): Mr. Anil Grover, Advocate, Senior AAG with Mr. Rahul Khurana,
Advocate for State of Haryana and HSPCB

Mr. Atif Suhrawardy, Advocate for CPCB

ORDER

1. Issue for consideration is remedial action against illegal dumping and burning of garbage and discharge of untreated waste water by various establishments, including restaurants on G.T. Road, Murthal in Sonapat District.

2. The matter has been considered on earlier occasions on 28.05.2019, 28.09.2019, 25.11.2019 and finally on 25.2.2020 in light of reports filed by the State PCB, acknowledged the burning and unscientific disposal of the solid waste and sewage. It was stated that remedial steps were taken by way of segregation through rag pickers and spraying of dumping site. The integrated solid waste management project was expected to be completed by 31.12.2020. With regard to liquid waste treatment by *Dhabas*/ restaurants at NH -44, it was stated that 11

Dhabas/restaurants discharging more than 10 KLD had obtained consent to operate and had STPs while the remaining 9 had not obtained such consent as they discharged less than 10 KLD. Earlier, their liquid waste was being mixed with solid waste at Murthal landfill site. Now space was provided for collection of domestic effluents and such effluents were to be treated by the Municipal Corporation, Sonapat. DPR was prepared for the STP which was to be completed by 31.12.2020. Prosecution was initiated against the Municipal Corporation, Sonapat.

3. The matter was last considered on 25.02.2020 in light of report of the CPCB dated 30.1.2020 to the effect that inspection of roadside eateries/restaurants at Murthal, Haryana was done on 21.12.2019. During the inspection, serious deficiencies were found in the matter of drawl of ground water, unscientific handling of liquid and solid waste, air, noise and water pollution, unscientific use of cooking oil, illegal use of gen-sets and fuel and absence of Consent to Establish and Consent to Operate as required under the law. The Tribunal directed:-

*“6. A status report has also been filed by the State of Haryana on 24.02.2020 to the effect that **a draft policy has been prepared and placed on the website and objections are invited by 09.03.2020. The State of Haryana may ensure that the points emerging in the report of the CPCB are covered by the policy and finalize the policy positively by 31.03.2020.** The policy does not mentions the compensation regime which is a crucial enforcement for effective mechanism and to give effect to the ‘Polluter Pays’ principle.*

*7. Apart from framing policy, **the State of Haryana may also take remedial enforcement measures in the light of facts emerging in the CPCB report by way of a special drive within two months from today and furnish a status of compliance as on 30.04.2020 before the next date by email at [judicial-ngt@gov.in.](mailto:judicial-ngt@gov.in)”***

4. Accordingly, Director General, Urban Local Bodies, Haryana has filed status report on 09.09.2020 along with **“Scientific Handling and Reuse of Liquid Waste, Solid Waste and Ground Water Extraction by**

Restaurants/ Dhabas/ Motels/ Hotels / Marriage Gardens / Banquet Halls Policy-2020". While the Policy acknowledges serious environmental issues in the operation of restaurants and other such establishments on the road side particularly the generation and handling of waste and extraction of ground water, the remedial action by way of the policy does not meet the mandate of law. There are binding statutory provisions under the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the EP Act) which lay down the standards, procedure and statutory authorities for enforcement of such standards. These statutes have been enacted by the Parliament with reference to Article 253 of the Constitution, to give effect to international obligations and have overriding effect. Any Policy on issues dealt with under the said statutes have to be within the framework with said statutory provisions. The mandate of the said law cannot be diluted or relaxed by any authority. Sentences for offences covered by the said statutes cannot be lesser than what has been prescribed under the said laws. The Statutory authorities under the laws cannot be excluded. The Compensation regime has to be as per 'Polluter Pays' principle which requires the compensation to be adequate to cover the cost of restoration of the environment and has to be deterrent. The Policy now framed to the extent of relaxing/exempting the said mandate cannot be given effect to.

5. Apart from the above, this Tribunal has dealt with the issue in OA 400/2017 *Westend Green Farms Society v. Union of India & Ors.* Therein, vide order dated 20.12.2019, the Tribunal considered the draft prepared by the CPCB dated 16.12.2019 titled "**The Mechanism/Guidelines for Control of Pollution and Enforcement of Environment Norms at**

**Individuals Establishments and the Area/Cluster of Restaurants/
Hotels/ Motels/Banquet etc.” as follows:**

“13. we are of the view that the mechanism needs to be acted upon in light of Water Act, Air Act and EP Act and rules framed thereunder and further observations in this order, till the same is revised in the light of further study. The mechanism suggested is as follows:

“3.0 Mechanism/Guidelines/Mitigation measures

The mechanism for control of control of pollution and enforcement of environmental laws based on the various environmental issued identified in section 2.0 is enumerated in this section.

3.1 Water Pollution-

(i) Effluent Treatment Plant

- a. The unit shall furnish a copy of agreement made with the water supplier while applying for consent to operate. The outsourcing water supplier should have permission from the competent authority to draw ground water.
- b. The units shall provide effluent/sewage treatment plant as proposed and maximize reuse of treated sewage in toilet flushing, cooling water makeup, boiler, floor washing, gardening and other non-potable purposes.
- c. Most of the bigger ceremonial halls and star hotels are treating only waste water generated from kitchen and laundry. Untreated domestic sewage is discharged directly into sewer without treatment. Entire waste water generated from kitchen, laundry and domestic sewage should be treated in ETP in case of such bigger units.
- d. Treated effluent water from ETP installed should meet Environmental Standard notified by the MoEF&CC vide GSR794(E) dated 04.11.2009 and reproduced as under.

Hotel type	Parameters	Effluent Standards (Limiting concentration in mg/l, except pH)	
		Inland surface water	On land irrigation
Hotel with at least 20 bedrooms	pH	5.5-9.0	5.5-9.0
	BOD3days, 27°C	30	100
	Total Suspended Solids	50	100
	Oil & Grease	10	10
Hotel with less than 20 bedrooms or a banquet hall	Phosphate as P	1.0	-
	pH	5.5-9.0	5.5-9.0
	BOD3days, 27°C	100	100

with minimum floor area of 100 m ² or a restaurant with minimum seating capacity of 36	Total Suspended Solids	100	100
	Oil & Grease	10	10

- e) The quality of treated sewage and trade effluent should be analyzed regularly once in a month and report shall be furnished to SPCB/PCC.
- f) The unit shall install water meters to record the daily consumption of water and separate electromagnetic flow meter at the inlet and outlet of effluent treatment plant to record actual flows on a daily basis.
- g) The unit shall install separate energy meters also to record the daily energy consumption of the effluent treatment plant on daily basis prior to completion of the project.
- h) The units should mandatorily obtain all consents, permissions and approvals required for ETP from the local Agencies.

(ii) Ground water extraction:

- a) Necessary permission should be obtained from concerned Authorities for extraction of groundwater.
- b) SPCB/ PCC to take action against units for unauthorized or illegal ground water extraction without proper permission from considered Authorities.

(iii) Water Conservation Measures

- (a) Maximize reuse of treated water for non-potable purpose.
- (b) All the units to furnish monthly report return showing the quantity of water consumed and its reuse in different purpose to the concerned SPCB/PCC.
- (c) Installation of Rain water harvesting systems must be installed in consultation with the Experts.
- (d) Using water-efficient fixture such as low flow shower heads, bath, sink faucet aerators, low flow toilets etc.

3.2 Air Pollution-

(i) Gensets and Fuel

- a) The unit shall provide stack for the emissions from the generator sets so as to ensure that the emissions satisfy the standards prescribed by the Board. The unit shall also provide acoustic measures for the Gensets to meet the noise level standards prescribed for residential area.

- b) *Banquets halls shall use approved fuel (e.g. LPG, PNG, Charcoal for tandoor etc.). Preference be given to gas based hot water generator and boiler over oil fired/coal fired boiler. Hybrid type hot water generator by using solar water heater be encouraged.*
- c) *Conventional water heating systems be replaced in a phased manner and solar water heating system be installed.*
- d) *The units shall properly channelize the fugitive emissions including emissions from cooking & kitchen operations by providing proper ducting /hood arrangement and proper exhaust system and emissions shall be discharged at least 2 meter above the roof of the building.*

Energy Conservation Measures

- a) *Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrids system or fully solar system for a portion of the unit shall be provided.*
- b) *Use of inverters instead of Diesel Generation Sets be preferred.*
- c) *Use of glass may be reduced to reduce the electricity consumption and load on air conditioning. High quality double glass with special reflecting coating in windows shall be used.*
- d) *Bulbs will be replaced by low-watt fluorescent light and fluorescent lighting be used as much as possible.*

Consent to establish and Consent to operate

- a) *As per the Water Act 1974 and Air Act 1981, it is mandatory to obtain Consent to Establish (NOC) before commencement of the construction activities and Consent to Operate (CTO) before starting operation of the Units (individual establishments and the area/ cluster of restaurants/ hotels/ motels/ banquets etc.) from the concerned SPCB/PCC.*
- b) *Further, the SPCB/PCC may direct the defaulting units for paying environmental compensation for damaging the environment considering their operations despite being non-compliant.*
- c) *The SPCB/PCC may workout and fix the amount of environmental compensation in-line with the mechanism for charging environmental compensation as evolved by the CPCB.*

3.3 Solid Waste Management

- (a) *The units shall properly handle, manage and dispose the solid waste generated and comply with the provisions of the Solid Waste Management Rules.*
- (b) *As per clause 3 (8) of the Solid Waste Management Rules, 2016, marriage halls generating waste of more than 100 kg/day fall under the category of 'Bulk Waste Generator' and should ensure compliance with the provisions of the Rules, and in specific the following:*
- *13(1)(d) Store horticulture waste and garden waste generated from such premises separately in within the own premises and*
 - *13 (2) No waste generator shall throw, burn or burry the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.*
 - *13 (8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.*
- (c) *The segregated food waste from the solid waste generated in the unit shall be treated in organic waste converter and the treated compost shall be used as manure.*
- (d) *The unit shall ensure that the hazardous waste (used oil, used batteries) generated in the premises are collected properly and disposed only to authorized recyclers registered with MoEF&CC/CPCB and valid operating license of SPCB/PCC.*
- (e) *The unit shall minimize use of disposable plastic on its premises and ensure its disposal through recyclers registered with SPCB/PCC for recycling plastic waste.*

3.4 Noise pollution

- (a) *The unit shall obtain permission from designated authorities as per provisions of Noise Rules 2000.*
- (b) *The unit shall comply with provision of Noise Rules specifically Rule 5 and Rule 6 of the Noise Rules.*

3.5 Infrastructure issues/Parking Problems & Other Requirements

Project Area/Building Plan

The units have to pay conversion charges to Local Authorities for running banquets and have to come up in a cluster leading to severe stress on basic infrastructure including traffic management, parking as well as pose a fire hazard etc. Accordingly, the following to be complied with:

- (a) Building plans to be approved by concerned authorities. Local Authorities be directed to review the adequacy of infrastructure for existing units for which approval has already been granted and to ensure adequacy of infrastructure facilities like traffic, parking, fire safety etc. before granting any fresh approval of banquet halls in the area. Adequate infrastructure arrangements may be made for them in the area by municipal corporations.*
- (b) Local Authorities to ensure that these units are operating in compliance with approved building plans and without any parking & traffic issues. In case it is not possible to provide basic infrastructure required -traffic, parking, etc. -such banquet halls may be shifted out of the area.*
- (c) The units to make adequate arrangements for fire safety and obtain fire safety certificate from the respective State Government agencies.*
- (d) To create buffer zone, the unit shall develop green belt on its premises which shall consist of trees with thick canopy cover and ornamental shrubs in between them. The unit shall furnish the green belt development plan, which includes the number and type of species to be planted and topo sketch for plantation while applying for consent to operate. The STP sludge and manure coming from the bio-composted organic waste shall be used for green belt development.*

4.0 Conclusion

- a) The units to take necessary Consents from SPCBs/PCC as per provisions of EP (Act) 1986 and the Rules framed thereunder.*
- b) All the units may be asked to submit an environmental statement for the unit for the financial year ending 31st March on or before the 30th April of every year before the Local Authority and Administration.*
- c) The Banquet halls to take measure to conserve water and minimize generation of waste on the premises.*
- d) Beside consents, the establishments should mandatorily obtain permissions/clearances like*

permission for ground water extraction, approval of building plan, fire safety clearance, etc and comply with all other requirements as mandated by the State Authorities from time-to-time.

e) Most of the banquet halls come up in a cluster leading to severe stress on basic infrastructure including traffic management, parking as well as pose a fire hazard etc. Local authorities to review the adequacy of infrastructure for existing banquet halls for which approval has already been granted and to ensure adequacy of infrastructure facilities like traffic, parking, fire safety etc. before granting any fresh approval of banquet halls in the area.

f) Municipal corporations may be directed to ensure that these banquet halls are operating in compliance with approved building plans and without any parking & traffic issues. In case it is not possible to provide basic infrastructure required – traffic, parking, etc.- such banquet halls may be shifted out of the area.”

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21. *We are of the view that enforcing the requirement of Consent to Establish should be the starting point for commission of the project rather than the last in the governance chain meaning thereby that no project should commence its establishment without such consent from PCB/PCC. Needless to say, in the process of granting such consent, all relevant and suitable conditions must be imposed after evaluation of carrying capacity of the area to take such additional project, siting norms, inter se distance of such projects, adequacy of parking facility, mode of disposal of solid waste, mode for disposal of liquid waste including sewage, adequacy of mitigation with respect to noise pollution, adherence to norms for DG Sets, permission of Central Ground Water Authority or designated authority for ground water drawal. Such norms must be applied to all existing establishments and those found not meeting the norms must be closed till the norms are complied. The project proponent must file their Annual Environment Statements in terms of Rule 14 of the EP Rules. The State Board must have robust monitoring mechanism to evaluate compliance to norms atleast twice a year especially during and after the marriage/festive season during which such entities operate to maximum capacity.*

Apart from this, the consent conditions must require the owner/manager of establishment informing the organizer/user in writing in advance about the conditions applicable for ensuring compliance. Conduct of functions must not disturb other citizens right to peaceful and clean environment.

Stringent norms need to be worked out for controlling and regulating parking of vehicles, used by the organizers and guests in functions as well as parking of vehicles

generally on roads and public places adding to the air pollution. This includes regulation of pick and drop activities.

Use of DJ systems must be fitted with noise limiters and data loggers and be operated within sound proof halls within prescribed noise limits without its effect being felt outside.

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6. The matter was thereafter considered on 23.07.2020. The Tribunal directed:

“6. Accordingly, CPCB has filed its report dated 20.07.2020 to the effect that guidelines were finalized by the CPCB and circulated to all States/UTs on 19.03.2020. Follow up action of seeking data from all States/UTs was initiated on 23.06.2020.

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7. ***In view of above, let all the States/UTs take further steps in the matter of adopting and enforcing the CPCB guidelines to ensure sustainable use of water, solid and liquid waste management and compliance with the statutory environmental norms under the Water Act, 1974, the Air Act, 1981, the Environment (Protection) Act, 1986 ('EP Act, 1986') including the Noise Pollution (R&C) Rules, 2000, providing for adequate parking facilities and having adequate stack heights for the DG Sets. Compliance of such norms must be overseen by the statutory regulatory authorities, including the Local Bodies, the State PCBs/PCCs and, wherever there is violation, stringent action must be taken by way of stopping the non-compliant activities, initiating prosecution and recovering compensation on "Polluter Pays" principle. This is necessary to enforce the right of citizens to clean environment, which is part of right to life."***

7. Needless to say, the directions of this Tribunal in O.A. 400/2017 are applicable to all such establishments in the State of Haryana also. Policy of the State of Haryana has to coincide with the guidelines prepared by the CPCB. Thus, the policy cannot be enforced to the extent of not meeting the statutory mandate as explained above and needs to be revisited.

8. Let the CPCB finalise an appropriate Standard Operating Procedure (SOP) integrating its guidelines already prepared and

incorporating such of the provisions in the above policy as are found appropriate so that the SOP prepared by the CPCB will cover the entire field. If no change is required in the guidelines already prepared by the CPCB, the already prepared guidelines may continue. Decision by the CPCB may be taken within two months. The State of Haryana may thereafter finalise its action plan within one month, consistent with such SOP but its norms should not dilute the said SOP. Action taken reports may be furnished by the CPCB and the State of Haryana before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 04.02.2021.

A copy of this order be forwarded to the CPCB, the State of Haryana and the State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 11, 2020
Original Application No. 26/2019
SN