

**UPDATED REPORT OF OVERSIGHT COMMITTEE IN COMPLIANCE OF ORDER OF
HON'BLE NATIONAL GREEN TRIBUNAL PASSED IN O.A. NO. 324/2016 IN RE:
SHAILESH SINGH VERSUS STATE OF UP & ORS WITH O.A. NO. 361/2017 IN RE:
DR. TANZEEN FATIMA VERSUS MINISTRY OF ENVIRONMENT AND FOREST &
CLIMATE CHANGE ORS.**

1. Introduction:

The issue for consideration is pollution being caused in Kosi River in Rampur District by polluting industrial activities. River Bhella in Moradabad is a tributary of Kosi River in Rampur which is a tributary of Ramganga which in turn is a tributary of river Ganga. Though pollution is caused in these rivers by industries situated both in UP and Uttarakhand, this Oversight Committee considered the units situated only in UP because there is a separate Oversight Committee for Uttarakhand which may like to take up this issue with the industrial units situated there.

1. A news article was published in Down to Earth by Kiran Pandey dated 06 June 2019 titled "*Grossly polluting industries more than doubled in 8 years: SOE in Figures*". As per the news article, '11% of these industries continue to flout pollution control standards in the country; nearly half of these are in Uttar Pradesh' and 'Around 84 percent of the Grossly Polluting industries (GPIs) were found to be located in four states — Uttar Pradesh (1,079), Haryana (638), Andhra Pradesh (193) and Gujarat (178)'. GPIs are industries that discharge more than 1,00,000 liters of wastewater and/or hazardous chemicals into the rivers and include pulp and paper mills, distilleries, sugar mills, textile units, tanneries, thermal power plants, food, dairy and beverage industries, chemical units, slaughterhouses, etc. There are 851 industrial units in UP situated near the mainstream of Ganga and its tributaries, Kali and Ramganga. According to the National Mission for Clean Ganga (NMCG), industrial pockets in the catchments of Ramganga, Kali and those in Kanpur city are significant sources of industrial pollution. The major contributors are tanneries in Kanpur; and distilleries, paper mills and sugar mills in Kosi,

Ramganga and Kali river catchments. Amongst these, the sugar industry is the key violator.

- Simbhaoli Sugar Ltd in Hapur was found discharging partially treated effluents into River Ganga, thus posing a potential threat to river water quality. As per the report of the Central Pollution Control Board (CPCB) published on May 31, 2019, EC of Rs 32.40 lakh was imposed on this industry which was supposed to be deposited by June 15, 2019. Also, it was asked to explain why it should not be closed down until it meets all the pollution control norms specified by CPCB.
 - In August 2018, NGT had directed NMCG to prepare a detailed status report on the grossly and severely polluting industries situated along Ganga from Unnao to the Bay of Bengal, along with the treatment facilities and drains falling into it, within four months.
2. Another news article was published in Down to Earth by Kiran Pandey, Rajit Sengupta and Isha Bajpai on 5 June 2018 titled *"42 rivers have extremely high concentration of neurotoxic heavy metals"*. As per the news article, Ganga was found to be polluted with five heavy metals, namely chromium, copper, nickel, lead and iron. The main sources of heavy metal pollution in the rivers are mining, milling, plating and surface finishing industries. Further, the report quotes that "Consequently, concentrations of toxic metals in grains and vegetables grown in contaminated soils have increased at alarming rates. This poses a serious threat to humans and the environment because of its toxicity, non-biodegradability and bioaccumulation". Other sources of metal pollution into the rivers are domestic wastewater effluents, storm water runoff from urbanized areas, industrial waste, sanitary landfills, agricultural runoff and fossil fuel combustion.
 3. A study was done by Yogita Kharayat in 2012 which was published in Journal of Integrative Environmental Sciences titled *"Distillery wastewater: bioremediation approaches"*. As per the study, the widespread industrial applications of alcohol such as in chemicals, pharmaceuticals, cosmetics, beverages, food and perfumery industry, etc. are the reason for the growth of alcohol distillery worldwide. Distilleries are one of the

most polluting industries as 88% of their used raw material gets converted into waste and is discharged into the water bodies, causing water pollution. The wastewater generated is one of the most polluted waste products to dispose because of the low pH, high temperature, dark brown colour, high ash content and high percentage of dissolved organic and inorganic matter with high biochemical oxygen demand (BOD) and chemical oxygen demand (COD) values. The characteristics of the wastewater are based upon the feedstock and various aspects of the ethanol production process. The Spent wash produced during the process pollutes the water bodies in many ways:

- Firstly, the highly coloured nature which can block out sunlight, thus reducing oxygenation of the water by photosynthesis and hence becomes detrimental to aquatic life.
- Secondly, it has a high pollution load which would result in eutrophication of contaminated water sources.

The study further highlighted the amount of wastewater generated in various operations. The details are as follows:

Distillery operations	Average wastewater generation (kLD/distillery)	Specific wastewater generation (kL wastewater/kL alcohol)
Spent wash (from distillation)	491.9	11.9
Fermenter cleaning	98.2	1.6
Fermenter cooling	355.1	2.0
Condenser cooling	864.4	7.9
Floor wash	30.8	0.5
Bottling plant	113.8	1.3
Others	141.6	1.2

This study also presents the characteristics of different wastewater streams. The details are as follows:

Parameter	Spent wash	Spent wash	Fermenter cleaning	Condenser cooling	Fermenter wash	Bottling plant
Colour	Dark brown	Colourless	Colourless	Colourless	Faint	Colourless
pH	4–4.5	6.26	5.0–5.5	6.8–7.8	6	7.45
Alkalinity (mg/L)	3500	300	Nil	--	40	80
Total solids (mg/L)	100,000	1000–1300	1000–1500	700–900	550	400
Suspended Solids (mg/L)	10,000	220	400–600	180–200	300	100
BOD (mg/L)	45,000–60,000	100–110	500–600	70–80	15	5
COD (mg/L)	80,000–120,000	500–1000	1200–1600	200–300	25	15

4. As per the NMCG report titled '*Pollution assessment: River Ganga*', it was mentioned that there are 764 grossly polluting industries (GPI) in the mainstream of Ganga and its tributaries i.e. Kali (E) and Ramganga. Out of these 687 industrial units are situated in Uttar Pradesh. The highlights of the report are as follows:

- **Status of water consumption and wastewater generation:** Total water consumption in the 764 GPIs is 1123 MLD and wastewater generation is 501 MLD. Uttar Pradesh is the dominant state with respect to water consumption (62 % of the total water consumed) and wastewater generation (45% of total wastewater generated) followed by Uttarakhand.

State	Number of Industry	Water consumption (MLD)	Wastewater generation (MLD)
Uttar Pradesh	687	693	269
Uttarakhand	42	224	127

Bihar	13	91	17
West Bengal	22	116	87
Jharkhand	0	0	0
Total	764	1123	501

- Sector-wise water consumption and wastewater generation from grossly polluting industries (GPI) are as follow:

Type of industry	Total Unit	Water Consumption (MLD)	Wastewater Generation (MLD)
Chemical	27	210.9	97.8
Distillery	33	78.8	37
Food, Dairy & Beverage	22	11.2	6.5
Pulp & Paper	67	306.3	201.4
Sugar	67	304.8	96.0
Textile, Bleaching & Dyeing	63	14.1	11.4
Tannery	444	28.7	22.1
Others	41	168.3	28.6
Total	764	1123	501

- **Status of UP in terms of water consumption and wastewater generation from grossly polluting industries:** There are 687 grossly polluting industries discharging 269 MLD of wastewater. Sugar, Pulp and Paper and Chemical industries are the major industrial sector which discharges 70% of total wastewater generated in the state. Out of 688 industries, 594 are located in the mainstream of the Ganga River. It is also observed that 442 industries are tanneries. Volume-wise highest wastewater (85.7 MLD) is coming from the sugar industry.
- With respect to River Kali-East sugar, distillery and pulp & paper are the major industrial sectors which are discharging into the river. In comparison number of

industries discharging wastewater in Ganga is small (53) discharging 71.4 MLD wastewater. Pulp & paper industries are discharging 36.8 MLD of wastewater, which is 52% of the total wastewater discharged into the river Kali-East by grossly polluting industries. Next to Pulp & paper is Sugar industry (15) discharging 14.8 MLD.

- Ramganga houses 44 industries discharging 106 MLD wastewater and majority of them are sugar industries that are discharging 50% of total wastewater discharged into the river Ramganga in Uttar Pradesh.
- The percentage-wise wastewater generation in these three riverine systems and sector-specific wastewater generation in Uttar Pradesh: The status of sector-specific water consumption and wastewater generation in Uttar Pradesh and the three riverine systems in Uttar Pradesh is given in tables below:

Table: Status of water consumption and wastewater generation in Uttar Pradesh

Category of Industry	Number of Industry	Water Consumption (KLD)	Waste-water Generation (KLD)
Chemical	20	113.0	29.6
Distillery	27	69.2	33.0
Food, Dairy & Beverage	15	6.3	3.8
Others	35	90.7	18.1
Pulp & Paper	33	96.3	68.1
Sugar	56	278.4	85.7
Textile, Bleaching & Dyeing	59	11.4	9.0
Tannery	442	27.4	21.6
Total	687	693	269

Table: Status of wastewater generation in the riverine system of Uttar Pradesh

Water Bodies	Ganga		Kali-East		Ramganga	
	Number of Industry	Wastewater Generation (KLD)	Number of Industry	Waste-water Generation (KLD)	Number of Industry	Waste-water Generation (KLD)
Chemical	15	21.0	3	3.8	2	4.8
Distillery	10	8.7	10	13.15	7	11.2
Food, Dairy & Beverage	12	1.9	2	1.5	1	0.5
Others	27	5.2	6	0.5	2	12.4
Pulp & Paper	9	8.3	16	36.8	8	23
Sugar	18	18.4	15	14.8	23	52.5
Textile, Bleaching & Dyeing	57	6.7	1	0.8	1	1.5
Tannery	442	21.6	0	0	0	0
Total	590	91.73	53	71.4	44	105.9

- **Comparison of industrial wastewater discharges among three riverine systems- Kali- East, Ramganga & main stem of Ganga:** A comparison of wastewater discharged in river Ganga, Kali-East and Ramganga in Uttarakhand and Uttar Pradesh (up to Kannauj Downstream) altogether is shown in the table below:

Table: Status of wastewater generation in the three riverine systems from Uttarakhand to Uttar Pradesh

Water Bodies	Ganga		Kali-East		Ramganga	
	Number of Industry	Waste-water Generation (KLD)	Number of Industry	Waste-water Generation (KLD)	Number of Industry	Waste-water Generation (KLD)
Chemical	5	3.1	3	3.8	2	4.8
Distillery	7	6.9	10	13.2	9	13.3
Food, Dairy & Beverage	1	0.7	2	1.5	1	0.5
Others	0	0	6	0.5	2	12.4
Pulp & Paper	6	9.0	16	36.8	35	135.6
Sugar	13	11.8	15	14.8	30	60.4
Textile, Bleaching & Dyeing	0	0	1	0.8	1	1.5
Total	32	31.5	53	71.3	80	228.5

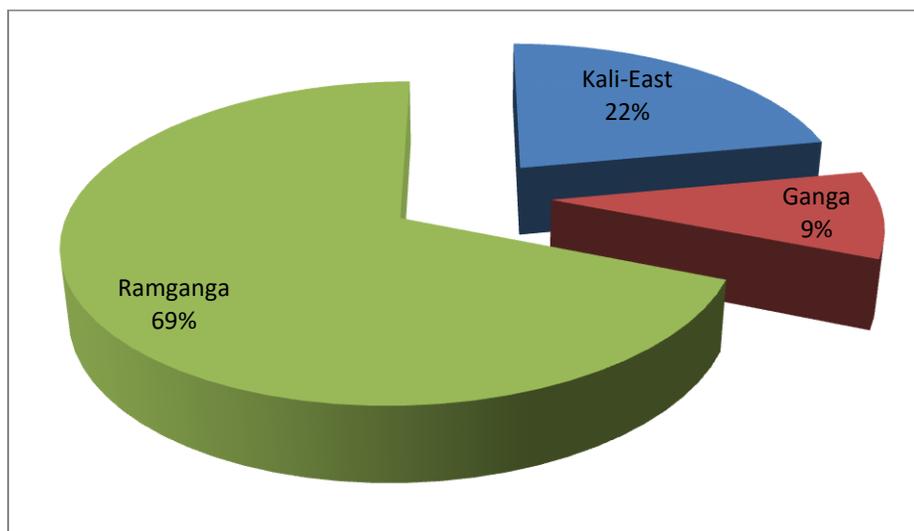


Figure: Percentage of wastewater discharge in River Ganga, Kali-East and Ramganga from Uttarakhand to Uttar Pradesh (upto Kannauj downstream)

- However, if we take the whole stretch of River Ganga the percentage of total wastewater discharged into river Ramganga is 46% followed by Ganga (40%) and Kali-East (14%).
 - In terms of the number of industrial units, tannery sector is dominating whereas in terms of wastewater generation Pulp & paper sectors dominate followed by the chemical and sugar sector. It is observed that GPI in Bihar generates minimum wastewater (19%) in terms of water consumed whereas GPI in West Bengal generates maximum wastewater 75.5% in terms of water consumed followed by Uttarakhand (56.7%) and Uttar Pradesh (39%).
 - In the riverine system, Ramganga carries maximum industrial wastewater followed by the mainstream of river Ganga and Kali-East respectively.
5. As per the report of Centre for Science and Environment titled '*Ganga: The River, Its pollution and what we can do to clean It*', It is reported that the total length of the river Ganga in UP is about 1,000 km. Around 687 grossly polluting industries in UP are located near river Ganga discharging 270 of MLD wastewater. The salient points of the report are as follow:

- Around 442 industries are tannery industries that contribute 8% of total generated wastewater by GPIs. This tannery industry generating highly toxic wastewater is mainly concentrated in Kanpur.
- Sugar, pulp, paper and distillery plants are discharging up to 70% of the wastewater.
- As per the inspection report of CPCB, out of 404 inspected industrial units, only 23 were found compliant. Rest 381 (94.3%) industrial units were found non-compliant in terms of Law.
- As per the report action taken against erring industries which are polluting Ganga in UP is as follows:

S. No.	Action	No. of Industries
1	Direction under Section 5 of the Environment Protection Act, 1986	142
2	Directions under Section 18 (1) (b) of Water Act 1974	12
3	Letter issued for ensuring compliance	25
4	Action under process	191
	Total	370
5	Found closed during inspection	11
6	No action required	23

6. A study was conducted by Upma Singh et al., 2018 which was published in the Journal International Archive of Applied Sciences and Technology entitled “Water Pollution due to Discharge of Industrial Effluents with special reference to Uttar Pradesh, India – A review’. The study mentioned that around 210000 tons of fly ash (containing toxic heavy metals such as lead and copper) from coal-based power plants was dumped at Kanpur in Pandu River, a tributary of Ganges. The details of industries distributed in seventy-four districts of Uttar Pradesh and their major discharges responsible for the deterioration of water quality are as follow:

S.No.	Industries	Major components of effluent/industrial waste	Distribution (Districts) R
1	Sugar	Sugar, Molasses, Alcohol and Heavy Metals	Deoria, Gorakhpur, Barabanki, Basti, Sitapur, Muzaffarnagar, Ghaziabad, Kanpur, Faizabad, Jaunpur
2	Paper and pulp	Chlorinated complex products, dibenzo-p-dioxin and benzofuran	Meerut, Saharanpur, Muzaffarnagar
3	Aluminium	Heavy metals (Cd, Mn, Pb and Zn)	Renukoot
4	Chemical fertilizer	Ammonia, urea, heavy metals	Gorakhpur, Varanasi, Allahabad, Pratapgarh
5	Glass	Chloride, Fluoride, Heavy metals (Iron, Chromium, Cadmium and Nickel)	Firozabad, Naini, Shikohabad
6	Leather	Acids, alkalis, chromium salts, tannins, solvents, sulfides, dyes, heavy metals etc.	Kanpur, Agra
7	Plastic	Polyolefins and polyethylene terephthalate (PET)	Kanpur, Varanasi
8	Petrochemical	Polycyclic and aromatic hydrocarbons, phenols, metal derivatives, surface-active substances, sulphides, naphthylenic acids and other chemicals	Lucknow
9	Textile	Dyes and pigments, presence of detergents and surfactants	Kanpur, Allahabad, Noida, Ghaziabad, Lucknow, Agra, Saharanpur, Gorakhpur, Modinagar, Varanasi, Rampur.
10	Thermal-power plant	Coal dust, CO ₂ , fly ash, chlorinated water, heavy metal residues (Hg, Bi, As, Cr, Cu, Pb)	Unchahar, Rihandnagar, Shahjahanpur, Jhansi, Aligarh, Renuagar, Obra, Anpara
11	Engineering (Heavy machines and spares)	NA	Naini
12	Cycle	NA	Kanpur, Agra, Varanasi,

2. NGT Orders:

The matter was considered on 27.03.2019 and the directions of Hon'ble NGT in the light of reports of CPCB dated 05.07.2019 and joint committee report dated 05.06.2016 are as follows:

1. "The report is to the effect that closure direction was issued by the CPCB on 24.12.2018 against M/s Radico Khaitan Limited (Distillery Unit), Rampur under Section 5 of the Environment (Protection) Act, 1986 but the said unit continued to operate illegally in collusion with the concerned authorities. On 05.06.2019, the joint Committee carried out an inspection which was overseen by Justice Arun Tandon, former Judge of Allahabad High Court. An inspection was also carried out in respect of the said unit and other industries in the catchment area of river Bhella and river Kosi from 10.06.2019-12.06.2019. Based on the said report, the CPCB, vide letter dated 03.07.2019, required M/s Radico Khaitan Limited to submit time-bound action plan to restrict the capacity of lagoon by filling/leveling/dismantling the excess capacity of the lagoons. CPCB recalculated the environmental compensation and assessed the same at Rs. 7,29,00,000/- out of which amount Rs. 1,45,80,000/- was deposited and the remaining amount of Rs. 5,83,20,000/- is yet to be deposited" (this amount was subsequently paid by the unit).
2. Explaining the reason how in spite of the closure order, the unit continued to function, it was submitted by CPCB that the Principal Secretary, Excise Department, U.P. requested CPCB to review the order. The Unit made prayer for revoking the closure direction on 20.02.2019 and 01.03.2019. Recommendation for revocation of closure was made. The Member Secretary, UPPCB vide letter dated 01.04.2019 asked CPCB to review the closure direction. Principal Secretary, Excise Department also repeated such requests on 02.04.2019. Conditional revocation was allowed on 17.05.2019 and the unit continued to operate thereafter. The Unit representative informed during inspection from June 10-12, 2019 that the 'highest Officers of the State' had orally instructed the Officers and Managers of M/s Radico Khaitan Limited to continue the production even after the closure order passed by the CPCB. A letter has been written by the CPCB to the Chief Secretary, Uttar Pradesh on 24.06.2019 to identify and provide names of Officers who

allowed illegal operation of the unit in spite of the closure direction. No reply has been received.

3. Hon'ble NGT in the order OA No. 361/2017 in re: Dr. Tanzeen Fatima versus Ministry of Environment and Forest Climate Change & ors. dated 23.07.2019 considered the inspection reports of the committee headed by Justice Arun Tandon. Compilation – I record the proceedings during the inspection and Compilation – II records the suggestions and observations. It will be appropriate to reproduce the said suggestions and observations:

M/s Radico Khaitan Limited:

1. Manufacturing of alcohol by the unit even after the closure order of the CPCB, i.e., between 17.02.2019 to 11.05.2019 is unjustified and virtually amounts to a negation of rule of law.
2. Officers of the State of Uttar Pradesh who failed to enforce the closure orders must be identified by the Chief Secretary of the State of Uttar Pradesh and suitable action should be taken.
3. Open lagoons must be replaced by covered storage Steel tanks for receiving the spent wash of molasses with provision for controlled discharge of gases therefrom. This is necessary, as a large open surface area of existing lagoons leads to more amount of air being polluted after coming into contact with spent wash. All suitable amendments may be carried by CPCB in guidelines.
4. The primitive method of marking with red at a particular height in the lagoons be eliminated and if necessary, then, only lagoon of required capacity, duly calibrated, be permitted. Excess capacity must be filled or dismantled scientifically.
5. Withdrawal of underground water must be restricted to the minimum required quantity with a condition of payment of water charges on the principle of 'more the consumption higher the rate'. This will act as a deterrent for withdrawal of underground water beyond what is necessarily required by the unit.

6. Strict monitoring on readable parameters be done in respect of recharging the underground water through rainwater harvesting by the unit.
7. Calibration of water flow meters be ensured by government agencies with verification at least once in a year.
8. The unit must utilize the land which will become available after removal of the lagoons or otherwise for thick forestry in the ensuing rainy season.
9. The industry must be asked to control its production so as to ensure that in no case spent wash collected in the lagoons exceeds its fixed capacity on a monthly basis.
10. The land area necessarily required for bio-composting in respect of disposal of spent wash must be calculated and the industry must keep that land area fully covered with provision of leachate collection drains. No composting be permitted on uncovered land.
11. The unit must maintain specific verifiable records, which can be examined at any given point of time in respect of the total quantity of bio-compost generated and sold to the known purchasers. The distillery must maintain similar records in respect of solid waste and disposal thereof to known vendors.
12. CPCB has calculated the Environmental compensation amount (as per the methodology of EC) in compliance of the NGT order dated 20.05.2019 which is Rs.7.29 Crores.
13. In addition, the entire price money received in respect of alcohol/products generated by the industry during the period of the CPCB closure order, i.e., between 17.02.2019 to 11.05.2019 be recovered as Environmental Compensation (EC).
14. Separate electricity meter exclusively for ETP shall be installed and its bill must be kept on-site for verification.
15. The Hon'ble NGT also pointed out that:
 - 'Not even a single penny is being paid towards withdrawal of the underground water since 30.11.2016.'

All Industries:

1. Applications for 'no objection certificate' should be considered and decided within a month by CGWA and if the applications are not found satisfactory then the same must be rejected with a further direction to stop water extraction.

2. The charges payable by the company for withdrawal of underground water must be fixed on the principle 'more the withdrawal, higher the rates'. The water charges which have not been paid for years must be recovered together with the interest at the rate of 18% per annum.
3. The norms for recharge of underground water and rainwater harvesting etc. must be fixed. Flow meters must be calibrated by Government agencies and verified at least once in a year.
4. The industries encroaching upon the drains must be asked to clear the encroachments and drains must be left free to flow in their natural course.
5. The actual requirement of underground water by the industry must be verified through independent Government agencies.
6. All industries must be asked to maintain verifiable records of ETP waste and other solid waste generated as well as its disposal to the known buyers.
7. No additional pump with loose connection be permitted as stand by at ETP of any of the industry.
8. CPCB/SPCB shall take necessary actions against the non-complying industries in Uttar Pradesh namely:
 - **M/s Damya PJ Foods Pvt. Ltd.**, was issued notice on 19.07.2019 by UPPCB under Water Act, 1974 for the non-compliances observed during the joint inspection dated 12.06.2019. UPPCB has also levied Environment compensation of Rs. 2.5 lacs on the unit. The unit has deposited the complete amount. Further, the unit was given notice for not having NOC of CGWA. UPPCB has carried out inspections on 22.10.2019 and 12.11.2019. The sample of treated effluent from ETP outlet was collected on 22.10.2019 and as per UPPCB analysis report, the unit is in compliance of provisions of Water Act, 1974 and Air Act, 1981. No untreated effluent was found discharged outside of the premises during inspection dated 12.11.2019. The unit has installed separate energy meter and flow meters at inlet and outlet of the ETP.

- **M/s Varun Steel** was issued a Show Cause notice by UPPCB under Water Act, 1974 on 19.07.2019 for the non-compliances observed during the joint inspection dated 12.06.19 and EC of Rs. 2.5 lacs was imposed. The unit has deposited the entire amount to UPPCB. On 29.07.2019, UPPCB issued Show Cause Notice under Air Act, 1981 for the non-compliances observed during the joint inspection dated 12.06.19. Another Show Cause Notices were issued to the unit on 09.11.2019 and 02.11.2019 for not having Hazardous waste authorization as per Hazardous Waste Management Rules, 2016 and for not having NOC of CGWA, respectively. UPPCB has carried out inspections on 22.10.2019 and 12.11.2019. The sample of treated effluent from ETP outlet was collected by UPPCB on 22.10.2019 and as per UPPCB analysis report, the unit complies with provisions of Water Act, 1974 and Air Act, 1981. No untreated effluent was found discharged outside of the premises during inspection dated 12.11.2019.
- M/s Rana Sugar Ltd. was granted 'no objection certificate' on 14.10.2016. An inspection was made by the CGWA on 30.04.2018 when the sugar plant of the unit was found to be non-operational and the distillery had not been set up. An order for cancellation of the 'no objection certificate' was issued by the CGWA on 10 December 2018. However, on 17.04.2019 permission was granted to run the distillery by the various departments of State of Uttar Pradesh. Similarly, permission to operate has also been granted by U.P. Pollution Control Board. The unit is drawing underground water both in respect of the sugar unit as well as its distillery unit despite the order of cancellation of 'no objection certificate' by CGWA dated 10.12.2018 on the pretext that their application for reconsideration of the cancellation of 'no objection certificate' was pending before the CGWA.
- M/s Swati Menthol & Allied Chemicals Ltd. was admittedly extracting underground water to the tune of 15 cubic meters per day for its unit despite having neither applied for nor having been granted any permission or 'no objection certificate' by the CGWA.

Others directions are as follows:

1. De-silting of drains must be completed at the earliest with a direction to transport the removed silt to a safe identified place.
2. Joint inspection of all 86 GPI industries be undertaken afresh in the light of issues considered in the report.
3. Wherever timelines have been fixed for works to be undertaken by industries, performance guarantee must be insisted upon as a condition of revocation.
4. Necessary and suitable review and revision of these Guidelines and Charters keeping in view the observations, in this case, maybe carried out by Central and State PCBs in fixed time frame of four months.”
5. The report of the committee headed by Justice Arun Tandon also recommends that:
 - Groundwater extraction must be taken before consent to establish and consent to operate granted by the SPCB. The CGWA must frame SOP on the subject of regulating and protecting groundwater.
6. Hon’ble NGT, accepted the above report of the Joint Committee, including the amount of compensation to be recovered and directed it to be implemented. The Chief Secretary, Uttar Pradesh was asked to give response to the observations and suggestions of Justice Tandon indicating why higher amount of compensation and interest be not recovered from Radico Khaitan in view of illegal operation of the said unit in collusion with the authorities of the state. The Chief Secretary, Uttar Pradesh was also directed to give his response to the letter of the CPCB and identify the persons who interfered with the process of law to benefit the said polluting unit and action taken against such persons by e-mail at judicial-ngt@gov.in.

3. Compliance report submitted by CPCB:

As per the compliance report submitted by the CPCB the compliance with regard to the directions of Hon'ble NGT is as follows:

1. CPCB has sought time and mentioned that the inspection of the units enlisted in reports dated 23.10.2019 & 06.12.2019 by the Ganga Committee and report dated 27.11.2019 by the CPCB may be carried out once these units start operating on a regular basis after the situation arising due to COVID -19 is over. **This inspection was done on 29.09.2020 by the CPCB as informed in the VC of Oversight Committee dated 04.11.2020. The report of this inspection is still awaited.**
2. The non-operational status of the units was also confirmed by five Ganga state SPCBs (UPPCB, UEPPCB, BSPCB, JSPCB and WBPCB) in the video conference meeting held by CPCB on 18.06.2020. Recommendation of the SPCBs is as follows:
 - "SPCBs suggested that considering safety reasons, next round of annual inspections may be commenced after 15th September 2020 after monsoon season. It was also informed by SPCBs that most of the industries are still under closure and not operating on a regular basis."
3. In pursuance to Hon'ble NGT order dated 15.01.2020, CPCB has submitted a compliance report dated 18.05.2020 to Hon'ble NGT requesting to grant an extension of time of 60 days for carrying out inspection of the units once this lockdown is over for submission of final compliance status in Hon'ble NGT. Compliance report submitted in Hon'ble NGT is annexed as **Annexure 1**.
4. The latest Compliance status of the units shall be submitted to Hon'ble NGT after carrying out inspection of these units.

4. Compliance status of CGWA:

The Member Secretary, CGWA informed that they have issued a letter to the UPPCB to conduct quarterly inspections of the GPs. **The Chairman, Oversight Committee during the Video**

Conferencing held on 24.07.2020 in the NGT matter of OA No. 324/2016, raised some queries to the CGWA. The queries and responses are as follows:

- 1. What are the criteria for assessing water requirement of industries by CGWA for issuing NOC:** Water requirement for domestic and greenbelt for industries, as well as infrastructure projects, is calculated on the basis of NBCC/ CPHEEO norms. For industrial use, the water requirement is not assessed by CGWA as the same depends on various factors controlling industrial production.
- 2. Why M/s Radico Khaitan Ltd, Rampur, UP is extracting groundwater without NOC:** Since M/s Radico Khaitan, Rampur, UP had submitted its application for renewal of NOC in time and had complied with all the conditions laid down in NOC, the application was forwarded from Regional office to CGWA, New Delhi for further necessary action. However, in the light of observations/ orders in various OAs before Hon'ble NGT, the matter of issuance of NOC for industrial use in respect of industries located in OCS blocks are kept on hold. Besides, the case No. 12511/ 2019 and CM No. 51084/ 2019, 'M/s Radico Khaitan Ltd Vs CGWA and Others' is pending Before the Hon'ble High Court of Delhi. Consequently, the CGWA is unable to take action as the matter is *sub-judice*. The UP Ground Water Act, (Act no.13 of 2019)" published in gazette dated 7th August 2019 and was made effective from 11.09.2019. The Rules also have been framed and published in Gazette dated 25th Feb 2020 notified with effect from 20.05.2020. The rules have been notified on 20.05.2020. However, it was informed that under the new State Rules NOC shall be issued by District Ground Water management Board and the unit has to apply online for it. Rules also provide that such applications has to be decided within 30 days failing which it shall be deemed to have been allowed.
- 3. Issuing of NOC to any Industry in OCS blocks:** The Member Secretary, CGWA mentioned that on the basis of different observations made by Hon'ble NGT and its order, CGWA, New Delhi decided not to grant NOC to any Industry in OCS blocks for the purpose of extraction of groundwater for industrial use. However, for domestic and drinking purposes, NOCs are being granted to Industries and infrastructure projects. Copy of the

Public notice dated 01.03.2019 uploaded on the web portal is annexed in **Annexure 2**.

The judgments/ orders, which may be cited are:

(a) Judgment dated 13.07.2017 passed by Hon'ble NGT, New Delhi under OA No. 200/2014 (Transfer case from Hon'ble Apex Court, New Delhi in CWP NO. 3727/1985) has prohibited groundwater extraction by industries in critical areas (over-exploited and critical areas) in Ganga Basin and

(b) Order dated 03.01.2019 of Hon'ble NGT, New Delhi under which the above restriction on the use of groundwater for industrial purposes was further extended to over-exploited, critical and semi-critical areas (OCS) in the country. The matter is still pending with Hon'ble NGT for final judgment in the subject matter.

(c) Order dated 20.07.2020 of Hon'ble NGT, has given the directions that there must be no general permission for withdrawal of groundwater, particularly to any commercial entity, without environmental impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee.

The Oversight committee had sent a set of questions to CGWA with regard to the Industrial Unit Radico Khaitan. The response received with regard to the industry are as follows:

- I. The total ground water requirement of the industry is **2600 m3/ day or 949000 m3/ year through 03 existing tube wells**. Actual ground water abstraction by the firm of three tubewells from October 2016 to September 2019 for **3 years** has been to the tune of **2197138 m3/yr (i.e. 2007 m3/day and 732379 m3/ yr.)**
- II. **The total water requirement of** Ground Water is 4600 cum/ day, out of which ground water requirement is 2600 cum per day and remaining 2000 cum is to be met through recycled water.
- III. The firm has implemented ground water recharge to the tune of **20,02,765 m3/year** through pond and RWH in factory premises.
- IV. Water meters have been installed in the industry.
- V. Detailed report is annexed as **Annexure 3**.

5. Compliance report submitted by UPPCB:

Member Secretary, UPPCB, informed that all the industries have submitted their compliance report and the UPPCB will submit the affidavit on 30/07/2020 to the Hon'ble NGT. The UPPCB made the following observations during the inspection of GPI industries conducted on 17.06.2020:

M/s Radico Khaitan Limited-

- At Hitachi land and Ajitpur land, bio-composting facility is available. Hitachi land has 06 rainwater harvesting pits and Ajitpur has 04 rainwater harvesting pits.
- Hitachi land has 22 acres uncovered and 11 acres covered compost yards.
- Ajitpur land has 9 acres uncovered and 14 acres covered compost yard.
- The total area of covered and uncovered compost yards is 56 acres.
- Bio-methane spent wash (BMSW) and concentrated spent wash was found stored in multiple effect evaporators (MEE) at the sites. At Hitachi land 600m³ of spent wash was found stored in lagoon in place of 3500 m³ and at Ajitpur land 14050m³ of spent wash was found stored in lagoon in place of 21500 m³.

A detailed inspection report is annexed as **Annexure 4**.

M/s Usha Steel Process (Varun Steel) inspected on 06.07.2020:

- This industry is in the red category (small scale).
- Per day pickling of 1000 M.S. steel or rim is done.
- ETP has been installed in the industry to treat the wastewater. Recently, the strengthening of work of ETP has been done.
- Flow meters on inlet and outlets and separate energy meter has been installed.
- Treated water is being reused. No, discharge is being done in any river or drains.
- It was also presented that due to less production at the time of inspection no water sample was collected.
- EC of 2.5 lakh was imposed which has already been deposited.

- A show-cause notice has been issued to the industry dated 19.07.2019 under Air Act, 1981 and Water Act, 1974.
- As per the inspection report conducted on 12.11.2019, it was mentioned that Industry has valid consent under Air, and Water Act till 31.12.2020. The industry has been authorized for hazardous waste management till 2025.

A detailed report is annexed as **Annexure 5**.

M/s Damya (PJ) Foods Pvt. Ltd. inspected on 06.07.2020:

- This industry is categorized in an orange small scale industry.
- The work of strengthening of ETP has been done.
- It was observed that the ETP was installed with a flow meter and a separate energy meter.
- The industry has been authorized for hazardous waste management till 05.04.2025.
- EC of 2.5 lakh was imposed on the M/s Damya (P.J.) Foods Pvt. Ltd. which has already been deposited.
- A show-cause notice has been issued to the industry dated 19.07.2019 under Air Act, 1981 and Water Act, 1974.
- As per the inspection report conducted on 12.11.2019, it was mentioned that Industry has valid consent under Air, and Water Act till 31.12.2020.

A detailed inspection report is annexed as **Annexure 5**.

Compliance received from the UPPCB in response to the questionnaire sent from the Oversight Committee on 19.10.2020 with regard to the industries located in Rampur/Moradabad is as follows:

S.No.	Question	Answer		
1	What is the total water consumption of all the units? Provide the details industry-wise.	S.No.	Name and Address of the Industry	Fresh water consumption
		1	Radico khaitan Ltd, Rampur	5096 KLD
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	2 KLD

		3	Damya (PJ) Foods Pvt Ltd	13.5 KLD	
		4	Swati Menthol and Allied Ltd Unit I, Rampur	15 KLD	
		5	Rana Sugar Ltd,Belwada,Moradabad	273 KLD	
2	Total production at each unit?	S.No.	Name and Address of the Industry	Production	
		1	Radico khaitan Ltd, Rampur	1024.6 Lac Ltr / Annum (Alcohol)	
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	1000 Sheets /Day (pickling)	
		3	Damya (PJ) Foods Pvt Ltd	13 MTPD (Sauce, catchup etc)	
		4	Swati Menthol and Allied Ltd Unit I, Rampur	10 MTPD (menthol and Allied Products)	
		5	Rana Sugar Ltd,Belwada,Moradabad	6500 TCD (Sugar)	
3	What is the water utilisation break from different sources i.e. Surface water, Groundwater, and Reuse of treated water?	S.No.	Name and Address of the Industry	Ground Water	Reuse
		1	Radico khaitan Ltd, Rampur	2600 KLD	2496 KLD
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	0.8 KLD	1.2 KLD
		3	Damya (PJ) Foods Pvt Ltd	13.5 KLD	5.0 KLD
		4	Swati Menthol and Allied Ltd Unit I, Rampur	15 KLD	-
		5	Rana Sugar Ltd,Belwada,Moradabad	273 KLD	-
4	Are they using water from nearby drains? if yes, how much and how?	No			
5	What is the current status of rain water harvesting? Had any inspection being done for the rain water harvesting system? What is the efficiency of the rain water harvesting system?	S.No.	Name and Address of the Industry	RWH	Inspection
		1	Radico khaitan Ltd, Rampur	yes	By CGWB
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	No	-
		3	Damya (PJ) Foods Pvt Ltd	Yes	By CGWB
		4	Swati Menthol and Allied Ltd Unit I, Rampur	Yes	By CGWB
		5	Rana Sugar Ltd,Belwada,Moradabad	Yes	By CGWB
6	Is there any agency providing water to the	No			

	unit?			
7	Is there any development or planning to reduce the overall water consumption in the Industry? If any, please elaborate.	—		
8	Has the water meters being installed in the Industry? If yes, what is the monitoring mechanism and standardisation process being followed?	S.No.	Name and Address of the Industry	Water meter Installed
		1	Radico khaitan Ltd, Rampur	Yes
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	Yes
		3	Damyra (PJ) Foods Pvt Ltd	Yes
		4	Swati Menthol and Allied Ltd Unit I, Rampur	Yes
		5	Rana Sugar Ltd,Belwada,Moradabad	Yes
The logbook is being maintained by the industries.				
9	Had any EIA being conducted for the industry? If any, please provide the details.	S.No.	Name and Address of the Industry	EIA Conducted or not
		1	Radico khaitan Ltd, Rampur	Yes (conducted study on "Impacts of Ground water Abstraction and Ground Water Recharge on Ground water scenario through M/s Aqua Salvus, Lucknow.)
		2	Usha Steel Process,Ajitpur Industrial Estate,Rampur	No
		3	Damyra (PJ) Foods Pvt Ltd	No
		4	Swati Menthol and Allied Ltd Unit I, Rampur	No
		5	Rana Sugar Ltd,Belwada,Moradabad	No

10	What is the future plan of industry to work as per the NGT orders? Have any planning and progress being done to run industry as per the norms stated by Hon'ble NGT? Has any planning and progress being done to run industry as per the standards laid down by different applicable statutes and also the directions given by Hon'ble NGT?	_____
11	Please also attach the photographs wherever it is helpful with the compliance report?	_____

Compliance report received from the alleged Industries

1. Radico Khaitan

The Radico Khaitan Ltd., Rampur had presented their representation to the Hon'ble Oversight Committee dated 08.10.2020. The details are as follows:

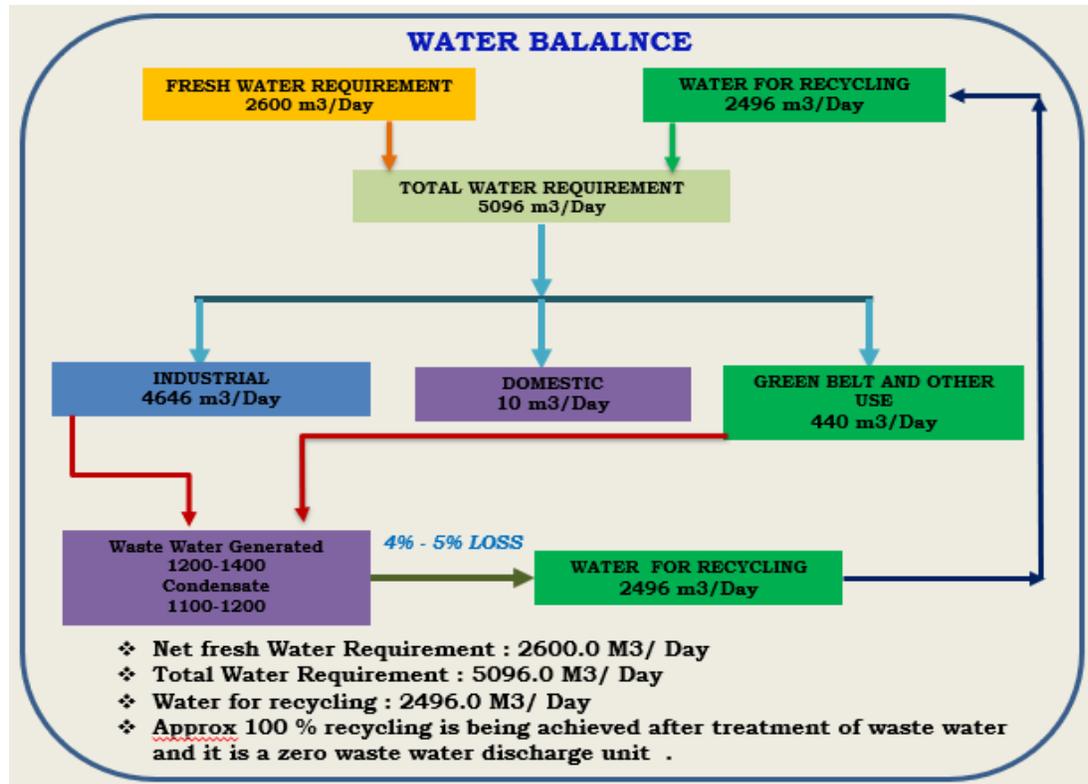
- The industry is a water intensive industry. However with innovative steps the industry had reduced their fresh water requirements from 6100 m³/day to 2500 m³/day. The balance water requirement of 3600 m³/day is met through recycled water.
- The industry had been paying upto Rs 2500000/- per Year for the last 25 years as water cess under erstwhile Water Prevention and Control of Pollution) Cess Act, 1977 till May 2017 when the said Cess Act was replaced vide the Taxation Laws (Amendment) Act, 2017.
- The unit is a Zero Discharge Industry (ZLD) and they are treating there wastewater/effluents. Along with it the industry is also generating electricity with the

use of biogas generated during the treatment of waste water. They are producing 95% of the total power required.

- Industry had pollution controlling devices, online cameras, installed in the premises as per the UPPCB Guidelines.
- Industry had applied for the NOC before expiry of the NOC period that was for 2 years from 17.10.2016.
- As per their representation company is in compliance with the guidelines. The details of the representation made by Radico Khaitan are annexed as **Annexure 6**.

To monitor the compliance of the Industry Oversight Committee had sent a set of questions dated 19.10.2020 to the Industries. The responses with regard to Radico khaitan are as follows:

- The total consumption of the distillery is 5096 m³/day.
- The total production at each unit is:
 - I. Molasses – 200 KL/day ,
 - II. Grain and Malt – 108 KL/day
 - III. Total Production Capacity - 1024.6 Lac Ltr / Annum
- The water consumption is in the range of
 - I. 7.0 Kl/KL of Malasses Spirit, Grain Spirit and Malt Spirit
 - II. Balance 440 KL/day fresh water is used in bottling section



- III. The industry is not using any water from the nearby drains
- IV. Rain water harvesting system is installed in plant premises. It was found satisfactory by the CGWB, Lucknow Authority in the inspection.
- V. The distillery has implemented advanced technologies in Batch fermentation and distillation. These technologies generate spent wash 15 KL to 8-9 KI/KL of alcohol production. Presently the industry has commissioned FED batch fermentation, multi-pressure distillation along with integrated evaporation.
- VI. The industry had Magnetic type flow meters at the raw water withdrawal points at all the three borewells. Flow meters are being calibrated through NABL certified laboratory on annual basis.
- VII. The industry recently had undergone Impact of Ground water Abstraction and Ground Water Recharge on Ground water scenario through M/s Aqua Salvus, Lucknow which is an approved agency. The report has been submitted to CGWA and CGWB vide letter dated 12 May 2020.

VIII. The industry was inspected in the joint inspection by CPCB and UPPCB. The report of Joint inspection is still awaited.

IX. Detailed responses to the questions of Oversight committee are annexed as **Annexure 7**.

The responses received from Rana Sugar Limited, Belwara, Moradabad are as follows:

- The total water consumption is 273 m³/Day
- The total production is 978.6 m³/day.
- The Ground water extracted per day is 273 m³/day. The utilisation of the ground water extracted is as follows:
 - I. 198.6 m³/ day water is used in DM plant
 - II. 75.0 m³/day water used in cooling tower
- The treated water is used for the irrigation of planted plants, farmer's field and for granting.
- Industry is using no water from the nearby drains.
- At present there is no rain water harvesting system in industry.
- As per the compliance it appears there is no solid plan for reducing the overall consumption of water or reuse the treated water.
- Magnetic flow meters are installed.
- A detailed report is annexed as **Annexure 8**.

Minutes of the meetings

The Oversight Committee has taken up this case on 14.07.2020 and 24.07.2020. During the meetings the following points have come to light:

1. During the meeting held on 14.07.2020, the Committee reviewed the progress of abatement of pollution in river Kosi in Rampur District caused by polluting industrial units. Those units which are polluting tributaries of river Ganga and are in Uttar Pradesh were taken up for the discussion namely:

- M/s Radico Khaitan Limited,
 - M/s Damya PJ Food Private Limited and
 - M/s Varun Steel.
2. The committee raised the issues of non-compliance that emerges on viewing the compliance reports submitted. The issues and the directions are as follows:
- **M/s Radico Khaitan Limited:**
 - a) **Identification of officers who had given permission to run the unit during the period 17.02.2019 to 11.05.2019:** Hon'ble NGT had asked the Chief Secretary, UP to submit a response by e-mail. So far response has not been submitted.
 - b) **Recovery of environmental compensation:** The committee had directed that the unit had been illegally continuing its production from 17.02.2019 to 11.05.2019 and, therefore, the price of alcohol produced during the period should be recovered from it. CPCB has neither assessed the price of alcohol produced during the said period nor has it issued any notice. CPCB may take steps for compliance.
 - c) **CPCB in its compliance report has asked CGWA to calculate water charges after expiry of NOC:** The Committee had recorded that not a penny had been deposited by the unit as charges for groundwater extracted. CPCB in its compliance report has asked CGWA to calculate water charges after expiry of NOC. Neither those charges have been calculated nor notice given nor any money realized for these water charges.
 - d) **It was directed by the committee that wherever lagoons are removed, land should be utilized for forestry:** If Lagoon-I had been dismantled and the area of Lagoon-II and Hitachi site has been truncated, as reported by CPCB in its compliance report, then the area vacated by the lagoon should be utilized for forestry purpose. The UPPCB may inspect and let this Oversight Committee know the compliance.

- e) **The Committee had asked that the requirement of groundwater should be calculated:** Though directions have been given, the actual requirement has not been calculated. CPCB may be asked to do so and let this Committee know about it within one month.
- **M/s Damya PJ Food Private Limited, Rampur**
 - a) It may be ascertained whether the unit has paid environmental compensation. It may also be reported whether the unit has taken NOC from CGWA.
 - **M/s Varun Steel, Rampur**
 - a) It should be ascertained whether the unit has taken NOC from CGWA. It may also be ascertained whether it has taken authorization for hazardous waste management.

The detailed MOM is annexed as **Annexure 9**

3. During the meeting held on 24.07.2020, the issues raised in the meeting held on 14.07.2020 were discussed. The details are as follows:
- Additional Chief Secretary, Excise Shri Sanjay Bhoos Reddy mentioned that as far as identification of officers and fixing of responsibility for running the Radico Khaitan unit illegally from 17.02.2019 to 11.05.2019 is concerned, they have already instituted an enquiry based on the report of Commissioner. The file has been put up for orders and they would send the compliance through Chief Secretary to Hon'ble NGT within a week. He mentioned that they would calculate the price of alcohol manufactured illegally during this period from 17.02.2019 to 11.05.2019 and submit it to the Committee so that it can be informed to Hon NGT for recovery of additional compensation.
 - The Committee also directed CPCB and the UPPCB to carry out inspections on issues relating to three Ganga Pollution Monitoring Committee reports and let the Committee know about the progress in the next fifteen days.

The detailed MOM is annexed as **Annexure 10**.

Minutes of the meeting dated 04.11.2020

The Oversight Committee reviewed the progress of implementation of orders of Hon'ble NGT dated 15.01.2020 in **OA No. 324/2016** in re: *Shailesh Singh vs State of UP and others*. The details are as follows:

As per the discussion with Director Central Ground Water Authority (CGWA) Shri PK Tripathi it was informed that they have issued guide-lines dated 24.09.2020 to regulate and control ground water extraction in the country. These guidelines are applicable in 22 States and 2 UTs which have not come out with their respective ground water legislations.

- The State of UP has already enacted its ground water legislation, so NOC in all such cases would be granted by the State Ground Water Board.
- Director, UP Ground Water Department Shri VK Upadhyay mentioned that the State of Uttar Pradesh has already enacted "The UP Ground Water Act, (Act no.13 of 2019)" published in gazette dated 7th August 2019. Vide Gazette Notification dated September 11, 2019, the Act has been made effective with effect from October 02, 2019. The Rules also have been framed and published in Gazette dated 25th Feb 2020 notified with effect from 20.05.2020.
- An amendment has been notified in the Rules on October 06, 2020 amending the timelines in the Rules for submission of applications, submission of proposal by SGWB, installation of treatment Plants and their physical verification. They have notified "The State Groundwater Management and Regulatory Authority" vide Notification Dated November 13, 2019.
- Director, Groundwater mentioned that they have already set up a portal, which will shortly be inaugurated by the Chief Minister. He mentioned that the State Government had decided that these Rules would be implemented in the State of UP from October, 2020. **The Oversight Committee felt that despite the above Gazette Notifications fixing the date of implementation, there still exists lot of confusion in the field. Since the**

application can only be accepted online and the Portal is not ready yet, hence in practice nobody can apply for NOC. No wonder, there is an overlap with the CGWA and the users are not clear where to apply. The Committee desired that the Act and the Rules, the procedure and the date from which these rules are effective and the date from which the State Portal will start accepting NOC applications should be placed in public domain so that the public should know whom to approach regarding NOC, the documents required alongwith the application, the time-lines within which the NOC would be given and the process for monitoring the implementation of the rules. The Oversight Committee directed the SGWA to give it a copy of the gazette notification to it.

- The Committee also discussed the recent Guidelines dated 24.09.2020 issued by the CGWA regarding grant of permission for ground water extraction to various industries. The guidelines mentioned that as far as renewal of NOC in over-exploited blocks is concerned, the renewal for all users would be for two years subject to inability of the local government water supply agency to supply water, use of water efficient technologies, annual water audit by the project proponent, monitoring of water level using piezometers by project proponent, compliance of rain water harvesting by the project proponent, payment of ground water extraction charges and water restoration charges as prescribed by him and submission of Impact Assessment Report and Socio-economic Impact Report by him. In case CGWA is unable to process the application within 90 days, there is a provision of deemed renewal which will be effective till the date of renewal.
- The Oversight Committee examined these guidelines in the light of Hon'ble NGT order dated 20.07.2020 in **OA No. 176/2015** in re: *Shailesh Singh vs Hotel Holiday Regency, Moradabad and others*. Hon'ble NGT had directed that **there will be no general permission for ground water extraction, particularly to commercial entities without Environment Impact Assessment covering carrying capacity aspects by expert committee**. The permission would be granted as per Water Management Plan, based on mapping of individual units. It will be for specified time and specified quantity.

Digital flow-meters would be used, which cannot be accessed by the proponent. There will be mandatory annual calibration by the authorized agency at proponent's costs. There will be annual audit by independent and expert evaluators which will be published online. **The audit report and record of ground water level would be uploaded on website. The complete exercise would be done within three months.**

- The Committee noted with satisfaction that the existing system of calculating the ground water recharge based on the notional Rule of Thumb (having water recharge pits with twice the volume of extracted water by industry) has been replaced by assessment of water recharge based on actual measurements of ground water levels by piezometers. However, monitoring of water level has been left to the project proponent who would record the observations of piezometers and submit to CGWA through a portal. This is in contradiction to the NGT directions which mentioned that digital flow-meters should be used for measurement, which cannot be accessed by the project proponent and which have to be mandatorily calibrated annually by the authorized agency.
- The Committee noted that while the CGWA guidelines mentioned about the water audit by individual units, there is no provision of water management plan of the area or mapping of the area which could decide the availability of water and determining the carrying capacity of that particular area. **The Oversight Committee was concerned whether the function of regulation would be done by the Regulator itself based on technical inputs from experts or it would abdicate its role in favour of a system of self-assessment or at best Third Party Certification. The choice of methodology of regulation would make or mar the efficacy of regulation. The Oversight Committee felt that if strict monitoring of entire arrangement is not done by the regulating agency, there are full chances that this exercise will be only on paper and the users will be fudging the data and tampering with the measurement tools.** Even the concept of annual audit by independent expert evaluators has not been provided in the central guidelines. **The Oversight Committee felt that the CGWA should be asked to incorporate the directions of Hon'ble NGT fully in its right spirit in their existing**

guidelines in the light of the NGT order dated 20.07.2020. The committee examined these guidelines because the committee was informed by Mr VK Upadhayay that the State guidelines are almost similar. It was also informed that in the State of U P the renewal of NOC shall be issued for five years. The Committee directed Director State Groundwater Authority to send a copy of their guidelines so that the same may be examined in the light of NGT directions.

The Committee examined the cases of different Companies mentioned in the order in the light of Hon'ble NGT directions.

M/s Radico Khaitan Limited

In case of M/s Radico Khaitan Limited, the Committee wanted to know:

- (i) Whether the Chief Secretary, UP had filed response to para 9 of the Tribunal's order dated 23.07.2019?
- (ii) Whether the Central Pollution Control Board (CPCB) and the State Pollution Control Board have submitted their compliance status report as directed by the Hon'ble NGT?
- (iii) Whether the gaps, which have been mentioned in the Inspection Report of the Joint Inspection Committee, have been rectified?
- (iv) Whether Environmental Compensation of Rs 7.29 crore levied by the Hon'ble NGT has been paid by the Company or not?
- (v) Whether the recommendation regarding deposit of the price money in respect of alcohol produced during the CPCB Closure order between 17.02.2019 and 11.05.2019 has been recovered as Environmental Compensation from the Company or not?
- (vi) Whether a separate electricity meter exclusively for ETP has been installed by the Company so that it can be independently used for verification?

It was mentioned that the Chief Secretary has filed his response before the NGT on 28.08.2020. The Committee desired that a copy of the same may be provided to it to enable it

to incorporate it in its report to NGT. Regarding the compliance report of CPCB, it was mentioned that the latest status report of CPCB dated 24.9.2020 has been filed before the NGT. The Committee desired a copy of it to be able to comment on it in its report. In its last meeting the Committee had desired that CPCB and UPPCB may conduct a joint inspection as directed by Hon'ble NGT to verify the compliance by the company. It was mentioned that a Joint Inspection by CPCB and UPPCB has been done on 27/28 October and the report is still under finalization with CPCB. The Committee desired that a copy of the report be given to it to enable it to comment on it in its report. The representative of the Company mentioned that they had fully complied with all the directions of Hon'ble NGT. The Joint Inspection Report is awaited from CPCB which would shed more light on the extent of compliance of NGT Directions by the Company. It was reported that the Company had deposited the EC of Rs 7.29 Crore. The Company has not deposited the price money of alcohol that it produced during the period of closure imposed on it by CPCB and has represented against it.

Representatives of M/s Radico Khaitan mentioned that they are a fully compliant company. They mentioned that M/s Radico Khaitan is a Zero Liquid Discharge industrial unit. No industrial effluent is discharged from the Unit in any drain or any water body. It generates its own power by treating waste water and generating Bio Gas with which about 95% of its total power consumption is met. M/s Radico Khaitan has Bio Gas based boilers for steam generation attached with Steam Turbine for power generation and also Bio Gas based engines wherein power is generated directly from Bio Gas in place of Steam route. They also use biogas based generators from which power is generated from biogas. They have installed pollution control devices in their premises at the optimum efficiencies comprising of two stage multi-effect evaporators, bio-digesters, sludge settling system with Lamella clarifiers, diffused air floatation, clarifiers, filter press, three stage RO plants, bio-methanated Sp. Wash evaporators, bio-composting and condensate treatment unit. They have reduced their fresh water requirement from 6100 cubic meter per day to 2500 cubic meter per day. They are recycling and reusing water in their plant. They have been paying water cess for the past about 25 years till 2017 amounting to Rs 25 lac per year to UPPCB under Water (Prevention and Control of Pollution) Cess Act, 1977 till this Act was abolished and included in Tax statutes. They had been issued

NOC for ground water extraction on 17.10.2016 for two years. Before the expiry of this period, they had applied for renewal of their NOC on 16.09.2019 which is pending with CGWA. They mentioned that CGWA officers have inspected their unit and had found it fully compliant and thereafter they have recommended to their Head Office for issue of NOC. They mentioned that they have submitted an Impact Assessment Report by accredited consultant to CGWA on 12.05.2020. They also mentioned that the CPCB has already inspected their Unit and the status report dated 29.09.2020 has been submitted by CGWA to Hon'ble NGT. M/s Radico Khaitan submitted a detailed status note to the Oversight Committee on 08.10.2020, which is at **Annexure-11**.

The CGWA submitted a written reply to questionnaire sent to them by the Oversight Committee. They mentioned that the Unit is using 2600 cubic meter per day ground water through 03 existing tubewells. Actual ground water abstraction by the firm from these three tubewells from October 2016 to September 2019 for three years is 2007 cubic meter per day. The total water requirement of the firm is 4600 cubic meter per day, out of which ground water requirement is 2600 cubic meter per day and remaining 2000 cubic meter is to be met through recycled water. The Unit is not using any water from nearby drains. The firm has implemented ground water recharge to the tune of 20,02,765 cubic meter per year through ponds and rain water harvesting in factory premises. This quantum is higher than the one mentioned in NOC. Water meters have been installed by the industry. The said reply of CGWA is **Annexure-11**.

The Oversight Committee wanted to know whether the recharge quantity on which the permission has been granted is based on actual piezometer measurement or just by rule of thumb. It was mentioned that the CGWA at present gives permission based on the rule of thumb criteria that the Unit should have dug ponds/water bodies with a volume of 200% of the requirement of underground water.

The Oversight Committee also wanted to know whether this water requirement of 2600 cubic meter per day is based on some water audit report. The representative of the Unit said that this requirement has been worked out based on their actual working. The Committee wanted that the Unit should conduct a water audit of its factory by technical experts so that

any wastage/leakage could be removed, inefficient water usage practices could be modified, water saving opportunities could be utilized, treated water use could be maximised and use of fresh water could be minimized.

The Committee also wanted to know whether the treated municipal water could be used by the Company and whether they have ever explored the possibility of using the treated water. Incidentally it was checked from Jal Nigam that they have two STPs of 14 mld and 8 mld respectively in the municipal limits from where treated water is available. It was suggested to the Company by the Oversight Committee that they may explore the possibility of using this treated water from Municipal Corporation along with a tertiary treatment plant. Their requirement is only of 2.5 mld whereas the availability of treated water is 22 mld. Even if they use some of this treated water, the use of ground water can be substantially reduced. The representative of the Unit assured the Oversight Committee that they would explore the possibility of using the treated municipal water.

R. K. Tiwari, Chief Secretary presented their compliance with regard to the OA No. 324/2016 dated 28.08.2020. The details are as follows:

- The Principle Secretary Excise Department State of UP sent letter earlier dated 23.02.2019 and 02.04.2019, it was informed that M/s Radico Khaitan Ltd is achieving Zero Liquid Discharge norms.
- In the Joint Inspection by CPCB and UPPCB dated 10-11th Jan 2019 no colour and odour was observed in the downstream Rampur drain before confluence with river Kosi and report concluded absence of any industrial discharge into the monitored stretch of river Ramganga.
- CPCB vide letter dated 02.01.2019 kept in abeyance the closure order dated 24.12.2018 and allowed the operation of the said unit. CPCB Further vide letter dated 18.02.2019 re-imposed the closure order dated 24.12.2018. The closure order of CPCB dated 18.02.2019 relied upon the finding of inspected dated 10 and 11 Jan 2019 in which no such default by M/s Radico Khaitan Ltd Rampur was observed.

- The joint inspection report made specific recommendations for treatment of spent wash generated from operation of the unit and achieving Zero Liquid Discharge.
- Vide letter dated 23.02.2019 and 02.04.2019 of Principal Secretary Excise also highlighted the fact that sudden closure order against M/s Radico Khaitan Ltd. Rampur is bound to disrupt the production of potable alcohol in the state of UP since the unit under question contributes to 30% of country liquor supply in the state and any scarcity of genuine liquor products may lead to consumption of illicit liquor leading to avoidable social problems and even mortality.
- The State required CPCB to review directions dated 18.02.2019 re-imposing the closure order dated 24.12.2018 in the light of the above facts at the earliest.
- CPCB revoked its closure order on 16.05.2019 relying on the representation letter dated 23.02.2019 and 02.04.2019 of Department of UP Government.
- Commissioner Moradabad Division formed a committee dated 13.02.2020 for inquiry into the above issue.
- Detailed letter of Chief Secretary is annexed as **Annexure 12**.

M/s Rana Sugars Limited

M/S Rana Sugar Ltd was granted NOC on 14.10 2016. An inspection was carried by CGWA on 30.4.18 when the sugar plant was found to be non-operational and the distillery had not been set up. Accordingly the NOC was cancelled by CGWA on December 10, 2018. Subsequently the State Government Departments gave permission to the Company to run the distillery on 17.04.2019. UPPCB has also given the permission to Operate. However the NOC of CGWA has not been given and the unit is drawing ground water without CGWA permission on the pretext that it has applied to CGWA and its application is pending there.

It was mentioned by M/s Rana Sugars Limited that they have installed capacity of 820 cubic meters per day and they are using 272 cubic meters per day for their sugar factory, 350 cubic meter per day for their distillery and 20 cubic meter per day for domestic consumption. They mentioned that they are doing 200% recharge by maintaining recharge ponds and water

bodies for which they have four piezometers which are connected to State Head quarters. Both CGWA and SGWA mentioned that they are not aware about this and they are not monitoring the recharge of this Unit. It was mentioned by the unit that they have already applied for NOC with CGWA and the application is pending there. It was directed by the Committee that the unit should approach the competent authority for NOC for water abstraction which should take a decision based on all the policy parameters at the earliest. The Unit should at the same time get a water audit done to reduce its water consumption. It should also explore the possibility of using treated municipal water either wholly or partially to cut down on ground water requirements.

M/s Swati Menthol & Allied Chemicals Ltd

M/s Swati Menthol & Allied Chemicals Ltd is extracting 15 cubic meter underground water per day without any permission from CGWA. They mentioned that they have applied to CGWA on 06.03.2018 and the application is pending there. The Unit was directed to get a water audit done to reduce its ground water consumption. They were directed by the Oversight Committee to explore the possibility of using treated water and also to obtain NOC as per Rules from the competent authority which should decide the case on priority based on policy parameters.

M/s Varun Steel (Usha Steel)

M/s Varun Steel was again found using underground water of 2 kl per day for Pickering operations without the NOC from CGWA. They mentioned that they have applied to CGWA on 02.08.2019 and their application is pending there. They have deposited the EC of Rs 2.5 Lakh imposed on them. The Unit was directed to get a water audit done to reduce its ground water consumption. The Company was asked to explore the possibility of using the treated water from municipal sources and also to obtain NOC as per Rules from the competent authority which should decide the case on priority based on policy parameters.

M/s Damya PJ Foods Pvt Ltd

M/s Damya PJ Foods Pvt Ltd was also using 10-12 kl ground water per day for their food unit without permission from CGWA. They have deposited the EC of Rs 2.5 Lakh imposed on them. The Unit was directed to get a water audit done to reduce its ground water consumption. They were asked to explore the possibility of using municipal treated water, which they refused because most of their supply is food product where treated water cannot be used. They were directed to obtain NOC as per Rules from the competent authority which should decide the case on priority based on policy parameters.

The Oversight Committee was anguished to note that all these units continue to abstract Ground Water for more than 10 months of the NGT order in this Overdrawn Block without any NOC from CGWA in blatant disregard to the Hon'ble NGT order dated 15.01.2020 without depositing a penny of Environment Compensation that has been imposed on them either by UPPCB or CGWA. UPPCB and CGWA/SGWA were directed to ensure strict implementation of NGT's orders.

SGWA was asked by the Oversight Committee to send a copy of the Notification to the Committee regarding the date from which it will come in operation. CPCB was asked to submit a copy of its report dated 20.09.2020 to the committee. UPPCB was asked to submit a copy of the CS reply dated 28.08.2020 to the Oversight Committee so that both these documents can be examined by the Committee before sending its report to Hon'ble NGT. CPCB was also asked to submit a copy of the Joint Inspection Report of the inspection carried on 27-28 October to enable the Committee to analyse the compliance of NGT orders by the company.

Detailed minutes of the meeting are annexed as **Annexure 11**.

Issue of Ground Water:

A very important issue coming in this case is the issue of Groundwater extraction by the unit without permission of CGWA after the NOC had lapsed, and continuation till today without permission on the plea that their application is pending with CGWA. This has to be looked at in the light of NGT's orders restricting groundwater extraction in OCS areas. No assessment has

been done about the actual requirement of the plant, nor has any exercise been undertaken as to how much requirement could be met from other sources like surface water, reuse of treated water or water harvesting. CGWA's plea that they did not implement stoppage of groundwater extraction which is taking place without their permission because the matter is subjudice doesn't appear to be correct. Either the unit should have permission or there should be a court order in their favour. In fact, there are a number of such units all over India and many fall in OCS blocks. NGT in its order dated 20.07.2020 in O.A. No. 176/2015 has directed that there must be no general permission for withdrawal of groundwater, particularly to any commercial entity, without environmental impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water and not in perpetuity and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost. In the absence of a clear cut policy based on detailed study and reasoned logic as directed above, there will be confusion in the field more so for running units. CGWA has to come out with a clear policy in the light of NGT's orders on permissions for use of groundwater.

Moreover, not a penny has been paid for this extraction to CGWA. In fact CGWA has no scheme of charging water tariffs for underground water. CPCB has conducted a comprehensive exercise on 30.05.2019 and proposed groundwater charges for various uses and for different consumer categories which have been accepted by NGT in its order dated 21.5.2020 in **O.A. No. 593/2017** in re: *Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors.* Based upon the above-mentioned formulas the EC should be charged for the previous period for which industry was functional without NOC without paying a penny towards the groundwater withdrawal. Any permission for groundwater extraction which CGWA gives to any unit after considering all the factors as per NGT's orders should be given with the charges as approved above in O.A. 593/2017. The details for calculating EC are provided as **Annexure 13**.

Short Compliance Status Report in tabular form:

Issues	Compliance Status	Remarks
M/s Radico Khaitan Ltd.		
Manufacturing of alcohol by the unit even after the closure order of the CPCB, i.e., between 17.02.2019 to 11.05.2019 is totally unjustified and virtually amounts to negation of rule of law.	Non-compliance	The CPCB in its compliance report mentioned that an abeyance letter was issued by the CPCB on 02.01.2019 which was misunderstood by the unit and considered it as permission to continue operation. Chief Secretary UP had filled his response in the compliance report dated 28.08.2020.
Open lagoons must be replaced by covered storage Steel tanks for receiving the spent wash of molasses with provision for controlled discharge of gases therefrom. This is necessary, as large open surface area of existing lagoons leads to more amount of air being polluted after coming into contact with spent wash. All suitable amendments may be carried by CPCB in guidelines.	Partially complied	The CPCB found this suggestion technically infeasible and informed the Committee accordingly.
Officers of the State of Uttar Pradesh who had orally instructed the officers and managers of Radico Khaitan Ltd. to continue the production even after the closure order of the CPCB, and those who failed to ensure the closure must be identified by the Chief Secretary of the State of Uttar Pradesh and suitable action shall be taken	Partially complied	Additional Chief Secretary, Excise Shri Sanjay Bhoos Reddy mentioned that they have already instituted an enquiry based on the report of Commissioner. The file has been put up for orders and had been send through Chief Secretary to Hon'ble NGT dated 28.08.2020.
The primitive method of marking with	complied	The CPCB mentioned that excess

<p>red at a particular height in the lagoons be eliminated and if necessary, then, only required capacity lagoon duly calibrated, be permitted. Excess capacity must be filled or dismantled scientifically.</p>		<p>capacity in Lagoon-I had been dismantled and Lagoon-II and Hitachi site has been truncated. The committee is of the view that regular monitoring of the situation of the lagoons should be done.</p>
<p>Withdrawal of underground water must be restricted to the minimum required quantity with a condition of payment of water charges on the principle 'more the consumption higher the rate'. This will act as a deterrent for withdrawal of underground water beyond what is necessarily required by the unit.</p>	<p>Partially complied</p>	<p>The CPCB mentioned that it has been informed by the Central Ground Water Authority (CGWA) that withdrawal of groundwater by M/s Radico Khaitan Limited between October 2016 to May 2019 was within NOC limits. So far as guidelines for charging are concerned, the UP Ground Water Act, (Act no.13 of 2019)" had been published in gazette dated 7th August 2019 and has been made effective from 2nd October 2019. The Rules also have been framed and published in Gazette dated 25th Feb 2020 notified with effect from 20.05.2020. The rules have been notified on 20.05.2020. It is pertinent to mention here that Section 16 of Act no 13 of 2019 has introduced the concept of charging fee on ground water extraction/drawl</p>
<p>The requirement of groundwater should be calculated</p>	<p>Non-complied</p>	<p>The actual requirement has not been calculated yet by any Government authority. Company itself has mentioned its consumption in its report. CPCB may be asked to do so and let this Committee know about it within one month. However under the new State Act (Act no. 13of 2019) there is a provision for fixing the limit of ground water extraction.</p>
<p>Strict monitoring on readable</p>	<p>Complied</p>	<p>CGWA has mentioned that it checked</p>

parameters be done in respect of recharging the underground water through rainwater harvesting by the unit etc.		the recharge points and found them as per mandate. As a thumb rule, each submergence achieves 50% recharge. The ponds created for 200% recharge were also found to be in order.
Calibration of water flow meters be ensured by government agencies with verification at least once in a year.	Complied	CGWA found the calibration of the water flow meters within the order.
The unit must utilize the land which will become available after removal of the lagoons, or otherwise for thick forestry in the ensuing rainy season.	Partially Complied	CPCB mentioned that such direction had been given in writing by UPPCB to the unit. Member Secretary, UPPCB Shri Ashish Tiwari mentioned that he would get the unit inspected within a week to find out whether the land left by dismantling lagoon-I and truncation of the site in lagoon-II and Hitachi site is being used for forest purpose or not.
The industry must be asked to control its production so as to ensure that in no case spent wash collected in the lagoons exceeds its fixed capacity on monthly basis	Complied	The UP Excise Department has mentioned that the unit is strictly adhering to its limit.
The land area necessarily required for bio-composting in respect of disposal of spent wash must be calculated and the industry must keep that land area fully covered with provision of leachate collection drains. No composting be permitted on uncovered land.	Partially complied	It was informed that the unit already has 14 acres of covered composting area. They have increased their existing area to 20 acres. UPPCB will inspect whether the area has been covered for bio-composting or not.
The unit must maintain specific verifiable records, which can be examined at any given point of time in respect of total quantity of bio-compost generated and sold to the known purchasers. The distillery must maintain similar records in respect of solid waste and disposal thereof to known vendors.	Complied	UPPCB mentioned that the unit is already submitting all details to CPCB of bio-compost produced and sold on monthly basis. The solid waste data is submitted to UPPCB on yearly basis.

CPCB has calculated the Environmental compensation amount (as per the methodology of EC) in compliance of the NGT order dated 20.05.2019 which is Rs.7.29 Crores including the EC imposed earlier.	Complied	UPPCB mentioned that the unit had deposited the entire amount of Rs. 7.29 crores.
The unit had been illegally continuing its production from 17.02.2019 to 11.05.2019 and, therefore, the price of alcohol produced during the period should be recovered from it.	Non-complied	CPCB has neither assessed the price of alcohol produced during the said period nor has it issued any notice. CPCB may take steps for compliance.
CPCB in its compliance report has asked CGWA to calculate water charges after expiry of NOC.	Non-complied	Neither those charges have been calculated nor notice given nor any money realized for these water charges.
In addition, the entire price money received in respect of alcohol/products generated by the industry during the period of the CPCB closure order, i.e., between 17.02.2019 to 11.05.2019 be recovered as Environmental Compensation (EC).	Non-complied	There is no mention of calculation of price of alcohol produced between 17.02.2019 to 11.05.2019 from it in CPCB compliance. ACS Excise UP has assured that they would calculate the entire amount and inform NGT so that it could be recovered from the Unit.
Separate electricity meter exclusively for ETP shall be installed and its bill must be kept on-site for verification.	Complied	CPCB mentioned that it has been installed.
M/s Damya PJ Food Private Limited, Rampur		
Applications for 'no objection certificate' should be considered and decided within a month by CGWA and if the applications are not found satisfactory then the same must be rejected with a further direction to stop water extraction.	Non-complied	It did not have NOC of CGWA. CPCB in its compliance mentioned that UPPCB had given a Show Cause Notice to M/s Damya PJ Food Private Limited, Rampur under the Water (Prevention and Control of Pollution) Act, 1974.
All industries must be asked to maintain verifiable records of ETP waste and other solid waste generated as well as its disposal to the known	Complied	The unit has installed ETP and using a separate energy meter for ETP. During inspection, no untreated effluent was found to be discharged.

buyers.		
CPCB/SPCB shall take necessary actions against the non-complying industries in Uttar Pradesh	Complied	Environmental Compensation of Rs 2.5 lac was imposed on the unit. They have paid full environmental compensation.
M/s Varun Steel:		
Applications for 'no objection certificate' should be considered and decided within a month by CGWA and if the applications are not found satisfactory then the same must be rejected with a further direction to stop water extraction.	Non-complied	It did not have NOC from CGWA for extraction of groundwater. CPCB in its compliance mentioned that this unit was given a notice for non-compliance under the Water (Prevention and Control of Pollution) Act, 1974 However, now under the Act no 13 of 2019 matters of issuing NOC shall be dealt with by the District Ground Water Management Council.
All industries must be asked to maintain verifiable records of ETP waste and other solid waste generated as well as its disposal to the known buyers.	Complied	During the inspection, no untreated effluent was found being discharged and the unit was found compliant with the provisions of the Water (Prevention and Control of Pollution) Act, 1974.
CPCB/SPCB shall take necessary actions against the non-complying industries in Uttar Pradesh	Complied	Environmental Compensation of Rs 2.5 lacs was levied on the unit which it has deposited
Authorization for Hazardous waste management	Complied	Authorization for hazardous waste management has been taken by them
Other directions:		
The industries encroaching upon the drains must be asked to clear the encroachments and drains must be left free to flow in their natural course.		No compliance report furnished meaning thereby it is yet to be complied
Actual requirement of underground water by the industry must be verified through independent Government agencies.		No compliance report furnished meaning thereby it is yet to be complied.
All industries must be asked to maintain verifiable records of ETP waste and other solid waste generated as well as its disposal to the known		No compliance report furnished meaning thereby it is yet to be complied

buyers.		
No additional pump with loose connection be permitted as stand by at ETP of any of the industry.		No compliance report furnished meaning thereby it is yet to be complied
De-silting of drains must be completed at the earliest with a direction to transport the removed silt to a safe identified place.		No compliance report furnished meaning thereby it is yet to be complied
Joint inspection of all 86 GPI industries be undertaken afresh in light of issues considered in the report.		UPPCB along with CPCB will conduct this inspection.
Wherever timelines have been fixed for works to be undertaken by industries, performance bank guarantee must be insisted upon as a condition of revocation.		No compliance report furnished meaning thereby it is yet to be complied
Many of suggestions and observations made under para A, B and C are generic and applicable/ per-se for all industries. These may require revision of Guidelines and Charter being followed by Central and State PCBs which regulating and monitoring the operations of these industries. Necessary and suitable review and revision of these Guidelines and Charters may be carried out by Central and State PCBs in fixed time frame of four months.”		No compliance report furnished meaning thereby it is yet to be complied
“The CPCB and the State PCB may file further compliance status report as on 30.04.2020, after carrying out detailed inspections and also indicating compliance status with regard to the issues considered in the three reports dated 23.10.2019 and report dated 06.12.2019 (by Ganga Committee) and 27.11.2019 (by the CPCB) considered in		UPPCB has asked the CPCB in its letter dated 11.02.2020 to submit information on the cause and effect study on the groundwater.

para 3 above, before the next date by email at judicial-ngt@gov.in .		
The charges payable by the company for withdrawal of underground water must be fixed on the principle 'more the withdrawal, higher the rates'. The water charges which has not been paid for years must be recovered together with the interest at the rate of 18% per annum.		<p>The Radico Khaitan industry had been paying up to Rs 2500000/- Year from past 25 years as water cess under erstwhile Water Prevention and Control of Pollution) Cess Act, 1977 till May 2017 when the said Cess Act was replaced vide the Taxation Laws (Amendment) Act, 2017.</p> <p>No compliance report furnished by other industries meaning thereby it is yet to be complied</p>

Recommendations:

In view of the above we recommend as follows:

The Oversight Committee reserved its recommendations only to units located in UP because some of the units in this case are located in Uttarakhand which would be dealt by the Uttarakhand Oversight Committee.

The Oversight Committee would give its recommendations in two categories:-

- (A) Recommendations in the present case; and
- (B) Recommendations on the recent guidelines of CGWA dated 24.09.2020

(A) Recommendations in the present case:

Recommendations of the Oversight Committee are being made in the context of Radico Khaitan in the following issues:

1. Compliance of NGT orders
2. Fulfilment of all conditions of zero pollution discharge by the industry

3. Ground water extraction of the Industry as per NGT directions and CGWA/SGWA guidelines
4. Payment of Environmental Compensation by the Industry.

1. Compliance of NGT orders:

The Oversight Committee was informed in its meeting on 4.11.2020 that the Chief Secretary has filed his response to Para 9 of NGT's order dated 23.7.19 before the NGT on 24.8.2020. It was also mentioned in the meeting that as directed by NGT, a Joint Inspection by CPCB and UPPCB has been done on 27/28 October and the report is under finalization with CPCB. The Oversight Committee did not have the occasion to examine either of the above two documents as it has not received a copy of either so far. It was also informed in the meeting on 4.11.2020 that the Company had deposited the EC of Rs 7.29 Crore as directed by NGT. The Company has not deposited the price money of alcohol that it produced during the period of closure imposed on it by CPCB and has represented against it.

2. Fulfilment of all conditions of zero pollution discharge by the industry:

CPCB had issued closure direction against M/S Radico Khaitan on 24.12.18. On 5.6.2019, the Joint Committee carried out an inspection of the unit which was overseen by Justice Arun Tandon. An inspection was also carried out in the industry from 10.6.19 – 12.6.19. A number of technical irregularities were noticed in these inspections which have been listed in the report of the Committee. They have also been elaborated in the NGT order dated 15.1.20. Hon'ble NGT had directed the CPCB and State Pollution Control Board to conduct a joint inspection of the unit and file a compliance report. The Oversight Committee had called the representatives of the industry as well as of CPCB, UPPCB, CGWA and SGWA on 04.11.2020 for discussion on the compliance. The representatives of the industry have mentioned that they have complied with all the points raised by the Joint Committee and their compliance is complete. **It was mentioned by CPCB and UPPCB that they have conducted a joint inspection on October 27-28,**

2020 and their inspection report is under finalisation with CPCB. The Oversight Committee had asked for a copy of the inspection report so that it can be examined and recommendations on the compliance regarding fulfilment of zero pollution discharge can be sent to NGT. Normally the inspection report should be uploaded within 48 hours of the inspection. Keeping it pending for more than 3 weeks is an unhealthy practice from transparency point of view. **The Oversight Committee would send its recommendations on this point after examining the report which so far has not been sent by the CPCB to it.**

3. Ground water extraction of the Industry as per NGT directions and CGWA/SGWA guidelines:

(a) Status: After keeping the renewal application with it for about one year, the CGWA has mentioned in the meeting on 04.11.2020 with Oversight Committee that though it has finalised its guidelines on 24.09.2020, yet they are not applicable to the State of UP, which has enacted its own Act and formed its own Ground Water Authority. The Director, State Ground Water Authority mentioned in the meeting that The UP Ground Water Act 2019 has been enacted, their Rules have been notified and their State Ground Water Authority has been set up. The Director, UP State Ground Water Authority mentioned that it has been decided to implement these Rules from October 2020 and all NOCs will be given henceforth by UP State Groundwater Authority online through a Portal which has been set up and is shortly going to be operational. He mentioned that the unit will have to apply afresh to them with all the documents for renewal. However the Oversight Committee wanted SGWA to clarify on the point that if application can only be accepted online on the portal and the portal is not working presently, how would the applicant apply for NOC.

(b)Criteria: The Director State Ground Water Authority mentioned in the meeting that there is a deeming provision whereby application for NoC has to be decided within 30 days of receipt of the application, failing which it shall be deemed to have been allowed. It was further mentioned by the SGWA that the renewal of permission, as per their guidelines, is for five years. The Oversight Committee is concerned that the Water Levels of the area have been

continuously falling and the area has come in the category of Overdrawn Area. No water mapping of the area has been done; no water management plan has been prepared; no piezometric study for depletion of ground water or impact assessment study has been done either by CGWA or SGWA nor have any timelines been set by CGWA/SGWA. They have inadequate manpower in the field. Even the responsibility of departmental monitoring has been abdicated in favour of either a system of self certification or third party assessment. Whatever studies have been done are by the industry without any Departmental Supervision. In such a situation, such cursory provisions could have disastrous consequences for the environment. The State Act of 2019 and the State Rules (notification of Feb25, 2020) have not been examined in the light of NGT order dated 20.7.20 in OA 176/2015. 30 days deemed criteria is too short a time to do any meaningful water study. **Giving a licence to the industry for water abstraction for 5 years specially in Overdrawn Blocks without a system of comprehensive checks and balances could have serious consequences as far as water depletion is concerned.** The Oversight Committee has asked for a copy of these guidelines so that they can be examined in the light of NGT orders. The Committee feels that there cannot be any general permission, particularly to commercial entities without Environment Impact Assessment studies covering carrying capacity aspects by some technical experts. The permission has to be as per water management plans based on mapping of individual units in over-exploited blocks. It needs to be given for a specified quantity of water and has to be annually reviewed. The review should be based on readings of digital flow meters which cannot be accessed by the proponent. These digital flow meters should be mandatorily calibrated annually by regulator at proponent's cost. There has to be a provision for annual audit by independent and expert evaluator. This annual audit should be published online and uploaded on the website. Due changes in the guidelines as per above observations need be incorporated before any permission can be given.

(c) Recommendation in case of existing running units: The latest CGWA guidelines provide for deemed extension of renewal till the actual date of renewal in case CGWA is unable to process the application in time. **In this case, the Director State Ground Water Authority mentioned that the Unit will have to apply afresh to them online through their portal with all documents and the decision on permission would be communicated to them by the Authority**

in 30 days time. If the Authority is unable to take a decision in 30 days, deemed permission would be given till the date of actual renewal. This is an open ended condition and puts premium on inaction with no responsibility being fixed on a lethargic regulator. This is a running unit and already for the past more than one year, the application is pending with the CGWA with no groundwork done so far by the regulator in terms of any mapping studies. **Temporary permission of specified quantity may be given at best for a limited period say six months with the conditions that within this period, the decision on NOC will be taken by CGWA/SGWA based on water mapping studies and water management plans which they will get prepared.** Any further extension should be accompanied by fixing responsibility on the regulator for the delay. On the part of the unit:

- (1) Unit will have to ensure that there is no depletion of ground water;
- (2) Piezometers will be installed on the site of the industry, they will be calibrated and sealed by SGWA, piezometric readings will be recorded daily and they will be regularly monitored online by SGWA/ CGWA. The readings will be recorded by SGWA authorised personnel and not by industry personnel.
- (3) The Unit will submit Water Audit Report within next 3 Months inter alia certifying the minimum water requirements of the industry.
- (4) The Unit will submit EIA by an MOEF accredited agency/NEERI/IIT in the next three months.
- (5) The Unit will be charged water tariffs as per new Rules.

(d) The NGT in its order dated 20.07.2020 in OA No. 176/2015 had mentioned that CGWA and MoJS should have institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas. Regard must be had to water availability and safe levels to which its drawal can be allowed, especially for commercial purposes, based on available and assessed data. All OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units based on mapping data starting with over-exploited blocks.(e) The

State Ground Water Act and the State Rules, the procedure , the date from which these rules are effective and the date from which the State Portal will start accepting NOC applications should be placed in public domain so that the public should know whom to approach regarding NOC, the documents required along with the application, the time-lines within which the NOC would be given and the process for monitoring the implementation of the rules.

4. Payment of Environmental Compensation by the Industry:

It was reported in the meeting of the Oversight Committee on 4.11.2020 that the Company had deposited the EC of Rs 7.29 Crore. The Company has not deposited the price money of alcohol that it produced during the period of closure imposed on it by CPCB and has represented against it.

5 Recommendations in case of other units:

The Oversight Committee noted that all other units viz Rana Sugars, Swati Methanol, Varun Steels and Damya PJ Foods Pvt Ltd. were abstracting groundwater without CGWA/SGWA permission. The Oversight Committee recommends that a detailed groundwater study be done by CGWA/ SGWA as the case may be and any permission to abstract groundwater be incumbent on the result of the study. These units be directed to minimise their water consumption based on water audit studies. Also they may be asked to explore the possibility of using treated water/ water harvesting /recycling techniques. Water tariffs for ground water as per rules/guidelines be communicated and charges levied immediately. Pending EC on these units be realised by UPPCB immediately.

6. General recommendations:

1. All Units abstracting ground water should be directed to get water audit conducted to assess the actual water requirement of the plant as well as for assessment of the requirement which could be met from other sources like surface water, reuse of treated water or water harvesting.

2. All such industries should discuss this issue with municipal bodies and find out the ways to use treated water for industrial purposes. A holistic plan which could lead to minimal wastage of water should be prepared and made operational.
3. The industries should be directed to install tertiary water treatment facilities to make the water suitable for drinking and consumption.
4. Regarding Quality Control of Ground water, shallow borewells be dug around all such units and water samples be periodically analysed by CGWA/SGWA for any traces of contamination. The records be documented and put on the portal.
5. The ETPs of GPls be connected mandatorily with OCEMS and connected to 24X7 Control Room at State Headquarters for continuous monitoring.
6. There should be some mechanism for providing some incentives to those industries which are using innovations/best practices while following all the environmental rules to prevent any kind of air, water and soil pollution during the production. Regarding this certification system, consumer awareness campaigns should also be launched.
7. Also, the Industries should harvest the rainwater and use it, rather than extracting groundwater. Thus they will reduce their dependency of groundwater resources. All the industrial units and industrial parks should be directed to construct their rain water reserves and run on the condition of zero ground water extraction unit.
8. All the small and large scale industries should be directed to develop a green belt in nearby areas equal to three times of their own land area and also to adopt wetlands of the nearby areas and create new ponds and to maintain the same as a component of their Corporate Social Responsibility (CSR) .

(B) Recommendations on the CGWA guidelines dated 24.09.2020:

The Committee discussed the recent Guidelines dated 24.09.2020 issued by the CGWA regarding grant of permission for ground water extraction to various industries. The guidelines mentioned that as far as renewal of NOC in over-exploited blocks is concerned, the renewal for all users would be for two years subject to inability of the local government water supply agency to supply water, use of water efficient technologies , annual water audit by the project

proponent, monitoring of water level using piezometers by project proponent, compliance of rain water harvesting by the project proponent, payment of ground water extraction charges and water restoration charges as prescribed by him and submission of Impact Assessment Report and Socio-economic Impact Report by him. In case CGWA is unable to process the application within 90 days, there is a provision of deemed renewal which will be effective till the date of renewal.

The Oversight Committee examined these guidelines in the light of Hon'ble NGT order dated 20.07.2020 in **OA No. 176/2015** in re: *Shailesh Singh vs Hotel Holiday Regency, Moradabad and others*. Hon'ble NGT had directed that there will be no general permission for ground water extraction, particularly to commercial entities without Environment Impact Assessment covering carrying capacity aspects by expert committee. The permission would be granted as per Water Management Plan, based on mapping of individual units. It will be for specified time and specified quantity. Digital flow-meters would be used, which cannot be accessed by the proponent. There will be mandatory annual calibration by the authorized agency at proponent's costs. There will be annual audit by independent and expert evaluators which will be published online. The audit report and record of ground water level would be uploaded on website. The complete exercise would be done within three months.

The Committee noted with satisfaction that the existing system of calculating the ground water recharge based on the notional Rule of Thumb (having water recharge pits with twice the volume of extracted water by industry) has been replaced by assessment of water recharge based on actual measurements of ground water levels by piezometers. However, monitoring of water level has been left to the project proponent who would record the observations of piezometers and submit to CGWA through a portal. This is in contradiction to the NGT directions which mentioned that digital flow-meters should be used for measurement, which cannot be accessed by the project proponent and which have to be mandatorily calibrated annually by the authorized agency. The Committee noted that while the CGWA guidelines mentioned about the water audit by individual units, there is no provision of water management plan of the area or mapping of the area which could decide the availability of

water and determining the carrying capacity of that particular area. The Oversight Committee was concerned whether the function of regulation would be done by the Regulator itself based on technical inputs from experts or it would abdicate its role in favour of a system of self-assessment or at best Third Party Certification. The choice of methodology of regulation would make or mar the efficacy of regulation. The Oversight Committee felt that if strict monitoring of entire arrangement is not done by the regulating agency, there are full chances that this exercise will be only on paper and the users will be fudging the data and tampering with the measurement tools. Even the concept of annual audit by independent expert evaluators has not been provided in the central guidelines. The Oversight Committee felt that the CGWA should be asked to incorporate the directions of Hon'ble NGT fully in its right spirit in their existing guidelines in the light of the NGT order dated 20.07.2020. The committee examined these guidelines because the committee was informed by Director SGWA that the State guidelines are almost similar. It was also informed that in the State of U P the renewal of NOC shall be issued for five years. The Committee directed Director State Groundwater Authority to send a copy of their guidelines so that they can be examined in the light of NGT directions.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the Hon'ble Tribunal with a copy to the Chief Secretary, Government of UP for necessary action. The report with regard to pollution in River Kosi be uploaded on the website of the committee.

19-11-2020

19-11-2020

X Anup Chandra Pandey

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

Nov 19, 2020

Annexures: As above.

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