



Order. No. TSPCB/EC/UH-V/2019 - 2045

Dated: 03 .01.2020

OFFICE ORDER

Whereas Hon'ble National Green Tribunal (NGT) has issued the directions in Paryavarana Surksha Samiti & Ors. Vs Union of India & Ors. and in various other matters to impose the penalty on the non complying polluting units and has been directing CPCB and SPCBs including Telangana to implement "Polluter Pays" Principle in right spirit and to levy Environmental Compensation from the polluting units and to use the same for restoration of environmental damages.

Whereas, in 63rd conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019, it was decided that SPCBs/PCCs may frame their guidelines on Environmental Compensation based on CPCB's report dated 18.04.2019 circulated in the agenda of the said meeting and to provide their inputs on environmental compensation report if any in writing to CPCB, as per proceedings of the same circulated by CPCB vide letter no. B-12015/63/2019-AS-473 dated:10.04.2019:

Whereas in the orders of the Tribunal in Anirudh Reddy Vs Union of India & Ors. directed the Telangana State Pollution Control Board as:

"...take appropriate action against noncompliant industries in accordance with law. The action shall also include assessment of the environmental compensation caused by the industries...."

Whereas, the matter was examined by Technical Advisory Committee (TAC) of the Board in its meeting held on 17.10.2019 wherein it was observed that the section 5 of Environment (Protection) Act 1986, empowers the Ministry of Environment, Forest and Climate Change in Central Government, Section 33-A of Water (Prevention and Control of Pollution) Act, 1974 and section 31-A of Air (Prevention and Control of Pollution) Act, 1981 empowers the State Pollution Control Boards to issue directions in writing to any person, officer or any other authority and such person, officer or authority shall be bound to comply with such directions which includes the power to direct:

- a. the closure, prohibition or regulation of any industry, operation or process; or
- b. stoppage or regulation of the supply of electricity or water or any other service.

Whereas, Central Government has already delegated the powers provided under section 5 of EPA 1986 to the State Governments vide notification S.O. 152(E) dated 10.02.1988, which has also been delegated to the Chairmen of State Pollution Control Boards vide notification S.O. 23(E) dated 08.01.1997 for the violations of standards and rules relating to Hazardous Waste and vide notification no. S.O. 327(E) dated:10.04.2001 for the violations of standards and rules relating to Bio Medical Waste, Hazardous Chemicals, Industrial Solid Waste and Municipal Solid Waste including Plastic Waste.

Whereas, in the light of above and after detailed deliberation, the TAC of TSPCB recommended that the report of in house committee of CPCB on methodology and guidelines for assessing the environmental compensation and utilization of the same, as provided in the agenda note of the above said 63rd

conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019, be adopted and accordingly the Board has decided to adopt the methodology given at Annexure-I for assessment, imposing, collection and utilization of environmental compensation from the polluting units in the State of Telangana.

Therefore, it is hereby ordered to adopt the said modalities/methodology for assessing, imposing and utilization of environmental compensation from the polluting units in the State of Telangana in the circumstances as mentioned.

These orders shall come into force with immediate effect.

Sd/-
MEMBER SECRETARY

To

The Zonal Office, Hyderabad & RC Puram.

All Regional Officers of Hyderabad / Rangareddy-I & II / Warangal / Ramagundem / Kothagudem / Sangareddy-I & II / Nalgonda and Nizamabad.

Copy submitted to:

1. The Chief Secretary to Govt. of Telangana, Hyderabad. - for favour of kind information.
2. The Chairman, Central Pollution Control Board, East Arjun Nagar, New Delhi.- for favour of kind information.
3. The Spl. Chief Secretary, Environment, Forest, Science & Technology Dept, Govt. of Telangana, Hyderabad. for favour of kind information.
4. The Prl. Secretary, Municipal Administration & Urban Development Dept., Govt. of Telangana, Hyderabad. - for favour of kind information.
5. The Prl. Secretary, Industries and Commerce Dept., Govt. of Telangana, Hyderabad. - for favour of kind information.
6. The Managing Director, Hyderabad Metropolitan Water Supply and Sewerage Board, Khairatabad, Hyderabad. - for favour of kind information.

Copy to:

All HODs, Head Office (for information and necessary action.) - ✓ UH-II
CAO, Head Office is requested to maintain a separate account for Environmental Compensation Fund.

//T.C.F.B.O //

P. Srinivasan
Chief Environmental Engineer

(22/22)

Methodology/modalities for assessing, imposing and utilization of environmental compensation from the polluting units in the State of Telangana.

1. Cases for levying environmental Compensation.

- a) Units discharging the environmental pollutants in excess of the standards prescribed under EP Rules, 1986 and as prescribed in the consent granted to such units under Water Act. 1974/Air Act. 1981.
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, Non-adherence to the action plans submitted etc.
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring System.
- d) Accidental discharges lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment including bypassing the pollution control devices – land, water & air resulting into acute injury or damages to the environment.
- f) Injection of treated / partially treated / untreated effluent to ground water.

2. Assessment and utilization of environmental compensation :

- a) The assessment and utilization of Environmental Compensation Fund will be done as per the methodology and guidelines provided by CPCB. Annexure-A.
- b) The assessment of the Environmental Compensation will be done by the concerned Regional Office and detailed report in this regard will be submitted by Regional Office to Head Office within 15 days from the date of identification of violations.
- c) The Environmental Compensation assessment report submitted by Regional Office will be examined and finalized at RO/ZO/HO after discussing in the External Advisory Committee / Task Force Committee meeting as per the delegation of powers under Section 31 A of Air Act,1981 and 33 A of Water Act,1974.
- d) Issue of final Orders for levy of the Environmental Compensation on the defaulting industries will be issued by the RO/ZO/ designated divisional Head in Head Office as per the delegation of powers under Section 31 A of Air Act,1981 and 33 A of Water Act,1974.
- e) In case of failure of deposition of Environmental Compensation by the violator within 15 days of issue of the direction, action will be initiated under Section 31 A of Air Act,1981 and 33 A of Water Act,1974 including prosecution under relevant provisions of the Acts.
- f) A separate account for Environmental Compensation Fund will be maintained by the Accounts Section, Head Office for deposition of Environmental Compensation fund collected at RO/ZO/HO level.
- g) The Environmental Compensation Fund will be utilized for restoration of environmental damages caused in area of violation as per methodology / guidelines prescribed by CPCB in its report provided as agenda not of the 63rd conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019.



**Report of the Committee on
Methodology for Assessing Environmental
Compensation and Action Plan to Utilize the
Fund**

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

Report of the Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund

1. Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that "The CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the CPCB within three months" (Annexure-I).

2. Constitution of the Committee

In this context, Chairman, CPCB constituted a Committee under the Chairmanship of Shri A. Sudhakar, I/c WQM-I with Shri A. K. Vidyarthi, I/c WQM-II, Shri P. K. Gupta, I/c IPC-VI, Shri Nazimuddin I/c IPC-II and Dr. S. K. Paliwal, Scientist 'D' as members. The Committee was asked to deliberate on this issue and come up with a draft formulation before 15.9.2018.

3. Methodology for Assessing Environmental Compensation

The Committee discussed the issue on 4.9.2018, 13.9.2018, 17.9.2018 and 09.10.2018. A meeting was also held with Senior Officers of CPCB Head Office and Regional Directorates through video conferencing on 28.09.2018 to discuss the draft report and to seek comments/feedbacks. The comments/feedbacks received and deliberations of the Committee on the same are given in Annexure-II.

It was deliberated for developing a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies and this is the first attempt made. The committee discussed that environmental compensation should be based on "Polluter Pay Principle". The Committee decided to list the instances for taking cognizance of cases fit for violation and levy environmental compensation.

Cases considered for levying Environmental Compensation (EC):

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.

- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.
- d) Accidental discharges lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment.
- f) Injection of treated/partially treated/ untreated effluents to ground water.

3.1 In the instances as mentioned at *a, b and c* above, Pollution Index may be used as a basis to levy the Environmental Compensation. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White based on concept of Pollution Index (PI). The Pollution Index is arrived after considering quantity & quality of emissions/ effluents generated, types of hazardous wastes generated and consumption of resources. Pollution Index of an industrial sector is a numerical number in the range of 0 to 100 and can be represented as follows:

PI = f (Water Pollution Score, Air Pollution Score & HW Generation Score)

Pollution Index is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution hazard from the industrial sector.

CPCB has issued directions to all SPCBs/PCCs on 07.03.2016 to adopt the methodology and follow guidelines prepared by CPCB for categorization of industrial sectors into Red, Orange, Green and White.

The concept of Pollution Index, which was deliberated widely with all stakeholders and agreed, shall be used for calculating Environmental Compensation. This may help in implementation of such provision throughout the country, a successful initiative in vital field of industrial pollution control.

After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as mentioned at *a, b and c* including non-compliance of the environmental standards / violation of directions.

The Environmental Compensation shall be based on the following formula:

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

Where,

- EC is Environmental Compensation in ₹
- PI = Pollution Index of industrial sector
- N = Number of days of violation took place
- R = A factor in Rupees (₹) for EC

S = Factor for scale of operation
LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to the large habitations.

Note:

- a. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.
- b. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.
- c. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.
- d. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.
- e. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used:

S. No.	Population* (million)	Location Factor# (LF)
1	Less than 1	1.0
2	1 to <5	1.25
3	5 to <10	1.5
4	10 and above	2.0

*Population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

For critically polluted areas / Ecologically Sensitive areas, the scope of LF may be examined further.

- f. In any case, minimum Environmental Compensation shall be ₹ 5000/day.

3.2 In other instances i.e. *d, e and f*, the environmental compensation may contain two parts – one requires providing immediate relief and other long-term measures such as remediation. In all these cases, detailed investigations are required from expert

institutions/organizations based on which environmental compensation will be decided. CPCB shall list the expert institutions for this purpose.

In such cases, comprehensive plan for remediation of environmental pollution may be prepared and executed under the supervision of a committee with representatives of SPCB, CPCB and expert institutions/organizations.

3.3 As Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR. The implementing agencies for each activity have been identified and the EC will be levied on these agencies. These violations attract graded amounts of EC depending on the state of ambient air quality, which are given in Annexure-III.

4. Action Plan for Utilization of Environmental Compensation Fund

The Committee discussed about the utilization of funds, which will be received by imposing Environmental Compensation. The following Action Plan is proposed to utilize the fund for protection of the environment.

4.1. *When Environmental Compensation is calculated through the Pollution Index:*

The amount received by imposing the Environmental Compensation to the industries / organization non-complying with the environmental standards / violating any CPCB's directions/ EC levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR shall be deposited in a separate bank account. The amount accumulated will be utilized for Protection of Environment. The following schemes were identified, which may be considered for utilization of Environmental Compensation Fund:

- a. Industrial Inspections for compliance verification
- b. Installation of Continuous water quality monitoring stations / Continuous ambient air quality monitoring stations for strengthening of existing monitoring network
- c. Preparation of Comprehensive Industry Documents on Industrial Sectors / clean technology
- d. Investigations of environmental damages, preparation of DPRs
- e. Remediation of contaminated sites
- f. Infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs

The above proposed list may include other schemes also, depending upon the requirement.

Considering the availability of accumulated funds, CPCB will finalize the scheme, keeping in mind the priority, to utilize the funds of Environmental Compensation.

4.2. *When Environmental Compensation is assessed based on actual damage to the environment by Expert Organization/ Agency:*

The amount of Environmental Compensation under this case will be remediation costs, measures requiring immediate and short-term actions, compensation towards loss of ecology, etc., and will be utilized exclusively for the purpose at specific site, based on the detailed investigations by the Expert Organizations/ agencies.

5.0 Recommendations

The Committee made following recommendations:

- 5.1 To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986. In case of a, b and c, Environmental Compensation may be calculated based on the formula "EC = PI x N x R x S x LF", wherein, PI may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively, and R may be taken as 250. S and LF may be taken as prescribed in the preceding paragraphs.
 - 5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.
 - 5.3 In case of violations of GRAP, as enforced in Delhi-NCR, Environmental Compensation recommended in Annexure-III may be levied to defaulting agencies.
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