

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 09/2021 (CZ)

Sinala Vikas Samiti

Applicant (s)

Versus

Union of India & Ors.

Respondent (s)

Date of hearing : 15.09.2021

Date of uploading: 20.09.2021

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

For Applicant(s):

Mr. Dharamveer Sharma, Adv.

For Respondent(s):

Mr. Rohit Sharma, Adv.
Mr. Om Shankar Shrivatava, Adv.
Mr. Shoeb Hasan Khan, Adv.
Mr. Ashish Madan, Adv.
Mr. Yadvendra Yadav, Adv.
Mr. Ajay Gupta, Adv.

ORDER

1. The allegations giving rise to the present application are that, the respondent M/s Nirma Limited have established integrated cement project-clinker (1.48 MTPA) cement (2.28 MTPA) and captive power plant (25 MW) at villages Nimbol and Sinala, Tehsil Jaitaran District Pali (Rajasthan). The said project is transferred from M/s Siddhi Vinayak Cement Ltd. On 31st July 2017. The Environment Clearance (in short "EC") from Respondent MoEF&CC dated 29th March, 2011 issued in favour of M/s Siddhi Vinayak Cement Ltd. By concealment of fact particularly regarding distance of the Plant and crushing unit from the habitation which is within 500 mtrs, whereas, it is mandatory under law that, such unit should be established at least more than 1.5 Kms Arial distance from Abadi area. That, continuous operation of lime stone crusher in village Sinala causing continuous air pollution, noise pollution in the village and surrounding areas, adversely effecting health of inhabitants which is less than 500 mtrs from Abadi area.

2. Apart from the above violations of environmental norms the respondents has allegedly obtained NOC for withdrawal of Ground water in the year 2012 and as per guidelines such NOC is granted for limited period of 2 years, can be extended for further period only after due inspection from CGWA. But, as per information to the petitioner the NOC granted to respondent has not been renewed for further period and the company is excessively withdrawing ground water from hidden tube wells without valid permissions, impacting the ground water of the area. No recharge measures are adopted in compliance of the pervious Ground water permission/NOC issued to the respondent company.
3. The matter was taken up by this Tribunal on 19.05.2021 and a committee consisting District Magistrate, District Pali, Rajasthan, Regional Director, Central Ground Water Board, Jaipur and Rajasthan Pollution Control Board was directed to visit the place and submit the factual and action taken report. In compliance thereof, the committee had submitted the report which is as follows:-

“Point wise detail of factual status found as per observation of joint inspection and information collected at site is mentioned herein under:

1. Statue with respect to illegal withdrawal without valid NOC

- i. NOC for ground water withdrawal of 1123 m³/day or 370818 m³/year issued letter No.21-4(493)/WR/CGWA/2011-4952 dated 10.12.2012 through proposed 3 tube wells was issued to M/s Siddhi Vinayak Cement Private Limited for their proposed manufacturing of 1.48 MTPA clinker, 2.28 MTPA cement and 25 MW Power generation at village Singla, Digrana, Karadi, Dungamagar and Nimbol, Jaitrari Block, Pali district. Validity of NOC not mentioned in the letter.*
- ii. Central Ground Water Board, Jaipur vide letter dated 10/07/2015 advised the unit to apply for renewal irrespective of time period mentioned in the NOC or not.*

- iii. *M/s Nirma Limited (earlier M/s Siddhi Vinayak Cement Private Limited) has applied for renewal of NOC vide letter No. NL/RJ/ENV-132-B/379/2016 dated 09/05/2016 for 1123 m³/day or 370818 m³/year.*
- iv. *M/s Nirma Limited has intimated CGWA vide letter No. NL/RJ/ENV-132-B/514/2017 dated 15/09/2017 to replace 2 existing bore well with new bore wells due to dried up of existing bore wells.*
- v. *CGWA vide letter No. TS/21B(362)/CGWA/ WR/ 2010 - 5070 dated 06/06/2018 advised the unit to apply for renewal in prescribed format.*
- vi. *Inspection for status of compliance of conditions laid down in NOC was carried out on 31/10/2018. The unit had submitted revised renewal application (through offline mode) 1123 m³/day or 370818 m³/year for 3 existing tube wells vide letter No. 595 dated 2/11/2018.*
- vii. *Central Ground Water Board, Western Region, Jaipur office forwarded renewal application to Central Ground Water Authority, New Delhi on 25/2/2019 for consideration of renewal of NOC, decision for renewal of NOC was withheld by Central Ground Water Authority vide letter dated 01/03/2019 as per NGT direction in the matter of OA No. 176/2015.*
- viii. *Central Gmund Water Authority notified new guidelines on 24/9/2020 and accordingly unit has to Submit additional documents for processing of renewal proposal and to apply online.*
- ix. *The unit had applied online for renewal of NOC for ground water abstraction on 05/01/2021.*
- x. *As per Point No. 11{vi} of CGWA guidelines 24/9/2020 "if the application for renewal is submitted in time and the CGWA/the respective State/ UT Authority is unable to process the application in time, No Objection Certificate shall be deemed to be extended till the date of renewal of No Objection Certificate." Renewal of NOC is withheld by CGWA as per NGT direction in the matter of OA No. 32/2014.*

2. Status with respect to excessive ground water withdrawal from hidden tube wells.

As per Water Audit Report prepared by Federation of Indian Chamber of Commerce and Industry (FICCI), water consumption by the unit is 872 m³/day for 2019-20 and as per log details 756 m³/day for the year 2020-21.

In light of above details, ground water abstraction is under permissible limit of 1123 m³/day.

During inspection following bore wells were found:

- i. 03 bore wells (Pumping well) were fitted with pump and used for ground water withdrawal (Condition No. 2 of the NOC).*
- ii. 02 bore wells (Piezometer) fitted with digital water level recorder (DWLR) for water level monitoring purpose (Condition No. 5 of the NOC).*
- iii. 13 bore wells (Injection wells without pump or DWLR) for ground water recharge purpose (Condition No. 3 of the NOC).*
- iv. 02 bore wells are abandoned and not in use (Unit vide letter dated 15/09/2017 intimated to replace 02 existing bore well with new bore wells due to dried up of existing bore wells.)*

*A total of **20 bore wells were found** within premises. GPS location tagged photographs of pumping wells, piezometric well and few injection wells are marked. However, the committee has not found any additional bore well installed with pump or any hidden bore well(s) within premises.*

3. Status with respect to Non implementation of recharge measures as per last NOC

The Committee has visited plant premises and observed that 13 bore wells with recharge and filter pits have been constructed for recharge within premises. The unit has also mentioned that 16 ponds were also adopted for renovation /deepening for conservation /recharge outside industrial premises.

The unit has submitted No Objection Certificate from Water Resources Department, Pali dated 08/10/2013 regarding implementation of recharge measures by deepening of existing village ponds.

As per NOC, unit proposed to implement recharge measure of 9,29,303 m³/year and the recharge measure implemented by the unit is estimated to the tune of 750378 m³/year, which is about 81% of recharge as per NOC. However, the unit has implemented recharge 202% of annual ground water abstraction (Point No. 3.1: Criteria for Industries/Infrastructure/Mining Projects of prevailing CGWA guidelines 2015).

4. Compliance status of emission standards/environmental norms

- i. It is also mentioned herewith M / s Nuvoco vistas corporation Ltd. near village -Sinla and Nimbol, Tehsil- Jaitaran, District-Pali, is a integrated CEMENT plant. Consent to operate had issued to this cement plant from State PCB vide order dated 04.10.2017 for manufacturing of CEMENT@ 2.28 MTPA and CLINKER@ 1.48 MTPA with validity up to 31.08.2022, Consent to operate had issued for Residential Colony vide order dated 19.01.2017 issued for Build up Area-4822.60 Sq. mtrs. and Plot Area- 17.77 Hectare and validity up to 30.11.2021.
- ii. Consent to operate dated 25.06.2019 for DG Set-4.80 MW and Captive Power Plant-25.0 MW with validity upto 31.10.2023 had also accorded.
- iii. That detail of pollution control measures installed with the process of unit is mentioned herein under:-

Sr No.	Name of consented source of air emission	Installed APCM	Stack height (in meters)	Status of CEMS	Remarks, if any
1	Raw mill + Klin	Reveres air bag house	≈ 140	PM, Sox and Nox parameters are continuously transmitted at RSPCB and CPCB servers	Flow, temperature and pressure parameter alongwith live camera of all 5 Nos. office tax are also being continuous shared online
2	Coal Mill	Bag house	≈ 89	PM parameter is continuously transmitted at RSPCB and CPCB servers	
3	Clinker Cooler	ESP	≈ 60	PM parameter is continuously transmitted	

				at RSPCB and CPCB servers	with RSPCB server
4	Cement Mill	Bag house	≈ 51	PM parameter is continuously transmitted at RSPCB and CPCB servers	
5	CPP	ESP	≈ 101	PM, Sox, Nox and Hg parameters are continuously transmitted at RSPCB and CPCB servers	
6	Crusher	Bag house, covered primary and secondary crusher, water spray	≈ 26	NA	Metalled roads and conveyour belts were covered
7	Packer	Bag filter covered shed	-	PM-30 Mg / Nm3	

iv. Detail of pollution control measures installed with the process of unit and results shown in CEMS during visit are mentioned herein under:-

Sr No.	Name of consented source of air emission	Installed APCM	Stack height (in meters)	Standards as per consent to operate from the SPCB	Results shown in CEMS during visit
1	Raw mill + Klin	(RABH) Reverses air bag house	≈ 140	PM – 30mg / Nm3 Sox – 100mg/ Nm3 Nox -800mg /NM3	PM – 22.19mg / Nm3 Sox – 17.71mg/ Nm3 Nox - 592.87mg /NM3
2	Coal Mill	Bag house	≈ 89	PM – 30mg / Nm3.	PM – 9.61mg / Nm3
3	Clinker Cooler	ESP	≈ 60	PM – 30mg / Nm3.	PM – 15.37mg / Nm3
4	Cement Mill	Bag house	≈ 51	PM – 30mg / Nm3.	PM – 22.62mg / Nm3
5	CPP (Boiler)	ESP	≈ 101	PM – 50mg / Nm3 Sox – 600mg/ Nm3 Nox -300mg /NM3	PM – 29.93mg / Nm3 Sox – 147.15mg/ Nm3 Nox -142.79 mg /NM3
6	Lime Stone Crusher	Bag house, covered primary and secondary crusher, water spray, metalled roads and conveyor belts were covered.	≈ 26	PM – 30mg / Nm3. Fugitive emission - 600µg / m3 (measured between 3 to 10 meters from the source)	OCEMS not installed
7	Packer	Bag filter	-	PM-30 Mg / Nm3	PM-30 Mg / Nm3

- v. During inspection official of State Board has also conducted Ambient Air Quality monitoring, Stack Monitoring, & Noise monitoring. The details are as mentioned herein under:

Sl. No.	Sampling Location
1	Ambient Air monitoring at Hose of Sh. Bhawar lal Ji devasi, Village – Sinla, Tehsil – Jaitaran, District - Pali
	Ambient Noise monitoring at Hose of Sh. Bhawar lal ji devasi, Village – Sinla, Tehsil – Jaitaran, District - Pali
2	Ambient Air monitoring at staff colony of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District - Pali
	Ambient Noise monitoring at Staff colony of Nirma/Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District - Pali
3	Ambient Air monitoring at VIP guest hose near main gate of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District – Pali
	Ambient Noise monitoring at at VIP guest hose near main gate of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District - Pali
4	Stack Monitoring of Captive Power Plant
5	Stack Monitoring of Coal Mill

- vi. Analysis results of Ambient Air Quality Monitoring at nearby resident's home and plant site are mentioned herein under:-

Parameters			PM10 (μ/m^3)	SO ₂ (μ/m^3)	NO ₂ (μ/m^3)
Prescribed limits as per NAAQS-2009 and as per consent of RSPCB			100	80	80
AAQM Sampling Location	Report No.	Date of collection			
Ambient Air monitoring at Hose of Sh. Bhawar lal Ji devasi, Village – Sinla, Tehsil – Jaitaran, District - Pali	93	18.06.2021	76	4.15	14.20
Ambient Air monitoring at staff colony of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District - Pali	94	18.06.2021	87	3.68	12.71
Ambient Air monitoring at staff colony of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District - Pali	95	18.06.2021	110	8.58	24.74

- vii. Analysis results of point source (causes SO₂ emission) i.e. Power Plant units installed after 31.12.2003 and up to 31.12.2015 is mentioned herein under:-

<i>Parameters</i>			<i>PM (Mg / Nm3)</i>
<i>Prescribed limits as per MoEF&CC notification 2015 and as per consent of RSPCB</i>			50
<i>Sampling location</i>	<i>Report No.</i>	<i>Date of collection</i>	
<i>Stack of captive power plant (25MW) attached with ESP</i>	97	18.06.2021	27

viii. *Analysis results of emission monitoring from Stack of Coal Mill is mentioned herein under:*

<i>Parameters</i>			<i>PM (Mg / Nm3)</i>
<i>Prescribed limits as per EP Rules (MoEF&CC notification GSR (E) Dt. 10.07.2016) and as per consent of RSPCB</i>			30
<i>Sampling location</i>	<i>Report No.</i>	<i>Date of collection</i>	
<i>Stack of coal mill with bag house</i>	96	18.06.2021	24

ix. *Analysis results of emission monitoring from Stack of Coal Mill is mentioned herein under:-*

<i>Parameters</i>			<i>Noise level (dB(A))</i>
<i>Prescribed limits as per Noise Rules, 2000</i>			<i>Residential – 55 Industrial – 75 dB(A) Leq. (day time)</i>
<i>Sampling location</i>	<i>Report No.</i>	<i>Date of collection</i>	
<i>Ambient Noise monitoring at Hose of Sh. Bhawar lal ji devasi, Village – Sinla, Tehsil – Jaitaran, District – Pali</i>	90	18.06.2021	58.3
<i>Ambient Air monitoring at staff colony of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District – Pali</i>	91	18.06.2021	61.1
<i>Ambient Air monitoring at VIP guest house near main gate of Nirma/ Nuvoco cement plant, Village – Sinla, Tehsil – Jaitaran, District – Pali</i>	92	18.06.2021	60.2

5. Status of location of plant with respect to nearby Revenue village/habitation Sinla, Tehall- Jaitaran (Pali)

(i) *That the Distance of the plant from nearest colony was measured by patwari and Tehsildar as per revenue record and it was found about 600 meters. Copy of Mauka report submitted by SDM Jaitaran.*

- (ii) *It is submitted that as per State Board office order no. F.14 (23)policy /RPCB/Plg./153-189, dated 02.06.2020, cement plant are covered in RED category. It is an integrated Cement Manufacturing Unit, in which crusher is a part of the CEMENT plant. As per guidelines for Abatement and Control of Pollution for Stone Crusher industry vide State Board letter no. SCMG &DS/RPCB/Gen.- 3/313-354, dated 11.06.2018, only khatedari land or converted land is required for establishment of a crusher.*

6. Meeting with representative of Sinla Vikas Samiti.

Joint team has visited village Sinla and conducted a meeting with representative of Sinla Vikas Samiti at Govt. Primary School, Sinla. Details of the discussion are mentioned herein under:-

- (i) *Shri Abhay Singh Champawat, Chairman, Shri Balveer Singh, Secretary, Sinla Vikas Samiti, Shree Hanuman Singh S/o Sh. Roop Singh, Sh. Kaiash Maharaj S/o Sh. Mangilal and Sh. Bhawar Lal Dewasi villagers of Sinla were present in the meeting.*
- (ii) *Shri Abhay Singh Champawat, Chairman, Sinla Vikas Samiti informed that, there are 14 nos. of working tube well is inside the Cement plant.*
- (iii) *Shri Abhay Singh Champawat also visited the plant with the team member and shown some tube well inside and outside the unit. The tubes well situated within the premises were verified.*
- (iv) *SDM Jaitaran was advised to report about the status of outside tube wells (legal or illegal) and whether unit is getting water from outside source (tube well) or not also advised to submit the land title of tubewells shown by Sh. Abhay Singh.*
- (v) *SDM Jaitaran reported vide their letter dated 24.06.2021 that the distance of Stone crusher of this cement plant to village-Sinla is about 600 meters.*
- (vi) *Shri Balveer Singh stated that today the atmosphere is cloudy, so no use of doing ambient air quality monitoring and plant is also non operative.*

7. Conclusion/findings of joint inspection/visit on dated 18.06.2021

- a) *No additional bore well installed with pump inside premises were found. NOC for ground water withdrawal of 1123 m³/day or 370818 m³/year issued vide letter No.21-*

4(493)/WR/CGWA/2011-4952 dated 10.12.2012 is found issued and unit has applied for renewal which is withheld by CGWA as per NGT direction.

- b) The results of analysis reports are shown the efficiency of PCM installed with Source are inadequate for controlling of Ambient Noise in residential areas.
- c) During inspection plant was found operational, the details of production figure of that day was also shown in Central Control Room (CCR) unit of unit. The production data and emission data were displayed on CCR unit is enclosed. That crusher was found operational with PCM (Bag filter & covered conveyor belt).
- d) The online emission monitoring details displayed in Central Control Room (CCR) are as follows :- RABH-PM-22.19 mg/Nm³, RABH NO_x-592.87 mg/Nm³, RABH SO_x-17.71 mg/Nm³, Coal Mill PM-9.61 mg/Nm³, Cement Mill -PM 22.62 mg/Nm³, Cooler ESP-PM-15.37 mg/ Nm³, CPP-PM-29.93 mg/Nm³, CPP-NO_x-142.79 PPM, & CPP SO_x-147.15 PPM.

D. STATUS FOUND DURING RE-INSPECTION

A representation was given by the villagers to ADM, Pali regarding surprise visit of Cement plant and ADM, Pali has decided to carryout surprises inspection of the plant.

On dated 03.07.2021 joint team reached at Govt. Primary School, Sinla, Tehsil-Jaitaran, Dist. Pali and meeting was conducted with villagers i.e. Sh. Balveer Singh, Sh. Abhay Singh, Hanuman Singh, as per representation given by villagers Details of discussion are mentioned therein under:-

- A. The villagers informed to the team regarding plant is non-operational today and on last inspection dated 18.06.2021.
- B. Several Tube Wells are installed in and around the unit suit illegal abstraction is carrying out.
- C. The distance of this Cement plant from abadi is not adequate and using loudspeakers.

8. Conclusion/findings of joint inspection / visit on dated 03.07.2021

- A. As per villagers' representation, plant was again inspected by the team members and unit was found

operational, as per CCR record or during both time inspection dated 18.06.2021 & 03.07.2021. The details of production figure of that day were also shown in Central Control Room (CCR) of unit. The production data and emission data were displayed on CCR unit.

B. As per villagers' representation regarding Several Tube Wells were installed in and around the unit and illegal abstraction, it was found that a total 20 nos, of bore wells were found within premises. The details are as under:

- i. 03 nos. of bore wells (pumping well) were fitted with pump and used for ground water withdrawal*
- ii. 02 nos. of bore wells (Piezometer) fitted with digital water level recorder (DWLR) for water level monitoring purpose.*
- iii. 13 nos. of bore wells (Injection wells without pump or DWLR) for ground water recharge purpose.*
- iv. 02 nos. of bore wells are abandoned and not in use.*

The committee has not found any additional bore well installed with pump or any hidden bore well(s) within premises, however, two tube well near boundary wall of unit was also found, in which one has been dismantled and another one was not in operational condition.

C. On site ADM Pali has given direction to SDM & Nayab Tehsildar Jaitaran to take action against this bore well and submit their report to District Collector Pali.

D. As per direction of ADM, Pali, Patwari of that revenue village Sinla has measured the distance with complaintee and the SDM Jaitaran reported vide their letter dated 24.06.2021 that the distance of Stone crusher of this cement plant to village – Sinla is about 600 meters.

Looking to the results of the Ambient Air Quality and Noise level monitoring and location of plant & village Sinla, in windy season the possibility of reaching of suspended particulate matter in the village cannot be ruled out, therefore it is recommended that:

- (i) *Unit may be directed to provide dense plantation between the available land between village and unit and more trees is to be planted alongwith boundary of unit.*
- (ii) *The movements of vehicles (trucks) near the village Sinla, is kaccha road, so unit may be directed to do it metalled road or cemented and do plantation alongwith the road side with water spray system to control the fugitive emission.*
- (iii) *District administration/revenue department may be directed not to issue any land for residential purpose in periphery of the unit (500 meters).*
- (iv) *SDM Jaitaran may be directed to take immediate action against tube well/bore well established illegally in and around the unit if any and also on outside unit to stop the illegal extraction of ground water.*
- (v) *The unit may be directed to seal abandoned tube wells and submit compliance report.*
- (vi) *Unit may be directed to do more efforts to reduce noise level like dense plantation, controlling the loudspeakers, controlling the heavy vehicles movement.*
- (vii) *RSCP B may be directed to carry out quarterly or post monsoon Ambient Air and Noise monitoring of such plants around the vicinity of the area.*
- (viii) *CGWA may be directed to take decisions on pending renewal of applications for abstraction of ground water as per NGT direction.”*

4. The first ground which has been taken by the applicant is that there are illegal extraction of ground water.
5. The matter of illegal extraction of ground water has been taken up by Principal Bench of this Tribunal in O.A. No. 685/2019 vide order dated 15.05.2020 and it was observed as follows :-

“5. Needless to say that protection of ground water is of great significance, particularly in view of falling of ground water levels in Delhi. In O.A. No. 176 of 2015, Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors., the matter has been dealt with by this Tribunal in the last about 5 years which was last reviewed on

11.9.2019. Reference was made to the judgment of the Hon'ble Supreme Court in *M.C Mehta v. Union of India and Ors* (1997) 11 SCC 312 whereby the Hon'ble Supreme Court directed constitution of Central Regulatory Body in the light of the recommendation of an Expert Committee, under Section 5 of the Environment (Protection) Act, 1986 (EP Act). The Central Ground Water Authority (CGWA) has been constituted. The Tribunal found that effective functioning was far from satisfactory in achieving the object of protecting the ground water levels. With the result, illegal drawal of ground water by the hotels, industries and builders for commercial purposes in over exploited, critical and semi critical (OCS) areas was continuing at large scale. The Tribunal elaborately considered the problem and need for constant action by the regulatory authorities. After noticing the available data, the Tribunal noted the failure of the authorities in performing their duties on the subject on account of which situation continues to deteriorate. The Tribunal also considered and noted the report of the CPCB dated 26.06.2019 dealing with the methodology for assessment of environmental compensation for illegal extraction of ground water. It was observed:-

“1. Remedial action against falling groundwater levels in the country is the subject matter of consideration before this Tribunal. Taking cognizance of news item under the caption “Falling Groundwater Level Threatens City”, appearing in the Indian Express of 18.03.1996, the Hon'ble Supreme Court issued notice to the Central Groundwater Body and DPCC, Municipal Corporation of Delhi and Delhi Waterworks and Sewerage Disposal Undertaking (now DJB).¹ Suggestions were sought from NEERI and thereafter from Ministry of Water Resource. The MoWR acknowledged the problem and stated that a Model Bill has been prepared to regulate and control the development of groundwater in their respective areas.

4. The Hon'ble Supreme Court directed:

“9. The Central Government in the Ministry of Environment and Forest shall constitute the Central Groundwater Board as an Authority under Section 3(3) of the Act. The Authority so constituted shall

¹ (1997) 11 SCC 312

exercise all the powers under the Act necessary for the purpose of regulation and control of groundwater management and development. The Central Government shall confer on the Authority the power to give directions under Section 5 of the Act and also powers to take such measures or pass any orders in respect of all the matters referred to in sub-section (2) of Section 3 of the Act.

10. We make it clear that the Board having been constituted an Authority under Section 3(3) of the Act, it can resort to the penal provisions contained in Sections 15 to 21 of the Act.

12. The main object for the constitution of the Board as an Authority is the urgent need for regulating the indiscriminate boring and withdrawal of underground water in the country. We have no doubt that the Authority so constituted shall apply its mind to this urgent aspect of the matter and shall issue necessary regulatory directions with a view to preserve and protect the underground water. This aspect may be taken up by the Authority on an urgent basis.”

5. Even though 23 years have passed after the passing of the judgment of the Hon'ble Supreme Court, the situation of falling groundwater level has not improved and has in fact further deteriorated. Unfortunately, in spite of clear directions of the Hon'ble Supreme Court, the CGWA is not willing to take the ownership of the subject and repeatedly takes the plea that it does not have the infrastructure or that the responsibility of dealing with the problem is of the States and not that of the said authority. It is high time that the working of the CGWA is reviewed and remedial measures are taken including assessment of suitability of the person to head it.

6. Petitions have been filed before this Tribunal from time to time with the grievance of illegal drawal of groundwater by hotels, industries and builders for commercial purposes. The grievance of the applicants in the present application is that **there is fast depletion of ground water in NOIDA and Greater NOIDA, District Gautam Budh Nagar, U.P. There is**

large scale extraction of groundwater by various construction companies. Directions relating to the water harvesting are not complied with. No measures are properly adopted to stop the fast depleting ground water levels.

7. This Tribunal has ascertained facts and directed the regulatory authorities to take remedial action by way of closing such drawal, initiating prosecution and recovering compensation on 'Polluter Pays' principle.² A separate order is being passed in several other matters on the same subject.³

There is need for constant action by the regulatory authorities and mechanism for higher level review of working of such authorities to avoid unnecessary litigation.

8. We may now refer to some of the proceedings before this Tribunal in the present matter. Significant proceedings are reflected in orders dated 23.04.2015, 26.07.2018, 28.08.2018, 12.11.2018, 03.01.2019 and 07.05.2019. It was noted in the order dated 23.04.2015 that ground water level has gone down in NOIDA by 15 mtrs. between 2007-2014. **On 26.07.2018, it was noted that even apart from NOIDA, Greater NOIDA, Delhi and NCR, the situation in OCS region calls for stringent regulation for ground water extraction. In the order dated 28.08.2018, the Tribunal directed the Ministry of Water Resource (MoWR), Government of India, in consultation with the Ministry of Environment, Forest and Climate Change (MoEF&CC) and Ministry of Agriculture (MoA), to review the existing mechanism for effective conservation of ground water resources in OCS. It was directed that the policy framework must include monitoring mechanism by way of provision for coercive measures, consistent with the mandate in the judgement of the Hon'ble Supreme Court of India in M.C Mehta (supra). The guidelines of CGWA that permission to extract ground water in over exploited, critical and semi- critical (OCS) areas is to be**

² E.g. separate order passed today in Harinder Dhingra Vs. International Recreation & Amusement Ltd. & Ors O.A No. 458/2017.

³ Original Application No. 59/2012 (M.A. No. 34/2016 & M.A. No. 190/2016), Original Application No. 108/2013, Original Application No. 179/2013 , Appeal No. 67/2015 , M.A. No. 107/2019, Original Application No. 484/2015 Original Application No. 327/2018 , Original Application No. 115/2017, Original Application No. 411/2018, Original Application No. 613/2017, Original Application No. 614/2017

given only for drinking and domestic purposes were noted. OCS areas were identified and notified by the CGWA having regard to the depletion of groundwater level. OCS areas were further classified as 'notified' and 'non-notified' without any basis and 'non-notified' were not being regulated. The Tribunal directed remedial measures to be taken.

9. On 12.11.2018, the matter was further considered. After making reference to the 2012 Guidelines issued by the CGWA and Draft Guidelines dated 16.11.2015, the Tribunal noted following points:

- i. CGWA was repeatedly disowning its responsibility on the plea that regulation of ground water was a State subject, contrary to the mandate in the judgment of the Hon'ble Supreme Court in M.C Mehta (Supra).**
- ii. CGWA was failing to regulate drawal of ground water in OCS on the ground that it had not issued a notification except for some areas, and without such notification, there was no need for regulating extraction of ground water even in OCS.**
- iii. Extraction of ground water for commercial purposes was being allowed in OCS just by a mechanical condition that the ground water will be recharged, without ensuring compliance of such condition.**
- iv. Underground water was being allowed to be extracted for illegal constructions, bottling plants, swimming pools etc. without any impact study or effective steps for rain water harvesting for recharge of the ground water.**
- v. CGWA was repeatedly taking the plea that charges were being collected for permitting drawal of underground water for commercial purposes in OCS against the Precautionary Principle, Sustainable Development as well as Intergenerational Equity Principles.**
- vi. Difficulties of agriculturists needed to be addressed in a phased manner by persuading the agriculturists to switch over to less water consuming crops and to consider use of treated sewage water instead of**

extraction of fresh underground water, wherever viable.

vii. Untreated effluents are not to be discharged in the water.

10. Notification dated 12.12.2018 was issued by Ministry of Water Resources (MoWR) which was considered by this Tribunal vide order dated 03.01.2019. The Tribunal noted from the affidavit filed by the CGWA found that utilizable water in India is 1137 BCM which comprises of 690 BCM of surface water and 447 BCM of replenishable ground water resources. In the year 2009, about 2700 BCM of ground water was available in deeper aquifers, below the zone of water level fluctuations. Thus, ground water over exploitation is recommended to be restricted to sustainability of ground water by annual replenishment in order to facilitate long term sustainability of ground water. It is further stated that per year extraction is 253 BCM which is 25% of the global ground water extraction. Out of total 6,584 assessment units, 1,034 fall in over- exploited category (where extraction is more than 100% of recharge), 253 fall in critical category (where extraction is 90-100% of the recharge), 681 fall under semi-critical category (where extraction is 70-100% of the recharge) and 4,520 are under safe category (where extraction is 90% of the recharge). About 90% extraction is for agricultural purposes, 10% for drinking, domestic and industrial purposes. Industrial use is 5%. Model building bye- laws 2016 include the provision of rain water harvesting in all new buildings on plots of 100 sq. mtrs. and above. Entire storm water is to be captured for water harvesting through suitable structures in all public and open spaces of more than 500 sq. mtrs. Buildings having minimum discharge of 10,000 liters and above are required to have waste water recycling system for horticulture purposes. 'Mission Water Conservation' has been introduced by the Ministry of Agriculture, Government of India. Inter-Ministerial Committee has been constituted under the chairmanship of the Secretary, Ministry of Water Resources, Government of India. The Ministry is also carrying out training programme and Information, Education & Communication (IEC) activities for awareness. The Department of Land Resources is implementing water-shed development projects. Certain States have taken initiatives including Punjab Preservation of Subsoil Water Act, 2009

which ban early sowing of paddy nursery and transplantation of saplings. Maharashtra Groundwater (Development and Management) Act, 2009 prohibits drilling of deep wells within for agriculture or industrial usage, pumping of ground water for deep well of depth of 60 mtrs. or more. The CGWA has issued advisories and it requires taking of NOC for ground water withdrawal but the agriculture section is not subjected to ground water regulation on account of socio- economic implications. The steps taken by the CGWA include directions for rooftop rain water harvesting systems, ground water recharge measures along the National highways, State national highways, railway tracks, etc., artificial recharge in over-exploited areas, large and medium industries using ground water to take up the ground water conservation measures. CGWA imposes condition while granting NOC for withdrawal of ground water in States/UTs which do not have functional ground water authorities. NOCs are granted online in a user-friendly manner. Industries in safe category are exempted from NOC but in OCS areas, condition for grant of NOC is rain water harvesting/ground water recharge measures and NOCs are denied in over-exploited areas. Non-water intensive industries drawing ground water up to 100 m³/day are exempted from NOC in critical areas, non-water intensive industries drawing up to 50 m³/day are exempted from NOC. (In over-exploited areas, non-water intensive industries are exempted which are drawing ground water up to 25 m³/day. Permitted water extraction is restricted to 60% of the proposed recharge. Ground water extraction should not be exceeded 1,500m³/day for each unit. In semi-critical areas, ground water extraction is restricted to 200% and 100% of proposed recharge for non-water intensive and water intensive industries respectively. In critical areas, ground water extraction is permitted up to 100% and 50% of proposed recharge for non- water intensive and water intensive industries respectively. In over-exploited areas, ground water extraction is permitted up to 50% of the proposed recharge). Till 2015, existing industries were not required to seek any NOC. In compliance of order of the Tribunal dated 15.04.2015, existing industries were brought within the purview of NOC with effect from 16.11.2015.

xx.....xx.....xx.....xx

“13. The Tribunal noted the relevant statistics on the subject as follows:

“2. As per publication of NITI Ayog, India is placed at 120th amongst 122 countries in water quality index. Most states have achieved less than 50% of the total score in augmentation of groundwater resources, highlighting a growing national crisis. 54% of India’s ground water wells are decreasing in levels and 21 major cities across the country are expected to run out of ground water by 2020. Almost none of the States have built the infrastructure required to recharge groundwater in over exploited and critical areas. Several States such as U.P., Bihar, Rajasthan etc. have not put in place any regulatory framework for managing the groundwater. These states produce 20-30% of India’s agricultural output and groundwater accounts for 63% of all irrigation water. Therefore, unsustainable extraction in these states also poses a significant food security risk for the country. 3. About 60% of the irrigation needs, 85% of rural drinking water needs and 50% of urban water needs are met through ground water. The CGWB has categorised the areas into the following on the basis of availability of ground water resources:

Safe	(≤90%, No decline in water levels)
Critical	(>70% and ≤100%, decline in water levels)
Semi- critical	(<100%, decline in water levels)
Over- exploited	(>100%, decline in water levels)

4. As per another survey, India extracts most ground water. Globally, 25% of total annual global annual water is extracted in India. The extraction level is going up continuously

5. Depletion of ground water not only creates crisis for drinking water in absence of inadequate surface water being available in certain areas where there may be drought conditions, but also affects e-flow in rivers and can also increase salinity in soil.”

14. The Tribunal accordingly held:

“27. We are satisfied that the Notification dated 12.12.2018 tested on the Precautionary

Principle, Sustainable Development as well as Inter- generational Equity Principles is unsustainable in law and instead of conservation of ground water which is necessary for providing access to drinking water in OCS areas, as well also other needs of environment, including sustenance of rivers and other water bodies, it will result in fast depletion of ground water and damage to water bodies and will be destructive of the fundamental right to life under Article 21 of the Constitution of India.

28. Accordingly, the impugned Notification may not be given effect to in view of serious shortcomings as pointed above so that an appropriate mechanism can be introduced consistent with the needs of environment.”

16. Accordingly, affidavit filed by the MoEF&CC on 18.07.2019 and report of the CPCB dated 26.06.2019 have been put up for consideration today. We take up the said reports for consideration.

17. The report dated 18.07.2019 gives statistics as follows:-

“As per the latest assessment in categories of OCS areas Delhi is ranked first as 82% of total number of assessed units followed by Rajasthan (81%), Punjab (81%), Haryana (75%), and Tamil Nadu (50%)

In order to regulate ground water abstraction in Over Exploited / Semi – critical areas, CGWA notifies areas (blocks / talukas/ mandals/ firkas areas) under Environment (Protection) Act, 1986 for regulation of ground water development and management. In these notified areas, abstraction of ground water is not allowed for any purpose other than drinking and domestic use. For monitoring and supervision of notified area, CGWA has empowered district level authorities of State

Government under Section 4 of the Environment (Protection) Act, 1986. CGWA has notified total 162 areas in the country till 2012 out of 1033 identified Over Exploited areas.”

18. Apart from giving the above statistics the report deals with the review of institutional framework, gaps in groundwater management strategy and makes recommendations providing for levy of water conservation fee, criteria for extraction of groundwater in OCS area, registration of bore-wells, utilization of treated sewage water, shifting of cropping pattern and irrigation practices, optimal use of fresh water and best conservation practices. It is suggested that guidelines be prepared applicable pan India with liberty to lay down more stringent norms by the States depending on local conditions, making water resource estimation every two years, periodic assessment of OCS areas, inviting projects from experts for water management and preparation of decadal action plans.

19. The report remains deficient as the issue of preventing depletion of ground water has not been duly addressed. The effective enforcement mechanism of conditions subject to which groundwater extraction may be allowed in OCS areas has not been provided. Mere condition of recharge without clear strategy of enforcement is no safeguard for permitting extraction of groundwater. The report leaves many issues to be dealt with by further studies. The need for immediate concrete action to prevent further depletion is not met by the report nor the effective safeguards against abuse of permission for extraction in violation of conditions for extraction and effective remedies against rampant illegal extractions have been suggested. This shows that further remedial action needs to be taken.

20. The report of CPCB dated 26.06.2019 deals with methodology for assessing environmental compensation (EC), Formula for Environmental Compensation for illegal extraction of ground water, Environmental Compensation Rate (ECRGw) which has been further dealt with in different categories, i.e. ECRGw for Drinking & Domestic use for household purposes and those for institutional activity, commercial complexes, townships etc., ECRGw for Packaged Drinking Water Units, ECRGw for Mining, Infrastructure and Dewatering Projects, ECRGw for Industrial Units, Deterrent factors to compensate losses and environmental damage (for packaging drinking water units, mining, industrial and commercial purposes) and Deterrent Factor . Formula for Environmental Compensation for illegal extraction of ground water is as follows:

“5. Formula for Environmental Compensation for illegal extraction of ground water

The committee recommended that the formula considering water consumption, no of days, rates for imposing Environmental Compensation based on the purpose for illegal abstraction of ground water as well as the deterrent factor detailed below:-

$EC_{GW} = \text{Water consumption per day} \times \text{Environmental Compensation rate for illegal extraction of ground water (ECRGw)} \times \text{No. of Days} \times \text{Deterrent Factor}$

Where, water consumption is in m³/day and ECRGw in Rs/m³”

All other details can be seen from the report which is available on the website of CPCB. The report also gives recommendations as follows:

21. The committee has given following recommendations:

- 1. In case of fixation of liability, it always lies with current owner of the premises where illegal extraction of groundwater is taking**

place.

- 2. Violation duration may be assumed as at least one year in case where no evidence for period of installation of borewell could be established.*
- 3. For illegal industrial ground water abstraction, where metering system is not available, water consumption may be estimated as per consent conditions imposed by SPCB/PCC.*
- 4. Water intensive industries should only be permitted in safe, semi-critical and critical area, and should not be allowed to establish new industries in overexploited area.*
- 5. Water in over-exploited area should be permitted only for drinking purposes and industries established in this area without prior consent or NOC from CGWA or another concerned department must be closed down with immediate effect. No expansion in existing industrial activity should be permitted, irrespective of additional water demand arises or not.*
- 6. Present categorization of area (Over-exploited, Critical and Semi-Critical), as per CGWA shall be considered for calculation of EC, regardless of the area category when the period of violation started.*
- 7. In case of all existing cases having more than 5000 KLD ground water demand, permission may be given only after examining scientific assessment of water availability and assessing intergenerational equity by CGWA.*
- 8. The industrial units should be directed to adopt State of the Art technologies, use of surface water, treated waste water and reduce specific water consumption, thereby ground water demand is reduced by 10% over three years' period. The industries also be encouraged to create facilities for storage of*

excess storm water and adequate measures such as groundwater recharge as well as restoration of lakes /ponds in the vicinity of the industry.

9. In addition, all repeated violations will attract EC at 1.25 times the previous EC.

10. Authorities assigned for levy EC and taking penal action are listed below:

S. No	Actions	Authority
1	To seal illegal bore-well/tube-well to stop extraction of water and further closure of project	District Magistrate
2	To levy ECGw as per prescribed method	District Magistrate/ CGWA
3	To levy EC on industries involved in illegal abstraction of Groundwater, as per the method prescribed in report of CPCB- "EC for industrial units"	CPCB/SPCB/PCC
4	Prosecution of Violator	CGWA under Environment (Protection) Act, 1986 (or) SPCB/PCC under Water (Prevention and Control of Pollution), Act, 1974

22. CGWA shall maintain a separate account for collection and utilization of environmental compensation levied for illegal extraction of ground water on the violators. For easy understanding w.r.t levying of EC on violators as per the recommendation of CPCB, case studies given at Annexure II may please be referred.

24. We conclude this order with the following directions:

- (i) We constitute a Committee to go into the following questions:**
 - (a) Steps required to be taken for preventing depletion of ground water.**
 - (b) Robust monitoring mechanism to ensure that no ground water is unauthorizedly extracted, including review of manning and functioning of CGWA.**
 - (c) Robust mechanism to monitor conditions laid down for grant of permission for extraction of ground water.**
 - (d) Recommendations in the report of the CPCB dated 26.06.2019 referred to above.**
- (ii) The composition of the Committee will be as follows:-**
 - (i) Joint Secretary, MoEF&CC**

- (ii) **Concerned Joint Secretary, MoWR, dealing with the subject**
- (iii) **CGWB**
- (iv) **National Institute of Hydrology, Roorkee**
- (v) **National Remote Sensing Center, Hyderabad**
- (vi) **CPCB**

The nodal agency will be the Joint Secretary, MoWR for coordination and compliance. The Committee may look into the reports already submitted. The report may be furnished within two months by e-mail at judicial-ngt@gov.in.

6. Again the matter was taken up on 13.07.2020 by the Principal Bench of this Tribunal and it was observed that:-

*“In the context of Delhi, **there are repeated allegations of tankers Mafias engaged in extraction of ground water without any remedial action by the authorities.** In a recent order dated 06.05.2020 in O.A. No. 970/2019, Nand Kumar v. Govt. of NCT of Delhi, the Tribunal noted that out of 141 identified illegal borewells in Mayapuri area, DJB sealed only 4 and 137 illegal borewells were still continuing. This is merely one instance while the problem appears to be widespread.*

5 In O.A. No. 496/2016, Tribunal on its own motion v. Govt. of NCT of Delhi, the Tribunal is considering the issues relating to water management in Delhi, including the control of illegal extraction of ground water. The matter was initially taken up in the light of the news item dated 19.06.2015 in the Hindustan Times highlighting the problem of contamination of ground water in Delhi. The same is being dealt with for the last five years. Since steps taken by the authorities were not found to be satisfactory, vide order dated 30.08.2018, this Tribunal constituted an independent Monitoring Committee, headed by Justice S.P. Garg, former Judge of Delhi High Court. The Committee has undertaken extensive work. **The Committee has found that 14231 borewells were illegally operating in Delhi. 15% of the ground water had reached below 40 meters. Depleting of ground water was also affecting the flow the river Yamuna.** The Committee in its later report found that Subsidy in the form of free water was being misused and to avoid payment of water charges for more than 20,000 litres free water, ground water was being freely extracted

without any remedial action by the authorities. The Committee made its recommendations, including sealing of illegal borewells. The Tribunal, vide order dated 03.02.2020 in the said matter, directed the DJB to recover compensation from the persons illegally extracting ground water as per formula suggested by the CPCB.

6. In view of the above, we reiterate our directions for devising suitable effective mechanism for preventing extraction of ground water by way of unauthorized tubewells and wherever such illegalities found, prompt coercive measures must be taken. **Illegal extraction of ground water is a criminal offence under the EP Act. Compensation must be recovered on the formula already laid down. It will be appropriate that Chief Secretary, Delhi calls a meeting of all concerned within one month from today and oversees preparation of an appropriate SOP for fixing responsibility on the subject. Ministry of Jal Shakti may also take necessary steps in the matter.**

A copy of the order be forwarded to the Chief Secretary, Delhi, Secretary, Ministry of Jal Shakti, Govt. of India, DJB, CPCB, DPCC, Commissioners of all Municipal Corporation of Delhi, all the District Magistrates in Delhi and Justice S.P. Garg, former Judge of Delhi High Court.

List for further consideration on 17.08.2020 along with O.A. Nos. 970/2019, 176/2015 and 496/2016. The dates already fixed in O.A. No. 176/2015 and 496/2016 will stand re-scheduled accordingly.”

3. Accordingly, a report has been filed by the DPCC on 11.07.2020 to the effect that Environment Department, Government of Delhi has prepared SOP titled '**Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/tubewells**'.

4. In the SOP clear responsibilities have been assigned to various agencies as DJB/local bodies and block development officers for identification of illegal borewells depending on nature of use and Deputy Commissioners (Revenue) of the districts have been assigned the role of supervision of checking the violation and closure of illegal borewells. An inter departmental advisory committee has been constituted for each district to assist the Deputy Commissioners. It has been observed that often the drilling machines/rigs are used to dig illegal borewells the mechanism for

their regulation including registration and prior permission for movement and deployment has also been incorporated in the SOP. The mechanism for levying of environmental compensation has also been incorporated in the SOP. It is mentioned that Delhi Jal Board has already identified 19661 illegal borewells on which action is being taken and 7248 units have already been closed down by the district authorities. The remaining units are to be closed down on priority as these have been already identified and the process is to be completed within a period of three months.

5. The SOP is as follows:-

“Standard Operating Procedure (SOP):

- 1. Drawing ground water through borewell or tubewell for domestic, commercial, agricultural or industrial uses without the prior permission of the "Competent Authority" will be considered illegal and without authority of law. The Competent Authority is Delhi Jal Board in the entire NCT of Delhi except areas under the New Delhi Municipal Council (NDMC) and Delhi Cantonment Board (DCB). For borewells/tubewells for agricultural uses, the information on illegal extraction of ground water will be provided by the BDO to the Advisory Committee.*
- 2. The Deputy Commissioner (Revenue) of each district, who is the Authorised Officer under the direction dated 18.05.2010 is required to supervise checking violation i.e. detection of illegal wells and closure thereof through the SDMs.*
- 3. An Advisory Committee in each of the revenue districts with representatives from DJB, CGWB, 'ULBs, DPCC, reputed NGO has been constituted to assist the DC in detecting illegal borewells for taking action. Accordingly, the advisory committee will prepare a list of such illegal borewells every month by taking information from all available sources including Revenue Officers, representatives of Delhi Jal Board, ULBs, DPCC, NGOs and other relevant sources. Proactive action needs to be taken by the above representatives in detection of illegal extraction of ground water and furnishing the same to the Advisory Committee promptly. Superintending Engineer (SE), DJB is the Member Secretary of Advisory Committee, and he is required to ensure timely conduct of the meeting and also to record the proceedings.*

4. *The Delhi Jal Board has already identified 19661 such illegal borewells on which action is being taken and 7248 units have already been closed down by the district authorities. The remaining units to be closed down on priority as these have been already identified and the process to be completed within a period of three months. A weekly progress report district wise will be submitted to the Divisional Commissioner for monitoring. The illegal borewells/tubewells other than the list provided by DJB will be taken up for closure thereafter. Further, in the first phase, action against borewells/tubewells engaged in commercial exploitation of ground water will be taken.*
5. *In case the illegal borewell/tubewell is already constructed/operating, the same will be closed and the electricity supply to the energized tubewell will be disconnected even if it is through DG sets. In case of the illegal borewell/tubewell is under construction, then the drilling rig will also be sealed.*
6. *For the purpose of closure of illegal borewells/tubewells, joint action teams under the supervision of the concerned SDM will be formed for ensuring effective coordination. The joint team will comprise field functionaries from DJB, DISCOMs and Local Police.*
7. *The Deputy Commissioner who is the chairperson of the Advisory Committee will forward the details of illegal borewells to the DPCC for levying Environmental Compensation (EC) for illegal extraction of ground water.*
8. *The DPCC will assess EC as per the methodology devised by CPCB in its report dated 26.06.2019. After assessment of the EC, demand will be raised and in cases of non-recovery, SDM to recover EC as arrears of land revenue.*
9. *All the drilling machines/rigs utilized for boring purposes in Delhi are required to obtain registration from the offices of Deputy Commissioners of the concerned districts. The movement of drilling machines/rigs will be allowed for authorised drilling to the identified location and for specified duration by the concerned Deputy Commissioner.*
10. *The Delhi Police and Transport Department of Govt. of NCT of Delhi will allow movement of the drilling machines/rigs having the prior permission for such movement from the*

concerned Deputy Commissioner. The concerned Deputy Commissioner (Revenue), Deputy Commissioner of Police and Deputy Commissioner, Enforcement of Transport Department will be responsible for strict compliance of the guidelines regarding movement of drilling machines/rigs.

11. As provided in the direction dated 18.05.2010 issued under Section 5 of the Environment (Protection) Act, 1986 the Deputy Commissioner of each district will launch prosecution against the offenders related to ground water extraction on the recommendations of the Advisory Committee.

12 The concerned Advisory Committee of each district is responsible to ensure that there is no illegal extraction of ground water in the district.”

7. Respondent No. 8 Central Ground Water Board, Jaipur had submitted the counter affidavit with the facts that the NOC dated 10.12.2012 was issued to M/s Siddhi Vinayak Cement Private Ltd. for their proposed manufacturing at village Sinala, Digrana, Karadi, Dungarnagar and Nimbol, Jaitaran Block, Pali District and the NOC was accorded for a period of 2 years with condition that it would be renewed for a period of 3 years thereafter. CGWA vide order dated 06.06.2018 directed the Nirma Ltd. to apply for renewal in prescribed Performa but the decision for renewal of NOC was withheld and was communicated vide letter dated 01.03.2019, the Central Ground Water Authority notified new guidelines on 24.09.2020 and according to the Guidelines the applicant has to submit additional documents for processing of renewal document and applying online. The contention of the learned counsel for the respondent that if the application of renewal is submitted in time and the CGWA / the respective State/UTs /Authority is unable to process the application in time, NOC shall be deemed to be extended till the date of renewal, has no force. We are of the view that CGWA should have made arrangement for the interregnum. But there must be an Authority to act in accordance with law and guidelines issued by the Principal Bench of this Tribunal in O.A. No. 176/2015 must be observed. In case there is violation and extraction of ground water without any authority, the Statutory Authority, CPCB and SPCB are duty bound to proceed in accordance

with law and to do legal necessary action in addition to calculation and realization of Environmental Compensation.

8. Accordingly, we reiterate our directions for devising suitable effective mechanism for preventing extraction of ground water by way of unauthorized tubewells and wherever such illegalities are found, prompt coercive measures must be taken. Illegal extraction of ground water is a criminal offence under the Environment (Protection) Act, 1986. Compensation must be recovered on the formula already laid down. It will be appropriate that Chief Secretary, Rajasthan, Secretary In charge, Water & river matters, Secretary, Environment, calls a meeting of all concerned within reasonable time and oversees preparation of an appropriate SOP for fixing responsibility on the subject. We make it clear that mere submission of an application to the CGWA does not directly or indirectly mean permission to the authorities or person concerned for extraction of ground water. Unless and until there is a permission from the Competent Authority, no one has right to commit illegalities and to act in violation of the Water (Prevention and Control of Pollution) Act, 1974, accordingly the person /authorities/industries extracting ground water without any authority from the competent person must be closed immediately and reasonable compensation according to the parameter laid down and discussed above must be assessed and realised. We accept the report and direct the Collector concerned and the State Pollution Control Board to ensure the Environmental Laws, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and in-case it is found that the unit / person is violating the laws, appropriate legal action must be initiated in addition to the calculation and realisation of Environmental Compensation. State Pollution Control Board is at liberty to proceed in accordance with law particularly legal action for realisation of environmental compensation. The action in accordance with the report submitted by the committee must be acted and implemented.

9. Learned counsel for the respondent no. 9 has submitted that he has been wrongfully impleaded for the reasons that the unit has been transferred to other

person/ party. In this matter the SPCB is directed to see the matter and to act in accordance with law.

10. Applicant as well as respondents are in agreement that the action may be initiated in accordance with the joint committee report. Accordingly, we finally **dispose of this Original Application** with the direction to CPCB, SPCB to act in accordance with the report submitted by the joint committee and in case of any default or violation of the Environment (Protection) Act, 1986 or the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 a legal necessary action, be initiated.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

September 20th, 2021
O.A. No. 09/2021 (CZ)
PN