



By Speed Post

F. No. B-190019/NGRBA/CPCB/2018-19

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January 21, 2020

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To,

M/s. Mother Dairy Calcutta,
P.O. Dankuni Coal Complex,
District: Hooghly-712310
West Bengal.

SHOW CAUSE NOTICE UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986 TO LEVY ENVIRONMENTAL COMPENSATION FOR INTENTIONAL AVOIDANCE OF OCEMS DATA SUBMISSION - REG.

WHEREAS, the Ministry of Environment, Forest and Climate Change, Govt. of India, vide its notification S.O.157(E) dated 27.02.1996, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue directions to any industry, Municipal Corporation, Municipal Council, Cantonment Board, any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986 and other standards and norms; and

WHEREAS, CPCB issued directions dated 05.02.2014 under Section 18 (1) (b) of Water (Prevention & Control of Pollution) Act, 1974 to State Pollution Control Boards (SPCBs)/Pollution Control Committees (PCCs) of 11 Ganga River Basin States for installation of online effluent monitoring systems w.r.t. pH, BOD, TSS, COD and flow parameters in Grossly Polluting Industries; and

WHEREAS, it was clarified that flow meter & web camera may be installed in case of units with Zero Liquid Discharge (ZLD), CETP member units or units having effluent generation of <10 KLD; and

WHEREAS, CPCB issued directions dated 02.03.2015 under Section 18 (1) (b) of Water (Prevention & Control of Pollution) Act, 1974 to SPCBs /PCCs for granting extension of time up to June 30, 2015 for installation of online monitoring systems; and

WHEREAS, CPCB issued letter dated 29.05.2015 to all the SPCBs/PCCs informing that no further extension of time will be given after June, 2015 and withdrawal of consent to operate of non-complying units will be the only option; and

WHEREAS, the GPIs need to follow the guidelines published by CPCB for OCEMS available on the link <http://cpcb.nic.in/upload/thrust-area/revised-GUIDELINES-final-sent-for-publication-on-07.11.2014.pdf> and amended thereof; and

WHEREAS, M/s Mother Dairy Calcutta, Dankuni, Hooghly, West Bengal (hereinafter referred as the 'unit') is involved in the process of Food Dairy; and

WHEREAS, CPCB vide directions dated 30.07.2015 and 21.06.2016 issued under Section 5 of Environment (Protection) Act, 1986 directed the GPIs to ensure connectivity of the OCEMS and submission of online 24x7 monitoring data to SPCBs/PCCs and CPCB server; and

WHEREAS, as per the record, OCEMS data transmission of the unit is not available with CPCB server since 16.11.2017; and

WHEREAS, CPCB vide letter dated 27.06.2019 asked the unit to explain reasons of failure of OCEMS data transmission to CPCB server and to restore data connectivity within 15days; and

WHEREAS, no reply was received from the unit; and

WHEREAS, CPCB issued show cause notice dated 29.07.2019 under section 5 of Environment (Protection) Act, 1986 to the unit, as to why it should not be closed down; and

WHEREAS, the unit vide letter no. MDC/OCEMS/2225 dated 12.08.2019, requested for 'six months' time to restore data transmission to CPCB server, which is in violation of CPCB directions dated 30.07.2015, 21.06.2016 and 29.07.2019 issued under section 5 of Environment (Protection) Act, 1986 to the unit; and

WHEREAS, the Unit vide letter no. MDC/OCEMS/3226 dated 23.10.2019 informed that the unit has installed OCEMS system and waiting for registration/ connectivity with CPCB system; and

WHEREAS, IT Division, CPCB verified on 02/12/2019, that the unit is yet to restart the OCEMS system and the unit is yet to complete registration of OCEMS system with CPCB portal;

It is evident that the unit has failed to provide OCEMS data uninterruptedly as per CPCB directions dated 29.07.2019.

AND WHEREAS, 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., dated 04.09.2019, 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"; and


WHEREAS, in compliance of above referred Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to

the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, as per the Methodology for Assessing Environmental Compensation, the environmental compensation amount is calculated to be Rs. **19,68,750** /- (Rs. Nineteen lakhs Sixty-Eight Thousand Seven hundred and Fifty only) for the non-compliance period (13.08.2019 till 16.12.2019) based on the formula "**EC= PI*N*R*S*LF**", wherein the values taken for **PI=50** [Pollution Index (which may be taken as 80, 50 and 30 for Red, Orange and Green category of Industries)], **N=126** (Number of Days), **R=250** (A factor in Rupees for EC) **S=1** (Factor for scale of operation), and **LF=1.25** (Location Factor) and:

NOW THEREFORE, based on above observations and in exercise of powers delegated under Section 5 of the Environment (Protection) Act, 1986, the unit, **M/s Mother Dairy Calcutta, Dankuni, Hooghly, West Bengal** is hereby directed to **show cause as to why** the unit should not be closed down for discontinuation of connectivity and unavailability of OCEMS data on CPCB server and why not Environmental Compensation of Rs. **19,68,750** /- (Rs. Nineteen lakhs Sixty-Eight Thousand Seven hundred and Fifty only) shall be levied for the non-compliance period from 13.08.2019 till 16.12.2019, for intentional avoidance of OCEMS data submission.

You are hereby given an opportunity to file your objections (if any) to the above proposed notice within 15 days from the receipt of this notice, failing which it will be presumed that you have nothing to say and appropriate action, in accordance with the provision of the Environment (Protection) Act, 1986 will be taken against the unit without giving any further notice.


28/1/20

(S.P.S. PARIHAR)
CHAIRMAN

Copy to:

1. **Member Secretary** : With request to ensure the compliance
West Bengal Pollution Control Board,
Paribesh Bhavan, 10A, Block-L.A, Sector III,
Salt Lake City, Kolkata, West Bengal- 700106
2. **Joint Secretary (CP Division)** : For kind information please
Ministry of Environment, Forests & Climate
Change, Indra Paryavaran Bhavan, Jor Bagh
Road, New Delhi - 110 003
3. **Regional Director (North)**
Regional Directorate (E)
Central Pollution Control Board, Southern
Conclave, Block 502, 5th & 6th Floors,
1582 Rajdanga Main Road, Kolkata 700107
West Bengal : For kind information please
4. ✓ Incharge, IT Division, CPCB : For uploading on CPCBs website
5. Master copy WQM-II, CPCB : For records


(PRASHANT GARGAVA)
MEMBER SECRETARY