



SPEED POST/EMAIL

F. No. B-100 KLD (08)/FDB/WQM-II/CPCB/2017-18

Dated 24.05.2021
27

To

M/s Ganga Dairy,
Tulsipuram, Ramghat Road,
Atrauli, Aligarh-202280, Uttar Pradesh

**DIRECTION UNDER SECTION 5 OF THE
ENVIRONMENT (PROTECTION) ACT, 1986**

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rule framed there under; and

WHEREAS, Dairy units are identified as one of the Grossly Polluting Industries which have been discharging environmental pollutants directly or indirectly into the ambient air and water, having potential threat to cause adverse effect on the water quality; and

WHEREAS, the Ministry of Environment & Forests, Government of India, vide Notification No. S. O. 157 (E) of 27.02.1996 and S. O. 730 (E) dated 10.07.2002, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board, to issue directions to any industry or any local body or any other authority for violation of emission and effluent standards and rules notified under the Environment (Protection) Rules, 1986 and amendment thereof; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharged standards as notified under the Environment (Protection) Act, 1986 and the rules framed there under and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/Pollution Control Committees (PCCs); and

WHEREAS, M/s Ganga Dairy, Tulsipuram, Ramghat Road, Atrauli, Aligarh-202280, Uttar Pradesh (hereafter referred to as the 'Unit') is involved in chilling and pasteurization of milk and manufacturing of ghee and milk powder; and

WHEREAS, the unit was jointly inspected by CPCB and UPPCB officials on 27.03.2018 and it was found non complying w.r.t discharge norms (BOD =113mg/l; oil and grease=40 mg/l) as well as presence of temporarily blocked channel connected to a pond; and

WHEREAS, CPCB issued closure direction dated 14.05.2018 under section 5 of the Environment (Protection) Act, 1986 on the basis of the inspection report; and

WHEREAS, the unit's replies dated 28.07.2018, 07.02.2019, 10.04.2019 and 23.04.2019 were examined; and

WHEREAS, the unit was inspected by CPCB officials on 01.05.2019 for verification of the compliance status and following observations were made:

1. The unit was found operational in violation to CPCB closure direction dated 14.05.2018 issued under section 5 of Environment (Protection) Act, 1986.

2. OCEMS display showed results as pH-7.95, COD-132.61 mg/l, BOD-16.15 mg/l, TSS-72.42 mg/l and Flow-9.9 m3/hr.
3. Untreated waste water was bypassed from the back wall of the ETP into an open permeable land. Analysis of samples showed **pH 5.81** against norms of 6.5-8.5, **COD 875 mg/L** against norms of 250 mg/L, **BOD 393 mg/L** against norms of 100 mg/L, **TSS 171 mg/L** against norms of 100 mg/L and **Oil & Grease 57 mg/L** against norms of 10 mg/L.
4. Existence of Bypass channel from inlet channel to open permeable land was observed.
5. It was informed by the unit's representative that it is operational since October, 2018 as per the revocation order of UPPCB, dated 08.02.2019. As per the documents collected, UPPCB had issued closure direction on 02.11.2018 to the unit and revocation direction was issued by UPPCB on 08.02.2019 only for two months.
6. The unit is in operation in violation of direction dated 14.05.2018 issued by CPCB and direction dated 02.11.2018 by UPPCB.
7. The treated effluent was discharged into open permeable pond across the road.

AND WHEREAS, CPCB issued closure direction dated **17.05.2019** under section 5 of the Environment (Protection) Act, 1986 to the unit along with levying of an environmental compensation (EC) of Rs 22,37,500/- (Rupees twenty two lakhs, thirty seven thousand and five hundred only) for non-compliance period between 14.05.2018 (date of closure direction) and 06.05.2019 (date of approval of EC to be levied on the Unit) and to comply with the following directions;

1. The unit shall close down all its manufacturing operations with immediate effect and shall not resume its operations.
2. The Unit shall deposit the EC of Rs 22,37,500/- within 15 days from date of receipt of the direction.
3. The unit shall dismantle all bypass arrangements immediately.
4. The unit shall not start its operation without complying with the above directions and written permission from CPCB.

AND WHEREAS, the unit submitted self-certificate dated 29.06.2019 and informed that the unit has closed all its manufacturing operations w.e.f., 24.06.2019; and

WHEREAS, CPCB vide letter dated **09.07.2019** asked the unit to deposit the environmental compensation of Rs. 22,37,500/- within the given time period; and

WHEREAS, the unit was inspected by CPCB officials on **10.07.2019** for verification of their compliance status and following observations were made:

1. Bypass near ETP inlet was observed.

AND WHEREAS, CPCB vide letter dated 25.07.2019 asked the unit to dismantle bypass arrangement and to deposit the EC levied on the unit; and

WHEREAS, the unit's reply dated 08.08.2019 was examined and following observations were made:

1. The unit completely dismantled the structure of bypass arrangement.
2. The unit submitted the photographs and videos of the dismantled structure of bypass.
3. The unit has not submitted Environmental Compensation.

AND WHEREAS, the unit was inspected by CPCB officials on 27.08.2019 to verify the claim of the unit and following observations were made:

1. Both bypass arrangements were dismantled & concrete pathway was laid.
2. The unit was not operational.

AND WHEREAS, the Three-Member Committee in its meeting held on 17.09.2019 examined the replies of the Unit and recommended that the Unit may be allowed to resume operations; and

AND WHEREAS, CPCB issued revocation direction dated 15.10.2019 and directed the Unit to comply with the following directions:

- (i) The unit shall resume operation and shall treat their effluent to meet the effluent discharge standards as notified under Environment (Protection) Rules, 1986.
- (ii) The unit shall submit performance assessment report of the treatment system including analysis of treated effluent by the reputed government institute within 60 days.
- (iii) The unit shall immediately inform to CPCB regarding the date of resumption of operations.
- (iv) The unit shall deposit **Rs 22,37,500** in CPCB A/c No. 532702050000164 (Bank name: Union Bank Of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation along with @ 12% simple interest for delay period within 15 days from the date of receipt of direction.

AND WHEREAS, the Unit vide letter dated 06.01.2020 requested for waiver of the environmental compensation (EC) levied on sympathetic grounds as well as informed CPCB that it had filed a case in the District Court and the case (No. 911/2019) is under trial in Aligarh Jurisdiction; and

WHEREAS, in compliance to the NGT order dated 22nd May, 2019, the personal hearing of the Unit before the Committee constituted vide office order F.No. MSCB/03/2017/930 dated 24.11.2020 to examine the representations against levying of environmental compensation, was held on 23.02.2021 at 02:30 PM through video conferencing; and

WHEREAS, the Four Member Committee made the following decisions w.r.t Unit's submissions on waiver of the EC levied on it:

1. The unit was found violating CPCB closure directions and having bypass arrangements during two consecutive CPCB inspections dated 01.05.2019 and 10.07.2019. Therefore, in accordance to the policy and guidelines developed by CPCB in compliance to Hon'ble NGT order in the matter of (OA No. 593/2017 (WP CIVIL) No. 375/2012), waiver of environmental compensation cannot be considered.
2. The period of non-compliance shall be from 14.05.2018 (date of closure directions) till the date the unit closed down its operations. The unit may provide proof of non-operation or closure, between date of closure directions and date of re-inspection dated 10.07.2019 (wherein the unit was found closed down), so as to claim non-applicability of EC for such number of days. The unit shall submit such documentary evidence within 15 days to claim waiver in EC, accordingly.

AND WHEREAS, The minutes of personal hearing were communicated to the Unit on 11.03.2021 and it was directed to submit documentary evidence to claim exemption of EC for the non-operational days during the non-compliance period; and

WHEREAS, the Unit submitted reply dated 16.03.2021, which was examined and following observations made:

- a. The Unit had stopped its operation on 10.04.2018 due to shortage of milk and the same was intimated to CPCB vide letter dated 28.07.2018. Again, the Unit was found non operational during third party inspection dated 30.07.2018. Therefore, it can be deduced that the Unit was non operational from 10.04.2018 to 31.07.2018. .
- b. The Unit was issued a closure direction by UPPCB on 04.02.2019 and it was conditionally revoked on 08.02.2019 for a period of two months. Therefore, the Unit was non operational from 04.02.2019 to 08.02.2019
- c. The Unit had stopped all its manufacturing operations from 06.04.2019 for internal maintenance and CIP procedure but it was found operational during CPCB inspection dated 01.05.2019. However, based on the electricity bill submitted for the month of April, 2019, it is assumed that the Unit was operational intermittently.
- d. The production data for the period from October,2018 to 10th January,2019 provided by Unit during CPCB inspection dated 10.07.2019 was tallied with its electricity bill and power consumption to draw the inference that Unit may have only been intermittently operating for few days from August 2018 to December, 2018 and again from March to May, 2019.

AND WHEREAS, based on information submitted by Unit regarding its non operational days, following conclusions have been drawn:

1. The total number of days of non-compliance from 14.05.2018 (date of issue of closure direction) to 06.05.2019 (date on which proposal for levying of EC was approved). – **358 days**
2. Total number of non-operational days during the non-compliance period – **240 days** (79 days {from 14.05.2018-31.07.2018} + 26 days {in August} + 25 days {in September} + 16 days {in October} + 25 days {in November} + 20 days {in December} +7 days {in January 2019} +5 days {from 04.02.2019-08.02 2019} + 19 days {in March} +18 days {in April})
3. Total number of operational days during the non-compliance period — **118 days** (5 days {in August} + 5 days {in September} + 15 days {in October} + 5 days {in November} + 11 days {in December} + 24 days {in January 2019} + 23 days {in February, 2019} + 12 days {in March} + 12 days {in April} + 6 days (01.05.2019 to 06.05.2019).

AND WHEREAS, in accordance to the decisions made by Four Member Committee during personal hearing dated 23.02.2021, the number of non-operational days have been exempted from EC calculation and EC is recalculated as per the 'Methodology for assessing environmental compensation and action plan to utilize the fund' developed by CPCB and "Policy for levying environmental compensation for industries" issued vide office order dated 04.09.2019; and

WHEREAS, the details of revised EC calculation for operational days (i.e., 118) is as follows:

$$\begin{aligned} \text{EC} &= \text{N*PI*R*S*L.F} \\ &= 118*50*250*0.5*1 \\ &= 7,37,500 \end{aligned}$$

Where,

- N** = No. of days of violation excluding the nonoperational days of the Unit during the aforesaid period of non-compliance.
- PI** = Pollution index which is taken as 50 in accordance to the sector specific value defined in the 'Final Document on Revised Classification of Industrial Sectors under Red, Green, Orange and White Categories'.
- R** = R is a factor in rupees which is taken as 250 in accordance to the 'Methodology for assessing environmental compensation and action plan to utilize the fund' developed by CPCB
- S**= S is a factor for scale of operation and since the Unit is large industry so S-Factor is taken as maximum.
- L.F**= Location factor is taken as 1 because the Unit is located more than 10 km (>10 km) from the municipal boundary and having population less than 1 million.

NOW THEREFORE, in exercise of the powers delegated to the Chairman CPCB, under section 5 of the Environment (Protection) Act, 1986, the unit **M/s Ganga Dairy, Tulsipuram, Ramghat Road, Atrauli, Aligarh-202280, Uttar Pradesh** is hereby directed to comply with the following directions:

1. The unit shall deposit the revised Environmental Compensation of Rs. 7, 37, 500/- (Rs. Seven lakhs lacs, thirty seven thousand, five hundred only) into the CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271). In case of delay, simple interest @12% shall be levied for the delay period.
2. The Unit shall provide detail of the EC amount deposited to CPCB within 15 days from date of receipt of letter. EC deposited in the CPCB account will be spent by CPCB as per the EC utilization policy as approved by Hon'ble NGT.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action without any further notice, in accordance with the provisions of the Environment (Protection) Act, 1986.



(SHIV DAS MEENA)
CHAIRMAN

Copy to:

- 1) **Member Secretary,**
Uttar Pradesh Pollution Control Board,
Building No. TC-12V, Vibhuti Khand, Gomti Nagar
Lucknow-226 010, Uttar Pradesh : for ensuring compliance please.
- 2) **Joint Secretary (CP) division**
Ministry of Environment, Forests and Climate
Change, : for information please.

Prithvi Wing, 2nd Floor, Room No. 216
Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road, New delhi-110003

3) **Regional Director (North),**
Central Pollution Control Board
Regional Directorate, PICUP Bhawan Vibhuti
Khand, Gomti Nagar, Lucknow - 226 010

: for information please.

4) **District Magistrate**
Aligarh, Uttar Pradesh

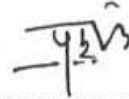
: for information please.

✓ 5) I/c IT division, CPCB, Delhi

:
: for uploading the direction at
CPCB website.

6) Master copy (Dairy), WQM-II Division.

: for record



(PRASHANT GARGAVA)
MEMBER SECRETARY