



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

2400/D.S.

Speed Post

Date: 18.06.2021
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To,
M/s Harinagar Sugar Mills Ltd.
Harinagar, West Champaran,
BIHAR-845103

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 rules framed there under; and

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

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

WHEREAS, M/s Harinagar Sugar Mills Ltd., Harinagar, West Champaran, Bihar (hereinafter referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the unit was inspected on 12.01.2018 by CPCB officials and the following observations were made:

1. The unit was found non-complying w.r.t. TSS (55 mg/l against the norms of 30 mg/l) on the surface water discharge
2. The unit had not installed tertiary treatment system.
3. The unit had not installed the flowmeter at the inlet of ETP, overflow of spray pond and other unit operations.
4. The wastewater generation was 229 litre/ tonne which is higher than the permissible limit.
5. The unit had constructed a lagoon with capacity of 32,000 m³ which is adequate for the 10,000 TCD but unit was operating at a capacity of 11,500 TCD.

6. The unit submitted the irrigation management plan & revalidated ETP adequacy assessment report.

WHEREAS, CPCB issued show cause notice dated 23.04.2018 under Section 5 of the Environment (protection) Act, 1986 to the unit; and

WHEREAS, the unit submitted replies to the show cause notice vide letters dated 16.05.2018, 25.05.2018 and 30.08.2018;

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention (thereafter referred to as the Charter); and

WHEREAS, a meeting of representatives from sugar mills operating in Bihar, officials of Bihar State Pollution Control Board (BSPCB) and CPCB was held on 10.08.2018 under Chairmanship of Chairman, BSPCB during which following decisions were made:

1. Sugar Mills shall submit an action plan to CPCB by 20.08.2018 regarding the steps taken by them pertaining to the notices issued to them. Also, they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of the Charter and shall submit action plan to CPCB by 15.09.2018.
3. All sugar mills shall ensure the upgradation of their ETP within August 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar mills shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letters dated 14.08.2018 and 15.09.2018 submitted their action plan and implementation status of the Charter for water recycling and pollution prevention in sugar factories; and

WHEREAS, CPCB issued compliance direction dated 20.11.2018 against show cause notice under section 5 of the Environment (Protection) Act, 1986 to the unit; and

WHEREAS, the unit replies vide letters dated 17.12.2018 & 24.01.2019 were examined; and

WHEREAS, the unit was inspected on 26.03.2019 by team of CPCB officials and the following observations were made:

1. Analysis of treated effluent samples showed pH-8.2 against the norms of 5.5-8.5, BOD-03 mg/l against the norms of 100mg/l, TSS 08 mg/l against the norms of 100mg/l, COD-25 mg/l against the norms of 250mg/l and TDS 681 mg/l against the norms of 2100mg/l, O&G-BDL against the norms of 10 mg/l which indicates compliance w.r.t. on-land effluent discharge norms of the Environment (Protection) Rules,1986. MLSS in aeration tank was 1150 mg/l, which indicates unstabilised aeration tank and dilution of FTP system.
2. Analysis of treated effluent samples of lagoon showed pH-6.6 against the norms of 5.5-8.5, BOD-334 mg/l against the norms of 100mg/l, COD-622 mg/l against the norms of 250mg/l, TSS-63 mg/l against the norms of 100mg/l, TDS -1349mg/l against the norms of 2100mg/l and O&G-BDL against the norms of 10 mg/l which indicates non-compliance w.r.t BOD and COD as per on land effluent discharge norms of the Environment (Protection) Rules,1986.
3. The unit has installed OCEMS at final outlet.

AND WHEREAS, The Hon'ble National Green Tribunal (NGT), 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*"; and

WHEREAS, in compliance of above quoted 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, CPCB issued circular dated 28.05.2019 for amendment in policy to maintain uniformity in action towards imposing environmental compensation (EC) for sugar mills which prescribes as under;

1) $EC = PI \times N \times R \times S \times L$

Where, EC is Environmental Compensation in ₹, PI = Pollution Index of Industrial Sector (80), N = Number of days of violation took place R = A factor in Rupees for Penalty (250), S = Factor for scale of operation (1.5) and LF = Location Factor (1)

- 2) Number of days (N) calculated as date of start of current crushing season to 1) date of issue of direction or 2) date of compliance reported by CPCB or SPCB or 3) date of closing of crushing season (whichever is earlier among 1-3 in case SCN is confirmed).

AND WHEREAS, as per the methodology for assessing penalty and environmental compensation, the environmental compensation levied to the unit was calculated as **Rs. 54,60,000/-** (Rupees fifty-four lakhs sixty thousand only) for the non-compliance period (14.11.2018 i.e. date of start of crushing season to 14.05.2019 i.e. date of issue of direction), for the current crushing season 2018- 19; the calculation details are as under;

$$\begin{aligned} EC &= PI \times N \times R \times S \times LF \\ &= 80 \times 182 \times 250 \times 1.5 \times 1 \\ &= \text{Rs. } 54,60,000/- \end{aligned}$$

AND WHEREAS, CPCB issued directions dated 30.05.2019 to the unit, to comply with the following directions:

1. The unit shall close down its Sugar manufacturing operations with immediate effect and shall not resume its operations till augmentation and upgradation of ETP system is carried out.
2. The unit shall submit adequacy assessment of treatment facility by reputed govt. institute; including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.
3. The unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.
4. The unit shall deposit **Rs. 54,60,000/-** in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation within 15 days from the date of receipt of direction.

AND WHEREAS, CPCB issued letter dated 31.07.2019 to the unit and directed the unit to deposit EC along with simple interest @12% for delay period.; and

WHEREAS, the unit vide letters dated 08.06.2019, 08.07.2019 and 06.08.2019 submitted the documents, which were examined and the following observations were made:

1. The unit closed its manufacturing operation on 23.04.2019.
2. The unit submitted adequacy assessment report of effluent treatment plant by reputed govt. institute in June, 2019; including work completion report regarding implementation of the recommendations of the adequacy report.
 - a) The adequacy report indicates that ETP system comprises of bar screen chamber, oil and grease skimmer, equalization tank with aeration, primary clarifier, aeration tank, secondary clarifier and found adequate, MGF and ACF for tertiary treatment are found marginally adequate.
 - b) Effluent generation is 183.1 l/t of cane as against CPCB disposal norms of 200 l/t of cane.

3. The unit deposited the Rs. 55,42,574/- (Rs. 54,60,000 towards EC and Rs. 82,574/- towards interest for delay period) through RTGS on 06.08.2019, under protest.

AND WHEREAS, the Three Member Committee in its meeting held on 17.09.2019 examined the unit's replies and recommended that the unit may be allowed to resume operation and shall submit Performance Audit Report of ETP within 60 days of start of operation; and

WHEREAS, CPCB issued directions dated 31.10.2019 to the unit under section 5 of the Environment (Protection) Act, 1986 to comply with the following directions:

1. The unit shall start its operation only after obtaining valid consent from Bihar State Pollution Control Board.
2. The unit shall install diffusers in equalization and aeration tank as well as augment capacity of tertiary treatment units namely MGF and ACF within 60 days.
3. The unit shall submit Performance Audit Report of ETP within 60 days of start of operation along with the implementation status of the recommendations of adequacy report.

AND WHEREAS, CPCB calculated EC for 36 sugar mills as per policy dated 28/05/2019 for observed noncompliance during inspections carried out during crushing season 2018-19; and

WHEREAS, CPCB issued closure directions to 36 sugar mills during April-May, 2019 under Section 5 of the Environment (Protection) Act, 1986 along with levying Environmental Compensation (EC) calculated as per policy dated 28/05/2019 including M/s Harinagar Sugar Mills Ltd., West Champaran, and

WHEREAS, some of the sugar mills filed appeals before Hon'ble NGT against order passed by CPCB requiring the appellants to pay environmental compensation, namely Appeal No. 34/2019(WZ) titled M/s Madhukar Sahakari Sakhar Karkhana Ltd. V. CPCB, Appeal No. 05/2019 titled Morinda Co-op. Sugar Mills Ltd. Vs. CPCB, and Appeal No. 23 of 2019(WZ) wherein the Hon'ble NGT stayed the action of CPCB. Thereafter, units namely Shri Vitthalsai SSK Ltd. And Blairavathi Sugar Works Ltd. Approached Hon'ble NGT in Appeal No. 27/2019 (WZ) with Appeal No. 35/2019 (WZ) against the compensation levied by CPCB. The Hon'ble NGT Principal Bench, New Delhi in the aforementioned appeals passed an order dated 22/05/2019 directed that, "CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint." The Hon'ble NGT also directed that similar opportunity may also be given to other affected parties where such orders have been passed in similar cases.

WHEREAS, CPCB issued order dated 04/09/2019 regarding levying of EC for industries, which prescribes as under;

1. Prior to imposition of EC, a Show Cause Notice (SCN) for imposing EC along with an opportunity to reply/ hearing be given.

2. Methodology adopted for calculation of EC may be shared with the concerned industry/ agency if asked during hearing or through reply.
3. Unless there is substantial evidence, date of non-complying days would start w.e.f. date of non-compliance observed during inspection.
4. In Sugar industry, number of days of violation is calculated based on actual number of days operated during crushing season(s) based on Excise Form RT-8C submitted by the unit.
5. EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets /stacks, as verified by the IT division.
6. EC for the closure direction issued on the ground of non – compliance of prescribed discharge/ emission norms shall apply for the period between date of inspection & monitoring to date of closing of manufacturing operation.
7. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

AND WHEREAS, in compliance to Hon'ble NGT order dated 22/05/2019, CPCB provided opportunity for personal hearing to 32 sugar mills on 18/09/2019 and 24/09/2019 to present their viewpoints excluding M/s Harinagar Sugar Mills Ltd., West Champaran; M/s Majhaultia Sugar Industries Pvt. Ltd. (Jay Shree Sugar Mills Ltd.), Majhaultiya, West Champaran; and M/s IIPCL Biofuel Ltd., Sugauli, East Champaran, who had already deposited their EC with CPCB and process for revocation was already initiated. Subsequently, order dated 04/09/2019 was issued according to which EC shall be levied from the date of inspection till the date of closing of manufacturing operation/compliance observed by CPCB/SPCB; and

WHEREAS, Officials of U.P. Co-operative Sugar Factories Federation Ltd., Secretary General of UPSMA, individual sugar mills asked CPCB to allow to deposit EC in ESCROW account for utilization of environmental management. Principal Secretary, Sugar Industry and Cane Development, UP Government vide DO no. 1934/46-2-19-38/2018 dated 17/09/19, also requested CPCB to waive off the environmental compensation considering the financial constraint of sugar mills, to enable them to use the same money for upgradation of pollution control measures in order to ensure compliance to environmental norms and also to allow the sugar mills to function efficiently; and

WHEREAS, CPCB issued office order dated 01/11/2019 regarding policy for levying EC on sugar mills which prescribed as under;

1. As special case in large interest of farmers and general public, the sugar mills, will have the option to deposit Environmental Compensation (EC) amount either in CPCB account or in an ESCROW account with Department of Sugar Industries, State Government for utilization of fund in environmental management, training programs, development of laboratory, upgradation of ETP, further implementation of charter etc. ESCROW account shall be operated by Department of Sugar industries in State Government.

2. The Sugar Mills shall deposit the EC amount either in CPCB account or ESCROW account within 15 days from receipt of direction, failing which a simple interest @ 12% shall be levied for the delay period.
3. In case of deposition of EC amount into ESCROW account, the individual sugar mill shall submit time bound action plan for utilization of the EC amount within 15 days and get it approved from CPCB for utilization in environmental management including augmentation/upgradation of ETP, implementation of charter, training programs etc. Approved plan shall be made available by industry to Department of Sugar Industries, State Government for releasing funds for which appropriate methodology shall be worked out by the State Government. Utilization of the funds shall be monitored by the State Government and reported to CPCB on monthly basis. Alternatively, if EC is deposited in CPCB account the amount will be spent by CPCB as per EC utilization policy as approved by Hon'ble NGT.

WHEREAS, CPCB subsequently issued modified directions with recalculated EC amount as per order dated 04/09/2019 to 32 sugar mills for deposition of EC either in CPCB account or in ESCROW account to be operated by Department of Sugar Industries in State Government within 15 days from date of issuance of the direction. In case of delay in deposition of EC, simple interest @ 12% shall be levied for delay period; and

WHEREAS, out of 36 sugar mills, 32 mill deposited EC as per recalculated EC amount as per order dated 04/09/2019 and 03 sugar mills namely M/s Harinagar Sugar Mills Ltd., West Champaran; M/s Majhauria Sugar Industries Pvt. Ltd. (Jay Shree Sugar Mills Ltd.), Majhauria, West Champaran; and M/s HPCL Biofuel Ltd., Sugauli, East Champaran, had already deposited their EC as per policy dated 28/05/2019. Out of 32 sugar mill 25 mills deposited EC amount in ESCROW account and remaining 07 sugar mills deposited it in CPCB account.

WHEREAS, performance assessment report has been submitted by the unit dated 21.01.2020, which was examined and following observations are made;

1. Necessary flowmeters are installed at various unit operations e.g. pan boiling & centrifugal washing filter cake washing etc. to ascertain and control hot and cold-water requirement.
2. As per analytical details submitted by the unit it was observed that treated effluent quality was in conformity with effluent discharge norms.
3. Unit has installed Sulphate Removal System (SRS) for treatment of spray pond/ cooling tower overflow water.

AND WHEREAS, the unit vide letters dated 10.01.2020, 28.01.2020 and 09.05.2020 requested CPCB to apply the provisions of circular dated 04.09.2019, issue revised order after re-calculations and request for personal hearing to present their case; and

WHEREAS, a personal hearing was held through video conferencing on 28.09.2020 and it was decided that uniform policy should be followed and agreed to reconsider the matter after obtaining legal opinion from Law Division, CPCB; and

WHEREAS, Law Division, CPCB provided their opinion on 11.02.2021 that in view of Principle of Natural Justice, the policy dated 04.09.2019 should be uniformly applied to all units; and

WHEREAS, CPCB constituted a 4-member committee vide office order no. MSCB/03/2017/930 dated 24.11.2020 to examine the representations against environmental compensation and to further strengthen the mechanism; and

WHEREAS, a meeting of 4-member committee was held on 07.04.21 to examine the matter where representative of law division also participated. The committee recommended that the revised policy dated 04.09.2019, evolved in line with Hon'ble NGT order dated 22.05.2019 in the matter of Shri Vitthalsai SSK Ltd. Vs CPCB along with other sugar mill may be considered in this case also; and

WHEREAS, as recommended by the 4-member committee, environmental compensation of Rs.55,42,574/- (Rs. 54,60,000 towards EC and Rs. 82,574/- towards interest for delay period from 21st June 2019 to 5th August 2019) which was deposited by the unit through RTGS on 06.08.2019, under protest, has been recalculated considering the EC policy dated 04.09.2019. **Therefore**, amount of environmental compensation for the period of non-compliance (date of inspection i.e. 26.03.2019 to end of crushing season i.e. 23.04.2019; for the crushing season 2018-19) has been re-calculated as **Rs. 8,83,157/- (Rupees Eight lacs, eighty-three thousand, one hundred and fifty-seven) (Rs. 8,70,000/- towards EC and Rs. 13,157/- towards interest for delay period)**. Out of the total amount of Environmental compensation deposited, the remaining amount of **Rs. 46,59,417/- (Rupees Forty-six lacs, fifty-nine thousand, four hundred and seventeen only)** shall be returned separately. The details of the calculation are as under;

$$\begin{aligned} \text{EC} &= \text{PI} \times \text{N} \times \text{R} \times \text{S} \times \text{LF} \\ &= 80 \times 29 \times 250 \times 1.5 \times 1 \\ &= \text{Rs. 8,70,000/-} \end{aligned}$$

NOW, THEREFORE, in view of the above-mentioned observations and in exercise of the powers delegated to the Chairman CPCB, under section 5 of the Environment (Protection) Act, 1986, the directions dated 30.05.2019 hereby shall stand revised and the EC levied on the unit for non-compliance period from 26.03.2019 to 23.04.2019 during crushing season 2018-19 shall be **Rs. 8,83,157/- (Rupees Eight lacs, eighty-three thousand, one hundred and fifty-seven) (Rupees 8,70,000/- towards EC and Rs. 13,157/- towards interest for delay period)**, which the unit has already deposited. The remaining amount of **Rs. 46,59,417/- (Rupees Forty-six lacs, fifty-nine thousand, four hundred and seventeen only)** shall be returned to the unit.

(NARESH PAL GANGWAR)
CHAIRMAN

Copy to:

1. **Principal Secretary** : For kind information, please.
Sugarcane Industries,
Government of Bihar
Department of Sugarcane Development
Vikas Bhawan, New Secretariat
Patna-800015
2. **Member Secretary** : For kind information, please.
Bihar Pollution Control Board,
Parivesh, Bhawan, Plot No., Ns-B/2,
Patliputra Industrial Area,
Patliputra, Patna (Bihar)-800 023
3. **Joint Secretary (CP Division)** : For kind information, please.
Ministry of Environment, Forest & C.C
Prithvi Block, Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003
4. **District Magistrate** : For kind information, please.
West Champaran-845454, Bihar
5. **Regional Director** : For follow up and ensuring
Central Pollution Control Board, compliance
Regional Directorate
Southern Conclave, Block-502,
5th & 6th Floor, 1582, Rajdanga Main Road,
Kolkata – 700 107 (West Bengal)
6. **In-charge F&A, CPCB** : For refund of deposited EC
amount of Rs. 46,59,417/- to
M/s Harinagar Sugar Mills
Ltd., West Champaran
7. **In-charge, IT Division, CPCB** : With request to upload on
CPCB server.
8. **Master file/Guard file WQM II, CPCB Delhi** : For record.


(PRASHANT GARGAVA)
MEMBER SECRETARY