

**Minutes of the Workshop regarding refinement of Draft Amended Enforcement Policy in compliance of the Order dtd.30/10/2015 & 2/2/2016 passed by the Hon'ble National Green Tribunal, WZ, Pune, in Application No.30/2013 filed by Vinesh Kalwal v/s State of Maharashtra & Ors., held on 23/2/2016 at 11.00 am. in the Conference Room, Kalpataru Point, 4<sup>th</sup> Floor, Sion (East), Mumbai-400 022.**

\*\*\*\*\*

The Hon'ble NGT, WZ, Pune in Application No.30/2013 filed by Vinesh Kalwal v/s State of Maharashtra & Ors., vide order dtd.30/10/2016, directed to take views / suggestions of CPCB on the Draft Enforcement Policy. In compliance of the said order, the MPCB has forwarded Draft Enforcement Policy to CPCB vide letters dtd.9/11/2015 and 13/01/2016.

CPCB has forwarded their comments / recommendations on the Draft Amended Enforcement Policy and suggested to take workshop of higher & expert officials of SPCBs & CPCB to refine the Draft Enforcement Policy. Accordingly, the Board has conducted one day workshop calling upon the senior technical/legal officials of SPCBs & CPCB on 23/2/2016 at 11.00 am. However, the officials of CPCB could not attend the workshop and informed that their comments / recommendations on the Draft Enforcement Policy may take into consideration.

During the course of workshop, following officials of Gujarat State Pollution Control Board, Tamilnadu Pollution Control Board, representative of NEERI, officials of MPCB were present.

**For Gujarat Pollution Control Board,**

1. Shri G.H. Trivedi, Sr. Environmental Engineer
2. Shri R. R. Vyas, Environment Engineer

**For Tamilnadu Pollution Control Board**

1. Shri R. Vijaya Bhaskaran, Dist.Environmental Engineer
2. Shri M. Karunanidhi, Law Officer

**For NEERI :** Dr.(Ms) S. Tandan, representative of NEERI.

**For MPCB**

1. Shri Amar Supate, Principal Scientific Officer,
2. Shri Y. B. Sontakke, Joint Secretary(WPC)
3. Shri P.K. Mirashe, Asstt.Secretary (Tech.)
4. Shri S.K. Purkar, Law Officer(P&L Divn.)
5. Shri N.N. Gurav, Regional Officer(HQ)
6. Ms.Smita Gaikwad, Asstt.Law Officer
7. Shri D. T. Devale, Legal Advisor

During the Workshop, the Chairman of the Committee constituted for finalizing the Draft Enforcement of MPCB, welcomed all the participants and give brief background about the Draft Enforcement Policy and comments/suggestions of the CPCB.

The officials of GPCB has suggested to give clarity to the concept of Zero Liquid Discharge in the Enforcement Policy and specify the disposal/reuse of the same and also suggest that the bank guarantee regime should be more flexible. GPCB representative opined that the bank guarantee amount will be fixed as per the categories of the industries i.e. SSI, MSI & LSI. The amount of bank guarantee for SSI units will be

Rs.30,000/- to 50,000/-; for MSI units the amount of BG will be Rs.50,000/- to Rs.1 Lakh and for LSI units, the bank guarantee should be between Rs.1 Lakh to Rs.5 Lakhs; for Health Care Establishments the amount of bank guarantee will be Rs.25,000/- to Rs.1 Lakh -, for CETP/CHWTSDf the amount of BG will be Rs.5 Lakhs depending upon the capital investment.

GPCB informed that they have appointed Environmental Auditor such as NEERI, NGO, reputed Educational Institutes to certify the compliance of the consent conditions and environmental norms as per CPCB categorization.

The representative of Tamilnadu Pollution Control Board suggested to obtain bank guarantee only for upgradation of pollution control devices. He was also informed that they have charged late fees , if the industry fails to apply for consent to operate, as per the expiry period given in the Consent to Establish. It is also suggested that the concept of auto renewal shall be introduced to reduce pendency of consent applications'.

Representative of NEERI informed that they will prepare the index based on the pollution potential of the parameters.

After due deliberations, it was decided to incorporate the following suggestions given by the aforesaid SPCBs and accordingly refine the Enforcement Policy.

- (i) The pollution potential, pollution load, toxicity and actual damage caused to the environment will be taken into consideration for initiating further stringent actions. The Board will concentrate more on 17 categories of highly polluted industries notified by the Ministry of Environment & Forests, Govt. of India under the provisions of the Environment (Protection) Act, 1986. While initiating actions, out of these 17 categories of industries, critically polluted industries on the basis of past record will be identified. Accordingly, an Integrated Approach will be adopted with reference to inspections, monitoring standards, compliance of consent conditions and various directions issued by the Board from time to time with remedial measures to be undertaken in case of causing serious pollution, giving rise to serious complaints.
- (ii) Instead of procuring bank guarantees for compliance of all conditions, the bank guarantees will be insisted only for the purpose of upgradation of Effluent Treatment Plants/Air Pollution Control Systems /Pollution Control Systems. The Gujarat Pollution Control Board's model for Bank Guarantee Regime in the cases of enforcement of upgradation in the existing pollution control devices will be followed, after exhausting the initial remedies, such as show cause notice; in case of non-compliance of show cause notice, directions (proposed directions/interim directions/final directions) are issued, in appropriate cases filing of prosecutions and where no compliance is reported, after giving sufficient opportunity to the industry concern to secure compliance, then, forfeiture of bank guarantees.

: 3 :

- (iii) To discourage obtaining of the bank guarantees for various submissions of mandatory documents like hazardous waste returns, cess returns, e-waste submissions etc. Instead of that, in such cases, the consents will not be renewed / granted, so that without submission of mandatory returns on the basis of bank guarantees, consents will not be granted. This will automatically result into compliance in respect of mandatory submissions before grant of consent.
- (iv) More reliance will be on obtaining bank guarantees for further improvement in the form of performance bank guarantees, which will be maximum upto 10% of the capital investment proposed on the improvement of pollution control measures. The operational bank guarantees will be insisted more on 17 highly polluting category industries on the basis of operational cost of pollution control devices. The amount of bank guarantees will be further increased in cases of critically polluted industries identified by the Board on the basis of their performance in the last year and also on the basis of incidence of serious pollution caused damage to the environment etc. While imposing bank guarantees, the criteria for improvement measures capital expenditure proposed and the highly polluted industries with past record will be taken into consideration. However, the forfeiture of bank guarantees will be last resort for initiating actions.
- (v) The amount of forfeiture of bank guarantee will be deposited in separate fund in the account of Environment Improvement & Environment Compliance Fund. This fund will be utilized for initially to take remedial measures in respect of incidence of pollution caused in that area, intensive monitoring of the said area, common environment issues to be solved in that area, installation of CCTV and link up to the Board's website, Data Management & Awareness etc.
- (vi) To define 3 incidences of violations for initiating actions. For eg. Zero Liquid Discharge(ZLD) :- It was decided to define specifically ZLD. It means that nothing is to be discharged into the environment and total treated effluent to be utilized in the manufacturing process itself.
- (vii) Same level of violation should be penalized with same level of penalty and to do away with individual discretion, laying down objective tests for initiating various legal actions.
- (viii) Accordingly, Extra-Ordinary Notification of Enforcement Policy of MPCB may be published in the Official Gazette of Govt. of Maharashtra.

(S. K. Purkar)  
Law Officer

(P.K. Mirashe)  
Asstt. Secretary

