HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph. 0172-2577870-73
E-mail:hspcbho@gmail.com

No. HSPCB/WC/ 3535- 3560 **Dated:-** 14-09-2020

To

1. The Presiding Officer, Special Environment Court, Kurukshetra.
2. The Presiding Officer, Special Environment Court, Faridabad.
3. The District Attorney, HSPCB, Panchkula.
4. The Assistant District Attorney, HSPCB, Panchkula.
5. All Branch Incharges, Dealing Consent Management, HSPCB (HQ).
6. All Regional Officers, HSPCB

Sub: Minutes of the meeting of the Executing Committee, constituted by Hon'ble National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar, with the officers of the Haryana State Pollution Control Board and Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/CPCC under the provisions of the Water Act, 1974 on 10.09.2020 at 11:00 AM through video conferencing..

Kindly refer to the subject noted above.

In this connection, I have been directed to enclose herwith the copy of minutes of the meeting of the Executing Committee, constituted by Hon'ble National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar, with the officers of the Haryana State Pollution Control Board and Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/CPCC under the provisions of the Water Act, 1974 on 10.09.2020 at 11:00 AM through video conferencing for information and further necessary action please.

DA/ As Above

Sr. Env. Engineer(WC)
For Member Secretary

Endst No. HSPCB/WC/ 3561- 3562 **Dated:-** 14-09-2020

A copy of the above is forwarded to the following for information please.

1. PS to Chairman.
2. PA to Member Secretary.

DA/As above

Sr. Env. Engineer(WC)
For Member Secretary

OFFICE OF THE EXECUTING COMMITTEE

Constituted by the Hon'ble National Green Tribunal in Original Application no.138 and 139 of 2016 and OA No.606 of 2018

(Official Address: Tower No.5, 4th Floor, Forest Complex, Sector 68, SAS Nagar) Tel. No. 0172-2298091
Email: cecghaggar@gmail.com

To

1. The Member Secretary,
   Haryana State Pollution Control Board,
   Panchkula.

2. The Member Secretary,
   Chandigarh Pollution Control Committee,
   U.T., Chandigarh

No. CMC/2020/1054-55
Dated: 11.9.2020

Subject: **Minutes of the meeting of the Executing Committee, constituted by Hon'ble National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar, with the officers of the Haryana State Pollution Control Board and Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/CPCC under the provisions of the Water Act, 1974 on 10.9.2020 at 11.00 AM through video conferencing.**

...

Please find enclosed herewith minutes of the meeting of the Executing Committee, constituted by Hon'ble National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar, with the officers of the Haryana State Pollution Control Board and Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/CPCC under the provisions of the Water Act, 1974 held on 10.9.2020 at 11.00 AM through video conferencing, for your kind information and necessary action please.

It is requested that these minutes may kindly be conveyed to all the concerned Departments/officers of the State of Haryana and U.T., Chandigarh, for necessary action on the recommendations/directions relating to their Department and submit the action taken report within 15 days.

(Dr. Babu Ram)
Technical Expert
Executing Committee

Minutes of the meeting of the Executing Committee, constituted by Hon'ble National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar, with the officers of the Haryana State Pollution Control Board and Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/CPCC under the provisions of the Water Act, 1974 on 10.9.2020 at 11.00 AM through video conferencing.

The following were present in the meeting

a) The Members of the Executing Committee.

Sr. No.	Name and Designation in the Deptt.	Name & Designation in the Committee
1.	Justice Pritam Pal Former Judge, Punjab and Haryana High Court	Chairman
2.	Ms. Urvashi Gulati, IAS, Former Chief Secretary, Haryana	Member
3.	Dr. Babu Ram, Former Member Secretary, PPCB	Technical Expert

The list of the officers, present in the meeting, is as per Annexure-1.

It was apprised that 18th meeting of the Executing Committee was held on 19.8.2020, wherein, the issue regarding prosecution launched by HSPCB and CPCC under the provisions of Water Act, 1974, Air Act, 1981 and EPA, 1986 came for discussion and therefore, in order to review the status of prosecution launched by HSPCB and CPCC under the provisions of the said Act, in the court of Law and their disposal, a meeting has been convened on 10.9.2020.

In the opening remarks, the Chairman of the Executing Committee stated that Water Act, 1974, Air Act, 1981 and Environment Protection Act, 1986 came 40 years back for the implementation of the provisions the Act. The experience says that these cases are not prepared properly mentioning all the facts of the inspection report, collection of effluent samples without following due procedure as per the provisions of the Act and even at the time of evidence, the cases are not defended properly, resulting in failure of the cases in the courts.

State Board/ Committee wise discussion was held as under.

A) Haryana State Pollution Control Board

Thereafter, the list of prosecution cases launched by Haryana State Pollution Control Board during the years 2012 to 2020, prepared on the basis of record of HSPCB, mentioned as per **Table-1 and Table-2** given below, was taken up for discussion.

Table-1: Status of prosecution cases filed by HSPCB in Environment Courts

Sr. No.	Region	Act under which prosecution filed	Number of case Filed	Number of cases Acquitted	Number of cases Convicted	Number of cases Adjourned Sine die	Number of cases PO declared
1	Karnal	Water/Air/EP Act	12	11	1	0	0
2	Palwal	A/EP Act	4	4	0	0	0

3	GRN	Water/Air/EP /Aravali Notification	64	57	7	0	0
4	DHR	EP/Air Act	32	22	0	0	10
5	BLB	EP/Water Act	6	6	0	0	0
6	HSR	EP/Air Act	30	0	30	0	0
7	BDH	EP/Air Act	36	2	34	0	0
8	AMB	Water/Air Act	10	8	2	0	0
9	GRS	EP Act	319	319	0	0	0
10	Kaithal	EP/Air/Water Act	17	17	0	0	0
11	SNP	Water/Air Act	4	4	0	0	0
12	YNR	Air/Water Act	1	1	0	0	0
13	PKL	Air/Water Act/EP Act	7	7	0	0	0
14	FR	Water/EP Act	7	6	0	0	1
15	PNP	EP/Water/Act	16	13	0	2	1
16	KKR	EP/Air Act	15	15	0	0	0
17	BWN	Water/Air	43	43	0	0	0
18	Nuh	Air Act	5	5	0	0	0
	Total		**628**	**540**	**74**	**2**	**12**

Table-2: Pending cases filed by HSPCB in Environment Court w.r.t. year of filing of cases.

Part-A

Sr. No.	Environment Court	Region	2007	2008	2009	2010	2011	2012
1	Faridabad Environment Court	BDH					1	
2		Palwal						1
3		GRN	2	3	13	1		
4		DHR						
5		BLB						
6		GRS		1	6			
7		FR		1		1		
8		Nuh						
9	Kurukshetra Environment Court	Karnal						2
10		HSR						
11		AMB					1	
12		Kaithal						1
13		SNP		3	3			
14		YNR						
15		PKL						4
16		PNP						
17		KKR						
18		BWN			3			
		Total	2	8	25	2	2	8

Part-B

2013	2014	2015	2016	2017	2018	2019	2020
	1		1			5	3
			1		1	4	
53	16	1	1		1	6	2
5	2			1	2	2	2
2		3	7			5	16
17	85			2	2	9	4
3	31	1		6		2	2
	2						
		1			1	10	2
	1			3			8
			19	4		11	
				4		3	
1	1			1	1	8	14
		1				26	1
						9	8
2			7	2		15	1
						5	
1	1	1	1	1	3	8	38
84	140	8	37	24	11	128	101
						Grand Total	**580**

For discussion, Executing Committee selected Karnal, Gurugram (South) and Bhiwani Regions, being crucial in view of Maximum acquittal in the cases.

1) Karnal Region

The data indicated that out of total 12 cases filed in the court of law under the provisions of the Water Act, 1974/ Air Act, 1981, 11 cases were acquitted by the court and only in 1 case, the conviction was made. The Chairman of the Executing Committee took a serious view regarding poor conviction rate as compared to cases acquitted by the Court. It shows that either the cases were not properly prepared with complete documents, inspection reports or effluent samples were not collected as per the provisions of the said Act or casual approach was adopted while defending the cases.

The presiding Officer, Special Environment Court, Kurukshetra, shared his views about poor conviction in environment cases because the sample collecting officers do not follow due procedure as mentioned under the provisions of section 21 of the Water Act, 1974, effluent samples are not divided into parts in case the project proponent makes requests that part of the sample may be sent to State Laboratory for testing or samples are not preserved properly or notice to intent to collect effluent sample is not issued.

Therefore, the effluent sample collecting officer should be very careful while collecting such samples so that there may not be any flaw in the case.

2) Gurugram (South)

The data depicts that in the Region Gurugram (South), 319 cases were filed in the court of law under the provisions of the Water Act, 1974 / Air Act, 1981/ EPA, 1986. All these cases have been acquitted by the court. The Chairman of the Executing Committee took a serious view regarding zero conviction in the cases in Gurugram (South Area).

The Presiding Officers, Special Environment Court, Faridabad informed that for filing the Court cases by the concerned Regional Officer, HSPCB, no proper procedure is followed, documents are not properly attached with the case, sometimes the documents are feeble and not readable due to attachment of copy of another copy and even name of the Proprietors/Managing Directors of the project proponents are not mentioned correctly. Moreover, whenever, the prosecution is launched against Govt. Officers, normally permission under section 197 Cr.PC is required, which is not made available by the State Board. As such, whenever the cases come for evidence/arguments, the status of case becomes weak resulting in acquitted/dismissal of such cases.

The Chairman of the Executing Committee informed that there is option to add any new evidence created during the pendency of the case and it may be helpful while making evidence/ argument in the case. He asked Member Secretary HSPCB to prescribe procedure with timelines for analysis of effluent samples, receipt of sample analysis results, preparation of case with proper documents, vetting of case by concerned ADA/ Law officer and filing of the court case, list of the witnesses, record producing officials etc. These cases are required to be monitored monthly on the format specially designed by the Headquarter mentioning the instructions/guidelines.

Member Secretary HSPCB apprised that HSPCB has already laid down the procedure for preparing the court cases based on the inspection report, effluent analysis results, documents relating to project etc and holding of monthly meeting with the field officers has been started. The practice was started in mid 2019 and it has brought improvement in the functioning of the Board w.r.t success in prosecution cases launched by the Board.

3) <u>Bhiwani</u>

It was informed that 43 prosecution cases were launched in Bhiwani Region and all these 43 cases have been acquitted by the court and conviction rate is zero. The Chairman of the Executing Committee took a serious view regarding acquittal of all the cases, which indicate that the Officers have not given attention towards the cases.

ADA, Headquarter HSPCB informed that normally the officers, while collecting the effluent samples of the industries/ project proponents, do not follow due procedure as per the provisions of the Water Act,1974, analysis results are not signed by the notified Officers. He further clarified that there is no need to get sanction u/s 197 of Cr.PC from the State Government while prosecuting Govt. Officers under Section 48 of Water Act, 1974 as per the orders of Hon'ble Supreme Court of India. In future, these facts shall be placed before the Learned Court.

After detailed discussion on all the issues, it was directed by the Chairman of the Executing Committee as under.

i. **HSPCB shall design a format mentioning the procedure and timelines to complete the various activities within certain time schedule.**
   - **Inspection of industries/projects.**
   - **Submission of reports by the inspecting officer within the office.**
   - **Collection of effluent samples and analysis of same in the laboratory of the Board or State Water Laboratory.**
   - **Collection of documents, proprietorship/ partnership deed.**
   - **Preparation of prosecution case.**
   - **Vetting by competent law officer/ADA.**
   - **Approval of the competent authority.**

ii. **HSPCB shall hold monthly meeting with the concerned officers of the Board and review the status of the prosecution cases launched in the court of law.**

iii. **Quarterly reports regarding court cases may be sent to the Executing Committee.**

B) Chandigarh Pollution Control Committee:

The data prepared by Chandigarh Pollution Control Committee was presented before the Executing Committee and it was observed that 120 cases have been filed in the court of law at Chandigarh and only 2 cases have been disposed off, whereas 118 cases are at various stages like hearings, evidence, consideration etc.

It was claimed by CPCC that the summoning of the court cases is taking lot of time as there is no separate court for dealing the environment matter on priority. Moreover, the prosecution cases are handled by advocates on panel and no ADA has been deployed by U.T. Administration. However, CPCC shall pursue the cases in the court for early summoning of the accused.

Besides, 38 cases were filed in the court of law against saw mills and the cases were at various stages in the court but the saw mill owners except few cases have moved to Hon'ble High Court and got the stay order against the trial court proceedings of the learned court.

After detailed discussion on the issue, it was directed as under.

i) CPCC through U.T. Administration shall make request to the Hon'ble High Court with full and detailed justification to designate special court only for Environment issues in view of the importance of the cases.

ii) CPCC shall design a format mentioning the procedure and timelines to complete the various activities within certain time schedule.

- **Inspection of industries/projects.**
- **Submission of reports by the inspecting officer within the office.**
- **Collection of effluent samples and analysis of same in the laboratory of the Board or State Water Laboratory.**

- Collection of documents, proprietorship/ partnership deed.
- Preparation of prosecution case.
- Vetting by competent law officer/ADA.
- Approval of the competent authority.
- Filing of cases in the Court of Law

iv. CPCC shall hold monthly meeting with the concerned officers of the CPCC and review the status of the prosecution cases launched in the court of law.

v. Quarterly progress report regarding court cases may be sent to the Executing Committee.

vi. CPCC shall pursue the cases of saw mills in Hon'ble High Court for getting stay order vacated and also pursue in the lower court for remaining few cases for early decision by the court.

sd/	Sd/	sd/
Dr. Babu Ram	Ms. Urvashi Gulati	Justice Pritam Pal Former Judge Punjab & Haryana High Court now as Chairman of Monitoring Committee

Note: The Chairman and Members of the Monitoring Committee have given their concurrence on the minutes of the meeting.

Babu Ram
11/9/2020

List of participants of meeting Executing Committee constituted by National Green Tribunal in OA No. 138-139 of 2016 in the matter of Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogender Kumar with the officers of the Haryana State Pollution Control Board ad Chandigarh Pollution Control Committee and other concerned officers to review the status of prosecution launched by the State Board/ CPCC under the provisions of the Water Act, 1974 on 10.09.2020 at 11:00 AM through Video Conferencing.

Sr. No.	Name and Designation
1.	Justice Pritam Pal, Chairman of the Executive Committee-in Chair
2.	Smt. Urvashi Gulati, Member of the Executive Committee
3.	Dr. Babu Ram, Technical Expert, Executive Committee
4.	Sh. S. Naryanan, IFS, Member Secretary, HSPCB, Panchkula
5.	Sh. Parcheta Singh, Presiding Officer, Environment Court, Kurukshetra
6.	Smt. Varsha Sharma, Presiding Officer, Environment Court, Faridabad
7.	Sh. Jatinder Pal, SEE, HSPCB, Panchkula
8.	Sh. Satbir Singh, DA, HSPCB, Panchkula
9.	Sh. Paramjit Singh, ADA, HSPCB, Panchkula
10.	Sh. Shailender Arora, Regional Officer, Karnal
11.	Sh. Sandeep Singh, Regional Officer, Bahadurgarh
12.	Sh. Dinesh Kumar, Regional Officer, Ballabgarh
13.	Smt. Smita Kanodia, Regional Officer, Faridabad
14.	Sh. Kuldeep Singh, Regional Officer, Gurugram North
15.	Sh. Shakti Singh, Regional Officer, Gurugram South
16.	Sh. Bhupinder Chahal, Regional Officer, Sonepat
17.	Sh. Vijay Choudhary, Regional Officer, Palwal & Nuh
18.	Sh. Virender Punia, Regional Officer, Panchkula
19.	Sh. Nitin Mehta, Regional Officer, Ambala & Kurukshetra
20.	Sh. Rakesh Bhonsle, Regional Officer, Hisar
21.	Sh. Rajinder Sharma, Regional Officer, Kaithal & Jind
22.	Sh. Dinesh Yadav, Regional Officer, Bhiwani & Charkhi Dadri
23.	Smt. Meenakshi, ADA, Faridabad
24.	Sh. Chander Mohan, ADA, Kurukshetra