

## **AGENDA ITEM NO. 197.04**

**ADOPTION OF POLICY BY THE BOARD  
FOR GRANT OF SHORT TERM  
PROVISIONAL CONSENT TO OPERATE  
UNDER WATER ACT, 1974 FOR 06  
MONTHS TO THE RESIDENTIAL  
PROJECTS, TO WHOM CONSENT TO  
OPERATE IS REFUSED BY THE BOARD  
UNDER WATER ACT, 1974 ON THE  
GROUND OF FAILURE OF EFFLUENT  
SAMPLES OF STP OF THE PROJECT OR  
ANY OTHER REASONS.**

**Adoption of policy by the Board for grant of short term provisional consent to operate under Water Act, 1974 for 06 months to the residential projects, to whom consent to operate is refused by the Board under Water Act, 1974 on the ground of failure of effluent samples of STP of the project or any other reasons.**

M/s Aerens Jai Realty Pvt. Ltd., Yamunanagar is a residential project having an area of 54 acres with 250 houses. Haryana State Pollution Control Board has refused consent to operate to the project under the provisions of the Water Act, 1974 on the ground of failure of effluent sample of STP of the project. Accordingly, the project owner has filed an appeal before the Appellate Authority, against the refusal order made by the Board under the provisions of the said Act. The said appeal was considered by the Appellate Authority on 24.8.2023 (copy enclosed as per **Annexure-1**), wherein the Appellate Authority felt that in the absence of CTO, how sewerage, hazardous waste etc generated in the residential project shall be managed. Accordingly, the case has been referred to the Chairman, HSPCB to assist in finding a solution to such a problem relating to residential/commercial projects in various cities of Haryana. It was further desired that Chairman, HSPCB will hold series of meetings with the concerned officers/SEEs and suggest point of view of HSPCB and solution in such matters. The matter was deliberated and after considering various issues in the matter, a committee of the following officers was constituted to study all relevant aspects and it was directed to submit their recommendations at the earliest.

Sr. No.	Name and designation in the Board	Designation in the committee
1	Dr. Babu Ram, Technical Expert	Chairman
2	Sh. Jatinder Pal, SEE	Member
3	Sh. Sanjeev Kumar, SEE	Member
4	Sh. Paramjeet Singh Surjewala, DDA	Member

The committee has considered the facts mentioned in the instant case and some other cases like M/s Mailbo Federation, Gurugram, M/s Doodh Moti Sagar, Rewari and M/s TDI, Sonipat. The committee has also gone through applicability of environment laws and their compliance to be made by the residential projects and has prepared its report, which is annexed as per **Annexure-2**.

It has been observed by the committee that as per EIA notification dated 14.9.2006, the building construction projects, covered under category B (having an area > 20000 sq.m and <150000 sq.m) are required to obtain environment clearance as required under said notification from the SEIAA and

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to apply for consent to establish and consent to operate to the State Pollution Control Board under the provisions of section 25/26 of Water Act, 1974. The building construction projects such as residential complex, apartments, township, town houses, condominiums, educational institutions hostels, multi storey buildings, commercial buildings such as office complexes, shopping complexes, multiplexes, dormitories or any other project discharging only domestic wastewater  $\geq 10$  KLD are required to install individual sewage treatment plants before discharge of their domestic effluent into sewerage system or any other mode of disposal.

The performance of sewage treatment plants of residential building complexes are monitored by the Regional Offices of the Haryana State Pollution Control Board from time to time. However, during monitoring the performance of STPs, sometime the effluent samples of the treated sewage discharged by these residential projects do not meet with the standards prescribed by the Board, resulting into violation of provisions of the Water Act, 1974 which warrants legal action under the provisions of the section 43/44/47 of Water Act, 1974 along with imposition of environment compensation as directed by the Hon'ble National Green Tribunal and also consent to operate under the provision of the Water Act, 1974 is refused/not granted by the Board to the residential project. However, untreated wastewater of the residential projects continues to be discharged and damage is caused to the environment. Due to habitation of the project, in which the residents are residing, electrical supply and water supply is not disconnected to stop the discharge of untreated sewage for any mode of disposal.

Presently, the Board after refusal of consent/ not granting consent to operate to such project proponents under provisions of the Water Act, 1974, launches prosecution under the provision of section 43/44/47 of the Water Act, 1974 against the project proponent and other concerned persons but no other remedial steps are taken to stop the damage caused to the environment due to discharge of untreated wastewater of the project. The damage caused to the environment can, in fact, be controlled only by operating the sewage treatment plant by the project proponent and granting consent to operate on provisional basis and monitoring the sewage treatment plant by the HSPCB within the period of provisional consent to operate.

Therefore, the Board may consider the cases of such residential projects such as apartments, townships, town houses, condominiums, student hostels of educational institutions, multi storey residential buildings, commercial buildings (shopping complex, multiplex, dormitories) or any other project discharging only domestic wastewater  $\geq 10$  KLD, where consent to operate is refused by the Board under the provisions of Water Act, 1974, to grant

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provisional consent to operate for short period of 06 months for the purpose of inspection of the unit by the officers of the Board, continue to operate its primary effluent treatment facilities of sewage treatment plant (STP) to reduce pollution load in the environment and upgrading the other components of STP installed by the project proponents/Resident Welfare Associations (RWAs). Simultaneously, the Board may launch prosecution under section 43/44/47 of said Act against the project proponent/RWA for violation of provisions of the Water Act, 1974 and impose environment compensation as per the formula devised by CPCB and approved by Hon'ble National Green Tribunal due to its failure to achieve prescribed standards. For granting short term provisional consent to operate for 06 months, under section 25/26 of the Water Act, 1974, the committee recommended the following criteria, which may be followed by the Board.

- i. The Board may launch prosecution under the provisions of section 43/44/47 of said Act against the project proponent/Resident Welfare Association for violation of provisions of the Water Act, 1974, if any and impose environment compensation as per the formula devised by the CPCB and approved by Hon'ble National Green Tribunal due to failure to achieve the prescribed standards.
- ii. The Project proponent/Resident Welfare Association shall continue to operate its primary effluent treatment units to reduce pollution load in the disposal system and environment, during the period.
- iii. The project proponent /Resident Welfare Association shall upgrade/remove deficiencies in various components of sewage treatment plant and other activities within 04 months and report may be submitted to the Board.
- iv. The Board shall monitor the performance of STP of the project and check its all compliances within 01 month.
- v. In case the performance of STP of the project is found adequate and analysis results of the treated sewage are within the norms, the Board may extend its further consent to operate for 01 year and further check the performance of sewage treatment plant on quarterly basis.
- vi. During the first 06 months, in case the project proponent/Resident Welfare Association/Institution fails to achieve the prescribed standards and the performance of STP is found inadequate and fails to comply with other environment compliances, additional prosecution under the provision of Water Act, 1974 shall be launched along with imposition of additional amount of environmental compensation on the project proponent/residential complex.
- vii. In case the performance of STP of the project is found adequate for 01 year and all the treated wastewater samples of sewage treatment plant collected in a year are found within the norms, the Board may consider to grant consent to operate under the provision of Water Act, 1974 on yearly basis or as per the policy of HSPCB.
- viii. The projects established/setup without environment clearance as required under EIA notification dated 14.9.2006 may not be allowed to make any further expansion in the existing project and also may not be given any further license /approval by the competent authority to construct any new

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such project/activity in the State and he may be delicensed from the said activities.

- ix. In order to protect the environment, the installation and operation of sewage treatment plant is necessary. However, keeping in view present circumstances of the cases as mentioned in report of the committee (**Annexure-2**), there is a possibility that the project proponent may run away from the site without providing such facilities and Resident Welfare Association (RWA) also doesn't take the responsibility for installation and operation of sewage treatment plant and management of other waste, in that case, the concerned department, under whose jurisdiction the project falls or as decided by the State Government, may take over the project and ensure compliances as required under the provisions of environment laws and the expenditure to be incurred for providing such facilities may be recovered from the RWA/Residents/Occupiers of the project.

The matter is placed before the Board for consideration and approval of the recommendations of the committee as above.

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Announcement

A Committee is hereby constituted under the chairmanship of Dr. Babu Ram, TE with Sh. JP Singh, SEE; Sh. Sanjeev Budhiraja, SEE and Sh. P.S. Surjivale, AEE, as members to study all relevant aspects and submit their recommendations at the

22 of 2023

M/s Aarens Jai Realty Pvt. Ltd. Vs. HSPCB -

earlier.

P. P. Khawar  
28/8/2023

Present: Sh. Himanshu Singh, Advocate counsel for appellant.  
Shri Ramesh Chahal, Advocate for the respondent alongwith Sh. Abhijeet Singh Tanwar, AEE, HSPCB, Yamuna Nagar Region.

This is a case where CTO has been refused for residential project. It has been submitted that it is a 54 Acres area where 250 houses have been constructed and families are residing there.

A question was put to the learned counsel for respondent that in the absence of CTO how sewerage, hazardous waste etc. generated in this residential project is being managed but he has no answer to it. This point was also dealt in detail vide order dated 20.07.2023 in Case no.92/2021 titled Doodhmotisagar Bhawan Mehsana DCMFUL Vs. HSPCB & Others.

It appears that Chairman, HSPCB will be in a position to assist to find a solution to such problems relating to residential/commercial projects in various cities of Haryana. Learned counsel for the respondent submits that before calling the Chairman, HSPCB an opportunity be given to have discussion on this topic. Request allowed.

The Chairman, HSPCB will hold series of meeting with the concerned officers/SEEs and suggest point of view of HSPCB and solutions in such matters.

In the meanwhile, it is also ordered that HSPCB will take necessary steps immediately within 7 days to ensure proper running of STP/management of hazardous waste etc. in the project of appellant and may pass any order, as required.

List on 07.09.2023.

On that date, learned counsel for respondent will place on file the point of view of HSPCB to deal with such matters and also regarding points raised in case no.92/2021 titled Doodhmotisagar Bhawan Mehsana DCMFUL Vs. HSPCB & Others. Copy of this order be given to learned counsel for appellant.

Dated 24.08.2023

Sd/-  
Appellate Authority

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Annexure-2

**Adoption of policy by the Board for grant of short term provisional consent to operate under Water Act, 1974 for 06 months to the residential projects, to whom consent to operate is refused by the Board under Water Act, 1974 on the ground of failure of effluent samples of STP of the project or any other reasons**

### 1.0 Background

M/s Aerens Jai Realty Pvt. Ltd., Yamunanagar is a residential project having an area of 54 acres with 250 houses. Haryana State Pollution Control Board has refused consent to operate under the provisions of the Water Act, 1974 on the ground of failure of effluent sample of STP of the project. Accordingly, the project owner has filed an appeal before the Appellate Authority, against the refusal order made by the Board under the provisions of the said Act. The said appeal was considered by the Appellate Authority on 24.8.2023 (copy enclosed as per **Annexure-1**), wherein the Appellate Authority felt that in the absence of CTO, how sewerage, hazardous waste etc generated in the residential project shall be managed. Accordingly, the case has been referred to Chairman, HSPCB to assist in finding a solution to such a problem relating to residential/commercial projects in various cities of Haryana. It was further desired that Chairman, HSPCB will hold series of meeting with the concerned officers/SEEs and suggest point of view of HSPCB and solution in such matters. The matter was deliberated by the Chairman of the Board with its officers on 28.8.2023 and after considering various issues in the matter, a committee of the following officers was constituted to study all relevant aspects and it was directed to submit their recommendations at the earliest.

Sr. No.	Name and designation in the Board	Designation in the committee
1	Dr. Babu Ram, Technical Expert	Chairman
2	Sh. Jatinder Pal, SEE	Member
3	Sh. Sanjeev Kumar, SEE	Member
4	Sh. Paramjeet Singh Surjewala, DDA	Member

### 2.0 Environmental laws and its compliance to be made by the residential projects

The increase in population, development activities, unplanned and unsustainable urban development have led to severe environmental pressure. In order to regulate such unplanned building construction projects/residential projects, these have been covered under EIA notification, 2006. Building construction projects having an area  $\geq 20000$  sq. mtrs and  $< 150000$  sq. mtrs are covered under category 'B' and these projects are considered for environment clearance under EIA notification dated 14.9.2006 by the State Environment Impact Assessment Authority (SEIAA). The building construction projects, irrespective of area of the project, not containing any category 'A' project and activity, is covered under category 'B' projects, whereas, such projects, containing 'A' category project and activities, are covered under category 'A' projects.

These projects after getting environment clearance as required under EIA notification dated 14.9.2006 from the SEIAA, apply for consent to establish and consent to operate to the State Pollution Control Board under the provisions of section 25/26 of Water Act, 1974. The building construction projects such as residential complex, apartments, township, town houses,

condominiums, educational institutions hostels, multi story buildings, commercial buildings such as office complexes, shopping complex, multiplex, dormitories or any other project discharging only domestic wastewater  $\geq 10$  KLD are required to install individual sewage treatment plants before discharge of their domestic effluent into sewerage system or any other mode of disposal.

The performance of sewage treatment plants of residential building complex are monitored by the Regional offices of Haryana State Pollution Control Board from time to time. However, during monitoring the performance of STPs, sometime the effluent samples of the treated sewage discharged by these residential projects do not meet with the standards prescribed by the Board, resulting into violation of provisions of the Water Act, 1974 which warrants legal action under the provisions of the section 43/44/47 of Water Act, 1974 alongwith imposition of environment compensation as directed by the Hon'ble National Green Tribunal and also consent to operate under the provision of Water Act, 1974 is not granted by the Board to the residential project. However, untreated wastewater of the residential projects is continued to be discharged and damage the environment. Due to habitation of the project, in which the residents are residing, electrical supply and water supply cannot be disconnected to stop the discharge of untreated sewage for any mode of disposal.

Presently, the Board after refusal of consent/ not granting consent to operate to the project proponent under the provisions of the Water Act, 1974, is launching prosecution under the provision of section 43/44/47 of the Water Act, 1974 against the project proponent and other concerned persons and no remedial steps are taken to stop the damage caused to the environment due to discharge of untreated wastewater of the project and not granting consent to operate to the project proponent. Further damage caused to the environment can be controlled only by operating the sewage treatment plant by the project proponent and the project proponent is granted consent to operate on provisional basis and sewage treatment plant is monitored by HSPCB within the period of provisional consent to operate. But since the residential project has made violation of the provisions of Water Act, 1974, therefore, environment compensation based on the calculation made by CPCB and accepted by Hon'ble National Green Tribunal may be imposed on the project proponent. During sampling, in case, the effluent samples of STP are found beyond the permissible limits, additional prosecution under the provision of Water Act, 1974 may be launched and additional environment compensation may be imposed on the project proponent. During the period of provisional consent to operate, project proponent shall make all compliances as mentioned in the Environment Protection Act, 1986 and Water Act, 1974.

### **3.0 Consideration of relevant aspects by the Committee**

For supporting the said sequences/instances, the cases of the some projects are mentioned as under.

#### **3.1 Mailbo Federation, Gurugram**

M/s Mailbo Federation, Gurugram is a building construction project, wherein residents are residing in the complex. The project proponent has made expansion in the project by constructing additional residential buildings without obtaining environment clearance as



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required under EIA notification dated 14.9.2006 and consent to establish of HSPCB as required under the provisions of Water Act, 1974. Consent to operate applied by the project proponent under the provisions of Water Act, 1974 has been refused by the Board to the project proponent, resulting in the residents residing in the complex are continuously discharging their wastewater without any treatment and are causing damage to the environment. Though after refusal of consent to operate to the project proponent, prosecution under the provision of section 43/44/47 of the Water Act, 1974 has been launched against the project proponent and other concerned persons and further expansion of the project has been stopped but no remedial steps have been taken to stop the damage caused to the environment by discharging untreated wastewater by the residential project. The further damage to environment can be controlled by way of operation of sewage treatment plant by the project proponent and the project proponent is granted consent to operate on provisional basis and sewage treatment plant is monitored by HSPCB within the period of provisional consent to operate. However, environment compensation based on the calculation made by CPCB and accepted by Hon'ble National Green Tribunal may be imposed. During sampling, in case, the effluent samples are found beyond the permissible limits, additional prosecution under the provision of Water Act, 1974 may be launched and additional environment compensation may be imposed on the project proponent. During the period of provisional consent to operate, project proponent shall make all compliances as mentioned in the Environment Protection Act, 1986 and Water Act, 1974. The Board may take further action in the matter after verifying the compliances made by the project proponent under the said Act.

### **3.2 M/s Doodh Moti Sagar, Rewari**

M/s Doodh Moti Sagar, Rewari is a building construction project, wherein, the residents are residing in the complex. The project proponent and other concerned persons have been put into jail in some other case and presently, no body is available to look after the affairs of residential complex resulting in untreated wastewater of the residential project is discharged and damage is being caused to the environment. STP installed in the residential complex is not in operation and is not meeting with the prescribed norms. Due to habitation in the area and the residents are residing in the complex, it is not possible to disconnect the electricity connection/water supply of the residents. Therefore, in order to protect the environment, there is need to adopt some policy to make the sewage treatment plant in operation and check the performance of sewage treatment plant by HSPCB.

Stoppage of further damage to environment is possible only by operating the sewage treatment plant by Resident Welfare Association (RWA) of the residential project. The said RWA may be directed to operate its sewage treatment plant effectively and also apply for provisional consent to operate under the provisions of the Water Act, 1974, which may be granted by the Board on provisional basis. During the period of provisional consent to operate, HSPCB may analyze the effluent samples of STP of the project and in case, the analysis results are found not meeting with the prescribed norms, additional prosecution under the provisions of the Water Act, 1974 may be launched against the RWA and environment compensation, to be recoverable from the project proponent, may be imposed as per the formula devised by CPCB and accepted by Hon'ble National Green Tribunal. After checking the compliance of all the provisions of the EPA,

1986 and Water Act, 1974 within the validity period of provisional consent to operate, the Board may take further action accordingly.

### 3.3 M/s TDI, Sonipat

M/s TDI, Sonipat is a building construction project, wherein residents are residing in the complex. The project proponent has established its building construction project comprising of residential complex without environment clearance as required EIA notification dated 14.9.2006. The consent to operate applied by the project proponent under the provision of Water Act, 1974 has been refused by the Board, resulting in the residents residing in the complex are continuously discharging their wastewater without any treatment and is causing damage to the environment. Though after refusal of consent to operate to the project proponent, prosecution under the provision of section 43/44/47 of the Water Act, 1974 has been launched against the project proponent and other concerned persons but no remedial steps have been taken to stop the damage to the environment due to discharge of untreated wastewater of the project.

Stoppage of further damage to environment is possible only by operating the sewage treatment plant by project proponent. The project proponent may be directed to operate its sewage treatment plant effectively and also apply for provisional consent to operated under the provisions of the Water Act, 1974, which may be granted by the Board on provisional basis. During the period of provisional consent to operate, HSPCB may analyze the effluent samples of STP of the project and in case, the analysis results are not within the norms, additional prosecution under the provision of the Water Act, 1974 may be launched against the project proponent and additional environment compensation may also be imposed on the project proponent as per the formula devised by CPCB and accepted by Hon'ble National Green Tribunal. After checking the compliance of all the provisions of the EPA, 1986 and Water Act, 1974 within the validity period of provisional consent to operate, the Board may take further action accordingly.

### 4.0 Recommendations of the committee

The Board may consider the cases of such residential projects such as apartments, township, town houses, condominiums, student hostels of educational institutions, multi story residential buildings, commercial buildings (shopping complex, multiplex, dormitories) or any other project discharging only domestic wastewater  $\geq 10$  KLD, where consent to operate is refused by the Board under the provisions of Water Act, 1974 to grant provisional consent to operate for short period of 06 months for the purpose of inspection of the unit by the officers of the Board, continue to operate primary effluent treatment facilities of sewage treatment plant (STP) to reduce pollution load in the environment and upgrading the other components of STP installed by the project proponents/Resident Welfare Associations. Simultaneously, the Board may launch prosecution under section 43/44/47 of said Act against the project proponent/RWA for violation of provisions of Water Act, 1974 and impose environment compensation as per the formula devised by CPCB and approved by Hon'ble National Green Tribunal due to its failure to achieve prescribed standards. For granting short term provisional consent to operate for 06 months, under section 25/26 of the Water Act, 1974, the committee recommends the following criteria which may be followed by the Board.

- i) The Project proponent/residential welfare association shall continue to operate its primary effluent treatment units to reduce pollution load in the disposal system and environment.
- ii) The project proponent /residential welfare association shall upgrade/remove deficiency in various components of sewage treatment plant and other activities within 04 months and report may be submitted to the Board.
- iii) The Board shall monitor the performance of STP of the project and check its all compliances within 01 month.
- iv) In case the performance of STP of the project is found adequate and analysis results of the treated sewage are within the norms, the Board may extend its further consent to operate for 01 year and further check the performance of sewage treatment plant on quarterly basis.
- v) During the first 06 months, in case the project proponent/resident welfare association/institution fails to achieve the prescribed standards and the performance of STP is found inadequate and fails to comply with other environment compliances, additional prosecution under the provision of Water Act, 1974 shall be launched alongwith imposition of additional amount of environmental compensation on the project proponent/residential complex.
- vi) In case the performance of STP of the project is found adequate for 01 year and all the treated wastewater samples of sewage treatment plant collected in a year are found within the norms, the Board may consider to grant consent to operate under the provision of Water Act, 1974 on yearly basis or as per the policy of HSPCB.
- vii) The projects established/setup without environment clearance as required under EIA notification dated 14.9.2006 may not be allowed to make any further expansion in the existing project and also may not given any further license /approval by the competent authority to construct any new such project/activity in the State and he may be delicensed from the said activities.
- viii) In order to protect the environment, the installation and operation of sewage treatment plant is necessary. However, keeping in view present circumstances of the cases as mentioned above, the committee observed that there is quite possibility that the project proponent may run away from the site without providing such facilities and Resident Welfare Association (RWA) also doesn't take the responsibility for installation and operation of sewage treatment plant and management of other waste, in that case the concerned department, under whose jurisdiction the project falls or as decided by the State Government, may take over the project for getting done the compliance as required under the provisions of environment laws and the expenditure to be incurred for providing such facilities may be recovered from the RWA/Residents/Occupiers of the project.

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The Board may consider to adopt a policy/criteria based on the points as mentioned above for grant of short term provisional consent to operate under Water Act, 1974 for 06 months to the residential projects as detailed above, to whom consent to operate is refused by the Board under Water Act, 1974 on the ground of failure of effluent samples of STP of the project or any other reasons.


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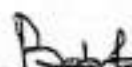
Sanjeev Kumar, SEE



Jatinder Pal, SEE



Paramjit Singh Surjewala, DBA  
(Paramjit Singh Surjewala, DBA)



Dr. Babu Ram, 6.9.2023  
Technical Expert, HSPCB