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STATE POLLUTION CONTROL BOARD, ORISSA

[DEPARTMENT OF FOREST & ENVIRONMENT, GOVERNMENT OF ORISSA]
Paribesh Bhawan, A/118, Nilakanthanagar, Unit-VIII,
Bhubaneswar - 751 012, INDIA.

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Date _____ /

No.II Acts (Misc)/12

RESOLUTION

A number of Acts & Rules have been enacted for the purpose of preventing pollution from different sources & for protection of the environment. Basing on these Acts the Central Pollution Control Board, State Govt. & the State Pollution Control Boards are empowered to file complaint cases resulting in the closing down of defaulting industries through disconnection of electricity & water supply. There is hardly any other provision to pressurise defaulting industries to instal required pollution control system or to impress upon them to upgrade their existing pollution control systems so as to comply with the prescribed norms. The Hon'ble Supreme Court of India, while dealing with different public interest litigations on environmental matter, has laid down different principles in order to pressurise the industries to control pollution or to restore the environmental degradation through "Polluter to Pay" principle.

It has been experienced that the orders of closure and disconnection of electricity etc. served on the industries at times create social problems like non-payment of wages to its workers due to lack of adequate provisions in the Act. Under such prevailing circumstances, a new instrument namely Bank guarantee system has been introduced by the West Bengal Pollution Control Board. Such an imposing of Bank guarantee has already come up before the judicial scrutiny in the Hon'ble High Court of Calcutta in the matter of WP5938(W) of 2000 wherein the letter has notionally endorsed the State Board to monitor the policy of Bank Guarantee towards effective pollution control.

Introduction of Bank Guarantee system in respect of defaulting industries within the purview of State Pollution Control Board, Orissa was under the active consideration of the Board for sometime past. This matter was placed before the Board in its 75th meeting held on 27.06.2003. After going through the concept paper prepared by the C.P.C.B, the Board unanimously resolved to introduce the Bank guarantee system for the defaulting industries in the following manner.

- a) Industry that fails to instal necessary pollution control equipment so as to meet the prescribed standard.
- b) Industry whose pollution control equipment are inadequate to meet the prescribed standard.

At the first instance, show cause notice will be issued to the defaulting industry indicating the intention of issuing direction for closure. Then the industry will be asked to furnish a time bound action plan for installation of pollution control equipment or upgradation of the existing pollution control system. Simultaneously the industry will be asked to furnish Bank Guarantee of a stipulated amount for implementing the action

plan. If the industry fails to comply within the timeframe, the amount of Bank Guarantee will be forfeited. Alternately if compliance is ensured in time the amount of Bank guarantee will be released. The industries, those will be asked to furnish Bank Guarantees are to be decided on case by case basis through a committee. Chairman, State Pollution Control Board has been authorised by the Board to constitute a committee, that will decide the procedures to be adopted including the quantum of Bank Guarantee submitted to this effect. However, the minimum Bank Guarantee should not be less than 10% of the pollution control equipment necessary for the purpose. The amount so forfeited will be utilised faithfully for pollution control abatement schemes/programmes of the said industry.

The original Bank Guarantee will be retained in the Accounts Section of the Head Office and the cashier will be responsible for its safe custody. Photo copies of the said instrument will be tagged to the concerned industry file endorsing simultaneously to the Law Officer. A register will be maintained by the cashier reflecting the following entries.

1. Name of the Industry :
2. Name of the Bank standing as guarantor :
3. Reference file No. :
4. Amount of Bank Guarantee :
5. Date of submission :
6. Date of expiry :
7. Orders for release or forfeiture :
8. Remarks :

By order of the Board,

Member Secretary

Memo No. 17618 113 /Dt. 18/8/03

Copy forwarded to E.E.-I/E.E.II/Law Officer/Sr.Env.Scientist/Consent Section-I/Consent Section-II/Accounts Section/Accountant (Scheme) Cashier/All R.Os for information & necessary action.

Member Secretary

Memo No. _____ /Dt. _____

Copy forwarded to Director (Environment), F & E (Env.) Deptt., Govt. of Orissa for favour of information.

Member Secretary