

SUPREME COURT MATTER

No.23-8/2004-HSMD(Vol.II)
Govt. of India
Ministry of Environment & Forests,
(HSM Division)

The Chief Secretaries of All States/UTs
(As per the list enclosed)

Sub: Constitution of the State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) – regarding.

Sir,

1. The Supreme Court by its order dated 14-10-2003 in Writ Petition (Civil) No.657/1995 set up a Monitoring Committee to ensure time bound implementation of various directions given in the said order. The Committee has been visiting several states to monitor the status of implementation of these directions.

2. During its interactions with various pollution control officials, the Supreme Court Monitoring Committee (SCMC) has noticed that the State Pollution Control Boards (SPCBs)/Pollution Control Committees (PCCs) of UTs were not constituted in accordance with the provisions given in the Water Act, 1974 and the Air Act, 1981.

Chairpersons of the Board :

3. The statutory provisions require that Chairpersons appointed shall be persons having “special knowledge or practical experience in respect of matters relating to environmental protection or a person having knowledge and experience in administering institutions dealing with the matters aforesaid.”

4. The SCMC has found that in several cases, the Chief Secretaries, Environment Secretaries, politicians, MLAs literary persons and other non-technical persons have been appointed as Chairpersons of SPCBs/PCCs.

5. The MGK Menon Committee had recommended in its report that “The Chairmen of the Pollution Control Boards/Committees should be individual with a sense of vision and a feeling for the future. They must have an understanding of the complexity of modern science and technology since they will be dealing with highly technical issues. They must have an understanding of law. The Chairpersons would have to be fully involved in the task of environment construction and planning. Appointment of the Chairpersons of the Board should be on full time basis.”

Member Secretaries of the Board :

6. Similarly, in respect of the post of Member Secretary, the statutory provisions (Water / Air Act) require that he be full time, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control.

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7. In relation to appointment of Member Secretaries, the Menon Committee had recommended that : “The incumbent should possess a post-graduate degree in science, engineering or technology, and have adequate experience of working in the area of environment protection.”

8. The SCMC has found that in several States, persons from (FS or from the PWD, especially from the PHE departments, are either being appointed or deputed to the post of Member Secretary without the necessary statutory qualifications.

Members

9. No effort is being made to appoint persons with adequate scientific, technical or legal background or from the environmental field as members of the Board. Board Members are increasingly being appointed for political purposes. This is leading to ineffective and inefficient functioning of SPCBs/PCCs.

10. Though the Boards are to function as statutory bodies under the Air Act, 1981, no specialists in air pollution (as required by the Air Act, 1981) are being appointed as members. This is a serious lacuna in constitution of the Boards.

11. During its visits to various states to monitor implementation of the order dated 14.10.2003, the SCMC has observed that the order of the Supreme Court being efficiently carried out in States that have competent Chairpersons or Member Secretaries. In other States, due to lack of proper attention at the highest level, implementation is found to be tardy and without much progress.

12. The SCMC discussed these issues at its meeting held on 28-03-2005 and came to the firm conclusion that only technically qualified professionals should be appointed to the critical positions of Chairpersons, Member Secretary and Members of the Pollution Control Boards so that their functioning can be strengthened as required in terms of paragraph 41.1 of the Supreme Court’s order dated 14.10.2003.

13. The Committee is also of the view that recommendations of the MGK Menon Committee be fully respected and the Chairpersons should be appointed on full-time basis. Without full time officers it is not possible for any Board to function effectively in view of the numerous laws and statutes that demand efficient and effective actions from State Pollution Control Boards.

14. We draw your kind attention to several reports on strengthening of State Pollution Control Boards. These include :

15. All these studies were considered during the Evaluation Study on “Function of State Pollution Control Boards” prepared by the Programme Evaluation Organisation of the Planning Commission.

16. The Planning Commission report included : “Considering the interesting technicalities involved in the functions to be performed by these Boards, it is essential that technical persons possessing scientific knowledge about matters relating to pollution and pollution control hold the upper hand.”

17. The Conference of Ministers of Environment that took place in Coimbatore also reiterated at the highest political level, the decision that the SPCBs should be headed and staffed by technically competent professionals (and not be journalists or politicians or administrative officers).

18. The composition of the Boards is therefore under the scrutiny of the SCMC and no further appointment of Chairpersons or Member Secretaries should be carried out which do not meet the norms given in the statute and elucidated by the Menon Committee.

19. In view of the above, you are requested to inform this Monitoring Committee regarding qualifications of the Chairperson, Member Secretary and Members of the Pollution Control Board/Pollution Control Committee in your State/Union Territory. Based on the information, the Committee will examine whether the persons nominated to these

20. This matter may kindly be given the highest consideration and a reply in this regard may be provided to the undersigned within 4 weeks so that the same will be considered in the next SCMC meeting. It will be highly appreciated, if a copy of the information may also be sent through email.

Yours faithfully,

Sd/-

(M.Subba Rao)

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Supreme Court Monitoring Committee

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