

# MAHARASHTRA POLLUTION CONTROL BOARD

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No.BO/P&L Divn./B-1494

Date 22/04/2014

## CIRCULAR

To,  
Joint Director (Air Pollution Control)/ Principal Scientific Officer /  
Joint Director (Water Pollution Control)/ Asstt.Secretary(Tech.)/  
Regional Officer(HQ),  
Maharashtra Pollution Control Board,  
Mumbai

Regional Officer  
Maharashtra Pollution Control Board,  
Mumbai/Navi Mumbai/ Thane/Kalyan/Raigad/  
Pune/ Aurangabad/ Nagpur/Nashik/Kolhapur/  
Amravati/ Chandrapur.

Sub-Regional Officer,  
Maharashtra Pollution Control Board,  
Mumbai-I/Mumbai-II/Mumbai-III/Thane-I/Thane-II/Tarapur-1/Tarapur-II/ Navi Mumbai-I/  
Navi Mumbai-II/Taloja/Kalyan-I/Kalyan-II/Kalyan-III/Raigad-I/ Raigad-II/ Raigad-  
III/Mahad/Kolhapur/Sangli/Ratnagiri/Chiplune/Pune-I/Pune-II/Pimpri-Chinchwad/ Satara/  
Solapur/Aurangabad-I/Aurangabad-II/ Aurangabad-III/Nanded/Nashik/ Ahmednagar/  
Jalgaon-I/Jalgaon-II/Nagpur-I/Nagpur-II/Nagpur-III/Chandrapur/Amravati-I/ Amravati-II/  
Akola/ Parbhani/ Latur/Bhandara, MPCB

Sub : Compliance of various orders passed by the Hon'ble  
National Green Tribunal, Principal Bench, New Delhi &  
Western Zone Bench, Pune as well as various Benches  
of Hon'ble High Court, Hon'ble Supreme Court of India,  
etc.

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During meeting with Shri Deepak Gupte and Mrs.Supriya Dangare, Panel Advocates of MPCB NGT, Pune on 25/3/2014, the issue about compliance of various orders passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi & Western Zone Bench, Pune as well as various Benches of Hon'ble High Court, Hon'ble Supreme Court of India, more particularly attendance of all the High Court and Supreme Court matters as well as NGT matters by all the Regional Officers on top priority basis and compliance of various orders passed by Hon'ble NGT, Hon'ble High Court as well as Hon'ble Supreme Court of India has been discussed at length alongwith Joint Director(APC).

During discussions, it has been noted that the draft Affidavits are being submitted to the Headquarters, Legal division and in turn Member Secretary at the eleventh hour. Thereby, these Affidavits are being finalized in very short span of time, thereby, the Panel Advocates are also not able to go carefully through it and they have no alternative than to file such Affidavits on the date of that particular matter itself and to make submissions on the basis of little information acquired after rapidly going through affidavit and hasty discussion with the officials of Board.

Therefore, after due deliberations with all HoDs and Policy & Law Division, it was decided to follow time bound procedure to ensure the compliance of various orders passed by Hon'ble NGT, High Court Benches & Hon'ble Supreme Courts including filing of Affidavits, briefing Panel Advocates well in advance and in case, affidavits are not filed, then, to make available short note, explaining Board's role & proposed actions sending it on the e.mail of the concerned Panel Advocates for making oral submissions before above Forums.

The following mandatory procedure is to be followed scrupulously.

1. As soon as, a copy of the applications/appeals/petitions is received by the concerned office of the MPCB, one copy thereof immediately be made available to the concerned Panel Advocate/s, concerned RO / HoD and Policy & Law Division, through whom such copy is received.
2.
  - a. All the cases are to be handled by concerned RO's unless specifically directed. The Concerned RO should prepare short note about the contentions and MPCB's role as well as proposed actions in respect of contentions in the application / appeal / petition, such as present status on the basis of visit, inspection & monitoring details available with the Board in the file, Board's tentative stand in respect of allegations made therein and proposed action in the matter and send it to the Panel Advocate/s for making oral submissions, till affidavit is finalized. The Analytical Results, comparative statement with actual standards prescribed shall be made available with short note on the trends of results for explaining before Hon'ble NGT.
  - b. In policy matters and matters wherein specifically directed, HoDs may file affidavit. In such cases, HoDs should prepare brief note about existing policy of the Board, suggesting further line of action and shall submit such short note with due approval to the concerned Panel Advocate/s for making oral submissions, till affidavit is finalized
3. Wherever, serious allegations are there against the Board, the concerned ROs should attend on the first date of hearing also and brief in person to the Panel Advocate/s.
4.
  - a. In principle, the affidavits should be prepared and approval be taken keeping in mind that **at least 2 working days before next date, the affidavit should be filed before NGT and is accordingly received by the concerned Panel Advocate/s.**
  - b. The P & L Division through Sh Adkar FO should prepare the list of cases coming for hearing in subsequent two weeks on every Friday. The idea be that proper follow up of the cases coming up in next to next week can be taken in next week. For e.g. On 19<sup>th</sup> April 2014 (Friday) the list of cases coming in week (21<sup>st</sup> April to 25<sup>th</sup> April ) and subsequent week (28<sup>th</sup> April to 2<sup>nd</sup> May) should be submitted.
  - c. In order to avoid unnecessary burden on the Policy & Law Division, Head Quarter to prepare draft Affidavits in all cases, it has been decided that the concerned RO should prepare and submit draft Affidavit with the help of necessary support to be made available( panel advocate/legal firm/ ALO-see para 8 ) The draft affidavit should be made available to the concerned HoD and Legal division at least 8 working days before the next date of that particular matter.

- d. The concerned HoD should provide necessary comments/inputs on such draft affidavit received from RO within 2 working days and send it for incorporation to the Policy & Law Division.
- c. The P&L Division without waiting for HODs remarks shall start working on the affidavit. Subsequent to receipt of inputs from HODs or otherwise P&L division shall submit the matter for approval of Member Secretary at least 4 working days before the next date. The idea being that at least 2 working days before next date, the affidavit is filed before NGT and is received by the concerned Panel Advocate/s.
5. a. The matters will be attended by the concerned Regional Officers in person for briefing Panel Advocate/s well in advance. **In no case briefing should be done on the date of hearing, It should be atleast one day prior to the date of hearing. In no case briefing should be left to Field Officer.**
  - b. Similarly for the cases dealt directly at head quarters i.e. policy decision matters the HoDs/Sr. LO may attend briefing well in advance.
6. After every hearing concerned officer who attended the hearing should send a small E-mail/SMS to P&L division with the copy to Member Secretary, highlighting the next date of hearing and any specific directions to be complied and any specific orders needed in this regards from HQ.
7. Since, Shri Deepak Gupte and Mrs.Supriya Dangare, Panel Advocates agreed to co-ordinate with all the HoDs / HQ once in a month as per their own convenience, HoD may co-ordinate all their activities with them on the date mutually fixed up by them together with Shri Deepak Gupte/Mrs.Supriya Dangare, Advocates.
8. There has been a considerable increase in number on cases before NGT involving MPCB. Therefore, it is necessary that advocate be assigned Cases related to specific subjects. To begin with we may have subject specific advocates for Air Issues, Water Issues (Industry), Water Issues (River & STP), CETP Issues and MSW-BMW-HW cases before NGT. The P & L Division may finalize this arrangement within 2-3 weeks.
9. The Policy and Law Division has been instructed to finalize notable Panel Advocate/s/ Legal firm/ assign & post ALO, who can be contacted for preparation of draft affidavit/s by concerned ROs. The concerned Regional Officer can communicate suitable names of available Advocates, Legal Firms. The P & L Division may finalize this arrangement within 2-3 weeks.
10. Any short comings on behalf of MPCB officers or otherwise in proper representation of Board before NGT should be brought to the notice of Senior Law officer by the advocates/officers of the board immediately.

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The above mandatory procedure should be followed scrupulously by all the ROs and HoDs. They will be responsible for timely compliance of the above actions on their part and they will be solely responsible for the compliance of various orders passed by the above Forums.

  
(Rajeev Kumar Mital)  
Member Secretary

Copy f.w.cs.to:

1. Shri Mukesh Verma, Panel Advocate at Delhi / Shri Deepak Gupte/ Shri Saurabh Kulkarni/Mrs.Supriya Dangare, Panel Advocates at NGT, WZ, Pune – for doing needful in the matters entrusted to them.

Copy to:

1. Sr.Law Officer(P&L Divn.), MPCB, Mumbai – for information.
2. Chief Accounts Officer, MPCB, Mumbai – for information and timely making payment to the Panel Advocates.
3. Law Officer/l/c Law Officer/Accounts Officer(EB)/All Asstt.Law Officers, Policy & Law Divn, MPCB, Mumbai- for information & necessary action..
4. Asstt.System Officer, EIC Section, MPCB, Mumbai – for information and necessary action – He is instructed to place the said circular on the website of the Board in the link of various Standing Orders/Circulars issued by the Board.