



Pollution Control Board, Assam
Bamunimaidam, Guwahati-21

No. WB/LAB-362/21-22/71

Dated Guwahati, the 06th July, 2021.

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NOTIFICATION

**DIRECTION UNDER SECTION 5 OF ENVIRONMENT (PROTECTION) ACT, 1986 -
REGARDING IMPLEMENTATION OF ENVIRONMENT COMPENSATION FOR
VIOLATION OF THE NOISE POLLUTION RULE**

Whereas, under Section 17(1)(a) of the Air (Prevention and Control of Pollution) Act, 1981, one of the functions of the State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs) is to plan a comprehensive programme for prevention, control or abatement of pollution in the State and to secure the execution therefore; and

Whereas, under Section 2(a) of the Air (Prevention and Control of Pollution) Act, 1981 noise is defined as air pollutant; and

Whereas, as per the Noise Pollution (Regulation and Control) Rules, 2000 of Environment (Protection) Act, 1986 following responsibilities are vested with CPCB and SPCBs.

1. The noise level in any area/ zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule, and
2. The respective State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs) in consultation with the Central Pollution Control Board shall collect, compile and publish technical and statistical data relating to noise pollution and measures devised for its effective prevention, control and abatement.

Whereas, as per rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 of Environment (Protection) Act, 1986, the designated authority is responsible for the enforcement of noise pollution control measures and the due compliance of the ambient air quality standards in respect of noise; and

Whereas, under section 19 of the Environment (Protection) Act, 1986, No court shall take cognizance of any offence under this Act except on a complaint made by –

“(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.”

Whereas, section 15(1) of the Environment (Protection) Act, 1986 states that:

“Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.”

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Whereas, section 9(3) of the Environment (Protection) Act, 1986 states that:

“The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.”

Whereas, in the matter of O.A. No. 519/2016, 496/2018, 196/2018 and 197/2018 dated 01/08/2019, Hon'ble NGT directed CPCB as follows:

“The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of ‘Polluter Pays’ principle. Though violation of the rules like the Noise Rules here, is a criminal offence permissible under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on ‘Polluter Pays’ principle can be invoked by the enforcement regulatory authority as per the guidelines which may be laid down by the CPCB. The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence.”

Whereas, in compliance to directions of Hon'ble NGT, CPCB prepared scale of compensation for Violation of the Noise Pollution (Regulation and Control) Rules, 2000 and submitted report to Hon'ble NGT on 14/11/2019 (**copy attached as Appendix-A**); and

Whereas, Hon'ble NGT vide order dated 15.11.2019 directed CPCB as:

- a. *Compensation for bursting of crackers at serial no. 4 needs to be suitably revised and needs to be different class of defaulter and firecrackers of default.*
- b. *CPCB may lay down stringent compensation for tempering with sound limiters to ensure that same is not restored to.*

Whereas, in compliance to directions of Hon'ble NGT, CPCB prepared revised report on scale of compensation for Violation of the Noise Pollution (Regulation and Control) Rules, 2000 and submitted report to Hon'ble NGT on 12/06/2020 (**copy attached as Appendix-B**); and

Whereas, in the matter of O.A. NO. 519/2016, 496/2018, 196/2018 and 197/2018 dated 11/08/2020, Hon'ble NGT further directed CPCB as follows:

“While we find that certain steps have been taken by the Delhi Police, Delhi Government, DPCC and the CPCB, further steps are required to ensure that the noise pollution norms are enforced at the ground level for protection of public health and the environment in the light of orders already passed. We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTs.”

Whereas, in view of the above stated facts and to ensure compliance of the existing rules and prevent further violation of noise levels with respect to prescribed standards/limit and in exercise of the powers delegated to the Chairman, CPCB under section 5 of Environment (Protection) Act, 1986, the Chairman, CPCB directed the Chairman, Pollution Control Board, Assam to direct the designated Authorities of the State to implement Scale of compensation (which is enclosed here with as **Appendix-A & Appendix-B** as accepted by Hon'ble NGT) for violation of the Noise Pollution (Regulation and Control) Rules,2000.

Whereas, as per section-2(c) of the Noise Pollution (Regulation & Control) Rule, 2000 as amended till now in case of the State Government the District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police are designated for the maintenance of the ambient air quality standards in respect of Noise.

Therefore, in view of the above stated facts and to ensure compliance of the existing rules and the above mentioned orders of **the Hon'ble National Green Tribunal** and for prevention of further violation of noise levels with respect to prescribed standards/limits and in compliance of the direction of the Chairman, CPCB all Deputy commissioner and Police commissioner are directed to implement the Scale of compensation (which is enclosed here with as **Appendix-A & Appendix-B** as accepted by Hon'ble NGT) for violation of the Noise Pollution (Regulation and Control) Rules, 2000.

Chairman

Pollution Control Board, Assam

Dated Guwahati, the 06th July, 2021.

Memo No. WB/LAB-362/21-22/ 71 -A

Copy to:

- 1) The Chairman, Central Pollution Control Board, 'Parivesh Bhawan' East Arjun Nagar, Delhi-110 032 for information.
- 2) The Member-Secretary, Pollution Control Board, Assam, Bamunimaidam, Guwahati-21 for information & necessary action.
- 3) P.S. to the Principal Secretary to the Government of Assam, Home Department, Dispur, Guwahati for information.
- 4) P.S. to the Commissioner & Secretary to the Govt. of Assam, General Administration Department, Dispur, Guwahati-6 for information.
- 5) P.S. to the Commissioner & Secretary to the Govt. of Assam, Environment & Forests Department, Dispur, Guwahati-6 for information.
- 6) All the Deputy Commissioners for information & necessary action.
- 7) All the Superintendent of Police for information & necessary action
- 8) S.O. to the Chief Secretary, Assam, Dispur, Guwahati-6 for kind appraisal of the Hon'ble Chief Secretary, Assam.
- 9) All the Zonal Heads/ Regional Heads of PCBA's HO/ ROs-RLOs and Incharge Central Laboratory for information & necessary action.
- 10) The Head of IT Division, PCBA, requesting him for uploading the Notification in the Board's website at <https://pcbassam.org/Notice.html>.
- 11) Notice Board.

Chairman

Pollution Control Board, Assam