

CENTRAL INFORMATION COMMISSION
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Decision No. CIC/SG/C/2011/000983/14806
Complaint No. CIC/SG/C/2011/000983

Complainant : **Mr. Ankur Goyal,**
Room No. 149 (E)
Brahmaputra Hostel
Jawaharlal Nehru University (JNU)
New Delhi - 110067

Respondent (1) : **Sh. Rajneesh Dube,**
Joint Secretary,
Ministry of Environment & Forests,
Govt. of India,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, Delhi – 110 003

Respondent (2) : **Member Secretary,**
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi – 110 032

Complaint filed on : 30/08/2011
Hearing Notice Issued on : 02.09.2011
Date of Hearing : 22.09.2011

Facts arising from the Complaint:

The Complainant has filed the present Complaint under Section 18 of the RTI Act (hereinafter ‘the Act’), with this Commission, contending that certain information with respect to CPCB surveyed enterprises discharging effluents into the River Ganges should be proactively available on the website of the Ministry/CPCB under Section 4 (1) (b) of the Right to Information Act 2005. His request is reproduced below:-

“As per the press release dated 13th October, 2010, of the MoEF {copy enclosed}, CPCB surveyed 26 industrial enterprises which were discharging their effluents directly into the River Ganga in the stretch of 500 Km between Kannauj and Varanasi. The findings and directions given by CPCB to all these units under Section 5 of the Environment Protection Act (1986) were presented as “Summary Chart of the Compliance Status of the Industries (Inspected) Discharging effluents to R. Ganga between Kannauj to Varanasi”. **However, much relevant information**

which may be quite important to ensure that the directions/ orders of CPCB were issued without fear or favour and after following due scientific procedures were missing. Moreover, no such information is given on the websites of MoEF or CPCB regarding other rivers.

Prayer:

1. Each industry type has a different kind of pollution potential (for example a pesticide industry's effluent can't be similar to the effluent of a sugar industry) which depends the raw materials, chemicals, processes it use for the production of goods, however such information was missing in the above mentioned survey report w.r.t 26 industries. In other words CPCB may be directed to disclose the details of industries which are inspected in any such kind of survey. This information at least can give the abstract information to the general public so that it can keep an eye on the industries with high pollution potential and inform the government agencies in case of any violation.
2. There are no details of the discharge standards (Global/Indian) which are being followed / devised by the CPCB to determine the quality of effluent of these industries? As the standards are the touchstone on which any such conclusions are tested, their disclosure is necessary to ascertain that the validity of conclusion by public in general or researches in particular.
3. There is no information of the findings of the CPCB regarding the discharge quality parameters for the effluent of each of these 26 industries, for instance, in terms of Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Dissolved Oxygen (DO), total / fecal coliform and concentrations major ions, heavy metals, organic solvent etc., CPCB might have analyzed while assessing the quality of effluent as per the discharge quality standard they follow. This is particularly very important to ensure that standard practices for waste water quality analysis were followed or not, or, whether each industry's effluent was checked for all established parameters before giving order of clearance, closing or minor improvements.

4. Interestingly 7 units were found to be closed during inspection; however, the date and time of inspection were missing? There is also no information regarding the follow up action which CPCB might have taken for those 7 units. The Hon'ble IC is requested to direct the CPCB to furnish this crucial information in all such survey, or otherwise CPCB may be directed to state on its website that no follow up action have been taken in this regard till date. Lack of this information renders the survey and actions taken by CPCB on violators meaningless.
5. There is no information on the CPCB or MoEF websites, that whether CPCB has followed up other 19 industries after serving notice to ensure the compliance of its directions given to the latter. Hon'ble IC may direct CPCB to display compliance report on their website. It may be noted that only with this information general public can complain to the competent authority, if violators were found not to follow the directions of CPCB by general public at any point of time. However, in case of non availability of any such report CPCB may be directed to state that no follow up action has been taken.
6. The Hon'ble IC is requested to direct the CPCB to disclose the names of all the industrial units along all the major rivers of India which are discharging their effluent directly into these streams and also the name of industries which direct their effluent to a common effluent treatment plant before discharging in the rivers?
7. The websites of CPCB or MoEF also do not mention the details of any such survey which might have conducted along any other major river except the mentioned stretch of River Ganga or its tributaries in India? Hon'ble IC is requested to direct the CPCB to disclose such details, if any, or otherwise it may be directed to state that no such survey has ever been conducted along any other river of India."

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr. Ankur Goyal;

Respondent: Mr. Pankaj Vaerma, Dy. Director, Ministry of Environment & Forest, Government of India on behalf of Sh. Rajneesh Dube, Jt. Secretary. Dr. D.D. Basu Scientist 'E', Mr. A Sudhakar, Scientist 'D', Mr. D.S Kharat, Scientist 'D' and Mr. Nazimuddin Scientist 'D', Central Pollution Control Board.

The Complainant states that out of 26 industries inspected by the CPCB, seven were found closed. Furthermore, specific details found in each industry and what kind of remedial action being taken by the industries and the standard of measurement on the basis of which the CPCB concluded that the industry was not complying with the standards.

The Respondents state that when an industry is decided to be closed the water electricity is directed to the civic agencies to be cut off and the relevant authorities are informed. However, the Complainant states that when these industries are re-opened then the basis and measure on which the same is allowed should be made available in public domain. Dr. D.D. Basu states that the Complainant has done a good job of reading the entire rules and legislations and come to the analysis. Dr. Basu welcomes his efforts and states that there various state pollution control boards and therefore compilation of reports takes time.

Mr. Ankur Goyal states that it is stated that the industries were found to be closed, the basis on which these were closed are not know. Top this Dr. Basu responds that many industries close because of economic crises, therefore there is no role of the CPCB. The Commission is of the opinion that in such a situation corruption can not be ruled out. Dr. Basu agrees that the CPCB would have no problem in publishing on its website the details of the industries which were found to be closed. The Commission and the Respondents agree that the co-operation of the citizens is essential in maintaining a strict vigil on such industries.

The Complainant states Electroplating industries, tanneries and pesticide industries are also responsible for causing a large amount of water pollution. The standards of the Environment Protection Act have to be followed. The Respondents state that the water is inspected mostly on direction of the Courts, for industries there are four or five main parameters are monitored, however even if one standard is not found satisfactory – the industry may be closed down, furthermore during *suo moto* exercises standards notified under the Environmental Protection Act, 1986 are followed.

The Respondents state the list of the grossly polluting industries is available at <http://cpcb.nic.in/gpi.pdf>, the list of Polluted river stretches is available at http://cpcb.nic.in/upload/NewItems/NewItem_172_FinalPollutedStretches.pdf. The Commission has viewed the same and a copy has been made available to the Complainant.

The Action of non-complying industries, usually the state s given directions under Section 18 (1) (b) of the Water Act 1974 to take action and Section 5 directions are given directly to the industries in cases of gross/irreversible environmental damage. The Complaint submits that the list of directions given under both the Sections including the copies of the directions should be available on the website. The Commission directs that these shall also be made available on the website of the CPCB under a separate head on the main page.

The Respondents also state that the CPCB has also prepared a report on the Environment Information System on GIS Platform, which will provide access to Environmental Information with GEO reference on water quality and Air quality for the entire country. The Commission hereby directs the CPCB to publish this report on the website of the board under a separate head.

The Commission has perused the website of the CPCB has not published its manuals which have to be published in pursuance of their obligations under section 4 (1) (b) of the Act.

It was further asserted in the 1992 United Nations Conference on Environment and Development (UNCED), held at Rio De Janiero, that *'environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.'* **Thus, obligating member states to disseminate information concerning the environment.**

The Right to Information is a fundamental right of the citizens which has been codified by the RTI act, No. 22 of 2005. The act envisions that all citizens shall receive information primarily by *suo moto* disclosures by various public authorities as prescribed by section (4) of the act. Disclosures in accordance with the said Section are crucial to ensure transparency and accountability in institutions. This would reduce the load of RTI Applications being filed with each institution as information would be freely available to citizens and they would not have to apply for it. It further envisages that citizens would be required to specifically ask for information under section (6) only in a few cases. Citizens have been demanding that certain information is essential to them and should be available proactively in form of public notice boards, display boards etc.

Decision:

The Complaint is allowed.

In view of the above the Commission by virtue of the powers vested in it under Section 19 (8) (a) of the Right to Information Act, hereby directs the Central Pollution Control Board, to fulfill its obligations under the RTI Act by *specifically* making the following information available on its website:-

1. The details of action taken on non-complying industries, including notice(s) served to them shall be published on the website.
2. The directions given to the States under Section 18 (1) (b) of the Water Act and directions given directly to the industries under Section 5 of the Water Act shall be published on the website.
3. Results of the analysis of the effluents for different industries inspected shall be published on the website of the Board.
4. The report made by the CPCB on the Environment Information System shall be published on the website of the CPCB under as separate head on the home web page of the board.
5. The main office, attached offices, subordinate offices, all other non-administrative and administrative units and offices of the Board, shall fulfill their obligations under section (4) of the RTI Act by publishing the manuals mandated by Section 4 (1)(b). The manuals must be available as hardcopies in the said offices and on their respective websites.
6. Manual (xi) should be itemized and the report must be for the previous 2 years and there should also be a report on current budget estimates as per manual XI.

7. A sign board of appropriate dimension shall be installed, mentioning the Name(s), designation(s), contact details including the office address/room number, availability hours and telephone numbers of the Central Public Information Officer(s), Central Assistant Public Information Officer(s) and First Appellate Authority, as the case may be, who have been notified under the RTI Act 2005, by the CPCB (in case of a change of CPIO or Appellate Authority, the sign board will be updated within ten days of the said change.) Information regarding the requisite fees to be paid under various provisions of the RTI Act 2005, modes of payment and the office where such fee will be accepted. Information regarding Information Handbook/manuals published under section 4 (1) (b) of the act; their location and time when they can be accessed should be also mentioned on the board. The exact link/URL to the page on the website of the concerned department where the information handbook can be viewed will also be mentioned. No acronym/abbreviation should be used. This information shall be inscribed both in English and Hindi/local language, and shall be installed at a location having maximum public view. This will be maintained by the head of the public authority/ head of department as the case may be, or the officers so directed by them in writing, so long as the RTI act is in force.
8. The RTI link on the website should read as “Right to Information”.

**The directions on points 1, 2, 3 and 4 shall be complied by the 1st of November 2011.
The directions on points 5, 6, 7 and 8 shall be complied by the 1st of January 2012**

The Respondents shall send a consolidated report of compliance of the above directions to this Commission by **1st November 2011 and 5th January 2012**. The report may be sent to rtimonitoring@gmail.com, with a copy to the Complainant.

This decision is announced in open chamber.
Notice of this decision be given free of cost to the parties.

Shailesh Gandhi
Information Commissioner
22nd September 2011

(In any correspondence on this decision, mention the complete decision number.) (ANP)