

MAHARASHTRA POLLUTION CONTROL BOARD

No.MPCB/TB/Del-powers/B-1295

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Mata Ramabai Ambedkar Road,
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Date: 09 / 03 / 1998

OFFICE ORDER NO. E-25 OF 1998

Sub : Delegation of powers
Consent Management.

PREAMBLE :

Under the powers vested with it under Section 12(3B) of The Water (Prevention and Control of Pollution) Act, 1974 [with Act No.53 of 1988] and under Section 15 of The Air (Prevention and Control of Pollution) Act, 1981-[with Act No.47 of 1987], the Board in its meetings held on 30-11-1995 and 19-04-1997 decided to delegate powers for grant/refusal/withdrawal of Consent under Section 25(4) & 27 of the Water (P&CP) Act, 1974 and under Section 21 of the Air (P&CP) Act, 1981 and Authorisation under Hazardous Wastes (Management & Handling) Rules, 1989. The Board had finalised the delegation of powers to Sub-Regional Officers, Regional Officers (including other technical officers in similar cadre), Member Secretary and the Consent Appraisal Committee of the Board. The delegation of powers as approved by the Board is now being communicated with instructions to implement the same with immediate effect.

2. It is clarified that the scheme of delegation of powers shall not be exercised for grant of consents and expansion / modernisation / substitution / diversification of the existing industries / products due to certain restrictions in the areas / categories listed below, irrespective of its scale or nature, by Sub-Regional Officer / Regional Officer, Member Secretary or by any other officer of the Board. However, it is seen that the units / applicants are not informed about the existing stipulations / restrictions in all these areas well in time resulting in delay in taking investment decisions by the applicants. Although the powers of refusal of consent are not vested in any officer of the Board in these areas, it is hereby made clear that all the officers viz; SRD/RO/MS are hereby authorised to immediately inform the restrictions / stipulations to the applicant and ask them not to take any effective steps for implementation of the project unless Consent to Establish/Operate is obtained.

2. RESTRICTIONS :

The Scheme of Delegation of Powers shall not be exercised by any officer of the Board, except Consent Appraisal Committee in the following restricted areas :

- | | | |
|--|--|--|
| i) A-I Class Zone of receiving waters. | a) Upto 3 kms shortest horizontal distance from the H.F.L. of river water. | No consents to be issued. |
| | b) Beyond 3 kms. | To be dealt in accordance with scheme of delegation of powers. |
| ii) A-II Class Zone of receiving waters. | a) Upto 1 km. shortest horizontal distance from the H.F.L. of river water. | No consents to be issued. |
| | b) Beyond 1 kms. | To be dealt in accordance with scheme of delegation of powers. |
| iii) All areas covered under CRZ Notification dated 19-02-1991. | | |
| iv) Special and Sensitive areas covered under various Government Notifications like Bhatsa River Cathment, Dahanu Taluka, area surrounding Bapu Kutir near Wardha, Murud Janjira etc. | | |
| v) Expansion of the capacity of all the existing units in the State of Maharashtra to which consents have already been given, if the capital investment with expansion exceeds the delegated powers. | | |
| vi) In case of industries falling under BMRDA [MMRDA], the stipulation of Industrial Location Policy, in vogue, shall be strictly adhered to. All the cases of fresh consents/ renewal/expansion within the delegated powers, shall be considered after issue of No Objection Certificate by the Directorate of Industries, Government of Maharashtra. | | |
| vii) Consent / NOC / Permission for establishment of any Industrial Estate / Industrial area irrespective of its location, nature & constitution i.e Government, semi-government, co-operative or private. | | |

3. SCHEME OF DELEGATION :

The delegation of powers is as under :-

	S.R.O.	R.O.	M.S.	C.A.C.
Simplified Consent	All	--	--	--
'RED' Category.	Nil	Nil.	Project with capital investment upto Rs.15.00 Crores.	Project with capital investment above Rs.15.00 Crores.
'ORANGE' Category.	Nil.	Project with capital investment upto Rs.5.00 Crores.	Project with capital investment above Rs.5.00 Crores and upto Rs.100/- Crores.	Project with capital investment above Rs.100/- Crores.
'GREEN' Category.	Project with capital investment upto Rs.3.00 Crores.	Project with capital investment above Rs.3.00 Crores and upto Rs.10.00 Crores.	Project with capital investment above Rs.10.00 Crores and upto Rs.500/- Crores.	All Projects beyond Rs.500/- Crores.
	--	'C' Class Municipal Councils.	--	A & B Class Municipal Councils, Corporations

- 11 These powers are in addition to the powers already vested with them in respect of grant of simplified consent to non-polluting and tiny units as per Environment Department, Government of Maharashtra G.R. dated 18-03-1992.
- 21 This delegation of powers is applicable to all the Sub-Regional Officers, including SRD under Boilers & Smoke Nuisances / Hazardous Waste Management who are appointed as Officers Incharge of a particular Sub-Region, in view of the multi-disciplinary approach adopted by the Board.
- 31 This delegation of powers is applicable to all Regional Officers including APCO, MMO, APAACCE who are appointed as Officers Incharge of a particular Region in view of the multi-disciplinary approach adopted by the Board.

4. GUIDELINES :

All the officers in the Board are hereby instructed to note the following guidelines scrupulously while exercising the powers delegated to them :-

- i) 'A-I, A-II, A-III, A-IV Class River Zone' has reference to 'class of receiving water' as finalised by the Board and location of industries in accordance with new locational policy in these areas. The document showing this policy vis-a-vis class of river waters is enclosed at Annexure-I. After the policy is approved by the Government; amendment to this order of delegation will be issued in the light of Government decision.
- ii) 'Red', 'Orange' & 'Green' has reference to the 'category of the industries' as finalised by the Board, which is shown under Annexure-II.
- iii) The specific classification made by Government of Maharashtra/India while formulating Site-specific Location Policy for certain areas such as Bhatasa River Catchment Area in Thane District, Dahanu Tahasil in Thane District, area surrounding Bapu Kutir in Wardha District, Murud-Janjira area in Raigad District, Coastal Regulation Zone (CRZ) Notification etc., shall continue to be valid and will be followed strictly while dealing with the areas in the respective zones.
- iv) B.M.R. : All the cases in BMRDA [MMRDA] shall be dealt in accordance with Industrial Location Policy in vogue. Consents/Renewals/Expansions/Change of products shall not be considered unless the project proponent/industry obtains an 'NOC' from Directorate of Industries, Government of Maharashtra. A copy of this document is enclosed at Annexure-III.

- v) Normally in all cases for expansion of the capacity, modernisation/diversification/substitution of products in areas other than specified in para (3), where no such powers can be exercised by any officer of the Board, the officers need to satisfy themselves with the existing treatment facilities/environmental status before granting/recommending the cases.
- vi) The following decisions taken in respect of Common Effluent Treatment Plants (CETPS), in view of Ministry of Environment & Forests, Govt. of India's communication dated 10-10-1996, may be kept in mind while granting consents :-
- a) For the scheme of (CETP), the small scale units, irrespective of category and quantity of effluent are to be allowed to join CETP with the condition that facility for primary treatment / pretreatment is provided by them. Large & Medium scale units (falling in other than 17 categories) are to be allowed to join CETP with the condition that they shall provide primary and secondary effluent treatment facility at their respective plants. However no Central / State Subsidy would be available for large & medium scale units joining CETP.

5. PROCEDURE :

- i) Application form for Consent :- The Board has already approved the concept of common consent/authorisation covering all the three legislations, however Government approval to the composite application form approved by the Board covering all the aspects is still awaited. Till such time, the old application forms prescribed under Water Act, Air Act and Hazardous Wastes (M&H) Rules shall be accepted. In view of the adoption of concept of the issuance of common consent, it is necessary to obtain from the industries the applications under the Water Act, the Air Act and the Hazardous Wastes (M&H) Rules separately, but at a time.

In respect of the industries which are not generating hazardous waste in the specified category and therefore for which it is not obligatory to obtain authorisation, mere letter/statement that they are not generating the hazardous waste in the specified category should suffice the purpose. Submission of form for authorisation shall not be insisted upon in respect of such units. In no case processing/issuance of consent/authorisation should be delayed for want of this information. The delay caused on such account will be viewed very seriously.

- ii] **Fee :-** The schedule of consent fee under the Water Act, 1974 and the Air Act, 1981 was prescribed by Environment Department, Government of Maharashtra vide G.R. No. ENV/1088/672/CR-185/Desk/1, dated 18-03-1992. Non-polluting tiny units under small scale category listed in the Notification are not charged any consent fee. The Notification prescribes combined fee under The Water Act and The Air Act for Consent to Establish and separate fee under The Water and The Air Act for Consent to Operate. The fee for consent under The Water Act for local bodies also is prescribed. No fee is so far prescribed for Authorisation under Hazardous Wastes (Management & Handling) Rules 1989 and hence no fee is being charged at present. The schedule of consent fees has been revised w.e.f. 02-01-1997. For consents issued after and beyond 02-01-1997 these fees will be applicable.

The Schedule of Fee as applicable from 02-01-1997 is enclosed as **Annexure-IV**.

Present fee structure is on the basis of capital investment. Capital investment is construed to include land, building, plant and machinery without depreciation. This will have to be authenticated by means of a copy of the document contained in the Annual Report of the Company or audited statement of Accounts or a certificate from the Chartered Accountant or an Affidavit undertaking on Rs.20/- stamp paper.

- iii] **Processing :-** The Sub-Regional Officers shall ensure that simplified consents to small scale non polluting tiny units in their jurisdiction are granted expeditiously as per the contents of State Environment Department G.R. dated 18-03-1992.

The officers are instructed to issue receipt for the set of applications under The Water Act, The Air Act and The Hazardous Wastes (M&H) Rules immediately alongwith the Serial Number of the application for the purpose of future reference. For the purpose a separate receipt book should preferably be used, so that from the carbon copy thereof reference can be traced.

Only one stage processing of application form by an officer below the rank of the officer who is empowered to give consent/authorisation will be practiced. A time limit of 15 days for processing and submission of application to the officer empowered to give consent/authorisation is prescribed. The period in respect of applications for 'consent to establish' can still be further reduced since no site visits may be necessary in most of the cases. Thus, Sub-Regional Officers/Regional Officers will directly submit the cases of industries falling under 'Red' category and those under

the purview of CAC to Head Quarter office avoiding two stage processing. However SRO/ROs are free to communicate their observations on the application which is submitted to HQ office, irrespective of whether the same is routed through him or otherwise.

- iv) **Frequency** :- The Board also has approved the frequency of visit for the purpose of inspection and sampling. This shall be followed. The same is shown under Annexure-VI. This shall be strictly followed.

All the Sub-Regional Officers and Regional Officers are instructed to chalk out the programme for inspection/sampling for the staff under their control, so that all the units are covered for vigilance/monitoring purposes. Priority shall be given to polluting units under 'Red' category followed by 'Orange' and 'Green' respectively. The charges for collection and analysis shall be recovered and proper records thereof shall be maintained.

The common format on reporting of processed applications has been revised and already circulated to all the officers. It should be ensured that the reporting is done in this format only. A copy of this format is enclosed at Annexure-V.

The officers are instructed to ensure that there is no delay in submission of the report for want of results of analysis of Joint Vigilance Sample (JVS). This has to be planned properly in advance to commensurate with the frequency of sampling prescribed. The results of analysis may be communicated in due course if the same is not rightly available at the time of submission of application. The application in no case shall lie with reporting officer for more than one month, and after expiry of a month application shall be submitted to the concerned officer pointing out the deficiencies if any. The delay beyond a month's period will be viewed seriously.

The cases to be recommended for refusal/cancellation of consent shall not be kept pending beyond a month's time. This shall be submitted to the Head Quarter Office well in time.

- v) **Consent Order** :- The Board has decided to grant combined consent/authorisation to industries covering all the aspects of water/air pollution as well as hazardous waste disposal under the provisions of respective Acts/Rules. The common consent/authorisation format revised by the Board for this purpose is enclosed herewith at Annexure-VII. All the Sub-Regional Officers/Regional Officers will ensure that all consent orders hereinafter will be issued only in this format. The

officers will have to do exercise of making the consent/authorisation co-terminus only for the first time. The maximum period upto which consent/authorisation is valid under the Water Act, the Air Act and the Hazardous Wastes (M&H) Rules will be considered as basis for prescribing the consent period. No problem will be envisaged after issuance of first combined consent/authorisation.

The Board has approved increase in validity period of the consent order to 5, 10, 15 years in respect of 'Red', 'Orange' and 'Green' category of industries respectively after receipt of 5 times the prescribed fee. However this is optional for the applicant industry. It can opt for 3, 4 or 5 times the stipulated period of consent (i.e. Red-1 year; Orange-2 years; Green-3 years) after paying 3, 4 or 5 times the prescribed fee. However, this should be done only after ensuring that the industry has installed adequate pollution control devices otherwise the period will be restricted to maximum 2, 4 and 6 years for the industries in Red, Orange & Green categories, subject to receipt of double the fee. In either case, appropriate fee covering the period of consent has to be obtained from the applicant industry. In respect of local bodies the period of validity of consent will continue to be 2 years.

Consent Order shall be designated into two categories as - "CC" & "CCHW". "CC" will indicate 'Combined Consent' without authorisation under HW[M&H] Rules and "CCHW" will indicate 'Combined Consent with Authorisation under HW[M&H] Rules. Fresh numbers shall be started for 'Combined Consent' so that in due course it will be possible to identify the number of industries covered under the new procedure. Similarly this will help to identify the number of industries which have been granted authorisation under HW[M&H] Rules. The consent shall indicate Classification & Relevant number under that classification at the top left-hand corner. The officers are requested to devise their own method of designating the consents so that the consents can be numbered separately with reference to alphabet as well as District/Taluka. A new file should be created for each industry/local body, which shall contain all correspondence including laboratory data and legal matters. Sub-Regional Officers/Regional Officers are hereby authorised to purchase new files directly without referring to HQ Office, but after following due procedure. Regional Officers are expected to give guidance to all officers under their control in respect of matters referred above.

The industries in 'Orange' and 'Green' category should be given consent order in the respective 'Orange' and 'Green' coloured paper preferably. The formats for combined consent shall be collected from the Head Quarter Office. In the absence of availability of coloured consent order forms, the white paper may be used. Non availability of colour papers should not be quoted as an excuse for not issuing consents or keeping the cases pending.

Regional and Sub-Regional Officers are requested to submit monthly returns about receipt and disposal of consent application alongwith the relevant details about name, location, category of industry etc. to Head Quarter Office of the Board by 10th day of the subsequent month. Copies shall be endorsed to Regional and Sub-Regional Offices as the case is.

It is absolutely essential to maintain industry data in the PC uniformly for reference. A format for the purpose is devised and enclosed under Annexure-VIII. It may please be ensured that this data is immediately fed to PC on processing of application for grant of consent.

6. CONCLUSION :

The delegation of powers being done is with the intention of simplifying the procedure for consent management and speeding up the disposal, thus reducing the pendency. However the delegation also imposes lot of responsibilities on the subordinate officers. They will have to be very careful in exercising the powers delegated to them. In no case delays, harassment to the applicant industries, concealment of factual position will be tolerated and any lapse in this respect will be viewed very seriously.



(RAJAN SHIRODKAR)
Chairman.

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Member Secretary, MPCB, Mumbai-1.
All Board Members of MPCB.
All Consent Appraisal Committee Members of MPCB.

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3) All SSOs/JSOs in-charge of Regional Laboratories of MPCB.
4) All SROs of MPCB.
