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& Control of Pollution) Act, 1974. The Order speaks for itself. We had reminded the Central Government the statutory power which Central Government had to exercise in the circumstances as this. To leave no scope for doubt in the mind of Central Government or Authority concerned, we had spelled out relevant Section 18 and provisions of Water (Prevention and Control of Pollution) Act, 1974. Having done so, we thought fit to allow Central Government to give an opportunity to the MPCB to mend its way and discharge statutory functions to prevent such drastic action against it. For this purpose, we had directed the Central Government, on principles of natural justice, to give them due opportunity by issue of Notice in the interest of justice, equality and fairness. All this exercise was resorted by the Tribunal has been an exercise in futility.

Even the Central Government, despite receipt of the letter from the Registry of this Tribunal communicating the Order, has failed to take appropriate action. Naturally the field department is MoEF. The Secretary of the Department represents the Government and had to take appropriate action. We had directed him to send Action Taken Report within three (03) weeks from now+i.e. 30<sup>th</sup> March, 2016. We did not specify that the period will start from the date of receipt of the copy of the Order for the reason that MoEF is a party in the Original Application as well as Execution Petition and any Order passed in the open Court is deemed to be communicated giving no scope for doubt.

Today learned Counsel for MoEF submits that MoEF requires further time and intends to file copies of the Notice issued to MPCB on 22<sup>nd</sup> April, 2016. It is ridiculous and reflects on the functioning of MoEF as Notice has been issued only on 22<sup>nd</sup> April, 2016 whereas direction was that Action Taken Report to be filed within three (03) weeks from 30<sup>th</sup> March, 2016. All that has transpired, which is brought on the record speaks not only lapses committed by MPCB but MoEF also.

We are now realising why CPCB had to resort to approach this Tribunal for appropriate directions. We understand predicament which it was facing by inaction of MPCB and MoEF. The record shows that correspondence from this office has reached the concerned on 7<sup>th</sup> April, 2016. Though, of course, it was delay on part of this Registry in dispatching communication yet even if we calculate the period from such date time has expired. The circumstances manifesting from these facts give rise to just cause for initiation of action under Section 26 and 28 of the National Green Tribunal Act, 2010.

We would like to reproduce Section 26 and 28 of the National Green Tribunal Act, 2010 which reads as:

**26. Penalty for failure to comply with orders of Tribunal. –**

(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with

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*imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.*

*Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.*

*(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.*

**28. Offences by Government Department** – *(1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly.*

*Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*

*(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

The legislative intention of these provisions brings home the point that the orders of this Tribunal are not to be ignored whereas it has to be scrupulously complied and any erring officer, person is bound to face penal action under Section 26 of the Act. If the omission is on the Authority or Department of the Government, Section 28 envisages serious action by way of prosecution against the Head of the Department. Therefore, unless it is brought on record that there is no deliberate neglect, we will be constrained to initiate proceeding under Section 26 to prosecute by imposing penalty of imprisonment for the period prescribed and fine thereunder. Besides Head of Department shall also be prosecuted under Section 28 of the Act. Be that as it may, we feel that this contemplated action can be deferred in order to give one more time to Authorities to comply the directions and we give them finally ten (10) days time to

