

Study on

Complexities in Environment Clearance Certificate for Industrial Ventures and Reducing Corruption



International Business Forum of Bangladesh (IBFB)

Complexities in Environment Clearance Certificate for Industrial Ventures and Reducing Corruption*

1.0 Introduction

In a developing country, industrialization is an essential pre-requisite for rapid and sustainable economic growth and social progress. Rapid industrialization begets the modernization, structural transformation, diversification of the economy, technological progress, accelerated job opportunities and higher standard of living. Under Section 12 of the Bangladesh Environment Conservation Act 1995 (ECA 1995), no industrial unit or project can be established or undertaken without obtaining an Environment Clearance Certificate (ECC) from the Department of Environment (DoE). The ECC ensures that the industry/project meets all the prescribed standards set by the Bangladesh Government in terms of the quality standards of air, water, noise, odor and other environmental components. These standards complement those stipulated by the Factories Act 1965 which provides for controls of the internal environment of factories and industries.

In order to set up an industry, there are various steps, procedures and requirements of which ECC is of vital importance. Obtaining an ECC has long been considered an extremely cumbersome process linked to deep rooted corruption. There is no denying the fact that economic development of Bangladesh is largely dependent on industrial growth. But the desired industrial growth of the country is badly affected by the corrupt practices associated with the issuance of ECC. The study will be conducted to identify steps and procedures linked to complexities and corruption in the process of obtaining an ECC.

2.0 Objectives

The objectives of the study are -

- To identify steps, procedures and practices that give rise to corruption and complexities in the issuance process of ECC.
- To find out ways and means to simplify the overall ECC issuance process and to put forward recommendations to curb corruptions and complexities associated with ECC which is essential for setting up any industrial venture.

3.0 Methodology

Both qualitative and quantitative data were gathered for the study.

- About 20 respondents drawn from assorted industries were selected for obtaining quantitative data based on questionnaire.
- Focus Group Discussion (FGD) and interactive interviews were held with a wide range of stakeholders in addition to case studies conducted to assess the nature and extent of complexities involved in ECC.

Secondary data/information was gathered from diverse sources as mentioned in the reference.

4.0 Environmental guidelines for Projects/ Industrial ventures in Bangladesh

The Department of Environment (DOE) classifies all the projects in four categories. These are:

1. Green
2. Orange- A
3. Orange- B and
4. Red

The Green Category

Projects/ industries which do not have any negative impact on the environment belong to Green category projects. For this category of projects, no Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA) is required. However, the project proponent will have to submit an application in a prescribed format to DOE for Site Clearance Certificate and Environmental Clearance Certificate. Examples may include - Bamboo and cane goods; Candle, watches, assembling and manufacturing; Cork (excluding metallic item) etc.

The Orange A Category

Orange category includes those projects that produce such wastes that can produce moderate or significant impacts on environment but the impacts could be mitigated easily if proper action is undertaken. Depending on the nature and extent of impacts the projects under Orange category has been sub-divided into two sub-categories-Orange A and Orange B. The projects/industries likely to produce some wastes but are not believed to be significantly harmful to the surrounding environment and can be managed easily are categorized under “Orange A”. Examples may include - Small hotel/restaurant business; weaving factory, handloom industry etc.

The Orange B Category

The “Orange B” category projects/industries are those likely to produce some adverse environmental impacts but not considered to be overly significant and that the impacts can be mitigated with no residual adverse impacts. Examples may include - Mineral water, soft drink, etc., manufacturing and bottling; Processing of fish; Meat and other food items etc.

The Red Category

This category includes projects/ industries that may have a significant impact on the surrounding environment and that these adverse impacts must be properly managed or controlled. These project/industries must first require an IEE for the purpose of obtaining site clearance, and then EIA, for obtaining environmental clearance. In this case also an application has to be made in a prescribed format along with an IEE report, on the basis of which site clearance may be granted with suitable conditions or the project may be rejected, on grounds of unsuitable location. If the site clearance is granted the project proponent can go ahead with implementation of the project subject to the conditions as may be stipulated while granting the site clearance. Some examples under this category include the following:

- Port development including container terminals, island container depot etc.;
- Telecommunication systems, networks and services including Information and Communication Technology (ICT);
- Power generation, transmission, distribution and services;
- Garment dyeing operations;
- Steel and other major industrial operations.

5.0 Current practices and procedures for ECC in Bangladesh

The DoE clearance procedure for various projects identified under Environment Conservation Rule (ECR) would need to go through the following two-stage process.

- a) Initial Stage: Site Clearance Certificate (SCC)
- b) Advanced Stage: Environmental Clearance Certificate (ECC)

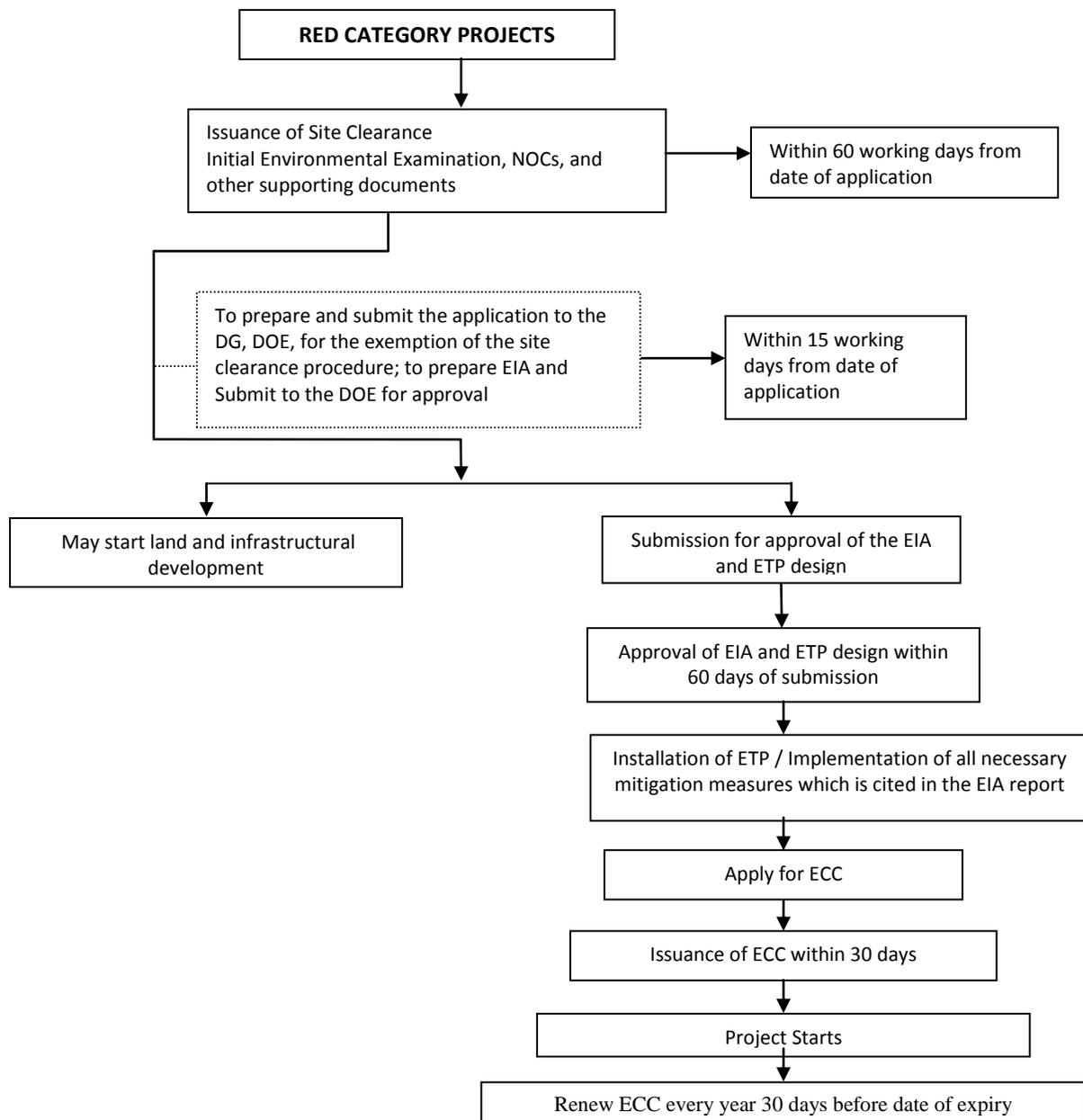
Initial Stage: The first step for the project proponent is to complete an application form that may be obtained from the appropriate DoE Divisional office. The application form with a covering letter, is then addressed to the Director/Deputy Director of the respective divisional office of the Department of Environment as prescribed in Form-3 of the Environment Conservation Rules, 1997. The application should include a project feasibility study, the IEE/EIA report, No Objection Certificate of the local authority, mitigation plan for minimizing potential environmental impacts, and a Treasury ‘Chalaan’ of prescribed fee. The DoE reserves the right to request additional information, supporting documents or other additional materials for the proposed project. Initially, for obtaining the SCC, the following two documents need to be submitted to the DOE:

- An Initial Environmental Examination (IEE) Report
- A Terms of Reference (TOR) for Environmental Impact Assessment (EIS) with process flow diagram.

Under the conditions specified in the Environment Conservation Rules-1997, the DoE Divisional Authority must issue environmental site clearance within 60 working days or the refusal letter with appropriate reason for such refusal. Without the SCC, the sponsor cannot apply for approval of the civil design of the project to the local authorities. After the SCC is obtained, the sponsor can proceed for land development and other primary civil works.

Advanced Stage: After receiving the SCC, land development may proceed but the entrepreneur/developer needs to proceed for the ECC before initiating operations. The procedures for obtaining the ECC for different categories of projects are provided in the ECR. Green category industries are to be granted an ECC within 15 days from the date of application. For other categories (Orange A & B and Red) of industries/projects, application for the ECC must include a ‘Feasibility Report (FR)’ and an ‘Initial Environmental Examination (IEE)’ report along with a ‘Terms of Reference’ for the EIA. For Orange A category projects, the IEE is sufficient for obtaining the ECC.

In the next step for Orange B and Red category projects, an EIA has to be submitted based on the approved ToR and is subject to DOE clearance. After the EIA approval, facility construction and machinery purchase/installation may begin, but the ECC must be obtained before commercial operations begin. The steps involved in securing ECC for a red category project is presented in the following figure:



5.10 Validity Period of Environmental Clearance Certificate

The validity period for ECC varies from one year to three years depending on the category of the project as mentioned in the following table:

Categories of Project	Validity	Renewal Period
Green	3 year	30 days before expiry of the validity period
Orange A & B	1 year	
Red	1 year	

Source: DoE at Dhaka

6.0 The Nature and Extent of Corruption and Complexities

□ The composition of the ECC Committee:

The ECC applications have to be submitted at the DoE divisional office in a prescribed application form along with the required supporting documents. The ECC is an eight-member committee as under.

Chair: Director Technical 2

Members:

Deputy Director for Implementation, Planning

Deputy Director Natural Resource Management

Deputy Director Research

Deputy Director Environmental Clearance

Deputy Director Dhaka Division

Research Officer/Assistant Director Technical (serves as the member secretary to the Committee)

It is apparent that the above committee is not rational. There should be participation of at least three members representing industry, business chamber and civil society/NGO.

□ Large number of documents required:

The survey was administered among service providers who were selected from a list obtained from the DoE. Although DoE provided a list of service providers, there is no formal certification of service providers for the ECC processes. In total 14 service providers were surveyed for the ECC process. The following table summarizes the weighted average, minimum and maximum number of documents submitted for each of the categories.

As can be seen, the required supporting documents vary depending on the category under which the industry/project is grouped. For Local Clearance Certificate (LCC), the overall average documents required for **Orange A** and **Orange B** categories was nine, and for the **Red** category it was ten. For ECC, the overall average documents required for **Green** category was eight, while for **Orange A**, **Orange B** and **Red** categories it was ten.

Number of Documents Submitted for ECC				
	Green	Orange A	Orange B	Red
Average (weighted)	8	10	10	10
Minimum	6	6	7	8
Maximum	10	11	12	14

□ **Time to process an ECC:**

The following table summarizes the time taken to process an ECC application. On an average, it takes around 20 days to process and obtain an ECC for the **Green** and **Orange A** categories. ECC for Orange B takes on an average 64 days and about 105 days for the Red category.

	Green			Orange A			Orange B			Red		
Number of Working days	Provider	Agency	Total									
Average weighted	3	16	19	5	16	21	12	52	64	34	71	105
Minimum	1	10	11	1	15	16	1	30	31	7	20	27
Maximum	10	25	35	10	25	35	60	180	240	120	300	420

Source: Bangladesh: Administrative barriers review (2006)

□ **Cost borne by client to obtain an ECC**

The total cost for processing a claim includes official fees, fees of service providers and unofficial fees. The following table summarizes the weighted average, minimum and maximum fees paid in official, unofficial and to service providers. It took an average of Tk. 10,438 to process a Green category application while the average total fee was Tk. 585,268 for a Red category application. Official fees are calculated at DoE on the basis of the value of the project, which is the stated value of the project when the business registers with Board of Investment (BOI).

	Green	Orange A	Orange B	Red
Average (weighted)	10,438	13,414	44,561	585,268
Minimum	7,500	9,500	23,000	30,000
Maximum	20,000	25,000	170,000	6,300,000

Source: Bangladesh: Administrative barriers review (2006)

The following table shows the breakdown of the fees as a percentage of the total cost. In the Green and Orange A categories, total cost was attributed to just official and fees of service providers due to lack of positive responses in unofficial fees. In Orange B category, unofficial fees were around 22% of total costs. The unofficial fee in Red was around 5%, which still amounted to Tk. 27,824 and fees of service providers' represented 90% of the total cost since there were three large client fees, two of each were Tk. 1,000,000, which skewed the data.

	Green	Orange A	Orange B	Red
Official Fees	15%	21%	22%	5%
Fees of Service Providers	85%	79%	56%	90%
Unofficial Fees	0%	0%	22%	5%
Total	100%	100%	100%	100%

Source: Bangladesh: Administrative barriers review (2006)

The respondents were not very forthcoming when reporting the amount paid as unofficial fees. It was only in the **Orange B** and **Red** categories that unofficial payment were paid and when paid it ranged up to taka 200,000.

□ **Inadequacy of functional manpower and long standing vacancies:**

The following table shows details of the staff strength of the DoE and highlights the vacancies of senior officials post at the DoE, which adds to the process delay and complexity in processing applications.

	Dhaka Office		Total DoE Office	
	First Class Officers	Total Staff	First Class Officers	Total Staff
Sanctioned	29	42	74	244
Actual	08	26	44	168

Source: DoE, Dhaka

□ **Manpower of the Department of Environment at Chittagong:**

The following table illustrates details of the staff strength of the DoE at Chittagong. The table highlights the vacancies of senior officials post at the DoE at Chittagong. There are six district office under the Chittagong Division and the have only one or two actual staffs which adds to the delay at the agency in processing applications.

	Chittagong Divisional Office		Total DoE Office at Chittagong Division
	First Class Officers	Total Staff	
Sanctioned	18	66	155
Actual	04	13	26

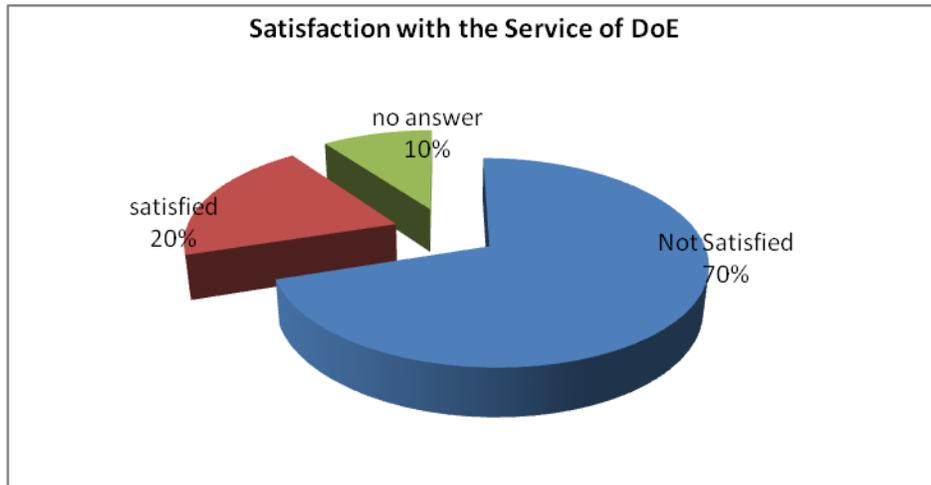
Name of the Office	Allocated manpower	Appointed manpower
Chittagong District Office	- (not yet allocated)	- (not yet allocated)
Comilla District Office	14	2
Cox's Bazar District Office	12	1
Feni	12	2
Brahmanbaria	11	2
Laxmipur	12	2

Source: DoE at Chittagong

7.0 Respondents Views on ECC

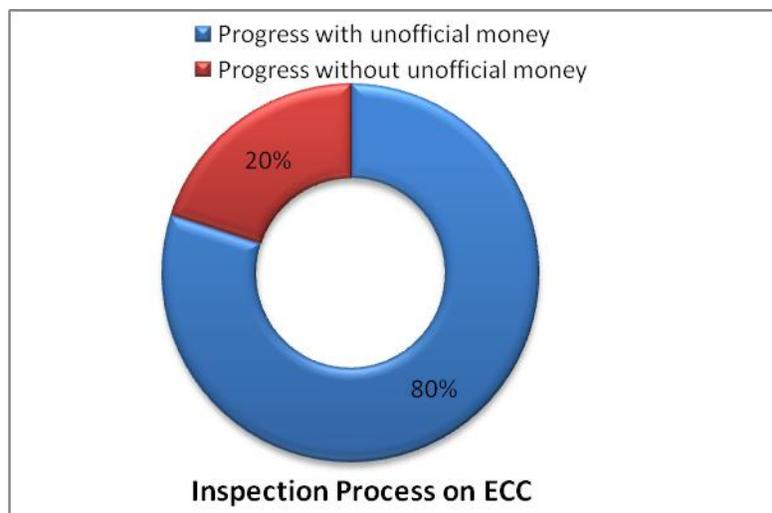
□ Service of the Department of Environment:

Though DOE is the ideal authority to provide all facilities and services for industries, a majority of the respondents are not happy with the service provided by DoE and the wanted to see more accountability and transparency at the agency in addition they indicated Top Down monitoring approach at DoE. The figure below shows that more than 70% served people are not satisfied with DoE services on ECC while only 20% are satisfied with DoE service and 10% did not answer

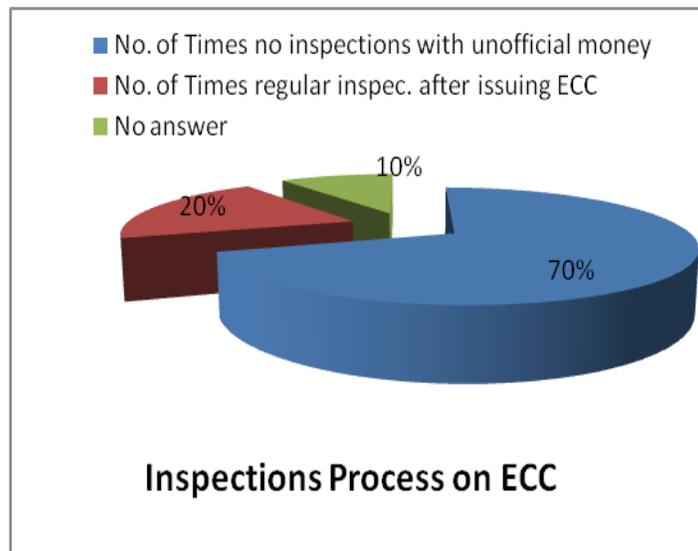


□ Inspection process on ECC before issuance of an ECC:

A majority of respondents are not happy with the process of inspections by DoE on ECC after application. They said after submission of application for ECC DoE procrastinate without any reasons and DoE does not do any progress without unofficial money most of the cases. The figure below shows more than 83% time has to count unofficial money for any progress after submission application for ECC where only 17% time inspections get progress without unofficial money only for Green category.

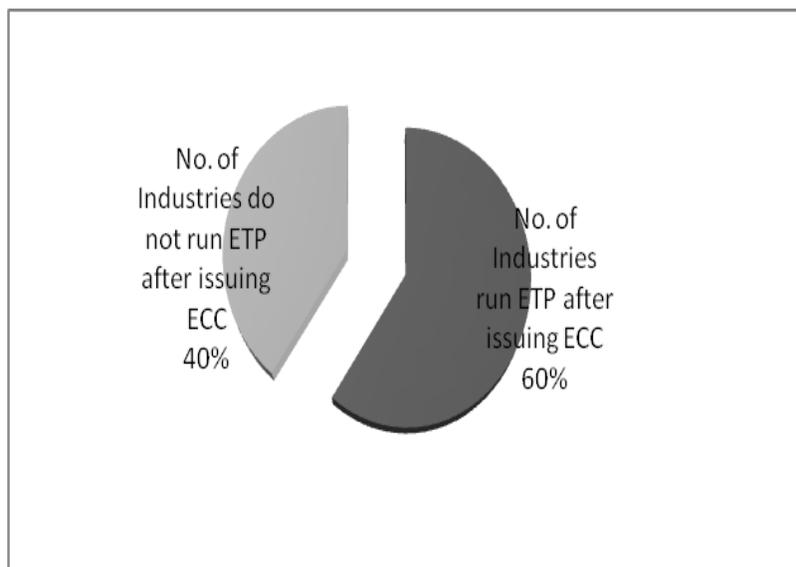


The figure below shows that seventy percent of time DOE does not have any further inspection by taking unofficial money from Industries owners and only twenty percent of time they have regular visit to keep everything functioning properly.



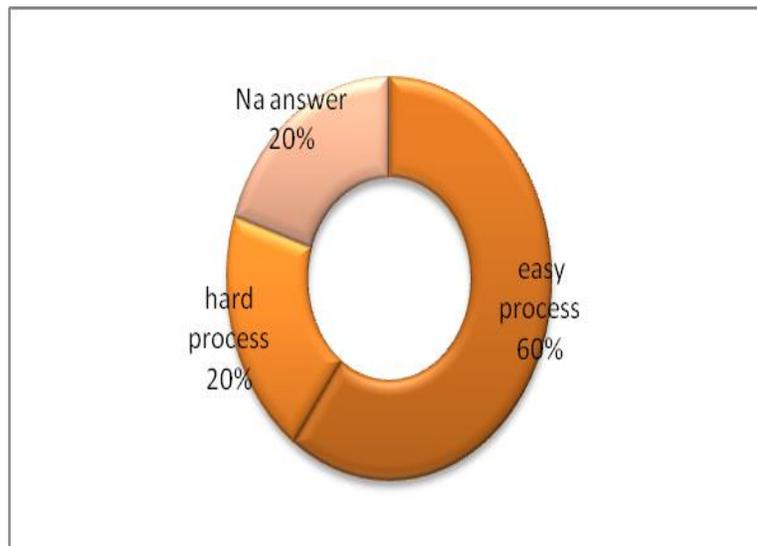
□ **Mismanagement of ECC owners:**

Before getting LCC or ECC industry owners are willing and happy to meet up all requirements by DoE but after completion of getting all clearance from DoE some of the Industry owners are really unwilling to run their Effluent Treatment Plant (ETP) to protect environment pollution to save cost that really harmful for our environment and human being as well.



□ Overall Official Procedures on ECC:

Most of the respondents said the overall procedures on issuing an ECC are not hard to follow and maintain but the service of DOE on this regard is poor and less standard. The figure below shows the opinion on overall services provided by DOE



8.0 SB Group - A case study of Complexities on ECC

- SB GROUP started DEYING Factory in 2008. It took more than six months to get an ECC for their Dyeing factory.
- They got response from DoE after two months of application. At first SB group was instructed by DoE to establish Effluent Treatment Plant (ETP) according to DoE's design.
- After establishing ETP, SB Group took DoE to visit ETP plant but DoE was not happy, though SB group did everything according to DoE's design and instructions.
- Then DoE instructed SB Group to get temporary permission for three month. SB Group took temporary permission by submitting sixteen lakhs BDT to DoE as security money and started their factory.
- After three months again DoE was unwilling to pay visit and issue an ECC. After considerable lobbying, DoE sent them to BUET for water test.
- After passing test from BUET once again SB group went to DoE for final approval but this time DoE replied that they have their own laboratory and all tests have to be approved by the laboratory till then factory will be remain closed.
- Then SB group was compelled to go to DoE laboratory and passed all tests.

- After two months of passing all tests from DoE's laboratory, DoE agreed to issue only ECC but were reluctant to refund the security money on the plea that SB group has failed to complete the necessary formalities within the stipulated three months time.
- After a long time lobbying and procrastination, SB group got their money back.
- Every single visit paid by DoE was arranged by SB group and they had to do everything to please DoE people besides paying all legal documents and fees. That was a period of anxiety and uncertainty for them.

DoE office dealings were not friendly and SB Group was under pressure and disappointment. They recommended proper measures for ensuring transparency and professionalism at DoE for the sake of Industrial growth in Bangladesh.

9.0 Complexities on ECC as identified by respondents

1. Average time to get an ECC is not conducive for industrial ventures especially for Orange B and Red categories.
2. Unofficial money is involved in every step of issuance of an ECC .
3. Most of the unofficial money is involved in the post-inspections Processes.
4. Lack of manpower at DoE - only 25-30% percent employees are available on duty which significantly adds to complexity, corruption and delay.
5. Lack of skilled and trained staffs for ECC related matters.
6. Some of the Govt. policies are not industry friendly
7. Industry owners are not willing to run ETP after getting ECC that accounts for environmental pollution.
8. Lack of inter ministerial collaboration for industrial ventures and environmental concern.
9. Lack of collaboration between government, industry owners, civil society, experts and NGOs.

10.0 Recommendations

- Projects / industrial ventures need to be categorized on the basis of its plausible impact on environment; and procedural steps for issuance of ECC be streamlined accordingly deliver ECC within a stipulated time.
- The power for issuance of ECC be vested with the appropriate local Govt. authority or local administration for projects costing up to 25 crore.
- The existing composition of the eight –member Environment Clearance Committee should be rationalized to include at least three more members/ representatives from industry, business chamber and civil society/NGO.
- The validity period for the ECC issued should be made uniform for all categories of projects with a minimum validity period of five years.

- Participation of local Govt. / local authority should be made mandatory for any inspection related to ECC in order to promote transparency and curb corruption in the overall process.
- The mindset of the people in the DoE should be drastically changed to render hassle –free and corruption- free service to the clients in due recognition of their positive contribution to employment generation and economic growth by establishing new projects/ industrial ventures.
- Issuance of ECC should be mandatorily published in local and national print media for the sake of mass awareness and transparency.
- Vacant positions in the DoE should be promptly filled up as such situations add further to ECC process-delay, client’s harassment and corruption.

11.0 References

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