

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 673/2018
(M.A. No. 1777/2018)

WITH

Original Application No. 727/2018

News item published in "The Hindu" authored by Shri Jacob Koshy

Titled

"More river stretches are now critically polluted: CPCB

WITH

Dr. Tudi Indrasena Reddy & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 19.12.2018

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Sravan Kumar, Advocate in Original
Application No. 727/2018

For Respondent(s):

Mrs. Sharmila Upadhyay and Mr. Krishna
Kanodia, Advocates for CPCB
Mr. Pradeep Misra, Advocate for UPPCB
Mrs. G. Indira, Mr. K.V. Jagdishvari and
Ms. Mrinal K. Mondal, Advocates for
Andaman & Nicobar Administration
Mr. Dinesh Jindal, LO GNCTD
Mr. Rajshree Choudhary, Mr. Guntur
Pramod Kumar, Advocates for State of A.P.
Mr. Sanjay Kumar, Advocate for HPSPCB
Mr. Deepak K. Singh, Advocate for State of
Telangana
Mr. Dhananjay Baijal and Mr. Nikhil
Nayyar, Advocates for APPCB and TSPCB

ORDER

1. The issue taken up for consideration in this matter is abatement of pollution in 351 river stretches in the country, identified as such by the Central Pollution Control Board (CPCB). The said river stretches

are not meeting the prescribed standards of the water quality in terms of Bio-chemical Oxygen Demand (BOD). Existence of polluted river stretches is evidence to show that the State Pollution Control Boards (SPCBs) have failed to perform their statutory obligation to take appropriate action to achieve the objects of the Water (Prevention and Control of Pollution) Act, 1974.

2. Having regard to the importance of the issue and in the light of judgments of the Hon'ble Supreme Court in *M.C. Mehta Vs. Union of India & Ors.*¹, *M.C. Mehta Vs. Union of India And Ors.*² (*Calcutta Tanneries' Matter*), *Vellore Citizen' Welfare Forum Vs. Union of India*³, *S. Jagannath Vs. Union of India & Ors.*⁴, *And Quiet Flows The Maily Yamuna*⁵, *Tirupur Dyeing Factory Owners Association Vs. Noyyal River Ayacutdars Protection Association & Ors.*⁶ and *TechiTagi Tara Vs. Rajendra Singh Bhandari & Ors.*⁷ and of this Tribunal in *Manoj Mishra Vs. Union of India*⁸, *M.C. Mehta Vs. Union of India*⁹, *Mahendra Pandey Vs. Union of India & Ors.*¹⁰, *Sobha Singh & Ors. Vs. State of Punjab & Ors.*¹¹, *Nityanand Mishra Vs. State of M.P. & Ors*¹², *Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case)*¹³, *Doaba Paryavaran Samiti Vs. State of U.P. & Ors.*¹⁴, *Arvind Pundalik Mhatre Vs. Ministry of Environment, Forest and Climate Change & Ors.*¹⁵, *Meera Shukla Vs. Municipal Corporation, Gorakhpur & Ors.*¹⁶, *Amresh Singh Vs. Union of India & Ors.*¹⁷, *Sudarsan Das Vs. State of West Bengal & Ors.*¹⁸, *Satish Kumar vs. U.O.I & Ors.*¹⁹, this Tribunal noted

¹ (1987) 4 SCC 463 ¶14 & (1988) 1 SCC 471

² (1997) 2 SSC 411

³ (1996) 5 SSC 647

⁴ (1997) 2 SCC 87

⁵ (2009) 17 SSC 720

⁶ (2009) 9 SSC 737

⁷ (2018) 11 SCC 734

⁸ O.A. No. 6/2012, 2015 ALL(1) NGT REPORTER (1) (DELHI) 139

⁹ O.A. No. 200 of 2014, 2017 NGTR (3) PB 1

¹⁰ O.A. No. 58/2017

¹¹ O.A.No. 101/2014

¹² O.A. No. 456/2018

¹³ O.A. No. 138/2016 (T_{NHRC})

¹⁴ O.A. No. 231/2014

¹⁵ O.A. No. 125/2018

¹⁶ O.A. No. 116/2014

¹⁷ Execution Application No. 32/2016 in O.A. No. 295/2016

¹⁸ O.A.No. 173 of 2018

¹⁹ O.A. No. 56 (T_{HC}) of 2013

the need for steps to check discharge of untreated sewage and effluents, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters, encroachments of catchment areas and floodplains, over drawal of groundwater, river bank erosion on account of illegal sand mining. There is need for installation of Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), Solid Waste Treatment and processing facilities etc.

3. It was also noted that BOD was required to be less than 3.0 mg/l, Dissolved Oxygen more than 5.0 mg/l and Faecal Coliform bacteria less than 500 MPN/100 ml.
4. The Tribunal also noted that as per data published by the CPCB in January, 2018, 30,042 million litres per day (MLD) of domestic sewage is generated from urban areas along the polluted river stretches. The installed sewage treatment capacity is about 16,846 MLD, leaving a gap of about 13,196 MLD (43.9%). There is a large gap in sewage treatment capacity and generation of sewage in urban areas.
5. The Tribunal also noted that on the one hand, there is need to enhance the river flow through intervention on the water sheds/catchment areas for conservation and recharge of rain water for subsequent releases during lean flow period in a year and on the other hand, there is need to dilute the pollutants in the rivers and streams so as reduce concentration to meet the desired level of water quality and extent of flow as per prescribed norms. This called for preparation of action plan including the water shed management by way of (a) Recognition phase (b) Restoration phase (c) Protection phase (d) Improvement phase. Attention was also required for agriculture and forest management and production, forage

production and pasture management, socio-economic conditions to achieve the objectives of watershed management.

6. The object of the action plan should be to restore the water quality for which model action plan prepared for river Hindon could be taken into account. Salient features of the action plan are to be:

- i. Execution of field surveys to assess pollution load generated by industries and sewage generated in a city or town discharging sewage and trade effluent into river Hindon and its tributaries.
- ii. Collating water quality monitoring data of river Hindon and its tributaries and assigning the class as per primary water quality criteria.
- iii. Water quality assessment of river in context of sewage/industrial drain outfalls with dilution and distance factors.
- iv. Laying time-limes for regulating industrial pollution control by ensuring consent compliance and closing the defaulting industries till they comply with the norms stipulated to them.
- v. Setting up of STPs in towns located in the river catchment and emphasis on utilization of treated sewage.
- vi. Adopting water conservation practices, ground water regulation, flood plain zone management and maintaining environmental flow.

7. The Tribunal also referred to different actions to be taken for different categories of the priorities for the action plan to deal with the source control, treatment of sewage, ground water, regulation, activities in flood plain zone, e-flow and other issues.

8. The direction issued by the Tribunal was to constitute River Rejuvenation Committee (RRC) comprising of Directors of Environment, Urban Development, Industries and Member

Secretaries of the SPCBs so as to identify pollution sources, functioning/status of STPs/ETPs/CETP and solid waste management and processing facilities, quantification and characterisation of solid waste, trade and sewage generated in the catchment areas of polluted river stretch. The action plan is to address issues relating to ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river and plantation on both sides of the river, setting up of bio-diversity parks, interception and diversion of sewage carrying drains to the STP. The Chief Secretaries of States were to be personally accountable for failure to formulate the action plans.

9. This Tribunal directed action plans to be prepared within two months with the contemplation that water quality will be fit for bathing purposes within six months from the date of the action plan. We are informed that out of 29 States and 7 Union Territories (UTs), total of 16 States/UTs have prepared the draft action plans and 15 have failed to do so.
10. As already noted, contamination of water and deterioration of water quality are matters to be taken seriously as they affect public health and right of citizen to have access to potable drinking water. Unfortunately, in spite of categorical directions of this Tribunal in the order dated 20.09.2018 based on earlier judgments of the Hon'ble Supreme Court and this Tribunal, 15 States and UTs have failed to carry out the order of this Tribunal. The said States and UTs have not even taken the first requisite step of preparing an action plan, showing total insensitivity to such a serious matter and

public issue. With great regret, we may be left with no opinion but to take coercive action, if there is further failure.

11. We also find that for 16 States/UTs which have prepared action plans, the action plans are not complete. Base line data has not been given, preparation of action plans has been assigned to third parties, details of STPs etc. are also not given, timelines given are too long, status of e-flow has not been given, action plans are not proposed to be placed on websites to involve educational and other institutions and the public at large. The said States/ UTs may now give revised reports on or before 31.01.2019 to CPCB after complying with the deficiencies. The CPCB shall examine the action plans and only if they meet the scientific and technical yardstick shall approve the same and convey it to the respective States/UTs. The States/ UTs after its approval shall place/host these action plans on the respective website giving clear timelines for its execution, agencies responsible for its execution along with the matching budgetary provisions.

12. By way of last opportunity, we extend the time for preparation of action plans till 31.01.2019 with the stipulation that for every delay thereafter, compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches. The payment will be the responsibility of the Chief Secretaries of the States/Administrators of the UTs and the amount may be recovered from the erring officers. The CPCB may prominently place the names of the defaulting States and UTs and a notice to this effect on its website.

13. The SPCBs and Pollution Control Committees of UTs may display the quality of the water of polluted river stretches on their respective websites within one month from today, alongwith action taken, if any, which may be revised every three months. The CPCB may also display the water quality of the river stretches and action/inaction by such States on its websites. It is made clear that BOD will not be the sole criteria to determine whether a particular river stretch is a polluted river stretch. Other parameters including Faecal Coliform (FC) bacteria will also be the criteria for classifying a stretch as polluted or otherwise. CPCB may devise within two weeks a mechanism for classification wherein two criteria pollutants that is BOD and FC shall henceforth be basis of classification in Priority Classes.

14. The CPCB may also examine whether river Rangpo in Sikkim falls in the category of polluted river stretches and if it is so, CPCB may give appropriate directions with regard to the said river also.

15. Any incomplete action plan will be treated as non-compliance. Performance guarantees are to be furnished for implementation of action plans within the above stipulated time to the satisfaction of Central Pollution Control Board in the sum of:

- (i) Rs. 15 crore for each of Priority I & II stretches
- (ii) Rs. 10 crore for each of Priority III stretches
- (iii) Rs. 5 crore for each of Priority IV & V stretches.

16. The CPCB will be at liberty to take further coercive measures against the States/UTs concerned and furnish a consolidated report to this Tribunal by 28.02.2019 by e-mail at ngt.filing@gmail.com.

List for further consideration on 08.04.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 19, 2018

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