

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

Execution Application No. 35/2023
In
Original Application No. 673/2018
(IA No. 862/2023)

WITH

M.A. No. 92/2023
In
Original Application No. 673/2018

News item published in “The Hindu” authored by Shri Jacob Koshy Titled
“More river stretches are now critically polluted: CPCB”

Md. Imran Ahmad & Ors.

Applicants in EA

Date of hearing: 01.10.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON’BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Md. Imran Ahmad, Mr. Saif Shakeel, Mr. Bharat Banavalikar & Mr.
Aishik Chakraborty, Applicants in Person (Through VC)

Respondents: Ms. Manpreet Kaur, AAG for the State of Punjab
Ms. Yukti Anand & Mr. Rishi K. Awasthi, Advs. for the State of Bihar
(Through VC)
Mr. Rahul Khurana, Adv. for the State of Haryana & HSPCB
Mr. Shubham Bhalla & Ms. Ragini Sharma, Advs. for UT of Chandigarh
Mr. Jogy Scaria, Adv. for Kerala SPCB
Ms. Richa Kapoor & Ms. Atika Singh, Advs. for Punjab PCB
Mr. Bhanwar Pal Singh Jadon, Adv. for the State of UP
Mr. Maulik Nanavati, Adv. for the State of Gujarat & Gujarat PCB
(Through VC)
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)
Ms. K. Enatoli Sema & Mr. Prang Newmai, Advs. for Meghalaya PCB
(Through VC)
Ms. K. Enatoli Sema & Mr. Prang Newmai, Adv. for Nagaland PCB & State
of Nagaland (Through VC)
Mr. Anando Mukherjee, Adv. for the State of Mizoram (Through VC)
Mr. Pukhrambam Ramesh Kumar, Ms. Rajkumari Divyasana & Ms.
Anupama Ngangom, Advs. for the State of Manipur (Through VC)
Mr. Raj Kumar, Adv. for CPCB (Through VC)
Ms. Jyoti Mendiratta, Adv. for GNCTD (Through VC)
Mr. Kumar Anurag Singh & Mr. Dev Aarya, Adv. for JSPCB (Through VC)
Mr. Raghav Sharma, Adv. for MP PCB
Mr. Dhananjay Baijal, Adv. for Telangana SPCB

Mr. Abhimanyu Tewai & Ms. Eliza Bar, Advs. for the State of Arunachal Pradesh
Mr. Gigi. C. George, Adv. for Andaman & Nicobar Islands
Mr. Nishe Rajen Shonker, Adv. for the State of Kerala

ORDER

1. By this Execution Application, Applicant is seeking compliance of the order dated 06.12.2019 passed the OA No. 673/2018.

2. The OA was registered *suo motu* on the basis of a news item published in the Hindu under the heading “more river stretches are now critically polluted: CPCB”. The Tribunal in the order dated 06.12.2019 had taken note of the fact that 351 polluted river stretches were identified based upon the data compiled by the CPCB and others. The Tribunal had disposed of the OA issuing the following directions:

“XII. Directions:

47. *We now sum up our directions as follows:*

- i. *100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.*
- ii. *Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.*
- iii. *We further direct that an institutional mechanism be evolved for ensuring compliance of above directions. For this purpose, monitoring may be done by the Chief Secretaries of all the States/UTs at State level and at*

National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB.

- iv. For above purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance who may take assistance of CPCB and may give its quarterly report to this Tribunal commencing 01.04.2020.*
- v. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the Secretary level and ensuring appropriate adverse entries in the ACRs of erring officers. Monitoring at State level must take place on fortnightly basis and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose.*
- vi. Monthly progress report may be furnished by the States/UTs to Secretary, Ministry of Jal Shakti with a copy to CPCB. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers.*
- vii. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level.*
- viii. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.*
- ix. CPCB may finalize its recommendations for action plans relating to P-III and P-IV as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the action plans prepared by the States which may start forthwith, if not already started.*
- x. The action plan prepared by the Delhi Government which is to be approved by the CPCB has to follow the action points delineated in the order of this Tribunal dated 11.09.2019 in O.A. No. 06/2012.*
- xi. Since the report of the CPCB has focused only on BOD and FC without other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification, a survey may now be conducted with reference to all the said parameters by involving the SPCB/PCCs within three months. Monitoring gaps be identified and upgraded so to cover upstream and downstream locations of major discharges to the river. CPCB may file a report on the subject before the next date by e-mail at judicial-ngt@gov.in.*
- xii. Rivers which have been identified as clean may be maintained.”*

3. Since the OA was registered *suo motu*, therefore, Applicant has filed MA No. 92/2023 seeking permission to file the execution application. Having regard to the credentials of the Applicant, the details of non-

compliance reflected in the MA and also the nature of order which is sought to be complied with, we allow MA No. 92/2023 and permit the Applicant to file/prosecute the present execution application.

4. IA No. 862/2023 has been filed by the State of Bihar with the following players:

“a. Direct the CPCB to not take any coercive steps against the Applicant herein in light of the order of the Hon'ble Supreme Court dated 24.02.2021 in Civil Appeal No. 534 of 2021 till such time that the said civil appeal is pending before the Hon'ble Supreme Court; and

b. Direct the CPCB to await the judgment of the Hon'ble Supreme Court in Civil Appeal No. 534 of 2021 before taking any steps against the Applicant; and

c. Pass any further order/s as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case;”

5. Learned Counsel for State of Bihar, pressing application, IA No. 862/2023, has submitted that since in Civil Appeal No. 534/2021 filed against the order of the NGT dated 16.09.2020 in IA No. 290/2020 in OA No. 200/2014, Hon'ble Supreme Court on 24.02.2021 had directed that no coercive step should be taken in the meanwhile, therefore, the said direction should be issued in this case also.

6. We find that in IA No. 862/2023 nothing has been disclosed showing that any action is being taken by the CPCB in pursuance of any order passed in this execution application. The applicant, State of Bihar has enclosed certain communications issued by the CPCB which are in pursuance to the orders passed in OA No. 200/2014.

7. By the order dated 16.09.2020 passed in IA No. 290/2020 in OA No. 200/2014, the Tribunal has rejected the prayer for extension of time

for setting up of the STP and observed that the State may take further steps for recovery of compensation as directed.

8. Considering the nature of the order under challenge in Civil Appeal No. 534/2021, the Hon'ble Supreme Court on 24.02.2021 has passed the interim order therein. Counsel for the State of Bihar has not pointed out any such order in this execution application. Therefore, no case for granting the prayer number (a) in IA 862/2023 is made out.

9. In the present execution application, the Tribunal is considering the compliance of the directions issued on 06.12.2019 in OA No. 673/2018 wherein the issue is in respect of 351 polluting river stretches all over India and it is not confined to the pollution of river Ganga and its tributaries which is the subject matter in OA No. 200/2014. The present matter stands on a different footing, therefore, there is no case made out to grant the prayer made in IA 862/2023. The IA No. 862/2023 is accordingly rejected.

10. Some of the States/UTs have filed their response. The affidavit of service filed by the Applicant does not contain the track report disclosing that all the States/UTs are served. Hence, the Applicant is permitted to take fresh steps for service of notice to unserved respondents, if any, and file a fresh affidavit of service at least one week before the next date of hearing.

11. The States/UTs that have yet to file their reply are permitted to file their reply by way of affidavit within 8 weeks.

12. List on 28.01.2025.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

October 1, 2024
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