

Item No.11

Court No. 2

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

Original Application No. 3/2024

Phoolwati

Applicant

Versus

Jai Prakash

Respondent

Date of hearing: 02.07.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None
Respondent: Mr. Rahul Khurana, Advocate for respondents no. 1 to 4 with Mr. Dinesh, RO and Mr. Sachin, AEE, HSPCB.
Mr. Umesh Vats, Advocate for Respondent no. 5.

ORDER

1. This original application under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') has been registered in exercise of *suo-moto* jurisdiction on the basis of a letter petition dated Nil received from Phoolwati W/o Rajender Singh complaining about illegal extraction of ground water by Jai Prakash S/o Chandre R/o Village Dattour, Tehsil Sampla, District Rohtak, Haryana.
2. Complainant has said that proponent Jai Prakash is running RO plant in his field and supplying water to a factory who sells water by bottling. He is also supplying ground water to Village Dattour, Gijhi, Ataal, Sampla by running at least 4-5 tube-wells in agricultural fields. There is a minor distributor of water and whenever water comes therein, proponent Jai Prakash takes away water therefrom and supply it to villages and factories.

3. Taking cognizance of said complaint, this Tribunal vide order dated 08.01.2024 sought to obtain a factual report and thus constituted a joint committee comprising representative of Haryana Water Resources (Conservation, Regulation and Management) Authority, Haryana State Pollution Control Board (hereinafter referred to as '**HSPCB**') and District Magistrate, Rohtak and directed the committee to submit factual report within two months.

4. Following were also impleaded as respondents:

- i. State of Haryana, through Chief Secretary, Government of Haryana
- ii. Haryana Water Resources (Conservation, Regulation and Management) Authority
- iii. Haryana State Pollution Control Board (HSPCB)
- iv. District Magistrate, Rohtak and
- v. Mr. Jai Prakash S/o Chandre R/o Village Dattour, tehsil Sampla, District Rohtak, Haryana

5. Pursuant to said order, HSPCB has submitted report dated 13.03.2024 stating that on site inspection they found three tube-wells installed in agriculture field of Jai Prakash. Out of three tube-wells, one was found defunct, one was found to be used for agriculture purpose and one was found in use of supply of water to villagers through direct pipeline. Report also shows that a RO plant was established in one room but it was at the time of inspection found non-operational. Mr. Gaurav S/o Jai Prakash informed the Committee that RO plant was non-operational since long time due to illness of his father.

6. A separate reply dated 14.03.2024 has also been filed by HSPCB wherein, facts stated in earlier report are reiterated. However, it is also said that site was visited again on 11.03.2024 and it was found that RO plant was removed from site.

7. Proponent Jai Prakash has filed reply vide email dated 18.03.2024 wherein details of some family dispute is mentioned with which we are not concerned. However, it is not disputed that tube-wells are installed in his land and since there is no potable water available from government side, tube-well is being used for said purpose.

8. We have heard Sh. Rahul Khurana, Advocate for respondents 1 to 4 and Sh. Umesh Vats, Advocate for respondent 5.

9. Sh. Gaurav S/o Jai Prakash i.e. respondent 5 is present in person.

10. It is stated at the bar by both learned counsel that RO plant as such has been removed from site and now it is not functional.

11. It is also said that one tube-well which is lying defunct shall be closed or sealed and appropriate action shall be taken by Deputy Commissioner, Rohtak within 15 days from today.

12. So far remaining tube-wells are concerned, it has been made clear before us that same are being used for the purpose of agriculture and supply of drinking water and not for commercial purposes.

13. For past violations in running of RO plant by extraction of groundwater without nay permission from the Competent Authority, in our view respondent 5 is liable to pay environmental compensation by application of principle of 'Polluter Pays'. However, looking to facts and circumstances explained by respondent 5 in his reply, we direct in the

interest of justice that respondent 5 shall plant 200 indigenous trees in the village within one month. The same shall be treated to be compliance to the principle of 'Polluter Pays'. We also direct Gram Panchayat, Dattaur and Divisional Forrest Officer, Rohtak to help respondent 5 in plantation activity.

14. Deputy Commissioner, Rohtak and Regional Officer, HSPCB of the concerned area shall verify compliance of this order with regard to various directions as contained above and submit a compliance report within one month after expiry of above period granted for compliance of above directions with Registrar General of this Tribunal, who, if finds necessary, may place matter before the Bench for further orders.

15. With the above directions, application is disposed of.

16. A copy of this order be forwarded to Gram Panchayat, Dattaur, Divisional Forrest Officer, Rohtak, Deputy Commissioner, Rohtak and Regional Officer, HSPCB, Rohtak by email for compliance.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 02, 2024
Original Application No. 3/2024
AB