

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.178/2023/EZ
(I.A. No.66/2023/EZ)

Sanjay Kumar

Applicant(s)

Versus

Govt. of Bihar & Ors.

Respondent(s)

Date of hearing: 06.12.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Ms. Renu, Advocate (in Virtual Mode)

ORDER

1. Heard Ms. Renu, learned Counsel appearing (in Virtual Mode) on behalf of the Applicant.
2. This Original Application has been filed alleging that in Village Kochahasa, Block and District – Arwal in Bihar, there is a waterbody running parallel to the Karpi-Imam Ganj Road. The length of the waterbody is stated to be one kilometer and the width about 100-150 feet. It is stated that the waterbody is the main reservoir and water storage of the village and primary source of rainwater harvesting. The Plot No. of the waterbody is 559 and the Canal is adjacent to Plot No.202. It is stated that on 04.07.2017, one Mr. Abhinna Kumar had gifted a portion of agricultural land converted commercially, to his wife Ms. Mita Devi through Gift Deed. It is stated that the Land Revenue Map still shows the existence of canal to the east of Plot No.202. It is alleged that an illegal road has been constructed on the water reservoir being Plot No.559. It is alleged that the Respondent No.2 Shivam Agro Industries Private Limited is an Agricultural and Allied Activities

Company which has started its business on Plot No.202 in the year 2017. It is alleged that the company has been discharging effluents without proper treatment into the waterbody thereby impacting the ecosystem as well as the village community’s health. It is also alleged that the Respondent No.2 has not obtained the necessary clearances under the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter called the Water Act 1974) and The Air (Prevention and Control of Pollution) Act, 1981 (hereinafter called the Air Act 1981).

3. The allegation further is that the Rice Mill generates waste in the form of husk, bran and the other bi-products. It is also alleged that the Hon’ble Minister for Irrigation, Government of Bihar to a query raised in the Legislative Assembly, Bihar has given the following answers: -

“Starred questions no 3638 (Short 67) received from Shri Ajit Kumar Singh, MLA	Response to be given from Sri Santosh Kumar Suman, Honourable Minister, Minor Water Resources Dept.
<i>‘Will the Minister, Minor Water Resources Department, be pleased to state -</i>	
<i>(1) Is it true that in Kochahasa village under Arwal district, Karpi block the water reservoir which runs parallel to the Imamganj-Karpi main road, is the main source of water reservoir of the village?</i>	<i>Affirmative</i>
<i>(2) Is it true that by encroaching on that reservoir a 60 feet wide and 100 feet long road has been constructed in it for private business purpose?</i>	<i>Partially Affirmative</i> <i>Road is 20 feet wide and 100 feet long</i>
<i>(3) Is it true that a private boundary wall has also been constructed for business by surrounding</i>	<i>Affirmative</i>

<i>about 15 decimal land of the reservoir?</i>	
<i>(4) If the answers to the above sections are in the affirmative. So, the government intends to free the reservoir from illegally occupied land and illegally constructed roads and take action against the culprits for encroachment in the said reservoir, otherwise.</i>	<i>By letter no.220 dated 07.03.2022 of Executive Engineer, Minor Irrigation Division Arwal, a request has been made to Circle Officer Karpi for demarcation of the reservoir. Once the encroachment has been removed, the work will proceed in accordance with the established departmental priorities and procedures.”</i>

4. The allegation of the Applicant is that till date, nothing has been done and the Respondent No.2 Rice Mill is polluting the area in question.
5. In our opinion, matter requires consideration.
6. Issue notice to the Respondents, returnable within four weeks.
7. Mr. Surendra Kumar, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent Nos.1 and 3, State Respondents, Government of Bihar.
8. Ms. Anamika Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.5, Ministry of Environment, Forests and Climate Change (MoEF&CC).
9. Mr. Ashok Prasad, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No. 6, Central Ground Water Board (CGWB).
10. Ms. Amrita Pandey, learned Counsel who is present (in Virtual Mode), accepts notice on behalf of the Respondent No.7, Bihar State Pollution Control Board.
11. We are of the view that the Respondent No.8, State Environment Impact Assessment Authority (SEIAA), Bihar is not a necessary party in the present case since there is no allegation that the

Respondent No.2 Rice Mill is operating without Environmental Clearance. We, therefore, direct the Applicant to delete the Respondent No.8, State Environment Impact Assessment Authority (SEIAA), Bihar from the array of Respondents.

12. We are also of the view that Respondent No.4, Ministry of Jal Shakti is not a necessary party in the present proceedings. Therefore, we direct the Applicant to delete the Respondent No.4, Ministry of Jal Shakti from the array of Respondents.
13. We are however, of the view that Department of Irrigation, Government of Bihar is a necessary party in the present case. We, therefore, direct the Applicant to implead the Department of Irrigation, Government of Bihar through its Principal Secretary in the array of Respondents as Respondent No.9.
14. Issue notice to the Respondent No.2 and 9, returnable within four weeks.
15. All the Respondents shall file their counter-affidavits within four weeks.
16. Considering the allegations made in the Original Application, we deem it appropriate to constitute a Committee comprising of the following members: -
 - i) Senior Scientist, Bihar State Pollution Control Board;
 - ii) District Magistrate, Arwal, Bihar or his representative Officer not below the rank of Additional District Magistrate (A.D.M.);
and
 - iii) District Representative of the Department of Irrigation, Government of Bihar

The Committee shall visit the site and submit its Report with regard to the allegations made in the Original Application within three weeks.

17. The District Magistrate, Arwal, Bihar shall be the Nodal Body for all logistic purposes and shall file the Inspection Report on affidavit.
18. In case violations are found, the Committee shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any.
19. Ms. Renu, learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its annexures on Mr. Surendra Kumar, Ms. Anamika Pandey, Mr. Ashok Prasad and Ms. Amrita Pandey, learned Counsel within 24 hours.
20. **List on 19.01.2024.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

December 06, 2023,
Original Application No.178/2023/EZ
(I.A. No.66/2023/EZ)
SKB