

Item No.03

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.20/2023(CZ)

Ashok Malik

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 01.08.2023

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

For Applicant(s) : Mr. Ashok Malik, applicant in person
For Respondent(s) : Mr. Nishant Kesharwani, Advocate for Mr. Shoeb Khan, Advocate for R-1,4,8,9
Mr. Sandeep Singh Baghel, Advocate for R-2,3,5,6,7
Mr. Ajay Singh, Advocate for R-7

ORDER

1. This Original Application under Sections 14, 15, 17 read with Section 18 of National Green Tribunal Act, 2010 has been preferred, alleging that Anasagar Lake is a man-made lake located in the city of Ajmer in Rajasthan. It was built in 12th century by local ruler Anaji Chauhan by putting a dam on Luni River. With passage to time, City of Ajmer has developed in the area of Anasagar Lake and its vicinity. In ancient times, Anasagar served as a major source of drinking water for city of Ajmer and also attracted tourists with its beautiful surroundings and Mughal-era architecture of Daulat Khana and Baradari located on its banks. Luni River is a seasonal river, originates in Aravalli Range in Rajasthan, flows in a southwesterly direction for about 500 kilometers through Thar Desert and empty ultimately into Rann of Kutch in Gujarat, meeting Arabian Sea. River Luni passes through city of Ajmer and its water is used to fill Anasagar Lake during monsoon season. In other

words, it is said that Luni River is as a resource of water for Anasagar Lake.

2. Reference of another river i.e., Jawai is also given and it is said that it is tributary of River Luni. It originates in Udaipur District of State of Rajasthan and joins river Luni near the town of Sanchoe in Jalore District.

3. Luni River is a part of the larger Indus River basin. Luni River and its tributaries, including Jawai River contribute to Indus River system.

4. There is lot of pollution in Anasagar Lake due to encroachment and indiscrete constructions raised in the nearby area; drains directly discharging untreated sewage in the lake and dumping of solid waste etc. Pollution of Anasagar Lake is not only affecting Luni River but also contaminating ground water. Anasagar Lake is suffering harmful effects which are enumerated in para 7 of OA, which reads as under:

“7. That 13 nallahs carry untreated wastewater from various colonies and places of Ajmer and dump it into Anasagar Lake without any treatment, leading to severe pollution and environmental damage violating the provisions of Water (Prevention and Control of Pollution) Act, 1974 and causing various harmful effects such as:

- A. Water quality degradation: The nallahs carry a significant amount of untreated domestic and industrial wastewater, which contains pollutants like heavy metals, pathogens, and nutrients. These pollutants reduce the water quality of the lake, making it unfit for drinking and other domestic purposes.*
- B. Algae bloom: The nutrient-rich water from the nallahs promotes the growth of algae in the lake. This results in a dense mat of algae that can choke the lake and prevent sunlight from penetrating the water. This, in turn, can lead to the death of aquatic plants and fish which had occurred recently (Newspaper Cutting Annexed in Annexure – IV).*
- C. Eutrophication: The excess nutrients from the nallahs also promote eutrophication in the lake. This is a process where excessive plant growth leads to a depletion of oxygen in the water. This can result in the death of fish and other aquatic life.*
- D. Odor and visual pollution: The dumping of untreated wastewater can cause an unpleasant odor around the lake,*

making it difficult for people to enjoy the surroundings. The floating garbage also reduces the aesthetic value of the lake, impacting the tourism potential of the region.

- E. Impact on biodiversity: The dumping of untreated wastewater can impact the aquatic biodiversity of the lake, as many species of plants and animals cannot survive in polluted waters. Health hazards: The dumping of untreated wastewater can lead to the spread of water-borne diseases, putting the health of people at risk. This can have a significant impact on the well-being of the local community.*

*These nallahs in older time serves as a channels of rainwater which carries clean water from nagpahad and other catchments which in turn now converted into a source of waste water dumping directly into Anasagar lake, this is mainly due to negligence of Ajmer Municipal Corporation, Ajmer Development Authority due to there poor land use changes, urbanization, encroachments on or near to these drains. The polluted water from Anasagar Lake flows into the Luni River, ultimately flowing into the marshy lands in Rann of Kutch Gujarat just before the basin to Arabian sea, leading to further pollution and damage to the environment and public health. The situation is further exacerbated by the fact that no STP has been installed in the establishments such as marriage gardens, Banquette halls, Hotels, Restaurants etc. in the city to source treat the wastewater before discharging it into the nallahs. Therefore, it is imperative that STPs or ETPs should be installed in these establishments and throughout the city to source treat and recycle the wastewater before discharging it into the nallahs. This is also in violation and non-compliance of the orders passed in O.A 400/2017 **Westend Green Farms Society Vs Union of India & Ors.** dated – 19/09/2019 of the National Green Tribunal where the Hon’ble NGT mandated the use of STP or ETP in these establishments and CPCB has prepared guidelines on the compliance of the order mentioned.*

*(Order and Guidelines prepared by CPCB in compliance with orders passed in O.A 400/2017 **Westend Green Farms Society Vs Union of India & Ors.** dated – 19/09/2019 by Hon’ble NGT has been annexed in Annexure- III and Photographs of nallahs and current state of luni river annexed in annexure- I)”*

5. Further, details of other constructions are given in para 8, 9, 10, 11, 12 and 13 of OA which read as under:

“8. That in recent years a pathway has been constructed along the boundary of the lake by the Smart City Ajmer and Ajmer Development Authority. However, after the construction of the pathway, various activities have sprung up along the lake, including car workshops, marriage gardens, halls, and restaurants. These activities are causing various negative effects on the lake, including the dumping of waste and untreated sewage. The wastewater from these activities is also being discharged into the lake. Moreover, where these car workshops, marriage gardens, halls, restaurants, and other activities are set up, it is a no-construction zone notified by the Government of

Rajasthan by Gazette Notification dated 3rd January 2014 (Copy of Gazette Notification annexed in annexure- II). The construction of the pathway itself violates this notification.

9. *That the construction of the pathway using regular building materials has the potential to cause negative effects on the lake in the long run. This is because regular building materials such as cement, concrete, and asphalt prevent water from percolating into the ground, leading to an increase in surface runoff. As a result, the lake receives more pollutants, including chemicals and debris, which could affect the aquatic ecosystem and lead to water quality degradation over time. Furthermore, the use of these materials could contribute to the urban heat island effect as materials used in the construction absorb and retain heat, which leads to higher temperatures in the surrounding area, including the lake this can have severe impacts on the flora and fauna of the area and lake, leading to a decline in biodiversity. Additionally, the increased development and human activity around the lake, including the pathway, is contributing to higher air and water temperatures, which also have negative effects on aquatic life and water quality. The pathway has also caused changes in the lake's water flow patterns, which is disrupting the natural nutrient cycling process in the lake and lead to the growth of harmful algae and other aquatic weeds, also the pathway also hinders the natural flow of water, leading to stagnant water in some parts of the lake. This, in turn, can lead to the growth of algae and other harmful microorganisms, posing a threat to aquatic life and the environment. (Newspaper cuttings of death of fishes in huge quantity at Anasagar lake Annexure - IV). The pathway is a major source of pollution in the lak as it is often used by visitors who discard waste materials such as plastic bags, wrappers, and bottles, which end up in the lake.*
10. *That the Anasagar Lake is not only an ecologically and historically significant site but also a haven for migratory birds, making it a vital part of the city's natural heritage. Despite this, the authorities failed to conduct a proper survey or Environmental Impact Assessment (EIA) before the construction of the pathway, which has caused severe harm to the lake's ecosystem. The lack of adequate assessment and foresight has resulted in the irreparable damage to the lake's flora and fauna, as well as its recreational and cultural values.*
11. *That the food stalls near the pathway are also contributing to the pollution of the lake by dumping garbage and waste into it, which is leading to the formation of solid waste in the lakebed and floating of garbage on surface water of the lake, all this leading to various effects such as –*

A. Harmful to wildlife: *Garbage on the surface of water can be mistaken as food by wildlife such as birds and fish, leading to ingestion of plastic and other non-biodegradable materials. This can cause injury or death to the animals.*

B. Water contamination: *Garbage can release toxic chemicals and other harmful pollutants as it breaks down in the water, leading to contamination of the water body. This can cause*

health hazards for humans and animals who come in contact with the water.

C. Aesthetic degradation: Garbage floating on the surface of water can detract from the natural beauty of the area and reduce its appeal for recreational activities such as boating and swimming.

These are some of the negative impacts of dumping of garbage into the lake causing water contamination, ecological disturbance of lake and degradation of environment.

12. That the Ajmer Municipal Corporation has constructed a mini dumping area which is near to Bandi Nadi it is a natural water channel that connects the overflow water of Foy Sagar Lake which exits into Anasagar lake, as per Solid Waste Management rules 2016 and, Rajasthan State Solid Waste Management Policy and Strategy, 2019 it is not generally recommended to establish a solid waste dumpsite near a water source such as a river or stream. The rules state that waste management facilities must be located at a sufficient distance from water sources to minimize the potential for water contamination, and that waste should be stored, transported, and disposed of in a manner that minimizes the potential for environmental pollution, even no protection or covering facilities to protect littering, due to the wind action the waste directly goes into the Bandi Nadi which is ultimately leading to water pollution, no impermeable layer or leachate treatment plant has been established or provided on the mini dumpsite due to this the leachate is directly dumped into the Bandi Nadi Water Way, also by the percolation from the soil ultimately causing soil pollution and water Pollution. (Photographs Annexed in Annexure –I).

13. That the Ajmer Municipal Corporation is planning to establish a cruise ship on the lake, which would further deteriorate the already-polluted environment. The establishment of a cruise ship in Anasagar Lake may have several negative effects on the lake ecosystem, such as:

A. Increase in water pollution: The cruise ship will generate wastewater and sewage, which can add to the existing pollution load of the lake and harm aquatic life.

B. Disturbance to aquatic life: The movement of the ship on the lake would create noise and vibration, which can be harmful to aquatic life and disturb the ecological balance of the lake.

C. Risk of oil spills: The cruise ship would require regular maintenance and refueling, which increases the risk of oil spills that can have devastating effects on the lake's ecosystem.

D. Negative impact on migratory birds: Anasagar Lake is a popular site for migratory birds, and the presence of a cruise ship would disrupt their habitat, causing them to migrate elsewhere.

E. Alteration of lake ecology: The introduction of a cruise ship may lead to changes in the lake's ecology, such as changes in

water temperature, oxygen levels, and nutrient levels, which can impact the flora and fauna of the lake.

F. That the construction of the Seven Wonder Park by the Ajmer Smart City in the no construction zone of Anasagar Lake is in violation of the Government of Rajasthan's Gazette Notification dated January 3, 2014. The establishment of this park has further encroached upon the lake's boundaries, leading to an increase in pollution and degradation of the lake's ecosystem. Construction of the park in a no construction zone has resulted in the cutting down of trees, removal of natural vegetation, and disturbance of the ecological balance of the area.”

6. Complaint of applicant was noticed by Tribunal in its order dated 13.03.2023. Tribunal found it appropriate to obtain a factual report for the purpose whereof, constituted a Joint Committee comprising District Collector, Ajmer, Municipal Commissioner, Ajmer and a representative from Rajasthan Pollution Control Board.

7. The said Committee has submitted a report (page 86 of paper book), after visiting Anasagar Lake and its periphery on 04.04.2023 and 18.04.2023. It is pointed out in joint Committee Report that similar issues were raised in respect of Anasagar Lake in OA 63/2021 (CZ), *Surendra Singh Shekhawat vs. State of Rajasthan & Ors.*. Therein also, Tribunal obtained a factual report by constituting a Joint Committee comprising, representative of Ministry of Environment, Forest and Climate Change, representatives of Central Pollution Control Board, representatives of State Wetland Authority, Rajasthan and Rajasthan State Pollution Control Board (hereinafter referred to as '**RSPCB**'). After considering Report submitted by the said Committee, Tribunal decided the matter finally vide judgment dated 13.12.2021.

8. Joint Committee in OA 63/2021 (*supra*) has said in its report that Anasagar Lake is man-made lake and not a notified lake, hence not covered by Wetlands (Conservation and Management) Rules, 2010 (hereinafter referred to as '**WCM Rules, 2010**') or Wetlands (Conservation

and Management) Rules, 2017 (hereinafter referred to as '**WCM Rules, 2017**') but this aspect was negated by this Tribunal, relying on Supreme Court's order dated 08.02.2017 passed in **M.K. Balakrishnan & Ors. vs. Union of India & Ors., (2017) 7 SCC 810 (2)**, Writ Petition (Civil) No.230 of 2001. Following paragraphs were relied on:

"Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorize all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010."

9. In para 6 and 7 of judgment dated 13.12.2021, this Tribunal categorically said that provisions of WCM Rules, 2010 shall apply to Anasagar Lake which are reproduced as under:

*"6. We have heard learned Counsel for the parties and considered the above report. **To the extent the report rules out applicability of the 2017 Rules, the same cannot be accepted in view of judgement of Hon'ble Supreme Court in M.K Balakrishnan and Ors. (Supra), since the wetland in question is part of inventory in the Atlas.** For ready reference, direction of the Hon'ble Supreme Court is reproduced below:-*

"Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventories all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

4.

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these rules."

7. Thus, irrespective of Rajasthan Lake Development Authority under Rajasthan Lakes (Protection and Development) Authority Act, 2015, direction of Hon'ble Supreme Court, Wetland (Conservation and Management) Rules, 2010 will apply.

10. Thereafter, Tribunal also referred to its earlier judgement in **OA 351/2019, Raja Muzaffar Bhat vs. State of Jammu and Kashmir** decided on 25.11.2021, where in similar facts and circumstances, various directions were issued. Ultimately, Tribunal directed State Wetland Authority, Environment Department of Rajasthan and District Magistrate, Ajmer to take remedial action in the light of law, already held in *Raja Muzaffar Bhat (supra)*. Operative part of judgment, besides para 6 and 7 which have already been quoted, are reproduced as under:

“8. This Tribunal has dealt with the issue earlier vide order dated 25.11.2021 in O.A No. 351/2019, *Raja Muzaffar Bhat v. State of Jammu and Kashmir*, directed as follows:-

“1. The issue for consideration initially considered in this application was prevention of unscientific dumping of waste and encroachment of Hokersar Wetland, Wular Lake and Kreentchoo-Chandhara Wetland in the Union Territory of Jammu & Kashmir. By later orders, scope of consideration was extended to protection of all wetlands in the country in the light of observations of the Hon’ble Supreme Court that 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010. It was further observed that conservation of wetlands is of immense ecological importance. The Hon’ble Supreme Court did not appreciate that the Central Government was attempting to abdicate its responsibility under the Environment (Protection) Act, 1986 in favour of the State Governments.

2. Order of the Hon’ble Supreme Court dated 3.4.2017 in *M.K. Balakrishnan & Ors. v. Union of India & Ors.*, (2017) 7 SCC 805 as follows:

“17. Be that as it may, for the reasons given below, we are compelled to direct that **the Wetlands (Conservation and Management) Rules, 2016 should be notified on or before 30-6-2017**. We are compelled to issue this direction since the matter has been pending with the Union of India for the last almost a year and there has to be some finality to the publication of the Rules. The comments/suggestions have been given by all stakeholders such as the State Governments including its organisations, individuals and civil society organisations. That being the position, there is obviously a great deal of interest in the Rules being formulated and notified. Under these circumstances, there is no justification why the Union of India should not have taken prompt action and constituted the Committee much earlier for the purposes of finalising the Rules. Finally, **the conservation of wetlands is of immense ecological importance**.

18. The learned counsel for the Union of India says that all efforts will be made to ensure compliance with this direction and to ensure that the Rules are notified on or before 30-6-2017. We are sure that both the Committee as well as the Union of India will take into consideration the comments and suggestions offered by the State Governments and its organisations, individuals and civil society organisations before taking a final decision.

19. With regard to the Central Wetlands Regulatory Authority, we are told that its term is expiring on 14-2-2017. We have been informed by the learned counsel for the Union of India that the Central Wetlands Regulatory Authority will be notified on 13-2-2017. The Union of India is bound by the statement made by the learned counsel for the Union of India, which statement has been made on instructions received by him from an officer of the Ministry of Environment, Forest and Climate Change.

20. In our order dated 31-1-2017 [Set out in paras 11 to 13, above.], we had required the Union of India to tell us the steps taken to preserve the 26 wetlands covered by Ramsar Convention, 1971. **The affidavit that has now been filed by the Union of India merely gives the disbursal of amount made by the Union of India from time to time. What specific steps have been taken including how the funds made available have been utilised and what is the impact of those steps have not been adverted to. We must have specific details. We direct the Union of India to file an affidavit within four weeks positively giving required specific details.**

21. The learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9-9-2014. The additional affidavit contains an information brochure "National Wetland Inventory & Assessment". **This brochure indicates on p. 11 thereof that 2,01,503 wetlands have been mapped at 1:50,000 scale. All these wetlands have an area of more than 2.25 ha. As a first step, the "brief documents" with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these "brief documents" may take some time. We are inclined to grant adequate time for this purpose. The Union of India should follow this up with the State Governments and inform us of the time-frame on the next date of hearing.**

22. The apprehension expressed by the learned counsel for the petitioners is that with the passage of time there is a possibility that some of the wetlands may disappear. On a reading of the information brochure, this apprehension is not unfounded.

23. Accordingly, we direct the application of **the principles of**

Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

“4. (1)(i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated 27-11-1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms /Genetically Engineered Organisms or Cells notified vide GSR No. 1037(E), dated 5-12-1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated 24-9-2008;

(iv) solid waste dumping:

Provided that the existing practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding six months from the date of commencement of these Rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements: Provided that the practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding one year from the date of commencement of these Rules;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these Rules;

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these Rules.”

24. The learned counsel for the Union of India has shown us a chart of proposals/brief documents that have already been received by the Union of India under Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. The total number of wetlands covered in this document are 1683. Many of these proposals/brief documents received by the Union of India contain deficiencies which have already been identified

in the document handed over to us. **The Central Wetland Regulatory Authority will take up the rectification of deficiencies with the State Governments with promptitude and ensure that all these deficiencies are removed and complete proposals/brief documents are furnished within the next about one month so that the Central Wetlands Regulatory Authority is in a position to take a final decision with regard to these 1683 wetlands and their notification, if required, on or before 31-3-2017.**

3. Further, vide order dated 04.10.2017, the Hon'ble Supreme Court in *M.K. Balakrishnan, supra* observed:

"We have heard learned counsel for the petitioner and the learned Additional Solicitor General.

We have been informed that the Wetland Rules have since been notified and they are now called the Wetlands (Conservation and Management) Rules, 2017. These Rules have come into force on the date of publication in the official gazette, that is, 26th September, 2017.

Learned counsel for the parties say that they have very serious objections to some of these Rules. It is submitted that it appears that the Central Government has abdicated its responsibility under the Environment (Protection) Act, 1986 and instead of delegating its powers, it has abdicated its power in favour of the State Governments. We have also been informed that the Central Wetlands Regulatory Authority has since been disbanded and the State Wetlands Authority and the National Wetlands Committee have been constituted under Rules 5 and 6 of the new Rules.

With regard to the expenditure on Ramsar Convention sites, we have been informed by learned Additional Solicitor General that the audited accounts have so far been received from the States of West Bengal, Madhya Pradesh and Odisha. Audited accounts have not been received from any other State with regard to the Ramsar Convention sites.

We have also been informed that apart from Ramsar Convention sites, further funds have been given to the States and the Union Territories for conservation of wetlands. No audited accounts have been received in regard to these funds disbursed as well as their expenditure by the State Governments and the Union Territories.

With regard to the brief documents required to be furnished under the old Rules, it appears that only ten States and one Union Territory have responded. It appears that there is now no necessity of brief documents under the new Rules. We make it clear that this does not mean that the earlier brief documents already submitted can be discarded completely.

The contents of these brief documents will still be followed as far as the implementation of the Wetlands (Conservation and Management) Rules, 2017 is concerned.

*Finally, with regard to the satellite images, **we are told that the Space Application Centre would require between 12 to 18 months to make an inventory of 1,75,740 wetlands as they exist today. We make no comment on this but request learned Additional Solicitor General to re-check with the Space Application Centre since the wetlands are diminishing in our country at a very fast rate. It is very likely that many more will disappear by the time the task is completed by the Space Application Centre.***

*We make it clear and reiterate that in terms of our order dated 8th February, 2017, **2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.***

Learned counsel for the parties may file their objections to the new Rules within a period of two weeks. We direct that only one set of objections should be filed and both learned counsel should sit together and arrive at some consensus on the objections.

We further direct the State Governments that have not complied with earlier orders or directions given by the Central Government should do so within a period of four weeks from today failing which we will be constrained to require the presence of the Chief Secretaries of the State Governments in addition to imposition of heavy costs keeping in mind the necessity of conserving whatever water bodies are left in the country.

List the matter for further directions and for hearing on the objections to the new Rules on 9th November, 2017.

We would require the presence of a senior officer of the Ministry of Environment, Forests and Climate Change, Government of India to be present in Court on the next date of hearing so that any questions that may be raised can be answered immediately. Needless to say, the senior officer who should be present in Court should be well-versed with the subject. The files on the basis of which the new Rules have been framed may also be kept ready for perusal when the matter is taken up.”

4. Thus, the Hon'ble Supreme Court, apart from directing the High Courts where Ramsar Convention sites are located to monitor the management of such sites, also directed application of Rule 4 of the Wetland (Conservation and Management) Rules, 2010 to 2,01,503 wetlands already mapped by the Central Government. It was further directed that the Central Government will identify and inventorise the said wetlands with the

assistance of the State Governments and communicate the order of the Hon’ble Supreme Court to the State Governments who will be bound by the said order. Rule 4 in question provides for protection of wetlands against any incompatible activity, including encroachment and dumping of waste which is to be ensured by the State Wetland Authorities.

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17. The suggestion of the applicant is that significant wetlands need not be limited to 363 and more wetlands on examinations be added to the list from time to time for better protection by preparing appropriate action plans under the programme for protection of the significant wetlands. Further, apart from figure of 2.01 lakh wetlands already mapped, to which the Wetland Rules, 2017 are applicable even if no separate Notification in terms of 2017 Rules in view of directions of the Hon’ble Supreme Court in M.K. Balakrishnan, supra, it may be possible to identify more such wetlands. Infact, the report of the MoEF&CC itself mentions that some States have already identified larger number of wetlands than earlier mapped. In UP itself, 133484 wetlands are entered in the Revenue Records which are being protected by the State. On the same pattern, all the States/UTs need to map all available wetlands in their jurisdiction and file report with the National Wetland Authority so that National Wetland Authority can prepare an exhaustive inventory of wetlands in the country and extend protection to all such wetlands. These suggestions need to be considered by the MoEF&CC.

18. District Environment Plan of each District in terms of order of this Tribunal dated 05.07.2021 in OA 360/2018, Shree Nath Sharma vs. Union of India & Ors. should also cover the wetlands in the District. If necessary, the said plans be revised accordingly by the District Magistrates concerned by providing that the core activity for conservation and protection of wetlands may primarily focus on not discharging of sewage, disposal of solid waste and other wastes, preventing siltation, demarcation of wetlands/flood protection zone and removal of encroachments. There should be regular monitoring of water quality under water quality management programme at strategic locations (around 10 locations) to ensure that it is compliant with TC/FC norms. Water quality of the wetlands with respect to BOD needs to be less than 3 mg/l, feacal coliform should meet norms and contamination due to toxic constituents either directly or through runoff from the catchment should be prevented. Biodiversity of the wetlands needs to be maintained. Monitoring of steps for compliance of Rules in relation to such Wetlands ought to be at District level by the District Magistrate, at State level by State Wetland Authority and at National level by National Wetland Authority. We are confident that such initiatives in monitoring will go a long way in protecting the Wetlands which have significant environmental functions.”

9. In view of above, the State Wetland Authority, Environment Department of Rajasthan and the District Magistrate, Ajmer may take further remedial action in accordance with law.”

11. It is also pointed out in Joint Committee Report submitted in the present matter that a large number of cases are pending in different Courts in as much as *DB Civil (PIL) Writ Petition No. 7559/2012, Common Cause Society vs. State of Rajasthan & Ors.* is pending in High Court of Rajasthan at Jaipur, wherein similar issues have been raised. Besides, 61 cases are under consideration before Rajasthan High Court and one case in District Court, Ajmer relating to Anasagar lake, encroachment and construction raised on its banks etc.

12. With regard to discharge of untreated sewage through 13 nallahs into Anasagar lake and other activities of vending and operation of cruise boat, Committee's report in para 6 to 9 says as under:

"6. There are 13 major nallahs along the circumference of Anasagar lake. To reduce any sewage flow in the. Anasagar lake, AMC is working on the following :-

1) Household sewerage connections — Out of 80 municipal wards of Ajmer city, 17 wards are located along the periphery of Anasagar Lake. Out of the 28000 household/commercial connections of sewerage in these 17 wards, 27000 household/commercial connections have been done and rest are under progress.

2) Tapping of Nallah — Out of the 13 nallahs, 2 nallahs have dried as all the household sewerage connections have been completed, 8 nallahs are diverted to sewerage systems. The work of diversion of remaining 2 Nallahs is under progress and shall be completed within a week and the rest 1 nallah shall be diverted within a period of 1.5 months. (Annexure-5)

3) As per survey conducted by AMC, there are about 142 commercial establishments such as Showroom, Hotel, Service station etc. around the periphery of Anasagar Lake. Out of these, 24 commercial establishments are connected with sewerage system, 36 establishments have no kitchen, toilets in their premises and remaining 82 establishments are connected with own septic tank /soak pit. Thus, there is no direct discharge of untreated domestic sewage into the Anasagar Lake.

7. Three Sewage Treatment Plants exists in Ajmer city. Out of these, STP of 13 MLD located at Anasagar Lake and 20 MLD located at Khanpura talab are operational. The third STP of 40 MLD at

Khanpura is under construction. The sewerage network of about 550 km has been laid in Ajmer city under various State and Central Government projects. Additional 140 km of sewerage system along with 7 MLD STP are also proposed under AMRUT Phase II scheme in Ajmer city. The capacities of STP shall be adequate to treat the domestic sewage of 6 lacs inhabitants of Ajmer city. No Govt./private hospital is discharging their effluent into Anasagar Lake.(Annexure-6)

8. *Old chaupati and street vendors are operating from long period of time prior to the construction of pathway and are continually operating after construction of pathway around Anasagar Lake. No food stalls have started their operation on the pathway of Anasagar Lake. Twin bins have been provided all along the circumference of Anasagar Lake to dispose municipal solid waste (garbage) generated by visitors. Regular monitoring and IEC activities are in operation by AMC to ensure that no Municipal Solid Waste is dumped into Anasagar Lake.*
9. *A Cruise boat is proposed to be operated in Anasagar Lake which shall be electrically powered. Bio toilet, solid and liquid waste collection facilities shall be provided in the cruise boat itself. The propulsion of the Cruise boat shall also be help in improving aeration in the water of Anasagar Lake. A formal approval from State level Lake Development Authority has been obtained for the purpose [Annexure-7].”*

13. We find, from Committee’s Report that out of 13 nallahs, 2 are dried up, 8 have diverted but still 3 nallahs are discharging untreated sewage in Anasagar Lake. Similarly, there are 142 commercial establishments around the periphery of Anasagar Lake out of which 36 have no kitchen, toilet etc., 82 are connected with own septic tank/soak pit, 24 are connected with sewerage system and, therefore, there is no direct discharge of untreated domestic sewage in Anasagar lake from the said establishments. With regard to Sewage Treatment Plant (hereinafter referred to as ‘**STP**’), Report says that 2 STPs of 13 MLD at Anasagar Lake and 20 MLD located at Khanpura talab are operational while the 3rd STP of 40 MLD at Khanpura is under construction.

14. Future achievability of capacity treatment of sewage at Ajmer city cannot be an answer for the present continuing discharge of untreated sewage into the water of Anasagar Lake from 3 nallahs which is

mentioned in para 6(2) of the report. It is also evident that some constructions have been raised around Anasagar Lake in the form of pathway and across the pathway, vendors etc. are operating. Once this Tribunal has already held that WCM Rules, 2010 and WCM Rules, 2017 are applicable to Anasagar Lake, Rule 4 prohibits any permanent construction in wetland area and its zone of influence and if any construction is raised, it has to be removed and demolished.

15. Reply on behalf of RSPCB has been filed in this case but basic facts are not in dispute as are stated in Joint Committee Report.

16. We, therefore, find it appropriate to dispose of this matter by directing respondents to comply, in words and spirit, strictly, directions contained in Tribunal's judgment dated 13.12.2021 passed in OA 63/2021(CZ). If there is any violation of WCM Rules, 2010 and 2017, and any construction has been made in wetland or 'Zone of Influence' or 'Buffer Area' of the Lake, such construction shall be demolished. With regard to proposal of cruise boat, we make it clear that provisions of Water (Prevention and Control of Pollution) Act, 1974 and other relevant environmental laws shall be observed. Without appropriate permission in accordance with environmental laws, no such activity shall be allowed.

17. Copy of this order be forwarded to State Wetland Authority, Environment Department of Rajasthan, Director, Environment, Rajasthan, District Magistrate, Ajmer and Rajasthan State Pollution Control Board by e-mail for compliance.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 01, 2023
Original Application No.20/2023(CZ)
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