

Item No.4 & 5

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

**Original Application No.68/2023(CZ)
(I.A.No.60/2023) (O.A.No.558/2022- PB)**

Salma Qasmi Applicant(s)
Vs.

State of Rajasthan & Ors. Respondent(s)

WITH

**Original Application No.69/2023(CZ)
(O.A.No.568/2022- PB)**

Agnimitra Trivedi Applicant(s)
Vs.

State of Rajasthan & Ors. Respondent(s)

Date of Hearing: **21.12.2023**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s):	None
For Respondent(s):	Mr. Nishant Kesharwani Adv, for Mr. Shoeb Hasan Khan, Adv. Mr. Aditya Chhajed, Adv. for Mr. Rohit Sharma, Adv.

ORDER

1. Issue raised in these two applications are violation of Water Act (Water (Prevention and Control of Pollution) Act, 1974. These two applications involve common issue of violation of environmental norms by industries engaged in textile printing business in District Jaipur, Rajasthan, adversely affecting the water quality of Dravyavati River and quality of vegetables and other crops grown on nearby farms. At the outset, it may be mentioned that apart from its other statutory duties, the Tribunal is under specific obligation to investigate and take action on the subject of failure to install requisite water treatment plants as per directions of the Hon'ble Supreme Court in Paryavaran 2 Suraksha (2017) 5 SCC 326 fixing timelines for

the purpose which is three years from the judgment i.e. upto February, 2020. Action to be taken includes fixing accountability for the delay of concerned State authorities and other violators.

2. In OA 558/2022, it is stated that working of CETP for treatment of effluent of the industries is not adequate inspite of earlier directions of the Rajasthan High Court and Hon'ble Supreme Court inter alia in order dated 07-03-2003, Vijay Singh Punia v. RPCB & Ors. (CPW 2075/1994) (High Court), order date 30-04-2009, Civil Appeal No. 207/2005, Sanganer Kapda Rangai Chhapai Association, (Hon'ble Supreme Court), order dated 26-03-2015 in WP (PIL No. 9497/2007), P.N Mandola v. State of Rajasthan and others (High Court of Rajasthan), order dated 03-08-2017 in D.B Civil Writ petition 625/2017- Mukash Meena v. State of Rajasthan an others and Review Petition no. 304/2018 (High Court), order dated 03-10-2017 in O.A.No. 134/2013, Lakhan Singh v. RSPCB and others (NGT), orders dated 15-05-2022 and 24-05-2022 in Civil Miscellaneous Application (347/2018) filed by RIICO in CWP 2075/1994 Vijay Singh Punia v. RPCB and others and Civil Writ Petition no. 5965/2022, Sanganer Kapda Ranagi Chappai Association (High Court). There are total 835 textile units, 775 units on agricultural land and 60 on commercial plots land. Thus, untreated effluents are going into the river in violation of law and no action is taken against rampant violations.
3. In O.A No. 568/2022, the Applicant has referred to media articles on the subject of water pollution caused by the textile units and also report of the Comptroller and Auditor General of India. It is stated that the State PCB has failed to prepare a comprehensive plan to monitor compliance of the environmental norms.
4. After hearing the parties and perusal of the report of the State Authorities, this Tribunal vide order dated 12.04.2023 observed as follows :

“10. Needless to say that chemicals generated by dyeing, screen printing and washing units are highly toxic and carcinogenic in nature having huge potential for damage to environment and public health and contaminating sources of potable water as well as damaging soil and agriculture. The area is water stressed area where groundwater depletion and access to potable water to common man is a serious challenge. As per public trust doctrine, higher authorities in the State have to rise to the occasion to protect environment and public health instead of being mute spectator as appears to be unfortunately happening. Sanganer is listed as critically polluted area as per Comprehensive Environmental Pollution Index (CEPI) maintained by CPCB with pollution Index of the area being 71 (in respect of Water).

11. We also note that as per section 20A of Specific Relief Act, 1963, as amended in 2018 by the Parliament, no injunction can be granted against infrastructure projects specified in the schedule. Entry 3 in the schedule under the heading “Water and Sanitation” includes water treatment plant. Plea that on account of dispute between the service provider and the SPV of the industries department, CETP is not being operationalized is against the policy of law shown by the above law. We have noted that inspite of spending Rs. 159 crores by the Ministry of Textile, GoI, no improvement has taken place. Accountability for wastage of public money needs to be looked into by the concerned.

12. Having regard to the damage to the environment in terms of (i) deterioration in water quality of Dravyavati river, Chandalai and Nevta Dams and formation of cess pool (ii) damage to soil and agriculture by trade effluents (iii) non-functional of CETP (iv) not having adequate functional STPs (v) violation of HOWM Rules (vi) extraction of groundwater without permission, estimated rough cost of remediation on most conservative 14 estimate and rough estimate of financial capacity of violating units (about 1000) and cost of management of sewage, we consider it appropriate to fix interim compensation of Rs. 100 crores to be paid by the State

of Rajasthan by way of deposit in a separate account, with liberty to recover the amount from the violating units and erring officers. The deposit may be made within two months. The amount may be utilised for restoration of environment in the area as per plan which may be prepared. Data of turnover of the units may be duly compiled. The units in question be put to notice of these proceedings by the State PCB for their response, if any, before this Tribunal.

13. To plan and oversee remedial action in the interest of protection of environment and upholding of rule of law, we constitute ten member joint Committee to be headed by Chief Secretary, Rajasthan. Other Members will be Additional Chief Secretaries/Principal Secretaries, Agriculture, Irrigation, Environment & Forest, Revenue, Govt of Rajasthan, nominee of Central Ground Water Authority (CGWA), Central Pollution Control Board (CPCB), Integrated Regional Office of MoEF&CC, Jaipur, District Magistrate and State PCB. The nodal agency will be the ACS/PS Environment, Rajasthan for coordination and compliance. The Committee may meet within two weeks and prepare an action plan in the light of above observations and such action plan be executed within shortest possible defined timeframe to prevent further degradation of environment by closing all non-compliant units and evolving mechanism for assessment and recovering compensation preferably within three months. This will be in addition to the penal proceedings under the relevant law. The Committee will be free to coopt any other expert/individual and may hear the concerned violators by appropriate mechanism as per law.”

5. In the meantime, State of Rajasthan filed a Civil Appeal 4562 of 2023 titled as *State of Rajasthan vs. Salman Qasmi* before Hon’ble the Supreme Court of India which was taken up by the Court on 10.11.2023 and Hon’ble the Supreme Court passed an order as follows :

“We have perused the compliance affidavit dated 11th October, 2023.

There is obvious inconsistencies in what is observed in clause b(i) and b(iv). In clause b(i), it is claimed that Common Effluent Treatment Plant (CETP) has been repaired and has become functional. However, clause b(iv) indicates that repairs will have to be carried out and structural defects will have to be cured and for that purpose, Sanganer Enviro Project Development (SEPD) has been appointed.

Therefore, the appellant-State must explain whether the statement made in clause b(i) is correct.

As regards incomplete work of pumping stations and pipe-lines, Jaipur Development Authority will carry out the work and as stated in clause b(ii), the work will be completed by March, 2024. As regards clause b(viii), a copy of the report submitted by PDCOR Limited shall be placed on record.

We grant time of one month to the appellant-State to file further compliance affidavit, reporting compliance as well as explaining what we have observed in this order. Even a copy of the report submitted by PDCOR Limited must be placed on record.

List on 5th January, 2024.”

6. Learned Counsel for the parties has submitted that the matter is listed before Hon'ble the Supreme Court and compliance report has been called for.
7. In view of the above, both these matters be listed on **23rd February, 2024**. Parties are directed to comply the order of Hon'ble Supreme Court of India

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

21st December, 2023
O.A. No. 68/2023 & 69/2023(CZ)
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