

Item No. 03 & 04

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

Original Application No.143/2023(CZ)

Sarwar Khan

Applicant(s)

Vs

State of Rajasthan & Ors.

Respondent(s)

WITH

Original Application No.144/2023(CZ)

Sarwar Khan

Applicant(s)

Vs

State of Rajasthan & Ors.

Respondent(s)

Date of Hearing: **09.04.2024**

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

For Applicant (s): Mr. Sarwar Khan- in person

For Respondent(s): Mohd. Iquram, Adv.
Mr. Vaibhav Thakuria, Adv.

ORDER

1. Both the cases are inter connected thus are taken together.

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2. The issues raised in this letter petition by Sarwar Khan S/o Mr. Fule Khan, R/o Sardarpura Kala, Post Choti Chapri, Tehsil, District Didwana-Kuchaman (Rajasthan) is violation of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 in the district headquarter Didwana Kuchaman (Rajasthan) whereby and where under the STP installed by Municipal Council Didwana is not properly operating and discharging the untreated water of the sewerage in the open area due to which approximately 500 Bighas of the land in the city has been turned into

sea of waste water damaging the agriculture, agriculture field causing, health hazardous to the persons residing there and contaminating the ground water. The discharge of untreated water, waste water/sewerage water is reaching towards Kharia Talab, Sindhi Talab and Beni Talab and Kacholiya Talab contaminating the water of the ponds and thus further degrading the water quality of the pond and contaminating the ground water. There are repeated encroachments on the area 2 of the pond by throwing and dumping the garbage in the pond area and in this way more than 40 lakhs ltrs. of the water is being released by the Dindwana STP and municipal council has no action plan for its disposal and thus this water is logging nearby areas, adversely affecting the environment and public health.

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3. The grievance of the applicant is non compliance of Solid Waste Management Rules, Forest Conservation Rules, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act,1986 by Municipal Corporation, Didwana, Rajasthan. The facts as narrated by the complainant in letter petition by Sarwar Khan S/o Mr. Fule Khan, R/o Sardarpura Kala, Post Choti Chapri, Tehsil, District Didwana-Kuchaman (Rajasthan) is that the Khasra no. 1920 area approximate 28 Bigha 9 Biswa of Didwana is being used by the Municipal Corporation as dumped site of the garbage, plastic bags, dead animals and in this way the green belt of the area is being destroyed adversely affecting the health of the local residents and forestry of the area. The industrial area is situated just in front of the plot and various industries are operating near the area and using the above mentioned plot for dumped site of plastic bags, garbage and other solid waste without any proper remedial measures or disposal of the waste items.

4. The Tribunal by the proceeding dated 16.10.2023 had constituted a four members joint committee with the direction to the committee to visit the place and examine the facts and take remedial measures and submit factual and action taken report. In pursuance to the direction issued by the Tribunal the joint committee has submitted the report and its finding are as under:-

माननीय राष्ट्रीय हरित प्राधिकरण के ओ.ए. संख्या 143/2023 सरवर खां बनाम स्टेट ऑफ राजस्थान के आदेश दिनांक 16.10.2023 की अनुपालना में गठित कमेटी द्वारा डम्पिंग साईट, नगर परिषद् डीडवाना का निरीक्षण दिनांक 12.12.2023 को किया गया। निरीक्षण के दौरान श्री श्योगम वर्मा, अतिरिक्त जिला कलक्टर डीडवाना-कुचामन, श्री ज्ञानचन्द, जिला वन अधिकारी, डीडवाना-कुचामन, श्रीमती सविता, क्षेत्रीय अधिकारी राजस्थान राज्य प्रदूषण नियंत्रण मण्डल, नागौर एवं श्री रोहित कुमार मील, आयुक्त नगर परिषद् डीडवाना मौजूद रहें। वर्तमान स्थिति की बिन्दुवार मौका रिपोर्ट निम्नानुसार है :-

01:- श्रीमान जिला कलक्टर महोदय नागौर के आदेश क्रमांक 3117 दिनांक 17.09.2019 के द्वारा राजस्व ग्राम- डीडवाना के खसरा नम्बर 1920 रकबा 28.09 बीघा किस्म गै.मु. ठोस कचरा निष्पादन हेतु नगर पालिका डीडवाना को आवंटित की गई हैं। नगर परिषद द्वारा उक्त आवंटित भूमि पर चारदिवारी व वायर फेंसिंग कर ठोस कचरा प्रबन्धन का कार्य संचालित किया जा रहा है।

02 :- निरीक्षण के दौरान देखा गया कि डम्पिंग यार्ड पर एक टीन शेड बना हुआ है तथा एक कम्पोसटिंग मशीन स्थापित है। कम्पोसटिंग मशीन संचालित नहीं पाई गई।

03 :- डम्पिंग यार्ड में एस.डब्ल्यू एम. नियम 2016 के तहत एम.आर.एफ. सेन्टर हेतु किसी प्रकार मशीन स्थापित नहीं की गई है, केवल कम्पोसटिंग मशीन स्थापित की गई है। आयुक्त नगर परिषद् डीडवाना द्वारा बताया गया कि फटका मशीन, बेलिंग एवं श्रेडिंग मशीन क्रय कर लिया गया है तथा जल्द ही साईट पर स्थापित कर दी जायेगी।

04 :- डम्पिंग यार्ड के सामने औद्योगिक क्षेत्र स्थित है तथा डम्पिंग यार्ड के बाहर की तरफ प्लास्टिक की थैलिया इधर-उधर फैली हुई पाई गयीं।

05 :- डम्पिंग यार्ड पर किसी प्रकार की पृथक्करण की व्यवस्था नहीं पाई गयी, परन्तु आयुक्त नगर परिषद् डीडवाना द्वारा बताया गया कि कचरा बीनने के लिये 10-15 लोग प्रतिदिन मैन्यूअली कचरे (पॉलिथिन, प्लास्टिक, मेटल, कार्ड-बोर्ड आदि) का पृथक् कर स्वयं ले जाते हैं।

06 :- डम्पिंग यार्ड पर जिस प्रकार से कचरा निस्तारित किया गया है उससे यह अनुमान लगाना मुश्किल है कि कचरा औद्योगिक क्षेत्र द्वारा डाला जाता है तथा डीडवाना औद्योगिक क्षेत्र पूर्णतया विकसित नहीं है। यहां पर प्लास्टिक पाईप, आटा चक्की, खल बनाने आदि की छोटी इकाईयां संचालित है।

07 :- डम्पिंग यार्ड के आस-पास कोई वन क्षेत्र स्थित नहीं है। वन विभाग द्वारा ग्राम पंचायत सूपका की गौचर भूमि पर 12 हैक्टेयर में 6000 पौधों का वृक्षारोपण किया गया था। जिसका वन विभाग द्वारा दिनांक 18.12.2015 को ग्राम पंचायत सूपका को हस्तान्तरित कर दिया गया था।

5. In O.A. No. 144/2023 the respondent no. 5 has filed the reply with the facts.

1. Nagar Parishad Didwana comes under the administrative jurisdiction of District Didwana- Kuchaman of Rajasthan. The letter petition has highlighted the following concerns:

- a. Unscientific disposal of treated water from STP Didwana
- b. Wastewater/ sewerage water is contaminating nearby 04 ponds by the names of Kharia Talab, Sindhi Talab, Beni Talab and Kacholiya Talab and thus, degrading the water quality of the ponds.
- c. Contamination of Groundwater.
- d. Cesspool from treated wastewater from STP on Mela Maidan which has led to its submergence.
- e. Submergence of nearby agricultural fields Factual Observations:

2. As per records of Nagar Parishad Didwana, and Rajasthan SPCB, following are the details of the STP Didwana

S. No.	Name of STP	Address	Capacity	CTO Status
1	STP	Khasra No. 818& 822 Village Didwana Tehsil Didwana District Didwana Kuchamana	5 MLD	Consent to Operate

3. Didwana City has one Sewage Treatment Plant (STP) of 05 MLD capacity details of which are mentioned above. As per records of Nagar

Parishad Didwana, the STP commenced its operation from the year 2021 and has valid consent from the State Pollution Control Board. The STP was found to be operational during the joint inspection conducted on 12th Dec, 2023.

4. As per the records of the SPCB, STP is in operation but not achieving the prescribed standards. Sampling of treated wastewater from the outlet of STP is being carried out regularly on monthly basis by the officials of SPCB and being analyzed by the Regional Laboratories of SPCB. The earliest record available of the first non-compliance observed in treating wastewater is of sampling conducted on 09th Sept 2021. From Sept, 2021 to Nov, 2023, the treated wastewater has consistently failed to meet the prescribed standards. In this regard, the answering Respondent has informed and also directed Nagar Parishad, Didwana to take corrective measures w.r.t. STP Didwana on 11.05.2022, 07.07.2022, 15.11.2022, 10.07.2023, 23.08.2023, 19.10.2023 and 12.12.2023 for the non-compliances observed corresponding to its failure to meet the prescribed standards for treated wastewater consistently. The results of sampling conducted on 12th Dec 2023 is awaited from the SPCB Regional Laboratory, Sikar. The answering Respondent has also issued a show-cause notice vide letter dated 19.10.2023 to the Executive Officer, Nagar Parishad, Didwana, which is till date neither replied nor complied.
5. As per the records of Nagar Parishad Didwana, STP was operating on 3.5 MLD capacity against the maximum capacity of 5 MLD. During the joint inspection, no proper storage of treated wastewater was found within the premises of the STP. It was observed during the joint inspection that cess pools have been made due to the treated waste water from the STP on Khasra No. 2213 (7.54 hectares), 2259 (2.87 hectares) and 2209 (14.42 hectares) which are in vicinity of the STP.
6. As per complaint raised by the applicant, waste water/ sewerage water was contaminating 04 ponds nearby STP by the names of Kharia Talab, Sindhi Talab, Beni Talab and Kacholiya Talab and thus, degrading the water quality of the ponds. During the joint inspection, all nearby water bodies along these ponds under reference were visited. Kharia Talab, and Beni Talab were found approx. 4-5 Kms while and Kacholiya Talab was found 6-7 Kms away from the STP. No treated wastewater or raw sewage was found discharged in these 03 ponds

from the STP. However, it was observed that raw sewage from nearby households was being dumped in Kharia Talab.

7. Sindhi Talab however, is in close vicinity of cess pool which is on Khasra No. 2209. During inspection, no treated wastewater from STP or raw sewage was found dumped in this pond. However, during the rainy season, the flow of water from the cesspool to this pond cannot be ruled out due to their close vicinity and channels marked in between them. The water sample from Sindhi Talab was taken by SPCB Regional Laboratory, Sikar on 12th Dec, 2023 for parameter analysis, results of which are awaited. Also, a solid waste dump was found on the periphery of Sindhi Talab.
8. A meeting was held on 15.09.2023 at Head Office, RSPCB, Jaipur with the LSG Department to review the status of poor performing Sewage Treatment Plants (STPs), sewage management and efforts made by LSG Department/ Local Bodies to up-grade the existing STPs and vide letter dated 22.09.2023 Secretary, LSG Department has been requested for necessary corrective measures and upgradations. As improvement was not observed in the monthly progress/ analysis report, vide letter dated 19.12.2023 LSG Department has been directed to take the necessary action at the earliest and submit action taken report. Annexure - R/4.
9. . It was observed during the joint inspection that cesspools created due to discharge of treated wastewater from STP beyond its area of operation on Mela Maidan has led to its partial submergence. However, no agricultural land was found submerged out of the cesspools under reference.
6. The applicant has filed the response and submitted that the contents reported in the Joint Committee Report dated 12.12.2023 is in consistent with what has been stated in letter petition and that actually the STP is not functional.
7. In O.A. No.143/2023 respondent no. 3 has submitted that composting facility was available for disposal of biodegradable waste in the dumping site

but was not in operation, as observed during the Joint Inspection on 12.12.2023. On the front side of the dumping ground the industrial area is established and operating, however, looking at the waste on the dumping site it is difficult to ascertain the dumping of waste by units in the industrial area. That no forest area is present in the close vicinity of the dumping yard. Moreover, association of the unscientific dumping of waste and the destruction of trees could not be ascertained.

8. No animal carcass was found during the inspection on the dumping site. As per the report of Nagar Parishad Didwana, bodies of dead animals are disposed of via deep burial of the carcass. Also, no animal was found present within the walled boundary of the dumping yard thus, impact of plastic and other waste as feed that degrade animal health cannot be established well. That, RSPCB has issued a Show Cause Notice vide letter dated 12.12.2023 for intended legal prosecution of Nagar Parishad Didwana w.r.t. the non-compliance observed in solid waste management.
9. The matter is follow-up of judgment of the Hon'ble Supreme Court dated 22.02.2017 in Paryavaran Suraksha Samiti Vs. Union of India¹, which mandates establishment and functioning of requisite ETPs/CETPs/STPs by 31.3.2018 and in default, to take coercive measures. The judgement also laid down rigid timelines, enforcement mechanism and sources of funding. Even in absence of the said judgement, doing so is the mandate of the Water (Prevention and Control of Pollution) Act, 1974. The said Act established Central and State Pollution Board for prevention, abatement and control of rivers and streams and to restore wholesomeness of watercourses and controlling discharge of domestic and industrial wastes. Penalties are provided for contravention of the provisions of the Act. The Constitution of India under Article 243 W read with 12th Schedule entrusts responsibility of —public health, sanitation conservancy and solid waste

management to Municipalities. The Hon'ble Supreme Court held that the States will provide necessary support to such local bodies. This is to be monitored by the PCBs and the Secretaries, Environment in States and thereafter by the NGT. This Tribunal has been accordingly monitoring compliance in the last four years but regrettably with little progress as will be shown by the statistics. We propose to direct further monitoring by the Executive authorities henceforth for the reasons in this order.

10. The matter was previously dealt by the Principal Bench of this Tribunal in O.A. No. 673/2018 vide order dated 22.02.2021 (PB), where it was discussed as follows :-

- i. *“The second matter relates to remedial action for rejuvenation of 351 identified polluted river stretches in the country, for which major step is preventing discharge of industrial and domestic waste in rivers or drains connected thereto. On this aspect both the matter overlap. Other steps include preventing dumping of solid waste, plastic, hazardous, bio-medical and electronic wastes, regulation of flood plain zones, by keeping catchment areas free from encroachments, maintaining environment flow by adopting appropriate water conservation practices and other steps, controlling extraction of ground water, afforestation etc. The Tribunal required setting of River Rejuvenation Committees (RRCs) in all States for the purpose. They were to prepare and execute action plans, with budgets and timelines to give effect to the mandate of law. The Chief Secretaries of all States/UTs are to monitor compliance at State level and the Central Monitoring Committee (CMC) headed by the Secretary Jal Shakti, GoI, with CPCB and NMCG is to monitor compliance at national level. The situation continues to be grim, as has been repeatedly observed by this Tribunal. The polluted river stretches include Ganga and Yamuna, which have been dealt with by separate orders, apart from some other rivers which have been dealt with by separate*

orders individually, to which reference will be made. This is affecting aquatic life, safety of food chain on account of contamination of water and resulting in drinking water crisis in the country. There are also large number of deaths and diseases due to water contamination. Further monitoring is proposed to be by the authorities themselves in terms of directions at the end of the order.

- ii. Since this matter is follow up of the judgement of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti Vs. Union of India, supra, directions in the judgement are quoted below:*

“7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

x.....x.....x

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common

effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.

12. We are of the view that in the manner suggested above, the malady of sewer treatment, should also be dealt with simultaneously. We, therefore, hereby direct

that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.

13. We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment plants” within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal.

14. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.

x.....x.....x

16. It however needs to be clarified, that the instant directions and time lines, shall not in any way dilute any

time lines and directions issued by Courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones expressed through the directions recorded above. It is clarified, that the time lines, expressed hereinabove will be relevant, only in situations where there are no prevalent time line(s), and also, where a longer period, has been provided for.”

11. The matter of default in compliance of the Environmental Rules and discharge of untreated water into the water-bodies, causing pollution and human health hazards was considered by this Tribunal in above noted cases and it was observed as follows:-

- i. *By order of 28.08.2019 in OA 593/2017, the Tribunal set up a compensation regime for default. The Tribunal considered the CPCB reports dated 30.05.2019, 19.07.2019 and 14.08.2019 with compiled status of setting up of ETPs/CETPs/STPs and methodology for assessment of environmental compensation. The compensation regime discussed in the said order is quoted below:*

“14. A report has also been prepared on the scale of environmental compensation to be recovered from individual/authorities for causing pollution or failure for preventing causing pollution, apart from illegal extraction of ground water, failure to implement Solid waste Management Rules, damage to environment by mining and steps taken to explore preparation of an annual environmental plan for the country. Extracts from the report which are considered significant for this order are:

“I. Environment Compensation to be levied on Industrial Units

Recommendations

The Committee made following recommendations:

To begin with, Environmental Compensation may be

levied by CPCB only when CPCB has issued the directions under the Environment(Protection) Act, 1986. In case of a, band c, Environmental Compensation may be calculated based on the formula "EC= Pl x N x Rx S x LF", wherein, Pl may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively, and R may be taken as 250. Sand LF may be taken as prescribed in the preceding paragraphs.

In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.

The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others {Writ Petition {Civil} No. 375 of 2012), directed that all running industrial units which require "consent to operate" from concerned State Pollution Control Board, have a primary effluent treatment plant in place. Therefore, no industry requiring ETP, shall be allowed to operate without ETP.

EC is not a substitute for taking actions under EP Act, Water Act or Air Act. Infact, units found polluting should be closed/prosecuted as per the Acts and Rules.

II. Environmental Compensation to be levied on all violations of Graded Response Action Plan(GRAP) in NCR.

Table No. 2.1: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in Delhi-NCR.

Activity	State Of Air Quality	Environmental Compensation()
Industrial Emissions	Severe+/Emergency	Rs1.0Crore
	Severe	Rs50Lakh
	Very Poor	Rs25Lakh
	Moderate to Poor	Rs10Lakh
Vapour Recovery System(VRS)at Outlets of Oil Companies		
i. Not installed	Target Date	Rs1.0Crore
ii. Nonfunctional	Very poor to Severe+	Rs50.0Lakh
	Moderate to Poor	Rs25.0Lakh
Construction sites	Severe+/Emergency	Rs1.0Crore

(Offending plot more than 20,000 Sq.m.)	Severe	Rs50Lakh
	Very Poor	Rs25Lakh
	Moderate to Poor	Rs10Lakh
Solid waste/ garbage dumping in Industrial Estates	Very poor to Severe+	Rs25.0Lakh
	Moderate to Poor	Rs10.0Lakh
Failure to water sprinkling on unpaved roads		
a) Hot-spots	Very poor to Severe+	Rs25.0Lakh
b) Other than Hot-spots	Very poor to Severe+	Rs10.0Lakh

III. Environmental Compensation to be levied in case of failure of preventing the pollutants being discharged in waterbodies and failure to implement waste management rules:

Table No. 3.3: Minimum and Maximum EC to be levied for untreated/partially treated sewage discharge

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min.2000 Max.20000	Min.1000 Max.10000	Min.100 Max.1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min.2 Max.20	Min.1 Max.10	Min.0.5 Max.5

Table No. 3.4: Minimum and Maximum EC to be levied for improper municipal solid waste management

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
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Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min.1000 Max.10000	Min.500 Max.5000	Min.100 Max.1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee(Lacs Rs./day)	Min.1.0 Max.10.0	Min.0.5 Max.5.0	Min.0.1 Max.1.0

3.3 Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/ Authority:

BIS 15-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013}, may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCD, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. and O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr/MLD (marginal average cost). Further, expected cost for conveyance system is as someday Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

$$EC=Capital\ Cost\ Factor \times [Marginal\ Average\ Capital\ Cost\ for\ Treatment\ Facility \times (Total\ Generation-Installed\ Capacity) + Marginal\ Average\ Capital\ Cost\ for\ Conveyance\ Facility \times (Total\ Generation-Operational\ Capacity)]+O\&M\ Cost\ Factor \times Marginal\ Average\ O\&M\ Cost \times (Total\ Generation-Operational\ Capacity) \times No.\ of\ Days\ for\ which\ facility\ was\ not\ available +Environmental$$

Externality x No. of Days for which facility was not available

Alternatively;

$EC(\text{Lacs Rs.}) = [17.S\{\text{Total Sewage Generation- Installed Treatment Capacity}\} + 55.S\{\text{Total Sewage Generation- Operational Capacity}\}] + 0.2(\text{Sewage Generation- Operational Capacity}) \times N + \text{Marginal Cost of Environmental Externality} \times (\text{Total Sewage Generation- Operational Capacity}) \times N$

Where; N=Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Quantity of Sewage is in MLD

xxx.....xxx.....xx

3.4 Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management:

Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

$EC = \text{Capital Cost Factor} \times \text{Marginal Average Cost for Waste Management} \times (\text{Per day waste generation-Per day waste disposed as per the Rules}) + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \times (\text{Per day waste generation-Per day waste disposed as per the Rules}) \times \text{Number of days violation took place} + \text{Environmental Externality} \times N$

Where;

Waste Quantity in tons per day(TPD) N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Simplifying;

EC (Lacs Rs.) = 2.4(Waste Generation - Waste Disposed as per the Rules) + 0.02 (Waste Generation Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

xxx.....xxx.....xxx

12. For assessment of the compensation the Tribunal considered the report of the CPCB and the date of enforcement and directed as follows:-

i. The Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water in the report dated 30.05.2019 is accepted and the same may be acted upon as an interim measure.

ii. SPCBs/PCCs may ensure remedial action against non-compliant CETPs or individual industries in terms of not having ETPs/fully compliant ETPs or operating without consent or in violation of consent conditions. This may be over seen by the CPCB. CPCB may continue to compile information on this subject and furnish quarterly reports to this Tribunal which may also be uploaded on its website.

iii. All the Local Bodies and or the concerned departments of the State Government have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.

iv. The CPCB needs to collate the available data base with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites and prepare a river basin-wise macro picture in terms of gaps and needed interventions.

v. The Chief Secretaries of all the States/UTs may furnish

the irrespective compliance reports on this subject also in O.A. No. 606/2018.”

13. India is suffering from the worst water crisis in its history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water¹. The crisis is only going to get worse. By 2030, the country's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual 6% loss in the country's GDP². As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695 BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137BCM. Thus, there is an imminent need to deepen our understanding of our water resources and usage and put in place interventions that make our water use efficient and sustainable. India is undergoing the worst water crisis in its history. Already, more than 600 million people³ are facing acute water shortages. Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates⁴. Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India's groundwater wells are declining, and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million

people⁵. With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.

14. As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since 2017 of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.
15. As per 'National Health Profile' published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 Deaths due to Acute Diarrhoeal Diseases was reported during the year 2013.

Main Causes of Pollution of Rivers

16. As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio medical waste, municipal solid waste, diversion of river waters for various purposes affecting e-flow, encroachment of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti- pollution measures, satisfactory situation has not been achieved. As per CPCB's report 2016, it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in the rural areas.

17. And lastly directions were issued as follows :-

“We now sum pour 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 at least 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 forth with, 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.”

18. In view of the above, we are of opinion that the monitoring by the Tribunal cannot be unending and must now be taken over by the concerned authorities. The road map stands laid out. Action plans have been prepared for remediation of all the 351 identified polluted river stretches. Gaps have been identified for ETPs/CETPs/STPs (including modular STPs wherever necessary). Timelines are clear. Sources of funding are clear in the Supreme Court order. HAM model is also available as per Govt. of India Policy mentioned in the report of the CMC. Alternative conventional methods of bio/phytore mediation are also available as mentioned in the report of the CMC. Existing treatment capacity is not fully utilised. New projects, already ongoing or those yet to commence need to be expedited. Consequences for delay in terms of compensation and administrative measures have been clearly mentioned. The river rejuvenation committees in the States/UTs, as per directions of the Chief Secretaries may perform their obligations accordingly which may be monitored by the Central Monitoring Committee, headed by Secretary, Jal Shakti, as directed earlier.
19. We find that the monitoring mechanism introduced as per directions of this Tribunal in the form of RRCs at the States level and CMC at the Central level is to an extent identical to the monitoring mechanism laid down under the River Ganga Rejuvenation, Protection and Management Authorities Notification 2016. However, mechanism under the 2016 notification being statutory and exhaustive, it will be better that the same is adopted for all the river stretches as issues involved are common. The Empowered Task Force on river Ganga headed by Union Minister of Jal Shakti may exercise all powers and discharge all functions in relation to all the polluted river stretches in the same manner as the functions entrusted to it under the River Ganga 2016 order for control of pollution and rejuvenation of polluted river stretches. This is necessary so that the Nation/Central Monitoring

Mechanism can be effective, in view of continuing failure of statutory mechanism under the Water Act for preventing pollution of water, resulting in pollution of almost all the rivers and water bodies in the country, posing serious threat to availability of potable water for drinking purposes as well as for safety of food chain. Hardly any accountability has been fixed for such serious failures. It will be open to the MoJS to issue any further appropriate statutory order to give effect to the above directions under the EP Act. The National/Central Mechanism may enforce the earlier directions of this Tribunal for collecting compensation for the failure to commence or complete the projects for setting up of sewage treatment equipments or taking steps for interim remediation measures. This is necessary for accountability for the failure to obey the law. The compensation so assessed may be deposited in a separate account to be used for rejuvenation of the polluted river stretches in the same manner as directed in the case of Ganga quoted above. As directed vide order dated 19.12.2018 in OA 673/2018, responsibility to pay compensation on behalf of the States/UTs will be of the Chief Secretaries. As per scheme of the NGT Act, every order of NGT is executable as decree of Civil Court.

Further, failure to comply order of the NGT is an offence punishable with imprisonment upto three years or fine upto Rs. 10 crores with additional fine for continuing offence after conviction⁶. If the offence is by a Government Department, Head of the Department is deemed to be guilty⁷. Cognizance of the offence can be taken by a Court on a complaint of Central Government or any other person who has given notice to the Central Government or its authorized representative. The complaint can be filed before a Court of Magistrate of first class. It is, thus, necessary in view of continuing violation of NGT order, requiring payment of compensation to reiterate the

direction of responsibility for payment of compensation, to be of the Chief Secretaries and in default, their liability to be proceeded against for coercive measures for execution or by way of prosecution as per NGT Act, 2010.

20. *Our directions are summed up as follows:*

- i. In the light of observations in Para 38 above, MoJS may devise an appropriate mechanism for more effective monitoring of steps for control of pollution and rejuvenation of all polluted river stretches in the country. The said mechanism may be called “National River Rejuvenation

Mechanism” (NRRM) or given any other suitable name. NRRM may also consider the observations with regard to setting up of National/State/District Environment Data Grid at appropriate levels as an effective monitoring strategy.

- (ii) Chief Secretaries of all States/UTs and PCBs/PCCs must work in mission mode for strict compliance of timelines for commencing new projects, completing ongoing projects and adopting interim phyto/bio-remediation measures, failing which compensation in terms of earlier orders be deposited with the MoJS, to be utilised in the respective States as per action plan to be approved by the NRRM. Other steps in terms of action plans for abatement to pollution and rejuvenation of rivers, including preventing discharge or dumping of liquid and solid waste, maintaining eflow, protecting floodplains, using treated sewage for secondary purposes, developing bio- diversity parks, protecting water bodies, regulating ground water

extraction, water conservation, maintaining water quality etc. betaken effectively. The process of rejuvenation of rivers need not be confined to only 351 stretches but may be applicable to all small, medium and big polluted rivers, including those dried up.

(iii)The Chief Secretaries of all States/UTs may personally monitor progress at least once every month and the NRRM every quarter.

(iv)Directions of this Tribunal in earlier order, the last being dated 21.9.2020 are reiterated.

(v)The NRRM and the Chief Secretaries of all the States/UTs may take into account the observations in Paras 24 to 38 above.

(vi)In view of discussion in para 38 above, it is made clear that accountability for failure to comply with the direction for payment of compensation will be of the concerned Chief Secretaries under Sections 25, 26, 28 and 30 of the NGT Act, 2010. The MoJS or any other aggrieved person will be free to take remedies by way of initiating prosecution or execution.

21. The perusal of the report submitted by the committee and the reply submitted by the respondents revealed that the composting facility was available for disposal of biodegradable waste in the dumping site but was not operational and in front side of the dumping ground industrial area is established and operating.

22. Respondent no. 4 has filed the reply with the facts that the land approximately 28.09 bighas situated at Gram Didwana was allotted for Solid Waste Treatment (STP) and that no trees of vegetation were damaged. It is further submitted that concrete boundary wall and fencing

on the land made to protect the nearby area from pollution. The respondent has further submitted that adequate steps for disposal of solid waste management as per Solid Waste Management Rules, 2016 have been done

23. It has further been contended by the Learned Counsel for the respondent no.3 that notices have been issued to the Nagar Parishan Didwana for noncompliances observed in Solid Waste Management and the discharge of untreated water in the open water bodies and the noncompliance of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974. Thus, in view of the above contention, we direct the Nagar Parishad Didwana to strictly follow and enforce the Solid Waste Management Rules, 2016, Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 and we further direct the State Pollution Control Board to periodically monitor the industries, which are violating the Water Act and discharging the untreated water into the river or water bodies and in case of default in compliances of environmental rules or discharging the untreated water into the open land or the water bodies or non- compliance of the Solid Waste Management Rules the State Pollution Control Board must strictly deal in accordance with law and after the issue of notice calculate the environmental compensation and to realise it and to enforce the rules. We further direct the Collector Didwana to monitor and direct Nagar Parishad Didwana to have proper disposal facility of solid waste and that the STP, which is not properly functioning should be ensured that it should properly function and no untreated water should be discharged into the open land.
24. With these observations the original applications no. 143/2023 (CZ) and 144/2023 (CZ) are **disposed** of. The copy of the order be kept in other

file. A copy of the order be communicated to the Collector, Didwana and Member Secretary, State Pollution Control Board for information and necessary action.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

9th April, 2024
O.A. No. 143/2023 and 144/2023(CZ)
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