

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.75/2023(WZ)

Hasanali Nurabhai Nodoliya

.....Applicant

Versus

Collector & District Magistrate (Banaskantha) & Ors.

....Respondent(s)

Date of hearing: 30.01.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant in-person
Respondent(s) : Mr. Maulik Nanavati, Advocate for R-1/Dist. Collector &
R-5/GPCB along-with
The District Collector, Banaskantha, in-person
Mr. Hemant Munshaw, Advocate for R-2 to 4

ORDER

1. We are passing this order in continuation to the earlier order dated 12.10.2023.
2. Today, from the side of the applicant, applicant has appeared in-person through Video Conferencing.
3. From the side of respondent No.1-District Collector, Banaskantha and for respondent No.5-GPCB, learned counsel Mr. Maulik Nanavati has appeared, who has sent us an e-mail dated 30.01.2024 where-with the statement of facts on behalf of District Collector has been annexed, in which following submissions are made. For the sake of convenience, we are reproducing the same in totality:-

“1. An application has been filed alleging violation of the provisions of the Municipal Solid Wastes (Management & Handling) Rules, 2000 in as much as:

- (i) Domestic sewage water is being released on government land; and
- (ii) Solid waste generated in the village is being dumped without following any procedure on government land

2. This Hon'ble Court, by order dated 15.05.2023, had constituted a Joint Committee and directed the Committee to visit the site and submit a factual report. In terms of the aforesaid directive of this Hon'ble Court, the Joint Committee visited the government land where the waste-water and the municipal solid waste was being released by the Panchayat and after carrying out inspection submitted a report of its findings on 4.08.2023.

3. This Hon'ble Tribunal, by order dated 21.08.2023, directed the Joint Committee to examine the new allegations made by the applicant of digging up of the government land for laying a waste water pipeline and accumulation of legacy waste at the site. The Joint Committee again conducted a site visit and submitted its report on 3.10.2023.

DOMESTIC WASTE WATER

4. There are several houses which are constructed in and around land bearing Survey No. 498 in Village Badargadh, which is a government land. In the revenue record, this land has been earmarked for cattle grazing.

5. The water consumed in the houses in the vicinity of this government land for domestic purposes — bathing, cleaning utensils, etc.. is being released outside the house by the residents. Such domestically released water flows through small drains prepared by the gram panchayat to the government land. There is a natural pit in one corner of the government land, and the land gets accumulated in the pit.

6. There are about 457 houses surrounding the government land. About 183 kilo litres of water gets generated daily from these households, and flows to the government land.

7. Now a grey water treatment plant with a capacity of 200 kilo liters per day has been built under Swachh Bharat Mission, and the same is operating successfully since 22.07.2023. The entire quantity of domestic waste water is now being treated at the plant, and the treated water is thereafter discharged for irrigation purposes in the nearby farms by way of pipeline.

8. Sample of water has been drawn from the area and the test reports show that the same meets the parameters of potable water prescribed by the World Health Organization.

9. Separately, the Gram Panchayat is constructing a pipeline, which shall pass through the government land, for discharge of storm water overflow from the village road or overflowing of the water from the village pond up to river Umardashi. For laying of storm water drainage pipeline, permission from the Gujarat Pollution Control Board is not necessary. Necessary permission has to be obtained from the district administration for using the government land, and permission for laying pipeline for a public purpose has been granted by the administration.

10. Today, the issue of domestic waste water stands resolved, In any event, any further suggestion for bettering the existing arrangement are welcome and shall be appropriately considered by the Gram Panchayat as well as the District Administration, in consultation with the Gujarat Pollution Control Board.

MUNICIPAL SOLID WASTE

11. During the pendency of the present application, the Badargadh Gram Panchayat, under instructions of the District Administration and supervision of the Gujarat Pollution Control Board, has started collecting domestically generated solid waste within the revenue limits of the village every alternate day. The collected waste, which was previously being dumped in the government land, is now being taken for processing to the Municipal Solid Waste site of Palanpur Nagarpalika. An internal arrangement has been worked out with the adjoining nagarpalika for accepting and processing the municipal solid waste generated in the village.

12. A total of about 10 metric tonnes of unprocessed municipal solid waste was found lying at the site at the time of filing of the present application. This legacy waste has now been cleared by transferring the same for processing to the authorised processing facility of Palanpur Nagarpalika. As on 2.01.2024, there is no legacy waste lying at the site.

13. A written request has been made by the Badargadh Gram Panchayat to the Office of the District Collector, Banaskantha for grant of 2 acres of land out of government land bearing Survey No. 498 for setting up a solid waste processing facility in accordance with the Municipal Solid Wastes (Management & Handling) Rules, 2000.

14. Since the government land bearing Survey No. 498 has been designated as 'gauchar' land, the power to alienate the land or even portion thereof for any other purpose vests with the State Government. Accordingly, a proposal has been forwarded to the Revenue Department by the Office of the District Collector, Banaskantha for granting 02 acres land to the Gram Panchayat for setting up the waste processing facility. Final decision of the State Government is awaited.

15. There is no legal bar on transferring government land for a different public purpose. However, the guidelines issued by the State Government require that any proposal to change the use of 'gauchar' land must be examined and decided by the State Government and not by the local District Administration. It is for this reason that the proposal, with recommendation, has been sent to the State Government for final decision. Permissibility of diverting cattle grazing land for another public purpose, namely, setting up solid waste management facility, has been approved by the Hon'ble High Court of Gujarat in the case of Juna Deesa Gram Panchayat vs. State of Gujarat (Special Civil Application No. 19214 of 2015).

16. Till a final decision on allocation of suitable land to the Gram Panchayat is taken by the State Government, it shall be ensured that the interim arrangement worked out by the Gram Panchayat of getting the municipal solid waste collected every alternate day and

sending the same to Palanpur for processing the same at the authorised processing facility is continued. This arrangement shall be continually monitored to ensure its compliance.”

4. After having gone through the above-mentioned report, we tried to know from the applicant, as to whether he has any objection against the same, to which he responded that the Grey Water Treatment Plant of the capacity of 200 kilo ltrs., which is said to have been set up and is operating successfully since 22.07.2023 is wrong as the same is not working properly. Secondly, the applicant submits that by our previous order dated 12.10.2023, the learned counsel for respondent No.5/GPCB was directed to calculate EDC to be levied from the respondent No.2/Project Proponent, which has not been done. In this regard, the learned counsel for respondent No.5 immediately responded by saying that they are ready to calculate and realize the EDC amount, in terms of the Guidelines laid down by the Principal Bench of this Tribunal vide order dated 23.02.2023 in Original Application No.606/2018 and that the respondent No.2/The District Development Officer, Banaskantha, respondent No.3/The Taluka Development Officer, Palanpur and respondent No.4/Badargadh Gram Panchayat, which are being represented by learned counsel Mr. Hemant Munshaw, is ready to make the payment of the said amount. We direct that the said amount be realized within a period of one month from the date of uploading of this order and the said amount shall be utilized for environmental improvement in the local area.

5. As regards the Grey Water Treatment Plant not being functional appropriately, the GPCB shall ensure that the same be made functional immediately, if at all there is any problem with the same.

6. As regards setting up of the solid waste processing facility in accordance with the Municipal Solid Waste (Management and Handling)

Rules, 2000, it is clarified in that the statement of facts submitted by the District Collector, Banaskantha, 2 acres of land has been identified in Survey No.498, for which a proposal has been forwarded to the Revenue Department for the said purpose, where proceedings are going on to acquire that land and set up the said facility. We hope and expect that this process shall be completed within a period of three months from the date of uploading of this order.

7. In view of above direction, we dispose of this application accordingly.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 30, 2024
Original Application No.75/2023(WZ)
P.Kr