

ITEM NO.32

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2620/2020

FATEHLAL(DEAD) THROUGH LRS

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN & ORS.

Respondent(s)

(IA No. 42830/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 42829/2020 - STAY APPLICATION)

Date : 19-03-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) Mr. Rishabh Sancheti, Adv.
Ms. Padma Priya, Adv.
Mr. Naman Jain, Adv.
Mr. K. Paari Vendhan, AOR

For Respondent(s) Mr. Shiv Mangal Sharma, A.A.G.
Ms. Nidhi Jaiswal, Adv.
Mr. Saurabh Rajpal, Adv.
Ms. Shalini Singh, Adv.
Mr. Sandeep Kumar Jha, AOR

Mr. Manish Singhvi, Sr. Adv.
Mr. S. K. Verma, AOR
Mr. Mahesh Kasana, Adv.
Ms. Aparna Rohatgi Jain, Adv.

Ms. Supriya Juneja, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have perused the report submitted by the Rajasthan State Pollution Control Board in terms of the order dated 08.08.2023 passed by this Court. In the report, it is mentioned that the catchment area of the concerned water body is 6.40 square miles and

two main drainage lines in the catchment area marked on GT sheet are enclosed. It is also noted that no encroachment was found on any of these two main drainage lines.

The learned counsel appearing for the appellants invited our attention to the judgment and order dated 02.08.2004 of the Division Bench of the High Court of Judicature for Rajasthan at Jodhpur in the case *Abdul Rehman vs. State of Rajasthan and Others*. He pointed out that in terms of the recommendations of the Expert Committees, a direction was issued to the State Government to chalk out a plan to take effective steps for restoring catchment areas to their original shape.

Our attention is also invited to a decision of this Court in the case of *National Institute of Medical Sciences University, Rajasthan and Another vs. State of Rajasthan and Others*¹. In paragraph No. 36, it is observed that though an action plan was prepared by the State Government in terms of the aforesaid judgment, nothing substantive appears to have been achieved on the ground over the years.

The State Government will have to respond on the issue of implementation of the direction contained in Paragraph No. 16 of the said judgment dated 02.08.2004.

It is pointed out that in the catchment area subject-matter of this appeal, there are large number of structures. The learned senior counsel appearing for the respondent No. 6 submitted that it is not necessary to clear the constructions made in the catchment area as the object will be served if the drainage channels in the catchment area are kept without any obstruction. He invited our attention to sub-paragraph 5 of Paragraph No. 15 of the decision in the case of *Abdul Rehman* (supra).

We will have to hear the State Government on implementation of the directions contained in the said decisions. However, we are informed that now, the State is likely to appoint a new Standing Counsel as the present Standing Counsel has not been continued. Secondly, we will have to deal with the issue of concept of

1 (2018) 13 SCC 390.

catchment area, if necessary, with the assistance of the Expert Bodies like National Environmental Engineering Research Institute('NEERI').

We direct the State Government to file an affidavit placing on record the action plan prepared by it in terms of Paragraph No. 16 of the aforesaid decision in the case of *Abdul Rehman*(supra) and the steps taken to implement the same especially regarding restoration of the catchment areas, within a period of three weeks from today.

The Rajasthan State Pollution Control Board is represented before this Court.

A copy of this order shall be forwarded by the Member Secretary of the State Pollution Control Board to the concerned officer of the State Government to enable the State Government to comply with the same.

For the limited purposes of considering the affidavit which may be filed by the State and the question of appointing an Expert Body to assist the Court, list on 29.04.2024.

(POOJA SHARMA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)