

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

Original Application No.29/2021 (CZ)

Siyaram Yadav & Anr

Applicant(s)

Versus

State of Madhya Pradesh & Ors

Respondent(s)

Date of hearing: 03.09.2021

Date of uploading: 09.09.2021

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER

HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s):

None

For Respondent(s):

Mr. Rohit Sharma, Adv
Ms. Parul Bhadoria, Adv
Mr. Sachin K.Verma, Adv
Mr. Yadvendra Yadav, Adv

ORDER

1. The issue raised in this original application is violation of the "Guidelines for Environmental Management of Dairy Farms and Gaushalas" issued by the Central Pollution Control Board in July, 2020 at Khasra No. 83 & 84 of village Sadera of Tehsil Kurvai at District Vidisha, Madhya Pradesh on the following points:

- (i) The Gaushala is located near the notified abadi kshetra and can be a troublesome affair for the residents living in the village.
- (ii) River Naren, which is one of the major source of portable water for the residents of the village Sadera is located at a distance of less than 200 mtrs. from the area where the Gaushala is proposed.
- (iii) That the area in question is a flood prone area and during monsoon period this area is mostly submerged in water as a result of which there is danger to the lives of cows.
- (iv) Government Primary School located adjacent to the area where the Gaushala is proposed.
- (v) Violation of the Guidelines for Environmental Management of Dairy Farms and Gaushalas issued by CPCB in July, 2020.

2. The matter was taken up by this Tribunal on 02nd June, 2021 and Collector, District Vidisha, (M.P.), Central Pollution Control Board and State Pollution Control Board was directed to visit the place and submit the Factual and Action Taken Report. Notices were also issued to the Respondents and in reply thereof, the Central Pollution Control Board had submitted the fact that “Guidelines for Environmental Management of Dairy Farms and Gaushalas” has been finalized and have a prospective operation. So far as the citing criteria is concerned, it shall be applicable to all dairy farms and Gaushalas that are established after July, 2020. However, the statutory authorities tasked with the enforcement and compliance of these guidelines and the local authorities and the State Pollution Control Board are to comply and enforce these guidelines.
3. The Joint Committee submitted the Factual and Action Taken Report as follows:

“(A) Status of Compliance of Guidelines for Environmental Management of Dairy Farm and Gaushala (July-2020) is as follows:-

To verify the factual status the Joint Committee, consisting of Dr. Yogendra Kumar Saxena (Scientist C), Central Pollution Control Board, Shri. A.K. Bisen, Executive Engineer, M.P. Pollution Control Board, Bhopal and Dr. O.P. Gour (Deputes Director), Veterinary Services M.P. Government Vidisha has visited the proposed Gaushala at Sadera village district-Vidisha in the presence of Applicants Shri Siyaram yadav, Shri Rajpal Yadav and Shri Dushyant Yadav S/o Late Shri Lalaram Yadav along with villagers of Sadera on 03.08.2021 . The team visit the proposed Gaushala, Naren river, primary school at Sadera, village Sadera. Status of compliance of Guidelines for Environmental Management of Dairy Farm and Gaushala (July- 2020) is as follows:-

Visited on 03.08.2021

<i>Table No. 1 Status of Compliance of CPCB Guidelines for Environmental Management of Dairy Farm and Gaushala- (July-2020)</i>		
<i>Sr. No</i>	<i>CPCB Guidelines for Environmental Management of Dairy Farms and</i>	<i>Details</i>

<i>Gaushalas (July- 2020)</i>		
1	<i>Name/ address of Gaushala</i>	<i>Khasra No. 83 and 84 Village Sadera Tehsil Kurwai District Vidhisa</i>
2	<i>Contact person (Name, Designation, and Contact No, Fax, E mail)</i>	1. <i>Sh. Dushyant Yadav (S/o late Sh. Lalaram Yadav)</i> 2. <i>Sh. Siyaram Yadav Mobile No. 9575571168</i> 3. <i>Sh. Rajpal Yadav Mobile No. 9754286892</i>
3	<i>Status of registration with local bodies/corporations</i>	<i>Gaushala not established</i>
<i>Siting policy</i>		
4	<i>Minimum distance from following features</i>	<i>Details</i>
	<ul style="list-style-type: none"> • <i>Village boundaries (200 meters)</i> 	<i>Village Sadera Distance is amount 249.33 meter There is no Hospital</i>
	<ul style="list-style-type: none"> • <i>Hospital (500 meters)</i> 	<i>Govt. Primary School Distance is about 194.72 meters</i>
	<ul style="list-style-type: none"> • <i>School (500 meters)</i> 	
	<ul style="list-style-type: none"> • <i>National Highway (200 meter)</i> 	<i>No national Highway</i>
	<ul style="list-style-type: none"> • <i>State Highway (100 meter)</i> 	<i>About 6740 meters (about 6.74 Km)</i>
	<i>Major Drinking water reservoir on catchment side (500 meters)</i>	<i>No reservoir</i>
	<i>Drinking water source like wells, summer storage tanks, other tanks (Drinking Water) (100 meters)</i>	<i>No any</i>
	<i>Major water courses like River/Lake (500 meters)</i>	<i>Naren River distance is about 77.72 meters</i>
	<i>Canal (200 meters)</i>	<i>No any</i>
	<i>Dairy Farm/ Gaushala: Inter-se distance between two establishments should be at least 5 meters for ventilation. Each unit should provide at least 2.5 meters from each side and level the belt</i>	<i>There is no other Gaushala near the proposed Gaushala</i>
5	<i>Is Dairy farm/Gaushala located in flood plain area? (Dairy farm and Gaushalas should not be located in flood prone area, subject to flooding at 1-in-25-year or more frequent levels in order to avoid contamination of water bodies)</i>	<i>As per information received from villagers of Sadera the proposed Gaushala area is subjected to flood plain area in monsoon period.</i>
6	<i>Is Dairy farm/ Gaushala located in shallow groundwater depth area? (Dairy farms and Gaushalas should</i>	<i>As per information received from villagers of Sadera,</i>

not be located in areas with shallow groundwater depth of about 10 to 12 feet and particular in alluvium areas in order to avoid groundwater contamination.)	Groundwater depth is about 80-100 feet.
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During visit it is informed that the Sarpanch Shri Lalaram yadav has no more, the death certificate is enclosed Annexure-02. There is no any construction work were occurring during the observation and no any Gaushala established, Geographical coordinates, photographs (Annexure-01), physical measurement and other relevant information were also collected. Based on inspection conducted by Joint committee point wise reply of issued raised are as under:

1. The distance between proposed Gaushala and abadi kshetra village Sadera is about 249.33 meter. Google map enclosed Annexure_3. Whereas the CPCB Guidelines of July-2020, the minimum distance from Village boundaries should be 200 meters away from residential dwellings.
2. The River Naren, nearby village at a distance of 77.72 meter from proposed Gaushala village Sadera water of River Naren mainly used by villager of Sadera for dairy use as well as for irrigation purpose.

Whereas the CPCB Guidelines of July-2020, the minimum distance from the River should be 500 meters.

3. On discussion with the villagers of village Sadera it is informed that every year surrounding area of proposed Gaushala is flooded with flood water during heavy Rain. Whereas the CPCB Guidelines of July-2020, gaushalas should not be located in Flood prone areas.
4. It is to be noted that Government Primary School at Sadera village is about 194.72 meter away from proposed Gaushala. Whereas the CPCB Guidelines of July-2020, the minimum distance from the school should be 500 meters.
5. The Gaushala is not established, it was proposed by Late Shri Lalaram Yadav Sarpanch Village Sadera. Google map showing location of Gaushala along with it's distance from residential area of village Sadera, Primary School Sadera and nearby River Naren. Since Gaushala is proposed at present troublesome affair from this Gaushala does not arise.
6. CPCB has also issued Revised Guideline in July-2021 for Management of Dairy Farm & Gaushala.
7. Following table No-2 showing the distance from proposed Gaushala (July-2020 and Revised Guideline in July-2021):

Showing the distance from proposed Gaushala as per CPCB Guidelines for Environmental Management of Dairy Farms and Gaushals, (July-2020 and Revised Guideline in July-2021)					
Sr. No	From	To	Actual distance	CPCB Guidelines for Environmental Management of Dairy Farms and Gaushals (Minimum distance from following features)	
1	Proposed Gaushala	Naren river	About 77.72 meters (flood plain area in monsoon period)	500 meters	Should be away from flood plain area of river
2	Proposed Gaushala	Govt. Primary	About 194.72	500 meters	100 meter

		School Sadera	Meters		
3	Proposed Gaushala	Village Sadera	About 249.33 meters	200 meters	100ter

(B) Action Taken Report

According to the guideline of CPCB July 2020 and new guideline July 2021 the following observations made by the committee is that:-

1. The proposed Gaushala was not established till the date of inspection.
2. The distance between proposed Gaushala and village is about 249.33 meter.
3. The distance between proposed Gaushala and Naren River is about 77.72 meter.
4. The proposed Gaushala is located in flood plain area in monsoon period.
5. The distance between proposed Gaushala and Govt. Primary School is about 194.72 meter.
6. Siting policy mentioned in point no. 4 of guideline issued by CPCB in July-2020 for Management of Dairy Farm & Gaushala in enclosed Annexure-5. It is true that proposed location of Gaushala village Sadera is not as per guideline issued by CPCB in July 2020 for Management of Dairy Farm & Gaushala. Since proposed Gaushala is at a distance of 194.72 meter from Government Primary School, River Naren is flowing at a distance of 77.72 meter from Gaushala and also site selected is in flood plain area.
7. CPCB has also issued Revised Guideline in July-2021 for Management of Dairy Farm and Gaushala. Siting policy mentioned in point no. 6.4 of guideline issued by CPCB in July 2021 is as per Annexure-6. It is concluded that proposed Gaushala is also not complying with siting criteria since site selected for Gaushala is in flood plain area and also near Naren River.
8. So it is recommended that, Director Animal Husbandry, & Dairying Bhopal and CEO Jilapanchayat Vidisha to be informed with above facts and shall be asked to ban establishment of said Gaushala at village Sadera Should be away from flood plain area of Naren River and follow CPCB Revised "Guidelines for Environmental Management of Dairy Farms and Gaushalas" July-2021 and Gaushala shall be setup as per siting policy/guidelines of local administration."

4. Chief Executive Officer, Tehsil Kurvai at District Vidisha, Madhya Pradesh has also vide his letter dated 02nd September, 2021 has directed the authorities concerned for compliance of guidelines issued from the Central Pollution Control Board.
5. The issue of solid waste generated through the dairies and thrown in the open streets and discharging the untreated water in the rivers or

in the municipal drain causing serious threat to the health of citizen and are also responsible for traffic congestion and accidents. It is stated that cow dung and liquid waste which is in open place have become the breeding centre for mosquitoes and other creatures responsible for most of the epidemic disease. Apart from this, in rainy seasons cow dungs are also responsible for the accidents in the city. Due to inaction on the part of the Municipal Corporation, a request has been made to remove the dairies or to regulate in accordance with the rules and to take adequate measures to provide clean drinking water. The citizens are suffering from various diseases some are which of fatal in nature. It is alleged that large number of people are suffering due to gastrointestinal disease, Malaria, Phara Malaria, Cholera, Jaundice and Viral Fever. It is alleged that the citizens of the city have a right to live in clean, healthy, unpolluted and hygiene atmosphere and also to get pure drinking water. The applicant has made a request to direct the municipal corporation and respondents to remove all dairies from the limits of Municipal Corporation and to do the necessary action to regulate the dairies.

6. The issue as raised in this Original Application has been taken up and discussed in O.A. No. 46/2018, Nugehalli Jayasimha V. Government of NCT of Delhi and the Principal Bench of this Tribunal dealt this matter (decided on 20.05.2020) directed and observed as follows:-

“2. The matter has been dealt with earlier by this Tribunal and directions have been issued from time to time with a view to enforce the statutory mandate under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 for compliance of environmental norms. Against the order of the Tribunal dated 08.07.2019, to which reference will be made in the later part of this order, Civil Appeal No. 7285/2019 filed by the SDMC was dismissed by the Hon’ble Supreme Court. As earlier noted, the issue was also dealt with by the Delhi High Court in Common Cause v. UOI, (2007 SCC Online (Del) 863), wherein Municipal Corporation of Delhi was directed to formulate a licensing policy under Section 417 of the Delhi Municipal Corporation Act, 1957. While issuing such direction, the High Court noticed unsatisfactory state of affairs. The High Court observed that the dairies need to be relocated on account of hazard of stray cattle on the roads and trauma faced by the cattle in the cities on account of traffic. Reference was also made to the filth, squalor and outbreak of diseases. As a short-term measure, preventive steps were required for hygiene and

protection of environment. Our attention has been drawn to a policy framed by the MCD on 17.07.2010 prohibiting keeping of cattle in any premises without license. Authorized dairy areas were specified and standards and measures were also specified. Reference has also been made to the report of an Expert Committee constituted by the Indian Council for Agricultural Research, Government of India, dated 01.11.2016 under the Chairmanship of Dr. Arjava Sharma, Director, ICAR- NBAGR, Karnal. The report dealt with sustainable management of unproductive cattle. The report specifies land requirement, feeding requirement, labour requirement and health management.

3. Vide order dated 01.04.2019, the Tribunal considered the allegation of air, water and soil pollution by the dairy industries in Delhi. It was alleged that solid and liquid waste releasing gaseous emissions was generated and dumped by the dairies in Delhi into the drains, meeting the river Yamuna, resulting contamination of river Yamuna. The waste clogged the drainage system which was becoming breeding ground for mosquitoes and other insects and thus creating health hazard. Waste generated was also resulting in discharge of Ammonia and Nitrogen oxides in the air and nitrate in soil and ground water. The odour from dairies negatively impacted the air quality. Ammonia wafted into the air from manure lagoons. Gases known as volatile organic compounds were created by the huge piles of feed. The foul smell from the dairy caused migraine, severe headache and people had no option but to inhale the impure/foul air present in the atmosphere. In the light of inspection reports dated 04.12.2015 and 15.12.2015, prepared by the Animal Welfare Board of India, it was noted that there was rampant use of Schedule H drugs, oxytocin injections, syringes, plastic bottles and other veterinary drugs etc. which are disposed of improperly and in unscientific manner, in violation of Bio-medical Waste Management Rules, 2016. The dairies were not following waste management practices. There was also violation of Food Safety and Standards (Licence and Registration of Food Businesses) Regulations, 2011.

4. The Tribunal also noted various articles on the subject which highlight adverse consequences on the environment due to illegal and unscientific dairy activities. It was also observed that there was violation of various provisions of the Delhi Municipal Corporation Act, 1957.

5. After quoting the observation from the report of the Committee, the stand of the Delhi Pollution Control Committee (DPCC) that it was not concerned with the subject despite the violation being clearly acknowledged was rejected in view of statutory provisions of the Water (Prevention and Control of Pollution) Act, 1974, (Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (Air Act) and Environment (Protection) Act, 1986 and rules framed there under. It was noted that though various authorities of the Delhi Government were parties and represented by Counsel, no authority came forward to take the responsibility and none of the Counsel made any suggestion for enforcement of law. In this background, the Tribunal by order dated 01.04.2019 directed the Chief Secretary of Delhi to call a meeting of all concerned and fix their accountability. The Tribunal also noted that the DPCC had failed to perform its statutory duties under the Water Act, the Air Act and the Environment (Protection) Act, 1986 (EP Act) in preventing polluting activities, prosecuting the polluters and recovering compensation for restoration of the environment from the polluters. The Tribunal also required DPCC, South Delhi Municipal Corporation (SDMC) and North Delhi Municipal Corporation (North DMC) to pay sum of Rs. 10 Lakhs each as an interim compensation and furnish a performance guarantee of Rs. 10 Lakhs each with the Central Pollution Control Board for taking necessary steps within three months for restoration of the environment. The amount could be recovered from the erring officer and polluters. The Chief Secretary, Delhi was to furnish an action taken report.

6. The matter was further reviewed on 08.07.2019 in the light of the report of the DPCC dated 03.07.2019. Commenting on the said report, this Tribunal found that DPCC was trying to avoid responsibility by taking untenable plea that only Municipal Corporations or other Departments were to monitor the pollution caused by the dairies. Accordingly, DPCC was directed to enforce its statutory obligation of closing polluting activities, prosecute the polluters and recover compensation on 'Polluter Pays' principle. The Tribunal also directed CPCB to undertake a study and lay down appropriate guidelines for management and monitoring of environmental norms by dairies throughout country. The observations of the Tribunal are reproduced for ready reference:

"1 to 6 xxx xxx xxx

7. We find that in spite of observations in the earlier order of this Tribunal as well as repeated orders in large number of cases, the DPCC seems to be avoiding its statutory responsibilities under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and to cover up their inaction, is passing the order of imposition of fines on other statutory bodies, without any jurisdiction. Learned Counsel for the Delhi Government as well as DPCC have not been able to show any legal authority for doing so. While the DPCC may take action on 'Polluter Pays' principle against polluting activities of any statutory body, it has no authority to recover compensation for alleged inaction by such statutory authorities. Such authorities are not authorized to enforce the Water (Prevention and Control of Pollution) Act, 1974 or Air (Prevention and Control of Pollution) Act, 1981 which DPCC itself has to enforce. Even if they have overlapping powers under other statute, the DPCC cannot avoid its obligation under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981. It is undisputed that the dairies are operating in violation of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 as already noted in the order of this Tribunal dated 01.04.2019. The DPCC is required to ensure that the polluting activities, without consent to operate, are stopped by way of prohibitory order, prosecution and recovery of compensation which has not been done. Just as local bodies cannot fine DPCC for its utter failure, DPCC also cannot shift its onus and responsibility to local bodies and absolve from its responsibility. It has to proceed against polluters which it is avoiding to do.

8. We find that as per the circular dated 05.03.2016 issued by the MoEF&CC, the dairy industries fall under the 'Orange' category industries. Consent to operate is necessary under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 of the Water (Prevention and Control of Pollution) Act, 1974. Under the Environment (Protection) Rules, Schedule-I, read with Rule-3, lays down the norms for discharge by various activities or operations. Entry 56 deals with 'dairies' (industrial units) and provides for standards of effluents and violation of such standards.

9. Faced with the above, learned Counsel for the DPCC has undertaken to withdraw the notices issued to other statutory authorities and not to indulge in such illegal activities in future.

10. We find that the action of the DPCC is inadequate. Under Section 15 of the NGT Act, 2010, this Tribunal has to deal with enforcement of statutes mentioned in Schedule-I which include Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. Such violations may also be overlapping with the other statutory violations for which concerned statutory authorities have to take action on that

ground. The local bodies have the responsibilities under the SWM Rules, 2016 but on that ground, the DPCC cannot avoid its responsibility. Local bodies must perform their statutory duties.

11. In view of above, while disapproving the above illegal action of DPCC as well as its inaction, we expect the DPCC now to enforce its concerned statutory obligations by closing polluting activities, prosecuting the polluters and recovering compensation from the polluters in accordance with law and to furnish a further report to this Tribunal by e-mail at judicial-ngt@gov.in before the next date.

We may note that livestock is a major source of methane emissions and studies on the subject show that the problem in India is severe. Results of a recent study show that the Indian livestock emitted 15.3 million tonnes of methane in 2014. Enteric methane emission from Indian livestock contributed 15.1% of total global enteric methane emission. In India, contribution of enteric methane was 91.8% of the total GHG emissions, followed by manure methane (7.04%) and manure Nitrous Oxide (1.15%) in the year 2015. The livestock sector in India has the potential to cause surface temperatures to surge up to 0.69 millikelvin over 20 year time period which is roughly 14 per cent of the total increase caused by the global livestock sector. Methane has a warming potential 20 times higher than carbon dioxide. Globally, livestock sector generates 65 percent of human-related nitrous oxide, which has 296 times the Global Warming Potential (GWP) of CO₂. Most of this comes from manure. While the dairy industry is covered by 'Orange category' under the circular dated 05.03.2016 issued by the MoEF&CC, no such guidelines are said to be existing for management and rearing of livestock. Needless to say that such activity have potential of causing air and water pollution as already noted in the context of Delhi. Accordingly, instead of limiting the scope of remedying the compliance of environment norms by dairies to Delhi, we consider it necessary to expand the same for the whole country. Let the CPCB undertake a study in the matter and lay down appropriate guidelines for management and monitoring of environmental norms by the dairies throughout India and furnish a report in the matter by e-mail at judicial-ngt@gov.in before the next date. **The local bodies in all the States/ UTs be required to file inventory of dairies in their respective jurisdiction so that state PCB can compile such information in their respective reports furnished to CPCB."**

7. Thereafter, vide order dated 24.01.2020, this Tribunal considered the action taken report filed by the DPCC that it has issued notice for closure under the Water Act and the Air Act and also directed disconnection of electricity and water supply. Show cause notice has also been issued for enforcement of the guidelines prepared by the CPCB. The local bodies have been asked to perform their duties. The Tribunal then considered the reports dated 18.08.2019 and 22.01.2020 filed by the CPCB as follows:

"9. CPCB has filed two reports. First report is dated 18.09.2019, to

the effect that an expert group was constituted. After discussion and interaction with the stakeholders, Guidelines for Environmental Management of Dairy Farms and Gaushalas were finalized. As per available statistics, prepared by the CPCB population of adult female bovine in the country is 13,32,71,000. Many dairy farms and gaushalas discharge the cattle dung along with wastewater into the drains, leading to clogging, which ultimately reach rivers and creates water pollution. Also, these clogged drains become breeding ground for mosquitoes, creating health hazards and odour nuisance. The dung produces many gases/compounds such as Carbon dioxide, Ammonia, Hydrogen sulphide, Methane, etc. which are emitted into the atmosphere and are responsible for degradation of air quality. The greenhouse gases, mainly Methane and Carbon dioxide, produced by dung also impact the climate. Disposal of cow/buffalo dung is the biggest challenge in dairy farms and gaushalas. However, cattle dung, if effectively utilised, can be an excellent resource of manure & energy and reduce the adverse impact on environment. The cattle dung contains many beneficial constituents which may be used as fuel source either by direct combustion or converted to biogas, soil conditioner, fertilizers, material for wall plastering, construction of granaries, livestock & fish feeding, etc. The draft Guidelines stipulate solid waste management, waste water management, air quality management, monitoring mechanism to be adopted by the local authorities/ Corporations/ PCBs/ PCCs. The guidelines also prescribed a Performa for monitoring by the local authorities/Corporations for preparing inventories of dairies farm and gaushala.

10. Second report dated 22.01.2020 is to the effect that the inventory Performa was circulated to the PCBs/PCCs to which response was received from 31 States/UTs. No response was received from Andhra Pradesh,

Maharashtra, Manipur, Uttarakhand and Delhi. 20 States provided the details while 11 States/UTs have yet to provide details.

Observations and conclusion in the report are :-

“3.0 Observations:

Following are the observations based on the information as received from SPCBs/PCCs about dairies and gaushalas operating in the States/UTs:

- i. The total number of dairies operating in 19 States/UTs is 93,033 (ninety three thousand & thirty three) and total number of animals in these dairies is 7,04,127 (seven lakh, four thousand, one hundred & twenty seven).**
- ii. There are 960 dairy colonies/clusters in 19 States/UTs.**
- iii. The total number of gaushalas operating in 20 States/UTs is 6,462 and total number of animals in these gaushalas is 3,51,592.**
- iv. The total amount of dung generated/produced by animals in dairies and gaushalas in the 20 States/UTs is 2,58,688 ton/day and 13,698 ton/day, respectively.**
- v. In general, the methods used in States/UTs for disposal/utilization of cattle dung include using dung as manure in fields, vermi-composting, biogas generation, etc.**
- vi. SPCBs/PCCs have not provided the information about disposal/utilization of wastewater.**

4.0 Conclusion:

(i) The local authorities/corporations should carry out inventory of all the dairy farms and gaushalas located in their jurisdiction in the prescribed performa. The same should be updated and shared with the concerned SPCB/PCC on regular basis.

(ii) The dairies and gaushalas operating in the States/UTs should follow the "Guidelines for Environmental Management of Dairy Farms and Gaushalas."

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We may note that the matter is dealt with under the Environment (Protection) Rules, 1986 (EP Rules). With reference to Rule 3 thereof, general standards have been laid down in Schedule 6 in part A and part B.

11. We may now deal with the reports of the CPCB.

The first report relates to Guidelines. We find that the draft Guidelines do not specifically mention the mandate of the Water and the Air Act. The issue has already been dealt with by this Tribunal. While sanitation may be an issue to be dealt with by local bodies, the Water Act, the Air Act and the EP Act are special laws dealing with the environment which do not stand excluded by application of other Municipal Laws. Regulatory regime of the Water Act, the Air and the EP Act is required to be followed and enforced by the State PCBs/PCCs, independent of the powers of local bodies to enforce the municipal laws. Precautionary and Sustainable Development principles are over arching principles which are not only enforceable by this Tribunal under Section 20 of the National Green Tribunal Act, 2010, but are also part of the Article 21 of the Constitution, which is a Fundamental Right, creating reciprocal obligation on all State authorities. Thus, the Guidelines prepared by the CPCB need to be revised by specifying that State Boards/Committees must enforce 'consent mechanism' and, in particular, follow an appropriate siting policy in the light of the carrying capacity of the area for commercial dairy activities, having potential for air and water pollution. Dairy activities have been categorized as 'Orange' category as per the laid down guidelines.

12. The second report relating to analysis of action taken by all States/UTs is incomplete for want of data. For this purpose, we direct that all the local bodies may furnish relevant information to the State PCBs within one month from today. Private operators, including cooperative societies or other entities, not falling within the jurisdiction of Local Bodies, may also furnish the requisite information to the State PCBs within the same time. The State PCBs may, apart from compiling information and forwarding the same to the CPCB, perform their statutory obligations under the Water Act, the Air Act and the EP Act for enforcing environmental norms by such dairy activities with a view to protect the environment and the public health. The State PCBs/PCCs may publish an appropriate notice on the subject within two weeks from today requiring furnish of information and also adopting all necessary safeguards in the matter. Thereafter, the State PCBs/PCCs may furnish factual and action taken reports in the matter to the CPCB latest by 30.04.2020. CPCB may compile the data received and file a comprehensive report before this Tribunal by e-mail at judicial-ngt@gov.in before the next date.

A copy of this order be forwarded to CPCB, SPCBs/PCCs, Chief Secretaries of all the States/UTs. The SPCBs/PCCS may forward a copy of this order to all the local bodies in their respective jurisdiction within one week from today.

Since the issue being dealt with is an issue in rem and enforcement is left to the statutory bodies, we do not find it necessary to consider individual matters in these proceedings which may be dealt with by the concerned statutory authorities in accordance with law.⁷ Accordingly, the private parties will stand deleted from the memo of parties."

(emphasis supplied)

8. Accordingly, the CPCB has filed a status report on 12.05.2020 in the light of recommendations of Expert Group recommending issuance of guidelines for Environment Management of Dairy Farms and Gaushalas. Apart from the draft guidelines annexed to the report, CPCB has also furnished status of inventory of Dairy Farms and Gaushalas in compliance of Hon'ble NGT order. The report states that except Manipur and Delhi, response has been received from 34 States/UTs. 28 States/UTs have provided the details, while six States are in the process. The observations of CPCB in this regard are:

- (i) The total number of dairies operating in 26 States/UTs are 2,73,437 (two lakhs, seventy-three thousand, four hundred & thirty-seven) and total number of animals in these dairies are 21,34,018 (twenty-one lakhs, thirty-four thousand & eighteen).*
- (ii) There are 2793 dairy colonies/clusters in 26 States/UTs.*
- (iii) The total number of gaushalas operating in 28 States/UTs are 5,964 and total number of animals in these gaushalas are 4,36,727.*
- (iv) The total amount of dung generated/produced by animals in dairies and gaushalas in the 28 States/UTs are 2,60,922 tons/day and 1,49,945 tons/day, respectively.*
- (v) In general, the methods used in States/UTs for disposal/utilization of cattle dung include using dung as manure in fields, vermi-composting, biogas generation, fish feed, fuel for cremation etc.*
- (vi) SPCBs/PCCs have not provided the information about disposal/utilization of wastewater, however, Chhattisgarh, Kerala and Mizoram states that wastewater being used for fodder cultivation.*
- (vii) The area-wise inventory of dairies and gaushalas in the States/UTs are provided at Annexure-V. The dairies in urban, peri-urban and rural are 6%, 3% and 91% respectively whereas the animals in them are 12%, 4% and 84 % respectively. The gaushalas in urban, peri-urban and rural area are 47%, 5% and 48% respectively whereas animals in them are 23%, 13% and 64% respectively."*

9. With regard to direction to State PCBs/PCCs to issue a public notice with a view to protect environment, it is stated that out of 36 States/UTs, 12 have published such notices. Conclusion in the report are:

“4. Conclusion:

- (i) **The local authorities/corporations should carry out inventory of all the dairy farms and gaushalas located in their jurisdiction in the prescribed performa. The same should be updated and shared with the concerned SPCB/PCC on annual basis (calendar year wise).**
- (ii) **All the dairy farms and gaushalas should be registered with the local bodies/corporations preferably through online mode. The local bodies/corporations should display the same at their websites.**
- (iii) **The dairy farms (having animal population of 10 & above animals) and gaushalas should obtain consent to establish and consent to operate under Water Act, 1974 as well as Air Act, 1981 from the concerned SPCBs/PCCs.**
- (iv) **The local bodies/ SPCBs/ PCCs/ Gram Panchayat in the States/UTs shall ensure that dairies and gaushalas operating should follow the "Guidelines for Environmental Management of Dairy Farms and Gaushalas."**

10. At this stage, we may refer to the salient features of the information compiled by the CPCB and the proposed guidelines. Statistics provided is as follows:

“The dairies/gaushalas may be categorised on the basis of nos. of animals (adult cows & female buffaloes) in a dairy/gaushala i.e. Category-I (upto 25 animals), Category-II (26-50 animals), Category-III (51-75 animals), Category-IV (76-100 animals) and Category-V (above 100 animals).

As per the Livestock Census, carried out by the Department of Animal Husbandry, Dairying & Fisheries, Ministry of Agriculture and Farmers Welfare, the year-wise livestock population of adult female bovine is as follow:

Sl. No.	Year	Adult Cows	Adult Female Buffaloes	Total Cows & Buffaloes
1	195	5,44,00,00	2,10,00,000	7,54,00,000
2	195	4,73,00,00	2,17,00,000	6,90,00,000
3	196	5,10,00,00	2,43,00,000	7,53,00,000
4	196	5,18,00,00	2,54,00,000	7,72,00,000
5	197	5,34,00,00	2,86,00,000	8,20,00,000
6	197	5,46,00,00	3,13,00,000	8,59,00,000
7	198	5,92,00,00	3,25,00,000	9,17,00,000
8	198	6,21,00,00	3,91,00,000	10,12,00,000

9	199	6,44,00,00	4,38,00,000	10,82,00,000
10	199	6,44,00,00	4,68,00,000	11,12,00,000
11	200	6,45,00,00	5,10,00,000	11,55,00,000
12	200	7,30,00,00	5,45,00,000	12,75,00,000
13	201	7,67,00,00	5,66,00,000	13,33,00,000
14	201 9	8,14,00,00 0	5,50,00,000	13,64,00,000

Also, as per the Livestock Census carried out by the Department of Animal Husbandry, Dairying & Fisheries, Ministry of Agriculture and Farmers Welfare, in 2019, the state-wise total population of adult female bovine is as follow:

Sl No	State/UT	Adult Cows	Adult Female Buffaloes	Total Cows & Buffaloes
1.	Andhra Pradesh	19,80,000	31,61,000	51,41,000
2.	Arunachal	1,02,000	2,000	1,04,000
3.	Assam	38 18,000	1,38,000	39,56,000
4.	Bihar	71,47,000	36,70,000	1,08,17,000
5.	Chhattisgarh	33,79,000	3,83,000	37,62,000
6.	Goa	30,000	14,000	44,000
7.	Gujarat	44,94,000	56,71,000	1,01,65,000
8.	Haryana	9,45,000	21,00,000	30,45,000
9.	Himachal	9,32,000	3,69,000	13,01,000
10	Jammu &	12,31,000	4,02,000	16,33,000
11	Jharkhand	34,58,000	4,35,000	38,93,000
12	Karnataka	40,63,000	16,71,000	57,34,000
13	Kerala	6,90,000	8,000	6,98,000
14	Madhya Pradesh	73,42,000	52,96,000	1,26,38,000
15	Maharashtra	56,99,000	33,19,000	90,18,000
16	Manipur	77,000	10,000	87,000
17	Meghalaya	3,33,000	3,000	3,36,000
18	Mizoram	21,000	1,000	22,000
19	Nagaland	21,000	3,000	24,000
20	Odisha	31,94,000	1,52,000	33,46,000
21	Punjab	15,25,000	22,76,000	38,01,000
22	Rajasthan	68,19,000	70,15,000	1,38,34,000
23	Sikkim	68,000	0	68,000
24	Tamil Nadu	48,20,000	2,61,000	50,81,000
25	Telangana	14,93,000	21,86,000	36,79,000
26	Tripura	3,03,000	3,000	3,06,000
27	Uttarakhand	8,22,000	4,96,000	13,18,000
28	Uttar Pradesh	92,07,000	1,57,32,000	2,49,39,000
29	West Bengal	72,73,000	1,93,000	74,66,000
30	A & N Islands	16,000	1,000	17,000
31	Chandigarh	8,000	8,000	16,000
32	Dadar & Nagar	4,000	1,000	5,000
33	Daman & Diu	1,000	0	1,000
34	Delhi	Not	Not available	Not available
35	Lakshadweep	1,000	0	1,000
36	Puducherry	37,000	2,000	39,000
37	All India	8,13,53,000	5,49,82,000	13,63,35,000

11. The report mentions environmental issues as follows

Gaushalas

The major environmental issues of dairy farms and gaushalas are discharges of dung and urinal wastewater. The poor handling of dung and wastewater causes odour problem also. A Bovine animal, on an average, weigh 400 kg and discharges 15-20 kg/day of dung and 15-20 litres/day of urine.

Many dairy farms and gaushalas discharge the cattle dung along with wastewater into the drains, leading to clogging, which ultimately reach to rivers and create water pollution. Also, these clogged drains become breeding ground for mosquitoes creating health hazards and odour nuisance. The dung produces many gases/compounds such as carbon dioxide, ammonia, hydrogen sulphide, methane, etc. which emitted into the atmosphere and responsible for odour issue.

The disposal of cow/buffalo dung is the biggest challenge in dairy farms and gaushalas. However, cattle dung, if effectively utilised, can be a resource of manure & energy. The cattle dung contains many beneficial constituents which may be used as fuel source either by direct combustion (dung wood) or converted to biogas, soil conditioner, fertilizers, material for wall plastering, construction of granaries, livestock & fish feeding, etc.”

(emphasis supplied)

12. The guidelines are:

“3. Guidelines for Waste Management in Dairy Farms and Gaushalas:

3.1. Solid Waste Management

The solid wastes produced from dairy farms and gaushalas are basically organic in nature, consisting of cattle dung, feed residue, bedding, etc. The waste produced is not hazardous in nature but its proper handling and disposal needs attention. The guidelines for the management of solid wastes are as follow:

- i. Dairies and gaushalas should collect dung from the floor of the shed at regular interval, so as to keep the floor clean. The surrounding areas should also be cleaned regularly to prevent obnoxious smell in the area.
- ii. Dairy premises and its surrounding areas should be properly sanitized and disinfected, e.g. by sprinkling crushed lime, regularly.
- iii. The solid wastes should be collected & stored properly for its treatment.
- iv. Dairies and gaushalas should dispose the

biomedical wastes (vaccines, vials, medicines, syringes, etc.) as per the provisions of "Biomedical Waste Management Rules, 2016".

v. Dairies and gaushalas should not wash dung & fodder residue etc. into drains in order to avoid clogging of drains. The local bodies/corporations/SPCBs should ensure that untreated wastes are not discharged outside the dairy premises.

vi. Dairies and gaushalas should have adequate infrastructure to ensure proper handling, treatment and disposal of solid wastes and wastewater. They may set-up individual or common treatment facilities where in cluster.

The local government bodies/corporations/SPCBs should facilitate the dairies/gaushalas/ entrepreneurs/ NGOs in setting up of individual or common treatment facilities.

vii. The following methods for disposal/ utilisation of solid wastes (dung) may be adopted:

a. Composting/Vermicomposting: Composting is a manure management practice to reduce the impact on the environment. Composting is the biological decomposition and stabilization of organic material. The process produces a final product that is stable, free of pathogens, reduced odours and can be applied on the land. Vermicomposting is the method of preparing compost with the use of earthworms that enriches soil quality by improving its physicochemical and biological properties. It is becoming popular as a major component of organic farming system.

b. Biogas/Compressed biogas (CBG) production (anaerobic digestion): Biogas plants are the best way to handle the dung waste. Biogas is generated in the process of biodegradation of organic materials under anaerobic conditions which may be utilised for cooking and power generation. The Biogas plant provides the digested organic manure for crops. Biogas can be processed and filled in cylinders. The bio-gas may be further purified to remove hydrogen sulphide (H₂S), carbon dioxide (CO₂) & water vapour and compressed (known as Compressed Bio Gas, CBG) which has methane (CH₄) content of more than 90% as per BIS standard IS 16087:2016. CBG has calorific value and other properties similar to CNG and hence can be utilized as green renewable fuel as replacement of CNG in automotive, industrial and commercial areas.

c. Manufacture of dung wood to be used as fuel: The cattle dung can be used as fuel as a replacement of firewood. The cattle dung can be dewatered and converted to value added products such as logs, powder etc. by mechanized/semi-mechanized machines.

This option can be easily adopted at dairy farms and gaushalas in economical manner, creating substantial value & no damage to the environment.

3.2 Waste Water Management

The guidelines for the management of wastewater are as follow:

- (i) Dairies and gaushalas should take necessary steps for the judicious usage of water for drinking & bathing of cattles and other services including floor cleaning, however, the same should not exceed 150litres/day/cattle.*
- (ii) Dairies and gaushalas should ensure that the wastewater, being discharged, is adequately treated so as to meet the standards as prescribed by SPCBs/PCCs.*
- (iii) Dairies and gaushalas should ensure that the wastewater does not percolate through ground and pollutes the groundwater. The flooring of the shed should be properly paved (impervious) with a wastewater collection system. However, the floor should not be slippery in order to ensure safety of animals.*

3.3. Air Quality Management

The guidelines for the management of air quality/emissions (includes gaseous emissions, odour and dust) from dairy farms and gaushalas are as follow:

- (i) The animal housing should be adequately ventilated allowing sufficient supply of fresh air to remove humidity, dissipate heat and prevent build-up of gases such as methane, carbon dioxide, ammonia, etc*
- (ii) Dairy farms and gaushalas should follow good housekeeping practices like maintaining proper sanitary conditions, protecting dung from unwanted pests/insects in order to minimize odour nuisance.*
- (iii) The floor, feeding, water and air spaces available for each animal should be adequate for standing, resting, loafing, movement, feeding, watering and ventilation. The space requirements should be provided as per the standards prescribed by the Bureau of India Standards (BIS).*
- (iv) Dairy farms and gaushalas should improve/modify the quality and dosage of feed/forage/supplements in order to reduce enteric methane generations from livestock. It is beneficial to animal health/nutrition and reduced impact on environment. They should obtain ration advisory for the same from any of*

the agricultural institutes/departments like Krishi Vigyan Kendra, State Dairy Department, Animal Husbandry Department, NDRI, NDDDB, etc

- (v) *Dairy farms and gaushalas should plant trees or develop green belts to provide a barrier against the spread of foul smell or noise originating from them.*

4. Siting Policy

The siting policy for dairy farms and gaushalas are as follow:

(i) Dairy farms and gaushalas should be located outside city/village boundaries and away from residential dwellings, hospitals, schools.

(ii) Dairy farms and gaushalas should not be located in flood prone areas, subject to flooding at 1-in-25-year or more frequent levels in order to avoid contamination of water bodies.

(iii) Dairy farms and gaushalas should not be located in areas with shallow groundwater depth of about 10 to 12 feet and in particular in alluvium areas in order to avoid groundwater contamination.

(iv) Dairy farms and gaushalas may be allowed to follow minimum distance criteria given below which may be subject to vary with the local conditions:

(a) National and State Highways: 200 meters from National Highway and 100 meters from State Highway in order to avoid odour nuisance and road accident caused due to cattle.

(b) Major drinking water reservoir on catchment side 500 meters in order to avoid water contamination due to leakages/spillages from the dairy farms and gaushalas.

(c) Drinking water source like wells, summer storage tanks, other tanks (drinking water): 100 meters in order to avoid water contamination.

(d) Major watercourses like River and Lake: 500 meters in order to avoid water contamination.

(e) Canals: 200 meters in order to avoid water contamination.

5. Regulatory/ Monitoring Mechanis:

(i) The local authorities/corporations should carry out inventory of all the dairy farms and

gaushalas located in their jurisdiction in the prescribed performa given at Annexure-II. The same should be updated and shared with the concerned SPCB/PCC on annual basis (calendar year wise).

(ii) All the dairy farms and gaushalas should be registered with the local bodies/corporations preferably through online mode. The local bodies/corporations should display the same at their websites.

(iii) The dairy farms (having animal population of 10 & above animals) and gaushalas should obtain consent to establish and consent to operate under Water Act, 1974 as well as Air Act, 1981 from the concerned SPCBs/PCCs.

(iv) SPCBs/PCCs should provide training and consultation to the Gram Panchayat for implementation of guidelines in their jurisdiction. Gram Panchayat should ensure the implementation of the guidelines by dairy farms and gaushalas falling under their jurisdiction for handling and management of the wastes.

(v) The concerned local bodies / corporations / SPCBs / PCCs should monitor the dairy farms and gaushalas on regular basis to ensure the proper disposal of cattle dung and wastewater to check compliance of environmental norms. The SPCBs/PCCs will consider the carrying capacity of the surroundings while allowing a new establishment and laying down the environmental norms.

(vi) Hands on practical trainings on environment/waste management & treatment technologies, scientific feeding for enteric methane reduction, waste to wealth management programme, etc. should be provided to dairy workers / entrepreneurs by the localbodies/SPCBs/PCCs on regular interval.

(emphasis supplied)

7. We are of the view that the guidelines proposed may be finalized and enforced as per the mandate of the statute which will bind the States PCBs/PCCs. Compliance thereof may be monitored by the CPCB. The CPCB may evolve appropriate monitoring mechanism in this regard, including a provision for audit of compliance atleast once in six months.

8. With regard to siting policy, atleast minimum distance must be specified from habitations, water bodies, etc. as well as inter-se distance of such establishments, consistent with the carrying capacity of the area, as may be necessary for protection of environment. Needless to say that any violation of environment norms under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 has to be dealt with by the concerned PCB/PCC/Local Body by way of stopping polluting activities, recovering compensation and initiating prosecution. It will be appropriate that broad and indicative compensation regime is expressly specified by the CPCB. While local bodies may undertake the exercise of preparing inventory as per applicable Municipal law, the State PCBs/PCCs must also not avoid their responsibility of enforcing the mandate of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.
9. Guidelines may be finalized and issued by the CPCB within one month from today. Compliance reports be sought from the State PCBs/PCCs within two months thereafter. A consolidated report based on the information received may be filed by the CPCB on or before 30.09.2020. Report be sent by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image/PDF.
10. Now, coming to the pollution of rivers and discharging of untreated water in the river, the Principal Bench of this Tribunal vide order dated 22.06.2020 passed in O.A. No. 673/2018 has issued several directions. We direct the

authorities of the State to follow the guidelines issued in this original application. For ready reference some of the paragraphs are quoted below:-

“5. The Hon’ble Supreme Court has noticed the level of degradation of rivers in India and apathy of the authorities as follows:

“58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to

industrial effluents, sewage, garbage, waste and air pollution, including the water management. We club the pending case of water management with this matter.

7. The Water (Prevention and Control of Pollution) Act, 1974 ("**Water Act**") prohibits use of any stream or well for disposal of polluted matter but this provision is certainly being held in breach without much consequences for the violators who are liable to be prosecuted and punished by imprisonment to uphold the rule of law and public health. Article 48A of the Constitution casts a duty on the State to protect and improve the environment. Article 51A imposes a fundamental duty on every citizen to protect and improve the environment. The Stockholm Declaration (1972) recommended prevention of pollution by adopting the 'Precautionary Principle', the 'Polluter Pays Principle' and the principle of 'Sustainable Development'. The Statement of objects and reasons for The Water Act is as follows:

"The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the growth of industries and the increasing tendency to urbanisation. It is, therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the water courses without adequate treatment as such discharges would render the water unsuitable as source of drinking water as well as for supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy.

A Committee was set up in 1962 to draw a draft enactment for the prevention of water pollution. The report of the Committee was circulated to the State Governments and was also considered by the Central Council of Local Self-Government in September, 1963. This Council resolved that a single law regarding measures to deal with water pollution control, both at

the Centre and at the State levels, may be enacted by the Union Parliament. A Draft Bill was accordingly prepared and put up for consideration at a joint session of the Central Council of Local Self-Government and the Fifth Conference of the State Ministers of Town and Country Planning held in 1965. In pursuance of the decision of the joint session, the Draft Bill was considered subsequently in detail by a Committee of Ministers of Local Self-Government from the States of Bihar, Madras, Maharashtra, Rajasthan, Haryana and West Bengal.

Having considered the relevant local provisions existing in the country and recommendations of the aforesaid Committees, the Government came to the conclusion that the existing local provisions are neither adequate nor satisfactory. **There is, therefore, an urgent need for introducing a comprehensive legislation which would establish unitary agencies in the Centre and States to provide for the prevention, abatement and control of pollution of rivers and streams, for maintaining or restoring wholesomeness of such water courses and for controlling the existing and new discharges of domestic and industrial wastes."**

8. The Hon'ble Supreme Court has held in several matters that it is the duty of the State to ensure access to clean drinking water, which is part of Right to Life. The Hon'ble Court has repeatedly directed State bodies to enforce statutory provisions by municipal bodies and industries by stopping discharge of untreated sewage and effluents in rivers, and prevent water pollution in any form. It was observed that water pollution causes serious diseases, including Cholera and Typhoid. It was also observed that the educational institutions must teach at least for one hour in a week lessons relating to protection and improvement of environment, and suitable awareness programs be undertaken. Likewise, the issue of Calcutta tanneries was considered in *M.C Mehta Vs. Union of India And Ors.* 13, (Calcutta Tanneries' Matter). The tanneries

were directed to be shifted by adopting the 'Precautionary Principle' so as to prevent discharge of effluents in the River Ganga. In view of dangerous potential of pollution, it has been laid down that even the State cannot grant any exemption for discharge of pollutants in water in violation of 'Precautionary' principle.

9. In spite of the above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise as also different forms of solid waste has continued to be discharged in the water bodies including the rivers or the canals/drains meeting the rivers. Violation of law is not only by private citizens but also statutory bodies including the local bodies and also failure of the regulatory authorities in taking adequate steps. There is no adequate coercive action or accountability, weakening the rule of law when large- scale violations go unaddressed despite repeated multitude of judicial orders.

11. The following additional information as per reports in public domain (subject to verification) also need to be noted:

(a) India is suffering from the worst water crisis in 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 water. Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates. 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 GDP. 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 695BCM. 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 water resources

and usage and use interventions that make our water use efficient and sustainable.

(b) 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 people.

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

(d) 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.

(e) 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 2013.20.

44. We may reiterate that the authorities’ generic, vague and repeated stand over the decades, that some steps are being taken, or proposed to be taken in future, is untenable. This is so because such piecemeal action or remote planned action, which ultimately fails to stop or prevent water bodies’ pollution nor result in punitive action against violators, cannot condone the continuing crime and damage to the environment. Indeed, also as repeatedly observed by the Hon’ble Supreme Court, the same stand, culpable inaction, and ‘passing-the-buck’ approach has continued since decades, and the situation only continues to worsen, much to the detriment of valuable human and other life. For current and continuing violations, action must be taken according to law

by way of recovery of compensation, closing polluting activity and other measures. Violators must be brought to justice. Not doing so by the authorities may lead to inference of collusion with law violators and demonstrate a lack of commitment to public duties entrusted to the statutory and oversight authorities.

I. Direction:

45. We reiterate our directions in order dated 6.12.2019 in the present matter, reproduced in Para Error! Reference source not found above, read with those in order dated 21.5.2020 in OA 873/2017 and direct CPCB and Secretary, Jal Shakti to further monitor steps for enforcement of law meaningfully in accordance with the directions of the Hon'ble Supreme Court and this Tribunal. The monitoring is expected with reference to ensuring that no pollution is discharged in water bodies and any violation by local bodies or private persons are dealt with as per mandate of law as laid down in orders of the Hon'ble Supreme Court and this Tribunal without any deviation from timelines. The higher authorities must record failures in ACRs as already directed and recover compensation as per laid down scale. Every State/UT in the first instance must ensure that atleast one polluted river stretch in each category is restored so as to meet all water quality standards upto bathing level. This may serve as a model for restoring the remaining stretches.

Further reports be filed by the CPCB and Secretary Jal Shakti by 15.9.2020 by e-mail at judicial-ngt@gov.in (preferably in the form of searchable/OCR PDF and not image PDF).

As already noted, the constant difficulty faced by this Tribunal in monitoring abatement of pollution in river Ganga (as well other polluted rivers) remains failure of States and PCBs/PCCs to enforce its orders, despite repeated directions and close monitoring, even in physical presence of Chief

Secretaries who have appeared before this Tribunal.”

11. Accordingly, we direct the State Pollution Control Board to follow the Guidelines and the Rules and also follow the Guidelines issued by the Principal Bench of this Tribunal in OA mentioned above. The State Pollution Control Board is directed to monitor the status of dairies and also to monitor the water quality and discharge of untreated water into the open land or the water bodies, and in case, if it is found that there is any violation, the State Pollution Control Board, being a statutory authority is duty bound to proceed in accordance with law. The recommendation of CPCB with regard to the consent under Air (Prevention and Control of Pollution) Act, 1981 must be taken into account and State Pollution Control Board is directed to proceed according to law. We further direct that the revised guidelines issued in July, 2021 for the management of Dairy firms and Gaushalas, citing policy mentioned in Point no. 6.4 guidelines issued by the CPCB must be observed with. The recommendation of the joint committee at Point no.8 is also accepted and the Director, Animal husbandry and Dairy, Bhopal and CEO Jila Panchyat, Vidihsa be informed to follow the guidelines mentioned above.

12. The Original Application No. 29 of 2021 is finally **disposed of.**

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

September, 03rd 2021
Original Application No.29 of 2021
PU