

Item No. 2

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

Original Application No. 61/2021 (CZ)

Dr. Sarvam Ritam Khare

Applicant(s)

Versus

State of Madhya Pradesh & Ors.

Respondent(s)

Date of Hearing: 17.05.2022

**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. Sachin K. Verma, Adv
Ms. Parul Bhadoria, Adv.
Ms. Samriddhi Sharma, Adv

ORDER

1. For the negligence of those to whom public duties have been entrusted can never be allowed to cause public mischief. The present case is a transgression of environment laws which have been verified by the Joint Committee in its report, wherein it has been found that :

- “1. Sewage water/untreated water more than 10 Wards of the city of Panna is being directly discharged into the river through Nallahs.
2. There are reports that the solid waste is also thrown into the river bodies and attempt has been made to prevent it through using temporary mesh (Jali).
3. For construction of drainage and sewage treatment plant the administration is in touch with the consultant for planning.”

2. The matter was taken up by this Tribunal on 28.01.2022 and the tribunal observed as follows :

“3. Freedom of profession, trade and business as guaranteed under the Constitution of India is to be read with Article 21 of the Constitution of India which provides that no one shall be deprived of life and liberty except according to the procedure established by the law. Right of fresh and unpolluted air or unpolluted water is also part of the life and any activity by anyone polluting the air and water directly or indirectly endangering the health of human being is violation of life and is in violation of provision as contained in the Constitution of India. If the right to fresh air and water is not enforced, this will be contrary to the mandate of the Constitution and the environmental laws. It is tragic that the Rivers, which have since time immemorial purified the people is being polluted by man. The pollution of the rivers are badly affecting the life health, ecology and millions of people. That the

colour and quality of water have deteriorated and at many places the colour has become black and Brown, which clearly suggests that the quality of the water has deteriorated due to unabated pollution of River Water. River water is continuously being polluted and the quality is going bad to worse. The main reason of river Pollution was the discharge of the sewage of the urban areas of the city directly into the water of river, through drains or through the Nalas, the sewage of whole Nagar Panchayat was mixed with the water body without any treatment. Most of the untreated sewage was mixed into the river water through the nalas and which in last mixed with the water of River. Discharge of Untreated sewage has been causing considerable damage to the life of the people who use the water of the River and also to the living creatures of life the River.

4. Section 3 of this The Environment (Protection) Act, 1986 Confers power on the Central Government to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. 'Environment' includes water, air and land and the interrelationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and

property. [Vide section 2(a) of the Environment (Protection) Act, 1986].

5. It is argued by the learned counsel for the applicant that Hon'ble Supreme Court of India in the case "Friends Colony Development Committee vs. State of Orissa and Other [(2004) 8 SSC 7331] observed as follows :- —

(In all developed and developing countries there is emphasis on planned development of cities which sought to, be achieved by zoning, planning and regulating building construction activity. Such planning, though highly complex is a matter based on scientific research, study and experience leading to rationalization of laws by way of legislative enactments and rules and regulations framed there under. Zoning and planning do result in hardship to individual property owners as their freedom to use their property in the way they like, is subjected to regulation and control. The private owners are to some extent prevented from making the most profitable use of their property. But for this reason alone the controlling regulations cannot be termed as arbitrary or unreasonable. The private interest stands subordinated to the public good. It can be stated in a way that power to plan development of city and to regulate the building activity therein flows from the police power of the State. The exercise of such

governmental power is justified on account of it being reasonably necessary for the public health, safety morals or general welfare and ecological considerations; though unnecessary or unreasonable intermeddling with the private ownership of the property may not be justified.)”

6. Non-stop sand mining, development project near rivers, de-forestation in the catchment areas and discharge of untreated waste are killing the major rivers of Madhya Pradesh. The State is now facing an acute deficit of water. Tapti and Shipra have almost dried while the Narmada River is also facing dry spells. The International Water Management Institute points out that the scarcity of water is due to the increasing dependency on the Narmada basin. In February, 2021, a report released by the Madhya Pradesh Water Resources Department said over 28 percent of dams built on the Narmada /Tapti river have almost dried up with less than 10 percent of water against its holding capacity. Only 14 reservoirs out of 53 have over 90 percent of water. The overall situation of water is also not good in the State as 71 reservoirs out of 241 have less than 10 percent of water (as per report released by the State Water Resource Department). Only 42 reservoirs have over 90 percent of water against its full capacity.

7. The matter of discharge of untreated water into the water bodies has already been taken by the Principal Bench of this Tribunal where several directions for construction of STP, calculation and imposition of environmental compensation have been issued. The Timeline for operation of STPs have been expired. The respondents have not taken proper remedial action well within time and for the negligence of those to whom public duties have been entrusted, can never be allowed to frustrate the provisions of the law or to defeat the provision of law or to cause public mischief by discharging untreated /sewage water into the water bodies specially in the river where water is not only used for bathing purpose but also for drinking purpose through pumping and providing the water to the citizens.
8. Thus, we direct the Chief Executive Officer Nagar Palika Parishad, Panna to submit the action taken report within 15 days with the reason as to why the necessary action be not initiated against him for non-compliance of the rules and directions as contained in the law and direction issued by the Hon'ble Supreme Court and this Tribunal with regard to the completion of the treatment plant within time and as to why environmental compensation be not imposed and realised according to law.
9. The State Pollution Control Board is directed to take legal and necessary action according to the rules and directions and in case of violation of environmental rules to calculate and realise the

environmental compensation according to law and to further report as to why in case of failure to do legal duties necessary legal action may not be initiated against the responsible person.

10. The copy of the order be sent to Principal Secretary, Urban Development Department, State of MP and Member Secretary, State Pollution Control Board, Bhopal for information and taking necessary action.”

3. On the next date of hearing the State sought a short time to file the action taken report and in its reply State has stated that the planning of Smart City and others matter have been taken by the authorities under the ‘Amrut Yojna’ and the work order has been issued. The enforcement of the environmental laws rests with the State Pollution Control Board and the Madhya Pradesh Pollution Control Board has been enshrined to perform the duties in accordance with law and in case of violation of environmental laws the State Pollution Control Board has to act in accordance with law. Since there are violation of environmental laws and discharge of untreated water / sewage water into open space and water bodies, Madhya Pradesh Pollution Control Board, being Statutory body is bound to proceed in accordance with law and thus we direct the Madhya Pradesh Pollution Control Board to ensure that there shall not be any discharge of untreated water / sewage water into the water bodies or in open space and in case it is found that there are discharge of untreated water necessary action, prosecution, calculation of

environmental compensation must be assessed and realized.
The Learned Counsels for the State Pollution Control Board
and the State have sought a short time to submit action
taken report. The same may be filed within fortnight days.

List it on **13th July, 2022.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

17th May, 2022
O.A. No. 61/2021(CZ)
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