

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

**APPLICATION NO. 14/2013(WZ)**

**CORAM:**

**Hon'ble Shri Justice V.R. Kingaonkar  
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

- 1. Smt. Lalita Sandip Shinde (Deshmukh)**  
Age about 40 years., Occu : Social worker,  
R/o. Patankar Sankul, Panch Aali,  
Trimbakeshwar, Tq. & Distt : Nasik
- 2. Mr. Nagsen (Nishikant) Murlidhar Pagar,**  
Age 39 yrs., Occu : Business,  
R/o. Bodhisatva BCGS Housing  
Society, Kathadan, Nashik.
- 3. Rajesh Madhukar Pandit,**  
Age 46 years., Occu :Business,  
R/o. 'Punav', Motwani Road,  
Near Anand Co-opv. Housing Society,  
Nashik Road, Nashik

**.....Applicants**

**A N D**

- 1. Chief Executive Officer,**  
Trimbakeshwar Municipal Council  
Trimbakeshwar, Taluk : Nashik,  
District : Nashik.
- 2. The District Collector,**  
Old Agra Road, Nashik  
Taluk and Distt : Nashik.

**3. Maharashtra Pollution Control Board**

(MPCB), Kalpataru Point, 3<sup>rd</sup> and 4<sup>th</sup>  
Floor, Opp : Cine Planet, Sion Circle,  
Mumbai 400 022

**4. State Government of Maharashtra,**

Through Secretary, Water Resources  
Department, Mantralaya, Mumbai.

**5. Union of India,**

Through : Secretary, MoEF,  
Maryavaran Bhavan, C.G.O. Complex,  
Lodhi Road, New Delhi.

**6. Nishad Ganesh Chandwadkar,**

Age 37 Yrs., Occu : Pourohitya  
171, Main Road, Trimbakeshwar,  
Distt : Nashik

.....Respondents

**Counsel for Applicant**

Mr.Raskar, Adv.

Mr. Nagsen M. Pagare, Adv.

Mr. Pravartak Pathak, Adv.

**Counsel for Respondent No.1 & 2**

Mr. P.K. Bodke, Adv. w/

Mr. Sudhir Kotwal, Adv.

**Counsel for Respondent No.3:**

Mr. D.M. Gupte, Adv. w/

Mrs.S.R. Dangre, Adv.

**Counsel for Respondent(s) 4 :**

Mrs. Ujwala Pawar, DGP

Mr. A.S. Mulchandani, AGP

**Counsel for Respondent(s) 5 :**

Ms. Shweta Bhusar, Adv.

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**Date: August 17<sup>th</sup>, 2015**

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**JUDGMENT**

1. By this Application, the Applicants have raised an environmental dispute of substantial nature regarding

environmental degradation and pollution being caused to River Godavari due to various activities in Trimbakeshwar Municipal area. The Application has been filed under Section 14 read with section 16 of the National Green Tribunal Act, 2010. It is the case of the Applicants that Trimbakeshwar city is a religious and holy place and is considered as most sacred because of origin of River Godavari and also, being one of the *Twelve (12) Jyotirlingas*. Due to this importance, large number of pilgrims visit this small town which has a residential population of only about 10,000, whereas the floating population of religious pilgrims and tourist varies from 3,00,000 to 50,00,000 (three lacs to fifty lacs) which is observed during “Kumbh Mela”. The Applicants contend that in the name of facilitating and accommodating such large number of pilgrims and also, tourists who are visiting various religious functions, the State and the Trimbak Municipal Council (TMC) have grossly intervened in the natural flow of River Godavari, even to the extent that many of the stretches of the River and its tributaries are blatantly covered and encased in R.C.C. box culverts, making the River disappear for much of its length in the TMC area. The Applicants have placed on record several photographs which indicate status of the River, indicating presence of only sewage water through such RCC box culverts in the dry season. The Applicants’ contention is that the natural

riverine system of River Godavari including its banks, riverbed, adjoining lakes and ponds need to be preserved and conserved for the holistic river conservation program and also, to protect the sanctity of the holy river. The Applicants contend that in the name of River Conservation, the river banks have been negated and the river beds have been confined by construction of R.C.C. boxes. Similarly, lakes and ponds like “Gautam Talav, Indratirtha Talav, Gangasagar Talav etc.” have been encroached and full of hyacinth, making it polluted.

**2.** The Applicants, therefore, apprehend that in case of heavy rains, there might be flooding of the entire town area due to inadequate flood carrying capacity of the River due to its coverage in the R.C.C. box culverts that may result in significant damage to environment, human being and property, thereby, having a probability of environmental disaster. The Applicants have therefore, prayed for following prayers :

- (a)** To call for entire records in respect of the Godavari River from Trimbakeshwar Municipal Council as well as concerned town planning authority.
- (b)** To direct the Respondent No.1 and other respondents to restore the river to its original status by removing the entire concretization from the river and encroachments thereon.
- (c)** To fix the responsibility and to take appropriate civil and criminal actions against the culprits.

**3.** The Application was heard on several occasions in the Tribunal and many interim directions have been issued.

**4.** Respondents Nos.1 and 2- Trimbakeshwar Municipal Council filed their say by filing Affidavit dated 7<sup>th</sup> February 2014 and 10<sup>th</sup> February 2014. The Respondents raised objection regarding the jurisdiction of the Tribunal to deal with such reliefs. During proceedings of the matter, the learned Advocate for the Respondent No.1 and 2, Shri. Kotwal fairly conceded that the Application clearly falls within ambit of Section 14(1) of NGT Act and hence, this objection need not be dealt with by this Tribunal. The Respondents submitted that somewhere in the year 2001, it was noticed that River Godavari is heavily polluted due to disposal of waste water into the river course, due to urbanization and large floating pollution. There were other important issues related to disposal of solid waste, safety of pilgrims besides providing necessary facilities/amenities to large number of tourists and pilgrims. The Respondents, therefore, submit that inter-departmental technical study group was formed under the Chairmanship of Chief Engineer and Director of Maharashtra Engineering Research Institute (MERI) and this Committee, after detail evaluation of issues and field conditions, prepared a detailed project report (DPR) comprising various aspects for environmental improvements of the River Godavari. This report was recommended by the State Government for the

financial assistance of the Central Government and accordingly, such proposal was approved by Ministry of Environment and Forest (MoEF) in January 2002 under the National River Conservation Program (NRCP). Subsequently, the project was successfully executed by the year 2005.

**5.** The Respondents submit that as early as, in the year 1955-56, the river stretch from Kushavart to Laxmi Narayan Temple was covered by the R.C.C. slab. Subsequently, in the year 1991-92, this slab was dismantled and three (3) numbers of 1200 mm R.C.C. pipes were laid for flow of river water and the pipes were covered by putting slabs thereon. The Respondents deny that such a development work ever envisaged mixing of untreated sewage with the river water and further submits that, in fact, separate sewage conveyance system was envisaged up to sewage treatment plant (STP) which is located on the eastern side of the river. The STP has accordingly been constructed and handed over to Respondent No.1 in the year 2005 and presently, it is in working condition. The Respondents further submit that the expert committee had taken into account all the technical issues like flood flow, flood duration, flood control measures etc. before arriving at the improvement proposal which was approved into 2002 and completed by the year 2005. The Respondent Nos.1 and 2 further contended that the Municipal Council is taking all the due care to remove hyacinth in the lakes and

ponds, but as this is a recurring problem, regular efforts are being taken. In addition, efforts are being taken to intercept and divert the entry of untreated sewage into such ponds which gives rise to such hyacinth growth.

**6.** Respondents No.1 and 2 further contend that significant amount of solid waste in the form of Puja offering, Nirmalya, material of Pind-dan is generated throughout the year by visiting pilgrims. This waste is biodegradable waste and Municipal Council has provided separate collection system for such waste. The Municipal Council was initially not having appropriate waste treatment and disposal system and during the interim proceedings of the present Application, Nasik Municipal Council had given temporary permission to dispose of such waste (about 1 metric ton per day) at their MSW plant. This issue was dealt in the interim period and Respondent no.1 on April 7<sup>th</sup>, 2015 had submitted that work of provision of the bio-methanation plant was in advance stage and likely to be completed by mid-May 2015. However, by considering certain unknown uncertainties, we had allowed such commissioning work to be done by end of May 2015.

**7.** The Respondent Nos.1 and 2, therefore, opposed this Application while submitting that, they will take all the necessary measures, in order to protect the River Godavari.

**8.** Respondent No.3-MPCB filed the first affidavit dated 10<sup>th</sup> February, 2014 and submitted that the Municipal

Council has STP of 1.0 MLD capacity which is treating the 0.7 MLD sewage water which is released in Godavari River after the treatment. MPCB filed another affidavit in 12<sup>th</sup> March, 2014 and submitted that they have engaged College of Engineering, Pune (COEP) to study the feasibility of relocating places of religious functions and removal of R.C.C. slabs. MPCB also formed Expert Committee in the subject matter. Thereafter, another affidavit was filed on 11<sup>th</sup> April 2014 placing the final report of the College of Engineering, Pune on record. It is pertinent to note that during the interim hearing on 12<sup>th</sup> March 2014, the Respondent No.3 stated that such final report will be submitted by next date along with the approval of the MPCB, with an action plan which may be drawn for implementation of such report. The affidavit dated 11<sup>th</sup> April, 2014 does not deal with findings of such report and has just placed that report and the minutes of the MPCB Committee. MPCB filed another affidavit on 6<sup>th</sup> May 2015 and submitted that large quantum of waste is generated through various religious functions like “*Pitruapaksha, Narayan Nag Bali, Tithi and Nirmalya*”. MPCB submits that though the Municipal Council has provided bins for collection of such waste, some small quantity is still going in the river. MPCB has also placed on record the water quality data of the river at various places, which indicate that the parameters like DO and BOD are not meeting the



norms which indicate pollution caused due to biodegradable material. MPCB filed another affidavit dated 3<sup>rd</sup> February 2015 wherein various points (cowl lets) at which the domestic sewage drifts into River Godavari have been identified and marked on the map. There are nearly 95 outlets on the right bank and 120 outlets on left bank in the stretch from Kushavarth to Gayatri temple, though the quantities of the waste water are comparatively very small. MPCB further submitted the analysis report of such samples collected at 15 locations, where it is necessary to intercept the untreated sewage for diversion to STP.

**9.** Based on this information submitted by the MPCB, it is evident that there are 15 outlets through which untreated waste water is discharged in the River Godavari. MPCB had recommended interception and diversion for such untreated effluent and accordingly, Municipal Council has proposed underground drainage by laying pipeline which is required to reach the STP. Said work has already commenced on 7<sup>th</sup> April 2015. The learned counsel for Trimbakeshwar Municipal Council states that such work of laying down cement pipe line will be expeditiously completed as far as possible by the end of 1<sup>st</sup> week of May 2015.

**10.** Another important aspect of the petition is related to protection of the River and its flood plains. We had specifically asked the Irrigation Department i.e. Executive

Engineer to submit the status of demarcation of blue line and red line of River Godavari in this area. Irrigation Department filed an affidavit in February 2014 and submits that such demarcation exercise has not been conducted so far and they have requested the Municipal Council to provide necessary funds of Rs.12.47 lacs for such demarcation exercise. The Tribunal in its order dated 4<sup>th</sup> February 2015, dealt with this issue and the Tribunal had directed the work to be completed in four (4) weeks. Thereafter, on 18<sup>th</sup> March 2015, it was informed by the Execution Engineer, Irrigation department the process of demarcation of blue line and red line is now started by giving contractual work. He states that the work will be completed by May 2015. He has further stated that once the blue line and red line are marked, the same will be communicated to the municipal authorities and District Collector immediately for further necessary action.

**11.** Considering the foregoing discussions and also, improvements and compliances made in the interim period of hearing of this Application, the only issue needs to be adjudicated in the present Application is:

“Whether the concrete structures, covering the River Godavari in Trimbak Municipal area, have been developed in contravention of the Environmental Regulations and, if yes, whether any orders are required for demolition/removal of the same ?”

**12.** It is an admitted fact that over the years, certain concrete R.C.C. box culverts have been constructed to cover some stretches of River Godavari and its tributaries in Trimbak Municipal Council area, mainly, for the purpose of providing necessary amenities, facilities and safety measures for the large number pilgrims visiting in Trimbakeshwar town, as residential population of the Town is only about 10,000, whereas the floating population of the pilgrims and tourists varies from 1 lac to 50 lacs, during the various religious days and occasions. Needless to say, the Urban Infrastructure in Trimbak Municipal area experience significant stress in order to provide the amenities to the tourists and pilgrims. The Respondent Nos.1 and 2 have submitted on record that as early as in the year 1955-56, considering Kumbhmela, the certain concretization was made to cover a stretch of river, from Kushavart to Laxmi Narayan Temple. Subsequently, modifications were also made in such concrete structures based on the local requirements. In the year 2001, comprehensive report was prepared by the District Administrative involving experts from Irrigation Department, Maharashtra Jivan Pradhikaran, Town Planning, MPCB etc, who prepared an integrated River Conservation Plan, considering the requirement of amenities and safety of the visiting pilgrims and protection of river course. Such plan and scheme was approved by Government of India in Ministry of

Environment and Forest (MoEF) under National River Conservation Plan (NRCP), as many of the activities were related to conservation of river including, interception and diversion of sewage, installation of sewage treatment plan (STP), providing low cost sanitation facilities, construction of electrical/improved wood crematoria, river bank development etc, at the cost of Rs.11.64 crores. This project was successfully completed in the year 2005 and STP of 1.2 MLD capacity was constructed and is found to be operational as per the information of MPCB. In other words, such developmental programme was completed in 2005.

**13.** It is noted that in spite of implementation of such river conservation programme, the significant quantity of domestic sewage was still entering into the river course, thereby deteriorating the river water quality. As mentioned above, however, interception and diversion of such untreated sewage was identified and executed by the MPCB and TMC. It is necessary that such efforts are required to be continued over the period in order to preserve the river water quality. This is essential, as it is seen from the records that once the earlier project of NRCP was completed in the year 2005, the authorities were not pro-active in identifying the waste reaching river course.

**14.** It is the contention of Respondent Nos.1 and 2 that the RCC box culvert have been provided as recommended

by the Technical Expert Committee under the Chairmanship of Chief Engineer and Director, Maharashtra Engineering Research Institute (MERI) which is a premier research institution in the field of irrigation engineering. The learned counsel for Respondent Nos.1 and 2 submit that this committee had taken into account all necessary aspects including flood flow, flood frequency, flood flow carrying capacity of river etc. before recommending such scheme. Learned counsel for Respondent 1 and 2 further argues that said project was completed in 2005 and it will be a retrograde step if such structures are to be removed and such removal will in fact further damage the river course. He further submits that such R.C.C. structures also facilitate easy and safe movement of the pilgrims who gather in large number during religious congestions like Kumbh Mela, Maha Shivratri etc. and any adverse order in this regard, will necessarily compromise the safety and security of the people.

**15.** We had asked MPCB to assess and to examine the feasibility of removal of cement flooring or the road which covers the river vide order dated 10<sup>th</sup> February 2014. MPCB had engaged the College of Engineering Pune and the report of the COEP is placed on record. The COEP has made following recommendations and suggested an action plan:

**Recommendations:**

- *Ensuring free flow of river water by implementing separate system for collection of sewer from the residential area and channel it to the STP. In any*

case it should not get mixed with the natural path of the river Godavari and the tributaries (Mhatar Ohol and Neelganga) to avoid any form of contamination of river water. It is suggested that concrete pipes of appropriate diameter in consultation with the PWD personnel should be laid down below the existing free road.

- Efforts are to be made to keep perennial flow of water through this stream adopting top-down approach. Necessary treatments of watershed should be planned to improve the existing catchment-tank-River system that works on percolation.
- It is imperative to consider this issue with a broader view of restoration of river system of Godavari with its watershed in Trimbakeshwar. This will help understand the integrated Catchment-Tank-River system in Trimbakeshwar with reference to its primary and secondary functions for the environment and people (residents and floating population).
- Further anticipating the residential population (12,000) and floating population (around 25,000 per day during the normal days, in lakh during holy days and forecasted above 75 lakhs during Sinhasth Kumbh Mela by the council) the existing capacity of STP should be upgraded.
- Based on the secondary information, interactions and site observation, the team recommends following line of action. This plan accounts for the holistic and near natural changes along this section of river Godavari.

**Action plan:**

- Anticipating the extent of work pertaining to restoration of the river system with its watershed, a detailed investigation is required. This entire development can be viewed as a part of religious tourism in this region and an ideal model on the basis of ecological principles can be set involving local people. The flow of river can also be decorated

*and kept clean without disturbing its flow anywhere along the path.*

- *Any removal of concrete or reconstruction can be initiated in consultation of heritage architect (for scientific planning and execution of construction incorporating the aesthetic and heritage aspects of the area) and a civil (Construction) engineer ( for scientific Planning and execution of removable steel grid coverings etc.). This development should also consider the number of people using this area, their free movements especially during the festivals and important religious functions to avoid law and order issue.*

**16.** We had asked MPCB to place its approval for such report on the record. The Report of the Committee of MPCB has been placed on record. Perusal of such report and minutes of the Committee would reveal that the COEP has not dealt with the issue for which their expertise was sought i.e. to examine feasibility of removal of cement concrete flooring or road which covers the river, can be replaced by any other method. The recommendations are generic in nature and skirt the issue which was posed to the COEP. In view of the above, the report of the COEP cannot be accepted.

**17.** Considering the foregoing discussions, we are of the considered opinion that the R.C.C. structure covering the river stretches have been developed from time to time and the major NRCP project was executed and completed in the year 2005 as per the recommendations of the technical expert group and also, such an arrangement has already

withstood the test of the time. The Tribunal is not required to go into the correctness or accuracy of the expert findings in view of its mandate. The Applicants have failed to place on record any scientific report or findings, pointing out any specific and particular environmental risks due to such structures, except the apprehensions about flooding and loss of property in case of extreme rainfalls. There are no other alternatives which have been suggested which will provide holistic and integrated arrangements for protecting and conserving the river course and at the same time, provide necessary facilities, amenities and safety to the pilgrims. The only concern which stands, is that such concrete structures give a free place for the encroachers and other people who carry out their business in such additional open area and throw the waste generated in the river itself. This aspect needs to be appropriately handled by the District administration and the Municipal Council.

**18.** In view of the above discussion, we are not inclined to accept the prayer of the Applicants for removal of the concrete structures covering the river. The issue referred above is accordingly answered in **NEGATIVE**.

**19.** At the same time, based on the precautionary principle enumerated in Section 20 of the National Green Tribunal Act, 2010, we feel it is necessary to issue certain directions to concerned authorities;



1. Director, MERI shall conduct a detailed evaluation of such concrete structures in view of the updated rainfall data, flood probability and potential, and suggest any improvement/ additional measures in order to ameliorate the apprehensions of flooding and associated damages and submit a report with suitable recommendation to the district administration within 4 months for further necessary action.

2. Trimbak Municipal council shall undertake regular cleaning of such concrete channels in order to ensure smooth flow in the channels in dry season. TMC shall further undertake the interception and diversion of untreated domestic waste waters to avoid its entry in river course which shall be completed in next 6 (six) months.

3. The STP and bio-methanation plant shall be operated continuously and effectively.

4. Collector, Nashik shall take necessary action as required by the Law, on the report of the blue line, Red line submitted by Irrigation Department.

20. The Application along with all Misc. Applications is accordingly dismissed. No costs.

....., **JM**  
**(Justice V. R. Kingaonkar)**

....., **EM**  
**(Dr. Ajay.A. Deshpande)**

**Date : August 17th, 2015**

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