

Item No.03

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.72/2023(CZ)
(O.A.No.870/2022- PB)

Mahadev Singh

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 07.08.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s) : None through VC

For Respondent(s) : Mr. Sachin K. Verma, Adv. for Project Proponent
Mr. Rohit Sharma, Adv. for RSPCB

ORDER

1. The Original Application (hereinafter referred to as 'OA') was entertained Suo motu on letter petition dated 10.07.2022 sent by Mahadev Singh resident of Munwas, District Udaipur wherein following grievances are raised in general:

- “1. Illegal encroachment and construction on grazing land and Bagela pond by filling it with debris.*
- 2. Cutting of hills & trees and trucks full of debris is dumped in to pond in front of Munwas school. Few Hotel owners have constructed building by filling a portion of pond by discharging waste water into pond.*
- 3. The natural source of water coming to pond have been closed for construction purposes by Valansia Resort. Sarpanch has constructed houses in grazing land. Munwas dairy is a fresh example.”*

2. Tribunal considered the above said grievances on 12.01.2023 and found it appropriate to seek a factual report by constituting a Joint Committee comprising Rajasthan State Pollution Control Board, District Magistrate, Udaipur and District Forest Officer, Udaipur.

3. Now Joint Committee has submitted inspection report dated 21.03.2023 stating that in revenue village Kailashpuri there is Arazi no. 813/187 which is recorded in revenue records as grazing land whereon community building has been constructed on 2500 sq. feet, from funds made available by local MLA. Further, there is a pond in front of Munwas school which is in Arazi no. 419 and in revenue records is registered as bila naam sarak. The said land has been leveled to the extent of 25 sq. meter by Bhagwat Singh and Lalit Singh sons of Sajjan Singh and Bhopal Singh son of Shankar Singh. Similarly, there is about 750 sq. meter land on the lower side of Arazi no. 293, 294 whereon (rainwater) used to flow but that has also been filled and flow of rainwater as been obstructed. Under Section 91 a complaint has been registered as case no. 01/2023 against defaulter on 07.02.2023 and proceedings for eviction of the person concerned are given on.

4. Further, with regard to filing of land of the pond, it was found that Arazi no. 01 in village Munwas, is recorded in revenue record as Bila Naam kism Dha Pe Ge Mu (as Talab) and thereon 10300 sq. feet of land as been filled in and after leveling, a wall has been constructed. With regard to obstruction created by Valensia resort it is said that matter is pending in the High Court where an interim order has been passed.

5. In respect of issue no. 3 it is said that Arazi no. 1450 is recorded as Bila Naam Kism Pahad and 250 sq. feet of land has been encroached upon by Suresh Patel son of Shyam Lal Patel and he has constructed a cabin and running a dairy and General Store. Against the said persons also proceedings under Section 91 are pending.

6. Nothing has been said in the entire report as to what action has been taken regarding demolition, restoration of land which has been

illegally encroached or pond which has been leveled and filled in by certain persons causing damage to environment.

7. Supreme Court in ***Hinch Lal Tiwari vs. Kamala Devi & Ors., (2001) 6 SCC 496*** said that no pond can be allowed to be encroached or filled in and it has to be restored by concerned officers and it is their responsibility.

8. Collector, Udaipur however has not given any information as to what steps has been taken for removal of encroachment and restoration of land which have been illegally encroached upon by certain persons.

9. A letter has been sent by applicant received on 04.08.2023, by this Tribunal raising serious grievance against the report and it states that report has been illegally submitted in order to protect large number of violators who are damaging Aravalli hills, encroaching grazing land, ponds, hill land and damaging environment.

10. Looking to the entirety of facts and circumstances, since proceedings have been initiated *suo motu*, we find it appropriate to appoint an *Amicus curie* in the matter to assist Tribunal and also to obtain a further factual and action taken report by high powered committee.

11. We accordingly appoint Mr. Mukesh Kumar, Advocate (Enrollment no. D/1127/2005) as Amicus Curie who shall assist Tribunal in further proceedings. Registry is directed to supply relevant copy of letter petition, Tribunal's orders and Joint Committee Report etc to him. Rajasthan State PCB shall pay Rs. 1,00,000/- to the Amicus Curie as his professional fee and also bear other expenses relating to transportation, boarding/lodging, photography etc. If Amicus Curie has to undertake any

journey to Udaipur or any other place regarding this matter, travelling expenses of the status of Joint Secretary to Govt. of India shall be paid besides fees of Rs. 25,000/- per visit.

12. We also constitute a high powered committee comprising Member Secretary, Rajasthan State Pollution Control Board, CPCB, Integrated Regional Office, MoEF Jaipur and Environment Expert in the field of Environmental Science to be nominated by Vice Chancellor of Mohanlal Sukhadia University, Udaipur.

13. Member Secretary, Rajasthan State Pollution Control Board shall be the nodal agency.

14. With regard to Environment Expert in the field of Environmental Science of Mohanlal Sakhadia University, his expenses boarding/lodging etc. shall be arranged paid by Rajasthan State Pollution Control Board including requisite fees.

15. All these expenses and fees of Amicus Curie and Expert of Mohanlal Sakhadia University shall be borne by Rajasthan State PCB.

16. The said committee shall submit report within one month.

17. Amicus curie shall also visit Udaipur inspect the sites and prepare his own reports and submit it to the Tribunal for perusal.

18. List this case on 25.09.2023.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 07, 2023
Original Application No. 72/2023(CZ)
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