

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 43/2019

(With Report dated 25.09.2019)

Muzaffar Hussain, Ecosorz Foundation

Applicant(s)

Versus

State of Rajasthan

Respondent(s)

Date of hearing: 27.11.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): None

For Respondent(s): Mr. Adhiraj Singh, Advocate for RSPCB

ORDER

1. The question for consideration is the inaction of the Rajasthan State Pollution Control Board against illegal extraction of ground water at Rawatbhata, District Chittorgarh, Rajasthan by water mafia for commercial purpose.
2. The matter was last considered on 23.04.20019 in the light of report dated 21.04.2019 furnished by Rajasthan State Pollution Control Board (RSPCB) acknowledging illegal extraction of ground water by several entities. It was observed:

“We find that ample powers are available under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 with the State Pollution Control Board to issue any direction, including closure of process, stoppage of/ or regulation of water, electricity or any other supply in connection with the functions of the Rajasthan

State Pollution Control Board (RSPCB). In fact, the RSPCB has itself issued notice under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 to some of the units. The RSPCB also needs to take action to recover compensation necessary for restoration of the environment so that illegal ground water extraction is effectively checked and illegal activity does not remain a profitable activity. The compensation to be recovered must be adequate to restore the environment as well as deterrent so as to discourage violation of law.”

3. Further report has been filed on 25.09.2019 stating that closure orders have been passed. A chart of compensation recommended is also mentioned. The basis of such calculation is not clear. In the last few days, we have noticed several matters where the RSPCB is found showing lack or due concern in serious environmental issues. Only explanation by learned Counsel is that the SPCB does not have sufficient infrastructure and that there is no cooperation by the District Administration. We are unable to accept this submission. If the SPCB is not having requisite infrastructure, there cannot be failure of rule of law. It is for the SPCB to augment its manpower to achieve the purpose for which such authority has been set up or wind up its operations. Moreover, this Tribunal has also given directions on the subject in several orders. In O.A. No. 95/2018, *Aryavart Foundation v. M/s Vapi Green Environ Ltd & Ors.*, vide order dated 28.08.2019, it was directed:

“14..... We also direct that all vacant positions in the SPCBs/PCCs may be filled up at the within four months and the Chief Secretaries of the States/UTs may ensure that there is no embargo in doing so, so that effective steps for protection of environment can be taken. It is also necessary to direct that the laboratories established by the SPCBs/PCCs, at headquarters as well as regional centers, are duly recognized for purposed of enforcement of environmental laws.”¹

¹ ¶ 14, *Aryavart Foundation v. M/s Vapi Green Environ Ltd & Ors*, O.A No. 95/2018.

4. In O.A. 639/2018 *Shailesh Singh Vs. State of Haryana & Ors.*, vide order dated 05.11.2019, this Tribunal while addressing the understaffing problem of SPCB directed:

“12(v) All vacancies must be filled up as already directed by this Tribunal in O.A No. 95/2018, Aryavart Foundation v. M/s Vapi Green Environ Ltd & Ors vide order dated 28.08.2019 which may be ensured by the Chief Secretary. Compliance report may be filed before the next date².”

5. If there is non-cooperation by the District Administration, the SPCB must take up the matter with the concerned authorities which is not shown to have been done.
6. In view of above, let a fresh report be produced by the Member Secretary, SPCB in person on the next date.

A copy of this order be also sent to the Chief Secretary, State of Rajasthan for necessary action.

List again on 24.01.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 27, 2019
Original Application No. 43/2019
DV

² ¶ 12(v), *Shailesh Singh Vs. State of Haryana & Ors.*, O.A. 639/2018