

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

Original Application No. 105/2019  
(With report dated 13.10.2019)

Ajitsinh Bhurubha Vaghela & Inhabitants  
of several Villages of Kheda Taluka,  
Distt. Kheda

Applicant(s)

Versus

State of Gujarat

Respondent(s)

Date of hearing: 17.01.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant(s): None

For Respondent(s): Mr. Maninder Singh, Sr. Advocate, Ms. Ruchi Kohli,  
Ms. Nidhi Jaswal and Ms. Manyaa Chandok,  
Advocates for GPCB with Mr. T.M. Tabhani, Member  
Secretary, GPCB

**ORDER**

1. This order is being passed in continuation of order dated 11.10.2019. The issue for consideration is the steps to be taken for controlling untreated industrial effluents discharged in *Kharicut* Canal which is a tributary of Khari River in District Khera, Gujarat. According to the applicants, the said river is the source of irrigation and drinking of water by animals. Illegal bore-wells are said to have been dug without permission of the Gujarat Pollution Control Board (GPCB) affecting the water level. Sewage from STPs set up by Ahmadabad Municipal Corporation was overflowing into the river.

2. The Tribunal sought a report from Central Pollution Control Board (CPCB) and Gujarat Pollution Control Board (GPCB). The report dated 29.04.2019 was to the effect that effluents were being discharged in the *Kharicut Canal*, by passing the STP at Vinzol. Industrial effluent was also being discharged but source was not known. Findings and observations in the report are as follows:

“

- *Kharicut canal is entering the industrial area at GIDC Naroda and passing through residential areas of Vatva/ Ring road area of Ahmedabad before entering GIDC of Vatva.*
- *The canal crosses various phases of GICD Vatva before receiving the treated/ untreated wastewater from Vinzol STP at Vinzol Village.*
- *The canal meets the Khari River at Village Ropda under the Railway Bridge.*
- ***During the visit, it was observed that the Kharicut canal is conveying only domestic wastewater in the upstream of Vinzol STP and the discharge from the Vinzol STP and no fresh water flow was observed at any stretch of the canal.***
- ***No flow was observed in the upstream of Khari River until the confluence of Kharicut canal at Village Ropda which means the River Khari at downstream of Ropda village carries only wastewater from the Karicut canal.***
- ***The STP at Vinzol is having capacity to treat 70 MLD of sewage. However, presently the influent flow to the STP is 170 MLD and the excess quantity is being by-passed into the Kharicut canal.***
- ***During the visit, it was observed that the farmers of the land located adjacent to the bank of Khari River and Kharicut canal are fetching the wastewater from Khari River/ Kharicut canal through diesel operated pumps & flexible pipelines for irrigation. Photographs - 1, 2, 3 & 4 shows the lifting of wastewater at various locations for irrigation.***
- ***During the visit, the Khari River at Lali village was found carrying greenish yellow coloured wastewater which was highly acidic (2 to 4 on the pH strip). It is worth mentioning that no industries/ industrial activities were present in the vicinity of the Lali village. Photographs - 4 & 5 shows the greenish yellow coloured wastewater stretch of wastewater in Khari River at Lali Village.***

- **The joint monitoring team made efforts to identify the source of the acidic wastewater and traced the Khari River back along the bank. The banks of the Kahri River near Lali village were completely covered with dense vegetation and unapproachable & unsafe condition. The monitoring team with the help of local villagers used two wheelers and also walked along the bank stretch for few kilometers to track the source of acidic wastewater stream. Photographs - 5 & 6 shows the unsafe approach condition to the banks of Khari River near Lali Village.**
- **It was understood that the acidic wastewater was moving in a patch in the River and hence the exact source could not be identified. It may be envisaged that the acidic wastewater would have been discharged in the upstream of Kharicut canal near the industrial areas of Vatva or near Vinzol STP area or near the Ropda village in the early hours and the patch was moving near the Lali village when the monitoring team approached during noon.**
- **The joint monitoring team again visited the River Khari at Lali village in the evening to check the condition of flow in Khari River and found wastewater with normal pH (about 7 to 8 on pH strip), which means that the acidic wastewater patch observed during the noon in the said location has moved further downstream and would have got diluted. Photographs-6 shows the condition of Khari River during the evening time.**
- **The Kahri River at Navagam Village was filled with wastewater in septic condition and with very slight velocity. Photograph-7 shows the septic condition of Khari River at Navagam Village.**
- **The Khari River at Bherai Village was found filled with dark blackish coloured wastewater and with slight velocity. Photograph-8 shows the septic condition of Khari River at Bherai Village.**
- **The Khari River at Pinglaj Village was found flowing with blackish coloured wastewater. Photograph-9 shows the septic condition of Khari River at Pinglaj Village.**
- **The wastewater from Khari River in above three Villages namely Navagam, Bherai&Pinglaj were being lifted/ taken by farmers for irrigation. Photograph-10 shows the usage of wastewater from Khari River for irrigation in Bherai village and the survival of crops.**
- **The joint committee of CPCB & GPCB carried out sampling at various stretches in Kahri River &Kharicut canal and groundwater from nearby village. The details of the monitoring and the sampling locations are given in the section 4.0 of this report.”**

3. The conclusion in the report was:

***“Although majority of the flow in River Khari is domestic wastewater but there is some illegal industrial wastewater discharge in River Khari from upstream of Village Lali.***

- 1) Wastewater from River Khari is utilized by Farmers located along the stretch of River Khari and Kharicut Canal.***
- 2) Irrigation crops are noticed along the stretch of River Khari and Kharicut Canal.*
- 3) Damage to the agricultural crops cannot be judged by physical appearance of the crops in the field as many fields adjacent to the Khari River/ Kharicut canals using the wastewater from the River are thriving well. Hence, expert opinion of Agriculture Department is necessary regarding crop damage, if any.*
- 4) Expert opinion of the Irrigation department is necessary regarding lifting of wastewater from River Khari and Kharicut Canal throughout the year.*
- 5) Strict monitoring at regular intervals and during nights/ early hours along the stretch of River Khari and Kharicut Canal is to be carried out by GPCB.***
- 6) Police Department may be asked to strengthen the vigilance for any illegal discharge of wastewater in Kharicut canal/ Khari River through Tankers and to take action on miscreants who discharge wastewater illegally through tankers.***
- 7) Ahmedabad Municipal Corporation may be asked to provide proper sewer system to convey the domestic sewage for treatment so that no discharge on the canal.”***

4. The Tribunal, vide order dated 01.07.2019, observed:

*“5. The report shows that while water pollution is clearly taking place, the joint Committee has not identified the source. It is difficult to accept the plea that the Committee was not competent to do so. **The State PCB has merely shifted responsibility to irrigation and Police Departments without approaching the said departments or the RRC***

**constituted by this Tribunal which is under the Chief Secretary. Only inference is lack of sincerity in performing the duty of preventing pollution.** If acidic waste water is being dumped which is a hazard to public health, it is surprising that a statutory authority charged with the responsibility of preventing and controlling water pollution should express its helplessness on any ground whatsoever.

6. Accordingly, we direct fresh inspection by a competent team comprising of a senior officer of the CPCB and Member Secretary, State PCB. We also expect the CPCB as well as State PCB to consider the conduct of the officers who have furnished the present unsatisfactory report showing their conduct in poor light. Report of such action may also be filed. We may also note that the RRC already constituted as above should also take stock of the situation and furnish its report through the Chief Secretary about the action taken with regard to the particular stretch.”

5. The Tribunal also considered further report dated 10.10.2019 by order dated 11.10.2019 and observed:

“6. Further report dated 10.10.2019 has been filed during the hearing today which acknowledges the water pollution on account of illegal discharge in domestic pipeline network. There are 100 manholes in the sewerage network of Ahmedabad which had potential for unauthorized discharge at odd hours. Contamination of the water was also due to unauthorized industrial discharges through tankers at odd hours. Action taken against the identified exit points of survey and sealing of the open manholes and monitoring of river and survey around the polluted river stretches are that the AMC was in the process of sealing such manholes. Some manholes had been sealed. Police will strengthen vigilance and patrolling to stop illegal dumping of pollutants.

7. The report is as unsatisfactory as the earlier one. **The SPCB appears to have paid lip sympathy to the mandate of law and direction of this Tribunal.** It has in a way shown inability to perform the functions entrusted to it. **The water pollution is still continuing. Liability is put on the ‘unknown sources’ and ‘unknown persons’.** Even in our earlier order dated 01.07.2019 it was observed that conduct of the officers who furnished the report called for some action. Only action which is said to have been taken is giving of a warning. Thus, it may be difficult to improve the environmental governance in the State unless there is revamping of the machinery of the regulatory body. Let the Chief Secretary, Gujarat review the existing machinery and make suitable changes for ensuring effective environmental governance in the State to enforce the right of the citizens to clean environment and

*furnish a report to this Tribunal before the next date. We may also note that Khari river is one of the polluted river stretches which is subject matter of O.A. No. 673/2018. Action in the present case must be consistent with the action plan on the subject.*

8. *A joint updated report by the CPCB and the GPCB may be furnished after two months but before 31.12.2019. The Member Secretary of the SPCB may remain present before the Tribunal on the next date.*

*A copy of this order be sent to the Chief Secretary, Gujarat by e-mail for compliance.”*

6. Accordingly, further reports have been filed on 31.12.2019 by CPCB and on 15.01.2020 by the State of Gujarat. The report filed by CPCB inter alia states as follows:

#### **“RESULT AND DISCUSSION**

*The grab sample of wastewater collected in the stretch was analyzed at GPCB Gandhinagar Laboratory. The analysis results are depicted in Annexure-3. Sample description, observations based on the findings and analysis results are detailed below;*

- *The flow in the Khari cut canal increases with the increase of domestic sewage as it passes through areas of Naroda, Odhav and Vatva of Ahmedabad before entering GIDC Vatva. One grab sample was collected from Khari cut canal at Nirma Bridge, GIDC-Vatva. (Upstream part of GIDC-Vatva, reflected as K1). The Khari cut canal crosses GIDC Vatva, one grab sample was collected from Khari cut canal at GIDC Vatva - Vinzol village Road Bridge, near Phase II, GIDC Vatva. (Downstream part of GIDC-Vatva, reflected as location K2). The canal crosses at S.P. Ring road, Railway Bridge at Vinzol Village. **The AMC storm water drain was found meeting the Khari cut canal at above mentioned place.** During visit wastewater was not flowing into Khari cut Canal from this storm water line. A grab Sample from Khari cut canal on the other side of S.P. Ring road Railway Bridge towards TSDF site at Vinzol Village was also collected. (Location K3). Khari cut canal meets the Khari River at Village Ropda under the Railway Bridge. No flow was observed in the upstream of Khari River until the confluence of Khari cut canal at Village Ropda. In other words, the River Khari at downstream of Ropda village carries only wastewater received from the Khari cut canal. Grab sample was collected from River Khari at Ropda foot over bridge, near Railway bridge, Village Ropda (Location K4). Grab sample of wastewater was collected from Khari River stretch i.e. from Chosar Village (location K5) and grab sample of wastewater from Khari River stretch at Lali Village. (Location K6) was collected during visit.*

• During visit in entire stretch of Kharicut Canal and River Khari; no acidic waste water discharge / flow was observed. Analysis results of the sample collected are annexed as (Annexure-3) shows variation of pH from 6.69 to 7.68 in the entire stretch (Location K1 to K6), concentration of **COD and BOD varies from 272 mg/l to 502 mg/l and 87 mg/l to 153 mg/l respectively.** In the overall stretch concentration of COD, BOD, TDS, Iron, Sulphate, Chloride shows increasing trend. It is worth to mention that the stretch of Khari River is under priority I.

• During joint visit and sampling at Location K5 Chosar bridge, a tanker no. GJ-01 ET-3534 was observed. The sampling location being located inside the village, the tanker was suspected and checked. As per records/challan available with the driver of the tanker, the tanker contained Oleum (23 %) and was coming from Madhya Pradesh. As informed, the tanker had filled acid from M/s Krishna Phoschem Ltd (Acid Division) 126A-134, AKVN Industrial area, Meghnagar, Jhabua-Madhya Pradesh-457779 and buyer was M/s Shital Chemicals-C-805/A, Ganesh Maridian, Opp. Kargil Petrol Pump, Near Sola Over Bridge, S.G. Highway, Ahmedabad-Gujarat. M/s Shital Chemicals is a trader having its office at the said address. The driver has informed that, he will be informed on his mobile where the acid has to be delivered. Thereafter entire team of CPCB, GPCB, AMC, Police and representative CETPs along with tanker went to the location where tanker would supposed to be empty. It was found that there exist a unit namely M/s. Surajmani Corporation. On inspection it was found that unit was engaged in manufacturing of Sulpho Tobias Acid. The unit has started manufacturing activities about three months ago. Raw materials for the manufacturing of Sulpho Tobias Acid, like Tobias Acid & Oleum was also observed in the plant premises. The unit has one reactor, 3-dumping vessel, 3-filter nutch and 1-oleum storage tank. The location of the unit is bank of River Khari at Istolabad-Village. **The unit is illegally operating at the premises without obtaining EC/CTE/CCA from GPCB. It was observed that the unit has provided discharge line to Khari River for discharge of acidic wastewater from centrifuge directly into River Khari as the river flows back side of the factory premises.** During visit, lean flow from the line into river Khari was observed. The joint team has collected one grab sample of wastewater having pH of 2.0 on pH strip which the unit was discharging into River Khari without any treatment. Unit has not provided any treatment facility.

• **Analysis results of the sample collected from the premises of the unit reveals highly acidic and concentrated wastewater having concentration of pH: 0.73, Color : 600 Hazen Unit, TSS: 1644 mg/l, NH3-N: 14 mg/l, Acidity as CaCO3: 700000 mg/l, Chloride: 8200mg/l, Sulphate: 320320 mg/l, COD: 17833 mg/l, O&G: 2.3 mg/l, Phenolic Compounds : 3.56mg/l, BOD: 4600 mg/l, Percentage of acid: 56.51% was discharged to Khari River.**

• The GPCB has issued Closure Direction under section 33 A of the Water Act 1974 and under section 5 of E(P)Act 1986 on 17th

December 2019 to M/s Surajmani Corporation. The power supply of the unit is disconnected by Uttar Gujarat Vij Company Ltd (UGVCL) on 24th December 2019.

During visit, the joint team has also visited STP provided in by Ahmedabad Municipal Corporation located at Vinzol which is in eastern part. The Ahmedabad Municipal Corporation (AMC) has provided extensive sewerage network in residential/commercial areas for collection of sewage from the eastern part of the Ahmedabad. Installation of pH meter by AMC on 22 km long network of sewerage line at fixed interval would help in identification of spots at where acidic wastewater is getting illegally discharged. There are presently two Sewage Treatment Plant (STPs) in the same premises, old STP having 70 MLD design capacity and new STP 35 MLD. Operation and Maintenance of both the STP are carried out by separate agencies hired by AMC. **The STP receives about 170 MLD wastewater. Hence, the excess untreated wastewater is bypassed directly into the final disposal chamber along with treated waste water which ultimately leads to River Khari. Additional STP of capacity 100 MLD is under construction. AMC has obtained CCA for 70 MLD STP and CTE for 35 MLD STP.**

- During visit of Vinzol STP of AMC, 70 MLD STP was found in operation. **In STP system, bypass line provision is provided at inlet of STP line and at the time of visit bypass of wastewater was observed, also the inlet chamber was found broken from the lower side. The new STP 35 MLD was found operational. The records of waste water received at STP was checked. It was found that as per instructions from AMC to the operator of STP, pH of wastewater received is checked on hourly basis manually and when pH is found in acidic range, the wastewater is bypassed and discharged directly to Kharicut canal. As per records, the STP has received acidic wastewater at the inlet for about 1-2 hours for about 7 different dates till the date of visit in the month of December 2019.**

- **During the visit excess untreated wastewater was bypassed from inlet line and discharged into the Kharicut canal which ultimately meets Khari River.**

- During visit, grab samples of wastewater were collected from following locations:

Location	Description	Date/Time(hours)	Lat.	Long.	Color of sample
S1	From Inlet well pumping station of 70 MLD & 35 MLD STP at Vinzol village	13.12.19 09:15	22.93791	72.6453911	Grayish
S2	From	13.12.19	22.93748	72.64393	Light

	Outfall of 70 MLD STP of Ahmedabad Municipal Corporation, Vinzol	09:30			Brownish
S3	From Outfall of 70 MLD + 35 MLD + bypass line of STP	13.12.19 09:45	22.93784	72.64324	Grayish
S4	From Outfall of 35 MLD STP of Ahmedabad Municipal Corporation, Vinzol	13.12.19 09:55	22.93650	72.64424	Grayish

The analysis results are depicted in Annexure-4. The analysis results of the sample collected from inlet (S1) and outlet of 70 MLD (S2) reveals 85.5% and 93.5% reduction in concentration of COD and BOD respectively. The analysis results of the sample collected from inlet (S1) and outlet of 35 MLD (S4) reveals only 31.9% and 34.7% reduction in concentration of COD and BOD respectively. However, the final discharge (S3) from Vinzol STP comprising of outlet from 70 MLD, outlet from 35 MLD and untreated bypass shows only 7.7% and 8.8% reduction in concentration of COD and BOD respectively. Thus, the analysis results of final discharge reveal that the STP is grossly noncomplying.

#### CONCLUSIONS:

Based on the directions of Hon'ble NGT, updated status of Khari River and Kharicut Canal is prepared based on the monitoring of Kharicut Canal and Khari River, meeting with various stake holders for the status of compliance of action plans on the subject finalised by RRC, steps taken by various stake holders. During present visit, a unit namely M/s. Surajmani Corporation located on the bank of Khari River was found illegally operating and manufacturing Sulpho Tobias Acid without consent/authorisation from GPCB and illegally discharging acidic wastewater into Khari River. GPCB has issued closure directions to the unit. The Vinzol STP found not meeting the discharge standards and found bypassing and discharging untreated/partially treated wastewater to Kharicut Canal. GPCB has issued legal notices to AMC in this regard. Task Force team has started monitoring since 02<sup>nd</sup> December 2019. It was reported by task force team that the acidic wastewater at the inlet of Vinzol STP was observed once and there after frequency of receiving of acidic wastewater at the inlet of STP was not observed. Acidic wastewater receiving frequency was reportedly reduced however, provision of online pH meter at the inlet and neutralization facility at Vinzol STP as precautionary principle may need to provide so as to ensure no acidic discharge in Khari

*Cut canal and Khari River in addition all the action plan suggested by RRC need to be complied by different stake holders on time bound manner as the stretch is under priority I of polluted river stretch. Thus, the action taken in compliance of the directions of Hon'ble NGT in the matter has resulted in decrease in the frequency of acidic wastewater at the Vinzol STP as reported and no acidic wastewater in the stretch of Khari River and Khari cut Canal during recent visits was observed by GPCB and task force committee."*

7. The situation emerging from the report based on site visits shows that the action taken by the State PCB is not adequate in terms of taking preventive and remedial action against the polluters particularly recovering compensation on 'Polluter Pays' principle, including from the Ahmedabad Municipal Corporation. The corporation needs to take further remedial action to prevent discharge of pollutants in the river system which has been clearly found in the report. The Corporation has to be made accountable for illegal discharge of pollutants amounting to criminal offence, apart from compensation to bear the cost of restoration.
8. The report filed on behalf of the State on 15.1.2020 is as follows:

***"GENERAL REVAMPING OF THE REGULATORY BODY***

- a) *For revamping of the regulatory body, GPCB is directed to constitute a committee of Senior Staff and engage experts to carry out a study for improvement of existing mechanism in terms of manpower, infrastructure of the Board and furnish their report within two months to the Government after constitution of committee.*
- b) *GPCB is directed in addition to the rules applicable; the officers who have been found negligent in curbing environment pollution shall be transferred without any notice.*
- c) ***GPCB is directed that few specialized experts from reputed organizations like NEERI, Nagpur; IIT; DDIT; SVNIT etc., in the field of land, air and water pollution shall be appointed on a retainer basis to give expert advice and impart technical knowledge.***

- d) GPCB is directed to collaborate with the local police in order to ensure that no violation of environmental laws takes place in the future.
- e) GPCB is directed to conduct awareness programs so as to make general public aware regarding the environmental laws and their implementation.
- f) The existing engineers, officers and scientists in the organization shall be given sessions on technical and scientific knowledge in light of the improving pollution control mechanisms, techniques, equipment's and environmental laws.”

### **CASE SPECIFIC MEASURES**

As far as the question of the matter related to Khari River Stretch, it is kindly submitted that;

• **Ahmedabad Municipal Corporation (AMC) is directed for augmentation for upgradation of their existing 70 MLD STP. New 35 MLD STP is under trial run and shall be functional by March 2020. New 100 MLD STP by September shall be functional by 2020.**

• RRC constituted since 29th November, 2018, is continuously working to rejuvenate all major polluted rivers of the state. Action plans for the same prepared and being regularly reviewed in the RRC meetings and seven meetings have already organised till the date.

• River Khari stretch separately reviewed in the RRC meetings on 26th August and 5th December 2019 in presence of concerned authority and they were directed to comply action points decided in the meetings.

• **A joint task force team of officers of AMC, RO GPCB ABD-East, Police, Industrial Association, CEO of Mega Pipeline as directed by RRC under the nodal role of AMC Chief Engineer. The team has started continuous monitoring of the stretch during day and night time from December 2019.**

• **Police Department directed for strengthened their vigilance and patrolling to stop illegal discharge through tanker into Kharicut Canal and Khari River. The Police Commissioner, Ahmedabad has published notification to ban on parking of tankers on the Ring Road and surrounding areas to avoid illegal discharge into AMC sewerage network through tankers.**

• **GPCB is also directed to strengthen their existing monitoring & in this regard GPCB Head Office has given additional technical people for strengthening of monitoring.”**

9. In view of above, further remedial action needs to be taken expeditiously and further report filed by the GPCB as well as the Ahmedabad Municipal Corporation before the next date. We note that a Division Bench of the Gujarat High Court, vide order dated 25.11.2005 in SCA No. 4690/2004 gave directions to the Pollution Board to control industrial pollution and to the Ahmedabad Municipal Corporation to control discharge of sewage. The order refers to several earlier directions. This shows that orders of the courts have not been duly followed and situation remains to be alarming inspite of earlier orders. Having regard to the seriousness of the ground situation and long pending problem, we request Justice B.C. Patel, former Chief Justice of High Court of Delhi, who is available at Ahmadabad, to oversee the steps taken by the authorities. Justice Patel may be assisted by the CPCB and GPCB. The State PCB may provide all requisite facilities to Justice Patel. Justice Patel may send an independent report in the matter by April 10, 2020 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) with a copy to State PCB and Ahmadabad Municipal Corporation who may file response before the next date.

10. The Tribunal may consider the issue of compensation on 'Polluter Pays' principle, direction for prosecution and action against erring officers after considering the reports.

A copy of this order be sent by e-mail to Chief Secretary, Gujarat, CPCB, SPCB, Commissioner, Ahmedabad Municipal Corporation and Justice B.C. Patel, former Chief Justice of Delhi High Court, presently located at Ahmedabad.

List for further consideration on 27.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 17, 2020  
Original Application No. 105/2019  
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