

Item No. 2

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

Original Application No. 02/2022(CZ)

Babulal Jajoo

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of Hearing: 15.03.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s): Mr. Naveen Ahuja, Adv.
 Mr. Babulal Jajoo
 (Applicant in Person)

For Respondent(s): Mr. Shoeb Hasan Khan, Adv.

ORDER

1. The city of Bhilwara, Rajasthan (as reported) comes within the critically polluted area due to presence of various textile industries as well as heavy industries around the district. The river Kothari, lifeline of the city is continuously being polluted and has achieved the pollution to the alarming level, where the surface water for the residents of Bhilwara is becoming poisonous and dangerous to the health. A report was called from the Joint Committee alongwith the remedial actions taken by the Statutory Authorities. The responses filed by the municipal counsel are tragic in nature wherein the municipal counsel expressed its inability in controlling river pollution and even its original work of collection of revenue is transferred to contractual agencies.

2. The contention of the Learned Counsel for the State Pollution Control Board is that the authorities were reminded so many times for taking remedial actions for treatment of sewage and waste water as well as disposal of solid waste but no progress has been reported by the Bhilwara Municipal Council. The reply submitted by the State Pollution Control Board further reveals that an environmental compensation to the tune of Rs. 2.4 crore up to the period of 31.10.2021 was imposed on Municipal Council and further vide letter dated 12.12.2022 additional environmental compensation was imposed to the tune of Rs. 111.45 lac for the period of November, 2021 to June, 2022. Notices have not been replied by the Municipal Council, Bhilwara. Further assessment of environmental compensation after June, 2022 is under consideration before the State Pollution Control Board. The State Pollution Control Board is directed to proceed to recover the environmental compensation in accordance with law and to report on the next date.
3. Learned counsel for the State has submitted that remedial actions are being taken and some projects and funds are either allotted or under consideration under Amrit Yojana 2.0. The contention of the learned counsel for the State is based only on grant of budget and nothing is shown on the ground. Grants have not been utilised properly, various projects for which approximately Rs. 400 crore has been granted have been delayed for more than two years, causing unnecessary burden on the State exchequer

including increasing the cost of project, in addition to causing environment pollution and the health hazard.

4. The seriousness of the matter was observed by this Tribunal on 15.09.2022 as follows :-

1. *“Learned Counsel for the Respondent Shri Rohit Sharma sought a short time to submit the factual and action taken report. In light of the Joint Committee Report, the Municipal Authorities were directed to report the action taken. The Municipal Commissioner and Regional Officer, Pollution Control Board were directed to remain present through V.C. and they are present today. On behalf of the respondent Learned Counsel, Shri Rohit Sharma has submitted certain progress but details have not been filed. The perusal of the report reveals that there is complete lawless-ness and indifference by the State authorities for implementation of the rule of law and enforcement of environmental rules. The continuous discharge of polluted and untreated/ sewage water into the Kothari river achieved alarming level of pollution and the water is becoming poisonous for the citizens residing there. The water quality of the river is so degraded that it is not at all suitable for drinking purposes. For negligence of those to whom public duties have been entrusted can never be allowed to cause/ mischief. The concept of rule of law is that the State is governed not by the man but according to the law.*

2. *The reference was drawn with regard to the Order of Hon’ble Supreme Court of India dated 13.07.2021 passed in Criminal Appeal No. 599 of 2021 titled as Noorulla Khan vs. Karnataka State Pollution Control Board & Anr. where it was held that by virtue of deeming provision, the head of department could be guilty of*

violation of environmental laws and if the violation of provision of Water Act was at the hands of the department, the head of department would be deemed to be guilty and protection under Section 197 of the Code of Criminal Procedure would not be available. State Pollution Control Board is directed to take necessary action with regard to the calculation of environment compensation and for the enforcement of rule of law to execute the order. Authorities at the District Head Quarter /Collector are responsible to enforce the rule of law and finally directed to take necessary actions and submit further action taken report.”

5. In the case of *Noorulla Khan vs. Karnataka State Pollution Control Board & Anr.* as narrated above the Supreme Court has already held that the officials responsible for the performance of the legal/official duties are answerable to the State and in-case of any violation of rules or guidelines framed by the State, the officers will be personally responsible for the payment of environmental compensation and violation of the law. Therefore, Principal Secretary, Urban Development is directed to monitor the issues personally and to ensure that there must be proper utilization of budget and the project under construction are completed within the stipulated time. Principal Secretary, Urban Development is further directed to ensure that there shall not be any discharge of untreated water into the water bodies and there must be disposal of solid waste in accordance with rules. In case of violation of the environmental rules, (The Water (Prevention and Control of Pollution)

Act, 1974 & The Air (Prevention and Control of Pollution) Act, 1981)
necessary punitive actions must be initiated against the erring officers.

6. Copy of the order be forwarded to the Principal Secretary, Urban Development, Municipal Commissioner, Bhilwara, Rajasthan and Collector, Bhilwara, Rajasthan for proper and necessary action.
7. Municipal Council, Bhilwara and the State Pollution Control Board are directed to submit the further Action Taken and Progress Report before the next date of listing.

List it on **27th April, 2023.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

15th March, 2023
O.A. No. 02/2022(CZ)
PN