

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal Nos 4551-4552 of 2019

Municipal Council, Amarkantak

.... Appellant(s)

Versus

Digamber Jain Regional Committee and Ors

....Respondent(s)

ORDER

The issue in the present appeals, which arise from the orders of the National Green Tribunal¹ dated 12 March 2019 and 9 April 2019, is the validity of a decision taken by the appellant, the Municipal Council of Amarkantak, to construct a block of bio-toilets at a distance of about 70 meters from the Narmada Kund.

The NGT, by its order dated 12 March 2019, directed that the toilets should be shifted “to say 100 meters or beyond”. This was in response to an application² apprehending the discharge of untreated sewage. Finding that the order has not been complied with, the NGT directed the Collector to appear before the NGT on the next date of listing.

Challenging the correctness of the orders passed by the NGT, the present appeals have been filed.

The submissions which have been urged on behalf of the appellant have been summarized below:

¹ “NGT”

² IA No 12 of 2019 in OA 50 of 2015

- The distance of construction in question was about 70 meters from the source of origin (Narmada Kund).
- The toilets are having bio remediation facilities therefore there is no likelihood of any contamination at the source of river Namada or anywhere in the near vicinity.
- The Bio toilet system uses an anaerobic organism process to treat human excreta by composting or managed anaerobic decomposition.
- The treated water will be used for gardening purposes at a plantation site at a distance of 150-200 mts. from Narmada Kund.
- The Grey water coming out of the toilets would not be discharged or let out at all.
- There is a concealed sewer line passing immediately adjacent to the complex and the entire water from the toilets can easily be released in the sewers and conveyed to the Sewage Treatment Plant³ at a sufficient distance.
- Apart from the fact that the toilet complex is about 60-70 mts. away from the kund/temple, a large natural drain already exists between the toilet complex and the temples.
- There will be zero discharge from the toilets and there is no possibility of pollution in the area.
- There is no other toilet facility in the vicinity for the devotees/pilgrims visiting temples or for the numerous stall owners and vendors. The stall operators have been defecating and urinating in the open land

adjacent to the temple/kund, which is a major cause of pollution in the area.

- There are 34 rooms close to the temple for providing accommodation to the pilgrims and police guards are posted at the temple. These rooms do not have any toilet facility therefore the occupants have been defecating in the open land close to the temple/kund.
- There is no other open government land available where the toilet complex could be shifted.

Learned counsel appearing on behalf of the appellant submitted that the Municipal Council has taken all necessary precautions to ensure that the sewage does not flow into or contaminate the Narmada Kund. Moreover, it has been stated that an application has been submitted to the Madhya Pradesh Pollution Control Board⁴ on 6 May 2019 for setting up an STP.

Accepting the submission of such an application, learned counsel appearing on behalf of the Pollution Control Board states that the Board would abide by the directions issued in these proceedings for processing the application.

The grievance of the original applicant before the NGT, is that the toilets are being constructed in close proximity to the Narmada Kund as well as its tributaries, as a result of which there is an apprehension of environmental pollution being caused. Hence, it was urged by the learned counsel appearing on his behalf that the orders passed by the NGT are fair and proper.

⁴ "Board"

We find merit in the contention which has been urged on behalf of the Municipal Council that the setting up of toilets is a necessity and that the Municipal Council is duty bound to ensure that the devotees – men, women and children – have access to safe and hygienic toilets. In the absence of such a facility, there is a likelihood of greater pollution being caused by open defecation. Hence, we are of the view that the Municipal Council was justified in determining that there was a need to construct toilets and in setting up bio-toilets.

At the same time, it is necessary for the Municipal Council to ensure that the toilets are properly maintained and do not result in the sewage polluting the Narmada Kund or its tributaries.

Learned counsel appearing on behalf of the appellant has undertaken before this Court on behalf of the Municipal Council that no pollution or emission shall be permitted to be caused. Moreover, it has been stated that the proposal for setting up an STP shall be followed up with all expedition.

We direct the Pollution Control Board to process the application for setting up an STP within a period of three weeks from the date of receipt of a certified copy of this order. Upon the grant of permission, the appellant shall abide by such conditions, as may be imposed by the Board, and expeditiously set up the STP within a period of six months from the date of receipt of permission. All concerned authorities, including the Collector, shall cooperate in ensuring that this process is completed.

In the meantime, we request the Collector to ensure that periodic visits under his directions are conducted to ensure that the toilets are properly maintained and do not become a source of nuisance or pollution.

Subject to the above directions and in the facts and circumstances, we allow the appeals and set aside the impugned orders of the NGT dated 12 March 2019 and 9 April 2019. There shall be no order as to costs.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Indira Banerjee]

**New Delhi;
August 02, 2019**

ITEM NO.50

COURT NO.9

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4551-4552/2019

MUNICIPAL COUNCIL AMARKANTAK

Appellant(s)

VERSUS

DIGAMBER JAIN REGIONAL COMMITTEE AND ORS.

Respondent(s)

(WITH IA No. 73924/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 76747/2019 - EXEMPTION FROM FILING O.T., IA No. 73926/2019 - EXEMPTION FROM FILING O.T., IA No. 76745/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 73927/2019 - STAY APPLICATION)

Date : 02-08-2019 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Appellant(s) Mr. Harsh Parashar, AOR
Mr. Aman Pandey, Adv.
Ms. Tanvi Bhatnagar, Adv.

For Respondent(s) Mr. Manan Verma, AOR

Mr. Gautam Talukdar, AOR

Mr. Akshat Shrivastava, AOR
Ms. Pooja Shrivastava, Adv.
Mr. U.N. Goyal, Adv.

Mr. Sarvam Ritam Khare, AOR
Mr. Dharmveer Sharma, Adv.
Ms. Shweta Chaurasia, Adv.

Mr. Arvind Kumar Tewari, Adv.
Mr. Abhishek Tewari, Adv.
Mr. Vikramaditya Singh, Adv.
Mr. Tushar Upreti, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

There shall be no order as to costs.

Pending applications are disposed of.

(SANJAY KUMAR-I)

AR-CUM-PS

(signed order is placed on the file)

(SAROJ KUMARI GAUR)

COURT MASTER