

Item No. 04 (Pune Bench)

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

(Through Video Conferencing)

Original Application No. 75/2017(WZ)

Vijaysinh Dubbal & Ors.

Applicant(s)

Versus

MPCB & Ors.

Respondent(s)

Date of hearing: 19.10.2020

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

For Appellant(s) : Mr. Asim Sarode Advocates for Applicant

For Respondent(s) : Mr. Mukesh Verma for Mrs. Manasi Joshi,
Advocate for R- 1
Mr. R.H.A. Sikander, Advocate for R-3
Ms. Gauri Kawade, Advocate for R-9 to R-13

ORDER

1. The present matter is regarding Manufacturing Plants/Units of Chilled Drinking Water Jars/Cans without obtaining 'Consent to operate' and selling of such unpackaged and unsealed Chilled water Jars/Cans which are not potable and thus hazardous to health of human beings, This threat needs to be taken seriously on the background that the water used for chilling and then selling in cans/jars is taken from bore or bore-well which can contain various impurities including fungal growth, other hazardous contains like lead, chemicals, solvents etc. More particularly in the nearby areas like CETP, Common Hazardous Waste Treatment, storage and disposal facility, common bio-medical waste treatment and disposal/facilities, some of the impurities finding its way into underground and surface water resources. Hence issues related to remediation and restoration measures to bring underground resources to its earlier quality are also involved.

2. All such units are withdrawing much quantity of groundwater illegally, they do not take permission from Central Groundwater Authority (CGWA); their activities actually lead to not only groundwater depletion but also to contamination if released waste water has pollutants.
3. Under the definition of 'food' water which is processed and packed for the purpose of sale for human consumption, also falls in the definition of food and hence it attracts definition in Sec. 2 (a) of the Environment Protection Act, 1986. As per definition under section 2(a) Environment' includes water, air and land and the inter relationship which exists among and between water, air and land and human being, other living creatures, plant, micro-organism and property; and Sec. 2(d) 'Handling', in relation to any substance, means manufacture, processing treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such substance.

4. The matter was taken on 19.06.2020 and it was directed as follows:

“1. The applicant has submitted that he himself purchased one unpackaged chilled water can from a dealer named Chandrabhaga Corporation at Tathawade, Pune and got it tested and examined from a reputed laboratory and it was opined that the water in the said plastic can/jar is not potable.

2. In light of above facts, he has made a prayer to issue direction to Maharashtra State Pollution Control Board (MSPCB) to examine and close down all Cool Water Can Chilled Water Jar Units (Plants) in Nagpur, Pune and Maharashtra which are in existence and doing water selling business without obtaining consent to operate from MSPCB and without following the directions issued therein.

3. In light of above facts mentioned above, we deem it just and appropriate to direct Chief Secretary and Maharashtra State Pollution Control Board (PCB) to call a report from the concerned districts, process it and submit factual and action taken report within two months.

4. Let the report in the matter be filed by Maharashtra State PCB by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

5. The necessary documents be provided to the Chief Secretary and Maharashtra State PCB by the applicant.

6. List it on 19.10.2020.”

5. In compliance thereof the Maharashtra State Pollution Control Board

(Maharashtra PCB) had submitted a report which is as follows :

“1. The aforesaid matter, the Applicant has prayed to issue directions to the Maharashtra Pollution Control Board to examine & close down all cool water can chilled water jar units (Plants) in Nagpur, Pune and Maharashtra, which are in existence and doing water selling business without obtaining consent to operate from MPCB.

2. The Hon'ble NGT vide order dated 19/6/2020 directed the Chief Secretary and Maharashtra State Pollution Control Board(PCB) to call a report from the concerned districts, process it and submit factual and action taken report within two months.

3. In compliance of the Hon'ble NGT Order dtd. 19/6/2020, the Maharashtra Pollution Control Board has conveyed a meeting with the Urban Development Department, Food and Drugs Administration, Directorate of Municipal Administration and Central Ground Water Authority, Government of Maharashtra on 15/07/2020 through video conferencing and it has been decided as follows:

i. Maharashtra Pollution Control Board will prepare a basic format for collection of information and circulate to all the stakeholders.

ii. Dy. Secretary, Urban Development Deptt.-2/Directorate of Municipal Administration will collect information from all the Urban Local Bodies (Municipal Corporations, Municipal Councils and Nagar Panchayats).

iii. Central Ground Water Authority and Food& Drugs Administration will provide the list of units to which they have issued NOCs.

4. As decided in the Joint Meeting held on 15/07/2020, the MPCB has forwarded a basic format for collection of information and circulate to Central Ground Water Authority, Food & Drugs Administration and Directorate of Municipal Administration vide e-mail dated 20/07/2020.

5. In response to the MPCB's e-mail dated 20/07/2020, the Central Ground Water Authority (CGWA) vide e-mail dtd.

27/07/2020 Informed that as per the record, the CGWA has not issued NOC to any cool water jar units.

6. Directorate of Municipal Administration (DMA) vide e-mail dtd 03/08/2020 provided an inventory of chilled water jar units in Urban Local Body area in Maharashtra.

Directorate of Municipal Administration also informed in the meeting held on 15/07/2020 that chilled water jar units are currently licensed by Urban Local Bodies under Shops & Establishment Act' and no specific approval related to lifting of ground water is given by the Local Bodies.

7. Food & Drugs Administration (FDA) vide e-mail dtd.13/08/2020 informed that the cool water does not comes under the purview of Food Safety and Standards Act, 2006 and hence, they have not issued Licence for the same.

8. As per the revised categorisation issued by the Central Pollution Control Board vide letter dtd.07/03/2016, the mineralized water alongwith RO Reject is covered at Sr.No.54 of the final list of Green Category, However, cool water can chilled water jar units (plants) does not fall under the purview of the Maharashtra Pollution Control Board.

9. The Maharashtra Pollution Control Board has issued directions to 433 nos. of Municipal Corporations/ Zilla Parishad/ Municipal Councils/ Nagar Panchayats/ Cantonment Boards and directed to identify the illegal activities of Cool Water Can, Chilled Water Jar units (Plants) doing water selling business falls under your jurisdiction and take appropriate action against the said units.”

5. The report reveals that :

i. None of the units has taken permission or No Objection from the Central Ground Water Authority. The Directorate of Municipal Administration (DMA) has called a report and inspite of the fact that these units are running prior to initiation of this application in the Year 2017, no action has been taken.

ii. It is informed that Urban local body under Shops and Establishment Act are dealing with the matter but no specific approval related to lifting of ground water is given by the local bodies.

iii. Food and Drug Administration has informed that the cool water does not come under the purview of Food Safety Acts.

iv. Maharashtra State Pollution Control Board submits that cool water/chill water jar units does not fall under their preview.

6. The perusal of the Report reveals that illegal activities, activities against the provision of law damage the environment, extracting the groundwater without any authority more than the 100 of units are being done and that too within the purview and eyes of the Municipal/Local Administration. There is none to check whether the quality of water is being supplied is upto the mark or upto the standard or upto the parameter for human consumption or not. It is a very serious matter and may cause adverse effect on human health.
7. The matter has been dealt with by the Principle Bench of this Tribunal in O.A No. 685/2019 Rakesh Kumar Vs. Govt. of NCT of Delhi and vide order dated 15.05.2020 :

“5. Needless to say that protection of ground water is of great significance, particularly in view of falling of ground water levels in Delhi. In O.A. No. 176 of 2015, Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors., the matter has been dealt with by this Tribunal in the last about 5 years which was last reviewed on 11.9.2019. Reference was made to the judgment of the Hon’ble Supreme Court in M.C Mehta v. Union of India and Ors (1997) 11 SCC 312 whereby the Hon’ble Supreme Court directed constitution of Central Regulatory Body in the light of the recommendation of an Expert Committee, under Section 5 of the Environment

(Protection) Act, 1986 (EP Act). The Central Ground Water Authority (CGWA) has been constituted. The Tribunal found that effective functioning was far from satisfactory in achieving the object of protecting the ground water levels. With the result, illegal drawal of ground water by the hotels, industries and builders for commercial purposes in over exploited, critical and semi critical (OCS) areas was continuing at large scale. The Tribunal elaborately considered the problem and need for constant action by the regulatory authorities. After noticing the available data, the Tribunal noted the failure of the authorities in performing their duties on the subject on account of which situation continues to deteriorate. The Tribunal also considered and noted the report of the CPCB dated 26.06.2019 dealing with the methodology for assessment of environmental compensation for illegal extraction of ground water. It was observed:-

*“1. Remedial action against falling groundwater levels in the country is the subject matter of consideration before this Tribunal. Taking cognizance of news item under the caption “Falling Groundwater Level Threatens City”, appearing in the Indian Express of 18.03.1996, **the Hon’ble Supreme Court issued notice to the Central Groundwater Body and DPCC, Municipal Corporation of Delhi and Delhi Waterworks and Sewerage Disposal Undertaking (now DJB).**¹ Suggestions were sought from NEERI and thereafter from Ministry of Water Resource. The MoWR acknowledged the problem and stated that a Model Bill has been prepared to regulate and control the development of groundwater in their respective areas.*

4. *The Hon’ble Supreme Court directed:*

“9. The Central Government in the Ministry of Environment and Forest shall constitute the Central Groundwater Board as an Authority under Section 3(3) of the Act. The Authority so constituted shall exercise all the powers under the Act necessary for the purpose of regulation and control of groundwater management and development. The Central Government shall confer

¹(1997) 11 SCC 312

on the Authority the power to give directions under Section 5 of the Act and also powers to take such measures or pass any orders in respect of all the matters referred to in sub-section (2) of Section 3 of the Act.

10. We make it clear that the Board having been constituted an Authority under Section 3(3) of the Act, it can resort to the penal provisions contained in Sections 15 to 21 of the Act.

12. The main object for the constitution of the Board as an Authority is the urgent need for regulating the indiscriminate boring and withdrawal of underground water in the country. We have no doubt that the Authority so constituted shall apply its mind to this urgent aspect of the matter and shall issue necessary regulatory directions with a view to preserve and protect the underground water. This aspect may be taken up by the Authority on an urgent basis.”

5. Even though 23 years have passed after the passing of the judgment of the Hon'ble Supreme Court, the situation of falling groundwater level has not improved and has in fact further deteriorated. Unfortunately, in spite of clear directions of the Hon'ble Supreme Court, the CGWA is not willing to take the ownership of the subject and repeatedly takes the plea that it does not have the infrastructure or that the responsibility of dealing with the problem is of the States and not that of the said authority. It is high time that the working of the CGWA is reviewed and remedial measures are taken including assessment of suitability of the person to head it.

6. Petitions have been filed before this Tribunal from time to time with the grievance of illegal drawal of groundwater by hotels, industries and builders for commercial purposes. The grievance of the applicants in the present application is that **there is fast depletion of ground water in NOIDA and Greater NOIDA, District Gautam Budh Nagar, U.P. There is large scale extraction of groundwater by various construction companies. Directions relating to the water harvesting are not complied with. No measures are properly adopted to stop the fast depleting ground water levels.**

7. This Tribunal has ascertained facts and directed the regulatory authorities to take remedial action by way of closing such drawal, initiating prosecution and recovering compensation on 'Polluter Pays' principle.² A separate order is being passed in several other matters on the same subject.³

² E.g. separate order passed today in Harinder Dhingra Vs. International Recreation & Amusement Ltd. & Ors O.A No. 458/2017.

³ Original Application No. 59/2012 (M.A. No. 34/2016 & M.A. No. 190/2016), Original Application No. 108/2013, Original Application No. 179/2013 , Appeal No. 67/2015 , M.A. No. 107/2019, Original Application No. 484/2015 Original Application No. 327/2018 , Original

There is need for constant action by the regulatory authorities and mechanism for higher level review of working of such authorities to avoid unnecessary litigation.

8. We may now refer to some of the proceedings before this Tribunal in the present matter. Significant proceedings are reflected in orders dated 23.04.2015, 26.07.2018, 28.08.2018, 12.11.2018, 03.01.2019 and 07.05.2019. It was noted in the order dated 23.04.2015 that ground water level has gone down in NOIDA by 15 mtrs. between 2007-2014. **On 26.07.2018, it was noted that even apart from NOIDA, Greater NOIDA, Delhi and NCR, the situation in OCS region calls for stringent regulation for ground water extraction. In the order dated 28.08.2018, the Tribunal directed the Ministry of Water Resource (MoWR), Government of India, in consultation with the Ministry of Environment, Forest and Climate Change (MoEF&CC) and Ministry of Agriculture (MoA), to review the existing mechanism for effective conservation of ground water resources in OCS. It was directed that the policy framework must include monitoring mechanism by way of provision for coercive measures, consistent with the mandate in the judgement of the Hon'ble Supreme Court of India in M.C Mehta (supra). The guidelines of CGWA that permission to extract ground water in over exploited, critical and semi-critical (OCS) areas is to be given only for drinking and domestic purposes were noted. OCS areas were identified and notified by the CGWA having regard to the depletion of groundwater level. OCS areas were further classified as 'notified' and 'non-notified' without any basis and 'non-notified' were not being regulated. The Tribunal directed remedial measures to be taken.**

9. On 12.11.2018, the matter was further considered. After making reference to the 2012 Guidelines issued by the CGWA and Draft Guidelines dated 16.11.2015, the Tribunal noted following points:

- i. CGWA was repeatedly disowning its responsibility on the plea that regulation of ground water was a State subject, contrary to the mandate in the judgement of the Hon'ble Supreme Court in M.C Mehta (Supra).**
- ii. CGWA was failing to regulate drawal of ground water in OCS on the ground that it had not issued a notification except for some areas, and without such notification, there was no need for regulating extraction of ground water even in OCS.**

- iii. **Extraction of ground water for commercial purposes was being allowed in OCS just by a mechanical condition that the ground water will be recharged, without ensuring compliance of such condition.**
- iv. **Underground water was being allowed to be extracted for illegal constructions, bottling plants, swimming pools etc. without any impact study or effective steps for rain water harvesting for recharge of the ground water.**
- v. CGWA was repeatedly taking the plea that charges were being collected for permitting drawal of underground water for commercial purposes in OCS against the Precautionary Principle, Sustainable Development as well as Intergenerational Equity Principles.
- vi. Difficulties of agriculturists needed to be addressed in a phased manner by persuading the agriculturists to switch over to less water consuming crops and to consider use of treated sewage water instead of extraction of fresh underground water, wherever viable.
- vii. Untreated effluents are not to be discharged in the water.

10. Notification dated 12.12.2018 was issued by Ministry of Water Resources (MoWR) which was considered by this Tribunal vide order dated 03.01.2019. **The Tribunal noted from the affidavit filed by the CGWA found that utilizable water in India is 1137 BCM which comprises of 690 BCM of surface water and 447 BCM of replenishable ground water resources. In the year 2009, about 2700 BCM of ground water was available in deeper aquifers, below the zone of water level fluctuations. Thus, ground water over exploitation is recommended to be restricted to sustainability of ground water by annual replenishment in order to facilitate long term sustainability of ground water. It is further stated that per year extraction is 253 BCM which is 25% of the global ground water extraction. Out of total 6,584 assessment units, 1,034 fall in over-exploited category (where extraction is more than 100% of recharge), 253 fall in critical category (where extraction is 90-100% of the recharge), 681 fall under semi-critical category (where extraction is 70-100% of the recharge) and 4,520 are under safe category (where extraction is 90% of the recharge). About 90% extraction is for agricultural purposes, 10% for drinking, domestic and industrial purposes. Industrial use is 5%. Model building bye-laws 2016 include the provision of rain water harvesting in all new buildings on plots of 100 sq. mtrs. and above. Entire**

storm water is to be captured for water harvesting through suitable structures in all public and open spaces of more than 500 sq. mtrs. Buildings having minimum discharge of 10,000 liters and above are required to have waste water recycling system for horticulture purposes. 'Mission Water Conservation' has been introduced by the Ministry of Agriculture, Government of India. Inter-Ministerial Committee has been constituted under the chairmanship of the Secretary, Ministry of Water Resources, Government of India. The Ministry is also carrying out training programme and Information, Education & Communication (IEC) activities for awareness. The Department of Land Resources is implementing water-shed development projects. Certain States have taken initiatives including Punjab Preservation of Subsoil Water Act, 2009 which ban early sowing of paddy nursery and transplantation of saplings. Maharashtra Groundwater (Development and Management) Act, 2009 prohibits drilling of deep wells within for agriculture or industrial usage, pumping of ground water for deep well of depth of 60 mtrs. or more. The CGWA has issued advisories and it requires taking of NOC for ground water withdrawal but the agriculture section is not subjected to ground water regulation on account of socio-economic implications. The steps taken by the CGWA include directions for rooftop rain water harvesting systems, ground water recharge measures along the National highways, State national highways, railway tracks, etc., artificial recharge in over-exploited areas, large and medium industries using ground water to take up the ground water conservation measures. CGWA imposes condition while granting NOC for withdrawal of ground water in States/UTs which do not have functional ground water authorities. NOCs are granted online in a user-friendly manner. Industries in safe category are exempted from NOC but in OCS areas, condition for grant of NOC is rain water harvesting/ground water recharge measures and NOCs are denied in over-exploited areas. Non-water intensive industries drawing ground water up to 100 m³/day are exempted from NOC in critical areas, non-water intensive industries drawing up to 50 m³/day are exempted from NOC. (In over-exploited areas, non-water intensive industries are exempted which are drawing ground water up to 25 m³/day. Permitted water extraction is restricted to 60% of the proposed recharge. Ground water extraction should not be exceeded 1,500m³/day for each unit. In semi-critical areas, ground water extraction is restricted to 200% and 100% of proposed recharge for non-water intensive and water intensive industries respectively. In critical areas, ground water extraction is permitted up to 100% and 50% of proposed recharge for non-water intensive and water intensive industries respectively. In over-exploited areas, ground water extraction is permitted up to 50% of the proposed recharge). Till 2015, existing industries were not required to seek any NOC. In compliance of order of the Tribunal dated 15.04.2015, existing industries were brought within the purview of NOC with effect from 16.11.2015.

13. The Tribunal noted the relevant statistics on the subject as follows:

“2. As per publication of NITI Ayog, India is placed at 120th amongst 122 countries in water quality index. Most states have achieved less than 50% of the total score in augmentation of groundwater resources, highlighting a growing national crisis. 54% of India’s ground water wells are decreasing in levels and 21 major cities across the country are expected to run out of ground water by 2020. Almost none of the States have built the infrastructure required to recharge groundwater in over exploited and critical areas. Several States such as U.P., Bihar, Rajasthan etc. have not put in place any regulatory framework for managing the groundwater. These states produce 20-30% of India’s agricultural output and groundwater accounts for 63% of all irrigation water. Therefore, unsustainable extraction in these states also poses a significant food security risk for the country. 3. About 60% of the irrigation needs, 85% of rural drinking water needs and 50% of urban water needs are met through ground water. The CGWB has categorised the areas into the following on the basis of availability of ground water resources:

Safe	(<=90%, No decline in water levels)
Critical	(>70% and <=100%, decline in water levels)
Semi-critical	(<100%, decline in water levels)
Over-exploited	(>100%, decline in water levels)

4.As per another survey, India extracts most ground water. Globally, 25% of total annual global annual water is extracted in India. The extraction level is going up continuously

5. Depletion of ground water not only creates crisis for drinking water in absence of inadequate surface water being available in certain areas where there may be drought conditions, but also affects e-flow in rivers and can also increase salinity in soil.”

14. The Tribunal accordingly held:

“27. We are satisfied that the Notification dated 12.12.2018 tested on the Precautionary Principle, Sustainable Development as well as Inter-generational Equity Principles is unsustainable in law and instead of conservation of ground water which is necessary for providing access to

drinking water in OCS areas, as well also other needs of environment, including sustenance of rivers and other water bodies, it will result in fast depletion of ground water and damage to water bodies and will be destructive of the fundamental right to life under Article 21 of the Constitution of India.

28. Accordingly, the impugned Notification may not be given effect to in view of serious shortcomings as pointed above so that an appropriate mechanism can be introduced consistent with the needs of environment.”

16. Accordingly, affidavit filed by the MoEF&CC on 18.07.2019 and report of the CPCB dated 26.06.2019 have been put up for consideration today. We take up the said reports for consideration.

17. The report dated 18.07.2019 gives statistics as follows:-

“As per the latest assessment in categories of OCS areas Delhi is ranked first as 82% of total number of assessed units followed by Rajasthan (81%), Punjab (81%), Haryana (75%), and Tamil Nadu (50%)

In order to regulate ground water abstraction in Over Exploited / Semi – critical areas, CGWA notifies areas (blocks / talukas/ mandals/ firkas areas) under Environment (Protection) Act, 1986 for regulation of ground water development and management. In these notified areas, abstraction of ground water is not allowed for any purpose other than drinking and domestic use. For monitoring and supervision of notified area, CGWA has empowered district level authorities of State Government under Section 4 of the Environment (Protection) Act, 1986. CGWA has notified total 162 areas in the country till 2012 out of 1033 identified Over Exploited areas.”

18. Apart from giving the above statistics the report deals with the review of institutional framework, gaps in groundwater management strategy and makes recommendations providing for levy of water conservation fee, criteria for extraction of groundwater in OCS area, registration of bore-wells, utilization of treated sewage water, shifting of cropping pattern and irrigation practices, optimal use of fresh water and best conservation practices. **It is suggested that guidelines be prepared applicable pan India with liberty to lay down more stringent norms by the States depending on local conditions, making water resource estimation every two years, periodic assessment of OCS areas, inviting projects from experts for water management and preparation of decadal action plans.**

19. The report remains deficient as the issue of preventing depletion of ground water has not been duly addressed. The effective enforcement mechanism of conditions subject to which groundwater extraction may be allowed in OCS areas has not been provided. Mere condition of recharge without clear strategy of enforcement is no safeguard for permitting extraction of groundwater. The report leaves many issues to be dealt with by further studies. The need for immediate concrete action to prevent further depletion is not met by the report nor the effective safeguards against abuse of permission for extraction in violation of conditions for extraction and effective remedies against rampant illegal extractions have been suggested. This shows that further remedial action needs to be taken.

20. The report of CPCB dated 26.06.2019 deals with methodology for assessing environmental compensation (EC), Formula for Environmental Compensation for illegal extraction of ground water, Environmental Compensation Rate (ECRGw) which has been further dealt with in different categories, i.e. ECRGw for Drinking & Domestic use for household purposes and those for institutional activity, commercial complexes, townships etc., ECRGw for Packaged Drinking Water Units, ECRGw for Mining, Infrastructure and Dewatering Projects, ECRGw for Industrial Units, Deterrent factors to compensate losses and environmental damage (for packaging drinking water units, mining, industrial and commercial purposes) and Deterrent Factor . Formula for Environmental Compensation for illegal extraction of ground water is as follows:

“5. Formula for Environmental Compensation for illegal extraction of ground water

The committee recommended that the formula considering water consumption, no of days, rates for imposing Environmental Compensation based on the purpose for illegal abstraction of ground water as well as the deterrent factor detailed below:-

$$EC_{Gw} = \text{Water consumption per day} \times \text{Environmental Compensation rate for illegal extraction of ground water (ECRGw)} \times \text{No. of Days} \times \text{Deterrent Factor}$$

Where, water consumption is in m³/day and ECRGw in Rs/m³”

24. We conclude this order with the following directions:

- (i) We constitute a Committee to go into the following questions:**
 - (a) Steps required to be taken for preventing depletion of ground water.**
 - (b) Robust monitoring mechanism to ensure that no ground water is unauthorisedly extracted, including review of manning and functioning of CGWA.**
 - (c) Robust mechanism to monitor conditions laid down for grant of permission for extraction of ground water.**
 - (d) Recommendations in the report of the CPCB dated 26.06.2019 referred to above.**
- (ii) The composition of the Committee will be as follows:-**
 - (i) Joint Secretary, MoEF&CC**
 - (ii) Concerned Joint Secretary, MoWR, dealing with the subject**
 - (iii) CGWB**
 - (iv) National Institute of Hydrology, Roorkee**
 - (v) National Remote Sensing Center, Hyderabad**
 - (vi) CPCB**

The nodal agency will be the Joint Secretary, MoWR for coordination and compliance. The Committee may look into the reports already submitted. The report may be furnished within two months by e-mail at judicial-ngt@gov.in.

(emphasis supplied)”

8. Accordingly, we constitute a Committee consisting one representative from the Central Pollution Control Board and the Central Ground Water Authority to monitor these matters and submit factual and action taken report. It is further directed that in case of violation of rules and the provisions and directions made by the Principle Bench of this Tribunal with regard to the extraction of groundwater, the necessary environmental compensation must be imposed and realised from the date of extraction of water till the date of consent from the Competent Authority. Further, we direct:

i. In absence of no objection certificate from Central Ground Water Authority, no extraction of underground water be permitted.

ii. The industries/units drying underground water every day with no obligation of recharge/rainwater harvesting etc. This must be stopped immediately and the industries/units must be asked to take a rational measures for recharge of the underground water/rainwater harvesting with due regard to the amount of underground drawn by it in last more than 4 years.

iii. The industries/units must be asked and show cause notice to be issued to pay compensation for illegal withdrawal of underground water for last so many years inspite of the fact that this petition is pending.

iv. The amount payable by the unit for withdrawal of underground water must be fixed on the principle 'more the withdrawal higher the rates' The charge which has not be paid for years must be recovered with interest at the rate of 12 % per annum.

v. The norms for recharge of underground water and rainwater harvesting etc., must be fixed. Flow meter must be celibrated by Government Agencies and verified atleast twice in a year.

vi. The unit encroaching upon the drains or diverting the untreated water into the drains must be asked to clear the encroachments and to ensure that no untreated water

should be discharged in to the municipal drains and to ensure the free flow of the natural course of water.

vii. Actual requirement and use of underground water by the unit must be verified through independent Government agencies.

viii. All industries/units must be asked to maintained verifiable record of ETP waste and other solid waste generated from their units.

ix. Central Ground Water Authority and Central Pollution Control Board is directed to lay down a parameter of quality of water which are being supplied in bottles to the citizens and further to take necessary action in case it is not found of the standard quality.

x. State Government/Collector/Municipal Commissioner of the area having jurisdiction are directed that no unit should be permitted to extract groundwater without the authority or permission or NoC from the Central Ground Water Authority and in case unit has no authority, unit must be immediately closed and immediately necessary legal action should be initiated in addition to realisation of environmental compensation.

xi. The learned counsel appearing for respondent has submitted that a show cause notice was issued from the Maharashtra State PCB but no further action was taken. Maharashtra State PCB be directed to explain as to why after issue of show cause notice, no action was not initiated. The

matter be placed before the Chief Secretary as to reply on the fact that more than hundreds units are operating in the State of Maharashtra without any permission from the competent authority and there is none to check these units. The Chief Secretary is directed that all the units which have no authority from the Central Ground Water Authority or NOC from the competent authority, must be sealed immediately and legal/penal action should be initiated. The Chief Secretary is further directed to take remedial measures to check, identify and to regulate the functioning of these units. Further action taken report be submitted before the next date of listing

xii. The factual and action taken report by the authority concerned must be submitted within fortnight by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

9. Listed on 6th November, 2020.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

October 19th, 2020
Original Application No. 75/2017(WZ) ag