

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

Original Application No.202/2016
(M.A. No. 381/2016& I.A. No. 312/2019)

With

Review Application No. 21/2017

In

M.A. No. 547/2017

In

O.A. No. 202/2016

With

Original Application No. 34/2014 (THC)
(CWP No. 2844/2011)

(M.A. No. 282/2016, 1230/2016, I.A. No. 141/2019,
147/2019& 212/2019)

With

Review Application No. 25/2017

In

M.A. No. 1230/2016

In

O.A. No. 34/2014 (THC)

Balotra Textile Hand Processors
Association

Applicant(s)

Versus

Rajasthan State Pollution Control
Board &Ors.

Respondent(s)

And

Balotra Textile Hand Processors
Association

Applicant(s)

Versus

Rajasthan State Pollution Control
Board &Ors.

Respondent(s)

And

Digvijay Singh

Applicant(s)

Versus

State of Rajasthan&Ors.

Respondent(s)

And

Digvijay Singh

Applicant(s)

Versus

State of Rajasthan &Ors.

Respondent(s)

Date of hearing: 08.07.2019

CORAM:

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)	Mr. Digvijay Singh, Applicant in person Mr. Ankit Anandraj Shah, Advocate
For Respondent(s)	Mr. Shashank Saxena and Ms. Ruchi Mandal, Advocates for Mr. Ardhendumauli Kr. Prasad, Advocate for CGWA Mr. Vinay Kothari, Advocate for R-4 Mr. Adhiraj Singh and Mr. Lokendra K., Advocates for State of Rajasthan PCB Mr. Keshav Pareek, Advocate for Mr. Sanjeet Purohit, Advocate for RIICO Ms. Pusshp Gupta and Mr. Rovins Verma, Advocates for MoEF

ORDER

I.A. No. 212 of 2019

This Application has been filed by Balotra Water Pollution Control Treatment & Research Foundation Trust, through its Chairman with the prayer that suggestion no. xxii given by the Court Commissioner in report dated 19.02.2019 be set aside or be modified from 500 mtrs to 200 mtrs.

The Learned Court Commissioner had made the suggestion as under:

“xxii. As per CPCB guidelines for TSDF, there needs to be a buffer zone of at least 500 m from TSDF. And therefore, installation of SEPs next to TSDF is not only violation of HW Rules, but pose significant risks to TSDF operations and also, the environmental status of the area. The RSPCB must take necessary action to fulfill regulatory steps as required by the law.”

The submission made by the Learned Counsel for the applicant is that such condition of 500 mtrs from TSDF is de hors of the Guidelines under the Rules.

A perusal of Rule 16 (2) of Hazardous & Other Wastes Management Rules, 2016, notified under Environment (Protection) Act, 1986, shows that the operator of common facility or occupier of a captive facility, shall design and set up the treatment, storage and disposal facility as per technical guidelines issued by Central Pollution Control Board in this regard from time to time and shall obtain approval from the State Pollution Control Board for design and layout in this regard.

The CPCB has issued guidelines on the criteria of Hazardous Waste Landfills. The location criteria for such Landfills have been stipulated under Clause 2 of the said guidelines wherein distance of lakes, ponds, rivers, floodplains, habitation etc. from Hazardous Waste Landfills have been stipulated. Sub-Clause A of Section 2 of the guidelines lays down in respect of lake or pond, according to which no landfill shall normally be constructed within a distance of 200 mtrs of it. Because of concern regarding runoff of waste contaminated water, surface water, monitoring network with approval of SPCB/PCC shall be established.

In respect of highway, habitation and public parks, the said guidelines specifically lays down that no landfill site shall be constructed within 500 mtrs.

In the instant case, the grievance raised by the applicant is that laying down of the criteria of 500 mtrs from TSDF by the Commissioner is not proper and it should be 200 mtrs.

While considering the arguments of the Counsel for the applicant, it is necessary to have a look to the report of the Commissioner dated 19th February, 2019. In the said report, at para 7.1.4, sub-para B, the Commissioner has given in detail the observation made by him at the site of TSDF at Khed Village. Amongst others, the observation at point vii and viii are relevant for the present purpose which are as under:

“vii. It has been observed that seepage/leakage of effluents from SEPs to adjoin areas are taking place continuously. The HDPE liners of all lagoons were found punctured/tear off from the boundary wall side at HRTS II at Village-Khed, Balotra.

viii. During the discussions, villagers claim that these solar ponds are leaking as a result contaminated water has been impacting agricultural farms and groundwater which was also observed by the committee members during the site visit in Khed area ponds as shown in Fig. 8. Even contaminated wastewater is seeping in the premises of TSDF site. The Seepage agricultural land and within the premises of TSDF site can also be observed clearly through satellite images which has been accessed by the committee member on 17.02.2019 just before submitting this report.”

Besides, it is important to note that the State Pollution Control Board had conducted an inspection on 11th May, 2019 through a team of officers. In the said inspection report, the observations made at the site and relevant for the present application are as follows:

“(xiii) During physical observations some seepage were observed and there is history of breaches of such structures in Balotra and Bithuja. This indicates that these structures are not very stable and possibilities of further breaches in future cannot be ruled out. As per record of regional office Balotra beaches were recorded on 07/12/2016, 03/03/2017, 19/06/2017, 03/10/2017 & 11/05/2019 from the effluent holding structure near Ambey Vally and a breach was also reported from such structure located at Village Kher. In addition breaches were also reported from holding structures behind CETP Bithuja on 17/07/2017, 09/09/2017, 05/03/2018, 17/04/2018, 04/12/2018 & 22/03/2019

(xvi) During inspection it was verified that massive breach has occurred in Ambey Vally effluent holding structure. This breach was towards Luni river side and most of the effluent from this structure is discharged, ultimately finding its way into river Luni/

(xix) During visit along river bed has caused severe environmental damage to the river. It was verified that the effluent discharged has flown more than 01 KM from breach point.”

“4. It was reported by Sh. Bhuvnesh Mathur, EE that on his last visit to this site, on 26/02/2019, all cells were completely filled except for free board. At that time the process of emptying cells near TSDF (within 500 meters of TSDF site) was in the process.

7. On visit to surrounding areas the water pools could be located on downside for almost up to

couple of Kilometers. A sample from one of such pool was also collected. The pH of this effluent was about 11 (as per pH paper strip).”

We have considered the provisions of Hazardous and Other Wastes Management Rules, 2016, according to which guidelines were to be issued by CPCB and also the said guidelines in respect of lake or pond, as mentioned above. It is significant to note under the said clause of guidelines, CPCB has specifically given that a distance of 200 mtrs should be normally left between landfill site and lake/pond. After having carefully gone through the report of the Commissioner; the detailed observations made by him with regard to the site and the backdrop under which he had recommended the distance of 500 mtrs, in the instant case, we are of the considered opinion that it is just and proper. Moreover, the site inspection report of the Pollution Control Board dated 11th May, 2019 further fortifies the recommendations made by the Commissioner because of the peculiar situation noted at the site.

It has also been submitted by the Counsel for the applicant that presently they may be permitted to have the site at the distance of 200 mtrs and if required, thereafter it may be shifted to 500 mtrs.

Looking to the critical situation on the ground, as reflected by the report of the Commissioner as well as the site inspection of the Pollution Control Board wherein there

have been several instances of breach, we are of the view that proper and lasting solution is required to be taken in the present case and it is not to be looked into again and again. The structures required to be made has to be the one which can be useful for a longer time, without any breach or difficulty to the public at large. In the report of the Commissioner, it is reflected that while making the recommendations, he has also interacted with the local residents of the surrounding villages. He has also placed certain photographs on record to show the breaches and the result thereof.

Therefore, there cannot be any other view but that the recommendation made by the Commissioner of the distance of 500 mtrs from the landfill site is just and proper and does not require any change/modification.

Consequently, I.A. No. 212/2019 stands dismissed, with no order as to cost.

Main Matter

In our earlier order dated 27.05.2019, we had directed the Pollution Control Board to place on record the order passed by it on 14th May, 2019 whereby the CETP plant at Balotra was closed down and also the order dated 22nd May, 2019 whereby the said order was revoked and consent to operate was granted.

We have carefully perused both the orders placed on record, along with the affidavit of Member Secretary of State

PCB. In the circumstances, before expressing any view passing in respect of the aforesaid orders passed by the State PCB, we consider it appropriate to give opportunity to the applicant as well as Balotra Water Pollution Control Treatment & Research Foundation Trust to respond to the additional affidavit filed by the PCB on 4th July, 2019. The response, if any, should be filed by the parties positively within 10 days, with an advance copy to the other side.

The Member Secretary of the State PCB shall remain present before the Tribunal on the next date of hearing.

List this matter on 26th July, 2019.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

July 08, 2019

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