

Item Nos. 04 & 05

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
(Through Video Conferencing)

Original Application No. 560/2018  
(Earlier O.A. No. 396/2013 (SZ)  
(M.A. No. 14/2018(SZ)

WITH

Original Application No. 561/2018  
(Earlier O.A. No. 242/2016 (SZ)

Shibu Manuel, Secretary, Green Action Force Applicant(s)

Versus

The Govt. of India & Ors. Respondent(s)

WITH

K. Muhammed Iqbal Applicant(s)

Versus

Kerala State Pollution Control Board &Ors. Respondent(s)

Date of hearing: 14.11.2018

CORAM : HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Mr. K.K. Ashkar, Advocate (in O.A. No. 561/2018)  
A. Vargese, Advocate  
B.

For Respondent (s): Mrs. RemaSmrithi VK, Advocate for Kerala PCB  
Mr. K. Sjeevan, Chairman, Kerala PCB  
Mr. T.A. Thankappan, Member Secy., Kerala PCB  
Mr. K.K. Ashkar, Advocate for R-11 (in OA No. 560/18)  
M. Kumarsen, Advocate  
ME Sarashwathy, Advocate for UOI  
D.S. Ekambaram, Advocate for CPCB

**ORDER**

1. Affidavit has been filed on behalf of the Respondent No. 4, Kerala State Pollution Control Board (KSPCB) in pursuance of our order dated 24.10.2018. The affidavit sets out the complete scenario in respect of the matter in issue, i.e., contamination and pollution of River Periyar, and the actions taken so far by the Board for mitigation.
2. For the moment, we need not go into the details of the affidavit except to notice that the DPR referred to in our order dated 26.09.2018 does not include establishment of ETPs but for

remediation of Kuzhikandam Thodu leading to River Periyar. It is stated that the total estimated cost for the proposed remediation project amounts to Rs. 25,92,50,770/- which is to be shared in the ratio of 60:40 i.e. 60% by the State Government and the industries responsible for pollution or individually by the Government and 40% by the Central Government. By order dated 24.04.2017, the State of Kerala had been directed to deposit a sum of Rs. 16 crores out of which as per the learned Counsel for the Board, Rs. 11.22 crores have been deposited against the project head "*Remediation of Allure Kuzhikandam Thodu*". The balance amount would be paid at the stage of implementation of the project. This has been acknowledged by Mr. Sajeevan, Chairman, Kerala State PCB and Mr. T.A. Thankappan, Member Secretary, KSPCB who are physically present before us.

3. However, Mrs. Sarashwathy, learned Counsel appearing for the MOEF&CC, is unable to inform us of the present status as regards the payment of the share of the Central Government to the tune of Rs. 10 crores against the estimated cost of Rs. 26 crores which would be the 40% as per the direction of the Tribunal but only that a sum of Rs. 1.2 crores has been deposited in favour of the Central Pollution Control Board (CPCB) as a part of the total amount of Rs. 10 crores earmarked for about 8 similar projects in the entire country which is distinct from the present project
4. In our view this does not satisfy our directions issued earlier and accordingly, we direct the Ministry of Environment, Forests and Climate Change (MoEF&CC) to ensure the entire amount of Rs. 10 crores is deposited with the state government against the project within three weeks in order to enable the project to take off on time.

5. In the meanwhile, the CPCB which is stated to have initiated the tender process for the remediation work, shall ensure that the work order is issued to the successful bidder, as far as it may be practicable, within a period of two months from hence.
6. During the interregnum the KSPCB shall take all steps and measures to ensure that all industries located in the area in question have installed ETPs and are functional. It shall also be ensured that the treated effluents are not discharged directly into the river and that there is minimal discharge of treated effluents from the factories and further that the water at the discharge point and its vicinity are regularly tested and monitored.
7. Compliance report shall be filed by the CPCB by 21.01.2019 making it clear that further delay shall not be countenanced and may also lead to issuance of coercive orders considering that the situation is absolutely grave.
8. We may refer to the inspection report submitted by the CPCB itself in *Original Application No. 409/2016* in the matter of *K. Muhammed Iqbal Vs. Kerala State Pollution Control Board &Ors.* where after having inspected all the units on the banks of the river Periyar, assessed the quantum of the sewage, effluents generated as well as efficacy of the Effluent Treatment Plants, it was concluded as under:-

*“10.0 Conclusions of the study*

- i. Most of the industries monitored are not complying with stipulated standards and also with the consent conditions. This requires vigilant surveillance by KSPCB to improve upon the prevailing environmental scenario and to meet the stipulate norms.*
- ii. The operation and maintenance of ETP in all industries inspected were unsatisfactory/poor. KSPCB has to conduct periodic inspections and take necessary actions for compliance of the units with the prescribed standards.*
- iii. The treated effluent discharges from 13 industries are not complying with prescribed standards. Out of 13 industries, 10 are in Eloor-Edayar area, which is*

*under constant surveillance of KSPCB. The non-complying industries shall be closely monitored till they attain compliance.*

- iv. The river water samples collected from 16 locations form Panamkuttu (Idukki district) to Eloor ferry (Ernakulam) are not complying with the acceptable drinking water specification. This is mainly due to untreated sewage discharge at many points. The concerned local bodies have to look into this aspect and do the needful.*
- v. In the absence of common treatment facilities, sewage from the townships are being continuously discharged through natural drains into river. This requires immediate attention from concerned authorities for quantification, monitoring and controlling the pollution loads released into river.*
- vi. As such there are no provision for quantification of waste water discharged to river either from industries or townships. Hence quantification of these discharges and total pollution load joining River Periyar could not be carried out.*
- vii. A coordinated effort from all the stakeholders is the need of the hour to resolve the present scenario and to address the non-compliance of the units.”*

9. The above finding reflects sordid state-of-affairs which requires to be addressed urgently by all the stakeholders.

10. List the case on 21<sup>st</sup> January, 2019.

**M.A. No. 14/2018(SZ)**

11. Having regard to the facts that a detailed affidavit has been filed today and also considering the circumstances set out in the affidavit, the penalty of Rs. 1 lakh imposed upon the State PCB stands waived.

12. M.A. No. 14/2014 is allowed the same is disposed of.

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 14, 2018

**DV**