

Item No.1 & 2

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL Bench, New Delhi**

Original Application No. 231/2014
&
Original Application No.66/2015

Doaba Paryavaran Samiti

Applicant(s)

Versus

State of U.P. & Ors

Respondent(s)

Date of hearing: 15.03.2019

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Anil Kumar Sangal and Mr. Vivek Jain, Advocates

For Respondent (s):

Ms. Deep Shikha Bharti, Advocate for State of U.P
Mr. Rajkumar, Advocate for CPCB
Mr. Pradeep Misra, Mr. Dalip Dhyani, Advocates for UP PCB
Mr. Amit Tiwari, Advocate for State of U.P

ORDER

1. The issue for consideration is that remedial measures for the industrial or other pollution in Kali Nadi, Krishna and Hindon Rivers resulting in diseases and deaths of inhabitants of the area.

2. Vide order dated 08.8.2018, this Tribunal referred to the studies showing that more than 71 persons died from cancer and more than 47 persons are bed ridden in the Gagnoli village in Baghpat District in Uttar Pradesh. More than 1000 people are affected by diseases in the area. Inhabitants of 154 villages were affected. The polluting industries in question are sugar mills, distilleries, paper mills, electroplating, slaughter houses, wet blue hides, etc. Reference was made to the fact that the issue had been highlighted in several newspapers and that this Tribunal found that there was contamination of ground water. On 16.01.2018, a Committee comprising representatives of the Central Pollution Control Board (CPCB), Uttar Pradesh Pollution Control Board (UPPCB), Uttar Pradesh Jal Nigam and Dr. A.B. Akolkar, former member of CPCB carried out a survey by testing the samples. The Committee found that 124 industries were not meeting the standards. The Tribunal observed that the State of Uttar Pradesh and UPPCB must perform their statutory duties and the District Magistrate should also take cognizance of the matter at the District level. The Tribunal constituted a Committee headed by Justice S.U. Khan, former Judge, Allahabad High Court with representatives of the CPCB and the Ministry of Environment, Forest and Climate Change as members to prepare time bound action plan to deal with the problem. The Chief Secretary, Uttar Pradesh was to provide logistics to enable the functioning of Committee.

3. Accordingly, the Committee conducted its proceedings and a report has been filed before the Tribunal on 11.02.2019. The Committee found that discharge of untreated sewage and industrial effluents in Districts Muzaffarnagar, Shamli, Meerut, Baghpat, Ghaziabad and Gautam Budh Nagar is mainly responsible for the pollution of the river. It found that prosecution was initiated against 118 non-complying industries. Orders for closure were passed against non-compliant industries out of which 28 orders were revoked or suspended. Show cause notices were also directed to be issued to some of the polluting industries.

4. The Committee observed that it could not perform its functions with regard to health check on account of non-cooperation of authorities and could not undertake awareness programme in absence of assistance of authorities. Hand pumps from which contaminated water is extracted and consumed are still functional. No measures have been taken by the authorities for supply of potable drinking water in the affected areas. No effort has been made to identify the victims for compensation.

5. The Committee has made recommendations. Concluding part of the report is as follows:

“Recommendation:

Committee is of the view that the action plans be implemented by all the concerned authorities in the State of Uttar Pradesh as per the time lines given in the finalised action plans keeping in view that the water quality of river Hindon at least meets the water quality criteria for bathing i.e., BOD < 3 mg/l and FC < 500 MPN/100 ml.

Closing statement

The Monitoring Committee, before closure, would like to place on record that the authorities/departments are taking the matter unresponsively despite clear direction by Hon'ble NGT that all concerned authorities would cooperate with the Committee.

In this view of the matter the Chief Secretary, State of Uttar Pradesh was moved by email on 07.01.2019 with request to urgently arrange a meeting to be necessarily attended by him along with the Principal Secretary, Rural Development, Principal Secretary, Health, Principal Secretary, Environment and Chief Officer heading NIC in the State of Uttar Pradesh with liberty that any other officer whom he thought should also attend the meeting should also be directed to attend the said meeting with all-inclusive compliance report.

It was expressly mentioned in the mail that the departments, authorities and officers majorly responsible for compliance of the directions are not assisting this Monitoring Committee, as should be, and their approach is lackadaisical, which lackadaisicalness is enough to frustrate the basic object with which this Monitoring Committee has

been constituted by Hon'ble NGT. The communication expressly communicated that the Monitoring Committee would submit its report to Hon'ble NGT before close of the current month. Therefore, the date, time and venue for the meeting be urgently fixed and communicated. The 'Venue' also because Hon'ble Chairman of this Monitoring Committee has not yet been provided any office at Lucknow though four months have already moved-out.

The Principal Secretary, Environment Department Uttar Pradesh, in response to the e-mail communication of 07.01.2019, has vide letter no.NGT-19/55-Parya-2-2019-44(Writ)/2016, dated 29.01.2019 sent by email on 30th January, 2019 informed that the meeting has been fixed for 14.02.2019 in the office of the APC. This all over again illustrates the flippant attitude even of the principal bureaucrat.”

6. We also place on record our appreciation for the work undertaken by the Committee inspite of all difficulties. We accept the report and direct the Chief Secretary, Uttar Pradesh to provide requisite logistics to the committee so that the committee can oversee the implementation of the action plan. The State of Uttar Pradesh may also take measures recommended and suggested by the Committee. We place on record our displeasure for the attitude of the State of Uttar Pradesh as, found in the report. We direct that the State of Uttar Pradesh may file its action taken report in the matter,

particularly about the logistics provided to the Committee including the venue for conducting proceedings within one month by e-mail at ngt.filing@gmail.com.

7. The question is the action to be taken for non-compliance. Non-compliance of an order of this Tribunal is a criminal offence under Section 26 of the National Green Tribunal Act, 2010 and in case of Government, Head of the Department is deemed to be guilty for such an offence. Punishment provided is sentence upto three years or fine upto Rs. 10 crores or both with additional fine for the everyday failure. Under Section 25 of the NGT Act, 2010, order of the Tribunal is decree of Civil Court to be executed as per Civil Procedure Code. Section 51 Civil Procedure Code provides civil imprisonment as a mode for enforcing the decree. Alternatively, such further order can be passed as may be necessary to secure compliance.
8. In view of serious failure of the State of Uttar Pradesh so far and alarming situation of pollution of the River, affecting public health, we find it necessary to require furnishing of performance guarantee in the sum of Rs. 5 crores to the satisfaction of the CPCB by the State of Uttar Pradesh to the effect that action plan will be implemented within six months from today. On failure, the amount will be forfeited.
9. The Chief Secretary may personally look into the issue of availability of potable water to the affected inhabitants.

10. A copy of this order be sent to the Chief Secretary, Uttar Pradesh by e-mail for compliance.

List the matter for consideration of the report from the State of Uttar Pradesh on 26.04.2019 along with Original Application No.606/2018.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr.NaginNanda, EM

March 15, 2019
Original Application No. 231/2014
&
Original Application No.66/2015
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