

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

Report dated 18.11.2019
In
Original Application No. 829/2019

Lt. Col. Sarvadaman Singh Oberoi Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 29.11.2019
Date of uploading of order: 03.12.2019

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
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

ORDER

1. This application seeks direction to formulate an action plan to restore sea water quality along the Indian Coastal areas. Reliance has been placed on report of CPCB "Classification of Indian Coasts and Conflicts" (1982-86) referring to marine pollution by sewage and other discharge in violation of environment laws.
2. According to the Applicant, certain coastal areas are critically polluted on account of dumping of sewerage and waste. Over 80% of marine pollution is from land based sources- industrial, agricultural and urban. Municipal sewage is the main source of pollution. Aquaculture Authority, Government of India has issued guidelines that Aquafarms having area of five hectares and above should have Effluent Treatment System (ETS). Discharge of untreated sewage and

effluents in sea is continuing in large scale. Pollution of marine coastline is on gradual increase in the same way as 351 polluted river stretches in the country. Directions of this Tribunal dated 08.04.2019 in O.A. No.673/2018 dealing with 351 polluted river stretches should be extended to the polluted coastal stretches, doing so can result in reclaiming of substantial water. National Coastal Zone Management Authority (MCZMA) has been constituted on 09.10.2017 but the problem of marine pollution remains untackled which calls for intervention by this Tribunal.

3. Vide order dated 17.09.2019, this Tribunal, observed:

“Individual issues of scientific handling of solid waste and other waste as well as sewage are already subject matter of proceedings before this Tribunal in several matters.¹ The Tribunal has directed that no untreated sewage/industrial effluent be discharged into any water bodies (which includes coastal waters). Any violation is to result in compensation starting from 01.04.2020.² The Tribunal is also considering the issue of remedying 351 identified polluted river stretches³. The directions issued therein includes steps for controlling industrial and municipal sewage which may result in marine pollution. The subject of preventing untreated sewage and industrial effluents being discharged in the sea can also be gone into the said case. The CPCB has issued directions dated 15.12.2016, under Section 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974 on the subject, to all the State PCB/PCCs to ensure that no sewage or industrial pollution is discharged in coastal waters. CPCB may file latest status report on the subject in O.A No.673/2018. The District Magistrates may also cover the subject of coastal and marine pollution in the District Environment Plans to be prepared with reference to order of this Tribunal dated 15.07.2019⁴ and furnish reports to the Chief Secretary concerned. The Chief Secretaries of the concerned States/UTs may also include the subject in their monitoring and in the reports furnished to this Tribunal in O.A No. 606/2018.”

4. Accordingly, the CPCB has filed a consolidated report dated 18.11.2019. On the subject of marine pollution, it is stated that the

¹ Compliance of Municipal Solid Waste Rules, 2016, O.A. No. 606/2018, Paryavaran Suraksha Samiti & Anr. v. UOI, O.A. No. 593/2017.

² Paryavaran Suraksha Samiti & Anr. v. UOI, O.A. No. 593/2017, at para 21(iii)

³ Original Application No. 673/2018

order of this Tribunal has been communicated to the Chief Secretaries of all States/UTs for compliance and all States/UTs have been asked to submit action taken reports with reference to directions of CPCB dated 15.12.2016 under Section 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. Only response received is from State of Goa and Daman, Diu and Dadar Nagar Haveli (DD and DNH) Pollution Control Committees (PCCs). Letter dated 22.10.2019 from the State of Goa is merely a copy of letter addressed to different departments but does not indicate the compliance status. Report from the Daman and Diu, gives status of sewage disposal showing that sewage generation capacity at Daman is 7.5 MLD and treatment capacity is 4.2 MLD. At Diu, sewage generation capacity is 3.5 MLD and there is no treatment capacity but 7 MLD capacity is proposed.

5. Before we issue further directions, we may note the relevant data in this regard based on study reports in public domain. India has a coastline of about 7,555 km, of which about 5,400 km belong to peninsular India and the remaining to the Andaman, Nicobar and Lakshadweep Island. With less than 0.25% of the world coastline, India houses 63 million people, approximately 11% of global population living in low lying coastal areas. The coast also includes 77 cities, including some of the largest and most dense urban agglomerations – Mumbai, Kolkata, Chennai, Kochi and Visakhapatnam. India's coastal zone is endowed with a wide range of mangroves, coral reefs, sea grasses, salt marshes, sand dunes, estuaries, lagoons, and unique marine and terrestrial wildlife. The abundant coastal and offshore marine ecosystems include 6,740 km of mangrove belts, including part of the Sundarban (West Bengal) and

the Bhitarkanika (Orissa), which are among the largest mangroves in the world.⁴ Andaman and Nicobar Islands have world famous and unique coral bio-diversity which is getting increasingly threatened due to tourism more than the carrying capacity.

6. Further, there are reports that indiscriminate releases of untreated or partially treated wastes without considering the assimilative capacity of the waste receiving water body have resulted in pockets of polluted environs with depleted coastal resources, public health risks and loss of biodiversity. Coastal and marine water pollution has increased throughout the world, mainly due to direct discharges from rivers, increased surface run-off and drainage from expanding port areas, oil spills and other contaminants from shipping, and domestic and industrial effluents. Persistent Organic Pollutants (POPs) are semivolatile organic compounds of special concern because of their toxicity, persistence, long-range transport and bioaccumulation potential. They are present in the marine environment, notably in coastal areas affected by municipal sewage, agricultural and aquaculture effluents, industry and shipping traffic. Rapid urban-industrialization, maritime transport, marine fishing, tourism, coastal and sea bed mining, offshore oil and natural gas production and aquaculture cause severe environmental degradation. A significant ecological change is pronounced in this coastal region due to contamination of inorganic and organic pollutants originated from huge discharge of domestic and industrial effluents carried by the rivers, disposal of contaminated mud from harbor dredging, intense shipping activities, agricultural runoffs, oil spills, deforestation, ill-planned river basin developments as well as atmospheric depositions.

⁴https://www.researchgate.net/publication/236852954_Persistent_Organic_Pollutant_Residues_in_the_Sediments_and_Biota_in_Coastal_Environment_of_India

Tamil Nadu contributed 41% of total cases of cholera in India in 2002. It is interesting to note that around 77% of total cases of cholera occurred in the coastal states on India (Gujarat, Maharashtra, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, West Bengal).

7. The matter of degradation of environment in coastal areas has been dealt with by the Hon'ble Supreme Court inter-alia in ***Indian Council for Environment-Legal Action Vs Union of India (UOI) and Ors. (1996) 5 SCC 281***. While considering the issue, it was observed:

"5. With a view to protect the ecological balance in the coastal areas, the then Prime Minister is stated to have written a letter in November, 1981 to the Chief Ministers of coastal States in which she stated as under:

The degradation and misutilization of beaches in the coastal States is worrying as the beaches have aesthetic and environmental value as well as other values. They have to be kept clear of all activities at least upto 500 metres from the water at the maximum high tide. If the area is vulnerable to erosion, suitable trees and plants have to be planted on the beaches without marring their beauty. Beaches must be kept free from all kinds of artificial development. Pollution from industrial and town wastes must also be avoided totally.

- 7.1 Reference was to environmental guidelines for beaches as follows:

*"The traditional use of sea water as a dump site from our land-derived wastes have increased the pollution loads of sea and reduced its development potentials including the economic support it provides to people living nearby. **Degradation and misutilization of beaches are affecting the aesthetic and environmental loss.** These could be avoided through prudent coastal development and management based on assessment of ecological values and potential damages from coastal developments."*

- 7.2 The Hon'ble Supreme Court referred to the status of compliance of Environmental Management Plans in coastal areas and found large scale non-compliance. It was observed:

“26.....Violation of anti-pollution laws not only adversely affects the existing quality of life but the non enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse affect of which will have to be borne by the future generations.”

- 7.3 Accordingly, it was suggested that “the Central Government should consider setting up under Section 3 of the Act. State Coastal Management Authorities in each State or zone and also a National Coastal Management Authority.”
8. It is necessary to ensure that coastal water at beach remains fit for bathing and survival of aquatic life, fishing and contact sports in accordance with Sea Water Criteria in terms of directions of CPCB dated 15.12.2016 under Section 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974.
9. The report of CPCB is incomplete about the status of compliance with regard to norms of pollution laws in all the coastal areas in the country, particularly with regard to discharge of untreated and industrial and municipal effluents and solid waste. Accordingly, we direct CPCB to submit a comprehensive status report which regard to coastal pollution by way of classification of coastal areas in priority-I to V as has been done for 351 polluted stretches within three months positively.
10. As already directed in *Paryavaran Suraksha Samiti (supra)*, in pursuance of order of Hon’ble Supreme Court dated 22.02.2017 in *Paryavaran Suraksha Samiti Vs. Union of India*⁵, the local bodies and States are liable to pay compensation for discharge of any untreated sewage into the water bodies after 01.04.2020.⁶ We may also note

⁵(2017) 5 SCC 326

⁶ Vide order dated 28.08.2019 in O.A. No. 593/2017, *Paryavaran Suraksha Samiti &Anr. v. UOI*, ¶21(iii).

that local bodies have been held to be liable to be prosecuted for violation of provisions of the Water Act by a recent judgment of the Hon'ble Supreme Court dated 26.11.2019 in Criminal Appeal No. 1734 of 2019 in Karnataka State Pollution Control Board Vs B. Heera Naik.

11. Accordingly, we direct that all the State PCBs/PCCs of coastal States/ UTs may give the relevant information to CPCB within one month from today failing which defaulting Status/UTs will be liable to pay Rs. 10 lakhs per month till compliance.

A copy of this order be sent to all the Chief Secretaries, State PCBs/PCCs of all coastal States: Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Goa, Maharashtra, West Bengal, Odisha, Lakshadweep, Daman & Diu, Gujarat, Dadra and Nagar Haveli, Andaman and Nicobar, Puducherry and CPCB by email.

List for further consideration on 22nd of April, 2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

December 03, 2019
Report dated 18.11.2019 filed
In Original Application No. 829/2019
DV