

Item No. 1 (Pune Bench)

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

Original Application No. 50/2018 (WZ)

Nav Yuva Sanghatan & Ors.

Applicant(s)

Versus

The Secretary, Narmada, Water Resources,
Water Supply & Kalpsar Department & Ors.

Respondent(s)

Date of hearing: 16.07.2020

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

For Applicant(s) : Mr. Asim Sarode, Advocate

For Respondent : Ms. Maulik Nanavati & Ms. Manvi Damle, Advocate
Respondent No. 1, 3, 4 & 5

for

Ms. Supriya Dangare, Advocate for Respondent No. 8

ORDER

1. By filing this application, issue has been raised that due to anthropogenic activities, municipal waste, domestic sewage, washing clothes mostly by laundries and agricultures run off, the water quality parameter and pollution status of Tapi river in Surat District has been adversely affected. Most of the physico-chemical parameters (pH turbidity, dissolved oxygen, biological oxygen demand, chemical oxygen demand, Phosphate, Ammonia and Potassium) from Tapi river were beyond the limits for drinking water and even not suitable for domestic purposes.
2. The issue has been further raised to restrain the Municipal Corporation to immediately stop any new dumping activities of solid waste or stop from discharging the untreated water into the river and demarcate the blue and red line in the river bed of Tapi river at

Surat city. Dredging, digging, illegal discharge of effluent directly or indirectly, various projects undertaken in the name of private public partnership that to without Environment Impact Assessment and Environmental Clearance are main cause for pollution of river body.

3. Similar issues were raised and are being considered in Original Application No. 673/2018, *In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB"* pending in the Principal Bench of this Tribunal where several directions were issued and conclusion are quoted as below:

"38. Vide order dated 06.12.2019, this Tribunal further observed:

"40. From the above, it is clear that this Tribunal has fixed specific timelines in view of object of the law and repeated failures of the authorities which has resulted in continuing pollution of rivers adversely affecting the environment and the public health. It is not desirable to prolong the problem on any ground. The apparent conflict in above timelines needs to be clarified. Vide order dated 08.04.2019 in the present matter, timeline for final execution of all steps of Action Plan stands extended till 31.03.2021 after which compensation is to be recovered from the defaulting States and action is to be against the erring officers. Vide order dated 22.08.2019 in the case of river Ganga, outer timeline for compliance is 31.12.2020. In terms of order dated 28.08.2019 in Paryavaran Suraksha Samiti, outer timeline for 100% sewage treatment is 31.03.2020. We clarify that since order in Paryavaran Suraksha was passed on 28.08.2019 and all concerned have been put to notice, it is desirable that 100% treatment of sewage takes place as directed atleast to the extent of in situ remediation and commencement of setting up of STPs and connecting all the drains and other sources of generation of sewage to the STPs. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as directed vide order dated 28.08.2019, supra. The timelines for Ganga, Yamuna or other rivers covered by specific orders will stand, as already directed. Timeline for completing all steps of Action Plan till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In view

of this, the timelines proposed by the CMC cannot be accepted, as observed earlier. The States/UTs may take necessary steps accordingly.

Consolidated status report has been filed by CPCB on 18.11.2019 with reference to the present matter as well as dealing with the Musi River in the State of Telangana (O.A. 426/2018) and with regard to coastal pollution (O.A. 829/2019). Separate orders are passed in O.A. 426/2018 with regard to Musi River and O.A. 829/2019 dealing with the coastal pollution. The present order deals with the issue of 351 polluted river stretches.

42 to 45.

46. The report of CPCB shows the status of compliance. As already noted, the Action Plans have been prepared with respect to 351 river stretches by the concerned States/UTs with regard to category P-I & P-II (the most polluted river stretches), the Action Plans have been duly recommended by CPCB with certain changes. The said Action Plans are reported to be complete with respect to necessary components for river rejuvenation including identification of drains, their interception, setting up of STPs, utilization of treated water, identification of flood plain zones, maintaining e-flow, etc. Let the same be executed by 31.03.2021 as already directed. No case is made out to extend the laid down timeline unconditionally. **As noted earlier, situation of water pollution is grim in the country and there has been deterioration inspite of the Water Act which was enacted way back in 1974 which was intended to bring about any improvement. This Tribunal has repeatedly put all authorities to notice in the light of earlier orders of the Hon'ble Supreme Court on the subject. Directions were also issued for budgetary support as part of the Action Plans which has been done in indicative terms. There can be no plea of lack of funds on issue threatening the existence of human beings. We have thus no option except to be strict about the timelines already laid down.** We are also of the view that adherence to the timelines must be monitored by the Chief Secretaries of all the States/UTs and should also be monitored at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB. For this purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance and may give its quarterly report to this Tribunal commencing from 01.04.2020. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the secretary level and ensuring appropriate adverse entries in the ACRs. Monitoring at State level must take place on fortnightly basis

and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose. Monthly progress report may be furnished to Secretary, Ministry of Jal Shakti with a copy to CPCB. Steps for in situ remediation as an interim measure may be ensured as directed above as per laid down timeline. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.

CPCB may after scrutiny finalize the Action Plans relating to P-III and P-IV also as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the Action Plans prepared by the States which may start forthwith, if not already started.

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47. We now sum up our directions as follows:

- i. 100% treatment of sewage may be ensured as directed** by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 **by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.**
- ii. Timeline for completing all steps of Action Plans** including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case **will remain as already directed. In default, compensation will be liable to be paid** at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.
- v. The Chief Secretaries** may set up appropriate monitoring mechanism at State level **specifying accountability of nodal authorities not below the Secretary level and ensuring appropriate adverse entries in the ACRs of erring officers.** Monitoring at State level must take place on **fortnightly basis and record of progress**

maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose.

xi. Since the report of the CPCB has focused only on BOD and FC without other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification, a survey may now be conducted with reference to all the said parameters by involving the SPCB/PCCs within three months. Monitoring gaps be identified and upgraded so to cover upstream and downstream locations of major discharges to the river. CPCB may file a report on the subject before the next date by e-mail at judicial-ngt@gov.in.

xii. Rivers which have been identified as clean may be maintained.”

4. The issues raised in the present application are similar and identical which are being considered in Original Application No. 673/2018. Following issues are also required to be finally decided:

- (i) Whether a uniform policy is required to be framed for no construction zone from high flood level on river banks.
- (ii) The minimum distance of no construction zone from high flood level in light of densely populated cities situated at the bank of river, parameter should be general, or according to the category of cities, or citywise.
- (iii) Future and fate of permanent construction, *ghats*, religious places existing and after demolition and construction.
- (iv) Future and fate of temporary constructions, illegal encroachment and constructions/ huts etc.
- (v) Policy of plantation in no construction zone or on the bank of river.
- (vi) Policy to protect the river bank and its demarcation by pillars, maps, plantation, or boundary by wiring, where there is apprehension of encroachment.

(vii) Irrigation of plantation at the river bank by means of treated water from STP/CETP in a planned manner and ensuring that no untreated water is being discharged into river.

5. In the meantime, the Gujarat State Pollution Control Board (State PCB) and Collector of District are directed monitor the case and act in accordance with the direction passed by the Principal Bench in the case referred above and submit a report in the following manner:

SEWAGE TREATMENT PLAN

Name of the River

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
City	No. of Drains	Discharge of Sewage	Tapped	Un-tapped	Dry	No. of STPs	Capacity of MLD	No. of operational	Non-operational STP No. Capacity MLD	No. of under construction STP

6. We further direct the State PCB to proceed with for realization of Environment compensation in accordance with the direction as above.

7. A similar and identical matter is pending in Original Application No. 673/2018, *“The Hindu”* authored by Shri Jacob Koshy, titled *“More river stretches are now critically polluted: CPCB”*. Since the flood plains identification and zone demarcation with restrictions against any development or construction or encroachment is also an issue being considered in the above Original Application, thus, we are of the view that this application should also be heard and decided with the above Original Application so that the minimum distance from

the flood plain and prohibited zone for construction activities may be similar to the other rivers in the country or the regional area.

8. Accordingly, Registry is directed to place the matter before Hon'ble the Chairperson to pass a suitable order or to tag this application with Original Application No. 673/2018 pending in the Principal Bench of this Tribunal.
9. List on 21.09.2020.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

July 16, 2020
Original Application No. 50/2018 (WZ)
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