

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH
BHOPAL**

Original Application No. 107/2013 (CZ)

AND

Original Application No. 109/2013 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

Paryavaran Avam Manav Adhikar Sanrakshan Samiti,
203, Classic Apartment, Wright Town, Jabalpur
through its Secretary Sandeep Shukla
R/o Village Damua, Tehsil Junnardeo, Dist. Chhindwara

Applicant

Versus

1. Union of India through
Ministry of Environment & Forests,
New Delhi.
2. Central Pollution Control Board,
through its Secretary, Paryavaran Parisar,
E-5, Arera Colony, Bhopal.
3. The M.P. Pollution Control Board,
through its Secretary, Paryavaran Parisar,
E-5, Arera Colony, Bhopal.
4. The Regional Officer, M.P. Pollution Control Board,
Vijay Nagar, Jabalpur, District Jabalpur, M.P.
5. Municipal Corporation, Jabalpur through its
Commissioner, District Jabalpur.
6. The Collector, District Jabalpur,
Madhya Pradesh.
7. Shripal Dairy Farm, situated at bank of Gaur,
Police Chowki, Guraiyagha, P.S. Barela,
Tehsil & District Jabalpur.

8. Rajjak Dairy Farm, situated at bank of Gaur,Respondents
Police Chowki, Guraiyagha, P.S. Barela,
Tehsil & District Jabalpur.

Counsel for Applicant : Shri Rajendra Babbar, Advocate

Counsel for Respondent No. 2 : Shri Suman Mandal & Shri Sandeep Singh, Advocates

Counsel for Respondent Nos. 3 &4: Shri Shivendu Joshi for Shri Purushendra Kaurav, Advocate

Counsel for Respondent No. 6: Shri Sachin K. Verma, Advocate

Dated : March 19th, 2014

Delivered in Open Court by
Hon'ble Mr. Justice Dalip Singh, Judicial Member

1. In these two petitions a common issue has been raised and therefore heard together.
2. The Applicant has raised the issue with regard to the pollution in river Gaur which merges into the river Narmada and therefore the issue with regard to polluting the water of rivers Gaur and Narmada is the concern in these two petitions. It was alleged by the Applicant that in the city of Jabalpur on the banks of river Gaur which merges into the river Narmada at Village Jamtara a dairy hub has been developed and thousands of cattle and buffalos are being maintained in these dairies in the aforesaid area. It has been further submitted that as a result of this dairy hub, untreated dairy waste is being allowed to flow into the river Gaur and eventually into the river Narmada thereby polluting the river water in violation of the provisions of Water (Prevention & Control of Pollution) Act, 1974. It has also been submitted that the aforesaid activity is hazardous to the environment and more particularly by polluting the water in the aforesaid rivers and since no steps are being taken to prevent the same, these

unlawful activities are going on unchecked. It is prayed to direct the Respondents to take action including removal/shifting of these dairies from the water front of the banks of the river Gaur.

3. After hearing the counsel for the Applicant, notices were issued to the Respondents vide order dated 30th October, 2013 of this Tribunal. The Respondents put in their appearance on 13th December, 2013. The State of Madhya Pradesh moved applications bearing Nos. M.A. Nos. 6/2014 and 7/2014 with the prayer that they may be permitted to adopt the reply filed by the Madhya Pradesh State Pollution Control Board (hereinafter referred to as 'MPPCB') and the Regional Officer of the MPPCB, Jabalpur. The aforesaid prayer was acceded to and the State functionaries/Respondent No. 6 were directed to adopt the reply filed by the Respondent Nos. 3 & 4.
4. The Respondent No. 1 submitted their reply on 24th February, 2014 wherein the Ministry of Environment of Forests (hereinafter referred to as 'MoEF'), Government of India stated as under : -

“As per the provisions of Environment Impact Assessment Notification, 2006 as amended in December, 2009, the environmental clearance of Building and Construction & Township and Area Development Projects is covered under items 8(a) & (b) of the schedule to the Notification. These are category 'B' projects which are appraised by the State Level Expert Appraisal Committees Authority (SEIAA). The details of the project that are to be appraised by SEIAA are as follows : -

(a) The builtup area > 20000 sq. mts. and <150000 sq. mts. for building and construction projects.

(b) Covering an area > 50 hectares and or built up are > 1,50,000 sq. mts. for township and area development projects.

That the MoEF has no role to play in the matters of grant of Environmental Clearance (EC) for the projects of dairy farms. Regarding the issuance of EC to the dairy farms no such clearance is accorded to Dairy Farms running on the bank of Gaur River by this Ministry. It is submitted that the required Permission/License for Dairy Farms is granted by the concerned Municipal Authority. While consent to establish/operate has to be issued by State Pollution Control Board”

5. The Municipal Corporation, Jabalpur has not filed any reply to the Applications and has remained *ex parte*. During the course of hearing on 3rd January, 2014, learned counsel appearing for the MPPCB Shri Shivendu Joshi brought to our notice that identical issues have been raised and are pending before the Hon'ble High Court of Madhya Pradesh at Jabalpur by way of writ petitions in which various directions have been issued by the Hon'ble High Court from time to time. The details of such writ petitions were pointed out in para '3' of the reply i.e. W.P. Nos. 1219/98 titled Nagrik Upbhokta Margdarshak Manch Vs. State of Madhya Pradesh and 6271/2007 (Glenn Paul Vs. State of M.P. & Ors. and W.P. No. 5203/2009.
6. It was submitted, on the basis of the above, that since the Hon'ble High Court is seized of the matter since the year 1998 and orders have been passed from time to time, this Tribunal, therefore, need not proceed with the present applications. In view of this statement, learned counsel for the parties were advised to consider and apprise their clients whether the Applicant would be willing to approach the Hon'ble High Court in the pending matters or they would move an application before the Hon'ble High Court for the transfer of the aforesaid matters to this Tribunal. Opportunity was given to the learned counsel for the parties to apprise this Tribunal of the option of which the Applicant was willing to exercise. However on subsequent dates learned counsel for the Applicant, Shri R.S. Verma did not appear as such this Tribunal has no information as to whether the Applicant has opted to approach the Hon'ble High Court or has moved the application before the Hon'ble High Court for transfer of the aforesaid matters to this Tribunal.

7. Be that as it may. Shri Sachin Verma, learned Standing Counsel for the State of Madhya Pradesh on 14th February, 2014 placed before this Tribunal a letter written by the Divisional Commissioner, Jabalpur to the Principal Secretary, Revenue Department, Government of Madhya Pradesh indicating that in pursuance of the directions of the Hon'ble High Court in W.P. No. 1219/98 and as directed by the learned Advocate General vide his letter dated 20th September, 2013, the Government was required to identify alternate site for shifting the dairy hub from the banks of river Gaur around Jabalpur and the said alternate site be transferred to the Municipal Corporation, Jabalpur so that the dairies existing alongside the river Gaur could be shifted to the newly created dairy hub and the problem with regard to water pollution in the river Gaur and river Narmada could be checked. It was further submitted that the District Collector, Jabalpur had identified a site measuring an area of 19.40 hectares and had recommended its transfer to Jabalpur Municipal Corporation free of cost for shifting the dairy hub in public interest.
8. This Tribunal sought to know from the learned counsel for the State of Madhya Pradesh as to what had transpired since the aforesaid letters were written more than three months ago. Learned counsel for the State submitted that he would get the required information and place the same before the Tribunal on the next date of hearing.
9. The learned counsel for the State on 24th February, 2014, submitted that the Government of Madhya Pradesh had informed the District Collector, Jabalpur vide their letter dated 22nd February, 2014, that they agree in principle with the request for creating a dairy hub on the proposed new site but stated that the land could not be allotted or transferred to the Municipal Corporation free of cost as desired and it could only be done on

cost basis in accordance with the existing rules. It was further stated in the letter that there is no provision under the existing statutory rules for transferring Government land to the Municipal bodies free of cost.

10. Learned Standing Counsel for the State sought time on a specific query put to him as to whether it was possible for the Government in the Revenue Department to transfer the land as proposed, to the Department of Animal Husbandry instead of Municipal Corporation for the aforesaid purpose if the Government is willing to do so. During the course of hearing today, learned Standing Counsel Shri Verma, has filed a report along with the letter of the Deputy Secretary in the Revenue Department dated 22nd February, 2014 as also the letter dated 12th March, 2014 of the District Collector, Jabalpur addressed to the Deputy Secretary, Revenue Department, Govt. of Madhya Pradesh.

11. According to the aforesaid correspondence and decision of the Government, Government has proposed setting up of dairy hub under the control of Department of Animal Husbandry to which the land from the Revenue Department shall stand transferred free of cost for the aforesaid purpose. The land shall remain mutated in the name of the Department of Animal Husbandry as proposed by the District Collector, Jabalpur.

12. It was submitted that scheme with regard to the creation of the dairy hub lies within the domain of the Department of Animal Husbandry and as such the Revenue Department which is now seized of the matter in pursuance of the recommendations of the District Collector, is proposing to make the allotment free of cost to the Department of Animal Husbandry which would take care of shifting of the existing dairies to the proposed new site. It was submitted that with the shifting of the dairies from the

existing site to the proposed new site which is at a considerable distance from the water front of the rivers, the problem with regard to the pollution of water of the aforesaid two rivers would be taken care of.

13. We have considered the aforesaid submissions as also in the light of the objections raised by the learned counsel for the MPPCB and as was brought to our notice by the learned counsel for the parties that the Hon'ble High Court is already seized of the matters since 1998 and several orders in this behalf have been issued from time to time, we are of the opinion that the matter now got sufficient attention and seems to have achieved some kind of resolution with the Government being sensitized with the aforesaid issue and since the Hon'ble High Court is seized of the matter, we would not like to pass any direction in this behalf.

14. As regards various violations as were pointed out in the applications against individual dairy owners located alongside the river Gaur and Narmada, who are alleged to be polluting water in the aforesaid rivers without establishing regulation mechanism for the disposal of waste generated by their dairy farms, the Respondent Nos. 3 and 4 i.e. MPPCB and Regional Officer of PCB at Jabalpur have given out that they have already conducted inspection of various dairies and issued notices to the defaulting dairy owners under the provisions of the Water (Prevention & Control of Pollution) Act, 1974. Some of these dairy owners have also been issued with notices with regard to the closure of their dairies in terms of Section 33(a) and they were asked to rectify else their electricity and water connection shall be disrupted.

15. So far as aforesaid grievance is concerned, we are of the view that the Regional Officer of the MPPCB shall carry out required inspections

particularly of those dairies which were found to be defaulting and to whom notices have already been issued. In case the concerned dairy owners have failed to rectify and remove the deficiencies and irregularities and failed to check the discharge of waste and untreated sewage, the Regional Officer shall take immediate action in accordance with law. The Pollution Control Board should regularly monitor the standards of parameters prescribed for dairy farms listed in Schedule –I under Environment (Protection) Rules, 1986 and take action against the defaulters till they are relocated at the proposed alternate site. The action taken report by way of compliance of our order shall be filed before the Tribunal within four weeks from today.

16. Another issue that has been raised in the Application is on account of the alleged encroachment by the Respondent No. 7, the owner of Sripal Dairy on the banks of the river Gaur of more than 20 acres of Government land. This issue does not strictly fall within the purview and jurisdiction of this Tribunal. However, learned counsel for the State submitted that since no reply has been filed before the Tribunal by the State/Respondent No. 6 Collector, Jabalpur and the reply of Respondent No. 3 and 4 has been adopted, this issue was not examined. He would get the factual report and place the same for record of the Tribunal and in case any action is required to be initiated he would inform the District Collector to take action in accordance with law.

17. The issue which has been raised with regard to the non-observance of the provisions of the Environment (Protection) Rules, 1986 causing pollution of water in the aforesaid two rivers by the dairies by not taking adequate measures for removal and treatment of the dairy waste, we expect that the State Government and particularly the Department of Animal Husbandry

which is now going to create new dairy hub on the proposed land which the Revenue Department seeks to transfer to it, frames a proper scheme in consultation with MPPCB which would include the required infrastructure for effective management of the dairy farms and scientific disposal of the dairy waste.

18. We have been informed that before the Hon'ble High Court the proposed scheme has been submitted. In view of this, we are not inclined to proceed with this matter any further. The Applicant is at liberty that in case he is aggrieved, he may approach the Hon'ble High Court in this behalf.

19. In the above terms, these applications stand disposed of.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal:
March 19th, 2014

NGT