

**NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 51/2016/EZ

**CORAM : Hon'ble Mr. Justice S.P. Wangdi, Judicial Member
Hon'ble Mr. Ranjan Chatterjee, Expert Member**

**Ambar Nath Sengupta, S/o Lt. Aghore Nath
Sengupta , Aged about 78 years, Resident of
E-320, Neelamber Vihar Complex 40 Dum Dum
Road, Kolkata-700074.**

....

.... Applicant

-Versus-

सत्यमेव जयते

- 1. State of West Bengal,
Represented through its Chief Secretary,
Nabanna (14th Floor),325, Sarat Chatterjee Road,
Shibpur, Howrah-711102.**
- 2. The Member Secretary,
West Bengal Pollution Control Board
Paribesh Bhawan, 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata-700098.**
- 3. The Commissioner Kolkata Police,
8 Lalbazar Street, Kolkata 700001.**
- 4. The Commissioner Kolkata Municipal
Corporation No. 5, S.N. Banerjee Road, Kolkata-
700013.**
- 5. President Belur Math, Belur, Dt. Howra.Pin-
711202**
- 6. President/Secretary Ramkrishna Mission,
Baghbazar.1, Udbodhan Lane Baghbazar, Kol-
70003**
- 7. Secretary, Dakshineswar Kali Temple, Po:
Alambazar, Kol-700035**
- 8. Secretary, Executive Committee, council of
Sevaits, Kalighat Temple, 24A, Kalighat Lane, Kol-
731233**

9. **Secretary, Shri Shri Tarapith Sebayat, Vill.-
Tarapith, Po: Chandipur, Dt.-Birbhum Pin 731233**
10. **Chairman Jagannath Temple, Shri Dibya Singh
Dev Ganpati Maharaj, Sri Nahar, Puri Pin 752001**
11. **President/Secretary, Kashi Biswanath Temple,
Varanasi, Pin-221001
(Respondent 10 & 11 deleted)**
12. **State of Bihar,
Through its Chief Secretary,
Old Secretariat, Patna-800015**
13. **State of Jharkhand,
Through its Chief Secretary,
Secretariat, Ranchi-834004**
14. **State of Odisha,
Through its Chief Secretary,
Secretariat, Bhubaneswar-751001**
15. **State of Assam,
Through its Chief Secretary,
Assam Sachivalaya, Block C,
3RD Floor, Dispur, Guwahati-781006**
16. **State of Meghalaya,
Through its Chief Secretary,
Meghalaya Civil Secretariat,
Shillong-793001**
17. **State of Manipur
Through its Chief Secretary,
Manipur Secretariat, Imphal-790001**
18. **State of Arunachal Pradesh,
Through its Chief Secretary,
Arunachal Pradesh Civil Secretariat,
Government of Arunachal Pradesh,
Itanagar-791111**
19. **State of Nagaland,
Through its Chief Secretary,
Nagaland Civil Secretariat, Kohima-
790001**
20. **State of Mizoram,
Through its Chief Secretary,**

Civil Secretariat, Aizwal-799001

21. **State of Tripura,
Through its Chief Secretary,
Civil Secretariat, Agaratala-799001**
22. **State of Sikkim,
Through its Chief Secretary,
Secretariat, Gangtok-737101**
23. **UT of Andaman & Nicobar,
Through its Chief Secretary
Secretariat & Administration,
Government of Andaman & Nicobar Islands,
Port Blair**
24. **Howrah Municipal Corporation
Through Municipal Commissioner,
4, Mahatama Gandhi Road,
Howrah-711101**

.... Respondents

- For the applicant : In person**
- Respondents No. 1&3 : Mr. Sudip Kumar Datta, Advocate**
- Respondent No.2 : Mr. Sibojyoti Chakraborty, Adv.**
- Respondent No.4 : Mr. Alok Kr. Ghosh, Advocate**
- : Mr. Gopal Chandra Das, Advocate**
- : Mr. Somnath Ghosal, Advocate**
- Respondents No.5&6 : Mr. Nilabja Seal, Advocate**
- : Mr. Malay Kumar Seal, Advocate**
- : Mr. S. Chatterjee, Advocate**
- Respondent No. 7 : Mr. Somnath Ghosal, Advocate**
- Respondent No.8 : Mr. Dipanjan Dey, Advocate**
- : Mr. Dipak Dey, Advocate**
- Respondent No.12 : Mr. Ashok Prasad, Advocate**
- Respondent no.13 : Mr. Binod Kumar Gupta, Advocate**
- : Ms. Aishwarya Rajyashree, Adv.**
- Respondent No.14 : Mr. Bidesh Ranjan Behra, Advocate**
- Respondent No.15 : Mr. Gautam Chowdhury, Advocate**
- : Mr. Asit Kr. Hazra, Advocate**
- : Mr. Nirmal Maity, Advocate**
- : Mr. Neelu Joshi, Advocate**

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| | : Mr. Niladri Khanra, Advocate |
| | : Mr. Mrinal Kumar Maity, Advocate |
| Respondent No.16 | : Mr. Ashish Barua, Advocate |
| Respondent No.17 | : Mr. Sapan Biswajit Meitei, Adv. |
| | : Mr. Dipankar Saha, Advocate |
| Respondent No.18 | : Mr. K. Ete, Sr. Addl. Adv. General |
| Respondent No.19 | : Mr. Edward Belho, AAG |
| | : Mr. K. Luikang Michael, Advocate |
| Respondent No.20 | : Mr. Biswajeet Deb, Adv. General |
| Respondent No.21 | : Mr. Arnab Ray, Advocate |
| Respondent No.22 | : Mr. Avneesh Arputham, Advocate |
| | : Mrs. Aruna Mathur, Advocate |
| Respondent No.23 | : Mr. Swapan Kumar Ghosh, Adv. |
| Respondent No.24 | : Ms. Amrita Pandey, Advocate |
| Respondent No.25 | : Mr. Surendra Kumar, Advocate |
| | : Mr. Ashok Prasad, Advocate |

Judgment reserved on : 1st September, 2017

Judgment pronounced on : 6th October, 2017

1. Whether the judgement is allowed to be published on the net ?
Yes/No
2. Whether the judgement is allowed to be published in the NGT Reporter : Yes/No

J U D G M E N T

Per Justice S.P.Wangdi, JM:

1. Mr. Ambar Nath Sengupta, a retired Scientist and Deputy Director of Central Fuel Research Institute, Dhanbad, which is a research Institute of Council of Scientific and Industrial Research, New Delhi, filed this application under Section 18(1) read with Sections 14 and 15 of the National Green Tribunal Act, 2010 (in short, NGT Act) seeking for directions against the respondents in general and the West Bengal State Pollution

Control Board (in short WBSPCB) in particular, to implement the guidelines issued vide their order dated 13.09.2015 wherein various measures have been suggested for maintenance of cleanliness of river Hooghly after immersion of idols during various Puja festivals. Further direction has been sought for against the WBSPCB to constitute a committee to conduct a scientific study to assess the impact of Plaster of Paris (in short, PoP), a powder used for making idols, on its potential to cause pollution of water and to suggest remedies therefor.

2. It is the contention of the applicant that PoP used for making idols and the various toxic chemicals used for its painting severely affect the water bodies after immersion and the left-over waste materials like Puja articles, straw, wood, dry flower, earthen Pots, Plastic items, etc., also have deleterious effect leading to pollution of the water bodies resulting in the death of flora and fauna. It is contended that in order to protect the water bodies from contamination caused by unregulated idol making and immersion, guidelines have been issued by Central Pollution Control Board, New Delhi (in short CPCB) in 2010 and the WBSPCB in 2015 but, these are not being implemented effectively resulting in irreversible pollution being caused to river Hooghly and that his written complaints to the Kolkata Municipal Corporation (in short KMC), has not resulted in any tangible action being taken by KMC to prevent the unregulated immersion of idols and disposal of waste materials in the water bodies.

3. The applicant has also expressed concern by the contamination and pollution of water caused by the Puja practices followed in famous temples

like Kalighat, Dakhineswar, Tarapith, Ram Krishna Mission at Belur Math, etc., where the offerings of flower, leaves and other organic matters made the previous day including waste food are immersed in the river and other water bodies on the belief that disposal otherwise would be a sacrilege. As a means to get over the deleterious effect of such practice and immersion of idols, the applicant has suggested complete prohibition of idol immersion in water bodies and to adopt the practice of “Bhumi Shodhan” which has been described by the applicant as follows:

“Contrary to the above in Bhumi Shodhan the idols will be obliterated simply by water spraying with hand sprayer (syringe) as used in the holi festival in the same platform where puja was performed or in isolated place putting the idol over a perforated elevated platform made with metal structure as constructed for making stage for cultural programme where water will be sprayed by mechanical means to melt down the earth underneath as water is suitably collected in plastic water tank from where the water it will be recycled for spraying for subsequently placed idols. So that the process is carried out in close circuit to avoid flooding the premises. The left over structures will be removed to a separate place for segregation and reuse including the earth which is collected from Ganga river and suitably blended to get required texture for idols to be shaped”

According to the applicant, ‘Bhumi Shodhan’ cannot be achieved by following the CPCB guidelines alone. Although his primary prayer is for strict implementation of the CPCB guidelines, 2010 and the WBSPCB notification of 2015, the applicant additionally suggests using the materials like flowers and other biodegradable materials after being segregated in

the manner stated in his proposal, for manufacture of colours and other kind of materials for composting / land filling, etc.

4. Although in this case the applicant has raised questions relating only to the State of West Bengal and the Lord Jagannath Temple at Puri, Odisha, we have widened it to cover all the States in the region the implementation of the CPCB guidelines of 2010 on idol immersion which is enforceable in the entire country is involved. Accordingly, the Chief Secretaries of all the States within jurisdiction of this Bench and the Howrah Municipal Corporation were impleaded as parties directing them to file affidavits on the action taken by them on the implementation of the CPCB guidelines and the rules framed on the subject, if any.

5. On 21st Sep 2016, considering that the Durga Puja festivals was at the threshold, following interim directions were issued by us.

- (i) The States shall ensure that the CPCB guidelines are strictly adhered to.
- (ii) The state shall issue public notices for information of the general public informing them of the regulations provided in the guidelines in the form of issuing advertisement in the local news paper, All India Radio in regional language, FM Radio, Television etc.
- (iii) The states to discourage the artisans using PoP and toxic colours for making the idols.
- (iv) Immersion of such idols shall be strictly regulated to ensure that it does not take place in a centralised area and is allowed strictly in accordance with the CPCB guidelines.
- (v) In order to ensure compliance of this, the respective States shall direct the District Magistrates, Superintendents of Police, PCB etc. to monitor not only the immersion but also the preparation of idols by the artisans.

6. Pursuant to the orders passed on different dates, the State respondents filed their responses, the important aspects of which are summarized below:

- (i) R 2 West Bengal Pollution Control Board:- PoP is not used in West Bengal. Pop is not toxic. Water pollution will be minimum if removed after a short period of immersion.
- (ii) R 4 KMC:- CPCB guidelines are followed. Immersion Ghats are cleared next day.
- (iii) R 5 & 6 Ramkrishna Math Belur Math: As per CPCB guidelines.
- (iv) R 7 Dakhineswar Kalimaa:- Biodegradable wastes are converted to manure. No biodegradable wastes are handed over to the Municipality.
- (v) R 12 Bihar:- CPCB guidelines are followed.
- (vi) R 13 Jharkhand:- NGT Eastern Bench order & CPCB guidelines followed.
- (vii) R 14 Odisha:- CPCB guidelines are followed. The order of Hon'ble Odisha High Court in WP (C) No. 18356 of 2015; in **Girija Prasad Tripathy Vs SPCB, Odisha**, is being followed during Ganesh Puja, Durga Puja, Kali Puja and Laxmi Puja.
- (viii) R 15 Assam: CPCB guidelines are followed. Neither plaster of Paris nor toxic chemicals used are being used.
- (ix) R 16 Meghalaya:_ Direction has been issued to DMs to ensure compliance of CPCB guidelines 2010 and order of NGT Principal Bench in Application No. 65/2012(TC) **Sureshbhai Keshavbhai Waghvankar & Ors Vs State of Gujrat & Ors**.
- (x) R 17 Manipur:- CPCB guidelines and NGT orders are implemented.
- (xi) R 18 Arunachal Pradesh: It is not a major issue. There is strict implementation of CPCB guidelines.
- (xii) R 19 Nagaland:- Very few idols in the State. PoP not in use. CPCB guidelines are followed.
- (xiii) R 20 Mizoram:- As people from Hindu community are less in the State very less number of idols are made. No PoP used. Idols are made of clay.
- (xiv) R 21 Tripura:- CPCB guidelines are followed, water quality is monitored before, during and after Puja.

(xv) R 22 Sikkim: Idol immersion rarely practiced. No idols are made. Photos of God & Goddess are worshiped.

(xvi) R 23 Andaman & Nicobar Administration: CPCB guidelines followed.

7. We have perused the affidavits filed by the States and the other respondents and heard the applicant and the learned counsel for the respondents. We have also perused the observations and written notes submitted by the applicant.

8. Although the State respondents have contended that the CPCB guidelines and the notifications/orders issued by States are being followed strictly and that all solid waste materials are being removed by the very next day of the immersions by the local urban bodies thereby getting rid of all pollutants, in reality it was found not to be so. The facts and circumstances unmistakably revealed permeation of the synthetic colours containing toxic heavy metals used extensively for painting idols in the water body when the idols are immersed. The guidelines dated 18.06.2010 was issued by the CPCB consequential to a judgment of the High Court of Bombay in Writ Petition No. 1325 of 2003 in the matter of **Janhit Manch Vs The State of Maharashtra & Ors.** while dealing with this very aspect.

9. The circumstances that led to issue the guidelines and its object are stated in the first two paragraphs of the guidelines which read as under:

“1.1 Idol worship has been in the practice in India since ancient time. To worship God and Goddess only natural things like Milk, Curd, Ghee, Coconut, Beetal and River Water were usually used. Idols were made with clay and then coloured with natural colours like Turmeric. The religious scripts, mythology and rituals have

attempted to drive the importance of preserving nature by adoring it through the centuries. Bhagavadgita (9.26) states:

***“Patram Pushpam phalam toyam, yo mey bhaktya prayachhati
Tadaham bhakt yupahrutam asnaami prayataatmanaha”***

In the present scenario, metals, ornaments, oily substances, synthetic colours, chemical are used to make polish and decorate idols for worship and when these idols are immersed our aquatic and surrounding environment get severally affected. Hence, there is urgent need to develop the guidelines for idol immersion.”

It would thus appear from the above that the guidelines were issued aimed at encouraging the citizens to revert back to the use of natural colours by bringing to the fore the severe harm that paints containing heavy toxic metals cause to both aquatic and terrestrial environments.

10. The essential portion of the guidelines issued by the Central Pollution Control Board prescribe as follows as:-

“2.0 GUIDELINES:

- (i) Idols should be made from natural materials as described in the holy scripts. Use of traditional clay for idol making rather than baked clay, Plaster of Paris, etc. may be encouraged, allowed and promoted.
- (ii) Painting of Idols should be discouraged. In case idols are to be painted, water soluble and nontoxic natural dyes should be used. Use of toxic and non-biodegradable chemical dyes for painting idols should be strictly prohibited.
- (iii) Worship material like flowers vastras (clothes), decorating material (made of paper and plastic) etc. should be removed before immersion of idols. Bio-degradable materials should be collect separately for recycling or composting. Non-biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan house(s).

- (iv) Public should be educated on ill effects of immersion in the holy water bodies through mass awareness programme.
- (v) The 'Idol Immersion Points' shall be cordoned off and barricaded. Synthetic liner may be placed in the bottom, well in advance. The said liner shall be removed on completion of immersion ceremony so that remains of idols would be brought to the bank. Bamboo and wooden logs, if any would be reused. Clay, etc. may be taken to sanitary land fill for disposal.

2.2 General Guidelines for Local Bodies/Authorities:

- (i) Local bodies/District Authorities generally make efforts to identify adequate number of designated immersion spots to avoid overcrowding and also to reduce pollution load on water bodies, such spots need to be notified and public and pooja committees be informed of such designated sites through awareness programme preferably a month before such events of idol immersion. All the stakeholders such as River Authority, Port Authority, Water Supply Board, Irrigation Department, etc. be consulted for identification of the Immersion Ghats, where flow in stream is naturally available.
- (ii) A co-ordination Committee comprising Police, Non-Government Organizations, Local Authorities, SPCBs, representatives of pooja committees and stakeholders may be set up for guiding the public in carrying out the immersion with minimal impact on water bodies.
- (iii) At the immersion sites, burning of solid wastes, so generated comprising of used flowers, clothes, decorating materials, etc. should be prohibited.
- (iv) Within 48 hours of the immersion of idols, the left over material at idol immersion points on the banks of rivers, lakes, beaches, etc. should be collected by the local bodies for disposal as per point 2.1.(iii) above.
- (v) In case of immersion of idols in rivers and lakes, arrangement may be made for construction of temporary confined ponds with earthen bunds for the purpose of immersion of idols. After the completion of immersion, supernatant water may be allowed to

flow in river, pond and lake, as the case may be, after checking for colour and turbidity. Lime may be added in temporary confined ponds.

- (vi) The Pooja organizers be involved in a campaign on the ill effects of the toxic components of coloring materials, not only of the idols, but also other decorating materials used during the festive season. Specific leaflets and poster for mass awareness may be prepared and the Pooja committees persuaded to be display such posters and distribute leaflets among worshipers.

2.3 Guidelines for Idol Immersion in lakes:

In case of immersion of idols in lakes or ponds, all the flowers, leaves and artificial ornaments of idols should be removed and idols may be immersed into a corner of pond using removable synthetic liners in the bottom. Post immersion, liners may be taken out along with remains of idols and lime should be added to the pond water for settling the solids. Desludging of the pond should be undertaken afterwards.

2.4 Guidelines for Idol Immersion in Rivers:

Temporary ponds having earthen bunds along river bank should be created as idol immersion spots. Removable synthetic liner may be placed well in advance in bottom of pond. The said liner along with remains of idols should be removed from the point within 48 hours of immersion of idols.

2.5 Guidelines for Idol Immersion in Sea:

In case of Idol immersion in sea, immersion may be done between low tide line and high tide line (irrespective of its depth). The low tide line and high tide lines may be identified and marked well in advance. Motor Boats with security personnel/home guards with adequate safety equipments be deployed to supervise the immersion.

3.0 ROLE OF STATE POLLUTION CONTROL BOARDS (SPCBS) & POLLUTION CONTROL COMMITTEES (PCCS)

(i) Concerned SPCB/PCC should conduct water quality assessment of the water body, preferably in Class-1 cities (having population more than one lac), at three stages i.e. pre-immersion, during immersion and post immersion. Considering the size of water body, appropriate number of sampling locations may be determined in order to get a fairly representative assessment of water quality. For ascertaining water quality, physico-chemical parameters such as PH, DO, BOD, COD, Conductivity, Turbidity, TDS, Total Solid and Metals (Chromium, Lead, Zinc and Copper) may be analyzed and results posted on the SPCB's website.

(ii) SPCB/PCC shall help to local administration in preparing material for mass awareness for the purpose."

11. Considering the facts and circumstances in the case the questions arise for our consideration:-

- (i) Whether the PoP is a water pollutant? Is it necessary/desirable to use PoP in idol making?
- (ii) Is it necessary/desirable to use toxic inorganic chemicals in painting of idols?
- (iii) Should the height of the idols and size of Pandals be limited?
- (iv) Whether CPCB guidelines are adequate to prevent pollution of water bodies?
- (v) Whether the practice of Bhumi Sodhon can be adopted as suggested by the applicant as a substitute to immersion in water bodies?

12. Before we proceed to deal with the questions, we may take note of some decisions of the various Zonal Benches of the N.G.T. in which the issues raised in the present application have been considered with in sufficient detail.

13. In Application No. 65/2012 in the matter of **Sureshbhai Waghavakar & Ors Vs. State of Gujrat & Ors**, the Principal Bench of NGT issued the

certain directions vide judgment dated 09.05.2013 against all State Pollution Control Boards in the country on the use of PoP in idol making and its impact on waterbodies after immersion. The directions read as follows :-

“44. Before parting with the present matter, we may observe that the use of PoP for making/manufacturing of not only Ganesh idols, but also nay other idols or articles made of PoP which are traditionally immersed in rivers, ponds, sea, or other water bodies deserve reasonable restrictions. It is also necessary to strike a proper balance while imposing such restrictions. We do not think it proper to pre-determine the nature of restrictions and impose our views on the competent authority. However, we deem it proper to give certain directions to the SPCBs in general and to the GPCB in particular, for preventing water pollution.

45. In the result, the Application is partly allowed. The impugned communication dated 23.01.2012 is quashed to the extent of condition no.1 stated therein i.e. which restricts use of PoP for manufacturing/making of idols. The other prayer pertaining to challenge to the guidelines dated 18.06.2010 stands dismissed. Other conditions no. 2 to 12 shown in the impugned direction of the Govt. of Gujarat are kept intact till further directions issued by GPCB or State Government or CPCB.

46. We direct the GPCB and all the other Pollution Control Boards which are covered by the Water Act to undertake scientific study of the impact of PoP made idols on immersion thereof, in relation to water quality of rivers, ponds, sea, or other sources and examine whether it is an environment pollutant.

47. We also direct the said PCBs to examine whether the immersion of PoP made idols, in fact, cause nuisance, though the PoP by itself may not be a water pollutant. After conducting such scientific study by appointing an Expert Committee, the Pollution Control Board or the Central Government or the State Government may issue appropriate directions in accordance with the powers available under section 33 –A of the Water Act or any

other provisions under the Water Act or any other Act, in order to control water pollution or to avoid the nuisance caused on account of immersion of the PoP made idols.

48. Since the Ganesh festival and other festivals are in the offing, it is desirable that the Gujarat PCB as well as the other PCBs should complete the exercise mentioned above within a period of three (3) months and thereafter the SPCB or Government may issue the necessary directions, if so deemed proper, under provisions of the Water Act or any other act, as may be permissible and deemed proper.

49. We expect that the Pollution Control Boards or the Government would also decide and set out norms/benchmark for the heights of PoP idols which are to be ultimately immersed, in accordance with the nature of the immersion places, even though PoP is not found to be an "environment pollutant". For example, the idols to be immersed into sea water may not be of more than 8-10 ft. height and the idols to be immersed in ponds may not be of more than 5 ft height, so on and so forth. So also, the local bodies may be required to create artificial ponds, in the absence of appropriate water resources like ponds, lakes, etc. for temporary purpose of immersion of PoP idols.

50. A copy of the judgment be immediately made available to the CPCB and MoEF through their Counsel. The counsel shall inform the MoEF/CPCB to circulate copies of the judgment to all the concerned authorities/PCBs of States to act upon the above directions/recommendations within the time frame given above. The compliance shall be reported to the Registry of this Tribunal by all PCBs/CPCB/Forest and Environment Department of the Central Government as well as the State Governments within two (2) weeks after the scheduled period of three (3) months. They may also be made aware of the adverse consequences on account of non-compliance of the directions which may entail in accordance with section 26 or section 28 of the National Green Tribunal Act, 2010.

The application is accordingly disposed of with no order as to costs."

14. In Application No. 58/2013(EZ) in the matter of **Dr. Subhas C. Pandey Vs State of Madhya Pradesh & Ors**, the Central Zone Bench of the NGT passed the following directions:

“19. We would therefore, while disposing of this application, direct the State Governments of Rajasthan, Madhya Pradesh and Chhattisgarh to ensure compliance of the guidelines issued by the Central Pollution Control Board in June, 2010 and comply with the measures that have been indicated by way of precaution and persuasion and creating awareness among the general public as environmental pollution is irreversible since environment deals with basic elements that affects each and every human being and no one can claim that he is not going to be affected as a result of pollution to the environment. In view of the above, creating awareness on the environmental issues would be the main key and such awareness, shall be created and at the grass root level in the Village Panchayats and more particularly with the help of the religious leaders, as in the instant case we have dealt with problem of pollution as a result of the religious activities, would go a long way in curbing the problem of pollution of water bodies as a result of the immersion of idols and Taziyas therein.

Though, we have disposed of the present application, we direct that the State Pollution Control Board which are the watchdogs under various Environment Acts for ensuring the standards and quality of water, air, etc. shall take samples at regular intervals and analyze them and place the same in public domain and further try to find out the cause for the particular polluting material so that the concerned authorities to whom such recommendations can be made to prevent such pollution, can take effective measures to remedy and curb the same.

20. The applicant or any other public spirited person, in case finds that the directions that we have issued hereinabove and more particularly, the guidelines issued by the CPCB in this behalf are being flouted or not being observed, would be at liberty to

approach this Tribunal by way of a Miscellaneous application for revising, investigation and issue of any further directions as well as taking action for non observance or violation of the directions given herein in accordance with the provisions of the Act.

The Tribunal records the appreciation on the part of the applicant in bringing forward the issue as well as initiatives taken by the three States in this behalf since it was for the first time probably that such measures were required to be taken by the State and District Administration for the compliance of the aforesaid guidelines issued by the CPCB. We may also add and appreciate the role of the religious leaders in Jhabua town for creating awareness amongst the people particularly in their community in using only biodegradable and environment friendly material in the preparation of the Taziyas and even as we are informed that the performing symbolic immersion by sprinkling water on the Taziyas rather than going in for immersion in the water. This is something which can be followed by other religious leaders by persuading members of their community to observe such measures to protect the environment in accordance with the Fundamental Duties required to be performed by every citizen of this country under Article 51 (A)(g) of the Constitution.

15. The Southern Zone Bench of NGT at Chennai, in Application No. 228 of 2014 (SZ) in the matter of **R. Janakirananam Vs The Principal Secretary, Govt. of Tamil Naidu & Ors.** while banning immersion of idols containing PoP and other chemicals directed as follows:-

“12. We have no information whether the Respondent Tamil Nadu State Board has undertaken such scientific study on the effect of immersion of PoP made idols in the water bodies and issued any directions based on the outcome of the study. If not, we direct the Board to conduct the study and if required, advise the State Government for total imposition of ban on making idols with PoP based on the scientific data which may stand scrutiny in the eyes of law.

13. However, till such study is made we direct that the State Govt. and the Board shall reiterate for the strict implementation of the aforesaid guidelines issued by the CPCB and use of artificial dyes, paints, chemicals, colours, etc. which contain toxic metals, in decorating the idols and which actually cause severe water pollution and health hazard, should be completely stopped.

14. We direct the Respondent no.1 State Government and Respondent no.2 State Board to once again immediately communicate the Guidelines of the CPCB to all the District Collectors, District Environmental Engineers and Local bodies/authorities to strictly implement the guidelines keeping in view of the impending Vinayagar Chaturthi festival in the first week of the next month. The District Administration in all the districts in the State shall undertake the task of creating awareness among the public on the damage caused to the environment and pollution of water bodies due to large scale immersion of idols decorated with paints containing toxic chemicals and improper disposal of pooja material. Cooperation of Non Government Organizations, Civil Society Groups, Residents' Welfare Associations etc. may be enlisted by the District administration to sensitize the organizers of Pooja Committees of festivals and also the general public and encourage them to use the idols made with only natural clay and decorated with natural colours/dyes and immerse the idols only at designated immersion points earmarked by the District Administration/Local bodies duly ensuring that the pooja material is not thrown into the water bodies but carefully collected and disposed as provided in the Solid Waste Management Rules, 2016. The State Board shall continue to monitor the water quality at the immersion points before, during and after immersion and display the results on its website to create awareness among the public."

From the above, it is quite evident that the concern of the applicant articulated in the present proceedings had been expressed also in other parts of the country before the Benches of the N.G.T. The directions passed

in those cases which have been reproduced above would certainly be of relevance also in the present case.

16. A research conducted by Rupinder Kaur of Department of Zoology, G.M. Khalsa College, Mumbai, on "Effect of idol immersion on marine and fresh water-bodies, published in Pelagia Research Library, Advances in Applied Science Research, (2012, 3(4) : 1905-1909), revealed that water samples collected from two major idol immersion sites, Shivaji Park, Mumbai and Masunda Lake, Thane, at the period of pre-immersion, during immersion and after immersion, the water quality parameters increased significantly during the immersion period. Similar study conducted by a team of scientists from Kolkata consisting of Sayan Bhattacharya, Arpita Behra, Abhshek Dutta and Uday Chand Ghosh, published in International Letter of Chemistry, Physics and Astronomy (online:2014-10-02, ISSUED:2299-3843, Vol:39,PP 234-263) also revealed significant changes in the water quality parameters during and after immersion. A comparative study on the impact of PoP and clay idols immersion in water conducted by N.P. Shukla, P.S. Bundela, S.K. Khare and S. Sarsaiya, published in International Journal of Scientific Engineering and Technology (Vol. 3, Issue 7, PP. 861-864), also indicate increase in heavy metals like Chromium, Lead, Zinc, Copper, Iron, Mercury, Nickel and Cadmium, etc.

17. India has a rich cultural heritage and is a country where diverse cultural and religious festivals are organized when idols of Gods and Goddesses are worshiped. Idols are made by artisans using clay, plaster of paris, cloths, small iron rods, plastics, thermocol and bamboo and are

decorated and painted with variety of materials like varnish, water colours, other chemical paints. The Paints used on the idols have been found to contain heavy metals like Mercury, Cadmium, Arsenic, Zinc, Chromium, Lead, etc.

18. Chemically, POP is calcium Sulphate Hemic-hydrate ($\text{CaSO}_4, \frac{1}{2}\text{H}_2\text{O}$) derived from gypsum, a Calcium Sulphate dehydrate ($\text{CaSO}_4, \frac{1}{2}\text{H}_2\text{O}$) reduced to powder by firing at relatively low temperature. This powder (POP) takes several months and even years to dissolve in water. The Principal Bench of NGT, in the matter of **Suresh Bhai Keshavhad Waghvakar and Others-vs-The State of Gujarat and others (supra)**, directed the CPCB and the State PCBs to examine as to whether POP made idols caused nuisance in the water bodies even if they may not have been water pollutants and then to decide on the norms/benchmark on the limits of height of POP idols. It is an established fact that POP is not easily soluble in water and has the potential to make water alkaline when deposited excessively in water bodies and, therefore, harmful to aquatic flora and fauna. In their affidavits the States of West Bengal, Mizoram, Assam and Nagaland for making idols state that material is used there. Although it has been stated by the West Bengal Pollution Control Board that POP is not toxic, the Central Zone of NGT in OA No. 58/2013/CZ, has recorded a finding of the Madhya Pradesh State Pollution Control Board that idol immersions caused pollution of water due to synthetic colours used in decorating the idols.

19. There is no denial by the States on the use of synthetic chemicals in paints applied to the idols. It is no more in doubt that synthetic colour materials contain various toxic heavy metals and that such colours have high potential of causing severe contamination of water bodies that affect its bio-diversity. These heavy metals ultimately penetrate the birds, aquatic life, plants, mammals and humans by inter-relation of food chain thereby adversely affecting every living organism and, therefore, the environment generally.

20. On the issue of restriction of the size of idols and superstructure of pandals, the NGT, Principal Bench, in *Waghavakar & Others –vs- State of Gujarat & Others (supra)*, advised the PCBs and the States to decide on a norm/benchmark for limiting the height of POP idols and suggested 8-10 ft. for the ones that would be immersed in the sea and, 5 ft for ponds. However, thus far no State Govt. has felt it necessary to consider the issue when undeniably the height of idols and the size of super structure of pandals are directly proportionate to the extent of solid wastes dumped into water bodies and the toxic chemicals used in the paints. In West Bengal, the restriction on the height of 40 ft in respect of superstructure as mandated by order of the Hon'ble Calcutta High Court in the case of **Ishita Chakraborty –vs- State of West Bengal & Ors**; COP No. 856 of 2009, is followed more in the breach than in compliance, and quite apparently, no tangible actions have been taken by the authorities against the violators. If newspaper reports are to be believed, the height of Durga sculpture of **Deshapriya Park Durga Puja** Committee during 2015 was 88 ft. and this

year, the pandal height of **Sreebhumi Puja Committee** was as much as 110 ft.

21. CPCB guidelines stipulate creation of temporary ponds having earthen bunds along river banks to be used for idol immersion but as per newspaper reports, in Bhubaneswar alone 60 idols were immersed directly in river Kuakhai.

22. The facts and circumstances thus reveal the brazen non-compliance of the orders of the High Court, the NGT and of the CPCB guidelines by citizens and the indifference of the States respondents to such violations and abdication of their responsibilities towards enforcement of such orders and guidelines.

23. With regard to the adequacy of CPCB guidelines, it is our considered view that contrary to such assertion, we find the guidelines to be exhaustive that cover all aspects and, if implemented in its letter and spirit, pollution of our precious water bodies can be prevented. Considering its grave harmful effects, the use of synthetic colour, compounds containing toxic heavy metals and PoP, in our considered opinion, ought to be strictly prohibited by invoking the Precautionary Principles as mandated under Sec. 20 of NGT Act.

24. The suggestion of the applicant to adopt “Bhumi Sodhan” in preference to immersion of idols, is ideal but, the citizens ought to do so voluntarily and not by compulsion as that may hurt religious sentiments. An exemplary instance of voluntary acceptance of pollution norms by self realization is the case of Akhad Tajiya Committee, in the Jhabua district of

Madhya Pradesh, which volunteered to prepare Tajiya only with biodegradable materials, and to keep them environment friendly using paper 'lac' (paste of wheat flour and water), bamboo tied with string made of 'Son' (a type of grass) and other natural and biodegradable materials. It is, therefore, the awareness of the people of the ill effects of the use of synthetic materials in making idols and the realisation of their responsibility to protect and preserve the environment, that would persuade them to switch over from the bad practice of using plastic, POP, synthetic colour, etc., in making idol to the good practice of using clay, natural colours and biodegradable materials. The State Governments, statutory authorities, local bodies and above all, the religious leaders have a crucial role in sensitizing the people.

25. For all the reasons stated above, we are of the view that the CPCB guidelines are exhaustive in so far as regulation for immersion of idol is concerned, and all that is required is for the State Governments, the local bodies and the State Pollution Control Boards to implement those effectively. In addition to these, we deem it essential to pass the following directions as measures to deal with the other aspects as supplementary to the CPCB guidelines:-

- (i) There shall be a complete ban on the use of POP in idol making till it is established that POP has no negative effect on the water quality and aquatic biodiversity.

- (ii) There shall be a complete ban on the use of synthetic colour for painting of idols that would require immersion as part of final ritual of the festival.
- (iii) The height of the super structure of the idol shall be less than 40ft. and the idol also shall not exceed 20ft in height.
- (iv) All Puja Committees or individual or organisations who organise the festivals also make the idols in pandals raised by them, shall submit a declaration before the respective Municipal Corporation, Municipalities and Panchayats, as the case may be, specifying that in the making of idols and raising super structure:-
- a) No POP shall be used.
 - b) No synthetic paint or colour containing toxic heavy metals like mercury, cadmium, arsenic, lead and chromium shall be used.
 - c) The height of idol shall be limited to 20 ft.
 - d) The height of the super structure shall be limited to 40ft.
- (v) A copy of such declaration will be made available to the respective Regional Pollution Control Boards by the Municipalities/Municipal Corporations/Panchayats and, both the local bodies and PCBs shall make surprise inspection. If any violation is detected, action shall be initiated by imposition of penalty of such sum as may be decided by each of the State Board or as may be prescribed by rules framed therefor and may further prohibit them from organising festivals in future, either temporarily or permanently.

- (vi) As far as practicable, the biodegradable materials be removed before immersion and the concerned local bodies may use these materials for composting and other useful purpose.
- (vii) In case of temples where biodegradable wastes are generated every day in the form of used flowers, leaves, fruits, coconut case etc. there shall be scientific disposal of biodegradable wastes and no such wastes shall be disposed of to water bodies. Disposal of such biodegradable wastes to water bodies will invite penalty to be imposed by the local authorities on the temple committee.
- (viii) We leave it upon the State Governments to frame rules, if not already framed, incorporating the guidelines framed by the Central Pollution Control Board and the above directions. The rules so framed shall also include the punitive action for violation of the rules and the extent and amount of the penalties. The rules thus framed shall be placed before us after three months from hence.

The OA stands disposed of in terms of the above directions.

There shall be no order as to costs.

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Justice S.P.Wangdi, JM

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Ranjan Chatterjee, EM

Dated : 6th October, 2017.