

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION NO. 46 OF 2013 (WZ)**

CORAM:

- 1. Hon'ble Shri Justice V.R. Kingaonkar
(Judicial Member)**
- 2. Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

B E T W E E N:

Dr. UDAYKUMAR VASANTRAO JAGTAP,

Age: 43 years, Occupation: Doctor &
Agriculturist, Neerai Hospital, Saswad,
A/p Saswad, Tal. Purandar, Dist. Pune
Maharashtra, Pin-412301.

.....**APPLICANT**

A N D

1. SASWAD MUNICIPAL COUNCIL,

(A Municipal Council under the Mah.
Municipal Council Act), Through its
Chief Officer, Address A/p Saswad,
Tal. Purandar, Dist. Pune
Maharashtra, Pin-412301.

2. THE MAHARASHTRA POLLUTION CONTROL BOARD

Through Secretary,
Kalptaru Point, 2nd, 4th Floor,
Opp Cine planet Cinema,

Near Sion Circle,
Sion(E), Mumbai-400022.

3. CENTRAL POLLUTION CONTROL BOARD

Through the Member Secretary
Parivesh Bhavan, CBD cum Office Complex
East Arjun Nagar, New Delhi 110 032.

4. THE COLLECTOR, PUNE.RESPONDENTS

Counsel for Applicant

In person

Counsel for Respondent(s):

Mrs. Ujwala Pawar, DGP a/wMs. Shweta Busar Advocate, Mr Ajay Ghodegaonkar Advocate, Mr.Vilas Mahajan Advocate for Respondent No.1.

Mr.D.M.Gupte, a/w Ms, SupriyaDangre, for Respondent No. 3.

Mrs.Manda Gaikwad Adovcate a/w S.B.Turorikar Advoate, for Respondent No.4.

DATE : 4th September, 2014

J U D G M E N T

1. This Application is filed under Section 14(1)(2) read with 15 and 18 of the National Green Tribunal Act, 2010, The Applicant, named above is Doctor by profession. He alleges that that untreated sewage and the Municipal Solid Waste (MSW) disposal practices adopted by the Municipal Council of Saswad, District Pune, are causing pollution of

the water flowing through river 'Karha' and its streams and other water bodies.

2. The Applicant has arrayed Saswad Municipal Council (hereinafter called "Municipal Council") as Respondent-1. Maharashtra Pollution Control Board (MPCB for short) as Respondent-2. Central Pollution Control Board (CPCB for short) as Respondent-3, Collector, Pune is Respondent-4. Respondents 1, 2 and 3 have filed affidavit. However, Respondent-4 has not filed any affidavit nor participated in this proceedings, though Collector is overall in charge of Municipal Councils as per provision of the Maharashtra Municipalities' Act and also, is overall responsible to ensure compliance of MSW rules by Municipal Council.

3. Briefly stated, the case of the Applicant is that Saswad Municipal Council, is not operating existing Sewage Treatment Plant (STP), nor installing the full-fledged new sewage treatment plant, to treat large volume of sewage generated in the city. This untreated sewage goes in to river 'Karha' and its streams directly, thereby causing water pollution. This river further flows downstream where 'Nazre' Dam at Jejuri, Taluka Purandar, District Pune, is located and its water is used for drinking and irrigation purpose in the surrounding areas. The Applicant also alleges that the Council is dumping the MSW near the School and Junior College, causing health hazards. He submits that he had

made complaints to the Authorities and the Authorities have also investigated the complaints and affirmed that the existing sewage treatment and MSW management are not in compliance with the Environment Regulations and the Authorities have also issued Notices, directions, forfeiture of bank guarantees etc. He claims that, however, no substantial improvements or up gradation has been done by the Council and the Authorities have not done anything further than issuing paper Notices. He, therefore, prays for an order directing the Council to stop water pollution and unscientific disposal of municipal solid waste disposal in the river or any water body which will cause health hazards.

4. The MPCB filed first Affidavit on 13-1-2014, and mostly corroborated the facts mentioned by the Applicant. The MPCB submits that they have issued directions to the Council on 15.2.2013, giving them time of one (1) year for submission of approval of the sewage treatment plant. The MPCB also submitted that as the Council has failed to comply with the directions, the Board has issued Show-Cause Notice for prosecution under the Water (Prevention and Control of Pollution) Act, 1974 on 3.12.2013. The MPCB submits that the Council has sought time of 3-4 years for installing the STP. The MPCB further submits that the Board has granted authorization under the Municipal Solid Waste (Management and Handling) Rules,

2000 to Saswad Municipal Council to set up and operate waste processing/waste disposal facility on Survey No.195, Kumbharvalan, Tal. Purandar, on 14th June, 2013. The MPCB submits that the Council has failed to comply with the statutory provisions and also directions of the Board, in order to comply the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and the Municipal Solid Waste (Management and Handling) Rules, 2000.

5. The Applicant further filed certain documents on record to show that the water in Nazre Dam is being used for drinking purpose in the adjoining villages and there are increased incidences of water borne diseases in the surrounding area.

6. The Central Pollution Control Board (CPCB), i.e. Respondent No.4, has filed affidavit on 24th January, 2014 and submits that they have visited Saswad Municipal Council on 14.12.2012, to investigate complaints of the Applicant. The main observations of the Report are as under:

- i. Raw sewage is auctioned and supplied to farmers by Saswad Municipal Corporation for irrigation. Water quality of raw sewage exceeds the general discharge standards for irrigation, with respect to Total Suspended Solids (TSS) and Chemical Oxygen Demand (COD).*
- ii. Untreated sewage is directly discharged in the river Karha which deteriorates its water quality.*

iii. *Sewage treatment plant located near Chaukande Aali is non-functional from last 15 years.*

7. The CPCB further emphasizes that :

1. *That MPCB shall enforce the direction issued to Saswad Municipal Corporation under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974, to stop discharge of untreated sewage directly/indirectly to river and provide full fledged treatment for domestic sewage generated.*

2. *That, Saswad Municipal Corporation shall provide adequate treatment facility for sewage of Saswad town and stop direct and indirect discharge of sewage in river bed.*

3. *That, Saswad Municipal Corporation shall stop burning of MSW and implement the Municipal Solid Waste (Management and Handling) Rules, 2000 for management of Municipal Solid waste of Saswad town.*

8. The Respondent No.1, Chief Officer of Saswad Municipal Council filed several affidavits, which needs to be summarized for clarifying their submissions. The Council informs that total water consumption of the Council is about 4 MLD, of which, 80% i.e. 3.2 MLD sewage is generated, that is presently disposed of through Council's sewerage system, without any treatment. The Council had constructed STP with an oxidation ditch many years ago for treatment of sewage; however, same is not in operation

since long and is in dilapidated condition. The Council claims that being Class-C Municipal Council, they do not have their own sufficient funds to install and operate the sewage treatment plant and therefore, they have requested State Govt. for providing funds and expertise for installing the STP. The Council further states that the Council has been collecting/ disposing of the MSW at Survey no.88, which was originally outside the town area, since last thirty (30) years. However, subsequently development has taken place in the surrounding areas. Considering this development, the Council has acquired the land at village Kumbharvalan, having a total area of 5Ha for the purpose of MSW management. The Council has obtained authorization from the MPCB and the work for providing the MSW treatment and processing plant, is going on. Once this plant is made operational the problem of MSW disposal will be solved.

9. During interim hearing, noting the existence of old oxidation ditch, we directed the authorities to inquire whether such plant can be made operational on priority till the time full-fledged STP is made operational. Saswad Municipal Council had approached to the Maharashtra Jeevan Pradhikaran and accordingly, the Council informed that technical sanction for project has been obtained from the Maharashtra Jeevan Pradhikaran and tender work

already started. The Council also submits that they have provided basis infrastructure at the MSW plant at Kumbharvalan and will be setting up mechanized segregation unit for which tender is approved. It is the submission of the Counsel for Municipal Council that it is mandatory upon them to obtain technical sanction from the Maharashtra Jeevan Pradhikaran and also, administrative approval from Collector, Pune for issuing the work orders for both these projects. Considering this, the Counsel submits that the MSW plant will be fully operational from March 2015, though shifting of the waste from existing area and also, windrow composting on platforms will be initiated in phases in between. Similarly, during hearing the Counsel for Municipal Council, on instructions from the Chief Officer, submitted that within three (3) months, oxidation ditch will be fully commissioned and about 60% of sewage will be taken to oxidation ditch, as informed by the implementing agency i.e. Maharashtra Jeevan Pradhikaran.

10. We have gone through rival pleadings of the contesting parties and are of the opinion that the following issues need consideration in the present matter:

- I) Whether Saswad Municipal Council, is complying with the Environmental Regulations?

II) What directions can be given to the Respondents for ensuring compliance of Environmental Regulations, through time bound works?

Re: Issue (I)

11. Before entering into the arena of the present case, we would like to discuss the waste management practices in the Urban Local Bodies. The Municipal areas generate large quantity of sewage and MSW. With increasing population and also economic growth, the rate of consumption of water and generation of waste material is increasing in the urban areas. This poses a serious challenge for small Municipal Councils, as an adequate sewage treatment and MSW processing, are capital intensive, technically challenging and complex, besides high maintenance activity, which are generally opposed by the people, who are staying nearby to the STP and MSW plants. In the instant case too, though the Council has installed small STP in the form of oxidation ditch, way long ago, the same could not be operated and maintained due to various reasons, but primarily due to negligence from the Council. However, with growing population and increased quantity of sewage, the problem of water pollution of rivers, is getting severe. This is further aggravated due to the fact that most of the rivers in this region are not perennial and the population is dependent either on reservoirs or groundwater for drinking purpose.

Under these circumstances, pollution of river water is caused due to untreated sewage and has become a serious concern.

12. Admittedly, the Municipal Council does not treat any of its sewage though they have an existing STP with an old oxidation ditch, which is lying in dilapidated condition. The Council also is not treating its MSW in compliance with the Municipal Solid Waste (Management & Handling) Rules, 2000 and just dumping its waste at Survey No.88. The Municipal Council is required to provide necessary treatment to its sewage in compliance with the provisions of the Water (Prevention & Control of Pollution) Act, 1974. Further, the Council is required to provide necessary MSW treatment and processing facility in compliance with the Municipal Solid Waste (Management & Handling) Rules, 2000. Admittedly, the Council is not complying with both the Regulations and, therefore, it can be concluded that the Council is not complying with the Environmental Regulations. We find that since at least 2000 the MSW Rules ought to have been implemented, may be in phase wise manner, but till filing of the Application, there is no affirmative action taken by Saswad Municipal Council. Hence, the issue No.I is answered in the Affirmative.

Re: Issue (II)

13. As discussed above, we are aware that the sewage treatment and MSW management in the small class Municipalities, is a tricky issue. The report of CPCB on the status of sewage treatment in India, 2012, highlighted seriousness of untreated sewage from the Municipal areas. Even, it has been observed that the Municipalities, which are more financially sound and that are more autonomous in functioning, are also in non-compliance zone. In the instant case too, the compliance levels are absolutely below the mark. Still however, we are optimistic in the present case, with the approach and efforts shown by the Respondent No.1, to take aid and support of other Governmental organizations, including the Collector, to tackle this problem. We are however sure; mere optimism will not work for effective compliance of the Regulations. We feel that unless a time bound program is outlined, backed up with judicial order, the compliance will not be achieved in a realistic manner, by overcoming various procedural and operational hindrances. The issue No.II is therefore, answered in the Affirmative.

14. We are, therefore, inclined to partly allow the Application with the certain directions. The Application is thus allowed as follows :

- I)** The Municipal Council shall fully commission their MSW plant of Kumbharvalan, in Survey No.88, on or before 31st March, 2015.

- II)** The Municipal Council shall start phase-wise shifting of the MSW generated on daily basis to the MSW facility, after rainy season and commence composting activity simultaneously.
- III)** The Council shall ensure that while transporting of such solid waste, no nuisance shall be caused to the people in the vicinity and sufficient care in the form of covering of trucks and also, spreading of suitable chemicals etc. shall be practiced for odour operation control and also, effective composting is ensured.
- IV)** The Council and the Maharashtra Jeevan Pradhikaran, are directed to ensure that oxidation ditch is made operational to achieve the discharge norms of the MPCB within next six (6) month and latest before 31st May, 2015, under any circumstances, without failure.
- V)** The MPCB shall monitor the compliance of above directions on quarterly basis and may obtain CPM chart from the Municipal Council for completion of these works to monitor the same quarterly basis of which a report be submitted to this Tribunal at end of each quarter henceforth.
- VI)** The Collector, Pune, is directed to ensure the compliance of above directions. He shall review the progress of both the activities on monthly basis till May 2015 and ensure that no administrative hurdles or glitches obstruct for timely completion of the project.
- VII)** In the event of failure of Municipal Council and Maharashtra Jeevan Pradhikaran (MJP) to adhere to above time limits. MPCB may execute the balance work, under the provisions of Section

30 of Water (Prevention and Control of Pollution) Act 1974, besides taking suitable legal action.

VIII) The Respondent No.1 shall pay cost of Rs.10,000/- to the Applicant.

The Application is accordingly disposed of.

....., JM
(Justice V. R. Kingaonkar)

....., EM
(Dr. Ajay.A. Deshpande)

Date: 4th September, 2014.

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