

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Original Application No. 27(T_{HC})/2013
And
Original Application No. 43 (T_{HC})/2013

Baldev Singh & Anr. V/s State of Punjab & Ors.
And
Brig. H.S. Brar V/s State of Punjab & Ors.

CORAM: HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE SHRI JUSTICE S.N. HUSSAIN, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. A. R. YOUSUF, EXPERT MEMBER
HON'BLE SHRI B.S. SAJWAN, EXPERT MEMBER

Applicant / Appellant : None present
Amicus Curiae : Mr. A.D.N. Rao, Adv.
(in Application No. 27/2013)
Respondent No. 1 : Mr. Anil Soni, Adv. along with Mr. N.S. Brar, Addl. Secretary, Punjab
Respondent No. 2 : Mr. A.R. Takkar, Adv. alongwith Ms. Saumya jain, Adv. and Ms. Gurinderjit Kaur, Adv. and Mr. Shubham Bhalla, Adv.
Respondent No. 3 & : Mr. P.N. Puri, Adv. and Ms. Reeta Puri, Adv.
(in Application No. 43/2013)
Respondent No. 5 :
(in Application No. 27/2013)
Respondent No. 4 : Mr. T.S. Joseph, Adv.
(in Application No. 43/2013)
Respondent No. 8 : Mr. Rajinder Singh, Sub-divisional Engineer
(in Application No. 27/2013)
Respondent No. 9 : Mr. Devinder Pratap Singh, Adv.
(in Application No. 27/2013)

Date and Remarks	Orders of the Tribunal
Order No. 6 August 27, 2013	<p>We have heard all the respective Counsel for the parties. Even today, the Applicant is not present. It is seen from the record that he has been consistently absent and thereafter by an order dated 04.07.2013 this Tribunal has appointed Mr. A.D.N. Rao, as Amicus Curiae to assist the Tribunal for the purpose of disposal of these Applications effectively. The Respondents have agreed to give the copies of all the papers to Mr. A.D.N. Rao to enable him to study the same and prepare to present the case.</p> <p>The issues involved in these cases are relating to the pollution stated to have been affected by the tannery and other industry situated in Punjab and Haryana thereby polluting the major rivers in the State of Punjab and Haryana, namely, Satluj, Vyas, Ghaghara and also the rivers in the Haryana and also polluting the</p>

ground water. The Punjab Pollution Control Board (PPCB) as well as the State Government have filed status reports. However, the status reports only show about the industrial pollution in respect of the rivers and there is nothing about the underground water. The Learned Counsel appearing for the PPCB would submit that in the matters relating to the underground water quality, it is the Department of Water Supply and Sanitation, Government of Punjab which is the authority and relevant papers are not available with the PPCB to enable it to file the precise report on the ground water level and its quality. In the circumstances, we direct the Government of Punjab through the Department of Water Supply and Sanitation as well as the Department of local Governments to file status report regarding the ground water supply as well as the quality consequent to discharge of effluents by the tanneries and other industrial units. The said report shall be filed by the next date of hearing.

It is again disturbing to note that in so far as it relates to one unit named as Fitwell Electroplating Industry, Jalandhar, the Learned Additional Civil Judge (Sr. Division) of Jalandhar has granted an interim order inspite of the fact that as per the National Green Tribunal Act, 2010 and Water Act, the matters relating to environment and pollution are exclusively given to the Tribunal and no Civil Court has any jurisdiction.

It is seen that on earlier occasion, this Tribunal has called for a report from the Learned Additional Civil Judge (Sr. Division) of Jalandhar which was not responded to. Thereafter, an order was passed requesting the Registrar General of the Hon'ble High Court of Punjab and Haryana at Chandigarh to place the entire papers before the Hon'ble Chief Justice of Punjab and Haryana so as to enable the Learned Chief Justice to take appropriate action.

The Registrar General of the Hon'ble High Court of Punjab and Haryana at Chandigarh in the letter dated 31.07.2013 addressed to this Tribunal, has stated that while it is true that the

Learned Additional Civil Judge (Sr. Division) of Jalandhar, in a civil suit titled as *“Ms. Ritu Bahri Vs. Punjab State Power Corporation Limited & Ors.”* has granted an interim injunction and the matter is pending before him and it is also true that the matter relates to the environmental issues, the Hon’ble High Court has taken appropriate steps and all the District Judges and Civil Judges were informed of the effect to the Section 14 of the NGT Act, 2010, which states *“the Tribunal shall have the jurisdiction over all cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule-I.”*

The Registrar General has also stated and it appears that the Learned Additional Civil Judge (Sr. Division) of Jalandhar has passed such order by oversight and inadvertence. We make it clear that it is for the Hon’ble High Court to take appropriate steps in this regard.

In any event, the Learned Counsel for the PPCB would submit that the Board has taken steps in filing Appeal against the interim order passed by the Learned Additional Civil Judge (Sr. Division) of Jalandhar and they are also taking steps to approach the Hon’ble High Court by invoking its powers under Article 227 of the Constitution of India for appropriate order.

The Learned Counsel also undertakes to inform this Tribunal about the results of the same on the next date of hearing.

The Learned Counsel appearing for the PPCB also submits that seven small tannery units have been closed. According to him, they all are carrying the vegetable tanning and when a question was put to the Learned Counsel for the Government of Punjab as to what steps taken for the purpose of rehabilitation for the said small tanners by creating CETP, the Learned Counsel would submit that 50 km away from the site a CETP is available and steps would be

taken for the purpose of transporting the effluents by lorries and other methods for treatment. We make it clear that the Government of Punjab shall file a comprehensive report in this regard and the report shall also contain steps taken for the purpose of creating CETPs in various places along with details of BOD and COD by the next date of hearing. While filing the report, the Government shall also give the particulars regarding the total sewage generated in the State of Punjab vis-à-vis the treatment capacity created by the Government. That apart, the effluent's characteristics of treated effluents shall also be informed in the report so as to enable the Tribunal to arrive at just and proper conclusion.

Copies of all such reports which are directed to be filed by this Tribunal as stated above shall be given to Mr. A.D.N. Rao who has been appointed as Amicus Curiae to assist the Tribunal. The Amicus Curiae is also permitted to take copies of other documents from the Registry free of cost.

Stand over to 1st October, 2013.

....., JM
(Dr. P. Jyothimani)

....., JM
(S.N Hussain)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. A.R. Yousuf)

....., EM
(B.S. Sajwan)