

**BEFORE THE PRINCIPAL BENCH
NATIONAL GREEN TRIBUNAL
NEW DELHI**

CIRCUIT BENCH AT JODHPUR

**Original Application No. 34(T_{HC})/2014
(CWP No. 2844 of 2011)**

And

**Original Application No. 37(T_{HC})/2014
(CWP No. 581 of 2013)**

In the matters of : -

**Digvijay Singh Vs. State of Rajasthan & Ors.
And
Digvijay Singh Vs. Bhanu Prakash & Ors.**

**CORAM : HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER**

Present: Applicant : Mr. Digvijay Singh, Petitioner in Person
Respondent No. 2 : Mr. Manish Shishodia, Mr. Shreyansh Mehta, Advs.
Respondent No. 3 : Mr. Rajesh Panwar, AAG
Respondent no. 8 : Mr. M.S. Singhvi Sr. Adv. Along with Mr. Vinay Kothari, Mr. Hemant Dutt, Advs.
Respondent No. 9 : Mr. Vikas Balia, and Mr. Dinesh Singh Advs.

Mr. Sanjeet Purohit Adv for RICCO and For MoEF.

Mr. Madhusudan Sharma, IAS Collector & DM, Barmer

Mr. Vikaram Singh Sanichla, Regional Officer, Rajasthan PCB, Balotra

Mr. Kuldeep Dadhich, Regional Manager, RIICO Ltd., Balotra

Dr. Arjit Day, Scientist, CGWB, Jaipur

Dr. L.N. Mathur, Scientist, CGWA, New Delhi

Date and Remarks	Orders of the Tribunal
Item Nos. 35 & 36 July 9, 2015	Heard, Perused. In the present applications inter-alia seeking several reliefs viz. reparation, restitution and compensation for the environmental and ecological damage to the arid land in Balotra, Bithuja and Jasol, the Petitioner – Applicant also sought action against

CETPs which are incapable of handling load of effluents discharged both qualitatively and quantitatively. The applicant placed reliance upon specific directions passed by the Hon'ble High Court of Rajasthan in DB Civil Writ Petition No. 8481 of 2002 (Mahesh Parekh Vs state of Rajasthan & Ors.) vide judgment dated 2.4.2004. The Hon'ble High Court observed that the judgment rendered in the DB Civil Writ Petition No. 759/2002 on 9.3.2004 (Mahavir Nagar Vikas Samiti, Pali Vs. State of Rajasthan & Ors.) shall also be applied in the said case. For ready reference we reproduce the specific directions passed in DB Civil Writ Petition No. 2481/2002 :

1. "The Pollution Control Board shall immediately make fresh inspection of the Textile Processing Units at Pali and surrounding areas and in case any of the units are found to be creating pollution and not connected to the CETPs shall be closed.
2. The units which are creating pollution shall adopt measures to eliminate pollution.
3. RIICO shall set up an industrial area at a suitable place exclusively for textile processing unit. The industrial area must be located at an appropriate distance from residential areas. RIICO shall set up the industrial area within a period of six months and the industry shall be shifted to the industrial area from residential areas immediately thereafter.
4. The Trust shall make modification in the CETPs so that the omissions therefrom are compatible with the norms prescribed by the Pollution Control Board.
5. The industrial units which are discharging the industrial pollutant on the land or/and river shall be closed forthwith.
6. The State shall employ experts to assess the damage caused to the environment and health of the public by the pollution created by the units. On assessment of the damage, the concerned authority shall file a report in this Court within a period of eight weeks, whereupon the question of payment of compensation by the units on the principle of polluter pays shall be determined."

As a result of these directions, the Government of Rajasthan entrusted the study for making the assessment of damage caused to the environment and

health of the public on account of pollution created by the Textile units to the National Productivity Council and in sequel thereto the National Productivity Council presented final report in January 2010 to the Hon'ble High Court.

A glance at this report reveals that a joint field visit by representatives of Department of Environment Government of Rajasthan, Rajasthan State Pollution Control and National Productivity Council was carried out in February 2008 and certain observations were made, they suggested measures, they came to the conclusion, they assessed the economic value of the cost by Textile units in Barmer area during the last 15 years (1996 to 2010) at Rs. 9890.05 lakh and Rs. 7627.91 lakhs respectively. They made recommendations for future course of actions wherein measures for regulated industrial activity, for CETPs, farmers, Government of Rajasthan and for remediation and decontamination of ground water and soil were suggested. Measures relevant for this application in relation to CETP are quoted herein below.

“11.3.3 Measures: CETP Societies

- ❖ It has been observed that all the CETPs some or entire quantity of waste water was being discharged without treatment either because of under designed CETP or operational problems. It is recommended all CETPs should undergo adequacy study, performance evaluation study and undertake upgradation as per the study findings.
- ❖ There is lack of drainage system in the city to carry domestic waste water and storm water. Mixing of these domestic waste water and storm water increases the hydraulic load to the existing CETP. Therefore, the mixed industrial effluent is not treated properly by CETP/. Therefore, separate pucca closed/covered drainage system should be there only for industrial waste water. It should be connected from each of the industries and goes up to the CETP.
- ❖ The existing drainage system near CETO-III at Pali is neither fully lined nor covered allowing the mud & silt to get mix with the industrial effluent creating clogging of drainage system and high solid content in the waste water/ Therefore, all the drains should be made concrete lined and covered.
- ❖ It was found during the field studies that the sludge

accumulated in the open drain carrying industrial waste water in the industrial estate was being taken out from the drain and was kept on the side of the drain. It was not properly collected and stored in dedicated place like CETP site. After drying, the sludge gets air borne affecting the human health. Further, during rainy season, it gets mixed with the storm water leading to contamination of soil, ground water and river water. Therefore, the CETP Management should collect the sludge during cleaning of drain and recommended to treat it and dispose off in secured landfill facility. The sludge generated at the pre-treatment units and CETP should also be collected and treated and finally disposed in a secured landfill facility.

- ❖ In order to keep record for better management and treatment of waste water, the CETP management is recommended to put in at least basic laboratory infrastructure and record daily, the quantum of waste water being received, treated, raw water/treated water characteristics in respect of basic 5 parameters (i.e. pH, TSS, COD, BOD and Oil Grease). For monitoring of other critical parameters it is recommended that each CETP should develop a schedule for effective monitoring and analysis in consultation with PCB.
 - ❖ The present CETPs are having facility for Primary and Secondary Treatment of waste water and not able to meet the discharge standard for TDS. Therefore, the existing CETP should be upgraded to meet TDS requirement after putting Tertiary waste water treatment facility. The plant should be equipped with Reverse Osmosis plant to reduce the high TDS present in the treated waste water. In the absence of this, the treated water from this plant is neither suitable for drinking purpose nor for irrigation as it is neither meeting the drinking water quality nor the irrigation water quality. The RO system will provide opportunity to recycle the water for industrial water quality. The RO system will provide opportunity to recycle the water for industrial application. This will reduce the load on the present ground water.
 - ❖ Whenever, the treated wastewater is not meeting the discharge standard, it should not be allowing into discharge into the river. There should be sufficient storage facility to store and re-treat the waste water.
 - ❖ When the CETP management feels that due to technical reason, the CETP is not able to treat the waste water, they can inform the Industry Association to stop the production for defined period. However, the CETP management should take all preventive measures to operate the CETP in smooth & efficient manner.
 - ❖ There should be dedicated alternative Power Supply arrangement to handle and run the CETP.
 - ❖ The CETP Management should have power to give notice to the individual industries, if they fail in meeting the pre-treatment standard or level, submission of treatment charges (as decided by the CETP Management & Government) and administrative procedure laid down by the CETP Management.
 - ❖ The CETP Management should develop proper Laboratory Infrastructure to analyse water and waste water quality parameters. This will provide opportunity to regular testing of the Raw & Treated waste water and also provide opportunity for the farmer to get testing of their ground water sample for its quality testing to use for drinking & irrigation usage.
1. The pollution Control Board Shall immediately make fresh inspection the Textile processing units at Pali and surrounding.

On this backdrop the applicant's grievance about the industrial effluent generated by the textile industries in clusters of Balothra, Jasol and Bithuja gains ground,

we had, therefore, directed Joint Inspection by CPCB and RPCB of the respondent no. 8 and 9 CETP units on 19th March, 2015. Upon such inspection, the recommendations were placed before us by the Joint Committee of RPCB and CPCB concerning the matter of running of CETPs. From these recommendations, we could realise that (i) things at CETPs were not in order in as much as effluents were carried to the CETPs through tankers and not through the closed conduit pipeline fitted with electro-magnetic flow meters ii) the Industrial units and the CETPs constituted by them have not obtained consents under Hazardous Waste Rules, 2008 (iii) Bore-wells being operated in critical dark zone, presently described as over exploited area and iv) work of installation of R.O in CETP was stalled. We therefore, directed the Prabodhan Samiti of CETP supervising the Management of the CETPs to enforce the recommendations and submit the action taken report before us and till that time we prohibited the industries which are the members of the CETPs respondent 8 and 9 in question not to carry on their industrial activities vide order dated 15 May, 2015. In the present application this very order is sought to be modified thereby permitting the said industrial units to resume their operations.

Learned Counsel appearing on behalf of the respondent 8 and 9 the CETP in question submits that they - each Member industry are prepared to move applications for consent to extract ground water and would also make appropriate applications to the

Rajasthan Pollution Control Board for their registration as well as for consent to handle the Hazardous Waste. In this regard Dr. Arjit Day, Scientist (D), CGWA, Jaipur explains before us that the areas of Balotra, Jasol and Bithuja have not been notified and as such the applications for registration and grant of permissions cannot be entertained. However, he submitted that this area falls in over exploited region which is the most serious condition of ground water development. According to him, the Geographical area in relation to the extent of water table has been classified into semi-critical, critical and over exploited areas in the ascending order of severity of ground water depletion. Evidently, this area may not be called as dark critical zone but can be referred to as 'over exploited' area in relation to the ground water development. According to him, the CGWA is obliged to consider the applications of the new industries in such region for exploitation of ground water. However, as per guidelines in such areas, the water extensive industries cannot be permitted to exploit water for their needs. However, in the instant case, the industrial units have been existing there for over last 30 years and using ground water without having been registered with CGWA and without any NoC from CGWA.

Learned Counsel appearing for the RPCB submits that such units have been paying water cess on self assessment basis in respect of the water consumed. In view of over exploited condition of the ground water table, it is just and necessary that all these units approach the CGWA for registration as well as for their

NoC through the RPCB. This will facilitate the collection of realistic data regarding ground water exploitation as well as the authorities to take informed decision in matter of extraction of ground water and fixation of water cess on actual consumption basis. We, therefore, direct all industrial units which are the members of the CETPs to approach CGWA through RPCB for registration of their bore-wells and for grant of NoC in accordance with law.

It is not disputed that what is generated by textile processing units as an effluent is Hazardous Waste within the meaning of Rule 3(l) of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. Rule-3 (b) defines authorisation as a permission for generation, handling, collection, reception, treatment, transportation, storage, recycling, reprocessing, recovery, reuse and disposal of hazardous waste granted under sub-rule-4 of Rule-5. These Textile units generate, collect and transport their effluents, which fall within the category of hazardous waste to the CETPs for further treatment. In our considered view, therefore, the submission made on behalf of the RSPCB that only a CETP would require authorisation under the Hazardous Wastes (Management & Handling) Act is without any merit. These textile industrial units which are the Members of the CETPs would, therefore, require authorisation under the said Rules. We, therefore, direct all the industrial units which are members of Respondent – CETP to approach the RSPB for grant of authorisation.

Learned Counsel appearing for RIICO has submitted that the work of laying conduit pipeline for transporting the effluents to the CETP will be completed by 31.07.2015. According to him, only 2km stretch of pipeline remains to be laid for its commissioning. Thus, only the question of installations of R.O remains to be sorted out before us.

Learned Counsel appearing on behalf of the respondent CETP submitted that R.O. has specific function to reduce the TDS and bring it to the permissible TDS limits as prescribed. In the instant case he submits what is prescribed as the standard TDS level in ground water is 2100 mg/l on the basis of average TDS of ground water which is ordinarily 200 to 500 mg/l. He submits that the TDS level in the ground water procured in the industrial units from the ground in the entire area of Balotra, Bithuja and Jasol is in the range of 2000 – 25000 mg/l and proportionately therefore, the TDS standard which is universally applied needs to be modified and made realistic with the natural scenario in the area. It is for this reason, he submits he has made counter petition in the present case for declaring the standard parameters of TDS illegal. It appears none have replied this counter Writ Petition. Replies of the CPCB and MoEF in this Counter Writ Petition are of great consequence. Learned Counsel appearing on behalf of the MoEF and CPCB submit that replies will be filed on or before 10th August, 2015. At this stage, therefore, it will not be possible to debate and come to some conclusion as regards the realistic parameters of

TDS in the ground water in the area. We will therefore, be bound to follow the standards of TDS for ground water prescribed as of now.

Learned Counsel appearing on behalf of the CETPs Respondent No. 8 and 9 submits that the Hon'ble High Court had rejected the prayers of the applicant to revoke consent to operate order dated 11-7-2011 passed in favour of Respondent No. 8 in view of the non-compliance of conditions to operate and for discharging the effluents into river by way of sprinklers vide Judgement dated 30-5-2015. In view of such order, he submitted it should be the matter of concern for this Tribunal as to whether the operations of each industrial units which are the members of the CETP should be stopped. He further submitted that there are several industrial units in the area which do not have any consent and who operate in non-confirming areas and their operations add to the pollution of the environment. According to him, the applicant has turned a blind eye to the illegal industrial units contributing to the pollution and for extraneous considerations sought to malign the Respondent No. 8. Learned Counsel appearing on behalf of the RSPCB submits that they had closed down more than 200 industrial units who have been operating clandestinely and contributing to the environmental pollution.

We direct the RSPCB to continue with these operations and publish on their website as well as in the local newspaper a notice inviting the industries to approach them for valid consent and warn them that if

they fail to register their activities and obtain requisite consents the action of shutting down their units would follow. We also hope that the applicant and Respondent Nos. 8 and 9 and every industrial unit shall help the RSPCB in detecting such errant units. They may approach the RSPCB with whatever information they have about the clandestine operations of such units.

Learned Counsel appearing on behalf of the CETP however, submits that they envisage plantation using HRTS techniques for utilisation of treated effluents. In terms of the consent to operate dated 11-10-2013. We find from the joint inspection report of the CETP at Balotra that the CETP members have been toying with this idea of HRTS techniques since 1998 and nothing concrete resulted there-from. Even as of today, we find from the feasibility study report on impact of HRTS techniques on discharge of waste water in Balotra, Bithuja and Jasol submitted by Survey Technology Limited on 26-06-2015 in consultation and association with NEERI Mumbai, Techno-green Environmental Solutions Pune and Das Rasayanic Services, Solution Agra that it is a primary report based on a publication of the work at the experimental level in the international journal of Engineering Research & Technology Vol-II issued on 12th December, 2013 by Dhanya, G Jaya, Department of Science, University of Kerala, Thiruvananthapuram. This work of Dhanya and others is at the experimental stage and much has to emerge as regards the actual field conditions. A fact, however, remains that the CETP has to have reverse osmosis plant

of adequate capacity so as to come to the level of zero liquid discharge as expected in the consent to operate dated 11-10-2013. We would have, therefore, to wait till further developments regarding the compliance of the other directions regarding extraction of ground water, registration of the individual units under Hazardous Waste Management Rules and laying of the conduit pipeline including fixation of electro-magnetic flow meters at the points of extraction of ground water and at the points of delivery of the effluents through the pipeline. This will ensure to the great extent the further damage to the environment as well as the quantification of such damage as a result of certain things being not in place. Learned Counsel appearing on behalf of the CETP Respondent No. 8 and 9 submitted that they are prepared to commence with the work of installation of R.Os at their cost subject to receiving of sanctions to the grant of financial aid from State and Central Governments. In this context, statement is made by the Learned Counsel appearing on behalf of the MoEF, Central Government that sanction in principle has been granted to the project at Balotra for financial aid and such sanction to the grant of financial aid in respect of Jasol is under consideration and is likely to be granted within 15 days. Necessary instructions in this regard may be obtained to make a concrete statement.

List the case on 31st July, 2015 at Principal Bench, New Delhi.

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(U.D. Salvi)

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