

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

Original Application No. 124 of 2015

(M.A. No. 375 of 2016, M.A. No. 308 of 2017, M.A. No. 310 of 2017, M.A. No. 327 of 2017, 669 of 2017, 1123 of 2017 & 1307 of 2017)

And

Original Application No. 127 of 2016

(M.A. Nos. 309 of 2017, 657 of 2017, 1305 of 2017, 1329/2017& 1439/2017)

And

M.A. No. 664 of 2017

In

Appeal No. 11 of 2017

IN THE MATTER OF:

Sumitra Devi Vs. CPCB & Ors.

And

Dr. Laxman Raghav Vs. State of Rajasthan & Ors.

And

Arvind Press Caps Limited Vs. Rajasthan State Pollution Control Board

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant:	Mr. Rahul Khurana, Adv. Mr. Vivek Kumar Tandon, Adv.
Respondent No. 1:	Mr. Raj Kumar, Adv. Mr. Bhupender LO for Central Pollution Control Board Mr. Anil Grover, AAG Mr. Raj Panjwani, Sr. Adv Mr. Anuj Bhandari, Adv.. for RIICO Mr. Krishna Kumar Singh, Adv. and Mr. Anurag Kumar, Adv. for Ministry of Environment, Forest and Climate Change Mr. B.V. Niren, Adv. and Mr. Vinayak Gupta, Adv. for CGWA Mr. Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal, Mr. Adhiraj Singh Rajawat Ms. Shikha Sandhu Advs. for State of Rajasthan & RSPCB Mr. Rajeev Swarup ACS and Mr. Arun Prasad MS and Mr. K. C. Gupta RO Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. Mr. Sumeer Sodhi, Adv. Mr. Pawan Upadhyay and Mr. Akash Tyagi adv. Mr. Manav Gupta and Mr. Esha Dutta and Mr. Sahil Garg, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 18 to 20 December 12, 2017 ss	The applicant had filed this application being Original Application No. 127/2016 that the respondent authority be directed to prevent discharge of trade effluent

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from the industrial area at Bhiwadi, Chopanki, Kahasani and Khushkhera.

According to the applicant there are various industries of different kind which are operating, some of them are operating without obtaining consent from the State Board while others who are with consent also discharging their effluents in violation of the prescribed norms. The CETP working at Bhiwadi is practically non-functional and releasing the effluents which are very injurious. The by-pass or discharge from the CETP gets collected on the land adjacent thereto and consequently pollutes the groundwater. The residents of the surrounding villages have no direct source of potable water, but they are dependent from the extraction of ground water. They have been drinking polluted water and have been subjected to various health hazards.

The State of Rajasthan, Pollution Control Board Rajasthan and RIICO, all of them contested this application and attempted to justify that their conduct for the last years saying that now the working of the CETP have been improved and discharge from the CETP is adhering to the prescribed norms. They further stated there are nearly 7 industrial clusters around that area. The four have been mentioned in the application while other three are Pathsadi, Sarekhurd and Tapukara. The RIICO is the official respondent which is responsible for maintaining these industrial complexes. They have allotted plots to the industries and it is with their consent that these industries established therein. The Rajasthan Pollution Control Board is to perform all regulatory

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functions in regard to, while ensuring that the effluents are discharging from their respective industries strictly adhering to the prescribed norms. The State of Rajasthan; as of today; overall functioning with regard to ensuring that the environment is not polluted and there is no contamination of the water and it is the duty of the State to provide potable water to the residents of the villages.

With reference to the pleading of the parties, reports that have been placed on record and the ancillary documents filed by the respective parties in court, we have no hesitation in observing that in the past all these parties have failed to discharge their statutory and public law obligations. It is the constitutional duty of all these authorities to ensure that decent and clean environment is provided to the people at large. It is a matter of great concern that even drinking water is not being provided to the villages surrounding to the residential complexes and their health is at stake. All the industries established are discharging and making money for all these years for violating environmental law with impunity. It is really a sad state of affairs that various industries though they were found to be polluting, no appropriate action have been taken by the concerned authority in the past.

It is after institution of this application and passing of various orders that some movement started with the concerned authorities to protect the environment and to prevent and control of water pollution in that area. There were conflicting stand taken by the authorities, each one believe that they were doing their best and pass the responsibility to the others. The RIICO had certainly

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failed in discharging its duties and ensuring proper maintenance of the industrial clusters in accordance with law. The Pollution Control Board lacked in implementation of its regulatory role. The contradictory pleas taken to the extent that the Tribunal had appointed the Local Commissioner to visit the sites in question vide order dated 17th November, 2017.

We may notice that with the agreement of the parties, we have first taken up the industrial clusters at Bhiwadi for the purpose of issuance of appropriate directions and remaining industrial clusters were expected to be dealt with in the manner in which the directions were passed in the case of Bhiwadi industrial cluster. Thus, presently we are only dealing with the industrial clusters at Bhiwadi.

The Learned Local Commissioner filed his report which was quite discouraging. The relevant part of the Local Commissioner's report reads as follows:-

“OVERALL SCENARIO:

- 1. The present case is a perfect instance of how the authorities in India lack foresight in as much as the entire industrial area was earmarked, occupied, and ultimately set up without any waste management planning whatsoever.*
- 2. As per the information obtained from the officers of the Respondents during the visit, Bhiwadi industrial area has approximately 1700-1800 industries. The population of Bhiwadi is estimated to be between 1.25 lakh to 1.50 lakh.*
- 3. I visited parts of the area and interacted with various villagers/ residents during the visit. It would be apt to state at this juncture that all the persons who came in contact with me during the visit, were ad-idem on the issue of contamination and degradation of the quality of ground water. The situation is such that at a few places from where the samples were collected, the ground water was colored (red and/or yellow).*
- 4. During the visit, I not only visited the places which were indicated by the officers as well as the applicant, but also the houses of the local residents/villagers. Suffice it to state that none of*

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the local residents or villagers were using the ground water for drinking purposes due to its bad quality. So much so, that families of workers living in a room of 10x8 ft. inside chawls in the villages are being forced to purchase drinking water from outside despite of having the facility of a handpump inside their respective premises. Had the authorities at the appropriate time of establishing this industrial area considered waste disposal mechanism as an issue worth deliberating upon, the residents of Bhiwadi wouldn't have been facing the present problem of contaminated water.

POSSIBLE REASONS

5. *There could be various reasons for contamination of ground water but all are connected to the establishment of the industrial area.*

5.1 *Non-treatment of industrial waste:*

Though in terms of the Order dated 17.11.2017 I was directed to inspect industrial complexes, but it would not be feasible for the undersigned alone to inspect 1700-1800 industries in order to ascertain whether or not these industries are discharging any waste water and whether the ETPs installed are functioning.

Even if the industries are treating their respective industrial waste, huge amount of domestic sewage out of the industrial area (from villages or industries) ultimately meets this industrial waste, thereby making the entire waste water filthy and hence liable to be treated by the CETP.

5.2 *Non-segregation of domestic / industrial / storm water drains*

The water discharge from the industries both treated and/or untreated is mixed with domestic waste water. This in turn is mixed with domestic sewage from the villages inside the industrial area which do not fall under the jurisdiction of Improvement Trust. Therefore all the wastewater of any nature whatsoever is carried to the CETP.

5.3 *Inadequate capacity of CETP*

The capacity of the CETP as on date is stated to be around 9 MLD as opposed to 6 MLD earlier. Since there is no segregation of domestic waste water and industrial waste water and storm water drain, the entire load of the industrial area is carried to the CETP, which in rainy season is fed upto 12-13 MLD thereby causing over flowing and bringing the CETP to a standstill. Hence in the absence of segregation / separate establishment of STPs, it would be advisable to upgrade the capacity even further.

5.4 *Open Drains*

The waste of the entire industrial area is being carried to the CETP Chambers through open drains which are bound to get clogged

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in addition to inherently being a breeding ground for mosquitoes.

Upon checking at various spots, though Ph level was being maintained in the open drains on the day of inspection, however I was informed that till sometime back, due to non-establishment of separate facility for treatment of wastewater generated by specific industries (about 25 in total) containing heavy metals, the wastewater used to be acidic as a result of which the open drains would be corroded and the wastewater would percolate into the groundwater, thereby contaminating the same. Needless to state, this has been happening for many years and the groundwater may already be contaminated, the long term effects of which can only be ascertained with the help of a proper scientific team.

The effluents of these specific industries are now separately collected through tankers as per the information provided by the Trust managing the CETP.

5.5 *Blockage of pipeline carrying treated water from CETP to River Sabi*

Due to the possible apprehensions of villagers/ farmers taking benefit of river water, the pipeline which already exists and was supposed to carry waste water from CETP to Sabi River, was blocked by them at various spots. Admittedly due to this blockage, the treated water erupts out of the conduit pipelines much before it can reach Sabi River. This treated water finds its path to open fields / RIICO Land / low lying areas creating a pool of treated water covering hundreds of acres of land at various spots. Such huge accumulation of wastewater logically invites collection of waste water from other villages too. What follows is percolation of this wastewater resulting in deterioration of ground water quality, as well as being a breeding ground for mosquitoes.

As on the date of inspection, the CETP was pumping out treated water at the speed of approx. 403 m³ per hour so one can imagine the kind of space that would be required to accumulate this much wastewater.

5.6 *Inadequacy of STPs*

Since the Tribunal is looking at a holistic picture of Bhiwadi, it must be pointed out that the authorities have decided to set up five more STPs at different locations for treatment of domestic sewage. Sewage at present at a few locations flowing from open drains gets collected in low lying areas.

5.7 *Lack of appropriate drinking water facilities*

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During the entire inspection, fortunately I did not come across any individual who was using ground water for drinking purposes, however hopefully this should be true for all residents of Bhiwadi.

Upon inspection it was found out that the local authority (PHED – Public Health Engineering Department) was drawing ground water and supplying to residents for domestic usage.

I was informed that the said ground water for domestic usage is simply being extracted and supplied without any prior treatment. This is an issue which needs interference from this Tribunal since there is a possibility that the said ground water due to its contamination is not curable by RO systems installed in houses or is perhaps being consumed even without any treatment which may even give rise to an epidemic.”

We may also notice that the applicant has produced before the Tribunal the water samples collected from the ground water from the hand-pumps in that area which shows brownish colour of water.

The report of the Local Commissioner substantiate the case of the applicant and it was on that stage that the Learned counsel appearing for the State of Rajasthan sought liberty for the Chief Secretary, Additional Secretary and all the Senior Officer of the State who brought to the notice of the Tribunal the stand of the State and the steps that they desire to take for the purpose of ensuring prevention and control of pollution through industries at that area.

The Chamber meeting was held on 07th December, 2017 of the State and the concerned Stakeholders including the Chief Secretary of the State of Rajasthan.

The matter came up for hearing on 06th December, 2017 and the Tribunal passed the following order.

*“We have heard the Learned counsel appearing for the parties.
It is shocking to notice that RIICO is the*

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body responsible for running of industrial clusters. We have no doubt in observing that the Rajasthan Pollution Control Board, and RICCO in particular, have failed to discharge their statutory functions. Not only this, they have failed to provide records that were asked by the Tribunal. To say the least even the number of industries between these two organizations is not tallying. If the correct statistics is not available with them, how can they ever imagine what is the load on the CETP from 760 Units as alleged by Pollution Control Board or 951 Units as alleged by RIICO.

This matter has been taken up time and again. The report of the local Commissioner does not speak well of the functioning of these Authorities. The industries in the industrial clusters particularly at Bhiwadi have caused serious pollution of water/ground water. They are seriously polluting industries like pickling, shoes, textiles, electroplating, pharmaceuticals etc. All these industries in the normal course of their business discharge high pollutants. Despite the fact that the matter has been kept pending before the Tribunal for quite some time, the directions issued by the Tribunal requiring the State of Rajasthan, RIICO, Rajasthan Pollution Control Board to take effective steps to prevent and control the polluting in that area have failed to give any results. The Applicant has brought to our notice the photographs showing how the people living in that area are suffering from various diseases. Even the ladies are being affected adversely in terms of public health, to the extent that they are suffering from disabilities as a result of consuming contaminated water either directly through borewells or through the hand pumps.

List these matters on 7th December, 2017.”

The matter was ordered to be listed on 07th December, 2017 when the request was made by the Learned counsel appearing for the State of Rajasthan that the Chief Secretary, the Additional Chief Secretary and other senior officers of the State, prayed for liberty to inform the Tribunal as the steps they were proposing to take for preventing and controlling the pollution and ensuring that the industries which are in default will not be permitted for carrying on their activities.

In the meeting various aspects were discussed and

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the Chief Secretary of the State and other officers assured the Tribunal for taking effective measures for preventing and controlling of pollution. In furtherance thereto they have filed a statement on behalf of all the respondents including State of Rajasthan, RIICO and Rajasthan Pollution Control Board today i.e. on 12th December, 2017. In the statement filed it is stated there were 1639 plots which has been allotted to trade industry and they are around 1475 industries carrying on their business activities at the industrial cluster in question. Out of these, nearly 823 units were operating, however in the last three days 118 units have been closed as they were found to be operating without consent of the State Board. Consequently, 705 industries units are operating. Out of these 705, units 346 units have Consent to Operate and 222 industrial units are in white category. Around 137 industries have applied for renewal of the consent which is pending with the Board. Out of which 92 industries are in red category, 37 are in orange category and 8 are in green category. There are no definite details provided by any of these authorities in relation to 652 industrial units. It has been stated that the CETP was upgraded from 6 MLD to 9 MLD and biological treatment system was upgraded by providing diffused aeration system.

In relation to supply of water it is stated that the State has long terms planning for providing potable water through pipeline to individual houses.

In the meanwhile they are supplying water through the tankers. It is also stated in their joint statement dated 12th December, 2017 that there is proposal to put up 5

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STPs by April, 2018 for all the 7 clusters. After functioning of these STPs, domestic effluent from villages would be segregated and this would significantly reduce the quality of effluent reaching CETP. Out of them three are likely to be set up at Bhiwadi region particularly around this industrial cluster. It is undisputed before us by any of the official respondents or otherwise that the water is not contaminated as per analysis report of Sri Ram Institute and Central Pollution Control Board. It is also not disputed that there is increase in pollution, but they are trying to control and improve the same. To ensure that the industries do not pollute and people get potable water for their day-to-day needs, in light of the above we pass the following directions:-

1. It shall be ensured by the RIICO as well as the CETP operating Society that the CETP operates to its optimum capacity and its effluents from the discharge point should also be within the prescribed parameters.
2. The CETP control the discharges at the outlet point.
3. The CEPT should ensure that all the parameters including that Faecal Coliform or the Total Coliform are maintained within the prescribed limits.
4. It will be the duty of Rajasthan Pollution Control Board, CPCB, Department of Environment and the State of Rajasthan to conduct joint inspection and ensure the compliance of these directions in future. In the event of default not only the RIICO and Society would be liable to pay environmental compensation @ Rs. 50,000/- per default, but the

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concerned officer(s) of the Pollution Control Board and the designated officer(s) from Department of Environment of the State would also be liable for disciplinary action.

5. Out of the 346 industrial units which has consent to operate shall be subjected to an inspection by the joint inspecting team consisting of Pollution Control Board, RIICO and the representative of the State Government. These would be subjected to comprehensive inspection for which a report will be prepared particularly in relation to the source of water and utilization thereof. The effluent standards, functioning of the Primary Treatment Plant and whether they are adhering to terms and conditions of the consent granted by the Board. If any of these industries is found to be defaulting they shall be shut down forthwith without any further Notice.
6. The 137 industrial units whose applications are pending with the Board, they shall also be subjected to the inspection by the joint inspecting team and their application for renewal shall be dealt with and disposed of in accordance with law as expeditiously as possible in any case not later than four weeks from today.
7. The 652 industrial units the details of which have not been furnished. Out of them all the industrial units which are operating without obtaining consent of the Board and are discharging effluents, shall be shut down, within one week from today.

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8. The joint inspection team shall conduct a survey to find out as to how many out of 652 are industrial units and how many are using the space provided to them for godown/offices etc.
9. For upgradation of the CETP as well as for setting up of the STP, all the industries shall be liable to pay a sum of Rs 50,000/- as environmental compensation on 'Polluters Pays' principle. These industries have been polluting for years, in fact we should have imposed much more environmental compensation upon them, but since the State Pollution Control Board is taking of the matter with earnest and assure the Tribunal for providing due funds for improvement of the conveyer belt/drain or setting up of STP and upgradation of the CETP, as it is stated that 92 industrial units which are in Red Category so would pay environmental compensation of Rs. 50,000/-, those who are in Orange Category would pay environmental compensation of Rs. 30,000/- while the industries in Green/White Category shall pay Rs. 10,000/-.
10. If the amount if not paid within two weeks from today by the industries to the State Government Department of Environment, in that event that industry shall be liable to be shut down without any further Notice. The amount so deposited shall be utilized for the compliance of the directions contained in this order.
11. We direct the RIICO to clear all the drains and dredge them within four weeks from today. No

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drain of Bhiwadi industrial cluster should be chocked/blocked, it will be the duty of RIICO to ensure regular maintenance thereof.

12. The potable water shall be provided to all villagers is the prime responsibility of the State through tankers or by fixation of RO systems.

13. The money paid by the industry would be utilized for installation of RO systems in all the villages at Bhiwadi surrounded by industrial complex, to maintain them shall be duty of the State Government and the RIICO. In the event of default appropriate action shall be liable to be taken against the concerned officer(s). The State of Rajasthan shall expedite its long term scheme for providing potable water to every house through pipelines and it should be given at utmost priority.

14. Similarly the projects in relation to establishment and construction of STP should also be given priority by the State Government and they should be installed without any undue delay.

15. The waste collected on the dredged materials shall be deposited at the site which is to be identified by the State Government. The State should identify the site within four weeks from today and it will be the responsibility of the RIICO to ensure that the dredged material or any other waste collected from the industrial cluster is stored in accordance with law and relevant waste rules at that site. The waste should be stored in accordance with law with the relevant waste rules.

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16. The RIICO and the State Government shall work out on the proposal for reuse of the treated effluent of water from the CETPs/STPs. It shall be the duty of all concerned including the industries that under no circumstances any water or effluent is permitted to be collected around the industrial clusters or inside the cluster.
17. Needless to say that Pollution Control Board and Department of Environment shall maintain due surveillance and collect samples on regular intervals to ensure that there is no pollution.
18. The State of Rajasthan is granted liberty to approach the Department of Industrial Policy and Promotion (in short DIPP) for receiving financial assistance from the Central Government. The State is free to move the Central Government and if such proposal is mooted, the same shall be dealt with utmost expeditiously.
19. It shall be the duty and obligation of the RIICO and the Pollution Control Board to place in public domain the inspection report as well as analysis reports.
20. The applicant and for that matter any citizen would be at liberty to file objections if it comes to the notice that these reports do not depict the actual ground realities. The above directions shall be carried out by all concerned without delay and default, whosoever is found to be obstructing the compliance shall be liable to be proceeded against for violating order of the Tribunal and shall be dealt

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with in accordance with law.

21. Vide our order dated 01st March, 2017, we had imposed environmental compensation and cost upon the various departments and officers. In the event these directions are complied with in that event the compensation or the cost imposed shall stand waived, but in the event of default they shall become operative and it will be the duty of State of Rajasthan to comply with those orders without any default.

22. The Central Pollution Control Board shall also be responsible for keeping general supervision in relation to compliance of these directions. This general directions issued in relation to industrial clusters Bhiwadi shall be adopted and followed by the State Government and all the other concerned authorities with such modifications as may be necessary.

23. The industries which were permitted to operate under the orders of the Tribunal and the Board was required to inspect the same, if their Status Report is not filed by the joint inspection team now within two weeks from today, they shall be liable to be closed.

With the above directions the Original Application No. 127 of 2016 stands disposed of. No order as to cost.

**M.A. Nos. 309 of 2017, 657 of 2017, 1305 of 2017,
1329 of 2017 & 1439 of 2017**

These applications do not survive for consideration

<p>Item No. 18 to 20</p> <p>December 12, 2017</p> <p>ss</p>	<p>as the main application itself stands disposed of.</p> <p>Thus the M.A. Nos. 309 of 2017, 657 of 2017, 1305 of 2017, 1329 of 2017 & 1439 of 2017 also stand disposed.</p> <p><u>Original Application No. 124 of 2015 in M.A. No. 375 of 2016, M.A. No. 308 of 2017, M.A. No. 310 of 2017, M.A. No. 327 of 2017, 669 of 2017, 1123 of 2017 & 1307 of 2017 And M.A. No. 664 of 2017 In Appeal No. 11 of 2017.</u></p> <p>These applications are also disposed of, in view of the order passed above in Original Application No. 127 of 2016.</p> <p>The Original Application No. 124 of 2015 in M.A. No. 375 of 2016, M.A. No. 308 of 2017, M.A. No. 310 of 2017, M.A. No. 327 of 2017, 669 of 2017, 1123 of 2017 & 1307 of 2017 And M.A. No. 664 of 2017 In Appeal No. 11 of 2017 stand disposed of accordingly.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (U.D. Salvi)</p> <p>.....,EM (Dr. Nagin Nanda)</p>
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