

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writs No. 11153/2011

Suo Motu

-----Petitioner

Versus

State Of Raj

-----Respondent

Connected With

D.B. Civil Writs No. 5102/2019

Pyar Singh Meena S/o Ramesh Chand Meena

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Virendra Dangi Mr. Ashok Kumar Bhargava Mr. Dipesh Oswal
For Respondent(s)	:	Maj. R.P. Singh, Additional Advocate General with Mr. S.K. Saini Ms. Sheetal Mirdha, Additional Advocate General Mr. Ashok Mehta, senior counsel, with Mr. Devendra Sharma Mr. H.V. Nandvana, Mr. Vipin Gupta, Mr. Raj Kumar Goyal, Mr. R.D. Rastogi, senior counsel, with Mr. Prafful Nagar and Mr. Akshay Bhardwaj Mr. Mahesh Chand Gupta

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR**

Order

27/03/2019

We have heard learned members of the Monitoring Committee, learned Additional Advocate Generals, learned counsel for the respondents and applicants.

Mr. Virendra Dangi and Mr. Ashok Kumar Bhargava, learned Members of the Monitoring Committee, have submitted that they have inspected the Ramgarh dam area and the land of the river bed originally having flow of the Banganga river from Viratnagar to Ramgarh dam covering four different tehsils, namely, Shahpura, Viratnagar, Amber and Jamwa Ramgarh and found that most of the encroachments have been removed except anicuts, with regard to which so far no policy decision has been taken by the Government as to the advisability of their continuation. In their opinion, the anicuts have also been causing obstructions in the flow of the river water and do not have much utility as compared to flowing river as the water stored in the anicuts hardly lasts for a month or so.

They submitted that the sand, which is accumulated in the bed of the Banganga river throughout its run, has also contributed to the obstruction of the water flow, which is the major cause why the water does not reach upto the Ramgarh dam. At certain places, the accumulation of the sand is as high as 10 to 12 feet. The State Government has to take a policy decision as to how the sand can be removed and utilized elsewhere.

They also submitted that in their view yet another reason for scarcity of rain is indiscriminate and massive deforestation, which has been taking place in that area for last several years. The State has to come out with a long term plan as to how large number of trees can be planted alongside the river and also around Ramgarh and elsewhere in the State, as according to them the rains have direct correlation with the density of plantation of the given area.

Mr. R.P. Singh, learned Additional Advocate General, submits that the State Government has given highest priority to the

matter after the last order passed by this court on 11.03.2019 and it has appointed a senior officer of the rank of Additional Chief Secretary as Nodal Officer/Coordinator with an assistant Nodal Officer, to chalk out a plan not only for Ramgarh but also for the entire State of Rajsathan, for conserving and restoring all the water bodies.

As regards the suggestion with regard to removal of the anicuts, the State Government shall take a policy decision after examining the benefits of having such anicuts as against possible losses if they are removed. The suggestions with regard to the removal of sand from the Banganga river and other rivers of the State shall be considered by the State if it can help restore/ensure free flow of the water in the rivers for irrigation purpose or otherwise. As regards the suggestion for plantation alongside the Banganga river and also any other places of the State, the State Government shall take a holistic view of the matter involving its Forest and Horticulture Departments, and shall take a decision as to in what manner the plantation can be increased so as to revive and grow the green base of the State.

We direct the State Government to consider all the aforementioned three suggestions and file a compliance report especially with regard to forestation. The State of Rajasthan is having approximately 9000 gram panchayats and each gram panchayat on an average has five villages. The State Government may consider having plantation of minimum 100 trees in each village of different gram panchayats of the State depending on topography, environment of the area, nature of sand, the trees that can be grown in the given area, with the involvement of its Forest Department/Horticulture Department and the Gram

Panchayats. In doing so, the State Government may consider involving volunteers (वृक्ष मित्र), under the supervision of Gram Sevaks and Patwaris of the area in question, for entrusting them the responsibility of watering and protection of the trees for first few years.

The State Government shall prepare a project report on all the aforementioned suggestions and submit the same before this court on the next date of hearing. We hope and trust that the budgetary constraints would not be an impediment for implementation of the suggestions aforementioned in the welfare of the entire State of Rajasthan.

As regards the application filed by the applicants of Bharatpur city, their grievance is that the order passed by this court on 17.05.2018 has been misconstrued and misapplied by the district administration. This court in the aforesaid order has directed that the District Collector, Bharatpur and the Secretary, UIT, would carry out the directions given in the judgment dated 02.08.2004 in D.B. Civil Writ Petition No.1536/2003 - Abdul Rehman Vs. State of Rajasthan, as also in the order dated 29.05.2012 passed in this matter and, while taking into consideration the revenue records of the year 1947 and 1955, width of Nalas would be maintained and that no allotment would be made in the land belonging to a Nala and, at the same time, constructions raised or going on would be removed, if it is in the land belonging to Nalas as per the revenue record of the year 1947 and 1955. The district administration without verifying the fact whether the lands on which the constructions were raised by the applicants, were recorded as Nalas or Rivers or Johads etc. in the revenue records of the year 1947 and 1955 and without

ascertaining the specific plea whether the land of the applicants was falling in the City Flood Control Drain, straightway proceeded to remove the constructions, causing great amount of inconvenience to the citizens. When this grievance was raised by them, this court in its order dated 26.07.2018 directed the State to come out with the trace map of the area in question so as to find out the total area of City Flood Control Drain and any other area contributing for it along with revenue map so that it may be superimposed to find out the actual area to see how many encroachments exist. The aforesaid order has not yet been complied with by the State.

Ms. Sheetal Mirdha, learned Additional Advocate General, submits that she shall on the next date of hearing file the compliance report with regard to the aforesaid order of this court dated 26.07.2018.

List this matter on 30.04.2019.

A copy of this order be provided to Mr. R.P. Singh, learned Additional Advocate General and Ms. Sheetal Mirdha, learned Additional Advocate General, for compliance.

Office to place a copy of this order in the connected file.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J