

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

D.B. Civil Writ Petition No. 11153/2011

Suo Motu
-----Petitioner
Versus
State Of Raj
-----Respondent
Connected With
D.B. Civil Writ Petition No. 5102/2019
Pyar Singh Meena S/o Ramesh Chand Meena
-----Petitioner
Versus
State Of Rajasthan
-----Respondent

For Petitioner(s) : Mr. Virendra Dangi, Sr. Adv. (Amicus Curiae with Mr. A.K. Bhargava, Amicus Curiae, Members of the Monitoring Committee
Mr. Deepesh Oswal
Mr. Siddharth Bapna

For Respondent(s) : Mr. R.P. Singh, AAG with Mr. Shashi Kant Saini
Mr. Amit Kuri
Mr. S.S. Hora
Mr. R.D. Rastogi, Additional Solicitor General assisted by
Mr. Devesh Yadav
Mr. Anand Sharma
Ms. Ritu Pathak

Mr. Rohit Kumar Singh, Addl. Chief Secretary, Medical & Health Department present in person
Mr. Ravi Solanki, Additional Chief Engineer, Irrigation Department present in person.
Ms. Neetu Bhansali on behalf of Mr. Amit Jindal

**HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA
Order**

25/09/2019

Shri Virendra Dangi, learned senior Advocate and Shri Ashok Kumar Bhargava, learned counsel, who are Members of the Monitoring Committee, have jointly filed two separate responses to the various compliance report filed by the State Government. In their responses, they have stated that while the respondents in their affidavit dated 29.8.2019 mentioned that a letter was written to Director, Central Road Research Institute, New Delhi, seeking their opinion with regard to utilization of the sand/silt, which has accumulated in thickness of 3 to 4 meters in major rivers- Banganga, Madhowani & Gomti Ka Nala, the total length of which is about 111 kms, but they have neither sent any samples to them, nor the Director aforementioned has been contacted personally. This shows that the respondents are not serious about the removal of the sand/silt so as to ensure free flow of the water upto the Ramgarh Dam. It has been stated that the respondents have simply placed on record the minutes of the meeting dated 26.3.2019, but the perusal of the minutes indicates that they are not at all serious about the implementation of various orders passed by this Court. They have not even provided to the Members of the Monitoring Committee, the various enclosures filed with the compliance report, especially the comments given by Shri D.N. Pandey, Additional Chief Conservator of Forest and Shri Ravi Solanki, Additional Chief Engineer (WRD). No steps have been taken to identify the land falling in submergence area of the Neota Dam. No reason has been given as to why the residential colonies were allowed to develop therein. The Jaipur Development Authority be required to respond to this.

Learned Members of Monitoring Committee submitted that the State Government has allowed 93 big anicuts of 2 meters height to be built in the water flowing/catchment area of Ramgarh Dam, which cannot retain water for more than 15 to 20 days and are obstructing the flow of water to the Ramgarh Dam. The respondents have mentioned about the detailed project report (D.P.R.) prepared by them for Eastern Rajasthan Canal Project (ERCP) to carry out surplus water from Kunnu, Kul, Parwati, Kali Sindh and Meh River sub-basins to Banas, Moral, Banganga, Kali Sil, Ghambhir and Parbati River sub-basins during the monsoon seasons, but no substantial progress has taken place on that project. According to the respondents, Isarda Dam in Tonk District will act as a balancing reservoir under ERCP from where water will be diverted to Ramgarh Dam, but they have not clarified as to how much time will it take to implement this project.

Learned Members of the Monitoring Committee have also separately filed an application contending that despite heavy rainfall in August and September in this year i.e. 2019, in the entire State of Rajasthan, as per the report of the Water Resource Department of the State, there was scattered rain in four Tehsils situated in Ramgarh Dam catchment area namely; Virat Nagar, Shahpura, Amer and Jamwa Ramgarh. Therefore, the rain water could not make run off in the river Banganga, on which Ramgarh Dam is constructed. On the other hand, due to heavy rains in Rajsamand, Bhilwara and Chittorgarh, not only various dams overflowed, but all their gates had to be opened to release the surplus water. Example of Bisalpur Dam has been given, of which 17 gates were opened to release the surplus water in the down stream of Banas River and therefrom to other rivers. Similarly,

Kota Barrage also overflowed, of which all the gates had to be opened to release the water in Chambal River. It is stated that due to heavy rains in Madhya Pradesh and Rajasthan, all the gates of Gandhi Sagar Dam were also opened and excess water was released into the Rampratap Sagar Dam and therefrom to Jawahar Sagar Dam and ultimately to Kota Barrage. The entire excess water of Bisalpur Dam also flowed down in the Banas River thereby to Chambal River, which gets surplus water every year during the rainy season and therefrom, to Yamuna River, which ultimately goes to Bay of Bengal through the river Ganges.

Learned Members of the Monitoring Committee have submitted that had there been any system of canals of requisite capacity for diverting the aforesaid surplus/excess rain water, which goes waste, towards the Ramgarh Dam and other existing Dams of Bundi, Dausa and Jaipur Districts as also for joining other rivers in the area, the said surplus/excess water could have been utilised for humans, cattle as well as for irrigation and environment purposes.

As regards the removal of encroachments, the learned Members of the Monitoring Committee have submitted that though most of the encroachments in the water flowing area of different three rivers i.e. Ban Ganga, Madhoveni and Tala leading to the Ramgarh Dam, have been removed, but they would again inspect the area in question to find out if there still remains certain encroachments to be removed. They however submitted that a total number of 780 reference cases were prepared by the respondents, but only 633 were actually referred, of which 271 have been decided by the Board, yet many of them have not been implemented by the respondents.

Shri R.P. Singh, learned Additional Advocate General and Shri Rohit Kumar Singh, Additional Chief Secretary, Medical & Health Department and Shri Ravi Solanki, Additional Chief Engineer, Irrigation Department, Government of Rajasthan, who are present in person, have submitted that detailed project report (DPR) was submitted to the Central Water Commission way back in 2017. This is a very ambitious project, which is aimed at utilizing surplus water by diverting it to total 26 dams, including Chhaparwada, Ganwania, Parbati, Morale, Masi, Panchana, Ramgarh Dam, to name few. The Central Water Commission in the mid of 2018, required the State Government to obtain the consent/no objection from the State of Madhya Pradesh for implementation of aforesaid Eastern Rajasthan Canal Project. The Chief Minister of the State of Rajasthan wrote to the Chief Minister of State of Madhya Pradesh and meeting of senior level officials of the two States is going to take place shortly. The State of Rajasthan does not wish to, in any manner, reduce or dilute the water flowing towards the State of Madhya Pradesh. It only intends to tap the surplus water from the tributaries of Chambal strictly in conformity with the decision taken by the Rajasthan Madhya Pradesh Inter State Water Control Board to safeguard the needs of the catchment areas of Chambal Basin in the State of Rajasthan.

Shri R.P. Singh, learned Additional Advocate General submits that he shall file his response as to why 147 cases, which were identified for making reference to the Board of Revenue, were actually not referred and what is the status of implementation of 271 decided reference cases by the Board of Revenue, in that how many of them were decided in favour of the State and in favour of

persons, who were in possession of the land. He shall also furnish the details about the status of 362 pending reference cases.

Shri R.P. Singh, learned Additional Advocate General submitted that a letter was written to the Director, CRRRI dated 29.8.2019, but so far their response is awaited. He submitted that they shall also explore the possibility of utilisation of such sand/silt in the construction of ring road project, which is being undertaken by the National Highway Authority of India so that the construction expenses may be minimised.

The respondents have in the compliance report of the order passed by this Court on 20.05.2019 placed on record the report prepared by Dy. Conservator of Forests (Wildlife), Jaipur, reflecting the distribution of plants in various forest circles of the State, according to which a total of 10,49,096 plants were distributed in all seven Circles of the State of Rajasthan. Another report Annexure-AA/1 submitted today indicates that Mining Department has planted 11,44,340 plants during 2017-18 and 2018-19, of which 6,86,752 have survived. The plantation work was carried out under Mahatma Gandhi NREGA in the financial year 2019-20 after the passing of the order by this Court on 27.3.2019 indicates that total 11,66,093 saplings were planted, which does not include the Barmer and Sirohi District. This Court in the order passed on 27.3.2019 required the respondents to have plantation of minimum 100 trees in each village of different Gram Panchayats approximately 900 Gram Panchayats of the State, each of which have about five villages.

We are dealing with an important issue with regard to revival of various water bodies in the entire State of Rajasthan in general and Ramgarh Dam in particular by undertaking various kinds of

activities including plantation. The various Minutes of the meetings, which are placed on record indicate that while the Nodal Officer Shri Rohit Kumar Singh, Addl. Chief Secretary, Medical & Health Department presided over all such meetings, but all other departments are being represented by very junior level officers, rather than officers of the level of Principal Secretary or Secretary. This is an unfortunate situation. Either the Principal Secretary or the Secretary should participate in the meeting or if they do not, the Chief Secretary of the State of Rajasthan should himself preside over such meetings so that the seriousness of the issue be impressed upon different departments.

Shri Siddharth Bapna, learned counsel for the applicant has submitted that several colonies have been approved on the land of submergence area of Neota Dam, despite repeated objection by the Irrigation Department. The proceedings of 90A and 90B of the Rajasthan Land Revenue Act were completed and the lease deeds were issued by the Jaipur Development Authority and several houses have been built on such colonies. Learned counsel for applicant further submitted that certain residents and factory owners are filling sand in the submergence area, thereby causing damage to the Neota Dam and Gular Dam.

Shri Ravi Solanki, Additional Chief Engineer, Irrigation Department does not dispute this position that Irrigation Department had objected to the setting up of colonies and building of houses on the land of submergence area of Neota Dam.

Shri Amit Kuri, learned counsel for the JDA submits that the applicants have filed their rejoinder to reply filed by Shri Siddharth Bapna raising so many issues. Therefore, he may be granted

reasonable time to respond to them. Learned counsel for the JDA also submits that the JDA is examining as to how the lease deeds issued on the land of the submergence area of Neota Dam, can be cancelled and the lease holders can be rehabilitated elsewhere.

Shri R.P. Singh, learned Additional Advocate General has invited attention of the Court towards the letter dated 17.7.2019 filed along with the compliance report filed today. The aforesaid letter has been written by Superintending Engineer, PWD, Circle-Rural, Jaipur to Chief Engineer, PWD, Rajasthan, Jaipur giving details about construction of road in response to news item published in the Dainik Bhaskar on 27.6.2019 by PWD in submergence area of Neota Dam. Along with the letter, the status report prepared by Executive Engineer and Assistant Engineer has also been enclosed, which refers to the sanction of Rs.85 lacs in financial year 2018-19 for construction of missing link project in the length of 4 kms from Gram Peepla Bharatsingh to Ring Road and Muhana Bhankrota Road to Neota Dam. It also mentions that since the Assistant Engineer of the PWD, Sub-division, Sanganer objected to this project and wrote about the same to the Assistant Engineer, PWD, the road has not been constructed and in future also, no such construction shall take place.

This Court in its order dated 30.7.2019 has referred to the provisions of Section 135 of the Companies Act, 2013 and observed that every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more, during any financial year, shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more Directors, out of which at least one Director shall be an independent Director.

Reference was made to the minutes of the meeting conducted by District Collector, Ajmer on 10.7.2019, wherein the representatives of Companies, namely; R.K. marble, Shree Cement, Hindustan Zinc Limited and GAIL India Limited, participated. The direction was issued to the Chief Secretary of the State to examine and adopt such mechanism in the entire State of Rajasthan requiring the big industrial houses covered by the aforesaid provisions of Section 135 to engage in the work of plantation of trees and also their protection till they grow independent. Similar order was also passed in D.B. Civil Writ Petition (PIL) No.3673/2013, Radha Shekhawat vs. State on dated 9.8.2019, wherein it was noticed that approximately Rs.256.74 crores will be required for electrification of 25674 primary and upper primary government schools, in rural areas of the State, which do not have any electricity supply. It was thereupon directed that the respondents shall explore the possibility of providing solar power system so as to cover maximum number of primary/upper primary as also secondary/senior schools, by involving big industrial establishment in the State under the Corporate Source Responsibility and encourage them to adopt particular number of schools, depending on the availability of funds under that head with them.

Shri R.P. Singh, learned Additional Advocate General in this respect has invited attention of the Court towards the draft notification enclosed with the compliance report filed on 2.9.2019 at Annexure-CR/3 for constituting Cooperative Social Responsibility (CSR).

In view of the above, we deem it appropriate to issue following directions:

1. That the Chairman, Board of Revenue, is directed to get all the reference cases with regard to the land of the river-bed and water flowing area of the Ramgarh dam, decided by constituting one or two sub-benches.

2. That the respondent Irrigation Department is directed to depute an Officer to go to CRRI, with prior consultation with them, along with sufficient number of samples from different places of the bed of the three rivers named above, for their examination, within next fortnight as to whether or not such sand/silt is fit to be utilized for construction of roads and dams etc.

3. That the respondents may also send their Officer to the Director, Malviya National Institute of Technology with such samples to get quality of the sand/silt examined for the same purpose as above.

4. That the respondents may also approach the National Highways Authority of India as to whether the sand/silt aforementioned can be used in the construction of ring road and if so, decide the modality of its procurement.

5. That the respondents in the next compliance report shall indicate the result of survey of different villages of different Gram Panchayats across the State as regards the plantation work, which they claim to have been carried out, so that the work should actually be seen on ground and not just on papers.

6. That the Irrigation Department shall conduct a survey on the present state of submergence areas of Neota and Gular dams and submit their report about the damage and extent of construction to the Jaipur Development Authority.

7. That the Commissioner, Jaipur Development Authority, thereupon shall personally inspect the area in question and file his affidavit proposing the manner in which the land can be restored to submergence area of the dam.

8. That the Jaipur Development Authority shall ensure that no new construction either of road or boundary or house, takes place in the submergence area of the Neota and Gular dams.

9. That the respondents shall not make payment for construction of the roads on the land of Neota dam, if any tender was invited.

10. That the respondent Irrigation Department shall periodically inspect the site of the Dams and inform in writing, if any construction activities are found in that area, to the Jaipur Development Authority.

11. That on receipt of the information regarding construction activities found to have been carried out in the submergence area of the Neota and Gular dams, it shall be the responsibility of the Commissioner, Jaipur Development Authority to immediately stop such construction.

12. That the Chief Secretary of the Rajasthan shall examine the notification, draft of which has been proposed for establishment of the Rajasthan Corporate Social Responsibility (RCSR) shall get the notification draft examined and upon its legal vetting get the same notified.

13. That the Chief Secretary of the State of Rajasthan is directed to ensure that the meetings convened by the Additional Chief Secretary, Medical and Health Services Department, who has been appointed as Nodal Officer, are attended by the Officers not below the rank of the

Principal Secretary or the Secretary and the participants in such meetings while signing the minutes of meeting indicate their names in legible letters so that it is known as to who has actually taken part in the meeting and signed the minutes.

List the matters on 5.11.2019. A copy of this order may be provided to the learned Members of the Monitoring Committee as also the learned Additional Advocate General and the learned counsel appearing for the Jaipur Development Authority for compliance.

(NARENDRA SINGH DHADDHA),J (MOHAMMAD RAFIQ),Acting CJ

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