

**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 Contempt Petition No. 1364/2012
Ramesh Meena And Another
-----Petitioner
Versus
C K Mathew And Others
-----Respondent

D.B. Civil Writs No. 6512/2017
Lok Sampati Sanrakshan Samiti
-----Petitioner
Versus
State Of Raj And Ors
-----Respondent

D.B. Civil Writs No. 14139/2017
Khem Karan Singh Toli
-----Petitioner
Versus
State Of Raj And Ors
-----Respondent

For Petitioner(s) : Mr. Virendra Dangi, Sr. Adv. with
Mr.AK Bhargava, Members of the
Monitoring Committee

Mr. Karan Pal Singh, Mr. BL Sharma,
Ms.Ashish Joshi, Ms. Neerja Khanna,
Mr. Rakesh Sharma & Mr. PC Bhandari
with Mr. Abhinav Bhandari, Mr. Ajay
Kumar Jain, Mr. Rohan Agrawal for
Mr.Lokesh Sharma, Ms. Ashish Joshi

Mr. PN Maindola – Petitioner (self)

For Respondent(s) : Mr. GS Gill, AAG with Ms. Vandana
Sharma & Mr. Harish C. Kandpal
Mr. Mahendra Gaur – for applicant

Mr. RD Rastogi, Addl. Solicitor General
with Mr. Ashish Kumar & Mr. CS Sinha
& Mr. Akhil Simlote, Mr. Amit Kuri &
Mrs. Naina Saraf

Sh. Subodh Agarwal, Addl. Chief
Secretary, Department of Forest,
Government Secretariat, Jaipur.

Sh. Sudarshan Sethi, Addl. Chief
Secretary, Department of Panchayati
Raj, Govt. Secretariat, Jaipur.

Sh. Mukesh Sharma, Addl. Chief
Secretary, Department of
Urban/L.S.G., Govt. Secretariat,
Jaipur.

Sh. Shikhar Agarwal, Principal
Secretary, Department of Water
Resource, Govt. Secretariat, Jaipur.

Sh. Rajat Mishra, Principal Secretary,
Department of PHED & GWD, Govt.
Secretariat, Jaipur.

Sh. Ravi Jain, Chief Executive Officer,
Jaipur Nagar Nigam.

Mr. Khemraj, Principal Secretary,

Department of Revenue, Govt.
Secretariat, Jaipur

Smt. Aparna Arora, Chairman
Rajasthan State Pollution Control
Board, Commissioner

Mr. H. Guite, JDA Secretary with Shri
B.G. Gangwal, DC-13, J.D.A, Shri
Rajendra Singh, CCE, J.D.A & Shri
Rajkumar Singh, DC-12, J.D.A.

HON'BLE MR. JUSTICE M.N. BHANDARI
HON'BLE MR. JUSTICE DINESH CHANDRA SOMANI

Order

10/04/2018

Pursuant to the directions of this court, officers of respective Departments apart from Chairman, Rajasthan State Pollution Control Board and the Chief Executive Officer, Nagar Nigam, Jaipur are present.

This court passed orders from time to time to save the reservoirs and catchment areas so that the State of Rajasthan may not suffer from scarcity of water. It was found that catchment areas or the reservoirs have been encroached and no action has been taken by the Government. The allotment of land has also been made in violation of Section 16 of the Rajasthan Tenancy Act, 1955 (in short "**the Act of 1955**") to affect not only the reservoirs but catchment areas. Every Department is contributing therein thus a detailed order was passed to save the reservoirs and matter has been taken up to see compliance from all the

Departments. It is not only in reference to the order passed by this court initially but from time to time so that catchment areas and reservoirs are saved.

The court also noticed that due to inaction on the part of the State Pollution Control Board, untreated polluted water is allowed to flow. It is not only affecting land but ground water also. The untreated polluted water is even going in the reservoirs. The respective Municipalities or even RIICO are not taking care to put Sewerage Treatment Plants ("STP") or Trade Effluent Treatment Plants with the required capacity so that untreated polluted water may not flow so as to affect the ground water and reservoirs.

To take up the matter, initially, the Chief Executive Officer, Municipal Corporation, Jaipur was called to find out the capacity of Plant at Jaisinghpura Khor, which is known as "Ramgarh Mod". It is informed that plant is having treatment capacity of 50 MLD water. It was, however, admitted that around 15 MLD water is flowing untreated. It is due to breakage of Pipeline and Nala. A tender was floated for laying a new Pipeline but due to litigation, work could not be undertaken. The effect of the aforesaid is nothing but to serve the people with untreated polluted water which goes into "Kanota Dam" of Jaipur.

If, due to litigation, a new lane cannot be laid then what was the difficulty to repair it. Due to failure of Municipal Corporation, Jaipur, huge quantity of untreated water flow and it is polluting "Kanota Dam", Jaipur.

The Pollution Control Board has also failed to take action against those who are violating Pollution Laws. Due to their

failure, many areas have suffered and specially where Textile Industries exist like "Balotra" and "Pali". There may be many more areas.

The Revenue Department has also defaulted in removing the encroachments and, in many cases, did not implement the orders passed in Reference Cases by the Board of Revenue holding allotment of land to be in violation of Section 16 of the Act of 1955. The Revenue Department was under an obligation to take possession of the land to make it free from encroachments. They can invoke Section 91 of the Rajasthan Land Revenue Act, 1956. The Department was directed to maintain the position as was existing in the year 1947 or atleast when the Tenancy Act came into effect.

It is also seen that no action has been taken against the officers, who made allotments in violation of Section 16 of the Act of 1955 giving rise to the litigation and which affected the reservoirs. This court, in the case of Abdul Rehman Vs. State of Rajasthan, DB Civil Writ Petition No.1536/2003, decided on 2.8.2004 at Principal Seat, Jodhpur, gave various directions which have not been complied with.

In view of the above, the Revenue Department is required to submit compliance report to the effect that all the reservoirs and "Nalas" have been made free from encroachments so as the catchment areas in compliance of the order of this court. If any encroachment has not been removed then to specify the reasons therefor. In the similar manner, all other Departments would submit compliance report.

The Forest Department would further submit report justifying construction of anicuts affecting free flow of water to "Ramgarh Dam". Therein, 400 anicuts exist and, out of it, around 100 anicuts are in forest area, as informed by the Members of the Monitoring Committee. The water remain for few days in the anicuts thus a source is not developed to cater water in the area concerned and, at the same time, it affects the reservoirs.

The Additional Chief Secretary of the Forest Department would submit report about growth of forest areas. In the same manner, Jaipur Development Authority would submit an affidavit that no colony has been carved out either in the reservoirs or in the catchment areas and encroachments have been removed.

It is also informed that even the boundaries of the catchment areas have not been determined. In absence of it, it becomes difficult to save the reservoirs. A writ petition has been filed for the aforesaid thus the respondents would file reply to it.

The Additional Chief Secretaries or the Principal Secretaries of respective Departments would file a detailed affidavit to show compliance of the order of this court or if compliance has not been made then to specify the reasons and submit time bound programme thereupon for implementation of the orders. Similar affidavits would be filed by the Chairman, Pollution Control Board and the Chief Executive Officer, Municipal Corporation, Jaipur.

It is, however, made clear that if contents of affidavits are found false, the officer concerned would be liable for prosecution. If anything has been left from compliance then it would be

specified with the reasons so as to take up the matter to see proper compliance of the order.

The Chairman of the Pollution Control Board has informed about lodging of few prosecutions but are not being expedited by the court concerned. We direct the court concerned to take up the cases expeditiously, pertaining to this case.

The State Government would furnish the details of reference cases before the Revenue Board. It is against the allotment in violation of Section 16 of the Act of 1956.

The Collector, Dausa is directed to remain present in person on the next date of hearing as issue pertaining to "Ban Ganga River" has also been raised. His presence is dispensed with for today by accepting the reasons.

Heard on the application (Inward No.6870 dated 4th March, 2015) filed by the applicant for correction/modification in the order passed by this court on 29th May, 2012.

It is stated that words "Saint and Kabirdas" have been mentioned in the order dated 29th May, 2012, whereas, it should be "Poet and Rahim".

In view of the prayer made, application is allowed. The words "Saint and Kabirdas" mentioned in the order dated 29th May, 2012 are substituted by the words "Poet and Rahim". It may be treated as part and parcel of the order dated 29th May, 2012.

Let these petitions be listed on 3rd May, 2018 to see compliance of the order.

(DINESH CHANDRA SOMANI),J

(M.N. BHANDARI),J

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RAJASTHAN HIGH COURT



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