

D.B. CIVIL WRIT PETITION(PIL) NO.9497/2007
D.B. CIVIL WRIT PETITION NO.809/2008
D.B. CIVIL WRIT PETITION NO.15085/2011
D.B. CRIMINAL MISC. PETITION NO.3737/2012
D.B. CIVIL WRIT PETITION NO.15520/2012
D.B. CIVIL WRIT PETITION NO.16228/2012
D.B. CIVIL WRIT PETITION NO.16229/2012
D.B. CIVIL WRIT PETITION NO.16230/2012
D.B. CIVIL WRIT PETITION NO.20356/2012
D.B. CIVIL WRIT PETITION NO.12202/2013
D.B. CIVIL WRIT PETITION NO.2799/2014
D.B. CIVIL WRIT PETITION NO.4758/2014

DATE:26.03.2015

HON'BLE THE CHIEF JUSTICE MR. SUNIL AMBWANI
HON'BLE MR.JUSTICE AJIT SINGH

Mr. Poonam Chand Bhandari with
Mr. Rakesh Chandel,
Mr. Anil Mehta,
Mr. S.D. Khaspuria, for the petitioners.

Mr. N.M. Lodha, Advocate General assisted by
Mr. Vishal Sharma,
Mr. G.S. Gill, Additional Advocate General
Mr. Akhil Simlote,
Mr. Kishore Gaur on behalf of
Mr. Bharat Vyas,
Ms. Ritu Singh on behalf of
Ms. Naina Saraf,
Mr. Hemant Sharma on behalf of
Mr. R.D. Rastogi, for the respondents.
Mr. N.C. Sharma on behalf of
Mr. Suresh Pareek(Sr. Counsel), Court Commissioner.

REPORTABLE

सत्यमेव जयते

We have heard learned counsel appearing for the parties.

Mr. Akhil Simlote appears for the Rajasthan State Pollution Control Board.

A compliance report filed by learned Advocate General assisted by Mr. G.S. Gill, Additional Advocate General is taken on record.

In the compliance report submitted by Mr. D.K. Meena, Superintending Engineer, Municipal Corporation, Jaipur, it is stated that the direction for approaching the National Environmental Engineering Research Institute (NEERI), was handed over in the meeting dated 18.03.2015, to the Jaipur Development Authority, Jaipur(JDA), and that the JDA has, in turn, requested the TATA Projects Limited, to approach NEERI, to consider the suggestions and advise of NEERI, while preparing the Detailed Project Report(DPR).

With regard to encroachments in the catchment area, it is reported that five teams have been constituted for regular monitoring of the encroachments, and to submit their reports on the constructions and further encroachments, and to regularly make inspections in the entire stretch of the river running in 43 kms., out of which 6.5 kms. is in the area of Nagar Nigam.

On the directions issued to seize the pumps, by which dirty and polluted water is pumped out from the river for irrigating the fields, in which vegetables are grown, the Police Commissioner, Jaipur, has been directed, vide demi-official letter, to issue directions to the concerned SHOs', to seize the illegal pumps, and continue to inform the State Government in this regard.

On the directions of installation of the Sewerage Treatment Plants(STP), to stop the flow of the polluted and contaminated water into the river, instructions have been issued to the Rajasthan State Pollution Control Board, to take immediate steps for compliance of the order.

On the directions to prepare the satellite imaging of the entire stretch of 'Dravyawati River' and on its banks, it was decided to direct the JDA to approach the Jodhpur situate Office of the State Remote Sensing Application Center(SRSA), and the Hyderabad situate NRSA Office, for taking the satellite images, on regular basis.

After hearing learned Advocate General, we are not satisfied that any effective steps have been taken in compliance of our directions. It appears that the State Government has completely misunderstood the directions issued by this Court, so far as approaching the NEERI for preparing a Detailed Project Report for restoration and rejuvenation of the 'Dravyawati River', installation of STPs' by the industries polluting the river by their discharges, and for obtaining the satellite imaging of the entire stretch of the river, are concerned.

It also appears that the State Government has already selected M/s Tata Projects Ltd., without any tender process, to submit the Feasibility Report/Detailed Project Report and financial proposal under the SWISS Challenge Mode, for three Projects, including rejuvenation of Amanishah Nala and Area Development.

The State Government has not placed before us the tender process, which it may have been adopted to select M/s Tata Project Ltd., or the documents satisfying the Court with regard to technical competence of M/s Tata Projects Ltd., for carrying out the work of preparing DPR for rejuvenating the river. In any case, a private firm- M/s Tata Projects Ltd., could not have been directed to approach the NEERI, for its suggestions and advice. This was not the object and intention of

our order.

This Court directed the State Government to approach the National Environmental Engineering Research Institute (NEERI), which is created and funded by the Government of India, with focus on water supply, sewage disposal, communicable diseases and to some extent on industrial pollution and occupational diseases. NEERI is a pioneer laboratory in the field of environmental sciences and engineering and part of Council of Scientific and Industrial Research with five zonal laboratories at Chennai, Delhi, Hyderabad, Kolkata and Mumbai.

A private agency, such as M/s Tata Projects Ltd., could not have been asked to approach the NEERI, to prepare the Project Report.

We take strong objection to the attempt made by the State Government for failing to comply with the order of the Court, and in involving M/s Tata Projects Ltd. in the matter, the credentials of which are not known, nor we are interested to find it out.

Let the State Government approach NEERI, independently, without intervention of any other agency, to seek its response for the purpose of scope of work and the cost involved in preparing the project, with the help of the reports available on the record.

The Department of Urban Development and Housing, Government of Rajasthan, will directly approach the NEERI and carry out negotiations for the purposes of preparing a Detailed Project Report, and the estimated cost of restoration and rejuvenation of the 'Dravyawati River', and submit the compliance report on the next date.

So far as encroachments in the catchment area are concerned, we find that all the encroachments on the banks of the river, passing through the City of Jaipur, have not been removed, nor any effective survey has been carried out as to how and when encroachments were allowed in the catchment area, and the extent of the constructions, which have been made.

We may further direct that the JDA and the Nagar Nigam, Jaipur, will not sanction any new plans, or consider any pending plans, for constructions of the colonies and the houses on the banks of the river, especially in the catchment area. A fresh report with regard to the constructions, which may have been undertaken in the catchment area, and on the banks of the river, will be submitted along the compliance report, with demolition of such constructions.

The State Government must produce before us the details of the number of water pumps, which have been seized, which were found irrigating the fields for growing vegetables from the dirty, polluted and contaminated water and the matters reported to Magistrates.

Learned counsel appearing for the Rajasthan State Pollution Control Board, submits that directions have been issued to the industries in Sanganer, Jaipur, in pursuance to the directions issued by this Court in D.B. Civil Writ Petition No.2075/1994- Vijay Singh Punia Vs. UOI & Ors., reported in 2003(4) WLC(Raj) 472., for installation of Common Effluent Treatment Plants(CETP). A proposal was given by the industries for installation of CETPs', for which the land was acquired and the Association of Industries had also collected funds, but CETPs' have not

been constructed/installed so far.

The Rajasthan State Pollution Control Board will issue notices to the Association of Industries for installation of CETPs' within a period of three months, failing which all the industries, which are discharging their untreated effluents into the river, will be closed down.

The Rajasthan State Pollution Control Board is directed to issue closure notices to all those industries, which have not obtained the 'No Objection Certificate', from it. For this purpose, learned Advocate General has assured this Court that all required assistance including police help, will be provided to the Rajasthan State Pollution Control Board.

For satellite imaging, we reiterate our directions, that the Government agencies should be approached without any delay after making research on the Internet, on the modalities for preparing the satellite imaging on regular basis, and for that purposes, the funds will be sanctioned by the State Government.

We are informed by Ms. Neerja Khanna, Advocate, that she has filed a writ petition today, annexing therewith the maps of 'Dravyawati River' of the year 1865-66, and toposheets of the years 1930-31, 1970-71, 1976 and 2011, which shows the river's free flow of water on its banks, spreading over 500 ft.

Let this writ petition, filed today, be tagged with this bunch of cases.

List again on 27.04.2015.

[7]

A copy of the order will be given to learned Advocate General and the Counsel appearing for the Rajasthan State Pollution Control Board.

(AJIT SINGH),J.

(SUNIL AMBWANI),C.J.

/KKC/

Certificate:

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

KAMLESH KUMAR
P.A.



सत्यमेव जयते