

IN THE HIGH COURT OF JUDICATURE FOR RAJASHAN
AT JAIPUR BENCH, JAIPUR

:: ORDER ::

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
D.B. CIVIL WRIT PETITION NO.4936/2015

27.04.2015

HON'BLE THE CHIEF JUSTICE MR. SUNIL AMBWANI
HON'BLE MR. JUSTICE ATUL KUMAR JAIN

Mr.Poonam Chand Bhandari,
Mr.S.D.Khaspuria,
Mr.Rakesh Chandel,
Mr.Rajendra Soni,
Ms.Neerja Khanna,
Mr.Anil Mehta,
Mr.D.S.Poonia for the petitioners.

Mr.N.M.Lodha, Advocate General assisted by
Mr.Sheetanshu Sharma & Mr.Vishal Sharma,
Mr.Virendra Lodha, Senior Advocate assisted by
Mr.Devesh Chouhan,
Mr.G.S.Gill, AAG,
Ms.Naina Saraf,
Mr.Akhil Simlote,
Mr.Ravi Chirania, for the respondents.

1. An affidavit of compliance has been filed by Shri Manoj Kumar Soni on behalf of the State Government, in response to our orders dated 26.02.2015 and 26.03.2015, giving the progress made in the matter of rejuvenation and restoration of Dravyawati River.

2. In paragraph 1(i) of the affidavit, it is stated that the State Government has, vide its letter dated 24.04.2015, made a request to the Director, NEERI to provide the services of experts regarding the scope and cost of the work, and for this purpose, Shri Pawan Arora, Secretary, Jaipur Development Authority, has been assigned the duty. The letter dated 24.04.2015, which has been written just three days back, has been enclosed with the compliance report.

3. In paragraph 2 of the affidavit, it is stated that effective steps have been taken to stop any further encroachment in the catchment area, and to find out the extent of constructions, which have been made. The encroachments in the area coming within the territorial jurisdiction of the Jaipur Development Authority, 482 encroachments have been removed, and the report submitted in November, 2013, which is already part of the record. To make regular vigilance on the encroachments, five teams were constituted vide order dated 19.03.2015 to monitor the encroachments. In paragraph 3, similar directions were issued to the Jaipur Municipal Corporation, where the two teams constituted earlier, inspected the site and also prepared the report in regard to their respective jurisdictional area.

4. In paragraph 4, it is stated that Police Commissionerate has also taken steps towards the implementation of the directions of the Court, from time to time. As per the latest factual status, the vegetation grown in bed of Dravyawati River with the use of polluted water, has been removed by the Jaipur Development Authority, with the assistance of the Police.

5. So far as the satellite mapping of the catchment area and the flow of the River from its origin in Myla Dam to Dhoond Nadi, the

Deputy Director, SRSAC, Jodhpur has shown its inability to carry out the work. Shri C.S.Parashar, Additional Chief Town Planner was assigned a duty to approach the National Remote Sensing Centre, Hyderabad. Shri C.S.Parashar, Additional Chief Town Planner and Shri Arvind Arya, Additional Chief Engineer are visiting Hyderabad, at present, to carry out the discussions, and to prepare the work order, which will be sent by e-mail, in response to which the Jaipur Development Authority will issue work order, in that regard.

6. It has been pointed by learned counsels appearing for the petitioners, that the compliance affidavit have been prepared, on action taken and compliances made, just two days before the dates fixed in the matter. They have submitted that the State Government is not acting with the expediency, which is required in the matter.

7. Shri Anil Mehta, has pointed out that the catchment area of the Amer Reserve Forest and Nahargarh Sanctuary, are subject matter of large scale encroachments. The water flows in the river from Myla Dam through the catchment area in Amer Reserve Forest and Nahargarh Sanctuary. He submits that unless the encroachments in the area, which are being made almost every day, and that, even colonies have been developed, are removed, the entire effort for rejuvenating and restoring the River, which flows for about 47 kms. through the City of Jaipur, will go in vain.

8. Ms.Neerja Khanna appearing for Swachh Nagar Sansthan, states that the petitioners in D.B.Civil Writ Petition No.4936/2015, have conducted research, and have placed the material with regard to the catchment area, and the span of the River, which was free flowing from 1931. She submits that the documents collected and filed with

the writ petition, may be taken into consideration, for taking a decision about the span of the River, within which encroachments should be removed and no construction should be allowed.

9. The compliance report shows that the State Government has still not taken the matter of restoration of the River seriously. In pursuance to the directions issued on 26.03.2015, only a letter was written to NEERI three days back, on 24.04.2015. If this is the pace of the compliances, we do not see that the State Government will be able to secure any concrete plan for restoration of the River, for a long time to come. In the circumstances, we direct the State Government, to make request to the NEERI to depute a team of its officers, so that a survey be made by the experts, and a concrete plan be prepared for restoration of the River. While the Court is awaiting the response from National Remote Sensing Centre, Hyderabad for satellite mapping for preparing the work order, let the Advocate General of the State, seek an explanation from the Deputy Director, SRSAC, Jodhpur, as to why and under what circumstances, he had expressed his inability for satellite mapping of the River.

10. The directions not to allow any further encroachments, were separate from the directions to remove all the encroachments, which have been made in the area.

11. We therefore, direct the State Government to carry out a publication in the newspapers, that anyone, who has already made encroachment, and that, anybody who makes encroachments, will be doing it, at his own risk of demolition. The encroachments will now be removed without any notice. In case any colonies have been developed in the area, the Jaipur Development Authority and Jaipur

Nagar Nigam, will immediately remove the such colonies. In this regard, we direct the Principal Secretary, Urban Development & Housing Department, Government of Rajasthan, Jaipur, to pass an order specifically, defining the areas, in which the Jaipur Development Authority and Jaipur Nagar Nigam, have to carry out the work, and the Jaipur Police Commissionerate to provide all necessary help.

12. The Police Commissionerate has not given any report, with regard to the seizure of pumps, which are lifting polluted water from the River to irrigation vegetation. A report with regard to the seizure of the pumps and notifying it to the Magistrates, who alone, are directed to release such pumps on heavy security, will be filed within next two weeks.

13. A compliance report has been submitted by the Rajasthan State Pollution Control Board, in response to the order dated 26.03.2015, which shows shocking state of affairs, with regard to the pollution control measures adopted by the industries in Sanganer. The report is reproduced as below:-

"Compliance report of the Rajasthan State Pollution Control Board, Jaipur in reference to order passed by the Hon'ble High Court, Jaipur Bench on 26.03.2015 in the matter of D.B.Civil Writ Petition No.9497/2007 P.N.Maindola V/s State of Rajasthan & Ors.

1. The STPs (2 x 62.5 MLD) located at Delawas discharging treated/untreated waste water into the "Dravyavati River" were inspected by the Board officials on 13.04.2015 in presence of Mr.Prem Chandra (Electrical Incharge). On the basis of observations found during visit, site memo (Annex-1) mentioning the deficiencies was given to the Mr.Prem Chandra (Electrical Incharge) to submit the action take report within seven days in time, the report is yet to be

received. The sample of untreated waste water from common inlet of both STPs & sample of treated waste water from the common outlet of both STPs were collected & deposited at Central Lab, RSPCB, Jaipur for analysis. The results of analysis (Annex-2) of treated waste water collected on 13.04.2015 from common outlet of both the STPs are given in table as below:-

S.No.	Parameters	Prescribed limits	Results found	Remarks
1	PH	5.5 – 9	7.54	Within limit
2	Total Suspended Solids	100 mg/l	58 mg/l	Within limit
3	Chemical Oxygen Demand (COD)	250 mg/l	104 mg/l	Within limit
4	Bio-Chemical Oxygen Demand (BOD) (3 days at 27 C)	30 mg/l	33 mg/l	Exceeds
5	Oil & grease	10 mg/l	02 mg/l	Within limit

2. Looking to the excess quantity of domestic waste water being bye-passed (approx 25-30 MLD) it is essential for the local authorities to install additional STP of adequate capacity for catering bye-passed domestic waste water. The local authorities also instructed to install captive power facility (DG sets) for ensuring un-interrupted operation of both the STPs during power failure.

3. The State Board has issued directions for closure & disconnection of electricity & water supply to the 893 textile industries at Sanganer & nearby area of Jaipur in two phases i.e.in first phase (2010-14) – 213 units & in second phase – 680 on 23.04.2015 & 24.04.2015. (Sample copy of the same is enclosed as Annex-3).

4. The State Board has issued show cause notice for intending legal action under the provisions of the section 41 (2) of the Water (Prevention & Control of Pollution) Act, 1974 for non-compliance of the directions issued under section 33A of the Water (Prevention & Control of Pollution) Act, 1974 in respect to textile units operating in and around sanganer area regarding disconnection of electric supply vide

letter No.F.12(Gen.-23) RPCB/Textile/111 to 114 dated 16.04.2015 to the Executive Engineer (CD-IV), JVVNL, Jaipur for implementation of the directions issued by the State Board. (Annex-4).

5. The State Board has also requested vide letter No.F.12 (Gen.-23) RPCB/Textile/111 to 114 dated 16.04.2015 (Annex-4) to the District Collector, Jaipur & Chief Engineer, JVVNL, Jaipur for ensuring compliances of the directions issued by the Board for disconnection of the electricity supply of textile units situated in and around Sanganer area.

6. The State Board has directed vide letter no.F.10/Tech_Jaipur(110) RSPCB/MUID/7208-09 dated 24.04.2015 to the Sanganer Pradushan Nivaran Samiti, Sanganer, Jaipur to ensure the compliance of the Hon'ble High Court order dated 26.03.2015 & installation of CETPs within a period of three months.(Annex-5).

7. Shifting the textile units having capital cost of more than Rs.50 lacs, from it's present locality (which includes the residential area) to the industrial area near village Chittroli, Bagru, District Jaipur developed by the RIICO limited would help in a significant way to address the pollution issues of the area."

14. The report shows that untreated domestic and industrial waste water is being discharged in the river continuously. The Rajasthan State Pollution Control Board has issued directions for closure and disconnection of electricity and water supply to 893 textile industries at Sanganer and nearby area of Jaipur in two phases. In the first phase i.e.2010-14, 213 units, and in the second phase, 680 units (on 23.04.2015 and 24.04.2015) have been issued notices to close down, as they have not obtained No-objection Certificates from the Rajasthan State Pollution Control Board, which is responsible for enforcement of the provisions of Water (Prevention & Control of Pollution) Act, 1974.

15. The extent of discharge of pollutants in the River is alarming. In case the untreated discharge of pollutants by the industrial units continues unabated, the River will die, and there will be hardly any scope of its restoration. The Rajasthan State Pollution Control Board reported that on 24.04.2015, it has given notices to Sanganer Pradushan Nivaran Samiti, Sanganer, Jaipur, for compliance of the order of the High Court dated 26.03.2015, for establishment of CETPs within three months.

16. From the compliance report, we find the industries in three categories, namely, those who are not registered with the Rajasthan Pollution Control Board; those who have been registered, but have not obtained No-objection Certificates from the Board; and those, who are registered, but have not taken No-objection Certificates from the Board, and have not installed CETPs collectively, for treating the discharge into the River.

17. We direct the Rajasthan State Pollution Control Board, to give final notice, by publication in the newspapers, to all the industries, who are unregistered, to get registration within a period of one month, and all those industries (213 units), which have not obtained the No-objection Certificates will be closed down in the first phase by 31.05.2015, and 618 industries in the second phase, by 30.06.2015. The electricity and water connections to the non-compliant units, will be cut down and for which, the directions have been issued by Rajasthan State Pollution Control Board. These directions will be complied with by these departments, as directions of the Court. The construction of CETPs will be completed on or before 26.06.2015 (within three months of the order dated 26.03.2015). We direct the

Rajasthan State Pollution Control Board to submit detailed reports, on an affidavit of a responsible officer of the Board, on every date.

18. We also take this opportunity to issue directions to the Forest Department to file an affidavit with regard to the unauthorized structures and constructions in the Amer Reserve Forest and Nahargarh Sanctuary. In case any unauthorized constructions have been made, in these areas, the Forest Department will immediately carry out an operation to demolish and remove the unauthorized constructions and structures, and lodge first information reports against them, under the provisions of the Indian Forest Act. A report will be filed, after carrying out the survey, by the concerned Chief Conservator of Forests. He will annex the reports of the officer in-charge of the Amer Reserve Forest and Nahargarh Sanctuary, in his affidavit verifying the facts.

19. The matters will be listed again on 18.05.2015. A copy of this order will be supplied to the Advocate General, State of Rajasthan, by tomorrow.

(ATUL KUMAR JAIN),J.

(SUNIL AMBWANI), CJ.

Skant/-, Proof Reader

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

Shashi Kant Gaur,
Proof Reader