

- (1) D.B. CIVIL WRIT PETITION(PIL) NO.9497/2007
- (2) D.B. CIVIL WRIT PETITION NO.809/2008
- (3)D.B. CIVIL WRIT PETITION NO.15085/2011
- (4) D.B. CRIMINAL MISC. PETITION NO.3737/2012
- (5) D.B. CIVIL WRIT PETITION NO.15520/2012
- (6) D.B. CIVIL WRIT PETITION NO.16228/2012
- (7) D.B. CIVIL WRIT PETITION NO.16229/2012
- (8) D.B. CIVIL WRIT PETITION NO.16230/2012
- (9) D.B. CIVIL WRIT PETITION NO.20356/2012
- (10) D.B. CIVIL WRIT PETITION NO.12202/2013
- (11) D.B. CIVIL WRIT PETITION NO.2799/2014
- (12) D.B. CIVIL WRIT PETITION NO.4758/2014
- (13) D.B. CIVIL WRIT PETITION NO.4936/2015

DATE:10.08.2015

HON'BLE THE CHIEF JUSTICE MR. SUNIL AMBWANI

HON'BLE MR. JUSTICE AJIT SINGH

REPORTABLE

Mr. Poonam Chand Bhandari with
Mr. Rakesh Chandel,
Mr. S.D. Khaspuria
Ms. Neerja Khanna,
Mr. N.K. Garg on behalf of
Mr. Rajendra Soni, for the petitioners.

Mr. N.M. Lodha, Advocate General assisted by
Mr. Vishal Sharma & Mr. Sheetanshu Sharma,
Mr. G.S. Gill, Additional Advocate General with
Mr. Harish Kandpal, Addl. Govt. Counsel,
Mr. Akhil Simlote,
Mrs.Naina Saraf with
Mr. Vinod Singhal,
Mr. Virendra Lodha, Senior Counsel assisted by
Mr. Devesh Chauhan & Mr. Jai Lodha,
Mr. Ravi Chirania,
Mr. Kishore Gaur on behalf of
Mr. Bharat Vyas,
Mr. Nikhil Simlote on behalf of
Mr. R.B. Mathur,
Dr. M.S. Kachhawa
Mr. C.P. Sharma on behalf of
Mr. Mahendra Goyal, for the respondents.

Mr. Krishna Kunal, District Collector, Jaipur, present in person.

1. In pursuance to our order dated 03.08.2015, an additional affidavit of Shri Krishna Kunal, District Collector, Jaipur, present in the Court, has been filed, providing interim proposals, giving the details of the compliances with regard to study report conducted by NEERI for rejuvenation of Dravyawati River; Remote Sensing Imaging through NRSC, Hyderabad; territorial demarcation between JDA and the Jaipur Nagar Nigam by the UDH; and interim measures to be taken with regard to control of polluted effluents by the textile industries running in Sanganer, till the establishment of CETP Plant at secondary level and Zero Liquid Discharge (ZLD) ultimately.

2. The interim proposals and compliances in the additional affidavit of Shri Krishan Kunal, District Collector, Jaipur, are quoted as below:-

1. That the deponent is at present District Collector, Jaipur and is well conversant with the facts of the case as well as he has been directed as the Executing Officer for various ensuring directions of the Hon'ble Court as well as the decision taken by the State of Rajasthan.
2. That this case was listed before your Lordships and the Hon'ble Court heard Shri C.S. Rajan, Chief Secretary, Government of Rajasthan along with District Collector and officers of the Rajasthan State Pollution Control Board with regard to the compliance of the orders of the Hon'ble Court. Having heard the averments, the Hon'ble Court directed the Chief Secretary to place on record the interim proposals by way of an affidavit through a responsible officer latest by 8.8.2015.
3. That the anxiety of the Hon'ble Court was mainly for the compliance of its directions in interests of health and environment which may be enumerated as below:-
 - (A) To get the study report conducted by NEERI for rejuvenation of Dravyavati River.
 - (B) Remote Sensing Imaging through NRSC Hyderabad.
 - (C) Territorial demarcation between JDA and Jaipur Nagar

Nigam by UDH, for appropriate vigilance and removal of encroachments / unauthorized constructions.

(D) Interim measures to be taken with regard to the control of polluted affluents by the Textile Industries running in Sanganer if those are allowed to run till the establishment of CETP Plant at secondary level and ZLD (Zero Liquid Discharge), ultimately.

4. The proposals and compliance made by the State Government with regard to the above directions of this Hon'ble Court is summarised as below:-

(A) In response to letter dated 23rd June, 2015 of NEERI the order has been placed vide letter No.F.12 (375) UDH 2007 dated 29.07.2015 and half of the amount of the project i.e. Rs.60 lacs, which was asked by the NEERI in advance, has been transferred through RTGS. In this letter, request was also made by the JDA to furnish the report and complete the study work as early as possible but preferably within 3 months. In response to this letter, NEERI Team is coming to Jaipur on 9th August and will initiate the survey process from 10th August to 14th August, 2015. Copy of the work order is already annexed as Annexure-CR/2015/13 and copy of the communication dated 6.8.2015 is being enclosed herewith and marked as ANNEXURE-CR/2015/33. Thus compliance of the direction of the Hon'ble Court is being well addressed by the State Government. It is also prayed that the Hon'ble Court may kindly issue appropriate directions to the Director, CSIR-NEERI, Nehru Marg, Nagpur for submission of the Study Report within 3 months.

(B) As far the issue of getting Remote Sensing Image through NRSC Hyderabad is concerned, it is hereby submitted that not only the order was placed but half of the amount of the work order as required by the NRSC i.e. Rs.7,29,070/- has already been remitted by demand draft. Copy of this letter along with DD is already on record as Annexure-CR/2015/28.

In this matter, for early Satellite Imaging of Dravyavati River, the NRSC was requested who have responded that due to monsoon clouds, it will not be possible to provide the present image. Hence, they have been requested to provide two month old images so as to identify the encroachments. A communication was also sent on 31st July and has already been placed on record as Annexure-CR/2015/32. Copy of fresh reminder dated 3.8.2015 is issued, copy of which is being annexed as ANNEXURE-CR/2015/34.

(C) So as far as territorial demarcation of the JDA and Jaipur Nagar Nigam is concerned, it is submitted that the same has already

been done for the purposes of determination and surveillance of encroachments. The Jaipur Nagar Nigam have the territorial jurisdiction from Amba Bari Pulia to Sushilpura, having the length of 6.5 kms and rest of the area of the Dravyawati River lies within the territorial jurisdiction of JDA i.e. from Sushilpura Pulia to End of the River, where it merges in Dhundh River i.e. approximate length of 41.5 kms. This demarcation had already been done by the UDH Department in its meeting dated 12.5.2014 and copy of the same has already been placed on record as Annexure-CR/2015/16. Furthermore, special teams were also constituted by the JDA and Nagar Nigam.

These teams regularly keep vigilance on the encroachments and submit their report periodically. In the meeting dated 12.5.2015, it was also directed by the Addl. Chief Secretary, Urban Development and Housing Department to the JDA and Jaipur Nagar Nigam that if any new construction, renovation or repair is found in any area, it will be personal responsibility of the respective department and their teams constituted thereof. This direction finds its place in para No.4 of the annexure-CR/2015/16. Moreover, the Collector, Jaipur also coordinates all such Interdepartmental issues within his Jurisdiction.

(D)With regard to electric and water disconnections of the Industrial Textile Units, running in Sanganer, which are discharging untreated water in Dravyavati River, the Chief Secretary brought out before the Hon'ble Court the implications of abrupt closure of such Industries. Such submissions were placed before the Hon'ble Court as well through the status report dated 3.8.2015. These submissions are averred in the report in para No.9 (9A to 9F) of the status report from page No.8 to 14. **The Hon'ble Court was kind enough to consider the sensitive issue but at the same time sought sound interim proposals for effluent treatment till the installation of CETP takes place.**

(i) In this regard, it is hereby submitted that Sanganer Kapra Rangai Chhapai Association was directed in clear terms that until and unless sustained interim measures are taken for treatment of the polluted water, no Industry would be allowed to run.

(ii) In response to these directions, the Association assured by way of an affidavit that till the installation of CETP, each and every Unit would establish individual ETP Plant which would be installed in two phases :-

- a) Major Units discharging more than 1000 KLD effluent would have their functional ETP's within 30 days.
- b) All other Units would have their ETP's within next 30 days.

Also the plan & installation of ETP/interim treatment has been placed on record through the affidavit submitted by the Implementing Agency, Advent Envirocare Technology Pvt. Ltd, Ahmedabad.

The affidavit filed by the association is being brought on record and annexed as **ANNEXURE-CR/2015/35**. Similarly affidavit filed by the Advent Envirocare Technology Pvt. Ltd. along with Technical Proposal is also being placed on record as **ANNEXURE-CR/2015/36**.

(iii) That the District Collector vide his letter dated 6.8.2015 has forwarded the proposal/Affidavit of the Association and Implementing Agency to Rajasthan State Pollution Control Board with a request to weigh the same. Copy of this letter dated 6.8.2015 along with affidavits and technical proposal is being annexed as **ANNEXURE-CR/2015/37**.

(iv) The Member Secretary of the RSPCB has examined the proposal and have allowed the same with certain amendments/suggestions. Copy of the letter of RSPCB dated 7-8-15 is being annexed as **ANNEXURE - CR/2015/38**.

(v) In compliance of the directions of the Hon'ble High Court towards interim effluent treatment measures and on subsequent amendments/suggestions made by the Rajasthan State Pollution Control Board, Jaipur, the Sanganer Rangai Chapai Kapda Association and Advent Envirocare Technology Pvt. Ltd., Ahmedabad have resubmitted fresh affidavits to meet the directives towards environmental safeguards, wherein they have under taken that a failure to comply with the interim measures as stated on Oath within the prescribed timelines by any Unit would lead to their Disconnection/Closure by the Association itself.

The State Government and the District Collector, Jaipur are committed towards ensuring enforcement and compliance of the interim measures as placed on the record by the Association and its' Implementing Agency.

The amended affidavits filed by the Association and Implementation Agency in compliance of the suggestions of RSPCB, Jaipur dated 07.08.2015 is being brought on record and placed as Annexure- CR/2015/39 and Annexure- CR/2015/40 respectively.

5. That the enclosed documents, Annexures-CR/2015/33 to CR/2015/40 are true and correct photo copies of their originals.”

3. We record our satisfaction over the steps taken by the State Government and the explanation given by Shri C.S. Rajan, Chief Secretary, Government of Rajasthan in Court on 03.08.2015.

4. On the study report, to be conducted by the NEERI, we are informed that Rs.60 lacs were credited to its account, which is 50% of the project amount for preparing the Project, and for which the work has started from yesterday on 09.08.2015. The NEERI has requested for eight months time to submit a report. The Chief Secretary, Government of Rajasthan, had requested that NEERI be asked to expedite the process and submit a report within a period of three months.

5. The team of NEERI, consists of environmental experts and hydrology experts and thus, we do not propose to put any condition on NEERI to submit a report within a specified time other than the time period proposed by them, but considering the urgency of the matter, we request the NEERI to complete the project, on priority basis, and as far as possible, within four months.

6. As assured by the Chief Secretary, Government of Rajasthan, all the State instrumentalities will provide assistance to the team of NEERI, in preparing a report.

7. The Remote Sensing Images through NRSC, Hyderabad, are still awaited. The NRSC has informed that due to monsoon clouds, it will not be possible to provide the present images.

8. In this regard, we direct that the images may be obtained as and when visibility improves, on regular basis and will also be put in public domain by publishing it on the official website of the Government of Rajasthan, to be perused by all concerned.

9. The territorial demarcation between the JDA and the Nagar Nigam, Jaipur has been done, according to which, the Nagar Nigam, Jaipur has the territorial jurisdiction from Ambabari Pulia to Sushilpura, having a

length of 6.5 kms., and the remaining area of Dravyawati River lies within in the territorial jurisdiction of JDA from Sushilpura Pulia to the end of the River, where it merges with Dhundh River, with approximate length of 41.5 kms. It is stated that special teams have already been constituted by the JDA and the Nagar Nigam to stop any further constructions and to remove encroachments.

10. We make it clear that demolition drive to free the entire area from encroachments, must be carried out effectively and regularly. In case any objections are filed, the same may be decided by the competent Officer of the JDA, within 15 days, for which we clarify that if no title deeds and sanctioned plans are produced, the constructions will be treated as encroachments and there will be no question of regularization of such possessions and constructions. The area in question on the banks of the River, was never a part of construction activity earlier, and thus , the Nagar Nigam, Jaipur and the JDA, shall not carry out any exercise of its regularization in the areas at any cost, and for this purpose, we also direct the Civil Courts, not to grant any injunctions in this regard, if any suits are filed, until and unless a reasonable opportunity is given to the JDA and Nagar Nigam, Jaipur, as the case may be, and after considering the orders passed by the High Court in these proceedings.

11. As regards growth of vegetables on the banks of the River, which is still highly polluted and is full of chemicals discharged by the textile units, we direct that the Nagar Nigam, Jaipur and the JDA as well as the Commissioner of Police, Jaipur and all other authorities, to continue to monitor that no vegetables are grown in the area with the highly contaminated water pumped out from the River, and for this purpose, we

have already given directions that the pumps drawing water will be seized and will not be released, until it is directed by the concerned Magistrate to do so. A drive to seize the pumps will continue with an object not to grow any vegetables in the area, irrigated from the contaminated water of Dravyawati River.

12. As regards electricity and water disconnections of the industrial textile units, running in Sanganer, Jaipur, we are informed that the total project cost for CETPs', to be constructed by the Society, chaired by the District Collector, Jaipur, is 160 crores, and for which, 25% of the amount is to be deposited by the textile unit owners; 25% by the State Government; and 50% of the amount by the Central Government.

13. We are informed that the Association has deposited about 32 crores, and for the remaining amount, the Association has requested for one week's time to deposit the amount. We allow them a week's time to deposit the balance amount. The State Government has already deposited its share of 25%. For the share of the Central Government, the Project Sanctioning Committee, Ministry of Textile, Government of India is requested to release the 50% amount i.e. Rs.80 crores, as expeditiously as possible.

14. A copy of this order will be given to Shri R.D. Rastogi, Additional Solicitor General, appearing for the Union of India, for doing the needful in the matter. He will also file a reply within four weeks, after apprising the Central Government with the orders passed by this Court and its commitment to deposit the 50% of the amount for construction of CETP to save the City of Jaipur and any further pollution of Dravyawati River.

15. We are informed that CETP will be constructed within a period of about one year. Now since an amount of 80 crores is available with the Society, the District Collector, Jaipur, will proceed to select the agency for construction of CETP and start the work, as early as possible. In the meantime, as stated in the affidavit filed by the District Collector, Jaipur, each and every unit has to establish an individual ETP Plant, to be installed in two phases, namely that major units discharging more than 1000 KLD effluents will have their functional ETP's within 30 days; and all other units will have their ETP's within next 30 days. An affidavit filed by the Sanganer Kapda Rangai Chhapai Association giving an undertaking to construct ETPs' has been annexed with the additional affidavit, filed by the District Collector, Jaipur. The Collector, Jaipur will continue in his efforts to relocate the units in RIICO, away from the river like it was done in the past relocating some units in RIICO, Bagru.

16. The pollutants discharged by the textile units is a serious environmental issue, and thus, while modifying our order for disconnecting the water and electricity supply to the textile units in Sanganer, we direct the District Collector, Jaipur to monitor his assurances, given in paragraph 4(D) of his affidavit. He will ensure compliance of the directions given for establishment of ETPs' at secondary level and to Zero Liquid Discharge (ZLD), as stated, within 30 days for major units discharging more than 1000 KLD, and for all other units within next 30 days.

17. The District Collector, Jaipur will file an affidavit, on expiry of two months, regarding the progress of installation of ETP Plant for each of the units for interim measure in Sanganer. We make it clear that after expiry of two months, no textile unit in Sanganer, in whatever capacity,

will be allowed to continue the work, unless it installs ETP, and for which an undertaking has been given by their Association, and that after a period of two months, all those textile units, which have not installed ETPs', will not be allowed to function and their water and electricity connections will be disconnected.

18. The Rajasthan State Pollution Control Board will continue to inspect and supervise the directions for construction of ETPs' as well as construction of CETP, and will submit a report immediately on the expiry of two months, about the progress made, and will also prepare a list of those textile units, which have not installed the ETPs'.

19. A concern has been shown by Shri P.C. Bhandari and Shri Anil Mehta, Advocates, that the untreated water will be flown into the Dravyawati River, and will find its way into the 'Nevta' Dam, and contamination of water in 'Nevta' Dam will find its way into the drinking water, and thus, an interim arrangement is not feasible and will not reduce pollution in the River, or its ultimate effect in any manner.

20. Shri Krishna Kunal, District Collector, Jaipur, present in the Court has explained that ETPs' will be constructed as an interim measure. The sludge collected from these ETPs' will be transported to the Sludge Farm by the Association. The Sludge Farm is approved by the Ministry of Environment & Forest at Udaipur, and is one of the two places where sludge is permitted to be collected. The other approved Sludge Farm is at Balotra.

21. Shri Devi Shankar Khatri, the President of the Sanganer Kapda Rangai Chhapai Association, has given an affidavit recording an undertaking that the entire sludge collected, will be transported by the

Association to Udaipur, where it will seek membership of the Chamber of Commerce, for being disposed of in the Sludge Farm. The resultant water will be collected in the concrete cemented water proof tank, which can be used for the purpose of plantation. The textile units will do the plantation in their land in which the units are situate, and to discharge surplus into a 'Nalla', but that the water will not be discharged in Dravyawati River.

22. It is stated that the concerns expressed regarding outflow of water, leading to 'Nevta' Dam, have been taken care of by the District Administration. As far as possible, the water will be used by the Irrigation Department for plantation, and will also be diverted by the Irrigation Department for irrigation purposes. However, care will be taken to see that the polluted water does not travel upto 'Nevta' to pollute the storage of water in the Dam.

23. We are prima-facie satisfied that the District Administration has thought of disposal of sludge as well as water in which contents of oxygen will be higher for consumption by the human beings, upto the time when CETP is constructed.

24. The District Collector, Jaipur and the Rajasthan State Pollution Control Board, will continuously monitor the performance of ETPs', and will also ensure that the ETPs' are constructed, within a period of two months and the construction of CEPT is completed on target.

25. In view of the aforesaid arrangement and the undertakings given by the textile units through the President of their Association, we are of the view that electricity to the 53 units which faced disconnection, will be temporarily restored, subject to condition that they construct an ETPs' within a period of two months, to the satisfaction of the Rajasthan State

Pollution Control Board. If they do not obtain a certificate of the Rajasthan State Pollution Control Board within two months, the JVVNL will disconnect their electricity supply.

26. Considering the gravity of the situation and continuing environmental degradation, we direct that the JVVNL will not give any new electricity connection to any textile units, until such textile units, either construct their own ETP to the satisfaction of the Rajasthan State Pollution Control Board, or is connected with the CETP, which is to be constructed within a period of one year.

27. Since we do not propose to extend the time any further, the directions given to JVVNL to disconnect the electricity connections, and to the Nagar Nigam to disconnect the water connections, will remain suspended for sixty days for all those units, who have not installed the ETPs. The Rajasthan State Pollution Control Board, will also carry out the analysis of water downstream of Sanganer, every 15 days from now and will annex the results it with their report.

28. On the question of encroachments in Nahargarh, which is the catchment area of Dravyawati River, a bound map has been submitted before the Court, showing in yellow colour the areas, in which a litigation is pending, and the other encroachments marked in red colour.

29. Learned Advocate General has given the details of three writ petitions, namely Civil Writ Petition Nos.6894/2007, 13750/2009 and 13751/2009, which are pending in the High Court, with regard to encroachments in yellow colour.

30. The encroachments marked with red colour, will be removed after giving reasonable notice to the persons, who have made the

encroachments, within a period of one month.

31. Since Nahargarh is a forest area, the same consideration, such as removal of encroachments, unless the persons encroaching the land produces title deeds and sanctioned plans, will apply, and if the title deeds and sanctioned plans are not produced, the encroachments will be demolished without any further directions, to be taken from the High Court.

32. The District Collector, Jaipur will file his affidavit in the matters on or before 26.10.2015.

33. The matters will be listed for orders on 28.10.2015.

34. An advance copy of the affidavit of the Collector, Jaipur, will be provided to the petitioners as well as the Court.

(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