

[2023] 12 S.C.R. 271 : 2023 INSC 841

CASE DETAILS

PANCHAYAT QURESHIAN AND ANOTHER

v.

STATE OF RAJASTHAN AND OTHERS

(Civil Appeal Nos. 1538-1539 of 2008)

SEPTEMBER 13, 2023

[DR DHANANJAYA Y CHANDRACHUD, CJI.,
PAMIDIGHANTAM SRI NARASIMHA AND
MANOJ MISRA, JJ.]

HEADNOTES

Issue for consideration: Whether the closure of the slaughter house was effected after following due process of law.

Water (Prevention and Control of Pollution) Act 1974 – Permanent Lok Adalat directed the Municipal Board to close down the slaughter house for violation of rules and regulations, causing pollution in the area – SPCB issued directions u/s. 33A of the 1974 Act for closure of the slaughter house – Order of Permanent Lok Adalat challenged in writ petition – Writ petition dismissed by the High Court:

Held: On 21.11.2003, the Supreme Court stayed the order of the High Court – On 24.01.2004, during the course of an inspection by the State Board, it was found that the slaughter house did not have arrangements for treatment and disposal of effluents and the waste water was being discharged without treatment – In 2005, State Board approved the scheme for treatment of the trade effluent – Commissioner was asked to intimate the action taken for the construction of an effluent treatment plant – However, on 03.01.2008, it was found that the effluent treatment plant was incomplete, as a result of which the trade effluent was not being properly treated – On 20.02.2008, the Supreme Court modified its interim order of stay by permitting the SPCB to take action against the polluting slaughter house in terms of the statute – Thereafter, directions were issued u/s. 33A by the State Board to the Commissioner to close down the operation of the slaughter house – The issue as to whether the Permanent Lok Adalat had the jurisdiction to direct

closure of the slaughter house has since been overtaken by subsequent events – The SPCB has exercised its statutory powers u/s. 33A after finding, upon inspection, that the waste generated from the slaughter house was being discharged without adequate treatment resulting in a violation of the applicable pollution parameters – In writ petition, a direction was sought to provide water to the water treatment plant and to stop the illegal slaughter on the streets in the city of Tonk – The petitioners in the writ petition cannot be oblivious of the fact that the slaughter house was closed as a result of the failure to meet the prescribed pollution parameters and since the waste which was generated from its operation was being discharged without proper treatment – The closure is not in pursuance of the direction of the Lok Adalat, but in exercise of the statutory jurisdiction of the Rajasthan Pollution Control Board – The petitioners are not entitled to any relief since the closure of the slaughter house has been effected after following due process of law in terms of the statutory powers conferred on the Pollution Control Board u/s. 33 A of the Water Pollution Act 1974. [Paras 5, 6, 7, 8, 10, 11 and 12]

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES
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CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1538-1539 of 2008.

From the Judgment and Order dated 15.10.2003 of the High Court of Rajasthan at Jaipur in SBCWP Nos.2823 and 2776 of 2003.

With

Writ Petition (Civil) No. 358 of 2011.

Appearances:

Saahil Gupta, Saeed Qadri, Lakshmi Raman Singh, Advs. for the Appellants.

Ms. Aishwarya Bhati, A.S.G., Dr. Manish Singhvi, Sr. Adv., V. K. Verma, Dr. Sushil Balwada, Kaushal Yadav, Nandlal Kumar Mishra, Srilok Nath Rath, Ms. Reena Rao, Dr. Ajay Kumar, Ms. Shubhangi Agarwal, Apurv S., Milind Kumar, Ashok Kumar Singh, Ansar Ahmad Chaudhary, Irshad Ahmad, S.K. Verma, Mahesh Kasana, Ms. Aparna Rohatgi Jain, Gurmeet

Singh Makker, Ms. Ruchi Kohli, Chinmayee Chandra, Ms. Swarupama Chaturvedi, P.V. Yogeswaran, Mukul Singh, Advs. for the Respondents.

JUDGMENT/ORDER OF THE SUPREME COURT

JUDGMENT

DR DHANANJAYA Y CHANDRACHUD, CJI

1. The appeals¹ arise from a judgment and order dated 15 October 2003 of a Division Bench at the Jaipur Bench of the High Court of Judicature for Rajasthan. In addition, there is a writ petition² under Article 32 of the Constitution which has been heard with the civil appeals.

2. The underlying facts are thus:

An application was submitted before the Permanent Lok Adalat at Tonk, Rajasthan by the Sarva Seva Sansthan stating that a slaughter house situated in proximity to National Highway No 12 was conducting its activities in violation of rules and regulations, causing pollution in the area. On 2 April 2003, the Permanent Lok Adalat directed the Municipal Board Tonk to close down the slaughter house within a month. The District Collector and the Rajasthan Pollution Control Board were directed to ensure compliance.

3. The State Pollution Control Board³ issued directions under Section 33A of the Water (Prevention and Control of Pollution) Act 1974⁴ for the closure of the slaughter house on the ground that it did not have consent to operate and for absence of an authorization under the Bio-Medical Waste (Management and Handling) Rules 1988.

4. The order of the Permanent Lok Adalat was challenged by Panchayat Qureshian in a writ petition⁵ before the Rajasthan High Court under Article 226 of the Constitution. The High Court dismissed the petition by an order dated 15 October 2003.

1 Civil Appeal Nos 1538-1539 of 2008

2 Writ Petition (Civil) No 358 of 2011

3 "SPCB"

4 "Act of 1974"

5 SB Civil Writ Petition No 2823 of 2003

5. A Special Leave Petition was instituted before this Court under Article 136 of the Constitution for challenging the order of the High Court. On 21 November 2003, this Court stayed the order of the High Court. On 24 January 2004, during the course of an inspection by the State Board, it was found that the slaughter house did not have arrangements for treatment and disposal of effluents and the waste water was being discharged without treatment. Samples were collected during the course of the inspection of the trade effluent. The observed values were found to be in breach of permissible limits prescribed under Schedule VI of the Environment (Protection) Rules 1986.

6. On 27 April 2004, the State Board informed the Commissioner of the Municipal Council that the slaughter house had not made arrangements for treatment and disposal of effluents generated and the waste was being discharged without treatment. The Commissioner was directed to submit a feasibility report. On 13 September 2004, the Commissioner of the Municipal Council submitted an application for consent to operate under Sections 25/26 of the Act of 1974. On 21 September 2004, the Commissioner was called upon to show cause why the application for obtaining consent should not be refused. The State Board refused the application for consent by an order dated 2 November 2004 on the ground that the Commissioner had failed to respond to the notice to show cause. The Commissioner thereafter submitted an application on 9 March 2005 for obtaining consent to operate under Sections 25/26 of the Act of 1974. On 2 May 2005, the State Board directed the Commissioner to submit certain information. Pursuant to it, the Commissioner responded on 6 June 2005. On 25 June 2005, the State Board approved the scheme for treatment of the trade effluent subject to the condition that the prescribed norms would be achieved and proper arrangements would be made to utilize the treated water.

7. On 8 July 2005, the Commissioner requested the State Board to approve the design of the effluent treatment plant for the treatment of the trade effluent. On 11 August 2005, the State Board informed the Commissioner that it had already approved the scheme presented by the Commissioner. The Commissioner was however asked to intimate the action taken for the construction of an effluent treatment plant. Another inspection was conducted on 30 November 2005 following which the State Board by its letter dated 30

January 2006 refused consent to the slaughter house on the ground that the entire effluent/waste water was being discharged on the nearby land without treatment. On 13 September 2007, an inspection was carried out which revealed that the effluent treatment plant was incomplete and that untreated waste water was being discharged. Samples were collected during the course of the inspection indicating that the trade effluent was beyond the prescribed polluting parameters. This was brought to the notice of the Commissioner of the Municipal Council on 27 October 2007. On 3 January 2008, it was found that the effluent treatment plant was incomplete, as a result of which the trade effluent was not being properly treated.

8. On 20 February 2008, this Court modified its interim order of stay by permitting the SPCB to take action against the polluting slaughter house in terms of the statute. On 29 March 2008, directions were issued under Section 33A by the State Board to the Commissioner to close down the operation of the slaughter house. On 17 September 2010, while hearing an interlocutory application filed by the Panchayat Qureshian, this Court clarified that the interim order would not come in the way of either the Municipal Council or the Pollution Control Board taking action in accordance with law if there is a violation.

9. On 16 November 2011, an inspection was carried out by the State Board during the course of which the representative of the Municipal Council stated that the slaughter house had been closed on 13 March 2008 in compliance of the order of the State Board under Section 33A dated 29 March 2008.

10. The narration of facts would indicate that the civil appeals arose from the judgment of the Rajasthan High Court dismissing a writ petition which challenged the order of the Permanent Lok Adalat directing closure of the slaughter house. The principal ground of challenge was that the Permanent Lok Adalat would have no jurisdiction to order a closure. During the pendency of the appeals, the order of the Rajasthan High Court was initially stayed. However, subsequently the order of stay was modified by permitting the statutory authority to take action in accordance with law. The issue as to whether the Permanent Lok Adalat had the jurisdiction to direct closure of the slaughter house has since been overtaken by subsequent events. The SPCB has exercised its statutory powers under Section 33A after

finding, upon inspection, that the waste generated from the slaughter house was being discharged without adequate treatment resulting in a violation of the applicable pollution parameters. As a consequence of the directions, the slaughter house was directed to be closed and upon inspection it was found to have been closed.

11. A writ petition under Article 32 of the Constitution has been filed in the above backdrop seeking a direction to the State of Rajasthan and the Municipal Board of Tonk, the State Pollution Control Board and other authorities to discharge their statutory duties under Schedule XII of the Constitution and Section 98 of the Rajasthan Municipality Act 1959. A direction has been sought to the respondents to provide water to the water treatment plant and to stop the illegal slaughter on the streets in the city of Tonk.

12. The writ petition under Article 32 of the Constitution cannot obviate the findings which have been arrived at by the statutory board in the exercise of its jurisdiction under Section 33A of the Act of 1974. The petitioners in the writ petition cannot be oblivious of the fact that the slaughter house was closed as a result of the failure to meet the prescribed pollution parameters and since the waste which was generated from its operation was being discharged without proper treatment. The basis of the appeals which question the jurisdiction of the Lok Adalat, directing a closure has since been overtaken by the subsequent developments in terms of which the slaughter house has been closed. The closure is not in pursuance of the direction of the Lok Adalat, but in exercise of the statutory jurisdiction of the Rajasthan Pollution Control Board.

13. For the reasons which have been indicated above, the petitioners are not entitled to any relief since the closure of the slaughter house has been effected after following due process of law in terms of the statutory powers conferred on the Pollution Control Board under Section 33 A of the Water Pollution Act 1974.

14. The civil appeals and the writ petition shall accordingly stand dismissed for the reasons recorded above.

15. Pending applications, if any, stand disposed of.