

Himanshu Sharma vs Union Territory Of J & K on 30 August, 2022

Author: Adarsh Kumar Goel

Bench: Adarsh Kumar Goel

Item No. 04

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(By Video Conferencing)

Original Application No. 338/2021

Himanshu Sharma

Applicant

Versus

Union Territory of J & K

Respondent

Date of hearing: 30.08.2022

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER

ORDER

1. Grievance in this application is against failure to take action to prevent pollution of Ban Ganga River at Katra in Jammu & Kashmir. It is stated that the river is a source of drinking water for the inhabitants of the town but is polluted by discharge of effluents and dumping of garbage in violation of The Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. The concerned authorities have not taken any action in the matter in spite of large-scale media reporting.

2. Vide order dated 14.12.2021, the Tribunal sought a factual and action taken report from the State PCB and the Municipal Council, Katra. The matter was last considered on 23.03.2022 in the light of action taken report filed by the State PCB, acknowledging the violations and that there was huge piled up garbage and discharge of untreated municipal waste in Ban Ganga River for which remedial action was required. The Tribunal also considered the report of the Municipal Council, Katra dated 03.02.2022 mentioning some of the remedial measures and report of the Chief Engineer, UEE Department to the State PCB dated 01.02.2022, annexing details of the project for which DPR

appraised by the IIT, Roorkee was said to be pending for approval.

3. Considering the admitted unsatisfactory state of affairs, the Tribunal directed remedial action by the concerned authorities, to be overseen by the Secretary, Housing and Urban Development Department and the State PCB, J&K. The Tribunal further directed filing of a further action taken report. Operative part of the order is reproduced below:

"xxxxxx.....xxx

7. We find that the Reports do not address issues of adequacy of installed packages of STPs with their performance in terms of quantity and quality of sewage being carried through box drains before being discharged into Ban Ganga, quantity and characteristics of sewage discharged into the river at three points and the water quality of the river with reference to fecal coliform, as the river is used for bathing purpose. There is need to ascertain this. Further, there is need to ensure proper siting of waste segregation centres at reasonable distance from bank of the river. Sites for installing proposed STP of 1.2 and 4.5 MLD should also be appropriate. There is also need to divert sewage effluent from army settlement, shifting of piggery, relocating pony shed or proper management of mule dung bio-gas plant, ensuring that no effluent or slurry or solid waste goes to the river, transportation of bailed recyclable material to authorised points, Bio-mining of 101757 cubic metres legacy waste and regulating encroachments.

8. In view of above serious violations and deficiencies, remedial action needs to be taken as per law by the Municipal Council, Katra, Shri Mata Vaishno Devi Shrine Board (SMVDSB), Katra, to be overseen by the Secretary, Housing and Urban Development Department and the State PCB. Compensation assessed may be utilized for restoration measures. The remedial action may be planned and completed as far as possible within two months. In the said meeting, the issue of requirement of lands for setting up of waste management infrastructure may be duly resolved. Decision may also be taken about apportionment of financial liability between Katra Municipal Council and the SMVDSB. Sanction of DPR or funding may not be delayed as State is under Constitutional obligation to provide clean environment which is component of public health and part of right to life for which State has to arrange funds.

9. A joint Committee of the Secretary, Housing & Urban Development Department, CPCB, State PCB, Municipal Council, Katra, SMVDSB, Katra and DFO, Katra may hold a joint meeting within two weeks and finalize the action plan for the remedial action with timelines and budgetary support. The Secretary, Housing and Urban Development Department will steer the deliberations. An action taken report may be filed by the Secretary, Housing and Urban Development Department with the status of compliance as on 30.06.2022 by 15.07.2022 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The report may cover all the issues mentioned above."

4. In pursuance of above, report has been filed on 15.07.2022 by the Housing and Urban Development Department of J&K mentioning the follow up action to remedy the violation of environmental norms. It mentions that some works have been done and many other remedial measures are yet to be completed either for want of funds or administrative steps for appointing executing agencies to execute requisite civil engineering works. Key activities still pending are noted below with our observations:

i. Execution of comprehensive plan already prepared for solid waste management for Katra Town at a cost of Rs. 8.49 crore which includes collection and transportation of waste and setting up of material recovery facility at village Kundrorian, Tantalab, Katra. The total waste generation in Katra Town being 38 TPD (19 TPD dry waste and 19 TPD wet waste), the processing facility needs to be so designed as to process 19 TPD of wet waste as well as 19 TPD of dry waste.

ii. Setting up of alternative disposal facility and landfill site identified at Village Mand, District Udhampur to stop disposal of mixed waste at Tantalab has to be properly set up for processing the waste of Katra, the Shrine Board and other nearby areas without converting such site as legacy waste dump site.

iii. Remediation of legacy waste remains pending as the proposal involves cost of Rs. 485 lakhs under SBM. Tender proposes to take up remediation of only 65000 MT in the first phase, against the total legacy waste of 101757 cubic meters. The time taken for remediation of legacy waste is reported to be June 2023. This needs to be preponed in view of statutory timelines, binding orders and continuing adverse impact on environment and public health.

iv. Monitoring of removal of left over waste. It is stated that SMVDSB has removed 357.70 MT of garbage and 76.56 MT of garbage on trial basis. Remaining waste from bank of river Ban Ganga is to be removed.

v. Further action on proposed DPR at a cost of Rs. 95.69 lakhs to set up two STPs having capacity of 1.2 MLD and 4.50 MLD to treat the entire sewage generated from the area of Katra and SMVDSB. It is stated that it has been submitted to NRCD for approval/financial concurrence and for sanction of MoJS. KMC and SMVDSB need to undertake execution without further delay as their responsibility does not end by just submitting proposals. They have to ensure that no waste water from the urinals/septic tanks or from piggery/pony sheds goes into River Ban Ganga.

vi. Upgrading water quality. Data for the years 2019, 2020, 2021 and 2022 for river Ban Ganga at two locations shows that during 2019 and 2020 BOD has been crossing the value of 3.06 mg/l reaching upto 5.8 mg/l. The data for coliform also indicate that the water quality is not meeting the tolerance limits. This needs to be remedied.

5. We are of the view that matter needs to be continuously monitored by the Committee already constituted headed by the Secretary, Housing and Urban Development Department. We note that notice has been issued to the violating hotels but effective compliance has not been so far ensured. Similarly, stringent action is required for compliance by the scrap dealers.

6. Let further action be taken on continuous basis in a mission mode which may be monitored atleast once in a month by the Secretary, Housing and Urban Development Department with the assistance of other members of the Committee constituted by this Tribunal and proceedings placed on the website of State PCB.

7. If any grievance survives, it will be open to the aggrieved parties to take remedies in accordance with law.

8. A report of compliance status as on 31.12.2022 may be filed with the Registrar General of this Tribunal by 23.01.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If found necessary, the R.G. may place the matter before the Bench for further direction.

Subject to the above, the application stands disposed of. A copy of this order be forwarded to the Secretary, Housing and Urban Development Department, J&K by e-mail for compliance.

Adarsh Kumar Goel, CP Sudhir Agarwal, JM Prof. A. Senthil Vel, EM August 30, 2022 Original Application No. 338/2021 DV