Kirtikumar Sadashiv Bhatt vs Narmada Water Resources Water Supply ... on 31 October, 2023

Item No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)
Original Application No.71/2023(CZ)
(O.A.No.97/2021-WZ)

Kirtikumar Sadashiv Bhatt Applicant(s)

Vs.

Narmada Water Resource & Ors. Respondent(s)

Date of Hearing: 31.10.2023

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

For Applicant(s):

For Respondent(s) : Mr. Prashant M. Harne, Adv.
Mr. Om Shankar Shrivastav, Adv.

ORDER

1.

1. While hearing the petition on 20.09.2023 in para 6 & 7 it was observed that Big challenge for the Narmada is the dumping of untreated industrial waste and civic sewage. A study conducted by the Central Pollution Control Board (CPCB) says that the 160-km long flow of the river from Mandla to Bhedaghat and 80-km long flow from Sethani Ghat to Nemawar are highly polluted. The CPCB has declared the entire stretch of the river flowing in Madhya Pradesh Jabalpur district as polluted in its latest 21 report. The paper prepared by Vichar Madhya Pradesh on Narmada River has highlighted that, there are 24 cities that discharge their polluted water without any treatment in the Narmada.

2. A total of 102 nallahs have been discharging polluted water since years.

The report also pointed out the use of chemical fertilizers in farmlands near the Narmada. Illegal sand miners are active in 28 districts of Madhya Pradesh. They use boats and pipeline to excavate sands from water, which is highly objectionable and an unscientific practice. The sand absorbs water

and then recharges groundwater too. This practice is destroying the natural process of the river. In a study available on public domain reveals that after the lockdown, the reduced flow of industrial effluents and domestic sewage in the river has made a positive impact on the quality of the water in the river which travels 900 plus Kms. through 14 districts of Madhya Pradesh before flowing into Gujarat. A study of river water samples collected from five ghats of Hoshangabad district, Collectorate, Circuit House, Post Office Sethani and Gwarighat, during lockdown the water quality was found to be improved. The matter is follow up of judgment of the Honble Supreme Court which mandates establishment and functioning of requisite ETPs/CETPs/STPs by 31.3.2018 and in default, to take coercive measures. The judgement also laid down rigid timelines, enforcement mechanism and sources of funding. Even in absence of the said judgement, doing so is the mandate of the Water (Prevention and Control of Pollution) Act, 1974. The said Act established Central and State Pollution Board for prevention, abatement and control of rivers and streams and to restore wholesomeness of watercourses and controlling discharge of domestic and industrial wastes. Penalties are provided for contravention of the provisions of the Act. The Constitution of India under Article 243 W read with 12th Schedule entrusts responsibility of □public health, sanitation conservancy and solid waste management to Municipalities. The Hon'ble Supreme Court held that the States will provide necessary support to such local bodies. This is to be monitored by the PCBs and the Secretaries, 22 Environment in States and thereafter by the NGT. This Tribunal has been accordingly monitoring compliance in the last four years but regretfully with little progress as will be shown by the statistics.

3. Accordingly, the Collectors of the District cities situated at the bank of river Narmada were directed to submit the action taken report on the following terms :

> "13. Secretary, Environment/Member Secretary MPPCB is directed to compile the data from all the District Magistrate of the cities and towns situated at the bank of the river Narmada from Amatkantar to Dhar as follows :-
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> Sl. Name Name Populati Genera Capacity Number Gap Remarks Steps Next No of the of the on tion to treat of STPs analysis requi step . City town red to whic be h taken has been take n
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> 14. After compiling the data, the reply must be sent to this Tribunal within 30 days.
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> 15. The Collector(s) of the District/City situated on the bank of river are directed to ensure that there should not be any encroachment on the river bodies or on the bank of the river and if any encroachment is found, necessary legal action must be initiated and Collector shall ensure that there shall not be any further encroachment on the water bodies or on the river bank.

The demarcation and protection of flood plain zones keeping them free from encroachment should be taken and tackled by the Collector by designating responsible and accountable official to ensure that there should not be any encroachment on the river body or flood plain zone. The STPs which are non operational must be improved and process of improving must be expedited.

Wherever old STPs are under operation on UASB technology, they may be upgraded to SBR technology or other latest and effective technology. Steps must be taken to address gaps in generation and treatment of sewage/effluents by setting up functional STPs, CEPTs and ETPs in the State. However, city wise evaluation of requirement of STPs/CEPTs / ETPs has to be done by the District Collector and to be reported to the Monitoring Committee at the State Level.

16. The action must be initiated against the polluting industries with issuance of show cause notice to the defaulters and by way of realizing the EC to be imposed and calculated on the parameters laid down by this Tribunal/ by the State Pollution Control Board. The State Pollution Control Board is directed to regularly monitor the compliance of the orders and rules and in case of non compliance, necessary prosecution must be initiated, in addition to the realization of environmental compensation. This Tribunal has already decided in light of the guidelines and notification issued by the CPCB for the calculation of environmental compensation at the rate of population or at the rate of discharge of per MLD untreated water against the polluter, either the municipal corporation or the industrial units and accordingly State Pollution Control Board is directed to calculate the environmental compensation and submit the report with the action taken against the polluters and to realize them and realize the amount according to the principle of polluter to pay and submit the report.

4. Respondent No. 8/MPPCB has filed the reply with the facts that the River Narmada passes through 14 cities/towns along its total stretch of 1077 km in the State of MP. The answering respondent has collected the data from all the concerned regional offices of MPPCB and compiled the information indicating the status of sewage generation and treatment facility available in these 14 cities/towns and if there is a GAP. The tabular chart depicting the status of Sewage Generation and treatment on the bank of River Narmada has been enclosed. That, as per current data total sewage generation from these 14 cities/towns is approximately 200 MLD out of which treatment facility is available for 87 MLD approx. and 60 MLD is being treated by in-situ bioremediation till STPs are under construction. Remaining 51 MLD approx. is being discharged into the river without treatment. The data as furnished is as follows :

SN	Name Of City/Town	Sewage Generation (MLD)	Sewage Treatment (MLD)
1.	Amarkantak	0.98	NO STP of 1.2 MLD under construction
2.	Dindori	2.49	NO STP of 3.8 MLD under construction
3.	Mandla	10.25	NO 2 STP of 2 MLD and7.75MLDunder construction, 1 STP of 0.5 not working
4.	Jabalpur	143.68	Partial Treatment 83.43 MLD is being treated by 8 operational STPs Two more STPs of 34MLD and29MLDare underconstructionHowever,60MLDis being

treated by in-situ bioremediation till STPs are under construction.

5. Narmadapuram 12 NO STP of 21 MLD is proposed

6. Budhni 3.295 YES 3.295is treated by 3 operational STPs

7. Nemawar 4.913 NO 1 STP of 1 MLD is proposed

8. Omkareshwar 1.0866 YES 4 STPs of total 0.65MLD are operational

9. Barwaha 3.481 NO STP of 3.75MLD under construction

10. Sanawad 5.097 NO STP of 7.02 under construction

11. Mandleshwar 1.624 NO STP of 3 MLD is under construction

12. Maheshwar 3.212 NO STP of 4.91 MLD is under construction

13. Badwani 7.303 NO STP of 9 MLD is under construction

14. Dhar 1.5 YES STP of 2 MLD is operational Action Taken by MPPCB for discharge of untreated sewage in River Narmada- MPPCB has initiated 09 criminal prosecutions against the municipalities which are discharging untreated sewage into the River. In addition to the same MPPCB has also imposed environmental compensation of 12 crores (approx.) on 10 defaulting municipalities.

5. It is stated that there are total 11 water polluting industries that are established near the catchment area of River Narmada. These units have been directed to install adequate Effluent Treatment Plants, Multi Effect Evaporators [MEE] and Agitated thin-film dryers [ATFT] depending on the nature of effluent and to ensure Zero Liquid Discharge [ZLD] outside the factory premises. The detailed information related to the industries established near the catchment area of River Narmada and the water pollution control arrangements made by them are enclosed.

6. The State of MP has submitted the compliance report in tabular form with regard to the ongoing projects details of the S.N. STP Details Present Status Connected Households.

1 32, MLD STP Completed and 32000 Nos.

	Kathonda	commissioned	
2	29 MLD STP	Construction completed & commissioned work is in progress	Nil
3	34 MLD STP Lalpur	95% construction completed	Nil

4	05 MLD STP Civil Line	10% completed	Construction	Nil

7. In light of the facts submitted by the State of MP and MPPCB it seems that various nallahs of municipal corporation are discharging their sewage/untreated water into the river polluting the water quality of river and adversely affecting the human health. In the most of the cities the drinking water is being supplied from the river. In the matter of 606/2018 the matter has been taken up by this Tribunal for discharging of untreated water into the river body and parameters has been laid down on the basis of the parameters and guidelines of CPCB for calculation and realization of Environment Compensation, relevant paras are quoted below :

> "D. Review on 12.9.2019, 7.1.2020 and second round of interaction with the Chief Secretaries
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> 9. The matter was then reviewed on 12.09.2019 in the light of report of the CPCB dated 09.09.2019 showing wide gaps in compliance of solid waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters and non-attainment cities. A fresh schedule for appearance of the Chief Secretaries was issued.
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> 10. Vide order dated 07.01.2020, the Tribunal directed CPCB to ascertain Compliance of Solid Waste Management Rules, 2016 in terms of MSW generated, segregated and treated, gaps in the waste processing, enforcement of statutory timelines and orders of this Tribunal, number of sites remediated, and quantity of legacy waste therein and timelines for completing remediation. It was further directed that on the subject of sewage treatment, CPCB has to ascertain quantity of sewage generated and treated in the State, gap in the sewage treatment and timelines to bridge the gap, including strategy for use of treated water for secondary purpose. CPCB was accordingly directed to redesign its formats for securing relevant quantifiable information.
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> 11. Accordingly, the Chief Secretaries of 18 States/UTs7 appeared in second round (which was discontinued due to Covid) and filed updated status reports. Since there still existed huge gaps in compliance, further directions were issued by way of different orders. Last such order is of 28.2.2020. Other orders are on same pattern. The direction part of the said order is reproduced below:
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> "41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:

a. In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

b. Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 288 even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.

c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, ewaste, polluted industrial clusters, reuse of treated water, performance of

CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:

i. Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies - 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020 ii. Commencement of setting up of STPs - 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

iii. Commissioning of STPs - 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.

e. Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.

f. An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.

g. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."

J. Summing up

29. We have noted the gaps in generation and processing of waste and need to address the same in the interest of protection of environment and public health. Such gaps exist even after monitoring of issue of solid waste management from 1996 to 2014 by the Hon'ble Supreme Court and for the last nine years by this Tribunal as far as solid waste is concerned and monitoring of issue of water pollution for decades by the Hon'ble Supreme Court in the context of Ganga, Yamuna and other rivers and water bodies by discharge of sewage and other waste, apart from industrial pollution.

There are policies of Central Government like swachh bharat and Namami Gange. Still, there are mountains of garbage generating methane and other gases which are source of pollution causing diseases and deaths, apart from occupying huge valuable public resource.

Segregation of biodegradable waste and its processing closest to the point of generation is a task which requires good governance and according of high priority. Similarly, preventing sewage discharge into the sources of drinking water has to receive highest priority. Such discharge results in scarcity of drinking water for all living beings apart from degradation of environment and damage to public health.

Gaps in compliance have been noted earlier. The Hon'ble Supreme Court vide order dated 22.2.2017 in Paryavaran Surakhsha fixed three year deadline for waste water treatment systems which has been monitored by the Tribunal in the last six years. Discharge of sewage in drains leading to rivers, lakes, sea or in water bodies and lands has led to serious damage to environment and public health and needs to be addressed on war footing, using indigenous technology wherever viable or such other technology but no drop of sewage can be mixed in drinking water. Timelines are deviated without accountability. There is no justification of any further delay having regard to adverse impact on humanity and citizens' right of access to drinking water. Sewage continues to be mixed in sources of drinking water to the detriment of public health and environment for which earnest efforts are required in the highest level of administration. There was no dearth of technology and no justification of repeated and unending extensions of timelines without fixing accountability for past delays.

30. Some of the observations which have been repeated in most of the orders in view of gaps still existing in almost all States/UTs except Goa, Lakshadweep and Dadra and Nagar Haveli & Daman and Diu and for instance, the order dated 11.05.2023 relating to State of Uttarakhand is as follows:

> "xxx .....xxx.....xxx
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> 28. There appears to be need for change at policy and execution level after study of success stories elsewhere and in the light of several orders of the Tribunal dealing with the issue in respect of other States, particularly relating to solid waste management at Indore and low-cost sanitation management adopting Seechewal Model12 atleast for flat terrain and fecal sludge treatment plant at some of the Towns in Odisha13. There has to be a dedicated Cell in the office of the Chief Secretary manned by senior level officers to coordinate such serious issues to regularly monitor progress of execution of projects on time and maintaining inter-departmental co-ordination. It is necessary to ensure that wet solid waste (bio-degradable) is kept separate from dry waste (non-biodegradable and recyclable) at all source generating levels, collection, transportation or handling which can inter alia be resource for compost or biogas generation. Dry waste can be separately handled by setting up Material Recovery Facility with sorting mechanism for further recycling or reuse. It is necessary that District Headquarters and Semi Urban and Rural Areas after segregation of waste and the waste which is recyclable, need to be properly

coordinated for utilization like in cement kilns and by the authorized scrap dealers/recyclers. Similarly, the sewage after necessary treatment can be utilized for agriculture or other non-potable purposes. The decentralized technology or traditional technologies may also be explored. It would also be necessary to address issue about continuation of septic tanks and soak pit methods as acceptable methodologies approved for bridging the gap and perspective in terms of environmental aspects. Our further observations follow. Solid Waste Management

29. Collection, Segregation, transportation and processing of waste has to be as per SWM Rules 2016. Thus, for addressing the issue of bridging the gap in management of MSW (which is 252.60 TPD), segregation of the solid waste at source and its earliest processing nearest to the point of generation with defined destination is imperative. The available potential sites for waste processing need to be identified. The data presented shows gap in solid waste processing in urban and for rural areas no status has been reported. In particular, adequate compositing/vermicomposting/ bio-methanation centers need to be set up and upgraded nearest to the source of generation of wet solid waste and listing people's involvement. Use of wet biodegradable waste as animal feed for Piggeries etc. can also be explored without causing environmental nuisance. This may also require establishing de-centralized and centralized waste processing facilities. In the name of pit composting, the waste should not be just dumped causing environmental havoc. Waste generators can themselves be required to process the waste under guidance and handholding by the Administration, with the assistance of identified empaneled service providers and such details may be posted on State's/Center's GeM portal. This may perhaps reduce planned expenditure. Composting and biomethanation has to be undertaken considering the climatic conditions. Quality of compost so produced may be periodically verified. Keeping these aspects in view, the State needs to strengthen and augment waste processing/treatment facilities at SWM centres and at the point of waste generation. Setting up SWM centres may be considered for all the district headquarters and semi-urban and rural areas as per geographical/regional needs or improved version of waste processing be adopted at the point of generation to effectively utilize 100% segregated waste.

30. In the context of Uttarakhand, specific actions are required to discourage valley dumping particularly by roadside dhabas/restaurants and house dwellers. For such establishments, awareness and punitive actions need to be taken. Further, tourists visiting the State need to be made aware for prohibiting 'use and throw' of non-biodegradable waste.

The Tribunal, vide order dated 08.02.2023 in OA No. 561/2022, Urvashi Shobhna Kachari vs. Union of India & Ors., while dealing the issue relating to violation of environmental norms along the pilgrim tracks of Kedarnath, Hemkund Sahib, Yamunotri and Gomukh has observed and directed on management of waste and the relevant part of the order is reproduced below:

> "6. ... The action plan may also include discouraging use of food and products packed in non-biodegradable packaging material, encouraging depositing waste at designated places, involving citizens - the youth, house- wives and senior citizens in guiding tourists in maintaining cleanliness and hygiene. The taxi drivers and bus drivers may also be involved in creating awareness among the tourists. The execution of action plan may be duly monitored in the light of experience gained, the plan may be revised periodically every seasons or as per need. Waste processing/management facilities for bio- degradable and non-biodegradable waste may be set up at appropriate locations which may be set up on contract basis or otherwise, using best practices on the subject. Requisite funds be allocated at district and gram panchayat level for execution of action plan which may be monitored at District Magistrate level and finally supervised by the Chief Secretary."

31. It is observed that there is 15.75 lakh MT of legacy waste at 9 sites and 4 sites have been remediated. It is necessary to remediate legacy waste ensuring that no such sites are created at any other locations and waste is continuously processed instead of being stored. Technical assistance of CPHEEO of MoHUA and CPCB may be sought about the way forward to remediate the sites in question. Suitable service providers or other consulting technical institutions may be consulted if necessary and thereafter execution can be done departmentally. This aspect may be considered in next four months. Legacy waste site(s) must be maintained free from fires and safety of workers engaged should be ensured. Such sites may be fenced with row of trees or wall, as may be viable, for aesthetics, preventing foul smell and safety.

Provisions of ScheduleI of the SWM Rules, 2016 may be strictly followed. Water quality in the vicinity of legacy waste dump sites may be periodically monitored. If any contamination is found, remedial action may be taken. Environmental safety aspects associated with legacy waste dump sites be complied with as specified in Schedule I of MSW Rules, 2016. All efforts may be made that towns/villages located on hilly terrain, do not dispose waste on sloppy terrain thereby affecting streams and rivers. Such hilly towns need to follow MSW Rules, 2016. Disposal of waste, particularly plastics, metallic containers, etc., at hill slopes and in forests has to be checked.

Composting and bio-remediation of legacy waste may be done simultaneously. The Tribunal has disposed the matters relating to SWM and directing to take remedial actions and these are to be complied with.

Use of reclaimed land occupied by legacy waste sites

32. As already mentioned earlier, legacy waste dump sites have resulted in huge damage to the environment and population residing in the vicinity of such dump sites who have suffered in safety, health and comfort. For compensating them for such damage, particularly at flat terrain, one third of land occupied by legacy dump sites (on reclamation) needs to be reserved for dense forest and in the process of afforestation, Campa Funds can be utilized in accordance with the provisions of Compensatory Afforestation Fund Management and Planning Authority Act, 2016 (CAMPA Act). One third of reclaimed land out of the said dump site needs to be reserved for integrated waste

management facilities. Remaining one third can be used for any other purpose, consistent with the above purposes, including a part of it being utilized for monetizing, if funding is required for tackling the legacy waste. Legacy waste clearance has to be in minimum further time as laid down statutory timelines have already expired and serious damage is taking place. It may be noted that remediation of legacy sites may be one time affair and such situations should not arise in future. User of land, to be reclaimed, needs to be declared in advance so that further steps can be taken in that direction. This is in line with order of this Tribunal dated 11.10.2022 in OA No. 300/2022, In re: News item published in News 18 dated 26.04.2022 titled "Delhi:

Massive Fire at Bhalswa Dump Yard, Fourth This Year; 13 Fire Tenders on Spot".

33. To summarize the foregoing observations, the execution plan for solid waste management would include setting up of requisite waste processing plants (centralized and decentralized) to bridge the gap of 252.60 TPD and remediation of 15.75 lakh MT left out legacy waste. Bio-remediation/bio-mining process need to be executed as per CPCB guidelines and the stabilized organic waste from biomining as well as from compost plants need to comply with laid down specifications. Other material recovered during such processes is to be put to use through authorized dealers/handlers /users. Instead of creating more dumping sites for waste generated on day-to-day basis, waste processing plants of adequate capacity should be set up so that no further legacy waste is generated. It may be worthwhile to take into consideration guidelines on the subject issued by the Ministry of Urban Development, GoI titled "Waste to Wealth" on 2.10.2017 under Swachh Bharat Mission.

34. As already observed earlier, data presented by Chief Secretary that entire installed sewage treatment capacity of 425 MLD is functional needs verification and remedial action taken, apart from bridging the acknowledged gap in generation and treatment. Estimation of sewage generation and gap must be realistic. Compliance status of laid down standards at the outlets of STPs has to be ensured. Timeline for the establishing requisite treatment systems in terms of judgment of Hon'ble Supreme Court in Paryavaran Suraksha vs. Union of India, supra has long expired, speedy further action has to be ensured.

35. As already noted and also observed in the judgement of the Hon'ble Supreme Court in Paryavaran Surakhsha, supra, quoted earlier, the matter falls in 11th and 12th Schedules to the Constitution. It is constitutional responsibility of the State and the Local Bodies to provide pollution free environment and to arrange necessary funds from contributors or others. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds or other resources such as land (sites for waste management) cannot be plea to deny such right. Such resources have to be found by the State by its policies and according due priority to the subject. Further, while there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext. Freeship or other policies involving State resources cannot take priority over basic need for hygiene and pollution free environment.

36. Sewage can be processed by cost-effective methods at least at several identified locations with least expenses. Decentralized and the prefabricated/modular treatment plants can be explored,

apart from imposing condition of ZLD on industries (as per applicability in the State), Group Housing Societies, Hotels and Resorts, etc. Reduced load can be processed partly with the help of water using commercial establishments requiring water for their processes enforcing consent conditions in CTEs and CTOs whereby State's financial burden can be reduced.

In the context of Hotels and Dharamshalas, it is important that these establishments provide proper solid waste management systems and sewage treatment facilities and such waste is not disposed into streams/rivers. The Tribunal vide order dated 21.04.2023 in OA No. 353/2022, Kartik Sharma vs. State of Uttarakhand observed and directed as follows:

> "12. Hotels/ resorts and other establishments are having water supply from the State Pay Jal Sansthan for some quantity but since such quantity is inadequate, additional/ excess requirement of water is taken through tankers in unauthorized manner. There is no clear account for extent of such illegal drawal. Hotels are consented under the Water Act and are required to have individual or cluster STP but commercial activity cannot be allowed without arrangement for treatment of waste as appears to be happening at the cost of public interest. Hotels/ resorts must be required to provide STPs (with modular designs or otherwise) and retrofitted disinfection system without which their operations are illegal.
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> Such unsatisfactory state of affairs needs to be remedied on war footing with involvement of higher authorities in the interest of good governance and environment protection."

Maintaining sources of clean water (rivers, storm water drains and water bodies - lakes, wetlands etc.) free from treated or untreated sewage, channelizing treated sewage for non pot able purposes

37. We also find that sanctity and significance of natural streams, rivers and storm water drains needs to be maintained. Storm water drains, if left unpolluted, can be source of drinking water for humans, birds, animals or aquatic life and discharge of sewage or even treated water which is not of standard of drinking water, seriously affects such drinking water resource adversely affecting their health. They are not to serve as sewage carrier. The Tribunal has comprehensively dealt with this issue on 03.08.2022 in OA No. 1002/2018, Abhisht Kusum Gupta vs. State of Uttar Pradesh &Ors. Thus, in the State rivers and streams/Jhoras should be maintained for their pristine quality.

We find that many STPs set up are discharging treated waste water into river Ganga and its tributaries or in other streams. It is essential to restrain such discharges and if not possible, then such effluents be treated to highest level and no fecal contaminated bacteria be so discharged. PCB needs to review this aspect and action taken in this regard be included in next status report which is being directed to be filed.

38. Efforts are also required on utilization of treated sewage such as by establishments like malls, industrial estates, automobile establishments, power plants, playgrounds, railways, bus stands, local bodies, universities, utilizing treated sewage by fire service stations, suppression of dust,

construction activities, etc. to save potable water for drinking.

The treated sewage can be utilized for industrial/agricultural/other non-drinking uses like washing railway wagons/yards, buses, roads, water sprinkling and several such models reportedly exist15. The State may contemplate with prospective plan to utilize treated sewage rather than discharging into natural water courses which are very precious. The State PCB and the Public Health Department need to check and ensure that water in the said water bodies is maintained at 'A' and 'B' class category and not contaminated by organic and fecal bacteria.

39. As already observed, there is need for planning to prevent sewage (treated or untreated) entering the potable water resources. Instead, the same is to be suitably treated and channelized for nonpotable purposes - agriculture, industrial or others. By way of illustration, we may refer to certain models which can be considered at appropriate locations particularly in rural and flat terrain. The same have been mentioned in order of this Tribunal dated 11.10.2022 in M.A. No. 43/2022 in OA No. 41/2020, Pushpendra Kumar vs. Nagar panchayat, Kadaura & Ors., as follows:

> "5. In this regard, we have drawn their attention to Seechewal Model16, Karnal Technology of sewage treatment and zero discharge and manual on sewerage and sewage treatment systems- 2013 (chapter7), issued by the Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Urban Development, GoI, which provide for inexpensive and simple methods of treatment of waste water, its utilization for irrigation and other secondary purposes. The said models are briefly described as follows:-
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> Seechewal Model Provides for use of treated waste water for irrigation in order to conserve precious surface fresh water and ground water. The process involves passing waste water through four well for cleaning the waste water and thereafter use of such treated water for irrigation. The process can be undertaken by communities through collective approach.
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> Karnal Technology Of Sewage Treatment & Zero Discharge.
>
> Involves growing trees/plants on ridges with one meter wide and 50 cm height and irrigated by treated effluent in furrow. The technique utilizes entire bio mass present in waste water and provides nutrient to soil and plants. By this method forest plants/trees can be grown which can be used for firewood and timber. By this technique no chance of pathogen, heavy metals or organic compounds enter the food chain. Tree species like Eucalyptus, Leucaena can be grown.
>
> Central Public Health & Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems - 2013 (Chapter 7) Provides various case studies of utilization of treated sewage and its reuse as cooling water in power plant, in airport, in petroleum refinery, fish culture (like at Mudiali, Kolkata), road washings, ground cooling, boilers and also in agriculture. In agriculture the

suitability of treated sewage is dependent upon soil, salt tolerance of the crop, intake of minerals and climate conditions. Sewage conforming to specified norms can be applied to selected species of food crops into soil by strip, basin or furrow irrigation. Sprinkler irrigation could be used with treated sewage. During rainy and non irrigating seasons, the treated sewage can be held in lagoons or undertaking irrigation in additional land/waste land including resorting to artificial recharge of ground water.

The above models may help in planning that medium and small towns and the Rural areas which need not to focus on highcost technology in the first instance. Central Public Health and Environment Engineering Organization (CPHEEO), Ministry of Housing and Urban Affairs dealt with the matter in its instructions titled "Municipal Used Water Treatment Technology for Medium and Small Towns"17 in September 2022.

40. The restoration measures with respect to sewage management include identifying sites for setting up of sewage treatment and utilization systems, upgrading systems/operations of existing sewage treatment facilities to ensure utilization of their full capacities, ensuring compliance of standards, including those of fecal coliform and setting up of proper fecal sewage and sludge management in rural areas. STPs need to have co-treatment facilities of septage rather than having isolated FSTPs. Guidelines of SBM - U 2.0 (October 2021) may be referred to in this respect. For urban areas, SBM- U 2.0 provides co-treatment of fecal sludge at STPs with sewage for which funding provisions are made.

41. Sewage treatment facilities adopted in terms of septic tank/soak pit/FSTP particularly for rural areas and villages may be reviewed in view of health, hygiene and following the guidelines of MoUD, Swachh Bharat Mission (Grameen), Phase- II, Operational Guidelines, 2020.

Need to consider change in approach for administrative processes

42. We have suggested change in approach in realizing that remedial action cannot wait for indefinite period nor loose ended time lines without accountability can be a solution. Responsibility of the State is to have comprehensive time bound plan with tied up resources to control pollution which is its absolute liability. If there is deficit in budgetary allocations, it is for the State alone to have suitable planning by reducing cost or augmenting resources. People must be involved in the problem by appropriate awareness and strategies to encourage public participation and contribution. At the cost of repetition, health issues cannot be deferred to long future. Long future dates breach of which has taken place frequently in the past without accountability is not a convincing solution. It is poor substitute for compliance within laid down timelines for long past. This approach may project lack of concern or not realizing the grim ground situation crying for emergent remedial measures on priority. There is no time for leisure, reflected in timelines proposed for bridging the acknowledged gaps.

43. It is the mindset and determination to act in a mission mode which can produce results.

44. Thus, it may be necessary to brain storm with available experts and other stake holders in the State at different levels, evolve models for both solid and sewage management which can be fast replicated, initiate special campaigns with community/media involvement in the larger interest of protecting environment and public health with determination for prompt action. Such brain storming sessions may enable capacity enhancement of the regulators and the processes. Campaigns and community involvement may result in reducing the financial and administrative load on the administration. It would be better to replicate the efforts made in maintaining cleanliness including enhancing public contribution and utilizing for sewage and solid waste management.

45. Compliance of environmental norms on the subject of waste management has to be on high on priority. It is high time that the State realizes its duty to law and to citizens and adopts further monitoring at its own level.

Adhering to the timelines

46. Since the issue has been pending since long and there are adverse effects of continuing delay on environment and public health, it cannot be a matter of satisfaction that some steps are taken till the entirety of the problem is tackled on war footing. Planning has to be to resolve the problem without any further delay, in shortest possible time. Whatever timeline is laid down, it should not be breached. If breached, adverse consequences for such failures must follow on the designated accountable officers instead of loose-ended processes.

Community involvement

47. Another important subject is community involvement not only for IEC activities but also for planning and execution of waste management activities. Welfare associations, corporates, religious, educational and charitable institutions can play their role. The District Environment Plans must have authentic and updated database which can be helpful for policy making and execution of projects. State education department may involve schools to create awareness and spreading messages at each household level particularly on waste segregation.

Further observations to explore implementation mechanism

48. In the light of above observations, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments - Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries. The mechanism should be working on fulltime basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste management and

establishing, continuous interaction with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed. The State may interact with the municipal agencies like Indore Municipal Corporation, Punjab Pollution Control Board and Bhubaneswar Municipal Corporation to have more feedback and teams may undertake field visits.

49. Mechanism be considered to engage service providers by due diligent process who may execute work relating to solid and sewage management simultaneously throughout the State

- all districts, cities and towns. Selection of service providers may be done taking into account of his past performance and number of projects and capacity to handle successfully. As applicable, consultancy may be sought initially and thereafter execution done with departmental efforts under due supervision.

Need for compliance of statutory duties by specified authorities under SWM Rules and monitoring by NMCG and MoUD for centrally assisted/sponsored schemes

50. Under the Solid Waste Management Rules, 2016, statutory authorities for various actions have been specified. Under Rule 5, a Central Monitoring Committee (CMC) is to be constituted headed by the Secretary, MoEF&CC with representation from Ministries of Urban Development, Rural Development, Chemicals and Fertilizers, Agriculture, CPCB, State PCBs/PCCs, Urban and Rural Development Departments, Urban Local Bodies and Towns from the of the States, FICCI, CII and subject experts. The CMC is to meet once in a year.

The Ministry of Urban Development has to coordinate with the States/UTs under Rule 6 for periodic review and formulation of National Policy and strategies and taking other measures. Under Rule 7, the Department of Fertilizers, Ministry of Chemical and Fertilizers (MoCF) have to provide market development assistance for compost and promote marketing of such compost. MoCF has to comply with Hon'ble Supreme Court's order dated 1.9.2006 in WP(C) No. 888/1996 and ensure that instructions given to the fertilizer companies on 2.6.2008 and 18.6.2012 on co-marketing of compost from city garbage with chemical fertilizers as a 'Basket approach' be complied with. Further, MoCF may review its subsidy fertilizer policy considering Rule 8(g) of the Solid Waste Management Rules, 2016 and the media report.18 Under Rule 8, Ministry of Agriculture has to evolve mechanism for utilization of compost. Under Rule 9, Ministry of Power has to decide compulsory purchase and tariff issues. Under Rule 10, Ministry of New and Renewable Energy Sources has to facilitate infrastructure creation and provide for subsidy. Under Rule 11, the concerned Secretaries of Urban Development have to prepare State Policy and Management strategies and the Town Planning Department has to ensure setting up waste processing and disposal facilities and take other enumerated actions. Under Rule 12, the District Magistrates have to identify suitable lands and review performance of local bodies. Under Rule 13, the Secretaries of Panchayats have also to perform similar duties. Under Rule 14, CPCB is to coordinate with State PCBs and formulate standards of ground water, ambient air quality, noise, etc. Under rule 15, local

authorities have to prepare solid waste management plans, collection of waste and coordination with the other stakeholders for enumerated steps. Under Rule 16, the SPCBs/PCCs have to enforce the rules and monitor compliances. Under Rule 17, there are duties of private bodies, including the manufacturers to be monitored by the State Bodies. The timelines are provided in Rule 22 for various steps. Last timeline of 5 years from the Rules expires on 7.4.2021. There is also provision for audit and submitting of annual report under Rule 24. Since there has been large scale non-compliances of the said rules, all the concerned authorities need to review the progress and perform their responsibility in accordance with law. The MoEF&CC has to finally monitor compliance, as already mentioned.

51. In view of continuing huge gap in solid and liquid waste generation and treatment, it is high time that Ministry of Housing and Urban Development (MoUD) and National Mission for Clean Ganga (NMCG) who have programmes like Swachh Bharat Mission (SBM - Urban 2.0)19, AMRUT 2.020, Swachh Bharat Mission (Grameen)21 and River Cleaning, appropriately monitor compliance of waste management norms by concerned States/UTs and take remedial action on their part. Central Funding and State budgetary provisions need to be adequately allocated and apportioned keeping in view of environment compensation which is based on the restoration work estimate. While granting/disbursing funds to States/UTs, execution mechanism for centralized tendering at the State level to overcome delays at each city/town level may be considered. This may facilitate timely utilization of funds. MoEF&CC and CPCB may continue monitoring as per MSW Rules and the Water Act. MoUD and NMCG may also note the gaps reported by the States and UTs in solid and liquid waste management. MoUD may further consider to render proper financial and technical support to States and UTs.

52. In view of unique problems of States like Uttarakhand and perhaps other hill States (North East, J&K and H.P.) in management of sewage and solid waste, MoUD, NMCG, Department of Drinking Water and Sanitation and CPCB need to provide safe methods for sewage and solid waste management suiting the climatic and topographical conditions. This involves reaffirmation of sewage management through septic tanks/soak pits and FSTPs in urban and rural hilly areas and carrying out processing of wet solid (degradable) waste by appropriate means including remediation of legacy waste. MoUD needs to coordinate this activity for which the State may also take initiative. MoUD may also assist such State for identifying execution of projects or identifying consulting agencies giving designs etc. and execution is done by State departments at local level."

31. The above observations are by and large common to all States/UTs with few exceptions. Unless adequate waste processing facilities are set up, the legacy waste will keep mounting and occupy huge area of land. It is source of degradation of environment, threat to human health and has potential for fires and explosions. Quality of compost has to meet standards and rejects/residue emerging out from waste processing facilities needs to be properly routed to end users with due authorization. The Tribunal emphasized need for setting up of decentralized waste processing plants and standardizing plants for compost for rural areas and empaneling the service providers.

With regard to sewage management, the Tribunal noted that installed treatment capacities have not been fully utilised and treated sewage is discharged without putting to secondary uses. Tribunal

flagged need for adopting low cost options like oxidation ponds for towns having population less than one lakh and utilizing treated sewage for irrigation and pisciculture.

Tribunal concluded the proceedings with expectation of continuous monitoring by Administrative machinery, at National level, State level and District level as per District Environment Plans, with public participation. Central Ministries like MoHUA, MoEF&CC, MoJS, NMCG, MNRE have to synchronize their ongoing programs with State's efforts on solid and sewage management. The guidelines and manuals brought out by the Ministries need to be put into practice. Accordingly, States and UTs and Central Ministries need to refer orders of this Tribunal (in respect of all States/UTs) for compliance.

K. Further order of Hon'ble Supreme Court dated 20.3.2023

32. At this stage, we may also refer the recent order of the Hon'ble Supreme Court dated 20.03.2023 in M.A. No. 356 of 2023 in Writ Petition (Civil) No. 375 of 2012, Paryavaran Suraksha Samiti vs. Union of India & Ors. on the subject of extending timeline for setting up requisite sewage treatment plants and supplementary directions. As noted earlier vide judgment dated 22.02.2017, the Hon'ble Supreme Court fixed deadline of three years for commissioning such plants which expired on 22.02.2020. After such expiry, further three years have expired and still gaps have been continued. The State of UP approached Hon'ble Supreme Court for extension of time. Thereupon, It was observed by the Hon'ble Supreme Court that apart from setting up of STPs, maintenance and performance of such STPs was also required to be duly scrutinized and monitored. The issue is of utmost concern. Untreated sewage waste discharging to rivers and drains pollutes sources of water upon which survival of population and bio- diversity depends. Accordingly, the Hon'ble Supreme Court issued supplementary directions to that effect with the further observation that any extension of time could be considered by this Tribunal on the basis of material placed before it showing bonafide steps taken to comply with the order of the Hon'ble Supre me Court and genuine hindrances, if any. Relevant observations are quoted below:

> "xxx .....xxx.....xxx
>
> 9. Apart from the above, the mere setting up of STPs is not enough. The maintenance of the STPS and their performance and capacity to deal with sewage which is generated is another matter which has to be duly Scrutinized and monitored. The treatment of sewage which is generated in the villages, towns and cities is a matter of utmost concern. Untreated sewage waste is discharged into rivers and naalas polluting the very sources of water upon which the survival of the population and bio diversity depends.
>
> 10. While this Court had in its judgment laid down time lines for the construction of STPS and CETPS, of equal importance is the need to ensure that:
>
> (i) The CETPs with the requisite technology and capacity are duly commissioned;

(ii) After the commissioning of the CETPS/STPS, they continue to remain operational;

(iii) The CETPs/STPs are duly maintained and upgraded as the need may arise;

(iv) There is due monitoring at the administrative level on a real time basis of the performance of the CETPS, the deficiencies which may arise in the course of functioning and work of repair and maintenance; and

(v) Entrustment to an authority which would be accountable for the due performance of the CETPs.

11. The above aspects are necessary to be borne in mind to supplement the directions of this Court. It is only if all other consequential steps are taken as adverted to above that the object and purpose of the order of this Court would be duly met.

12. We accordingly permit the applicant to move the National Green Tribunal with an application in that regard. The National Green Tribunal shall duly monitor compliance with the directions including the time-lines which have been spelt out in the order of this Court. It would be open to the applicant to place on the record of the Tribunal all material to indicate the bonafide steps which were taken to comply with the order of this Court and, if there were any genuine hindrances in doing so, the nature of the hindrances. The Tribunal would be at liberty in the exercise of its discretion to consider any request for a further extension of time.

13. The National Green Tribunal is authorized in terms of the present order to suitably extend time should it be satisfied that all necessary steps have been pursued with a sufficient degree of alacrity. The Tribunal shall also take stock of the issues which have been set out above in relation to due monitoring of the performance of the STPs and steps for ensuring up-gradation and maintenance. The Tribunal shall also ensure that an accountable mechanism is set up in the State of Uttar Pradesh to take stock of the performance of the STPS, providing for adequate funds for up-gradation and maintenance as required and for attending to all other administrative issues and problems."

8. In view of the above laid down principles the MPPCB is directed to ensure that there should not be any discharge into the water bodies and in case of any violation the environment compensation must be assessed according to the parameters laid down as above. The Action Taken Report must be filed before the date of listing.

9. The data with regard to the district wise environment compensation (a) violation of Solid Waste Management Rules, 2016 (b) Legacy Waste (c) Violation of Water (Prevention and Control of Pollution) Act,1974 be calculated and further proceeded in accordance with law.

10. In the first phase Member Secretary, Rajasthan State Pollution Control Board is directed to calculate the environmental compensation with regard to discharge of untreated water into the water body or in local land since there are no sewage treatment plant in District Amarkantak,

Dindori , Mandla. and Narmadapuram. In the district Jabalpur the capacity of treatment is 83.43 MLD while generation capacity is 143.68 MLD. Rest of the sewage/untreated water is being discharged in the river Narmada. On the next date of hearing the five districts shall prepare the data and remedial measures for treatment of the sewage water in compliance of the Water (Prevention and Control of Pollution) Act,1974.

The chart for environment compensation must be assessed by Regional Officer and notice be issued to the Municipal Corporation/District Magistrate to comply and to deposit the compensation failing which they had to submit reply before the next date of hearing.

11. In the next phase, we may assess rest of the districts situated at the bank of river Narmada and discharging sewage/ untreated water in the river and violating the Water (Prevention and Control of Pollution) Act,1974.

List it on 8th December, 2023.

Sheo Kumar Singh, JM Dr. Afroz Ahmad, EM 31st October, 2023 O.A. No. 71/2023 (CZ) K