



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 2299/2021

Pramod Jain @ Pramod Kumar S/o Ratanchand, Aged About 46
Years, R/o 31 Veer Durgadas Nagar Pali Through Sec. Pali Water
Pollution Control Refinement And Research Foundation, Cctp,
Madiya Road, Industrial Area, Plat No. 2, Pali (Raj.).

----Petitioner

Versus

1. The Regional Officer, Regional Office, Rajasthan State
Pollution Control Board, Pali (Raj.).
2. State Of Rajasthan, Through Pp

----Respondents

For Petitioner(s) : Mr. Ashok Chhangani
For Respondent(s) : Mr. Sameer Pareek, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

20/05/2026

1. The order taking cognizance of offence by the District &
Session Judge ,Pali under the penal provisions of Water
(Prevention and Control of Pollution) Act 1974 dated
10.01.2020 was assailed by the petitioners by way of filing a
criminal revision petition No.85/2018. Vide the order
impugned dated 10.01.2020, the learned court of revision
though considered the submissions and set aside the order
of cognizance passed by the magistrate but instead of



quashing the entire proceeding, has remanded the matter back to the magistrate for fresh consideration, which aggrieved the petitioner, hence the petition.

2. After hearing the counsel for the parties, this court feels that when the order taking cognizance has been set aside, it would be apt for the magistrate to reconsider its own order in light of the directions passed by the learned session judge.
3. A further direction may be given by this court to the effect that the competence and authorization of the complainant to file the criminal complaint shall be examined first before proceeding further in the matter. The application of Section 49, which is mandatory in nature shall also be taken care of.
4. Prima facie material placed before this Court, showing absence of any authorization by the Pollution Control Board or any officer authorized by the board in this behalf. The learned magistrate shall consider this aspect of the matter whether any authorization letter was issued by the pollution control board or any other person in this behalf for the purpose of filing of the complaint before him prior to filing of the criminal complaint.
5. Needless to say, in absence of a valid authorization in favour of the complainant, a criminal court is defunct to take cognizance of the offence under the provisions of the water prevention and pollution control act, 1957. Accordingly, the





petition as well stay petition is disposed of with these directions-

6. In view of the aforesaid discussion and the categorical mandate contained in Section 49 of the Water (Prevention and Control of Pollution) Act, 1974, the learned Magistrate shall, before proceeding further in the matter, first record a specific finding regarding the competence and lawful authorization of the complainant to institute the complaint. The learned court shall examine whether any valid authorization, issued by the Pollution Control Board or by a competent officer duly empowered by the Board under Sections 24, 25, 26, 43, 44 and 47 of the Act of 1974, existed in favour of the complainant prior to the filing of the criminal complaint.

7. The learned Magistrate shall further consider whether the authorization relied upon by the respondent, allegedly issued under Sections 41 and 42 of the Act of 1974, satisfies the statutory requirement for institution of prosecution under Sections 43 and 44 read with Section 47 of the Act. It is made clear that, in absence of a valid and legally sustainable authorization in favour of the complainant at the time of institution of the complaint, the bar contained under Section 49 of the Act would operate, rendering the complaint itself non-maintainable and denuding the criminal court of jurisdiction to take cognizance of the alleged offences.





8. No coercive measure shall be taken against the petitioners without passing a final order on complaint.

(FARJAND ALI),J

35-Samvedana/-

