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Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 4003 of 2006

Petitioner :- Re Ganga Pollution

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Vijay Chandra Srivastava,A.K. Gupta,A.K. Srivastava,Amit Negi,Amit Shukla,Anil Tiwari,Arun Kumar,Arvind Agarwal,Ashfaq Husain,B.P. Singh Kachhwah,Baij Nath Yadav,Baleshwar Chaturvedi,D.B. Mishra,D.S. Mishra,Indramani Tripathi,Jagdish Tewari,K.C. Pandey,P.N. Mishra,Ravi Prakash Pandey,S.K. Srivastava,S.K. Tyagi,Shailesh Singh,Sharad Kr. Srivastava,Sunita Sharma,Surya Pratap Singh Parmar,Tarun Agarwal,Uttar Kumar Goswami,V.B. Singh,V.C. Mishra,Vivek Mishra,Yogesh Krishna Mishra

Counsel for Respondent :- C.S.C.,A.K. Mishra,Ajay Bhanot,Ajit Singh,Anjani Kumar Mishra,Anoop Trivedi,B.D. Shukla,Bheem Singh,C.L.Pandey,Chandan Sharma,Dr. H.N.Tripathi,H.N. Singh,H.P. Dubey,Hem Pratap Singh,Iqbal Ahmad,J.J.Munir,Jyotindra Misra A.G.,Kashif Zaidi,M.C. Chaturvedi,M.C. Tripathi,M.K.Alam,Mahesh Narain Singh,Manoj Kumar Singh,Mayank Agrawal,Mehboob Ahmad,Mohd.Khursheed Alam,Mridul Tripathi,N. Misra,Omprakash Yadav,P.S. Baghel,Pankaj Kumar Shukla,Prabhash Pandey,Pradeep Pandey,R.B. Shukla,Rajendra Kumar Misra,Rajesh Tripathi,Rajiv Lochan Shukla,Ravi Kant,S.A. Lari,S.G.Hasnain Addl.A.G.,S.M.A. Kazmi,S.P. Kesharwani,S.P. Singh,Santosh Kumar Shukla,Saumya Misra,Sudeep Harkauli,Sudhanshu Srivastava,Suneel Dubey,T.M.Khan,Tahir Husain,Tanmay Agarwal,Udai Chandani,Udain Nandan,Udayan Nandan,Umesh Narain Sharma,Vijay Kumar Rai,Vivek Birla,Vivek Verma,W.A. Hashmi

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Siddhartha Varma,J.

Hon'ble Ajit Kumar,J.

1. Heard Sri A. K. Gupta Amicus Curiae, Sri V.C. Srivastava and Sri Shailesh Singh, learned counsel for the petitioners, Sri M.C. Chaturvedi, Senior Advocate assisted by Sri Ravi Prakash Pandey on behalf of Harish Chandra Research Institute, Dr. H.N. Tripathi learned counsel for U.P. Pollution Control Board, Sri S.D. Kautilya, learned counsel for Nagar Nigam, Sri Manoj Kumar Singh & Sri Rajesh Tripathi learned counsel for

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Union of India, Sri Om Prakash Yadav, learned counsel for Central Pollution Control Board, Sri Prabhas Pandey learned counsel for M/s Pancham Realcon Pvt. Ltd., Sri Sudhanshu Srivastava, learned counsel for respondent No.11 and Sri Manu Ghildiyal brief holder for the State.

2. In compliance of our previous order dated 21.1.2021 an affidavit has been filed by the General Manager, Ganga Pollution Control Unit, U.P. Jal Nigam, Prayagraj on behalf of the District Magistrate, Prayagraj. Sri S. D. Kautilya has filed affidavit of the Municipal Commissioner, Nagar Nigam, Prayagraj and Dr. H.N. Tripathi has filed affidavit on behalf of U.P. Pollution Control Board. Learned counsel for the petitioner has filed a supplementary affidavit. All the affidavits are taken on record.

3. In the affidavit filed on behalf of the District Magistrate, Prayagraj, it is alleged that as per current status report, all STPs are functional and all parameters are within range prescribed by the Government of India vide its gazette notification dated 13.10.2017. The discharge status of the STPs is being monitored by the Ganga Pollution Control Unit, Uttar Pradesh Jal Nigam, Prayagraj. The discharge parameters are within prescribed norms. A report in relation to testing of samples has also been annexed.

4. In the affidavit filed by U.P. Pollution Control Board, it is stated that the water of river Ganga is not fit for drinking purpose but is fit for bathing purpose. A test analysis report dated 27.1.2021 regarding quality of water has also been annexed alongwith the said affidavit.

5. In the affidavit of the Municipal Commissioner, Nagar Nigam,

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Prayagraj, it is stated that 17 drains which fall in river Ganga and 25 drains in river Yamuna are being treated through the process called bio-remediation. It is stated that Nagar Nigam has appointed three private agencies for treatment of discharge of these drains through the said process. It is further stated that the process of bio-remediation has been adopted in different cities under the direction of Central Pollution Control Board and National Green Tribunal. U.P. Pollution Control Board is regularly monitoring the treatment process and also analysing samples of water/discharge before and after treatment.

6. It is vehemently urged by Sri A. K. Gupta, learned Amicus Curiae and learned counsel for the petitioners that the disclosures made in these affidavits are not correct. Untreated water of various drains are being directly flown in two rivers. As a result, the water has changed in colour. It is pointed out that even as per affidavit filed before this Court, number of *nala*s are still untapped despite several directions by this Court from time to time that all *nala*s be connected through STPs in phased manner. On a query made by the Court from learned counsel appearing on behalf of the State-respondent as well as learned counsel representing U.P. Pollution Control Board and Nagar Nigam, Prayagraj as to how remaining 42 *nala*s which are not connected to existing STPs or which are not being treated on site through *up-flow filters* are being treated, it is stated that the same is being done by installing a mechanical iron mesh and some by the process of bio-remediation. It is submitted that six drains are being treated by National Environmental Engineering Research Institute (NEERI). However the

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process adopted by the said organisation in treating the *nalas* coming under its control, has not been disclosed.

7. Learned counsel for the petitioners and learned Amicus Curiae seek time to bring on record photographs and other evidence to show that untreated water is still being flown into two rivers and even water of *nalas* which are connected to STPs is overflowing as the STPs are of under capacity. In other words, the contention is that the STPs are unable to bear the inward load and are discharging untreated water into the two rivers.

8. In respect of the environmental flow of water that has to be maintained in two rivers, our attention has been drawn towards the order passed on 19.1.2011 wherein, this Court has recorded that *prima facie* drawal of water exceeding 50% should not be allowed. By another order dated 3.2.2012, this Court had taken note of the constitution of Ganga Basin Authority entrusted with task of preserving the Ganga Basin. By the same order, time was granted to the Central Government to file an affidavit, bringing on record the details of the project and programmes of the said Authority to combat menace of increasing pollution in river Ganga.

9. We have been informed that till date the said direction has not been complied with. We are also informed that in the same order, this Court had recorded submission of learned counsel for Union of India that Ministry of Environment had signed a memorandum of agreement with the IIT Consortium for preparation of Ganga River Basin Management Plan. As part of the aforesaid Plan, a separate group was constituted by IIT Consortium which had also held its meeting. At that time the Court was

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informed that the said Consortium would complete its study within 18 months and thereafter its report would be available. We have been informed that till date the Central Government has failed to bring on record any report whether interim or final by the said Consortium.

10. Learned counsel for Union of India Sri Rajesh Tripathi is also not in a position to make any statement in this regard and seeks time to complete his instructions.

11. In respect of the query made on issue of ban of plastic in and around Magh Mela area, the stand taken is that the State Government had issued a notification dated 15.7.2018 prohibiting use, manufacture, sale, distribution, storage, transport, import or export of all kinds of disposable plastic carry bags of thickness less than 50 microns w.e.f. 2.10.2018. It is stated that the duty of enforcing the said notification lies with the Nagar Nigam, Prayagraj. The Municipal Commissioner, Nagar Nigam, in his affidavit has taken a stand that the provision of the said notification are to be implemented in Mela areas by the Magh Mela Authority. He has also taken the stand that there is complete ban throughout the territorial limits of Municipal jurisdiction to use plastic polythene bags which do no meet the stipulation prescribed in the notification. It is also stated that those who are violating the ban, are being subjected to prosecution and penalty. However, the affidavit is completely silent regarding the amount realised as fine since the date of enforcement of the notification and also the number of prosecutions launched so far.

12. Having regard to the stand taken by the respondents in different

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affidavits filed today, we direct impleadment of National Environmental Engineering Research Institute (NEERI) as a party respondent to the instant petition.

13. Issue notice to the newly impleaded respondent.

14. We also issue the following directions :-

(A) The Municipal Commissioner, Nagar Nigam, Prayagraj shall file his personal affidavit bringing on record the agreement with the three private agencies to whom work of treatment of drains through the process of bio-remediation, has been entrusted. The amount paid till date under the aforesaid contract, shall be clearly disclosed. The manner in which these agencies are being monitored in relation to discharge of their obligation under the contract, shall be brought on record supported by documentary evidence. The amount of microbial consortia that had been mixed by these agencies while carrying out the treatment process, shall be disclosed in view of the contention of learned counsel for the petitioners that the said process is operational only on paper and infact little or virtually no microbial consortia is being mixed to treat water flowing through these drains. It shall be open to the petitioners to bring on record any expert opinion regarding viability and effectiveness of the process of cleaning drains through bio-remediation and whether it is a short term measure or could be permitted to be continue indefinitely.

(B) The State Government shall state on affidavit to be filed by an officer not below the rank of Additional Secretary that in how much time it proposes to connect the remaining drains to STPs. The petitioners are also

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granted liberty to bring on record evidence to show that STPs are working or not and whether untreated water, as alleged by them, is being discharged in rivers Ganga and Yamuna directly.

(C) The Central Government shall file affidavit disclosing whether IIT Consortium has submitted any report in respect of the work entrusted to it for the management of Ganga River Basin and in case, report has been submitted, the same shall be brought on record. It shall also be clearly disclosed as to what measures has been adopted by the Central Government so far to ensure the optimal environmental flow in two rivers in compliance of the directions issued by this Court on 19.1.2011 and 3.2.2012. The Central Government shall also disclose the project, if any, undertaken by Ganga Basin Authority to preserve environmental flow of the two rivers and flora and fauna in Ganga Basin.

(D) The Municipal Commissioner, Nagar Nigam, Prayagraj, in his affidavit shall also disclose details of fine imposed till date for violation of the notification dated 15.7.2018 as well as number of prosecutions launched so far. Similar disclosure shall be made by the Mela Officer Incharge, Magh Mela, Prayagraj in respect of enforcement of the notification in the area coming under his control.

(E) We direct that the Nagar Nigam, Prayagraj and Magh Mela Authority shall ensure rigorous enforcement of the notification banning plastic bags and other disposables of thickness less than 50 microns within their territorial limit and that no plastic waste is littered on the ghats and banks of two rivers.

(F) Sri A.K. Gupta, Amicus Curiae alongwith Dr. H.N. Tripathi, learned counsel appearing for the U.P. Pollution Control Board, Sri Rajesh Tripathi,

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learned counsel for Central Government and Sri Manu Ghildiyal, brief holder for the State are permitted to personally visit the STPs and other discharge points and ghats in order to apprise themselves of current position relating to working of STPs and other process by which drain and sewerage water is being allegedly treated. To facilitate the same, we direct the District Magistrate, Prayagraj and Superintendent of Police, Prayagraj to render all assistance to the above team.

List on 4 February, 2021 at 2:00 p.m.

Order Date :- 28.1.2021
skv

(Manoj Kumar Gupta, J.)

(Siddhartha Varma, J.)

(Ajit Kumar, J.)