

Item No. 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 639/2018

(With report dated 10.10.2019)

Shailesh Singh

Applicant(s)

Versus

State of Haryana & Ors.

Respondent(s)

Date of hearing: 05.11.2019

**CORAM:** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): Mr. Shlok Chandra, Advocate

For Respondent(s): Mr. Anil Grover, AAG with Mr. Rahul Khurana,  
Advocate, Mr. Bhupinder Chahal, R.O, Sonipat  
and Ms. Monika Punia, AEE, Faridabad

**ORDER**

1. The need for revision of existing monitoring mechanism to oversee compliance of environmental norms by the State PCBs including duration for mandatory inspections of 'highly polluting 17 category', 'red' and 'orange' and 'green' category industries and policy of auto renewals of Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 as well as the Air (Prevention and Control of Pollution) Act, 1981 is the question for consideration.
2. The Tribunal sought a report from a joint Committee of the CPCB, Haryana State PCB, CGWA and District Administration with reference to the allegation of deterioration of ground water quality in major part of the State of Haryana on account of non-compliance of direction of

the Hon'ble Supreme Court in *Paryavaran Suraksha Samiti v. Union of India* (2017) 5 SCC 326 that no untreated effluents be discharged and requisite ETPs, STPs and CETPs be installed. The applicant pointed out that an earlier report of the CGWB established deterioration of the ground water in Haryana. The CAG report in the year 2016 also recorded that several projects were operating without obtaining valid CTE/CTO showing ineffectiveness of monitoring mechanism.

3. In pursuance of the above, report dated 10.12.2018 was filed by the joint Committee pointing out that the Inspection Policy of the State PCB provided for inspection of 'highly polluting 17 category', 'red' and 'orange' category industries in 3, 5 and 7 years respectively and auto renewal of consent to operate. The report also found large scale violation of environmental norms which had remained unchecked on account of such unsatisfactory policies.
4. This Tribunal vide order dated 08.03.2019 observed that policy followed by the State of Haryana was hit by the mandate of 'Precautionary' and 'Sustainable Development' principles of environmental law. Since there was large scale violation of environmental norms by 'highly polluting 17 category' 'red' and 'orange' category industries, meaningful environmental regulatory regime was imperative which required revision of the existing policy framework. The Tribunal also directed remedial directions against violation of environmental norms mentioned in the reports furnished to the Tribunal.

5. Further report was submitted by the CPCB on 23.05.2019 giving unsatisfactory ground situation and making recommendations as follows:

(i) HSPCB shall verify compliance to the conditions of consent issued under Water Act, 1974 in the remaining 08 industrial units within 15 days and ensure follow up action against all non-complying units within 15 days thereafter.

(ii) The Industries which were observed to be closed by self (six units as indicated at Sl. No. 9, 14, 26, 27, 55 and 77) or sealed (eight units at Sl. No. 49, 63, 64, 65, 66, 67, 70 (dismantled), 84 and 95 as well as 23 units (at S. No. 10, 11, 15, 17, 20, 21, 22, 25, 31, 32, 35, 37, 38, 43, 47, 50, 51, 56, 59, 60, 73, 86, and 93 as per Annexure-IIJ were found not in operation. Such industrial units should not be allowed to operate till compliance to the conditions of consent or directions issued under Section 5 of the E (P) Act, 1986 is ensured.

(iii) HSPCB should consider disposal of effluent of all the industries located in Sonipat and Panipat areas through dedicated conveyance system to the nearby existing CETP. In case, existing CETP capacity is not adequate, HSIDC may upgrade the existing CETP to adequate capacity for ensuring treatment of all industrial effluents generated from Sonipat and Panipat areas, in a time bound manner.

(iv) As per CGWB, 47 out of 55 units and 13 out of 34 units in Panipat area and Sonipat area respectively drawing ground water have not even applied for obtaining NOC (List of such industries are annexed as Annexure-IV). HSPCB shall ensure action against all defaulter units by imposing deterrent environmental compensation from the date of commissioning for illegal drawl of water within 15 days in addition to the action being taken by CGWB through DCs.

(v) HSPCB shall review its present Policy for renewal of consents as well as periodic inspection of the industries as directed by Hon'ble NGT order dated 08.03.2019 in the matter of O.A. No. 639 of 2018 and O.A. No. 624 of 2018 to ensure regular operation of ETPs by respond industries as well as other industries in the state.

(vi) HSPCB shall direct Municipal authorities in Sonipat and Panipat areas shall be directed to

*reassess water quality of ground water used for water supply through a reputed organization and in case the water quality of ground water is not complying to the drinking water specifications of IS: 10500- 2012, then action be taken for sealing or capping of such tube wells immediately.”*

6. The Tribunal, vide order dated 30.07.2019, reiterated that the Policy of Inspection must be realistic and adequate to ensure effective enforcement of law. The CPCB as well as the State of Haryana were required to furnish a compliance report on the subject.
7. Accordingly, report dated 10.10.2019 has been filed by the Chief Secretary, Haryana on the subject of re-visiting the Policy and report dated 04.10.2019 has been filed by the CPCB on the subject of non-compliance of norms in the State of Haryana.
8. We may notice the report of the CPCB first which is *inter alia* as follows:

**“3. Action Taken Report submitted by HSPCB against industries: -**

*Thereafter, HSPCB has provided an updated ATR on CPCB's direction dated 22.05.2019 vide letter No. HSPCB/ PC/ 2019/219 dated 21.08.2019 as well as ATR as per minutes of the meeting held on 08.08.2019 vide letter No. HSPCB/PC/2019/ 162 dated 18.09.2019 (Annexure-W)*

**Industries covered under OA No. 639 of 2018:-**

**Panipat:** - *Out of 55 industries covered under OA No. 639 of 2018, 31 industries were reported to be non-complying and HSPCB has confirmed their closure under closure directions issued by HSPCB/CPCB. List of these industries is enclosed as **Annexure-V***

**Sonepat:-Out** of 33 industries covered under OA No. 639 of 2018, 11 industries were reported to be non-complying and HSPCB has confirmed their closure either under closure directions issued by HSPCB/CPCB or due to permanent self-

closure/dismantling. List of these industries is enclosed as **Annexure-VI**.

02 out of 02 industries in Rewadi and 01 out of 01 industry located in Bahadurgarh are reported to be complying to the discharge norms.

Industries covered under OA No. 624 of 2018:-

Faridabad: - Out of 55 industries covered under OA No. 624 of 2018, 04 industries were reported to be non-complying and HSPCB informed that process for prosecution of these units has been initiated. List of these industries is enclosed as **Annexure-VII**.

**HSPCB may keep a regular vigilance on the units for ensuring compliance to the norms and in case found any violations action should be taken by HSPCB as per provisions of Water Act, 1974 or Environment (Protection) Act, 1986.**

**4. Action Taken Report submitted by CGWA w.r.t GW abstraction: -**

Central Ground Water Authority (CGWA), Chandigarh has provided ATR as per minutes of the meeting held on 08.08.2019 vide letter No. 4 (172)A-CGWA/NWR/S 86 1/2019-895 dated 21.08.2019 is enclosed as **Annexure-VIII**.

In Sonapat district, out of 33 industries 17 have applied for NOC and the same are under examination. 16 Industrial units have not applied till date.

In Panipat district, out of 54 industries 20 have applied for NOC and the same are under examination. 34 industrial units have not applied till date.

Regarding industries which draw ground water in Panipat and Sonapat areas (**in O A No. 639/2019**), Deputy Commissioners have been advised to get the bore wells sealed which have not obtained NOC from CGWA vide letter dated 09-08-2019. Chief Secretary to Government of Haryana has also written letters dated 19.08.2019 to DC, Panipat and DC, Sonapat to take action in this regard. Subsequently, DC, Panipat has constituted a team for taking action against the industries involved in abstraction of ground water and assured CS, Govt. of Haryana vide letter dated 20.08.2019 that action shall be taken against such industries after expiry of the last date for applying i.e., 30.09.2019.

- The industries withdrawing water without NOC and which have not applied for NOC in Faridabad district (**in O.A. 624/2018**) have been sealed by D.C. Faridabad.

**Imposition of Environmental Compensation (EC) on industries for illegal abstraction of ground water:-**

CGWA vide letter dated 21.08.2019 informed that rates of EC is not yet decided by CGWA.

**CGWA may levy EC on the concerned industries which are indulged in abstraction of ground water without obtaining WOC' from CGWA in light of the order passed by Hon'ble National Green Tribunal in OA No. 176/2015 filed by Shailesh Singh Applicant (s) Versus Hotel Holiday Regency, Moradabad & Ors. Respondent(s) (Date of hearing: 23.08.2019, Date of uploading of order: 11.09.2019).**

As regards increase in ground water monitoring in Haryana, CGWA vide letter dated 21.08.2019 informed that CGWA is monitoring the ground water levels and quality through its National Hydrograph Monitoring Stations. During 2015, 351 Samples, in 2016, 414 samples, in 2017, 400 samples, in 2018, 453 samples and 2019, 447 samples were collected (thus) CGWB is making efforts to increase the number of samples collected every year.

**5. Ground Water Quality in Haryana State:-**

CGWA has provided ground water quality in Haryana State for the year 2017. As per the information received, in the year 2017, CGWA carried out monitoring of ground water quality at 401 locations in the districts of Yamuna Nagar, Sonapat, Sirsa, Rohtak, Panipat, Panchkula, Palwal, Mewat, Mahendragarh, Kurukshetra, Karnal, Khaital, Jind, Jhajjar, Hissar, Gurgaon, Fatehabad, Bhawani and Ambala.

Analysis results of ground water reveals that 224 out of 401 locations monitored are not complying to the BIS drinking water specifications (IS:10500-2012) with respect to one or more TDS parameters such as pH, EC, Cl\*, SO<sub>4</sub>, NO<sub>3</sub>\*, PO<sub>4</sub>, Ca\*, Mg\*, Total Hardness (as CaCO<sub>3</sub>) and Fe', Data also reveals that Fluoride content is exceeding the limit of 1.5 mg/1 at 86 locations and minimum fluoride content is BDL and maximum observed as 11.61 mg/ 1. Details of ground water monitoring locations which are non-complying to the drinking water norms is given as **Annexure-IX**.

**Ground water locations where fluoride content is exceeding the drinking water specification (i.e., BIS 10500-2012), all such sources should be prohibited for drinking water purposes and a**

**display board should be provided at all such contaminated tube wells indicating 'Not Fit for Drinking' by CGWA.**

**6. Air Quality in Sonapat, Panipat and Faridabad areas: -**

Haryana State Pollution Control Board is monitoring air quality using continuous ambient air quality monitoring station (CAAQMS) at Sonapat, Panipat and Faridabad for the parameters such as NO<sub>x</sub>, NH<sub>3</sub>, SO<sub>2</sub>, CO, O<sub>3</sub>, PM<sub>2.5</sub> and PM<sub>10</sub>. Ambient air quality measured values for the months of July and August 2019 are enclosed as **Annexure-X**.

**Panipat:-**

The 24 hours average values of PM<sub>10</sub> in the months of July 2019 and August 2019 are exceeding the limit for 7 days and 6 days respectively and the 24 hours average values of PM<sub>2.5</sub> in the month of July 2019 is exceeding the limit for 4 days.

**Sonapat:-**

The 24 hours average values of PM<sub>10</sub> in the months of July 2019 and August 2019 are exceeding the limit for 14 days and 10 days respectively and the 24 hours average values of PM<sub>2.5</sub> in the months of July 2019 and August 2019 are exceeding the limit for 7 days and 5 days respectively.”

9. The above data shows that there is rampant non-compliance of environmental norms by the industries resulting in contamination of ground water and deterioration of air quality. So much so, the source of drinking water is contaminated depriving the citizens of right to access potable water. Such unsatisfactory state of affairs needs to be factored in the policy framework for remedial action. Revised policy must match the gap in violations and remedial measures by the Regulators. We find it difficult to accept that the proposed revised policy will bridge this gap. While the policy now proposed rightly acknowledges the need for increasing frequency of inspections and need for pre-verification of documents instead of mechanical auto-renewal, there is need for further safeguards by shortening the

duration of mandatory inspections and requiring ground verification before renewal and not mere pre verification of documents as proposed. There is also need to take remedial steps against deficiencies noticed in the report of CPCB, especially providing drinking water to the affected inhabitants.

10. The report of the Chief Secretary refers to ease of doing business initiatives to encourage industrial development. Needless to say that while industrial development in sustainable manner is necessary, it cannot be at the cost of air and water quality which are the means of sustenance of life. The industrial development cannot be on the graves of human beings. There can be no objection to bureaucratic procedures and hassles being relaxed, simplified and shortened and industrial growth and employment generation programmes being encouraged but at the same time, such initiatives are to be balanced against deterioration of air and water quality which must be protected.

11. Having considered the material on record, we are of the view that there is need for further reduction of period of inspections and increase in frequency with regard to 'highly polluting 17 category', 'red category' and 'orange category'. Vigilance is also required on 'green category' to verify that 'green' status is being genuinely used. Since the report of the Chief Secretary states that similar policies are operating in 19 States, there is need for the CPCB to ensure revision of such policies in all the States having regard to the data of air and water quality, CEPI, non-attainment cities and polluted water stretches, etc. in said States. The policy should cover inspections with reference to the Water (Prevention and Control of Pollution) Act,



1974 as well as the Air (Prevention and Control of Pollution) Act, 1981. Further action taken report may be filed by the CPCB before the next date by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).

12. Accordingly, we direct:

- i) The State of Haryana may shorten the period of inspection at higher frequencies preferably as follows:

**Period of mandatory inspections:**

a)	Highly polluting 17 Category: months	3
b)	Other Red Category: months	6
c)	Orange Category	1 year
d)	Green Category	2 years
e)	CBWTF/CHWSRDF/ CMSWTDF/CETP/STP: months	3

This will not dispense with inspections wherever situations so require in the wisdom of the Board and environmental exigencies. The conditions for grant/renewal of consents may be placed in public domain consistent with the spirit of Section 25(6) of the Water Act and corresponding provision of the Air Act. Revised norms for inspections may be placed on record before the next date.

- ii) These timelines and other changes may be followed by the CPCB for other States under Section 18 of the Water (Prevention and Control of Pollution) Act, 1974/Air (Prevention and Control of Pollution) Act, 1981 unless there are reasons for exception for any particular State.
- iii) The Chief Secretary, State of Haryana may also ensure remedial action against the deficiencies pointed out in the

report of the CPCB especially with regard to fluoride in ground water which requires making potable water available to the concerned inhabitants in a time bound manner. Compliance report in this regard may be filed before the next date.

iv) Since the CGWA has still not evolved any compensation regime, compensation regime laid down by CPCB may be utilized as a guideline an interim measure till any further policy is framed.

v) To meet the increased frequency of inspections, the SPCBs/PCCs may undertake capacity enhancement out of consent funds by procuring requisite equipments, setting up of modern labs and recruiting/engaging staff and experts. All vacancies must be filled up as already directed by this Tribunal in *O.A No. 95/2018, Aryavart Foundation v. M/s Vapi Green Environ Ltd & Ors* vide order dated 28.08.2019 which may be ensured by the Chief Secretary. Compliance report may be filed before the next date.

vi) The CPCB may also undertake capacity enhancement including procurement of requisite equipment, setting up of labs, recruiting/engaging staff and experts on above lines utilising environment compensation funds. No authority in the Government will obstruct such exercise so that requisite steps for protection of environment and public health are not hampered. Compliance report may be filed before the next date.

13. A copy of this order be sent to all the Chief Secretaries of the States/UTs, CPCB and the State PCBs/PCCs by email.

List for further consideration on 11.02.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 05, 2019  
Original Application No. 639/2018  
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