

ITEM NO.11 Court 1 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 8/2021

DELHI JAL BOARD

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.523/2021-GRANT OF INTERIM RELIEF and IA No.525/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 13-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. Shadan Farasat, AOR
Ms. Aakansha Kaul, Adv.
Mr. Bharat Gupta, Adv.
Mr. Shourya Dasgupta, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. The present petition though relates to increased ammonia levels in Yamuna due to discharge of pollutants, but it highlights an issue of great significance and consequence not only for general public but all living beings dependent upon open surface water.
2. Open surface water resources including rivers are lifeline of human civilization. In olden days, almost all the human settlements were at the bank of some river as it

provided for an array of utilities such as potable water, irrigation, food, livelihood, transportation, etc. Every civilization including ours, has shown great amount of gratitude to these life creating resources.

3. Rapid population growth, modern living patterns, wide spheres of human activities and industrialization have resulted in greater demand for fresh water. At the same time, pollution of water resources is increasing steadily. Deterioration of quality of fresh water has a direct correlation with the quality of public health. It is an acknowledged fact that pollution of water supplies by sewage effluents has been and still is a major cause of variety of diseases and discomforts.

4. The effect of water pollution on human health is not the only adverse factor. Water pollution can seriously harm the aquatic life in water bodies. It has become necessary, to compare the costs of prevention and control of water pollution against its effects on human health including treatment, indirect economic costs and damage to flora and fauna.

5. Article 21 of the Constitution of India, provides for right to life and also right to live with human dignity. The right to clean environment and further, pollution free water has been protected under the broad rubric of the right to life guaranteed under Article 21.

6. This Court in *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664 observed:

"Water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India and can be served only by providing source of water where there is none. The resolution of UNO in 1977 to which India is a signatory, during the United Nations Water Conference resolved unanimously inter alia as under:

'All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs.'"

7. Further, Articles 47 and 48-A of the Constitution impose upon state a duty to improve the public health of citizens and protect the environment respectively. The Constitution under Part IV-A also casts a duty on every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife. It is manifestly clear that pollution free water forms the basic right under the Constitutional framework and a welfare state is bound to ensure the same.

8. Over the years, there have been many legislative and executive actions to ensure this basic right of pollution free water. Most importantly, the Water (Prevention and Control of Pollution) Act, 1974 was enacted with an objective to provide for the prevention and control of water pollution and maintaining or restoring of wholesomeness of water. The

Act prohibits use of any stream or well for disposal of polluted matter.

9. This Court also, in catena of cases, has held that it is the duty of the State to ensure access to clean drinking water which is included in right to life. Many directions have been passed to enforce the law protecting the surface water and stoppage of discharge of pollutants into water.

10. One of the major causes of water pollution is discharge of non-treated/partially treated municipal waste including sewage effluent of cities into rivers. In and around cities, surface water resources such as rivers, ponds and lakes where effluents are discharged from local bodies are highly polluted. Such discharge of human sewage and other pollutants results into deterioration in chemical, physical and biological properties of water. All these processes lead to degradation of natural environment.

11. Article 243W of the Constitution vests Municipalities and local authorities with the performance of functions and implementation of schemes as may be entrusted to them including those in relation to the matters listed in Twelfth Schedule. Item 6 of the Twelfth Schedule includes the subject "public health, sanitation conservancy and solid waste management". This duty has been emphasised in the case of *Paryavaran Suraksha Samiti v. Union of India*, (2017) 5 SCC 326 where it was held:

“Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution.”

12. In the aforesaid case, it was directed that the norms for generating funds, for setting up and/or operating the “Common Effluent Treatment Plant” as well as “Sewage Treatment Plants” shall be finalised, on or before 31.03.2017, so as to be implemented from the next financial year of that date. It was directed that for the purpose of setting up these plants, the state government will prioritize such cities, towns and villages, which discharge industrial pollutants and sewer directly in rivers and water bodies.

13. The mandate of law is clear as far as setting up of Sewage Treatment Plants and stoppage of sewage effluents in surface water are concerned, but it is often found as highlighted by this petition that either the sewage is not treated through a plant before being discharged or the treatment plants are not functional or incapacitated.

14. We find that in addition to the issue raised by present

petition, it will be appropriate to take suo moto cognizance with regard to the issue of contamination of rivers by sewage effluents and ensure that the mandate is implemented by municipalities as far as discharge of sewage into rivers is concerned.

15. We direct registration of suo moto writ petition (civil) with regard to "Remediation of polluted rivers".

16. We deem it appropriate at this stage to start with the issue of contamination of river Yamuna.

17. Let notice be issued to State of Uttarakhand, Himachal Pradesh, Haryana, Delhi and Uttar Pradesh. Notice shall also be issued to Secretary, Ministry of Environment, Forest and Climate Change and Secretary, Ministry of Housing and Urban Affairs, Government of India and Central Board of Pollution Control in addition.

18. We direct the CPCB to submit a report identifying municipalities along the river Yamuna, which have not installed total treatment plants for sewage as per the requirement or have gaps in ensuring that the sewage is not discharged untreated into the river. CPCB may also highlight any other source of prominent contamination within the limits of Municipalities. It shall also submit priority-wise list of Municipalities, river stretches adjacent to which have been found to be most polluted.

19. We appoint Ms. Meenakshi Arora, Senior Advocate as amicus curiae to assist the Court in the Suo Moto petition.

20. Further, it is clarified that the suo moto petition and directions issued herein, shall not in any way dilute any other directions issued by other Court or Tribunal.

21. So far as present petition is concerned, notice be issued to the respondents and be tagged along with suo moto writ petition.

22. List these matters on Tuesday i.e. 19th January, 2021.

(MADHU BALA)
AR-CUM-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR