

Item No. 04

Court No. 1

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

Original Application No. 80/2023

Varun Gulati

Applicant

Versus

Union of India & Anr.

Respondent(s)

Date of hearing: 24.04.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Mansi Chahal, Adv. for Applicant

Respondent(s): Mr. Lokesh Sinhal, Sr. AAG with Mr. Rahul Khurana, Advocate for the State of Haryana & HSPCB

**ORDER**

1. Grievance in this application is against inadequacy of staff in Haryana State PCB resulting in failure of regulatory mechanism under the environmental statutes. It is stated that out of 481 sanctioned posts, only 178 persons are working and the remaining 303 posts are vacant. This is resulting in violation of environmental law unregulated.
2. Vide order dated 20.02.2023, the Tribunal sought a response in the matter from State of Haryana and State PCB.
3. Reply filed by the State PCB that it has sent requisition to fill up the post to the Public Service Commission and is helpless due to inaction on the part of the Commission. Extract from the reply is as follows:-

“3. At this juncture, it is also appropriate to mention here that HSPCB was constituted vide Notification No. 8677-P.W.IV (4) 74/33298 dated 19<sup>th</sup> September, 1974 and since the beginning with the passage of time, action for strengthening of the Staff has been initiated time and again. In the series of such action for the strengthening of this Board new posts of different cadre have been got sanctioned in the recent past and since the creation of new posts serious efforts are being made to fill up the vacant posts in Haryana State Pollution Control Board, which are as under:

(i) The State Government vide No.2/24/2019-1Env. Dated 04.10.2019 sanctioned 183 posts of different cadres to strengthen the State Pollution Control Board to increase the strength of staff in Head Office, to establish Sub-Headquarter at Gurugram, to strengthen the laboratories and also to open Regional Offices at all district headquarters. Final approval/sanction was granted by the Finance Department Govt. of Haryana on 04.03.2021. Copy of sanction dated 04.03.2021 is annexed as Annexure-R-5/1. After this sanction, now 19 Regional offices are operational, list of these offices with respective geographical areas is annexed as Annexure-R-5/2.

(ii) That it is also pertinent to mention here that some posts were newly sanctioned and Service Regulations of such posts have not yet been notified. These posts include Chief Scientist and Chief Environmental Engineers. Framing of Service Regulations of these posts were approved by the State Pollution Control Board vide Agenda Item No. 192.07 (S) and have already been sent to the Govt. for approval as per the requirement of the Section-12 (3)(3a) of the Water (Prevention and Control of Pollution) Act, 1974 which is under active consideration with the State Government.

(iii) That the respondent Board sent requisition to fill up vacant posts of Assistant Environmental Engineer to Haryana Public Service Commission (HPSC) meant for direct recruitment, but the HPSC return the requisition with the following remarks :-

"As per Service Rules/Requisition, the qualification is — "Full time regular degree in 1st Division in Civil/Chemical/Environmental Engineering". It is not clear whether the full time degree should be Bachelor's Degree or a Master's Degree?"

In view of above query of the HPSC, the amendment in the Service Regulations, 2021 has been made with the approval of the Govt. vide Notification No. 2/1/2008-1Env. dated 11.04.2023 and immediately after amendment in the Service Regulations, 2021 the requisition to fill up 45 posts of AEE has been sent to HPSC through the Govt. vide No. 1338 dt. 17.04.2023.

(iv) That the respondent Board has sent requisition to HPSC and also to the Haryana Staff Selection Commission (HSSC) for filling the **151** vacant posts. The details of posts and requisition are as under:-

<b>Sr. No.</b>	<b>Name of Post for which requisition sent</b>	<b>Number of posts for which requisition sent</b>	<b>Reference</b>
1	Scientist 'B'	11	Requisition sent vide letter No. 493 dated 02.02.2022.
2	Assistant Environmental Engineer	45	Requisition sent vide letter No. 1338 dated 17.04.2023.
3	Statistical Assistant	01	Requisition sent to HSSC vide no. 2964 dt. 18.8.21.
4	Senior Scientific Assistant	02	Requisition sent to HSSC vide no. 2966 dt. 18.8.21.
5	Junior Scientific Assistant	10	Requisition sent to HSSC vide no. 2965 dt. 18.8.21.
6	Junior Environmental Engineer	24	Requisition sent to HSSC Resubmitted dt. 08.02.2023.
7	Accountant	02	Requisition sent to HSSC vide no. 2967 dt. 18.8.21.
8	Junior Scale Stenographer	01	Requisition sent to HSSC vide no. 2962 dt. 18.8.21.
9	Steno-typist	05	Requisition of 5 posts sent to HSSC vide no. 2963 dt. 18.8.21.
10	Clerk	27	Requisition sent to HSSC on 06.01.2023.
11	Driver	09	<b>Requisition of 9 posts sent to HSSC vide no. 4430 dt. 17.6.22, but back referred on 24.01.2023 with the direction to fill up the posts through surplus staff from Director, State Transport, Haryana as per Govt. letter No. 01/01/2021-IGS-II dt. 04.03.2021 and letter sent to Director Transport vide letter No. 413 dated 03.02.2023.</b>
12	Peon	8	Requisition sent to HSSC on 06.01.2023.
13	Field Attendant	06	Requisition sent to HSSC consolidated on 06.01.2023.
	<b>Total</b>	<b>151</b>	

*Copies of the requisitions mentioned in the table are annexed as **Annexure-R-5/3 (Colly)**.*

*(v) In addition to the above, it is also necessary to mention here that sincere efforts have been made by the respondent to fill up the vacant posts through deputation also and to achieve such object circulars have already been issued. Copies of the circular of*

vacancies on 06.04.2021, 06.09.2021 and also on 18.04.2022 are attached as **Annexure-R-5/4, Annexure-R-5/5 & Annexure-R-5/6.**

(vi) That the Board has also issued a fresh circular to fill up the vacant posts on 22.03.2023 and also has given a public notice in newspapers. Copies of the circular and public notice are annexed as **Annexure-R-5/7 & Annexure-R-5/8.**

(vii) That it is also bring into the notice of this Hon'ble Tribunal that the respondent No. 5/Board has engaged 246 persons of Scientific/Ministerial cadre employees through Haryana Kaushal Rozgar Nigam Limited to strengthen the Board. A detail of the employees engaged through HKRNL is annexed as **Annexure-R-5/9."**

4. We have heard learned counsel for the parties. The stand of the State PCB does not show that the State has taken its responsibility seriously. No reply has been filed by State of Haryana. Failure of one limb of the State cannot be pleaded as justification by another limb. Authority at higher level in the State has to remedy the situation. Citizens are entitled to governance irrespective of failure being on the part of one limb of government or the other. We thus record our disapproval to the stand taken by the PCB and expect the PCB to take up the matter at appropriate higher level or take its own steps to enable itself to discharge its statutory obligations instead of being relaxed by pointing out of failure of Commission. The matter is now governed by judgement of the Hon'ble Supreme Court in *Techi Tagi Tara v. Rajendra Singh Bhandari & Ors.*<sup>1</sup>

5. The issue has also been considered by this Tribunal earlier vide order dated 28.08.2019 in O.A No. 95/2018, *Aryavart Foundation v. M/s Vapi Green Enviro Ltd.& Ors.* It was observed, following the judgement of Hon'ble Supreme Court that having regard to the state of environment, stringent measures were required which include effective manning of regulators. Without requisite strength, principles of 'Sustainable' development, 'Precautionary' and 'Polluter Pays' required to be enforced

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<sup>1</sup> (2018) 11 SCC 734

will remain on papers. Further, vide order dated 05.02.2021, the Tribunal considered report of audit of the State PCBs and observed:-

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10. **We have given due consideration to the report, which shows startling state of affairs tested on the touchstone of ‘Sustainable Development’ principle, accepted in Stockholm conference and which has been held to be part of right to life under article 21 of the Constitution in Vellore Citizens’ Welfare Forum v. Union of India, (1996) 5 SCC 647.**

11. **Some of the significant observations include failure to fill up key positions, to acquire necessary equipment, to arrange continuous training, to prepare State Environment policy, to specify industries-siting criteria, making inventory of grossly polluting industries, not specifying standards of inlet to the CETPs and hazardous waste, inaction against identified polluters, taking steps for bridging gaps in law and enforcement with regard to liquid and solid waste (of different kinds), including non-functional and noncompliant ETSPs, STPs and CETPs, inadequate monitoring of environmental compliance in Class II towns and coastal areas, failure to compile and analyse data and filing annual reports, inefficiency shown by inaction against serious violations of environmental norms. Needless to say that such sorry state of affairs is reflection of poor governance, making environmental rule of law far from reality.**

12. *The environmental law principles, which this Tribunal is mandated to apply under sections 20 and 15 of the NGT Act, 2010, are – ‘sustainable development’, ‘precautionary’ and ‘polluter pays’. In Hanuman Laxman, (2019) 15 SCC 401, (paras 142-156), significance of environmental rule of law has been highlighted to achieve sustainable development goals for prosperity, health and well being. **This requires filling of gap between law and enforcement.** In T.N. Godavarman Thirumulpad v. Union of India, (2002) 10 SCC 606, at page 621, it was observed that the State has to*

*“forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Therefore, **hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment.** Environmental protection, therefore, has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is constitutional imperative on the Central Government, State Governments and bodies like municipalities, not only to ensure*

*and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve the man-made environment and natural environment.”*

13. In *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718, at page 732, it was observed “..**Good governance is an accepted principle of international and domestic laws. ....It includes the need for the State to take the necessary “legislative, administrative and other actions” to implement the duty of prevention of environmental harm...**”. In *Techi Taga Tara*, *supra*, the Hon’ble Supreme Court referred to several Committees on **need for revamping the regulatory bodies by appointing persons of outstanding ability and high reputation to the State PCBs and equipping them with laboratories and other equipment for performing statutory functions**. Apart from the Tribunal being approached under sections 14 and 15 by aggrieved parties, pointing out degradation of environment and inaction of the statutory regulators, the Hon’ble Supreme Court has required this Tribunal to monitor compliance of such statutory obligations for protecting environment. This is not possible unless the statutory regulators are effective. Significant issues so referred by the Hon’ble Supreme Court include a) liquid waste management, (2017) 5 SCC 326, *Paryavaran Suraksha vs. Union of India & Ors.* wherein it was directed that requisite STPs, ETPs, CETPs must be set up by 31.3.2018, failing which coercive measures may be taken against concerned authorities, to enforce statutory mandate of the Water (Prevention and Control of Pollution) Act enacted in 1974, prohibiting any water pollution, making it a criminal offence. b) compliance of solid waste management rules. Vide order dated 2.9.2014 in WP 888/1996, *Almitra H. Patel Vs. Union of India & Ors.* on the file of the Supreme Court, the issue has been referred to this Tribunal for monitoring compliance of Solid Waste Management Rules. c) In (2015) 12 SCC 764, *MC Mehta v. UOI*, issue of rejuvenation of Ganga stands referred to this Tribunal. d) Vide order dated 24.7.2017 in WP 725/1994, ‘And quite flows Yamuna’, rejuvenation of Yamuna stands referred to this Tribunal. It is not necessary to refer to several other orders. Finding that statutory regulators were not effective and serious damage was continuing, the Tribunal has appointed independent monitoring Committees<sup>2</sup> on several issues.

*In substance, monitoring of the enacted environmental laws including the Water Act, Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and Rules framed*

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<sup>2</sup>To monitor compliances with regard to:

- (i) River Ghaggar in OA No. 138/2016 (TNHRC), Stench Grips Mansa’s Sacred Ghaggar River
- (ii) River Sutlej in OA 916/2018, *Sobha Singh v. State of Punjab & Ors.*
- (iii) River Yamuna in OA 06/2012, *Manoj Mishra v. UOI & Ors.*
- (iv) River Musi in OA 426/2018, *Mohammed Nayeem Pasha & Anr. v. State of Telangana & Ors.*
- (v) River Ganga in OA 200/2014, *M.C. Mehta v. Union of India & Ors.*
- (vi) River Jojari in OA 329/2015, *Gram Panchayat Araba v. State of Rajasthan & Ors.*
- (vii) CETP in Taloja District in OA 125/2018, *Arvind Pundalik Mhatre v. Ministry of Environment, Forest and Climate Change & Ors.*
- (viii) District Environment Plan in OA 360/2018 *Shree Nath Sharma v. Union of India & Ors.*
- (ix) ‘Rat Hole’ coal mining in OA 110(THC)/2012, *Threat to Life Arising Out of Coal Mining in South Garo Hills District v. State of Meghalaya & Ors.*
- (x) Solid waste management rules in OA 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues.*

thereunder needs to be reviewed and made effective in the interest of protection of environment and public health. This is not possible unless the regulatory bodies are duly manned and equipped and function efficiently. The report shows that it is not happening and there are huge gaps. With such gaps, it is only a dream to expect clean environment – fresh water or fresh air. Irreversible degradation of environment is bound to result in avoidable deaths and diseases and loss of scarce and good quality water, air and soil and biodiversity.

14. The findings in the report showing gaps resulting in large scale non-compliances in enforcement of environmental laws are supported by observations of this Tribunal, which include the following:

- (I) OA 593/2017, *Paryavaran Suraksha Samiti & Anr. vs. Union of India & Ors.*<sup>3</sup>, involves monitoring of liquid waste management in terms of orders of the Hon'ble Supreme Court in (2017) 5 SCC 326. We have found that as a result of continuing failure of the statutory authorities to ensure compliance, industrial as well as municipal liquid waste is being discharged **resulting in pollution of groundwater as well as surface water, including water bodies, drains, streams, rivers and coastal areas. The Tribunal has noted that as per data compiled by the CPCB, 351 river stretches are declared polluted. Comprehensive Environment Pollution Index (CEPI) prepared by the CPCB shows that 100 industrial clusters are polluted.** The Tribunal is also dealing with the remedial action for restoration of the 351 stretches in OA 673/2018<sup>4</sup>, *In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB" for which the Tribunal has directed preparation and execution of action plans for each of such stretches by constituting River Rejuvenation Committees (RRCs) for all States/UTs headed by Environment Secretaries which action needs to be overseen by the Chief Secretaries at the State level and by a Central Monitoring Committee (CMC) headed by Secretary, Jal Shakti alongwith NMCG and CPCB at the national level.* OA 829/2019<sup>5</sup>, *Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors.* deals with the remedying of **coastal pollution for which directions have been issued on the same pattern for preparation and execution of action plans by the RRCs to be overseen by the Chief Secretaries at the State level and by the CMC at the national level.** The same order also deals with utilisation of treated water, being OA 148/2016, *Mahesh Chandra Saxena vs South Delhi Municipal Corporation & Ors.* and OA 325/2015<sup>6</sup>, *Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors.*, dealing with the issue of restoration of water bodies by removing encroachments and preventing pollution has been dealt with by this Tribunal. OA 176/2015, *Shailesh Singh v. Hotel*

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<sup>3</sup> Vide order dated 21.09.2020

<sup>4</sup> Vide order dated 21.09.2020

<sup>5</sup> Vide order dated 21.09.2020

<sup>6</sup> Vide order dated 18.11.2020

*Holiday Regency, Moradabad & Ors.*<sup>7</sup>, the Tribunal has directed monitoring of groundwater extraction to give effect to the mandate in Hon'ble Supreme Court judgment in *M.C. Mehta v. Union of India & Ors.* (1997) 11 SCC 312.

- (II) Apart from water pollution, air pollution the issue air pollution has been dealt with by this Tribunal by separate order in OA 681/2018<sup>8</sup>, News item published in "The Times of India" Authored by Shri Vishwa Mohan titled **"NCAP with multiple timelines to clean air in 102 cities to be released around August 15"** requiring constituted **Air Quality Monitoring Committees in all States/UTs to prepare and execute action plans for control of air pollution in 122 non-attainment cities (where air quality is normally beyond the prescribed norms).**
- (III) The issue of solid waste management has been dealt with by this Tribunal in OA 606/2018 in pursuance of directions of the Hon'ble Supreme Court in Writ Petition No. 888/1996, *Almitra H. Patel & Anr. v. Union of India & Ors.* In the said matter, the Chief Secretaries of all States/UTs were required to remain present before this Tribunal<sup>9</sup> and after interaction with them, separate orders for all States/UTs referring to the individual issues in such States/UTs,<sup>10</sup> particularly **issue of legacy waste dump sites and remediation of current waste on scientific basis were dealt with and the Chief Secretaries were directed to monitor compliance every month by creating a monitoring cell, directly under them, in terms of directions of the Hon'ble Supreme Court and the District Magistrates monitoring such compliances every fortnight. It has been found that there are more than 3000 dump sites where legacy waste has accumulated over the years but the remedial action has not been taken except at very few places. This is resulting in water and air pollution and soil degradation on continuous basis, to the detriment of the environment and the public health.** The statutory timelines have come to an end. Reference is made in this regard also to order dated 29.01.2021 in OA No. 519/2019, *In re: News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes"* and order dated 28.02.2020 in OA No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016.* It was directed, vide order dated 10.01.2020, that compensation will be payable for failure to comply with the requirement of taking steps mentioned in Rule 22 of the SWM Rules, 2016 at scales mentioned therein, depending on the size of local bodies, from 01.04.2020 till compliance. Compensation was also directed to be recovered at the laid down scale for delay in commencing and completing the legacy waste remediation measures.
- (IV) With regard to **bio-medical waste**, the matter has been dealt with in OA 710/2017, *Shailesh Singh, v. Sheela Hospital &*

<sup>7</sup> Vide order dated 20.07.2020

<sup>8</sup> Vide order dated 21.08.2020

<sup>9</sup> Vide order dated 16.01.2019

<sup>10</sup> Vide order dated 18.07.2019 (last such order is in respect of Jammu & Kashmir)



*Trauma Centre, Shahjahanpur & Ors.<sup>11</sup>, with regard to **hazardous waste**, matter has been dealt with in OA 804/2017, Rajiv Narayan v. Union of India & Ors.<sup>12</sup>, with regard to **e-waste**, matter has been dealt with in OA 512/2017, Shailesh Singh v. State of UP<sup>13</sup>, with regard to **plastic waste**, matter has been dealt with in EA 13/2019 in OA 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors.<sup>14</sup> for laying down liability to pay compensation for non-compliance.*

15. *The failure of monitoring has been found to have direct nexus to atleast 10 industrial accidents <sup>15</sup> which have taken place in the recent past which have been dealt with by this Tribunal.*

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<sup>11</sup> Vide order dated 18.01.2021

<sup>12</sup> Vide order dated 29.01.2021

<sup>13</sup> Vide order dated 15.01.2021

<sup>14</sup> Vide order dated 08.01.2021

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- i. Order dated 01.06.2020, relating to incident of gas leak dated 07.05.2020 in **LG Polymers India Pvt. Limited** at Vishakhapatnam, resulting in death of 11 persons and injuries to more than 100, apart from other damage (OA No. 73/2020, In re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village Visakhapatnam in Andhra Pradesh);
- ii. Order dated 03.02.2021, relating to incident dated 03.06.2020 in a chemical factory, **Yashyashvi Rasayan Pvt. Ltd.** at Dahej, District Bharuch, Gujarat resulting in deaths and injuries and other damage (OA No. 85/2020 (Earlier OA 22/2020) (WZ), Aryavart Foundation through its President vs. Yashyashvi Rasayan Pvt. Ltd. & Anr.);
- iii. Order dated 06.08.2020, in relation to incident of **oil well blow out on 27.05.2020 at Baghjan in the Tinsukia District of Assam** resulting in deaths, injuries and damage to the environment (OA No. 43/2020(EZ), Bonani Kakkar vs. Oil India Limited & Ors.).
- iv. Orders dated 06.07.2020 and 22.12.2020, relating to incident dated 30.06.2020 on account of gas leakage at **Sainor Life Sciences** factory at Parawada in industrial area on the outskirts of Vishakhapatnam (OA No. 106/2020, News item published in the local daily "Economic Times" dated 30.06.2020 titled "Another Gas Leakage at Vizag Factory kills two, critically injures four...");
- v. Orders dated 08.07.2020 and 22.12.2020, dealing with the incident dated 01.07.2020 resulting in death of 6 person and injury to 17 due to blast of boiler in **M/s Neyveli Thermal Power Station** (NLCIL), Cuddalore (OA No. 108/2020, News item published in the "Indian Express" dated 01.07.2020 titled "Tamil Nadu Neyveli boiler blast: 6 dead, 17 injured") and;
- vi. Orders dated 23.07.2020 and 22.12.2020, in relation to incident of **fire engulfed the chemical plant of Visakha Solvents Ltd**, Vizag on 13.07.2020 at Ramky CETP Solvents building in Pharma City resulting in injuries (OA No. 134/2020, News item published on 13.07.2020 in the local daily named "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported").
- vii. Order **dated 18.12.2020**, in relation to incident of **explosion in a plastic recycling factory at Sujapur in Malda on 1.12.2020** resulting in death of six persons, including two minors and serious injuries to four persons (OA No. 272/2020, News item published in the "Times of India" dated 20.11.2020 entitled "Six killed as blast tears through Malda Plastic recycling factory").
- viii. Order dated **18.12.2020**, in relation to incident of **methane gas leak in a sugar factory** called Lokenete Bapurao Patil Agro Industries Ltd. in Mohol Taluka of Solapur District, Maharashtra on 21.11.2020 resulting in deaths and injuries and other damage (OA No. 274/2020, News item published in the "Indian Express" dated 23.11.2020 entitled "Maharashtra: Two Killed, eight injured in methane gas leak in sugar factory").
- ix. Order dated 08.01.2021, in relation to **Gas Leak in Agro Company** (O.A No. 107/2020, In RE: News item published in the local daily "Indian Express Sunday Express" dated 28.06.2020 titled "Gas Leak in Agro Company Claims life of one")
- x. Order dated 18.01.2021, in relation to News item published in Navbharat Times dated 24.12.2020 titled "**Gas leaks in IFFCO Plant, 2 Officers dead**" (O.A No. 04/2020, In re : News item published in Navbharat Times dated 24.12.2020 titled "Gas leaks in IFFCO Plant, 2 Officers dead")

16. *Vide order dated 03.02.2021 in OA No. 85/2020, **Yashyashvi Rasayan Pvt. Ltd.**, the Expert Committee, appointed to suggest means to prevent disasters, recommended strengthening the monitoring mechanism by making appointments against all vacant posts to ensure that onsite and offsite emergency plans are in place and mock drills take place, to prevent any such incidents and medical facilities are available at the nearest point in case such incident takes place to save lives of the victims. This aspect has also been dealt with vide order dated 01.02.2021 in OA No. 837/2018, Sandeep Mittal v. Ministry of Environment, Forests & Climate Change & Ors. on the subject of monitoring the EC conditions.*

17. *As earlier observed, damage to environment is directly linked to the public health and neglecting compliance of environmental norms results in deaths and injuries. Violation of environmental norms needs to be taken as seriously as preventing crimes of homicides and assaults. It is more serious as the victims may be wide spread and unidentified. The consequences may even affect future generations. The compliance status is directly linked to effectiveness of monitoring which requires that the key office bearers of statutory regulators and oversight bodies are qualified, competent and reputed and exclusively dedicated to such work, instead of devoting part time, while simultaneously holding other positions. In this regard, the Tribunal has made observations vide order dated 02.02.2021 in OA 231/2014, Doaba Paryavaran Samiti v. State of U.P & Ors, finding that the Member Secretary of the PCB in UP was only devoting part-time, while holding several other positions. Adequate and well-equipped laboratories and effective machinery for implementation of "Polluter Pays" principle for assessment and collection of compensation is another important aspect of environmental governance.*

18. *It is seen that several State PCBs do not even have constraint of funds. Still, the requisite manpower and the equipment are not being arranged. Moreover, due application of "Polluter Pays" principle, in exercise of regulatory powers under the Air, Water and EP Acts to compensate the environment, enables them to have requisite funds for hiring experts, installing monitoring equipment and taking other remediation and restoration measures, including restoration of contaminated sites. The quality and quantity of key manpower cannot be compromised, if environmental governance is to improve to achieve the sustainable development goals. It is well known that most of the key environmental laws have been enacted in the wake of Stockholm Conference (1972) under Entry 13 of List-I read with Article 253 of the Constitution, with a view to achieve 'sustainable development' of which the 'Precautionary' principle, "Polluter Pays" principle, Intergenerational Equity and Public Trust Doctrine principles are integral part. Sad part is that even after 47 years of Water Act and 40 years of Air Act, water and air pollution is rampant, without serious adverse action. Though there are criminal offences with minimum prescribed sentence, hardly any punishment is handed down. Hardly any compensation is recovered from the violators. Victims continue to suffer and so does the environment. This requires attention of all concerned at higher levels in governance.*

19. *In view of above, the recommendations in the CPCB report need to be urgently implemented by all concerned for revamping and upgrading the regulatory bodies and their equipment which needs to be a continuous exercise. The Chief Secretaries of all States/UTs, in coordination with the Secretary Environment and Chairman State PCB/PCCs in their respective jurisdiction, need to forthwith study and address the issues emerging from the report, prepare and execute their respective action plans. This will include filling up all vacant posts by competent persons and procuring the requisite equipment. The CPCB may assist and monitor all the States for compliance of these directions. It will be open to the CPCB to prepare a format which may contain qualifications, minimum eligibility criteria, required experience for the key positions and the specifications of equipment. It is suggested that if some of the State PCBs find it difficult to select/recruit suitable candidates, a designated Committee of the MoEF&CC and CPCB, in consultation with such State PCBs, may explore possibility of the central selection mechanism so that the talent pool so selected can be made available for posting at appropriate locations, where recruitment is found to be otherwise difficult. We have noted the observations in the report that at some places administrative manpower is more than technical manpower which may not be a desirable situation. Such situation may be reviewed and remedied by the concerned States. The observations that the work of regulators should be exclusive for the incumbents appointed applies to all key positions, including Chairman/Member Secretary, Regional Officers, Engineers and Scientists of PCBs/PCCs.*

20. *Further, for improving monitoring and planning, authentic data needs to be compiled at all levels. Initiative will have to be taken consistent with Digital India initiatives by the MoEF/MoJS/MoUD/CPCB and based on such policy decisions, the Environment departments of all States/UTs will have to compile data in their respective jurisdiction, preferably Districtwise. On that basis District Environment Data Grid (DEDG), State Environment Data Grid (SEDG) and National Environment Data Grid (NEDG) can be set up and continuously updated. The Grid can be connected to online monitoring systems. Comprehensive Environment Pollution Index (CEPI) is being prepared limited to the Industrial Area but the Grid can cover larger areas and aspects and can be source of research and planning. It can also facilitate monitoring of and be in sync with other government initiatives such as National Mission for Clean Ganga, Swachh Bharat and Jalshakti Abhiyan etc. Based on such data, it may also be easier to study 'carrying capacity' of different areas to plan siting policy for various activities.*

21. *Further, there is need to study the extent of environmental loss and the contributors to the same. Though environment is priceless, normative parameters are now available to determine the compensation for the loss caused for failure to observe laid down rules and regulations such as not clearing legacy waste as per Solid Waste Management Rules, causing air/water pollution. Environment is wealth which needs protection from being plundered by law violators, for their monetary interests, by adequate monitoring and stringent vigilance. Its scientific management, including enforcement of polluter pays principle, requires study of level of pollution and contributors thereto and cost of restoration to be recovered by an*

*efficient machinery. Such steps will advance the environmental rule of law and lead to sustainable development.*

22. *The directions on the subject are summed up as follows:*

- i. The Chief Secretaries of all States/UTs, in coordination with their respective Secretary Environment and Chairman State PCB/PCCs, need to forthwith study and address the issues emerging from the CPCB report, prepare and execute their respective action plans which will include filling up all vacant posts by competent persons and procuring the requisite equipment, including commissioning and upgradation of all laboratories and recognition under the EP Act, 1986. The CPCB may assist and monitor all the States for compliance of these directions. The steps in this regard be initiated and completed as far as possible within six months. In view of Section 33 of the NGT Act, 2010, whereunder the NGT Act has overriding powers over other statutes, any restriction placed by any administrative order will not stand in the way of carrying out this direction.*
- ii. We direct the CPCB to prepare a format which may contain qualifications, minimum eligibility criteria, required experience for the key positions and the specifications of equipment. All States/UTs may act accordingly.*
- iii. MoEF&CC and CPCB may design a mechanism for annual performance audit of all the State PCBs/PCCs.*
- iv. It is suggested that if some of the State PCBs find it difficult to select/recruit suitable candidates, a designated Committee of the MoEF&CC and CPCB, in consultation with such State PCBs, may explore possibility of the central selection mechanism so that the talent pool so selected can be made available for posting at appropriate locations, where requirement is found to be otherwise difficult. A plan be prepared for continuous training of the incumbents at regional levels periodically.*
- v. In view of the findings in the report that at some places administrative manpower is more than technical manpower, such situation may be reviewed and remedied by the concerned States.*
- vi. The observations that the work of regulators should be fulltime for the incumbents appointed applies to all key positions, including Chairman/Member Secretary and Regional Officers, Engineers, Scientists of PCBs/PCCs. Such incumbents may not be given any other additional charge. Only exception can be in States where there are no significant environmental issues so as to provide the incumbents fulltime work. Such States may seek exemption in respect of this direction from CPCB, giving relevant information justifying such exemption.*
- vii. CPCB and State PCBs/PCCs, as directed earlier, may utilise EC funds on laboratory set up/upgradation, and on the*

*mentioned areas in the report as well as on approved District Environment Plans. No approval of Central/State Government will be necessary in this regard in view of section 33 of the NGT Act, supra.*

- viii. Consistent with Digital India initiatives, MoEF&CC/MoJS/CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) DEDGs and further linked to available portals like online air/water quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to initiatives like NMCG/Swachh Bharat/Jal Jeevan Mission.*
- ix. To assess the extent of monetary loss caused to the environment on account of violation of environmental norms by failure to scientifically manage waste, violating Water/Air/EP/Forest (Conservation) Acts and other specified Acts for fixing accountability, for improving efficiency and better enforcement of 'Polluter Pays' principle.*
- x. To monitor the extent of carrying capacity for particular activities at different locations for planning suitability of siting of particular activities for giving effect to 'Precautionary' and 'Sustainable Development' principles*

*The issue of manning and functioning of State PCBs/PCCs will stand disposed of accordingly. However, the issue of pollution in Vapi Industrial cluster which has been adjourned sine die will now be taken up after disposal of the matter pending in the Hon'ble Supreme Court."*

6. In view of above, let the Chief Secretary, Haryana look into the matter and take further action in a time bound manner in coordination with the concerned. First meeting may be held preferably within 15 days and effective steps be taken preferably within three months. The issue of alternative to Public Service Commission for selection in case Public Service Commission does not make recruitment within the expected time, may also be gone into. An action taken report inter-alia covering (i) recruitment of vacant posts (ii) strengthening of laboratories (iii) strengthening monitoring network and operationalization of regional offices may be filed with the Registrar General, NGT by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably within three months in the form of searchable

PDF/OCR Support PDF and not in the form of Image PDF. If any further direction is found necessary, he may place the matter before the Bench.

Subject to above, the Application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Haryana and Haryana State PCB by email for compliance

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

April 24, 2023  
Original Application No. 80/2023  
AB