

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, FINANCE CENTRE  
KOLKATA**

**(BY HYBRID MODE)**

Original Application No. 25/2022/EZ

Subhas Datta

Applicant

Versus

State of West Bengal & Ors

Respondent(s)

Date of hearing: 10.04.2023

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

Applicant: Mr. Subhas Datta, Applicant in person  
Respondent: Mr. Sibojyoti Chakraborty, Advocate for R-1 to 3 & 6  
Mr. Ashok Prasad, Advocate for R-4 (in Virtual Mode)  
Mr. Dipanjan Ghosh, Advocate for R-5  
Ms. Anamika Pandey, Advocate for R-7 (in Virtual Mode)  
Ms. Paushali Banerjee, Advocate for R-8 (in Virtual Mode)  
Mr. Surendra Kumar, Advocate for CPCB (in Virtual Mode)  
Mr. Nayan Chand Bihani, Advocate (in Virtual Mode)  
a/w Mr. Prithwish Basu, Advocate and Ms. Susmita  
Chatterjee, Advocate (in Virtual Mode) for Bansberia  
Municipality

**ORDER**

1. Grievance in this application is against failure of the authorities to prevent pollution and encroachment of Saraswati river passing through Hooghly and Howrah Districts of West Bengal and joining Ganga.
2. Case of the applicant is that water quality of the river has deteriorated on account of continuous uncontrolled pollution by discharge of untreated sewage at a stretch of 50 kms. There are

encroachments of river banks, blocking the river flow. According to the applicant, the authorities responsible for preventing pollution are:

- a) Block Development Officer, Domjur Block, Howrah,
- b) District Magistrate & Collector - Howrah,
- c) District Land & Land Reforms Officers- Howrah,
- d) Chairman, West Bengal Pollution Control Board,
- e) Secretary, Land & Land Reforms and Land Revenue Development, Govt. of West Bengal, Nabanna, Howrah
- f) Home Secretary, Home Department, Govt. of West Bengal, Nabanna, Howrah,
- g) Chief Secretary, Govt. of West Bengal, Nabanna, Howrah
- h) Chief Minister, Govt. of West Bengal, Nabanna, Howrah,
- i) Governor West Bengal, Kolkata
- j) Secretary, Irrigation & Waterways Department, Salt Lake, Kolkata,
- k) Secretary, Central Waterways Commission, New Delhi,
- l) Director (e- Governance), Department of Water Resources, River Development & Ganga Rejuvenation, New Delhi.

Representation has been made to above authorities without result.

The applicant has filed photographs in support of his version.

3. The application was filed on 18.02.2022 and came up for hearing on 07.04.2022. The Tribunal issued notice to the respondents, including State PCB, Department of Irrigation and Waterways, West Bengal, West Bengal Government and NMCG and also constituted a fact finding Committee comprising:-

- (i) A Senior Scientist from Central Pollution Control Board, Regional Office, Kolkata;
- (ii) A Senior Scientist from West Bengal State Pollution Control Board;
- (iii) A Senior official of the Department of Irrigation and Waterways; and
- (iv) Mr. Rabijyoti Majumdar, Special Secretary (Retd.), Department of Environment, Government of West Bengal

4. The Committee was to visit the site to ascertain factual status of encroachment and pollution. State PCB was to be the nodal agency.

5. State PCB filed report on 03.09.2022 of the Committee acknowledging pollution and encroachments and suggesting remedial action as follows:-



- c) *Industrial units who have constructed concrete bridges should be asked to pay some amount to the local BDO on annual basis to keep the area clean.*
- d) *Posters should be hung at prominent places advising people not to litter. Offenders may be liable to pay fines, for which Gram Panchayats may incorporate suitable provisions in their bye laws.*
- e) *To stop indiscriminate dumping of solid waste, proper waste management facility is to be introduced by the concerned block administration within six months in the river bank areas.*
- f) *Initial fund may be provided by the WBPCB and or Environment Department out of EC fund collected so far.*
- g) *All concrete bridges are to be netted above man-height to prevent throwing of garbage into the river.*
- h) *Development of Resort & their Bridges in the river banks are to be properly regulated and periodically monitored***
- i) *Encroachment along both side of the river at Domjur Block and partially in Sankrail block caused substantial deterioration of the water quality. Necessary action is to be taken in a time-bound manner for encroachment removal especially at Ankurhati area.***
- j) *Here also tidal water gets obstructed because of new Railway bridge pier constructed very much in the middle of river bed at Jhorhat mouza in Sankrail Block. Irrigation & Waterways Department must be very careful before according permission to the Railway authority to construct bridges henceforth. They may take help of a reputed Engineering College or IIT to find out a solution, if any.*

07. That, in the report the Committee has proposed the following actions which are as follows: -

<b>Sl. No.</b>	<b>Problems viz-a-viz action proposed</b>	<b>Responsibility</b>
I.	<i>Excessive accumulation of water hyacinth at different locations of Saraswati river, which restricts water flow. It needs to be periodically removed through appropriate State programme or through convergence of other State funds using waste to wealth concept. These water hyacinths may be utilised for compost production in SWM projects</i>	<i>Local Authority</i>
II.	<i>The Rail Bridges at Tribeni, Nasibpur, Mashila and Jhorhat Mouza on the river bed hinder tidal/water flow and also cause excessive siltation surrounding the bridges. It needs periodically dredging to maintain the water flow.</i>	<i>Railway authority, Local Authority, Irrigation &amp; Waterways Dept.</i>
III.	<i>At Chinshura near Simlapole a new bridge is being constructed by the PWD causing dumping of solid waste, excavated earth beside the river. It needs immediate removal to maintain the water flow.</i>	<i>Public Works Department (PWD)</i>
IV.	<i>At Kazidanga, Bandel the water is flowing</i>	<i>Irrigation &amp; Waterways</i>

	<i>through an underground Hume pipe due to construction of the Bridge. A notice to be served to the respective organisation for early completion of the bridge.</i>	<i>Dept</i>
<i>V.</i>	<i>The width of the river near Ankurhati, Bipronoapara, Bhandardaha, under Domjur Block, is very narrow due to encroachment by the local residents, Market, Hotel, Club. Several bridges of concrete, bamboo and iron have been constructed in those areas causing huge stagnation of the river water. Periodical clearance is needed by Developer/Entrepreneur of the bridge in coordination with the BDO, GP, Irrigation &amp; Waterways Dept.</i>	<i>BDO, Gram Panchayats and Irrigation &amp; Waterways Dept.</i>
<i>VI.</i>	<i>Base pillar of Saraswati bridge (NAHI) at Domjur restricted the water flow and causing siltation. Periodical removal of silt is needed by the concerned agency.</i>	<i>National High ways Authority of India, Irrigation &amp; Waterways department and local block office.</i>
<i>VII.</i>	<i>Several drains are discharging untreated sewage water into the river at the stretch from Shibpurto Sankha Nagar. All these drains area falling under the jurisdiction of Bansberia Municipality. Under this municipality one number of STP 0.30 MLD is available. The said drains may be intercepted and diverted to Bansberia STP. If required the capacity of STP may be augmented from NMCG funds. The drains from Mohiary-II, BiproNoapara causing the foul smell of the river is needed to be treated by setting up FSTP and solid waste management facility by the Local Body, with the guidance of BDO, and the fund may be provided by the P&amp;RD Department from appropriate head for the rural area.</i>	<i>Municipality initiate action through KMD. For FSTP action may be initiated by BDO and local authority. P&amp;RD Department may provide necessary fund.</i>
<i>VIII.</i>	<i>The bridges and vulnerable riverside dumping areas in Ankurhati, Prasata, Mahiari, Bipronoapara, Bhandardaha Uttar Jhapordha&amp; Dakshin Jhapordhain Domjur Block need to be covered by above man-height wire fencing to prevent solid waste dumping into the river. A notice of Plastic free zone may be displayed in different locations for the awareness of the local people.</i>	<i>BDO Office and Gram Panchayat through "Mission Nirmal Bangla" Financial assistance from WBPCB/Environment Deptt from EC fund may be sought.</i>
<i>IX.</i>	<i>Encroachment by the Slums, Shops, Market, Hotel, and Resort in the bank of river near Domjur road and in another side of the river is encroached by the developer and entrepreneur in the Mouza Ankurhati, Prasastha, Mahiari, BiproNoapara,</i>	<i>District/SubDivisional administration/ Irrigation and Waterways Dept.</i>

	<i>Bhandardaha, in Domjur Block Encroachments need to be removed in a time bound manner.</i>	
X.	<i>Periodical dredging of the river in the Mouza Ankurhati, Prasata, Mahiari, of Domjur Block and KazidangaBandel, Saptagram, Sankhanagar of Mogra Block are needed up to a certain depth to maintain the ecological water flow.</i>	<i>Irrigation and Waterways Dept</i>
XI.	<i>The river Saraswat, being a major distributary of river Ganga needs coverage under the programme of NMCG.</i>	<i>SPMG/NMCG</i>

6. Replies have been filed by Urban Development and Irrigation Departments of West Bengal, apart from Bansberia Municipality and NMCG.

7. **Stand of Municipality** is that a proposal has been submitted to the Kolkata Metropolitan Development Authority (KMDA) for upgradation of 0.3 MLD STP and a new Integrated STP to prevent pollution. A meeting was held with the Urban Development Department and the issue was discussed. The Municipality has decided to screen the storm water outfall. It is facing financial and manpower constraints.

8. **Stand of Urban Development Department of West Bengal** is that it has asked PWD to take action with regard to Road Bridge to maintain e-flow. It has also asked the Railway Administration to take action with regard to Railway Bridge to maintain e-flow. KMDA has to engage consultant to prepare feasibility report and detailed project report for preventing pollution which is then to be considered by NMCG.

9. **Stand of Irrigation Department, West Bengal** is that demarcation along the banks of the river is to be carried out. Survey has been made and work order issued at huge cost for widening or shifting of alignment of river.

10. **Stand of NMCG** is that its role is to assist the State and local bodies for preparation and execution of projects for abatement of pollution of Ganga. Sewerage Infrastructure projects are to be taken up in respect of main river Ganga and its tributaries. This doesn't cover Drainage Systems of Canals, Irrigation Channels etc. It has completed rejuvenation work of existing STP in the catchment of Saraswati river and has proposal for 9 KLD Integrated STP. It has also sanctioned several projects for 65 MLD STP at Howrah and 62 MLD at Hoogly. Further, 6 Nos. of STPs (Chandannagar- 22.7(4.54+18.16) MLD, Bansberia-0.3 MLD Uttrapara-Kotrung- 22 MLD, Baidyabati-6 MLD Bhadreswar-7.6 MLD) for cumulative capacity of 58 MLD have been rehabilitated in Hooghly district. Total treatment capacity of about 211 MLD is under implementation which will bring sewage from larger catchment area of River Saraswati. It shall remain responsibility of State Government to ensure that the untreated sewage from the catchment area should, therefore, not outfall into Saraswati for which sewer network should be kept maintained. House service connections should be provided for the network. State Government should also focus on prevention of throwing of garbage into river Saraswati apart from restoring the drain cross section by excavation etc. Treatment of sewage is basic responsibility of the State.

#### **Consideration and directions**

11. We have heard the applicant in person and learned appearing Counsel for the authorities.

12. From the factual report of the joint Committee constituted by this Tribunal, it is seen that there is discharge of untreated sewage inter alia from Bansberia Municipality. Obstruction of river course is on account of

illegal Bridges and encroachments in flood plain zone. There is also dumping of solid waste. This shows failure of the State authorities in performing their mandatory constitutional duty to provide clean environment to the citizens and failure of the higher authorities in fixing their accountability under the law.

13. The issue of Solid and Liquid Waste Management has also been reviewed by this Tribunal *inter-alia* in O.A. No. 606 of 2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues*, in pursuance of orders passed by Hon'ble Supreme Court dated 02.09.2014 in W.P. No. 888/ 1996, *Almitra H. Patel vs. Union of India & Ors.* (in respect of solid waste management) and in *Paryavaran Suraksha vs. Union of India*, (2017) 5 SCC 326. In continuation of earlier proceedings, status was exhaustively reviewed vide order dated 01.09.2022 in the presence of Chief Secretary, West Bengal along with Secretary, Environment, Secretary, UD, Member Secretary, State PCB, Chairman, River Rejuvenation Committee and other concerned officers. The Tribunal noted the status as follows:-

**“SUMMARY OF STATUS**

<b>A: <u>Solid Waste Management</u></b>					
<i>Quantity of waste generation in the State (in TPD)</i>	<i>Waste Processed (in TPD)</i>	<i>Gap in generation and Processing (in TPD)</i>	<i>Quantity of waste being disposed in landfills (in TPD)</i>	<i>Quantity of Legacy waste in the State (Tones)</i>	<i>Status of Bio-mining</i>
13469.19 (13709)	3047	10,418	10,418	<ul style="list-style-type: none"> <li>• 1.20 crore</li> <li>• 107 sites</li> </ul>	<ul style="list-style-type: none"> <li>• 6 sites cleared</li> <li>• 84 sites under processing</li> <li>• 132.34 acres recovered out of 838.09 acres</li> </ul>



<b>B): Sewage Management</b>					
Quantity of sewage generation in the State (in MLD)	Treatment capacity (in MLD)	Current Gap in treatment (in MLD)	Utilization of treated sewage in		
			Agriculture/ Horticulture purpose	Industrial purpose	Any other purpose
2758	1505.85 (1268 MLD utilized)	1490	Not specified		

14. The Tribunal, on detailed consideration of the matter, held that gaps in generation and treatment of solid and liquid waste are required to be addressed expeditiously considering timelines as per statutory Rules and Supreme Court judgement and officers responsible for failure were required to be made accountable. Progress report was to be filed after six months to this Tribunal. It was further held that for the damage caused to environment, on account of failure of the State Authorities to take remedial measures, State was liable to pay compensation of Rs. 3000 crores for discharge of untreated sewage and Rs. 500 crores for dumping unprocessed solid waste with liberty to recover the same from erring officers and the violators. Thereafter, on 21.12.2022, the Tribunal noted the report of the Chief Secretary that compensation of Rs. 3500 crores was deposited in the separate account for remedial measures.

15. In the present proceedings, the above aspect has not been reflected by the State authorities. It is not clear whether further action in respect of remedying solid and liquid waste in the present case is being taken in compliance of directions issued in O.A. No. 606/2018.

16. In view of orders already passed, we consider it necessary to direct the Chief Secretary, West Bengal, in coordination with other concerned authorities in the State as well as Central Authorities such as NMCG and Railways, to ensure remedial action for treatment of solid and liquid waste resulting in pollution of Saraswati river apart from taking

necessary steps for removing the encroachment. Legality of construction of bridges over the river, obstructing its flow, needs to be looked into. In this regard, the Irrigation Department has filed affidavit on 31.03.2023 which can be looked into in a joint meeting. The Chief Secretary may call meeting of all concerned on the subject preferably within one month from today. Apart from Bansberia Municipality, sources of pollution from other Municipalities and Blocks may also be looked into.

An action taken report in the matter may be filed within four months with the Registrar of NGT, Eastern Zone Bench, by e-mail preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If found necessary, the matter may be placed before the bench for further consideration.

Subject to above, the application is disposed of.

A copy of this order be forwarded to Chief Secretary, West Bengal, Secretaries, Irrigation Department, Urban Development and Environment Departments by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Dr. A. Senthil Vel, EM

April 10, 2023  
Original Application No. 25/2022/EZ  
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