

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

I.A. No. 321/2019, I.A. No. 322/2019,
I.A. No. 328/2019 & I.A. No. 331/2019

IN

Original Application No.673/2018

News item published in "The Hindu" authored by Shri Jacob Koshy
titled

"More river stretches are now critically polluted : CPCB

Date of hearing: 16.05.2019

**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**

For Applicant(s):

For Respondent(s):

Mr. Nadkarni, ASG, Mr. Shuvodeep Roy, Mr.
VinayakGupdta, Mr. SantoshRebello, Advocate
for the State of Assam
Ms. Madhuri Divan, ASG Mr. Leishangthem
Roshmani, Mr. A. Jankinath Sharma,
Advocates for State of Manipur
Mr. K. Enatoli Sema, Advocate, for the State of
Nagaland

ORDER

1. I.A. No. 321/2019 & I.A. No. 322/2019 have been filed by the State of Assam while I.A. No. 328/2019 and I.A. No. 331/2019 have been filed by the States of Manipur and Nagaland respectively for modification/recall of order of this Tribunal dated 08.04.2019 in above matter.
2. Before dealing with the said applications, we may refer to the back ground. Vide order dated 20.09.2018, this Tribunal

referred to the report of CPCB that 351 river stretches in the country have been identified as polluted. The Tribunal found this question to be substantial question of environment. The Tribunal referred to various orders of the Hon'ble Supreme Court and this Tribunal holding that remedying of pollution of river was a mandate of the Constitution and the environment laws. This Tribunal also noted that Pollution Control Boards had not been able to perform their statutory functions, which was one of the reasons for such a serious situation. It was further observed that some of the causes of pollution of river stretches were non-compliance of laws with regard to waste management as well as discharge of sewage and industrial effluents, encroachment of flood plains, inadequate steps for conservation of underground water, re-use of treated river and conservation of water bodies. Polluted river stretches were required to be restored by enhancing river flows and preventing pollution. This Tribunal required proper action plans with timelines. The Tribunal directed constitution of River Rejuvenation Committees (RRCs) in the manner mentioned in the order and prescribed timeline for furnishing of action plans after considering of model plan referred to in the order. The plans were to be prepared within two months with a view to make the polluted river stretches fit for bathing purposes within six months from the date of finalization of action plans. The action plans were to be scrutinized by

CPCB and furnished to this Tribunal. Reports were to be considered by the Tribunal on 19.12.2018.

3. Accordingly, the matter was thereafter considered vide order dated 19.12.2018. It was found that out of 31 States/UTs concerned, only 16 States/UTs had prepared the requisite action plans and 15 States/UTs were in default. Even plans prepared by the 16 States/UTs were not complete. Accordingly, the Tribunal directed the States/UTs who had not furnished the complete action plans to furnish the revised action plans by 30.01.2019 and those who had not furnished plans, to submit the same by 31.01.2019 after which they will be liable to pay compensation for the damage to the environment mentioned in the said order. The matter was to be thereafter taken up on 08.04.2019.

4. On 08.04.2019, when the matter was taken up, the Tribunal noted that States of Assam, Manipur and Uttar Pradesh had failed to furnish action plans while six States have furnished incomplete action plans. None of the said defaulting States furnished any explanation nor put in appearance inspite knowledge of order of this Tribunal. It was noted that vide order dated 16.01.2019 (in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016*), the Tribunal directed summoning of Chief Secretaries of the States on different dates with preparation at serious issues of

environment mentioned in the said order, including the present issue which order was duly served on all the Chief Secretaries. Finding no way out, the Tribunal directed the defaulting States to deposit the compensation as mentioned in the said order in view of earlier orders which were duly served and neither challenged nor complied nor any explanation for non-compliance offered.

5. We may now take up applications seeking recall of the said order. In I.A. 321/2019 and 322/2019, it is stated that order of this Tribunal came to the notice of the State only in second week of April which was the reason for delay. We find it difficult to accept this stand. It is not the case of the State of Assam that orders dated 20.09.2019 or 16.01.2019 were not served. Only plea is that orders dated 19.12.2018 and 08.04.2019 came to the notice of the State later. Undisputed fact remains that orders dated 20.09.2018 and 16.01.2019 were fully in the knowledge of the State of Assam. There is no explanation as to why action plans were not furnished in time as required. The plea of the State of Assam is thus hyper technical. The issue being of serious consequence, we do not find any justification for the delay caused by the State of Assam. Such plea does not show respect for the rule of law. Prayer of the State is clearly uncalled for. It is difficult to take lenient view for such serious lapses and insensitivity of the administration. Continued failure of the State is resulting in

damage to the environment and public health. Prayer of the State of Assam is in the nature of review. We do not find any merit in the application. I.A. Nos. 321/2019 and 322/2019 stand dismissed.

6. As regards I. A. No. 328/2019 with regard to State of Manipur, there is no acceptable explanation for the delay. Nobody even appeared to explain any difficulty when the matter taken up on 08.04.2019. Even on 19.12.2018, the Tribunal took a liberal view in the matter and it was as a last resort that order dated 08.04.2019 was passed. No ground is made out for modification of the order. I.A. No. 328/2018 is dismissed.

7. For the above reasons, there is no merit in I.A. No. 331/2019 filed by the State of Nagaland which is also dismissed.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 16, 2019

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