

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

Original Application No. 117/2014 (CZ)
Dr. Subhash C. Pandey Vs. Union of India & Ors.
and
M.A.No. 730/2015

CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE Dr. DEVENDRA KUMAR AGRAWAL, EXPERT MEMBER

PRESENT : Applicant : In person
Respondent No. 5 & 7 : Shri Sachin Verma, Advocate
Shri Vikas Mishra, ADM
Shri S.K.Chaturvedi, EE, PHED
Dr. Asha Upwanshi, Asst. Director
Respondent No. 8 : Ms Parul Bhadoria Advocate, Adv for
Shri Purushaindra Kaurav, Adv.
Respondent/MoEF&CC : Shri Om Shankar Shrivastav, Adv.
Respondent/CPCB : Shri Yadvendra Yadav, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 1 8th December, 2015	<p style="text-align: center;"><u>M.A.No. 730/2015</u></p> <p>Shri Sachin K.Verma, Learned Counsel appearing for the State has drawn the attention of the Tribunal to the fact that the M.A.No. 730/2015 filed for review / recalling the order dated 13.10.2015 needs to be decided. The Registry has pointed out that notices were only issued to the Respondents arrayed in the main application. The order dated 13.10.2015 was passed giving certain directions in favour and to be complied with not only by the Respondents but also the cultivators who had approached this Tribunal. Since the order dated 13.10.2015 provides certain safeguards and benefits to the cultivators, it is necessary that the copy of this M.A. be served upon those persons in whose favour certain rights have been created in our order dated 13.10.2015. Shri Sachin K.Verma appearing for the State submits that he would file necessary notices for the affected persons and copy of</p>

application along with the same to be served upon each one of them.

Notices so filed may be issued Dasti to the Learned Counsel for the State for being served upon each one of the affected parties.

So far as the main application is concerned, during the course of hearing, a substantial question of law has arisen mainly that under the Environment (Protection) Act and Rules of 1986 certain standards prescribing the standards for treated water from the sewage have been provided under Schedule – VI of the Rules of 1986. These also include the standards for irrigation of the land from such sewage and other water. At the same time, it has been brought to our notice that under the Food Safety and Standards Act, 2006 (Central Act 34 of 2006) certain more stringent provisions have been prescribed. It was brought to our notice from a news report published in one of the Hindi Dailies which reports that Dr. Pankaj Shukla, CMHO, Bhopal had conducted certain tests based upon which he found that certain heavy metals and residue pesticides / insecticides were found in the vegetables being grown from sewage farms much above standards prescribed under the Act of 2006. It was not, however, immediately clear whether the standards which were relied upon by Dr. Shukla and based upon the report of the Chouksey Laboratory at Indore, that whether these standards are derived from the Food Safety and Standards Act, 2006 or any other similar enabling provisions in some other Act.

Be that as it may, there appears to be a discrepancy in as much as there are more liberal standards under the Environment

(Protection) Rules, 1986 and more stringent standard prescribed under the Food Safety and Standards Act, 2006 or other similar Act. It has been submitted that so far as the standards fixed under the Food Safety and Standards Act, 2006 are concerned, the presence of heavy metals and such like pesticide/insecticide as have been found in the report of Dr. Shukla, would only arise in the vegetables, etc. as a result of use of sewage water for irrigation. Such sewage water undisputedly comprises of domestic as well as industrial sewage. It is common knowledge that domestic sewage is not merely domestic sewage but also is merged with industrial sewage and therefore the presence of such heavy metals, etc. which are harmful in the untreated sewage not be ruled out.

We would therefore direct the Learned Counsel appearing for MoEF as well as CPCB to apprise this Tribunal regarding the fact whether the CPCB and MoEF are aware of the more stringent provisions regarding Food Safety and the standards fixed for heavy metals and other such chemicals under the Food Safety and Standards Act, 2006 or any other similar Act as opposed to the provisions contained in the Environment Protection Rules, 1986 , as even treated sewage water used for irrigation and conforming to the standards under Environment (Protection) Act Rules 1986 could result in production of contaminated vegetables and fruits.

In view of the above, whether both MoEF and CPCB have issued any directions after having taken note of the aforesaid provision under the Food Safety and Standards Act, 2006 so as to have a harmonious construction of the two contradictory and stringent provisions to either amend the EP Rules or prohibit use of

such sewage water for irrigation.

This is of more important because merely prescribing the standards for sewage which is used ultimately for irrigation for sewage farming results in the remnants of heavy metals and other chemicals coming into the food chain which is harmful. If such heavy doses of heavy metals and chemicals are being reportedly found in the vegetables being grown in the sewage farms much above the limits prescribed under EP Act & Rules 1986 after treatment, it needs to be explained as to how and in what manner such heavy doses of heavy metals and chemical have come into the vegetables and crops being grown as a result of sewage farming when there is no other source prima facie available for its contamination. For resolving the aforesaid issue, we would direct that the MoEF convene meeting of the concerned stakeholders including the representatives from the Food & Civil Supply Ministry and Agriculture Ministry for the aforesaid purpose and the issue be resolved and specific guidelines/recommendations in this behalf, be issued.

Learned Counsel for the MoEF shall convey our above order to the Secretary, MoEF, Government of India. Learned Counsel for the CPCB submits that for the aforesaid purpose, certain recommendations have already been made by the CPCB to the Ministry. We would accordingly direct the Secretary to examine the aforesaid issue as well and wherever necessary such recommendations be examined and necessary follow up action in the form of guidelines / recommendations be issued in public interest.

In the meanwhile the State Govt. and the Bhopal Municipal Corporation shall also file the status report on the steps which they intend to take or have taken so far for sewage treatment.

The matter may be listed on **12th January, 2016.**

.....,JM
(DALIP SINGH)

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(Dr. D.K.AGRAWAL)

