

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

Original Application No.202/2016
(M.A. No. 381/2016& I.A. No. 312/2019)

With

Review Application No. 21/2017

In

M.A. No. 547/2017

In

O.A. No. 202/2016

With

Original Application No. 34/2014 (THC)
(CWP No. 2844/2011)

(M.A. No. 282/2016, 1230/2016 & I.A. No. 147/2019)

With

Review Application No. 25/2017

In

M.A. No. 1230/2016

In

O.A. No. 34/2014 (THC)

Balotra Textile Hand Processors
Association

Applicant(s)

Versus

Rajasthan State Pollution Control
Board & Ors.

Respondent(s)

And

Balotra Textile Hand Processors
Association

Applicant(s)

Versus

Rajasthan State Pollution Control
Board &Ors.

Respondent(s)

And

Digvijay Singh

Applicant(s)

Versus

State of Rajasthan& Ors.

Respondent(s)

And

Digvijay Singh

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 04.09.2019

CORAM:

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s) Mr. Digvijay Singh, Applicant in person
Mr. Kumar Aditya, Advocate for Mr. Ankit Anandraj Shah, Advocate

For Respondent(s) Mr. Shashank Saxena, Advocate for Mr. Ardhendumauli Kr. Prasad, Advocate
Mr. Vinay Kothari, Advocate
Ms. Padhmalakshmi Iyengar, AAG, Rajasthan
Mr. Adhiraj Singh and Mr. Lokendra K., Advocates and Mr. Vinay Kalta, Regional Officer, Balotra
Mr. Sanjeet Purohit, Advocate
Ms. Pusshp Gupta, Advocate
Mr. Rajkumar, Advocate

ORDER

In compliance of our order dated 23.08.2019, Respondent-RIICO has submitted an affidavit, filed by the Regional Manager, RIICO Limited, Balotra, District Barmer.

Such a report was asked for in face of the situation that during the present monsoon season there had been sufficient rainfall and river Luni was flowing. It was reported that the industrial effluents from textile industries at Gandhipura, 23 in number, was being discharged in the river. The applicant had made a complaint to State Pollution Control Board, through whatsapp, to the Member Secretary, PCB as well as the Regional Officer at Balotra in the morning of 22.08.2019. The applicant had received a response in the afternoon from PCB stating that some repair in respect of the leakage has been done. At that time, the flow of the river was still continuing. The fact regarding

leakage was also accepted before us by the Regional Officer of State Pollution Control Board. Therefore, we had directed the Secretary, PCB to ensure that leakage of the effluent from the said industries should be immediately stopped.

Apart from the aforesaid, another important fact which was revealed, during the course of hearing was that these 23 industries from where the effluent was being discharged in the river, were located at Gandhipura. It is not an industrial area and as such these industries are operating in a non-conforming area. Accordingly, we had directed the Regional Manager, RIICO at Balotra to be present before us on the next date of hearing along with the entire record with regard to the development of Phase IV Industrial Area of RIICO at Balotra.

We have been informed on behalf of RIICO, that Phase IV of the Industrial Area at Balotra was established in 2008 and consists of 586 plots. Some of the plots (44) were allotted in the year 2011. Thereafter, 53 plots were approved in 2017 for which the final approval by the State Government is yet to be accorded. We are also informed that as there were insufficient applications for allotment of plots in the Industrial Area, 252 plots were allotted to the original Khatedars. Ultimately, 149 plots are still lying vacant in the said Industrial Area.

Besides, in so far as the industrial units at Gandhipura, totaling to 23 in number, is concerned we are

informed that two units had been allotted plots in the Balotra Industrial Area, Phase-IV, in the year 2011. Subsequently, 13 more plots were approved in the year 2017. The final approval of the same by State Government is still awaited. Resultantly, 8 units at Gandhipura have not been allotted plots in the Industrial Area, Phase-IV because they have never applied for the same. In other words, these 8 units are continuing to function in the non-conforming area despite of the fact that there was alternative site for the purpose of allotment of industrial plots for their units.

It would be relevant to mention here that in respect of these 23 industries at Gandhipura, litigation had also been initiated before the High Court of Rajasthan at Jodhpur. A Public Interest Litigation was filed by one Mahesh Pareek (2481/2002) wherein various directions were issued for shifting of the existing industries located in non-conforming area/Municipal area of the city of Balotra, to a newly developed industrial area. The extract of the order passed in the aforesaid PIL by the High Court on 09.03.2004 reads as under:

“RIICO shall set up an industrial area at a suitable place exclusively for textile processing units. The industrial area must be located at an appropriate distance from residential areas. RIICO shall set up the industrial area within a period of six months and the industry shall be shifted to the industrial area from residential areas immediately thereafter.”

Thereafter, another Writ Petition (232/2007) was filed before the High Court of Rajasthan whereby the Hon'ble Division Bench had on 13.02.2007 observed that till the time industries are provided with alternative plot in the Industrial Area, there is no restriction for the said industries to connect with Common Effluent Treatment Plant (CETP).

After considering the aforesaid facts particularly that in Phase-IV of the RIICO Industrial Area, there were vacant plots available and as a matter of fact they are still available, we are of the considered view that there is no just reason for the industrial units to continue to operate at Gandhipura. It was incumbent on behalf of the State Government to have looked into the matter, particularly the orders passed by the High Court of Rajasthan and to ensure its compliance. Despite of the fact that more than 15 years have passed but neither the compliance of the order of the High Court has been made nor the industrial units have been shifted to RIICO Industrial Area at Balotra.

Moreover, State PCB has accorded consent to these units under the relevant law, such as, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. Likewise, the electricity and water connections have also been provided to them. Inaction on the part of the State government has not only led to non-implementation of the orders of the High Court

but their omission permitted the industries to continue at Gandhipura which has caused serious pollution in the vicinity, so much so, that the river has been polluted because of discharge of effluent of these units. It is rather shocking to learn that neither the Government nor its instrumentalities has been vigilant and they have failed to take appropriate steps against functioning of the aforesaid units.

In the circumstances, this Tribunal has no other option but to direct State PCB to revoke the consent to operate and permissions under the Air Act and Water Act to the industries functioning at Gandhipura and ensure that they do not function in non-conforming area anymore.

The State Government as well as the Local Administration are directed to immediately comply with the orders passed by the Hon'ble Division Bench of the Rajasthan High Court, in the year 2002 onwards. It shall be the responsibility of the Collector, Barmer to take appropriate steps sooner he receives the copy of this order.

We also direct the Regional Manager, RIICO at Balotra to place before the Tribunal complete information and record with regard to another cluster of industries in non-conforming area operating at Bituja, on the next date of hearing.

A copy of this order be sent to the Special Secretary, Industries, Government of Rajasthan; Divisional

Commissioner, Jodhpur; Collector, Barmer as well as Superintendent of Police, Barmer, through email, forthwith.

List these matters on 23.09.2019.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

September 04, 2019
SN

