

**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 (T_{HC})
(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 (T_{HC})

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: 20.11.2019

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. Jibram Tak, Advocate for
Mr. Ankit Shah, Advocate

For Respondent(s)

Mr. Shashank Saxena, Advocate for Mr. Ardhendumauli Kr. Prasad, Advocate
Mr. Rajkumar, Advocate
Ms. Padhmalakshmiyengar, AAG
Mr. Vinay Kothari, Advocate
Mr. Adhiraj Singh, Mr. Ranjesh Kr. Sinha, Advocate
Ms. Pusshp Gupta, Advocate
Mr. Vineet Firoda, Advocate for Mr. Sanjeet Purohit, Advocate
Mr. Vineet Gupta SRM, RIIO with Mr. Praveen Chouhary, RIICO
Mr. Ansh Deep Collector Barmer

ORDER

Earlier on 04th September, 2019, after having considered the facts of this case in detail through the Counsels for Pollution Control Board, State of Rajasthan and RIICO, we had ordered that it shall be the responsibility of the Collector Barmer to take appropriate steps, sooner he receives the copy of this order.

While considering 23 industrial units at Gandhipura in district Barmer, we had taken note of the relevant facts in the order dated 04.09.2019, which read as under:

“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.”

We had also taken note of the fact that consent to these units under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 were granted by the Pollution Control Board. The electricity and water connection had also been provided to these units. Therefore, we had directed the Pollution Control Board to revoke the consent to operate permission, under the Air Act and Water Act, to these industries at Gandhipura and to ensure that they do not function in the non-conforming area any more.

The Learned Counsel for the Pollution Control Board submits that all the consents have been withdrawn from 23 units at Gandhipura.

It is significant to mention here that the order dated 04th September, 2019 passed by this Tribunal was assailed before the Hon'ble Supreme Court of India on 4th November, 2019: Dinesh Processor & Ors., (Diary no. 36493/2019) by the unit holders at Gandhipura. We are informed that Hon'ble Supreme Court had not entertained the petition and that is why the same was withdrawn by the applicant therein.

Subsequently, the matter was listed on 23rd September, 2019 and the Regional Manager Balotra was present. We had observed in that order, while sending a copy of the order dated 04th September 2019 to the Special Secretary Industries, Divisional Commissioner Jodhpur and Collector Barmer, that they would sincerely look into the question which has arisen before us. But to our surprise nothing was done by any of the authorities. Therefore, we directed the Collector Barmer and the Managing Director RIICO to be present in person on next date of hearing.

On 23rd October, 2019 the Collector Barmer as well as Managing Director RIICO were present and when they were asked with regard to compliance of the earlier orders for shifting the industries from Gandhipura, the reply coming from Collector was that all of them have been shut down and water and electricity connection has been disconnected. However, to ensure that the industries do not revive after passage of time and they no more become

operative in non-conforming area, we had directed the Collector Barmer to restore the land to its original form by getting all the structures removed. It was also ordered that in case the concerning industries themselves fail to do so, within three weeks, then the Collector shall proceed for their removal at the cost of the industry concerned and recover the expenses incurred, under the Land Revenue Act, 1956.

But to our surprise, after the order of 23rd October, 2019 removal of all the structures of the units at Gandhipura have not been done so far. One fails to understand as to what prevented the Collector Barmer to take steps for removal of structures, after three weeks granted to the industries was over, at the cost of the industrial units which was to be recovered under the Land Revenue Act, 1956. There are other issues involved in respect of District Barmer and for that reason we had asked the Collector Barmer to go through our order dated 06th March, 2019.

Contrary to our expectation from the responsible officer who was present before us on the last date of hearing and even today, all the structures of 23 units at Gandhipura have not been removed, despite of the fact that directions were given that in case of failure by the industries the Collector should get the structures removed. However, since 23rd October, 2019 all the structures have

not been removed. Meaning thereby the Collector Barmer has failed to comply the order of this Tribunal, whereas it was made clear that he would himself get it done at the expense of the industry.

In these circumstances, we direct the Divisional Commissioner Jodhpur to go through our orders dated 04th September, 2019, 23rd September, 2019 and 23rd October, 2019 and ensure their compliance before the next date. We reiterate that if need arises the structures of these 23 industries may be removed by the Government authorities and the expenses incurred should be recovered from the defaulting unit under the Land Revenue Act, 1956. On failure to fully comply with our order, the Commissioner Jodhpur and the Collector Barmer shall remain present on the next date of hearing.

List these matters on 04th December, 2019.

Justice Raghuvendra S. Rathore, JM

Dr.Satyawan Singh Garbyal, EM

JG