

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

**ORIGINAL APPLICATION NO. 34(THC)/2014
(CWP No. 2844/2011)
(I.A. No. 30/2021 & I.A. No. 152/2021)**

IN THE MATTER OF:

1. Digvijay Singh

S/o Shri Ganpat Singh, aged-30 years,
having his Permanent Residence at Jasol House,
B/3 Paota Lines, Jodhpur.

...Applicant

Verses

1. State of Rajasthan

through the Secretary,
Department of Environment,
Secretariat, Government of Rajasthan, Jaipur.

2. Collector Barmer

Office of the District Collector,
Collectorate, Barmer.

3. Rajasthan Pollution Control Board

through its Chairperson,
4, Institutional Area, Jhalana Doongari, Jaipur

4. Union of India

through the Secretary,
Ministry of Environment & Forest,
Government of India, Paryavaran Bhawan,
CGO Complex, Lodhi Road, New Delhi.

5. Central Pollution Control Board

through its Chairman
Ministry of Environment & Forest,
Government of India, Parivesh Bhawan,
East Arjun Marg Delhi 110032

6. RIICO

through Regional Manager,
RIICO Ind. Area, Balotra-344022
District – Barmer

7. Rajasthan Pollution Control Board

Regional Office, Near CETP, Kher Road,
Balotra, District Barmer

**8. Balotra Water Pollution Control & Research
Foundation Trust**

through its Secretary,
Shri Jugal Kishore Singhal
S/o Shri Madan Lal Ji Singhal, R/o Balotra

9. Jasol Water Pollution Control & Treatment Trust

Through its Secretary, Shri Rameshwar Lal Bhutra
S/o Leeladhar Ji Bhutra, R/o Laxmi Nagar,
Jerla Road, Balotra.

10. Municipal Board, Balotra

through its Chief Executive Officer.

11. Balotra Textile Hand Processers Association

(A organization of Small Scale Industries)-
through Its president Shri Gani Mohammed
Sumaro
S/o Shri Ismail Sumaro, resident of Balotra, near
Mother Terresa School, District Barmer

12. Central Ground Water Authority

through Secretary. West Block 2, Wing - III,
Sector I, R.K. Puram, New Delhi - 110066.

...Respondent(s)

With

**ORIGINAL APPLICATION NO. 32(THC)/2014
(CWP No. 9503/2012)
(I.A. No. 85/2021)**

IN THE MATTER OF:

1. Kisan Paryavaran Sangaharsh Samiti, Jaipur

Through its Secretary,
Mahavir Singh Sukarlai
S/o Lal Singh
R/o Village Sukarlai,
Tehsil Rohat, Distt. Pali, Rajasthan

... Applicant

Verses

1. State of Rajasthan

Through Chief Secretary, Government of Rajasthan
Jaipur, Rajasthan

2. Rajasthan State Pollution Control Board

Industiral Area, Jalani, Doongri,
Jaipur, Rajasthan

3. Rajasthan State Pollution Control Board

Regional Office, Mandia Road, Pali, Rajasthan

4. Central Pollution Control Board

Parivesh Bhawan, East Arjun Nagar, Delhi

**5. Pali Water Pollution Control Treatment & Research Foundation
(Trust)**

Through its President/Secretary, CETP Mandia Road,
Pali-Marwar, Rajasthan

6. District Collector, Pali

Pali, Rajasthan

7. Rajasthan Industrial & Investment Corporation (RIICO)

I.T.I. Road Pali, Pali Rajasthan

8. Municipal Council, Pali

Through its Commissioner, Pali, Rajasthan

9. Rajasthan Textile & Hand Processing Association

Near Pali Urban Co-operative Bank, Mandia Road,
Pali, Rajasthan

...Respondent(s)

With

ORIGINAL APPLICATION NO. 329/2015

IN THE MATTER OF:

Gram Panchayat ARABA

Through its Sarpanch, at Village Araba
Panchayat Samiti Kalyanpur
District Barmer and Rajasthan

...Applicant

Verses

1. State of Rajasthan

through the Principal Secretary, Irrigation Department,
Government of Rajasthan, Jaipur, Rajasthan

2. Divisional Commissioner, Jodhpur District

Jodhpur, Rajasthan

3. District Collector

District Jodhpur, Rajasthan

4. District Collector

District Barmer, Rajasthan

5. Sub-Divisional Officer, Balotra

District Barmer, Rajasthan

6. Tehsildar, Tehsil Panchpadra

District Barmer, Rajasthan

7. Rajasthan State Pollution Control Board

through its Member Secretary, Jaipur, Rajasthan

8. Jodhpur Development Authority

through its Secretary, Jodhpur, Rajasthan

9. Nagar Nigam, Jodhpur

through its Commissioner, Jodhpur, Rajasthan

10. Central Pollution Control Board

through Member Secretary,
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Nagar, Delhi-110032

11. Central Ground Water Authority (CGWA)

Jamnagar House, 18/11, Man Singh Road Area,
New Delhi, Delhi 110001

12. Ministry of Environment, Forest and Climate Change (MoEF&CC)

Indira Paryavaran Bhawan. Jorbagh Road,
New Delhi-110003

**13. Rajasthan State Industrial Development
and Investment Corporation**

RIICO, Mini Udhyog Bhawan, Industrial Estate,
New Power House Road, Jodhpur,
Jodhpur, Rajasthan 342003

...Respondent(s)

Counsel in OA No. 34 (THC)/2014:

Applicant:

Mr. Digvijay Singh, Applicant in person

Respondent(s):

Mr. Vinay Kothari, Advocate for CETP
Mr. Nishant Awana, Advocate for RSPCB
Ms. Nidhi Singhvi, Advocate for RIICO
Mr. A.K. Prasad, Advocate for CGWA
Mr. Raj Kumar, Advocate for CPCB

Counsel in OA No. 32 (THC)/2014 & OA 329/2015:

Applicant:

Mr. Dipesh Choudhary, Advocate for Applicant in OA 32/2014
Mr. Jaideep Singh, Advocate for Applicant in OA 329/2015

Respondent(s):

Mr. Anshdeep, DM, Pali, Mr. Indrajeet Singh, DM, Jodhpur & Mr. Om Prakash Vishnoi, ADM Barmer with Mr. Vishal Meghwal, Advocate
Mr. Nishant Awana, Advocate with Mr. Anand Mohan, MS RSPCB, Mr. Rahul Sharma, RO Pali & Mr. Amit Sharma, RO Jodhpur
Mr. A.K Prasad, Advocate with Dr. S.K Jain, Regional Director, CGWB
Mr. Raj Kumar, Advocate for CPCB
Mr. Vinay Kothari, Advocate for CETP Management (R-5) in OA 32/2014
Ms. Nidhi Singhvi, Advocate for RIICO
Mr. Rishabh Sancheti, Advocate for JPNT in OA 329/2015
Mr. Anchit Bhandari, Advocate

PRESENT:

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

OA No. 34/2014 reserved on: 23rd November, 2021
OA Nos. 32/2014 and 329/2015 reserved on: 24th November, 2021
Pronounced on: 25th February, 2022

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JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. These three matters relate to the issue of pollution caused in three rivers namely River Luni, River Badi and River Jojri. The allegations in general are that pollution is being caused by industries and local bodies by discharging industrial and municipal untreated/partially treated effluent in the above rivers resulting in serious degradation to environment and also damage to the agricultural land, health of local inhabitants etc. Out of these three matters, two are transferred Original Applications from Rajasthan High Court (at Jodhpur) i.e., THC 34/2014 (CWP 2844/2011) (hereinafter referred to as '**OA I**') and THC 32/2014 (CWP 9503/2012) (hereinafter referred to as '**OA II**') which relate to the pollution caused in River Luni and River Badi while third one i.e., OA 329/2015 (hereinafter referred to as '**OA III**') relates to River Jojri and was filed before Tribunal itself under Section 14 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act 2010**').

2. The running area of rivers, at some places is over-lapping in as much as **River Luni** covers parts of districts Ajmer, Pali, Jodhpur, Nagaur, Barmer, Jalore and Sirohi; **River Badi** is tributary to river Luni passess through the areas which are part of districts Pali, Jodhpur and Barmer and ultimately, joins river Luni and third one i.e. **River Jojri** flowing within the boundaries of district Jodhpur and run from villages Nandari, Sriyade

Nagar, Uchiarda, Basni Benda, Jhalamand, Kudi Bhagtasni, Salawas, Bhandu and Dhawa. All the above villages are in district Jodhpur but last village Dhawa is adjacent to first village of district Barmer i.e. village Doli. Boundary of village Dhawa and Doli touch each other and whenever river Jojri over flows, water enters the boundaries of district Barmer. Since running area of the three rivers was over-lapping and the issue relates to pollution caused by industries and municipal sewage, all the three matters were connected in this Tribunal and in the last three hearings were heard together. In these circumstances, these were finally heard by us collectively and are being decided by this common judgment.

3. Before proceeding further, a bird eye view of the initial pleadings in all the three matters would be necessary to give an idea of the subject, necessary for proper adjudication.

OA (T_{HC}) 34/2014 (CWP No. 2844/2011) (hereinafter referred to as 'OA I')

4. A writ petition, PIL No. 2844/2011 was filed before Rajasthan High Court at Jodhpur by one Mr. Digvijay Singh raising the grievance that arid land in **Industrial Estates Balotra, Bithuja and Jasol** was allowed to use for establishing Textile industries without making any Environmental Impact Assessment (hereinafter referred to as '**EIA**') and the said industries are causing severe pollution by discharging untreated effluent, hence should be made liable for payment of environmental compensation, besides direction for compliance with the environmental norms or to close down. Petitioner (applicant before Tribunal), besides official respondents i.e. State of Rajasthan through Secretary Department of Environment; Collector, Barmer; Rajasthan State Pollution Control Board (hereinafter referred to as '**RSPCB**'); Union of India through Secretary, Ministry of Environment, Forest (hereinafter referred to as '**MoEF**'); Central Pollution

Control Board (hereinafter referred to as 'CPCB'); had impleaded Rajasthan State Industrial Development & Investment Corporation Ltd. (hereinafter referred to as '**RIICO**') through Regional Manager, RIICO Industrial Area, Balotra District Barmer; Regional Officer, RSPCB at Balotra, district Barmer.

5. **Facts stated in the OA**, in brief, are that Luni river flows in the western part of India in State of Rajasthan and a major river in Barmer region. The river is also referred as '**Lavanavari river**' which means '**salt river**' in Sanskrit. It rises in the Pushkar valley of western Aravalli Range at an elevation of about 550m near Ajmer. The river then flows in the southwest direction through the hills and plains of Marwar region in Rajasthan and finally ends into Rann of Kutch. River and its Tributaries flow through western slopes of Aravalli range. River Luni has a total catchment area of 37,363 sqm. and covers parts of Ajmer, Pali, Jodhpur, Nagaur, Barmer, Jalore and Sirohi districts and Mithavirana Vag Rajanpur region of Banaaskhantha North Gujarat. Major tributaries of river Luni are Sukri, Mithri, Bandi, Khari, Jawai, Guhiya and Sugi from the left bank and Jojari river from right bank. In the western parts of Aravalli hills where Luni River rises, it is called '**Sabarmati**' and travels for 530 kms. The river is highly saline but serves as the primary source of recharge of sub-soil water in the region. There used to be held an animal fair, namely Shri Rawal Mallinath ji Animal Fair (also known as Chetri Animal Fair) at Tilwada in the river bed of Luni River and district Barmer. It is centuries old fair. Shri Rawla Mallinath ji was eldest son of Sri Rao Khaji who ruled Mallani region which is now the present Barmer district. Rawal Mallinath ji was the first ruler of Mallani region who was called Rawal due to his great attributes including divine powers and warrior. Rawal Mallinath ji attained, later, sainthood and used to be respected by people of Mallani

who used to gather at Tilwada to pay their tribute and homage to saint Mallinath ji. The gathering of people took the shape and size of fair with the passage of time and also became central point of cattle fair. A temple was also made in the memory of Rawal Mallinath ji, on the shores of Luni River at Tilwada. One of the main attractions as also facility available at the place of fair, was potable water. However, development of textile industries in the area of Bithuja, Balotra, Jasol and district Barmer and discharge of polluted effluent has caused huge pollution in the area including water, and is affecting the fair very badly. **RIICO developed industrial areas at Bithuja, Balotra, Jasol and district Barmer and mostly textile industries are established thereat.** The water requirement of industries is catered by extraction of ground water though the area is part of arid region in the State of Rajasthan.

6. Earlier, there was no Combined Effluent Treatment Plant (hereinafter referred to as '**CETP**') at the aforesaid industrial areas and industrial effluents used to be directly discharged into River Luni causing damage to surface as well as ground water. Later, 2 CETP of 6 million liters per day (hereinafter referred to as '**MLD**') and 12 MLD were established at Balotra; one CETP was established in Bithuja with capacity of 30 MLD and one at Jasol with capacity of 2.5 MLD. However, discharge of industrial effluent at Balotra is 40 MLD, at Bithuja 40 MLD and 4 MLD at Jasol which is much beyond the capacity of CETPs installed at the aforesaid areas. This situation apparently is causing pollution since concentration of TDS, TSS, BOD, COD, Chloride and Sulphate and Sodium is exceeding the prescribed limit. Due to prolonged industrial activity causing pollution, ground water has also got contaminated and is not fit even for plantation. Regional economy is based on agriculture. Farmers are dependents on water but use of polluted effluent, contaminated water is causing huge

loss to their crops and product's quality, besides other health issues. Statutory Regulators have failed to take care of prevention of pollution and preservation of environment, instead are abating pollution and damage to environment and committing breach of public trust doctrine. Applying the principle of 'polluter's pay', not only the industries causing pollution but Statutory Regulators who have violated and breached public trust doctrine, must be saddled with the liability of payment of environment compensation besides prosecution for offence committed by them and other liabilities as provided in law. Petitioner/applicant relied on Supreme Court's judgments in ***MC Mehta vs. Kamal Nath & Others (1997)1SCC 388; Intellectual Forum vs State of AP (2006)3SCC549; Vellure Citizens for Welfare forum vs. UoI AIR1996SC2715; MC Mehta vs. UoI AIR1997SC1086; Indian Council for Enviro-Legal Action vs. UoI (1996)3SCC212, APPCB vs. MV Nayudu AIR1999SC812, Research Foundation for Science Technology and Natural Resources Policy vs UoI and Others (2005)3CompLJ193(SC), S Jaganath vs. UoI (1997)2SCC87, Pravinbhai Jashbhai Patel & Anr. vs. State of Gujarat & Others 36GujLR1210, Karnataka Industrial Development Board vs. Sri C. Kenchappa & Others AIR2006SC2038, Triupra Dyeing Factory Owners Association vs. Noyyal River Ayacutdars Protection Association & Others (2009)9SCC737.***

7. Petitioner has also referred to an earlier litigation i.e. **writ petition no. 2481/2002, Mahesh Pareek vs. State of Rajasthan & Others**, wherein issue of water and air pollution, deterioration and degradation of environment and contamination of ground water perpetuated due to industrial activities at Bithuja, Balotra and Jasol was raised by Shri Mahesh Pareek, a resident of Jasol. A division bench of Rajasthan High Court took note of a survey report carried out by Central Agricultural Zone

Institute, Jodhpur (hereinafter referred to as '**CAZI JODHPUR**') in 1997 and report of 'Textile Centers Infrastructure Development Scheme for Textile Clusters in Barmer', demonstrating grave danger caused by pollution of rivers due to industrial activities in the said area. Various orders passed in the above writ petition 2481/2002, have been placed on record as annexure 1 to writ petition, which was disposed of vide judgment dated 02.04.2004 wherein Court observed that it is a pity that adequate measures are not being taken by industries for control and prevention of pollution; even authorities are not enforcing environmental laws to ensure that sources of water are not polluted; if water bodies in the areas Balotra, Jodhpur and Pali are completely polluted by effluents emitted by industries, what will happen, already, there is acute shortage of water and in case adequate measures to prevent pollution of water bodies are not enforced, public at large will suffer immensely.

8. Division Bench also referred to an earlier order dated 09.03.2004 passed in **W.P. No 759/2002, Mahavir Nagar Vikas Samiti, Pali vs. State of Rajasthan & Others** and said that the judgment rendered therein would apply in W.P. no 2481/2002 also. The authorities concerned were directed to effectuate the order and submit report. Specific directions given by Rajasthan High Court quoted in OA I, para 4.4, are as under:

"4.4 That being troubled by the nature and extend of water and Air pollution and deterioration and degradation of environment and contamination of ground water, perpetuated due to the industrial activity in Bithuja, Balotra and Jasol, a resident of Jasol Mr. Mahesh Parekh preferred a Public Interest Litigation before this Hon'ble Court being D.B. Civil Writ Petition No. 2481/2002 (Mahesh Parekh V/s State of Rajasthan & Ors). The cause raised in the petition being of industrial effluent pollution of the River Luni due to Textile Industrial activity came to be taken up and entertained by this Hon'ble Court and many pertinent directions and observation were made. In the said petition the Hon'ble Court took note and cognizance of the survey carried out by Central Agricultural Zone Institute (CAZRI), Jodhpur, the report which was prepared for a period of over two years and submitted in the Year 1997 and the report of Textile Centres Infrastructure Development Scheme for Textile clusters in Barmer which spoke of the grave dangers caused by the pollution of the river.

These reports assessed the damage caused to the environment, agricultural fields, ecology and to the health of the people residing in the region but the damage incurred was not quantified. Certified copies of the orders passed in the petition is herewith marked and annexed as Annexure-1. A copy of the report of survey conducted by the CAZRI in evaluating the damage caused to the river, ground water and to the health of the people would be kept ready for the perusal of this Hon'ble Court. After having taken stock of the situation which was pitiable and aroused a serious concern and moved the conscious of the Court, the Hon'ble Court disposed of the petition vide judgment dated 02.04.2004 wherein this Hon'ble Court observed that, **"It is a pity that adequate measures are not being taken by the industries for control and prevention of pollution. Even the authorities are not enforcing the environmental laws to see that the sources of water are not polluted. We shudder to think as to what will happen when the water bodies in the areas of Balotra, Jodhpur and Pali are completely polluted by the effluents which are being emitted by the industry. Already there is acute shortage of water and, in case adequate measure to prevent pollution of waterbodies are not enforced the public at large will suffer immensely.** In D.B. Civil Writ Petition No.759 of 2002 decided on 9th March, 2004, we have issued certain directions. **The judgment rendered by us in D.B. Civil Writ Petition No.759/02 on 09.03.2004 shall apply in the instant case as well.** The concerned authorities including the Collector of the districts shall effectuate the order and file their report. Order dated 13.01.2004 and the earlier orders shall be complied with by the concerned Authorities. The Writ petition is disposed of with the aforesaid directions." The Six Specific Directions passed by this Hon'ble Court in the main Judgment were as follows:

1. The Pollution Control Board shall immediately make fresh inspection of the Textile Processing Units at Pali and surrounding areas and in case any of the units are found to be creating pollution and not connected to CETPs shall be closed.
2. The units which are creating pollution shall adopt measures to eliminate pollution.
3. 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 the 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 the residential areas immediately thereafter.
4. The Trust shall make modification in the CETPs so that the emissions therefrom are compatible with the norms prescribed by the Pollution Control Board.
5. The industrial units which are discharging the industrial pollutant on the land or/and river shall be closed forthwith.
6. The State shall employ experts to assess the damage caused to the environment and health of the public by the pollution created by the units. On assessment of the damage, the concerned authority shall file a report in this court within a period of eight weeks, whereupon the question of payment of Compensation by the units on the principle of polluters pays shall be determined."

9. Later, for implementation of directions given in WP 2481/2002, MA 87/2005 was filed in High Court which was disposed of on 10.07.2008 and relevant extract of the order reads as under:

*“This Court, after having heard the parties, however issued certain directions from time to time both to the Pollution Control Board and RIICO and also to the State of Rajasthan. **It is stated in the affidavit filed on behalf of the Pollution Control Board that as many as 156 units discharging effluents in hazardous manner have been effectively closed down and the matter is under progress to shift these units to a place where necessary safety measures are provided to connect these units with the CETPs.** The measure taken by the Pollution Control Board appear to be in compliance of directions of this Court issued from time to time. This PIL application is of year 2002 and from time to time, interlocutory applications were filed and entertained. **There is substantial compliance on the part of the Pollution Control Board of the order passed by this Court on 02.04.2004. Further, in view of the compliance made by the Pollution Control Board we are satisfied that much water has flown now and further indulgence in this PIL application is not required.** This PIL application is accordingly stands disposed of.”* A copy of the said order dated 10.07.2008 is herewith marked and annexed as Annexure-3.”

10. The grievance of petitioner raised is that nothing has improved despite the above directions and discharge of untreated effluent in river is continuous and undeterred. Textile industries are water oriented and if effective measures are not executed, same are likely to cause huge water pollution affecting entire region and public in particular. Petitioner has also referred to certain informations sought under Right to Information Act 2005 (hereinafter referred to as ‘**RTI Act 2005**’) but did not get any proper reply showing improvement in the situation. In this backdrop, W.P. 2844/2011 was filed with the following prayers:

- “i) Declare that the Rawal Shri Mallinath Ji Cattle Fair is a part of the cultural heritage of the local people, and deserves protection caused due to environmental damage;*
- (ii) The respondents may be called upon to state whether any precautionary assessment was done before permitting the use of arid lands in Balotra, Bithuja and Jasol for Textile Industry; and if not done, the State may be directed to do so forthwith, and until that time a moratorium be imposed so as to prevent further environmental damage;*

- (iii) *After taking stock of the damage caused to the environment, to the extent the contentions in this petition about environmental and ecological damage are confirmed, it may be declared that the respondents have utterly failed in discharge of their duties, and such reparations, restitution and compensation may be ordered as deemed fit;*
- (iv) *Only such Industrial activity in the region may be permitted which does not cause environmental harm and is sustainable; any activity which fails the muster of the settled principles may be proscribed forthwith;*
- (v) *The state may be directed to immediately start the process of distributing the compensation amount to the affected person for the loss and damage of land and crop as computed and quantified by the National Productivity Council for the last 15 years. A further study may be conducted to assess the loss and damage to the land and crop of additional 15 years as the industry is running for last 3 decades. Further assessment must be made to the future value of the crop and land and the loss incurred on it, by a body of experts who should be paid by the State, RIICO and Pollution Control Board.*
- (vi) *The State may be directed to immediately take up and assign the study to a body of independent experts who should directly report to this Hon'ble Court for assessing the damage and loss caused to the environment, ecology, under ground water and to the health and life of the resident of the area and also to the region and people of the down stream areas where the water has reached and shown its effect within a stipulated time frame.*
- (vii) *The present CETPs may be declared to be obsolete and redundant and if the industries are not shut down permanently; they ought not to be permitted to function unless they install a technology that can take the load of the effluent discharged and the treated water is free of any contamination, minus any adverse effects and completely safe for the purposes of irrigation wherein there is no danger of bio-magnification.*
- (viii) *The industrial units must be ordered to put up medical facility in each of the units and provide medical education to the labours. Further the state may be directed to pay compensation to the labours who have suffered due to the lack of medical facilities and non-compliance of statutory provisions.*
- (ix) *The State may further be directed to investigate into the kind of diseases or adverse effects that can be contacted by being directly or indirectly exposed to the toxic fumes so as to ascertain the damage inflicted on the people of the region; and cause reparations.*
- (x) *The State may be further directed to prepare a data base to ascertain the number of people who can be said to have attracted the disease due to effluent in any direct or indirect manner: and accordingly damages may kindly be ascertained and paid to the sufferer.*
- (xi) *That a separate fund may be instituted wherein the State must be made to pay a certain amount to begin with reparations of the*

damage caused to the environment until a specific figure can be ascertained by a body of experts duly recoverable so as to give effect to the polluter pays principle.

- (xii) That the Animal Fair may be declared to be a Heritage Property of the region which under no circumstance can be altered, manipulated or destroyed by action or omission of any statutory body or through an act of a group of private enterprise.*
- (xiii) The State may be directed to report to this Hon'ble Court about the safety of the disposal pit proposed for disposal of sludge at Khed, collected after the treatment and whether the method is environmentally friendly. The state may further be directed to report whether the disposal area has been approved by the designated statutory authority as environmentally friendly.*
- (xiv) The order of lifting of the ban, imposed and in operation since year 1982 passed by the state government as per the reporting of the newspaper must be quashed and set aside as an interim measure and further until the respondent authorities ensure and guarantee that there will be no pollution/contamination and the treated water will be fit for the purposes of irrigation and harmless to the environment sans which no further industrialization in any area suffering from pollution must be permitted.*
- (xv) The cost of the writ petition may kindly be awarded in favour of the petitioner.*
- (xvi) Any other writ, order or direction which your Lordship may deem just and proper in the facts and circumstances stated above, in favour of the petitioner may kindly be allowed."*

11. W.P. was entertained on 01.04.2011 by a bench comprising Hon'ble Arun Mishra, Chief Justice (as His Lordship then was) and Prakash, J., and notices were issued to respondents on the writ petition as well as application for interim relief. Thereafter, it was taken up on 12.01.2011. Petitioner argued that Effluent Treatment Plants (hereinafter referred to as **ETPs**) installed in the area were insufficient resulting in discharge of untreated effluent into river bed; and RSPCB was under an obligation to withdraw consent due to violation of mandatory provisions of Hazardous Waste (Handling and Transboundary Movement) Rules, 2008 (hereinafter referred to as **HWHTM Rules, 2008**) but they have not taken any action. On the contrary, Counsel for RSPCB informed Court that notices have been issued under Section 33A of The Water (Prevention and Control of

Pollution) Act, 1974 (hereinafter referred to as '**Water Act 1974**') whereof compliance had to be done by Collector and Electricity Board but they are not taking appropriate action. Court directed Collector to ensure compliance of orders issued by RSPCB and submit compliance report within 3 weeks. RSPCB as well as State of Rajasthan were also directed to suggest other remedial measures to be taken. The matter thereafter was taken up on several dates and some documents in regard of compliance were also filed by the authorities but petitioner disputed correctness thereof. Vide order dated 17.02.2012, Court directed that letter dated 18.12.2004 of RSPCB shall be complied with and no effluent may be discharged in river Luni. This direction was confirmed vide order dated 24.02.2005. Again, vide order dated 13.05.2013, Court directed State respondents and RSPCB to take steps and ensure that **no industrial effluent is discharged in river Luni**.

12. Later, W.P. was transferred to Tribunal and registered as transferred OA 34(THC)/2014 i.e., OA I. Initially it came up for hearing on 05.03.2014 before circuit bench at Jodhpur and thereafter different orders were passed in the light of later progress which would be referred to later in this judgment.

OA 32(THC)/2014 (arising from Civil Writ Petition No.9503/2012) (hereinafter referred to as 'OA II'):

13. This was also a writ petition filed as PIL in Rajasthan High Court at Jodhpur by Shri Kisan Paryavaran Sangharsh Samiti, Jaitpur, district Pali. Here also respondents impleaded are State of Rajasthan through Chief Secretary; RSPCB, Jaipur; RSPCB, Regional Office, Pali; CPCB; Pali Water Pollution and Control, Treatment and Research Foundation Trust (hereinafter referred to as '**Pali WPCTRFT**'); District Collector, Pali; RIICO Pali and Municipal Council, Pali. Here issue pertained to water pollution

caused due to discharge of polluted industrial effluent in river Badi. In this WP, petitioner had a grievance against industries functioning at district Pali. Petitioner referred to WP 759/2002, Mahavir Nagar Vikas Samiti, Pali vs. State of Rajasthan & Others wherein issue of danger caused by pollution created by industrial units engaged in printing and dyeing of fabric in district Pali was raised by Mahavir Nagar Vikas Samiti, Pali. Therein relief sought was a direction for shifting all industries situated within city of Pali to outside, at a place to be identified by a Committee of Experts appointed by Court; direct industries to install primary treatment plant followed by an ETP for all industries put together with an appropriate direction for maintaining treatment plant at the cost of industries involved in the process of causing pollution of water; to direct State of Rajasthan to constitute a task force to ensure compliance of environmental norms to take severe action against defaulting units; impose damages upon defaulting units and award compensation to those whose agricultural land or urban land has suffered on account of polluted effluent; direct textile industries to give up carbonization process immediately; direct RSPCB to refrain from granting consent/permission to operate 800 textile industries in Pali and consent if already granted, revoke the same. WP was considered and a **detailed order was passed on 09.03.2004**, with following directions:

- I. *The Pollution Control Board shall immediately make fresh inspection of the Textile Processing Units at Pali and surrounding areas and **in case any of the units are found to be creating pollution and not connected to the CETPs shall be closed.***
- II. *The units which are creating pollution shall adopt measures to eliminate pollution.*
- III. ***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.*
- IV. *The **Trust shall make modification in the CETPs so that the emissions therefrom are compatible with the norms prescribed by the Pollution Control Board.***

- V. *The **industrial units which are discharging the industrial pollutant on the land or/and river shall be closed forthwith***
- VI. *The **State shall employ experts to assess the damage** caused to the environment and health of the public by the pollution created by the units. On assessment of the damage, the concerned authority shall file a report in this court within a period of eight weeks, whereupon the question of payment of compensation by the units on the principle of polluter pays shall be determined.”*

14. Court directed matter to be listed on 15.05.2004 for further directions and quantification of damage required to be paid by polluting units and for monitoring compliance of the directions.

15. Later, it appears, on the issue of functioning of CETP, meeting was held on 14.05.2007 wherein some decisions were taken and aggrieved therewith a large number of writ petitions led by **WP no. 5436/2007, Shri Raja Ram Mills vs. State of Rajasthan & Others** were filed by industrial units before Rajasthan High Court at Jodhpur which came to be disposed of vide judgment dated 11.04.2008 and following directions were issued:

“In view of the discussions made by the learned counsel for the parties, 12.06.2015

it is necessary to issue the following directions to the respondents:

*(1) The respondents are directed to take up the matter **for setting up separate treatment plant for city sewerage.***

*(2) The **Trust may set up one more CETP plant** within a period of two years.*

*(3) The Pollution Board may set up a **flow meter at every industry,** so as to measure their actual discharge.*

(4) The flow meter be set up with a seal by the pollution Board so that it may not be tampered with by any industry.

(5) If the petitione-industries wants to work with their full capacity, then, they may apply for NOC from Pollution Board.

*(6) Respondents may also work and take a **decision for rotational closure of those industries proportionately which have increased their production capacity after the year, 2004, so that in no case, discharge of trade effluent is permitted beyond the capacity of CETP.** However, it is made clear that due to start of treatment of city sewerage by a separate plant, or otherwise, the part of capacity of the existing CEPT becomes available for treatment of the trade effluent, the respondents will consider for grant of NOC and permission for working of petitioners industries to the extent of permissible capacity of the CETP. While undertaking such exercise, each industry, having increased their capacity, after the year, 2004, would be extended benefit proportionately if cannot be permitted fully.*

(7) Necessary exercise as directed at Items No. 5 and 6 would be completed within a period of one month and Pollution Board will decide issue regarding grant of permission/NOC regarding increase capacity of the Industries and thereupon, petitioners may be allowed to work with necessary increase capacity as permitted.

(8) **Respondents are directed to take up the matter into consideration of use of treated water by recycling or otherwise for the agriculture and other purposes, so that treated water may not flow in Bandi River.** Necessary technical report and required decision may be taken within a period of six months.

(9) **For setting up new CETP plant, the Ministry of Environment is directed to take up the matter for grant or clearance at the earliest,** so that the work of setting up new CETP plant may not be further delayed.”

16. Another set of writ petitions led by **WP no. 6954/2007, Aruna Mills Pali vs. State of Rajasthan & Others** were filed in Rajasthan High Court at Jodhpur where in orders of closure or shifting passed by RSPCB were challenged. W.P.s were also disposed of vide judgment dated 11.04.2008 with following directions:

“(i) All the **petitioner-industries should shift to the allocated industrial area, within a period four months,** if after depositing the balance amount of the allotment price to the RIICO, so that direction No.3 of the Division Bench judgment is enforced effectively and without endless delay as all the petitioner-industries are presently working at a place other than an industrial area set up by RIICO, rather large number of industries exist on agricultural lands now falling in the residential areas.

(ii) **RIICO will provide all basic facilities** in the newly set up industrial area within a period of two months. The facilities aforesaid would be those which are otherwise provided by the RIICO in general for setting up of an industrial area.

(iii) All the petitioner-industries will pay the remaining amount of allotment price to the RIICO within a period of fifteen days.

(iv) All the **petitioner-industries will start their work in the new industrial area only, after conforming the requirement of the Act of 1974 and, thereby, without compliance of the provisions of the aforesaid Act, no industry would be allowed to discharge its trade effluent.**

(v) The **respondents-Pollution Board, RIICO,** Trust co-ordinating with each other under the Chairmanship of the Collector of Pali will ensure that **the compliance of the directions aforesaid is made within the time-schedule** and if any industrial unit makes violation of the direction, then immediate action be taken for closure of those industries, effectively and without discrimination. Any lapse in that regard would be viewed seriously by this Court.

(vi) No petitioner-industry will discharge polluted water in the river Bandi.

(vii) The parties would otherwise make strict compliance of the directions of this Court in the case of Mahaveer Nagar Vikas Samiti and, if for that purposes, any industry is to be closed, they may pass the necessary orders if not already passed, so that without further delay, at least now the judgment of the Division Bench is complied with, otherwise it will remain an endless process effecting environmental because even after passing of more than a period of four years, the compliance of the judgment has not been made and if serious action is not taken in the matter, process of compliance of the Division Bench judgment will remain unended, more so when the directions of the Division Bench are in the larger interest of the public and basically to avoid health hazard due to water pollution.

(viii) No industry should allow to operate in violation of the Judgment of the Division Bench, and also the provision of Water Pollution Control Act.”

17. The request made by industries, to be allowed to operate during intervening period, however, was rejected by the bench.

18. Things did not happen as desired, directed and expected. Thus W.P 9503/2012 was filed pleading that Bandi River is a tributary of river Luni, originates from Aravalli's and has command area of 2748 kms. Total length of main channel of Bandi River is 160 kms. 219 kms area is located along Bandi River which enters after running about 102 kms Pali town and after travelling about 58 kms it joins main Luni River at Lakhjathum area at Davandi village. The pollution caused in River Bandi by textile dyeing and printing industries affect not only Pali town itself but 30 villages of Pali district, 7 villages of Jodhpur district and one village of district Barmer. River Bandi flows only during monsoon. Average cross section of river from Pali to Dhundara is about 400 meters varying from 200 to 600 meters at different locations. There were 23 Nadies of small, medium and large size. Storm water in Nadies lasts for 2 to 4 months depending upon the rain fall and physical characteristics of Nadies. Storm water in Nadies is usually used for consumption of storm. In many villages, these Nadies are main source of domestic water supply. Maximum concentration of wells is along both

the river beds and river banks which helps in continuance replenishment of ground water with fresh water in the river. Further there is a dam namely Nihara dam in village Nihara on river Bandi.

19. From Pali to Dhundara, cultivated land along with Bandi River constitutes 65.69% irrigated and double cropped lands constitute 45.76%. Canal irrigation is very limited; hence people largely depend upon the availability of water in Hemawas tank for irrigation. Before impact of industrial effluent on the area, there used to be multiple crops like wheat, mustard, onion, chillies and other vegetables. Crops like bajra, guar, moth, moong and til were also sown. However, establishment of textile dyeing industries have caused unprecedented increase in effluent load into river, polluting its water and degrading water quality. CPCB identified 24 critical areas affected by industrial effluent in India and Pali town is one of them. There are about 600 textile industries in Pali town but maximum concentration is in Mandia road industrial area. Substantial chunk of industries was also established in Phase-I, Phase-II and Puanayata industrial area. The total quantity of industrial and domestic effluent generated in Pali town is about 50 MLD with high pH, COD, BOD, TDS, Chloride, Sulphates and Sodium contents. It also had concentration of Iron and Chromium. Small textile processing units started coming in Pali sometimes in 1970 and onwards and since steps for protection of environment were not taken, they constantly cause huge degradation and damage to environment and in particular, by causing water pollution. A study was conducted by Centre for Science and Environment, New Delhi (hereinafter referred to as '**CSE**') and it was found that 3 CETPs installed in Pali town have total capacity of 22.5 MLD but industrial discharge was about 34 MLD which means that only about 66% industrial effluent was treated and rest discharged in river without any treatment. As a matter of

fact, for various other reasons, CETPs were also not properly functioning and the reasons included inadequate and poor maintenance, apathy on the part of the industries in connecting to CETPs etc. Level of pollution in River Bandi is extremely high. During physical verification, authorities found that CETPs were not properly functioning and even industrial waste was not being discharged in CETPs drains due to damaged drains. Several authorities expressed their anguish and concern in respect of condition of pollution in **River Bandi** but had not resulted in improvement in the situation. Petitioner thus sought following reliefs in the above WP:

*“i). that the **respondents may kindly be directed to maintain Zero-Discharge into river Bandi forever;***

*ii) that the respondents may kindly be directed to implement the directions as issued in the PIL **Mahaveer Nagar Vikas Samiti Vs State of Raj. & ors.**with immediate effect;*

*iii). That the respondents may kindly be directed to **implement the directions as issued in the case of Raja Ram Mills and Aruna Mills referred herein above,** with force and vigour with immediate effect.*

iv). that the liability of authorities and officials responsible for disobedience and non-compliance of the orders passed by the Hon’ble court in Mahaveer Nagar Vikas Samiti’s, Aruna Mills and Raja Ram Mills cases be fixed and be punished for committing Contempt of Court;

*v). that the **CETPs I, II & III not having the consent to operate from the Board may kindly be directed to be close down immediately;***

vi). that all those industries functioning without consent to operate from the respondent-Board may kindly be directed to be closed down forthwith;

vii). the waste and polluted water of the factories and that of Treatment Plant should be stopped from floating into the Bandi river because the treatment plants are not properly working;

viii). that the respondents may be directed to initiated without any delay the proceedings for purification of the water stored in the Nehara Dam;

*ix) that the **so called treated water in the eyes of the authorities of the Treatment Plant who are dumping the same into the river be stopped** with immediate effect and since they claim the same to be a treated water, then the same may be recycled to the industries;*

x). That the farmers of the affected areas close to the Bandi river whose land have lost its fertility due to the polluted water of the factories as a result of which the agricultural produce has declined and who are facing great hardships should be given compensation for the loss caused to them;

xi). That the rural/agricultural land which has got deteriorated should be improved by CAZRI by preparing an action plan so that the land can again become fertile and the expenses of the same should be borne by the State Government.

xii). That **illegal colour and dyeing factories operating in the Pali City should be immediately closed** and the electricity and water connections be disconnected;

xiii). That in **the future the colour and dyeing factories should not be allowed to be established because this region** is scarce in water;

xiv). That the assessment of damage caused to the the environment and health of public by the pollution created by the Units done and prepared by the National Productivity Council purported to have been submitted may be re-assessed and the question of payment of compensation by the units on the "Principle of Polluter Pays" may be determined and the compensation so assessed may kindly be directed to be paid to the ultimate sufferers i.e. the farmers, villagers and residents of affected areas.

xv). That any other appropriate writ order or direction which the Hon'ble court may deem just and proper in the facts and circumstances of the case be passed in favour of the petitioner-samiti."

20. WP was taken up on 11.01.2013 when respondents 1, 6 and 2 to 4 were represented. Notices were issued to respondents 5 and 8. Later, vide order dated 10.05.2013, WP was directed to be listed along with CWP 8923/2012. In 2014, it was transferred to this Tribunal and registered as 32(THC)/2014. Initially it came up for hearing before Circuit Bench at Jodhpur on 05.03.2014. Counsel for RSPCB stated before Tribunal that number of industries were working without consent and action is being taken against such industries. This was taken very seriously by Tribunal. It enquired from RSPCB as to how such industries cOULD be allowed to function. The operative part of order dated 05.03.2014 said:

"The industries which are operating without obtaining consent of the State Board under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 as the case may be shall not be permitted to operate henceforth. The statutory duty of the Board under these

statutes and even the constitutional duty of the Board and the State is to ensure that pollution is prevented as well as controlled. Their industries are operating and are carrying on business of dying and printing in the industrial estate of district Pali.

We see no reason why effective steps be not taken by the Board to ensure that the industries which are causing pollution and are operating in violation of the specific provisions and without obtaining consent of the Board should be permitted to continue to cause pollution. The Board shall file its reply-cum-report by the next date hearing of hearing. The District Magistrate of the concerned area and the Rajasthan SPCB shall be responsible for the compliance of this order forthwith.

21. Subsequent orders and reports we propose to refer at a later stage.

OA 329/2015 (hereinafter referred to as 'OA III')

22. OA 329/2015 has been filed by Gram Panchayat Araba, village Samiti Kalyanpur, District Barmer, Rajasthan through its Sarpanch Narpat Singh under Section 14 of NGT Act 2010 with prayer that respondents be directed, (i) to take action against polluting industries as also to restrain discharge of industrial waste/effluent or treated or untreated polluted water **in River Jojari** with immediate effect; (ii) to facilitate an action of **stopping discharge of sewerage water in river Jojari**; (iii) to found out a permanent solution of drainage of polluted water and to compensate villagers of applicant's village for damage caused to land, crop and other property on account of polluted industrial water discharge in the river, and lastly, to treat industrial waste and other polluting contents by establishing appropriate treatment plant.

23. **Brief facts stated in OA III** are that Jojari River flows to Jodhpur city towards the boundary of Barmer District, carrying natural flow of water collected generally during monsoon season since it is not a perennial river and flows only during monsoon. River vanishes by the time it reaches village Dhawa and as per record no further river channel is present ahead of village Dhawa. Water of the river discharges in an uneven manner as per

geographical topography and reaches within the limits of village Doli and Araba. Earlier there was no effluent or sewage water found to be discharged in the river or atleast not reaching upto village Araba but in the last few years, after establishment of several industries primarily in coloring clothes, the same had started discharging untreated effluent in river Jojari as also sewage water of entire Jodhpur city has also been discharged inside the river which ultimately get accumulated at National Highway No. 112 near village Doli, causing blockage and many times highway is also submerged under the untreated water. Earlier there was a natural drain, used to flow adjacent to National Highway from which polluted water of industries used to flow. Polluted water from drain used to come on the road which caused Administration to take a decision to channelize contaminated water through a canal towards village Araba and a stop dam was also constructed between village boundaries of Araba and Doli. Respondent Authorities have also planned to construct connecting canal to stop dam which will go through agricultural fields of village Araba. Residents of villages who are facing problem of over flow of polluted water made several complaints to the authorities whereupon Respondents without any proper planning decided to construct a temporary nallah on Doli village upto boundary line of Araba and Kalyanpur villages. The said temporary nallah will pass in between from Araba village and near to the well and pond which is used by residents of village Araba for drinking purposes. Proposed drain will start from National Highway, Doli village and will end on National Highway at the boundary line of village Araba and Kalyanpur. Applicant Gram Panchayat and others made several representations agitating their cause against the said plan. It was also taken note by the print media and published in newspapers but did not impress upon Respondents Authorities. The proposed drain will create a disastrous situation in as much as polluted water will not only harm the

residents of village but also affect their day-to-day life adversely. It would cause/destroy fertility of agricultural land, spread diseases and may cause other problems. On 16.08.2015, due to excessive flow of polluted water temporary stop dam constructed between village Araba and Doli gave way and entire polluted water of industrial area entered village Araba flooding agricultural land, causing damage to standing crops and other property of the villagers. This was also published in daily newspaper 'Dainik Bhaskar' dated 17.08.2015. Several representations were made by villagers but did not receive any response from the authorities. Inaction of respondents and continued discharge of untreated effluent in river Jojari is resulting in making the water highly toxic, causing lot of inconvenience, problem and damage to flora and fauna in the village. It is specifically said in paragraph 4.20 of OA III that **industrial units at Basni, Tanawara, Salawas and Sangaria in District Jodhpur** are discharging untreated waste water into river Jojari which ultimately reach village Araba with dark black complexion showing high toxicity and contamination causing damage to health, property and agricultural land of the villagers.

24. Some villagers earlier filed **W.P. No. 11533 of 2011, Shatrudhan Rajpurohit & Others v. State of Rajasthan & Others** in Rajasthan High Court at Jodhpur wherein respondents 1 to 3 i.e., State of Rajasthan and others filed reply stating that 135 million liter daily (hereinafter referred to as '**MLD**') water is discharged through sewage line of Jodhpur Municipal Corporation (hereinafter referred to as '**JMC**'); a Sewerage Treatment Plant (hereinafter referred to as '**STP**') with capacity of 20 MLD is functioning at village Nandari and another STP of 50 MLD capacity is functioning at Salawas and a third STP with capacity of 50 MLD is proposed to be installed in Public Private Partnership scheme; approximately 27 MLD effluents are discharged by industries at Jodhpur for which a CETP with

capacity of 20 MLD is functioning; 7 MLD which is beyond the capacity of CETP is drained out without treatment; Competent Authorities are making efforts to segregate mixed effluent of industrial and municipal waste through pipeline and only industrial discharge will be permitted to be treated in plant and remaining municipal waste will be diverted to STP; steps have also been taken by District Administration, Industries Department and RSPCB for stopping all unauthorized industrial units which were found discharging industrial effluents and no unauthorized industrial unit has been permitted to function who is not following norms of RSPCB. In the reply, it is further stated that efforts are being made so that no untreated waste/effluents are discharge in Jojari River.

25. The applicant's complaint is that reply of State shows that they did not have required capacity treatment plants to deal with the quantity of polluted effluent received and this is obviously causing damage of environment in particular and health of the villagers as also fertility of agricultural land.

26. Documents have also been filed in support of above allegations including several photographs showing precarious condition caused in the village concerned, on 16.08.2015, due to flood.

27. OA III was taken up at Circuit Bench at Jodhpur on 21.08.2015 and after noticing grievances of applicant, notices were issued to Respondents. Initially respondents 1 to 6 put in appearance through learned Additional Advocate General Shri Rajesh Panwar and Shri Manish Sisodia.

28. OA No. III was next taken on 08.10.2015 when RSPCB sought further time to file reply. Noticing the fact that several industries were discharging effluent without treatment, Tribunal directed RSPCB to take appropriate action against such erring industrial units and if necessary to

close them as early as possible. Tribunal also directed RSPCB to give details of industrial units who are contributing to industrial pollution by discharging polluted effluent in the river and/or operating without consent. District Magistrates, Jodhpur and Barmer were directed to provide necessary assistance to RSPCB.

29. A complaint was also made before Tribunal that some industrial units are operating without permission on agricultural fields. Consequently, Tribunal directed concerned District Magistrates of Jodhpur and Barmer to take necessary action for removal of such industries from agricultural fields, in accordance with law. State Authorities were also directed to give details of such unauthorized industrial units functioning in utter violation of laws and District Collectors of concerned Districts were directed to take effective action in the matter. On the next date i.e., 03.12.2015, in OA III, Tribunal found that no respondent has submitted any reply and nothing was informed as directed by earlier order. Expressing its anguish, Tribunal granted further time to respondents to response.

30. Tribunal also noted a complaint that **about 160 MLD sewage was generated in Jodhpur while capacity of treatment plants available was also 70 MLD, hence 90 MLD untreated sewage was directly entering River Jojari.** Learned counsel appearing on behalf of RSPCB stated that one STP of 50 MLD is likely to be commissioned by 31.12.2015 but even that would not have met the actual deficit. Tribunal found that for construction and maintenance of STP Jodhpur Development Authority (hereinafter referred to as '**JDA**;) and Nagar Nigam Jodhpur (hereinafter referred to as '**JNN**') were responsible who were not party in the OA, hence they were impleaded as respondents 8 and 9, respectively and CPCB was impleaded as Respondent 10. Notices were issued to them. Despite above

orders, Respondents failed to respond. These facts were noted by Tribunal in order dated 07.04.2016 passed in OA III and thereafter it directed RSPCB and District Collectors, Jodhpur and Barmer to file affidavits giving details of unauthorized industrial units functioning causing pollution. Tribunal also directed that in case affidavits are not filed, District Collectors shall appear in person on the next date. Still Authorities remained defiant. Expressing its anguish, Tribunal, on 26.04.2016, granted further opportunity and posted the matter for 07.04.2016.

31. As already said two matter were taken initially in High Court and transferred therefrom and third matter was filed before Tribunal. Some orders passed in the High Court in OA I and II, we have already referred to. Thus we would now refer to consider the pleadings and orders passed by Tribunal after transfer of OA I and II.

32. **PROCEEDINGS IN OA I:** We now proceed in OA I, on and w.e.f. 05.03.2014 when it was taken up before Circuit Bench at Jodhpur for the first time.

33. Respondent 8 raised preliminary objections regarding maintainability of OA vide **objection filed on 18.11.2014** (page 716 of paper book of OA I). Objection is basically on the ground that OA is barred by limitation in as much as High Court passed order dated 09.03.2004 in **WP No. 759/2002, Mahavir Nagar Vikas Samiti, Pali vs. State of Rajasthan & Others** and order dated 02.04.2004 in **WP No. 2481/2002 Mahesh Pareek vs. State of Rajasthan & Ors.** wherein various directions were issued which were required to be followed. Writ petition was filed for compliance of the said directions on the ground that the problem of pollution caused by textile industries is continuing and cause of action is recurring while for the purpose of Tribunal, Section 14 (3) of

NGT Act, 2010 provided limitation of 6 months and under Section 15(3) limitation is 5 years. Writ Petition transferred and registered as OA I in Tribunal was filed after 18.10.2010 by which date NGT Act 2010 had already come in force and on that date no appeal was maintainable therefore, the present application/writ petition transferred to this Tribunal is barred by limitation and must be dismissed.

34. Simultaneously, some pleadings were also filed giving progress made for mitigation of pollution and/or treatment of polluted effluent etc.

35. **Additional affidavit dated 01.05.2014** was filed on 14.11.2014 by Balotra Water Pollution Control and research Foundation Trust (hereinafter referred to as '**BWPCRF Trust**') i.e. respondent 8 in OA I. It is said that steps were taken and tenders were floated for installation of RO plant of 18 MLD capacity on Built Own Operate Transfer (hereinafter referred to as '**BOOT**') basis. The said RO would be linked to new CETP of 18 MLD which was under construction. The work of installation of RO was initially awarded to M/s. Creative Enviro but due to some false declaration, the said contract has been terminated by order dated 07.11.2013 obstructing progress of installation of RO plant. Now, Trust is proceeding to set up RO plant of 6 MLD capacity on erection, procurement and commissioning basis which would be connected to existing CETPs of 6 and 12 MLD capacity which are presently working at only 40% of prescribed limit. The process of award of contract is undergoing. Further, RO of 18 MLD capacity is kept in suspension due to non-sanction of grant by Central and State Government who were to provide 50-25% matching grant respectively. Trust is trying its best to operate CETPs and consent to operate have already issued by RSPCB which is valid upto 31.07.2014 for 6 MLD CETP and 31.07.2015 for 12 MLD CETP. State Government has also allotted 1264 bighas land for discharge of treated water pursuant to

the direction issued by High Court. However, possession of land could not be taken, therefore, Trust was not able to proceed with the work on the said land. In the meantime, Balotra Laghu Udhdyodg Mandal has requested State Government and RIICO to stretch expanse of Indira Gandhi Canal right uptill Balotra so that benefit of water reserved for industrial purposes in the said canal project can be availed by textile industries established in and around Balotra region. An oil refinery is being set up in Balotra which requires water and Trust by letter dated 23.08.2013 has informed RSPCB that it can supply 23 MLD treated water.

36. Vide **additional affidavit dated 09.07.2014** respondent 8 has placed on record further information regarding allotment of work for setting up of RO plant with capacity of 6 MLD.

37. Vide **affidavit dated 09.07.2015** filed by respondent 8 in OA I , a copy of consent to operate dated 13.05.2015 has been placed on record which contains condition no. 16 that primary treatment effluent shall be transported to CETP Balotra through tankers and no outlet shall be provided till pipeline leading to CETP is made operational.

38. **Additional affidavit filed on 31.07.2015** by RSPCB pursuant to Tribunal's order dated 09.07.2015 in OA I stated that 16 industries operating in non-conforming areas were identified and closed down. For grant of authorization under HWM Rules 2008, 330 member units of CETP Trust Balotra, 186 member units of Bithuja and 111 member units at Jasol have applied. Further for abstraction of ground water, NOC has been sought by 264 member units of CETP Balotra and 200 member units of CETP Trust Bithuja.

39. There are large number of affidavits/compliance reports etc. filed by different respondents in OA I placing on record subsequent progress in

regard to the installation of requisite treatment plants and taking other steps for prevention of pollution but the same is a glaring example of snail pace progress due to lethargy and apathy on the part of respondents in taking steps for prevention of pollution despite that the complaint of applicant in OA I was found substantially true by High Court in 2011 and more than 10 years have passed yet all the steps have not completed yet.

40. We are not referring to all such affidavits. The same have been considered by Tribunal in various orders passed from time to time. Instead, we would refer some orders covering progress shown to Tribunal and observations made by Tribunal commenting upon the functioning of respondents.

Orders passed in OA I i.e. OA 34/2014

41. **Order dated 19.03.2015:** Tribunal noted grievance of applicant about industrial effluent generated by textile industries in cluster of Balotra, Jasol and Pali and establishment of CETPs to treat industrial effluents in the above 3 clusters which do not meet the actual industrial effluent received, which was much more than the capacity of functional CETPs, hence is not adequate to bear the entire industrial load generated. It was also noted that industrial effluents from polluting industries are transported in tankers supposedly to CETPs. However, there was no mechanism to guarantee whether these tankers do carry industrial effluents to their respective CETPs or are just emptied on land surface or water bodies as found convenient to the industries. Deferring the issue of preliminary objections regarding limitation, Tribunal observed that there may be an attempt to find out solution for real problem which universally affects everyone and consequently issued directions to CPCB and RSPCB to constitute an inspection team comprising Senior Scientists to visit each of the respondent units in the 3 industrial clusters and verify following:

- “1. Total capacity of each plant/unit in the industrial cluster;
2. Source and consumption level of water;
3. Capacity of CETPs and its functioning level and its adequacy;
4. Quality of the effluent entering the CETPs (Inlet) and coming out of the CETPs (Outlet);
5. Means and modes of disposal of effluent complying out of CETPs;
6. Whether the treated effluent is used for plantation or not and the present status of the concerned land.”

42. **Order dated 09.07.2015:** Tribunal noted directions issued by Rajasthan High Court in **WP No. 2481/2002 (supra)** as also the findings recorded by a joint Committee of Department of Environment, State of Rajasthan, RSPCB and National Productivity Council after visiting the site/area in February 2008 and recommendations made for future course of action for taking measures for regulation of industrial activities, for CETPs, farmers etc. The judgment referred to measures relevant in relation to CETP in para 11.3.3 of report dated January 2010 submitted by the said Committee which reads as under:

“11.3.3 Measures: CETP Societies

- ❖ *It has been observed that all the CETPs some or entire quantity of waste water was being discharged without treatment either because of under designed CETP or operational problems. It is recommended all CETPs should undergo adequacy study, performance evaluation study and undertake upgradation as per the study findings.*
- ❖ *There is lack of drainage system in the city to carry domestic waste water and storm water. Mixing of these domestic waste water and storm water increases the hydraulic load to the existing CETP. Therefore, the mixed industrial effluent is not treated properly by CETP/. Therefore, separate pucca closed/covered drainage system should be there only for industrial waste water. It should be connected from each of the industries and goes up to the CETP.*
- ❖ *The existing drainage system near CETO-III at Pali is neither fully lined nor covered allowing the mud & silt to get mix with the industrial effluent creating clogging of drainage system and high solid content in the waste water/ Therefore, all the drains should be made concrete lined and covered.*
- ❖ *It was found during the field studies that the sludge accumulated in the open drain carrying industrial waste water in the industrial estate was being taken out from the drain and was kept on the side of the drain. It was not properly collected and stored in dedicated place like CETP site. After drying, the sludge gets air borne affecting the human health. Further, during rainy season, it gets mixed with the storm water leading to contamination of soil, ground water and river water. Therefore, the **CETP Management should collect the sludge***

during cleaning of drain and recommended to treat it and dispose off in secured landfill facility. The sludge generated at the pre-treatment units and CETP should also be collected and treated and finally disposed in a secured landfill facility.

- ❖ *In order to keep record for better management and treatment of waste water, the CETP management is recommended to put in at least basic laboratory infrastructure and record daily, the quantum of waste water being received, treated, raw water/treated water characteristics in respect of basic 5 parameters (i.e. pH, TSS, COD, BOD and Oil Grease). For monitoring of other critical parameters it is recommended that each CETP should develop a schedule for effective monitoring and analysis in consultation with PCB.*
- ❖ **The present CETPs are having facility for Primary and Secondary Treatment of waste water and not able to meet the discharge standard for TDS.** *Therefore, the existing CETP should be upgraded to meet TDS requirement after putting Tertiary waste water treatment facility. The plant should be equipped with Reverse Osmosis plant to reduce the high TDs present in the treated waste water. In the absence of this, the treated water from this plant is neither suitable for drinking purpose nor for irrigation as it is neither meeting the drinking water quality nor the irrigation water quality. The RO system will provide opportunity to recycle the water for industrial water quality. The RO system will provide opportunity to recycle the water for industrial application. This will reduce the load on the present ground water.*
- ❖ **Whenever, the treated wastewater is not meeting the discharge standard, it should not be allowing into discharge into the river. There should be sufficient storage facility to store and re-treat the waste water.**
- ❖ *When the CETP management feels that due to technical reason, the CETP is not able to treat the waste water, they can inform the Industry Association to stop the production for defined period. However, the CETP management should take all preventive measures to operate the CETP in smooth & efficient manner.*
- ❖ *There should be dedicated alternative Power Supply arrangement to handle and run the CETP.*
- ❖ *The CETP Management should have power to give notice to the individual industries, if they fail in meeting the pretreatment standard or level, submission of treatment charges (as decided by the CETP Management & Government) and administrative procedure laid down by the CETP Management.*
- ❖ *The CETP Management should develop proper Laboratory Infrastructure to analyse water and waste water quality parameters. This will provide opportunity to regular testing of the Raw & Treated waste water and also provide opportunity for the farmer to get testing of their ground water sample for its quality testing to use for drinking & irrigation usage.*
 1. *The pollution Control Board Shall immediately make fresh inspection the Textile processing units at Pali and surrounding.”*

43. Tribunal found that in the backdrop of the above, applicant's grievance about industrial effluents generated by textile industries in clusters of Balotra, Jasol and Bithuja gains ground. Tribunal also referred to its order dated 15.05.2015 whereby it directed operator of CETP to enforce recommendation and submit action taken report as also prohibited industries which are members of CETP (respondents 8 and 9), not to carry on their industrial activities.

44. Having referred the same, Tribunal did not agree to modify earlier order but permitted them to seek NOC from CGWA for abstraction of ground water; approach RSPCB for grant of authorisation under HWMHTM Rules 2008, to consider applications of consent by RSPCB. Tribunal observed that with regard to upgradation of CETPs, further material has to be brought before it.

45. **Order dated 01.09.2015:** The request of modification of order dated 15.05.2015 whereby members of CETP operators were stoped from operation, was not accepted by Tribunal recording its reasons and the relevant extract reads as under:

"..... We reiterate that our main concern was/is the environment and we could see in the given situation as recorded in order dated 15.05.2015 that operations of the Members of the CETP Trust as they were carried out were not in environmental interest for the following reasons:

- 1. Ground water was being extracted without permission of CGWA in an over exploited region.**
- 2. The effluents generated by the industrial units was not being conveyed to the CETP in a closed conduit pipeline as recommended to ensure a fool proof system of conveying the effluents to the CETP without making any allowance for it to be spilled over, littered or thrown indiscriminately on the land.*
- 3. Each industrial unit had to follow the regime for handling the hazardous waste generated as per the Hazardous Waste Rules, which was not being followed.*
- 4. The effluents generated by the CETPs had to undergo a treatment in R.O. plant for the purpose of its reuse which would lessen the burden on the water consumption in an area which is*

thirsty of water and has little water to spare from its aquifers, and this was not being done.

5. If the trade effluent was to be discharged on the land surface it had to be discharged on the land having plantation developed by employing HRTS Techniques and trade effluents so released on the land should conform to the standards prescribed under Environment (Protection) Act, 1986 for disposal into inlet surface water vide order no. 215/216/PLG/948/2015 passed by the Rajasthan State Pollution Control Board (RSPCB), and these standards were not achieved.

We, therefore, directed the Prabodhan Samiti monitoring the activities of the CETP trust to take effective steps for enforcing the recommendations made by the joint inspection report of the RSPCB and CPCB dated 5th & 6th April, 2013 annexed to the application at annexure R/8/2 & 9/2 respectively before the operations of the Members of the CETP Trust could commence.

We also directed the submission of action taken report for the purposes of reviewing situation in the interest of Sustainable Development. We hope that this provides sufficient clarification for understanding the intent and meaning of our directions.

All said and done, **we do not see that the circumstances are propitious enough to allow Members of the industrial units of the CETP Trust to run.** Much needs to be done in the environmental interest particularly when the conduit pipeline is not completed, R.Os. have not been installed, HRTS Plantation is still a distant dream.

Now, we deal with the submission that approximately 60,000 employees are dependent on the Members of the industrial units of the CETP Trusts for their living and suspension of the operations of these units could directly affect their lives. This submission is made on instructions by the learned Counsel appearing for the CETP Trust. Countering this submission, learned Counsel appearing for the Applicant in original application submitted that as per information furnished by the Industry & Boiler Department of Rajasthan on 31.08.2015 there were only 4166 employees in the units registered i.e. those having 20 or more employees.

Learned Counsel appearing for the CETP Trust, however, submitted that there are only few such units which are registered and, therefore, no much weight could be given to the submission made on behalf of the Applicant in the original application. We can appreciate that few thousands of human beings are dependent on fate of the industrial units. Even mathematically, we can see that each of the 700 industrial units which are the Members of the industrial units of the CETP Trust in question would have roughly around 80 employees to support which in the context of earlier submission appears to be inflated figure.

However, in the context of environment, which everybody is obliged to protect, the loss sustained by the operations of the Member industrial units of the CETP Trusts carried on without complying with the recommendations made in the report is not the loss restricted to a particular class or group of persons but generally the loss to this Land and the entire Creation including humans dependent on it. It is

therefore, sacrilegious to do something which would be injurious to the environment consequently the creation at large. We have, therefore, only to reject the submissions made on behalf of the Members of the industrial units of the CETP Trust at this stage.

However, we grant liberty to the CETP trusts to move this Tribunal for granting permission to member units to run their operations as and when the circumstances would permit such industrial activity to be carried out without detriment to the environment.”

46. **Order dated 04.11.2015:** After referring earlier order dated 09.07.2015, Tribunal considered in detail the complaint made by proponents and State regarding situation created due to closure of industries and relevant extract of the order reads as under:

“On this background, we had directed joint inspection of the CETP units at Balotra, Bithuja and Jasol by Central Pollution Control Board and Rajasthan State Pollution Control Board and upon such inspections the following recommendations were made:

- 1.) *Practice of carrying effluents to CETP through tankers be discontinued and such effluents be carried to the CETP in closed conduit pipelines connected with electromagnetic flow meters.*
- 2.) *Member industrial units of the CETPs shall obtain consents under Hazardous Waste Management Rules, 2008.*
- 3.) *Member industrial units having borewell/s shall obtain permissions to abstract underground water from CGWA.*
- 4.) *ROs be installed in CETPs.*

We, therefore, directed member industrial units of the CETPs not to carry on their industrial activities unless they took necessary actions as per the recommendations made by the joint inspection team of Rajasthan State Pollution Control Board and CPCB.

After passing of these directions, it is revealed before us vide compliance report dated 29.10.2015 filed by the RSPCB that the RSPCB has received 637 applications from the member industrial units of the CETPs for grant of permission to extract ground water and 598 applications therefrom have been referred to CGWA for further consideration and 39 applications are under process for grant of referral letter; and 220 industries have mechanical flow meters and 23 industries have electromagnetic flow meters fitted at bore wells and construction work of laying closed conduit pipeline at Balotra and Jasol CETPs is complete and industrial cluster at Bithuja is already connected with the closed conduit pipelines and only 153 industries of Balotra and Jasol have been connected to the closed conduit pipeline; and 550 industries have adequate infrastructures and other facilities to get authorization under Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 and 184 industries out of these industries have been already issued such

authorization and the proposal for authorization of others are under consideration.

Admittedly, CETPs do not have functional ROs. However, it is submitted on behalf of the CETP Trusts for Balotra and Jasol that the work of installation and commissioning of RO is under way and RO plants will be duly commissioned by 31.12.2015 and as regards installation and commissioning of RO plants of CETP Trust at Bithuja, it is submitted that in view of the kind of work the industrial units connected to Bithuja CETP are carrying out, there is no need for installation of RO plant.

The State of Rajasthan has filed affidavit of the Secretary Department of Environment dated 04.11.2015 in pursuance to the directions passed by us on 02.11.2015. It refers to the earlier affidavit filed by the District Collector, Barmer dated 28.10.2015 as well as the compliance report dated 29.10.2015 filed by the RSPCB. This reference is made to reiterate a concern that due to the closure of units in Balotra, Bithuja and Jasol for a long time, the cases of illegal units coming up in or around these 3 places have been noticed and extended closure of the Textile units at these places would spread the mischief elsewhere. However, this affidavit maintains that the State is duty bound to take all possible steps to maintain law and order and to prevent illegal operations. While making the reference to ground reality that the persons obtaining livelihood directly or indirectly from the units in question are facing survival issues and the situation if continued as of today would result in further law and order problems.

The Learned Counsel appearing on behalf of the Applicant in the original Application reminded us of our commitment to the environment as expressed in order dated 01.09.2015 and obliged us to go through the directions passed by the Hon'ble High Court dated 17.02.2012 and 24.02.2012 in this context. It appears from the reading of the directions dated 17.02.2012 that the interim directions not to allow effluent discharge into the river Luni till further next date was passed in D. B. Civil Writ Petition (PIL) NO. 2844/2011 in reference to the communications dated 18.12.2004 of the RSPCB imposing a condition that treated effluent shall not be discharged in river Luni. On 24.02.2012, the Hon'ble High Court in the said writ petition confirmed the order dated 17.02.2012 particularly in view of the condition no. 3 mentioned in the order dated 24.02.2009, requiring discharge of treated effluent on land for plantation or horticulture.

The Learned counsel appearing on behalf of the State submitted that it is our commitment to have rule of law and as such it is everybody's-citizenry, State and the Constitutional Authorities-responsibility to see that the rule of law is upheld and maintained. It is necessary that everybody works for creating of congenial atmosphere.

We have, therefore, before us, on one hand, the environmental issue and on other of hunger spinning into issue of law and order. It is true that we have observed in our order dated 01.09.2015 that it would be sacrilegious to do something which will be injurious to the environment. However, the fact cannot be over looked that nothing is sacred for hunger. We have, therefore, to draw line between what is hunger and craving i.e. between the need and the greed. Only when we are able to draw such a line between the two, we believe and hope that it will create a congenial atmosphere for rule of law to persist.

Only when common people are hard pressed by hunger they are likely to cross the boundaries of Rule of law. Whereas the people with craving or greed to make money, love to cross the boundaries of Rule of law. We must, therefore, examine what has happened and what would happen in the given scenario of the closure of the industrial units.

If the industrial units which have shown their interest in making the applications for seeking permissions, authorizations required under law and have such infrastructure ready to fulfill the criteria for grant of such permissions and authorizations, and have connections to the closed conduit pipeline are not allowed to run or operate for want of commissioning of RO plants in the process of being installed it would only give impetus to spread of mischief all around in the area. Such a situation is certainly more dangerous to the environment as the malaise would spread and perhaps go unchecked making the restoration of environment difficult. We are also mindful of the fact that running of such industries is bound to adversely impact environment in some measure and the industries have also hurt the environment by their past conduct. If such industrial units are permitted to run till or about commissioning of RO plants subject to some reasonable conditions, the mischief would be curbed and the damage that they may occur would be assessable and better understood for remediation and restoration purposes; and more particularly the damage would be localized and for some measured period till or about the ROs are commissioned. **We, therefore, propose to stipulate a condition of requiring deposit of security amounts commensurate with their effluent discharge/water consumption with RSPCB which would be finally adjustable towards the environmental compensation each of such industrial unit will have to bear.** The Learned Counsel appearing on behalf of the member industrial units submitted that the industrial units are prepared to deposit the amounts as a security towards payment of environment Compensation as follows:

Sr. No.	Industrial units (kld)	Security Deposit Amount (Rs.)
1.	Less than 50 kld	2 lakhs
2.	50 to 150 kld	3 lakhs
3.	150 kld and above	5 lakhs

We, therefore, pass the following directions that only such member industrial units of the CETP Trusts shall be allowed to operate:

- 1.) Who have made application to CGWA for grant of permission to draw or consume ground water.
- 2.) Who have applied for grant of authorization under Hazardous Waste Management Rules and have all infrastructure necessary for such authorization in place.
- 3.) Who have valid consents to operate from RSPCB.
- 4.) Who have affixed electromagnetic meters at inlet of water supply and outlet of PTP.

5.) *Who have deposited the security deposit in the manner suggested by them hereinabove.*

This permission to operate shall remain valid till 09.01.2016 subject to commissioning of RO plants on or before 31st December, 2015 and Prabhodhan Samiti of the CETP Trust shall certify the compliance of the conditions stipulated by us for running the industrial units. The CPCB may carry out surprise checks for ascertaining the ground reality and submit a report on the next date.

We remind the industrial units that they have yet to respond to the show cause notice issued by us. On taking the comprehensive view of the facts including the environmental damage caused, we will be ascertaining the liability of each industrial unit towards environmental compensation including the compensation arising out of the violations of the orders and the security deposit would be liable to be adjusted towards such compensation.

The industrial units shall give undertaking to this Tribunal that they would make good the environmental compensation and abide by such further conditions as ordered.”

47. **Order dated 22.12.2015:** MA No. 1328 and 1329 of 2015 were considered whereby request for extension of time for construction of RO plants of 2.5 MLD and 6 MLD capacity at Balotra and Jasol CETPs was made. The applications were allowed and time was extended upto 31.01.2016. The relevant extract is as under:

“We allow these applications and grant time to the applicant to install both the ROs by 31st January, 2016. We have made it clear that if the RO plants are not constructed and become operational by 31st January, 2016 the applicants would be liable to pay a sum of Rs. Five Lakh as cost each. These applications are allowed without prejudice to the rights and contentions of the parties.”

48. **Order dated 29.02.2016:** Here Tribunal has noted the statement made on behalf of respondents 8 and 9 that **RO plants of 6 MLD and 2.5 MLD have already been commissioned** and this statement was affirmed by RSPCB.

49. **Order dated 04.10.2017:** In MA No. 1230/2016 in OA I, complaint in respect of functioning of CETP and HRTS facility (High Rate Transpiration System) was raised and considered. The relevant extract of order reads as under:

“Presently, our consideration is confined to the following issues raised by the Applicant:-

- 1. The breach in the HRTS facility*
- 2. The non-functioning of the CETP consequent to which unchecked discharge of affluent into River Luni.*
- 3. Frequent breach in the HRTS Wall.*

Both side agree to address only on these points keeping open the other issues.

The contentions of the applicant is that despite order passed by the Hon'ble High Court of Rajasthan on 17.02.2015 in writ action and subsequent order passed on 24.02.2009 that effluent shall be discharged on the land for plantation or horticulture and shall not be released into river Luni and the conditions imposed while issuing consent to operate on 31.01.2015 for Balotra, CETP Shall be strictly complied and that the treated effluent shall be discharged only on the land and not on river Luni or any other area, the respondents are committing breach of the orders. He seeks directions against Balotra Water Pollution & Research Foundation to prevent pecculation of effluent into river or HRTS Balotra. It is further concluded, notice issued on 19.10.2016 by Rajasthan State Pollution Control Board to Balotra Water Pollution & Research Foundation that HRTS facility is receiving indiscriminate effluent in an unscientific manner is not been prevented.

The joint inspection report finding in pursuance of the order of 23.02.2017 has not been also taken into account and attended. The permeats and rejects generated by the RO plant are in high ratio of 60:40. The rejects are sent to HRTS area through open drain for further Treatment by forced evaporation without ensuring as suggested in the inspection report. No plantation exists in the HRTS and by mere forced evaporation is being done against the finding of the inspection report and therefore appropriate action had to be taken. He has also referred to the breach of condition imposed by consent to operate in respect of Bithuja CETP plant and similar statement regarding contravention is highlighted. The District Collector has filed affidavit on two occasions and today another affidavit is filed pointing out that on 3rd October, 2017 also there was breach in the HRTS facility and it has caused pollution in the land in question destroying the standing crop and also the river in question. Photograph of the area in question is also produced.

Learned Sr. Counsel Mr. Pinaki Mishra had entered appearance on behalf of Respondent No. 5 & 6.

*We need not refer to the reply filed on behalf of Respondent No. 5 & 6 to the affidavit and main application in this case. But summary of it is that the **trust does not dispute that there have been certain instances of breach of HRTS facility and consequent to the breach there was a flow of treated effluent on the land in question.** It is however submitted that earnest efforts are being made by both the respondents and photographs produced to show that repair of frequent breaching of wall has been taken on top priority and obtaining opinion with regard to constructing a permanent non-*

breachable barrier has been undertaken and they have now commenced construction activity giving reinforcement with stone and other material. Photographs are shown of work and progress and document are filed with regard to tender for the purpose of completing HTPS.

Learned Sr. Counsel Mr. Pinaki Mishra submits that observation of the tribunal has been taken note of and they thought fit of laying concreting of the area of HRTS facilities to prevent percolation to ground water table and leaching in the area. Photographs are produced in this regard. Responding to such statement the applicant would submit that entire extent of land covered in the two HRTS facilities is 276 bigha and that entire area needs to be properly concreted to prevent percolation of effluents into the ground water table to prevent pollution and rendering the water table unusable. He would submit that recent breach on 3rd October, 2017 bears witness to the fact that there is an immediate threat of such breach in future unless these steps are taken.

Responding to it, Learned Sr. Counsel Mr. Pinaki Mishra submits that Respondent No. 5 & 6 have immediately taken action on learning about the incident and they have identified the farmers who were cultivating the land and grown the crops. They have started the process of compensating them and two of the farmers namely Mr. Baldev Singh and Mr. Bhagwat Singh have been compensated with Rs. 1 Lakh being the cost of the crop lost. He submits they have also issued receipt declaring that they have been compensated fully to the loss occasioned to them consequent to the breach. He submits that similar exercise is being undertaken with regard to all the farmers whosoever have suffered consequent to that breach.

Though we appreciate the voluntary remedial action taken by the Respondent no. 5 & 6 but in view of fact brought on record that there are frequent instances of breach in the HRTC facilities walls and consequent damage to the crops and flow of treated effluent in the river Luni appropriate protective action is necessary in future as well.

*In this regard, **we notice that all the joint inspection conducted has pointed to the fact that the RO discharge is being transferred through an open system which is also likely to be environmentally hazardous.** Therefore, it is necessary that appropriate direction be issued to ensure that the recommendation of the Joint Inspection report with regard to the management of RO shall strictly be complied by Respondent No. 5 & 6 through closed pipe. Similarly the flooring of the HRTC should be concreted or as recommended by the joint inspection committee to cover the entire area.*

Since, it is also pointed out to us that there is possibility of some mischief being committed consequent to which the breach occurring and that it is manmade rather than natural, we direct that appropriate fencing or such other provision be made to prevent miscreants entering the area to prevent such occurrences.

If the Respondent No. 5 and 6 do not choose to cover ground flooring by the matter suggested in the inspection report rather than concreting, then it must ensure that no damage shall occur and if any

breach happen the respondent No. 5 & 6 shall be liable to pay environmental compensation as the Tribunal may impose.

For the purpose of ensuring that there is no frequent instance of breach in the HRTS facilities or flow of treated or untreated effluent into the river lumi and to ensure that RO discharge is properly transferred from the CETP to HRTS facility. CPCB and SPCB shall conduct joint inspection periodically once in three months and if they find breach of any of the conditions issued they may file report in the Tribunal.

Though we place on record the submission on behalf of Respondent No. 5 & 6 that they have compensated two of the farmers who have acknowledged receipt of compensation.

The Respondent No. 5 & 6 shall file an undertaking that they shall compensate to the victims of the breach that has occasioned recently and for the instances in the past breach that has occurred, we feel they should be directed to deposit Rs 1 Crore in the case of Balotra and Rs. 50 lacks in the case of Jasola. The amount shall be deposited in the Rajasthan Pollution Control Board who shall also conduct an immediate survey on the area where the breach has taken place on 3rd October, 2017 and identify the victims and submit report to the tribunal with copy marked to the applicant and Respondent No. 5 & 6.

The undertaking given to the Tribunal and direction so far as it relates to them shall be complied by the Respondents 5 & 6 within a period of 4 weeks from now.”

50. **Order dated 03.08.2018:** Compliance affidavit filed by RSPCB pursuant to Tribunal's order dated 06.07.2018 was considered but it was pointed out by applicant that several recommendations made by Court Commissioner were not complied by RSPCB and nothing has been said in respect thereof in the compliance affidavit. This aspect was noted by Tribunal and further details were required from State of Rajasthan as well as RSPCB. Relevant extract of the order is:

“However, the Learned Counsel for the Applicant has submitted that in the action plan submitted by RSPCB, there are other recommendations made by the Court Commissioner which have not been included by the Member Secretary.

According to him, firstly, nothing has been said about the damaged pipeline of Gandipura which transport effluent to Bithuja CETP, as a result to which the effluent is discharged in river Luni. Further, it is said that the pipelines are spread out in the river bed of Jasol industries for transporting to Jasol CETP.

Secondly, concrete boundary wall of Bithuja HRTS land and HDPE lining has not been done. Immediate action is required to stop the percolation into ground water which would result in its contamination.

Thirdly, the RO Plant for Bithuja is still pending consideration before the Committee for Environmental Clearance. The same needs to be expedited.

Fourthly, the hazardous waste at Bithuja CETP is lying in open. It requires to be removed in a proper manner by transporting it to RAMKY landfill area.

Fifthly, there are about 100 ETP units operating in Balotra-Bithuja and Jasol but they do not dispose the hazardous waste scientifically nor they are performing the forced solar evaporation. It causes serious danger to the Environment.

All the aforesaid points mentioned by the Learned Counsel for the Applicant have been duly noted by the Member Secretary, PCB present in person.

The Ld. AAG submits that the recommendations made by the Court Commissioner are of different categories which would require different period of time for implementing the same. However, he has submitted that some work, in respect of implementation, has already started. He has also submitted that 10 days time may be granted so as to furnish the details and the time required for implementing different recommendations.

Therefore, the Learned Counsel for the State of Rajasthan is directed to give precise details for implementing the recommendations, including the one pointed out by the Learned Counsel for the Applicant, with a time frame in which the implementation would be completed.”

51. **Order dated 10.12.2018:** Tribunal noted failure on the part of Regulators and State in containing environmental pollution and instead their inaction/apathy was deteriorating the situation. Tribunal observed that it is a glaring example showing as to how serious the concerned officers of the State are towards increasing environment pollution which is taking place particularly, in district Barmer. Tribunal also imposed environmental compensation of Rs. one crore upon CETP Trust which has 214 industrial units at Bithuja as its members and Rs. 5000/- compensation on Regional Officer, RSPCB. Relevant extract of the order is:

“We are informed by the Applicant in person that on 4th December, 2018 a large quantity of effluent has been discharged into

river Looni. He further submits that no action whatsoever has been taken by the Pollution Control Board, against the defaulter CETP Trust, in exercise of the powers vested in it, under the relevant statute.

The Learned Counsel for the Trust of Common Effluent Treatment Plant (CETP) does not deny the fact of discharge of effluent into the river. However, he submits that the CETP is not responsible for it as certain other industries which are not connected to it and whose ETPs are functioning illegally, have passed their effluent into the pipelines of the Common Effluent Treatment Plant, which has resulted in discharge of water into the river.

The Learned Counsel for State PCB has submitted that after the discharge of the effluent into the river, a site inspection was conducted in presence of Mr. Sudhir Mathur, Plant Manager, CETP, Bituja. Thereafter, a letter has been sent by RO, PCB to SDO, Balotra with the request that action be taken under Section 133 CrPC against the Common Effluent Treatment Plant, Balotra. A copy of the said letter has been sent to the District Collector, Barmer and Member Secretary, State PCB, Jaipur. A bare perusal to the said letter reveals that though it is purported to be a letter to the SDO, Balotra for proceeding under Section 133 of CrPC but, no proper complaint has been filed before him.

It leaves no room of doubt that the so called steps taken by Mr. Vijay Katta, Regional Officer, Balotra, District Barmer is a mere formality. **As a matter of fact, having found on inspection that effluent has been discharged into the river, the Pollution Board itself ought to have taken steps in accordance with law against the persons responsible for it, including prosecution.** Besides, nothing further has been heard on the said application nor the Member Secretary, PCB, Jaipur has responded to the copy for information sent to him or proceeded to take any action against persons responsible for discharge of effluent into the river, which amounts to disobedience of interim order.

The submission made by the Counsel for CETP that some unauthorised primary treatment plant are illegal being operated by certain units, have passed their effluent through the pipelines of CETP Trust, which has resulted in discharge of effluent into the river, cannot be believed on the face of it. Even if it is so taken for the sake of argument, the management of the CETP Trust ought to have immediately taken action against such units.

The very fact that effluent is sent through the pipeline of the CETP goes to show that CETP has permitted them, without raising any specific objection to it.

In view of the aforesaid circumstances, **we deem it proper to impose environmental compensation of Rs. 1 Crore on CETP Trust,** which is having 214 industrial units at Bituja as its Members. The amount of Compensation shall be deposited within one week to the Central Pollution Control Board. **Further, on account of failure on the part of the Regional Officer, Balotra to take prompt and appropriate steps, we impose compensation on him of Rs. 5,000/- which shall be recovered from him and deposited with CPCB.** Further Regional Officer and Member Secretary of State

Pollution Control Board are directed to ensure that no discharge of effluent takes place in the river. Further, the State Pollution Control Board will submit treated effluent utilisation plan for irrigation and the standard prescribed in consents issued to not connected industries to CETP and as well as consent granted to CETP.

The Member Secretary and the Regional Officer, State PCB shall remain present before the Tribunal on the next date of hearing.”

52. **Order dated 07.01.2019:** Tribunal constituted a Committee to inspect the site and give factual report regarding functioning of ETPs, CETPs, HRTC etc. in the area of Bithuja, Balotra and Jasol.

53. **Order dated 06.03.2019:** Report of Committee constituted by order dated 07.01.2019 was considered and finding the situation very critical, Tribunal directed State Government to deposit Rs. 30 crore as an interim measure towards environmental compensation and further directed Secretary, Health and Agriculture to submit report in respect of status of health of villagers and agriculture and damages to be assessed. The relevant extract of the order reads as under:

*“2. We have considered the various observations made in the report, after carrying random inspection of the industries, inter alia, relating to CETP at Bituja, Balotra and Jasol, Solar Evaporation Ponds, the common problems in ETPs of the industries claiming ZLD and those which are not Members of CETP. **Committee has specifically pointed out the issues relating to adverse impact of industrial effluents and by consumption of river water, on health and agriculture. It has noted that:***

(a) The river Luni at Balotra is receiving industrial effluents and sewage as a result of which, it is not even fit for irrigation purpose.

(b) The installed Common Effluent Treatment Plants (CETPs) are not complying with the prescribed standards and the effluents are discharged into river Luni directly or indirectly.

(c) The solar evaporation ponds termed as High Rate Transpiration System (HRTs) are also not effectively performing and are occupying a huge area of land. Thus, not serving the purpose.

(d) The individual members of CETPs are also non-complaint.

3. In such a critical situation, we consider it appropriate to direct the State Government to deposit Rs. 30 Crores with CPCB within one

month, as an interim measure, towards environment compensation till complete details on health effect and damages to the agriculture are received. The said amount of Compensation may be later on recovered, by the State Government, from the defaulting industries.

4. We also direct Secretary Health and Agriculture State of Rajasthan to submit reports in respect of the status on health of villagers and agriculture and the damages be assessed to these causes within one month.

5. **We consider appropriate to pass further directions**, on the suggestion given by the committee, for improving the condition of damage caused to environment, as under:

5.1. The concerned department of State Government shall implement the action plan suggested by the committee which has been highlighted in the report from pg. 50 to pg. 59.

5.2.(a) Rejuvenation of river Luni by dredging/scrapping to remove hazardous industrial and sewage sludge.

(b) Canalization of the river at appropriate locations without interfering with riverine eco system.

(c) Installation of CCTV at strategic locations to check illegal and unauthorized disposal of effluents and solid waste into the river. All the actions shall be complied within 4 months.

5.3. (a) State Ground Water Board, RIICO and the State Industries department, along with Collector Barmer, should ensure that ground water supply to the industries, through tankers, is properly regulated and their sources should be labelled as well as status in respect of reserve should be ascertained. A report on the Status of availability of potable water to the affected villages and on availability of irrigation water may also be provided. This action should be completed within one month.

(b) The Borewells which have been contaminated by industrial effluents or river water, should be remediated or alternatively, Treatment/Remediation System may be installed for them at the cost of the industries for public use and this action be co-ordinated by the Secretary of State Water Resources. This action be completed in 4 months.

The respondent shall immediately take up all the above actions and file time-bound execution plan as directed within a period of two weeks and shall file an interim report within a month in respect of the progress made.

5.4. (a) The industries in the area should not be allowed to operate till they setup required ETP/PETP and meet the prescribed norms.

(b) The treated industrial effluent should be utilized by the industries. Action plan in this regard, with time bound execution plan, be approved from State Pollution Control Board, within one month.

(c) The State Pollution Control Board shall ensure that the CETPs comply with the standards and no waste water be discharged into the river, directly or indirectly. The industries should utilize treated

water from CETPs, instead of consuming fresh water reserves. This action shall be completed within 4 months.

The State Pollution Control Board shall upload the status of consent and compliance to these directions on its website, within one month from today.

6. *We further direct State Government to furnish a performance guarantee of Rs. 10 crores within a month, for implementation of action plan suggested by the Committee.*

7. *We, at this stage, do not contemplate any coercive measures against State PCB or Industrial Development Corporation or any other Department with the expectation that, the action plan will be implemented in true spirit and monitored through a robust surveillance and monitoring mechanism suggested under para-13 (page-59) of the report.*

8. *A copy of this order be sent to the Chief Secretary, Health Secretary, Agriculture Secretary, Secretary Environment, Government of Rajasthan, Divisional Commissioner Jodhpur, Collector Barmer and Chairman as well as Member Secretary State Pollution Control Board, through email forthwith.”*

54. **Order dated 04.09.2019:** The affidavit/compliance report submitted by Regional Manager, RIICO, Balotra, district Barmer pursuant to Tribunal's order dated 23.08.2019 was considered. Relevant extract of the order is as under:

“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 nonconforming 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 nonconforming area operating at Bituja, on the next date of hearing.”

55. Thereafter, various orders have been passed by Tribunal. Some of which had clearly disapproved and condemned official lethargy and inaction on the part of concerned authorities and also deprecated failure on the part of Regulators and other authorities in taking appropriate steps for prevention of discharge of polluted industrial effluent in water bodies causing pollution.

56. **Order dated 07.12.2020:** On 07.12.2020, a detailed order was passed and it would be appropriate to reproduce relevant extract thereof as under:

“4. Vide order dated 09.07.2015, after considering the compliance report and noting that the deficiencies continued, the Tribunal further directed remedial action by the State PCB, Central Ground Water Authority (CGWA) and the CETP Management. Relevant discussion in the said order is quoted below for ready reference:

“ xxx

xxx

xxx

... We had, therefore, directed Joint Inspection by CPCB and RPCB of the respondent no. 8 and 9 CETP units on 19th March, 2015. Upon such inspection, the recommendations were placed before us by the Joint Committee of RPCB and CPCB concerning the matter of running of CETPs. **From these recommendations, we could realise that (i) things at CETPs were not in order in as much as effluents were carried to the CETPs through tankers and not through the closed conduit pipeline fitted with electro-magnetic flow meters ii) the Industrial units and the CETPs constituted by them have not obtained consents under Hazardous Waste Rules, 2008 (iii) Bore-wells being operated in critical dark zone, presently described as over exploited area and iv) work of installation of R.O in CETP was stalled.** We therefore, directed the Prabodhan Samiti of CETP supervising the Management of the CETPs to enforce the recommendations and submit the action taken report before us and till that time we prohibited the industries which are the members of the CETPs respondent 8 and 9 in question not to carry on their industrial activities vide order dated 15 May, 2015. In the present application this very order is sought to be modified thereby permitting the said industrial units to resume their operations.

Learned Counsel appearing on behalf of the respondent 8 and 9 the CETP in question submits that they - each Member industry are prepared to move applications for consent to extract ground water and would also make appropriate applications to the Rajasthan Pollution Control Board for their registration as well as for consent to handle the Hazardous Waste. In this regard Dr. Arjit Day, Scientist (D), CGWA, Jaipur explains before us that **the areas of Balotra, Jasol and Bithuja have not been notified and as such the applications for registration and grant of permissions cannot be entertained. However, he submitted that this area falls in over exploited region which is the most serious condition of ground water development. According to him, the Geographical area in relation to the extent of water table has been classified into semicritical, critical and over exploited areas in the ascending order of severity of ground water depletion. Evidently, this area may not be called as dark critical zone but can be referred to as 'over exploited' area in relation to the ground water development. According to him, the CGWA is obliged to consider the applications of the new industries in such region for exploitation of ground water. However, as per guidelines in such areas, the water extensive industries cannot be permitted to exploit water for their needs. However, in the instant case, the industrial units have been existing there for over last 30 years and using ground water without having been registered with CGWA and without any NoC from CGWA.**

Learned Counsel appearing for the RPCB submits that such units have been paying water cess on self assessment basis in respect of the water consumed. In view of over exploited condition of the ground water table, it is just and necessary that all these units approach the CGWA for registration as well as for their NoC through the RPCB. This will facilitate the collection of realistic data regarding ground water exploitation as well as the authorities to take informed decision in matter of extraction of ground water and fixation of water cess on actual consumption basis. We, therefore, direct all industrial

units which are the members of the CETPs to approach CGWA through RPCB for registration of their bore-wells and for grant of NoC in accordance with law.

It is not disputed that waste is generated by textile processing units as an effluent is Hazardous Waste within the meaning of Rule 3(l) of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. Rule-3 (b) defines authorisation as a permission for generation, handling, collection, reception, treatment, transportation, storage, recycling, reprocessing, recovery, reuse and disposal of hazardous waste granted under sub-rule-4 of Rule-5. **These Textile units generate, collect and transport their effluents, which fall within the category of hazardous waste to the CETPs for further treatment. In our considered view, therefore, the submission made on behalf of the RSPCB that only a CETP would require authorisation under the Hazardous Wastes (Management & Handling) Act is without any merit. These textile industrial units which are the Members of the CETPs would, therefore, require authorisation under the said Rules.** We, therefore, direct all the industrial units which are members of Respondent – CETP to approach the RSPB for grant of authorisation.

Learned Counsel appearing for RIICO has submitted that the **work of laying conduit pipeline for transporting the effluents to the CETP will be completed by 31.07.2015. According to him, only 2km stretch of pipeline remains to be laid for its commissioning.** Thus, only the question of installations of R.O remains to be sorted out before us.

Learned Counsel appearing on behalf of the respondent CETP submitted that R.O. has specific function to reduce the TDS and bring it to the permissible TDS limits as prescribed. In the instant case he submits what is prescribed as the standard TDS level in ground water is 2100 mg/l on the basis of average TDS of ground water which is ordinarily 200 to 500 mg/l. **He submits that the TDS level in the ground water procured in the industrial units from the ground in the entire area of Balotra, Bithuja and Jasol is in the range of 2000 - 25000 mg/l** and proportionately therefore, the TDS standard which is universally applied needs to be modified and made realistic with the natural scenario in the area. It is for this reason, he submits he has made counter petition in the present case for declaring the standard parameters of TDS illegal. It appears none have replied this counter Writ Petition. Replies of the CPCB and MoEF in this Counter Writ Petition are of great consequence. Learned Counsel appearing on behalf of the MoEF and CPCB submit that replies will be filed on or before 10th August, 2015. At this stage, therefore, it will not be possible to debate and come to some conclusion as regards the realistic parameters of TDS in the ground water in the area. We will therefore, be bound to follow the standards of TDS for ground water prescribed as of now.

Learned Counsel appearing on behalf of the CETPs Respondent No. 8 and 9 submits that the Hon'ble High Court had rejected the prayers of the applicant to revoke consent to operate order dated 11-7-2011 passed in favour of Respondent No. 8 in view of the non compliance of conditions to operate and for discharging the effluents into river by way of sprinklers vide Judgement dated 30-5-2015. In view of such order, he submitted it should be the matter of concern for

this Tribunal as to whether the operations of each industrial units which are the members of the CETP should be stopped. He further submitted that **there are several industrial units in the area which do not have any consent and who operate in non-confirming areas and their operations add to the pollution of the environment.** According to him, the applicant has turned a blind eye to the illegal industrial units contributing to the pollution and for extraneous considerations sought to malign the Respondent No. 8. Learned Counsel appearing on behalf of the RSPCB submits that they had closed down more than 200 industrial units who have been operating clandestinely and contributing to the environmental pollution.

We direct the RSPCB to continue with these operations and publish on their website as well as in the local newspaper a notice inviting the industries to approach them for valid consent and warn them that if they fail to register their activities and obtain requisite consents the action of shutting down their units would follow. We also hope that the applicant and Respondent Nos. 8 and 9 and every industrial unit shall help the RSPCB in detecting such errant units. They may approach the RSPCB with whatever information they have about the clandestine operations of such units.

Learned Counsel appearing on behalf of the CETP however, submits that **they envisage plantation using HRTS techniques for utilisation of treated effluents.** In terms of the consent to operate dated 11-10-2013. We find from the joint inspection report of the CETP at Balotra that the CETP members have been toying with this idea of HRTS techniques since 1998 and nothing concrete resulted there-from. Even as of today, we find from the feasibility study report on impact of HRTS techniques on discharge of waste water in Balotra, Bithuja and Jasol submitted by Survey Technology Limited on 26-06-2015 in consultation and association with NEERI Mumbai, Techno-green Environmental Solutions Pune and Das Rasayanic Services, Solution Agra that it is a primary report based on a publication of the work at the experimental level in the international journal of Engineering Research & Technology Vol-II issued on 12th December, 2013 by Dhanya, G Jaya, Department of Science, University of Kerala, Thiruvananthapuram. This work of Dhanya and others is at the experimental stage and much has to emerge as regards the actual field conditions. **A fact, however, remains that the CETP has to have reverse osmosis plant of adequate capacity so as to come to the level of zero liquid discharge as expected in the consent to operate dated 11-10-2013.** We would have, therefore, to wait till further developments regarding the compliance of the other directions regarding extraction of ground water, registration of the individual units under Hazardous Waste Management Rules and laying of the conduit pipeline including fixation of electro-magnetic flow meters at the points of extraction of ground water and at the points of delivery of the effluents through the pipeline. This will ensure to the great extent the further damage to the environment as well as the quantification of such damage as a result of certain things being not in place. Learned Counsel appearing on behalf of the CETP Respondent No. 8 and 9 submitted that they are prepared to commence with the work of installation of R.Os at their cost subject to receiving of sanctions to the grant of financial aid from State and Central Governments. In this context, statement is made by the Learned Counsel appearing on behalf of the MoEF, Central

Government that sanction in principle has been granted to the project at Balotra for financial aid and such sanction to the grant of financial aid in respect of Jasol is under consideration and is likely to be granted within 15 days. Necessary instructions in this regard may be obtained to make a concrete statement.”

5. *Vide order dated 04.10.2017, the Tribunal took cognizance of the breach of High Rate Transpiration System (HRTS) reported by the applicant and non-functioning of CETPs, resulting in discharge of untreated effluents in river Luni and directed remedial action by the concerned authorities. It was noted that such breaches were happening frequently.*

6. *On 5.05.2018, the Tribunal appointed a Commissioner (Dr. Ajay A. Deshpande, former Expert Member, NGT) to verify the compliance status and furnish an independent report. Accordingly, the Commissioner visited the site and submitted its report dated 24.05.2018 with following summary:*

“G. SUMMARY

32. *The commission visit observations can be summarized as follows;*

a. CETP:

- i. CETPs at Balotra, Jasol and Bithuja are not adequate to treat the consented effluent generation from the respective catchment area and hence, are being voluntarily operated at reduced hydraulic capacity. Even after this, the total effluent is not able to be treated as per consented norms, for TDS.**
- ii. The CETPs are being upgraded with addition of RO plants and more mechanical foggers/sprinklers but the exact time frame for such up gradation is still not finalized. Such upgradation needs to be holistically examined in order to ensure the long term efficient operations of the plant.**
- iii. The RO rejects along with partially treated effluent from CETP is taken to solar evaporation ponds in closed HDPE pipe line now. CETP has also laid down HDPE effluent collection pipeline network with SCADA system for better management of incoming effluent. This has reduced the leakage, seepage and storm water mixing significantly.**
- iv. Large quantities of hazardous waste are stored in CETP areas, which requires speedy disposal. The ponds at Balotra are full of effluent and it cannot be seen how much HW is accumulated at the bottom of these tanks. The Hazardous waste handling needs to be improved by effective drying practices and also, proper characterization and regular disposal.**

b. HRTS: (Evaporation ponds)

- i. There is no HRTS system or any plantation/agriculture for disposal of treated effluent.*
- ii. The solar evaporation ponds at Bithuja, Jasol and Balotra (old HRTS site) are unlined except one (1) pond. The other lined pond is subsumed by a larger unlined pond. There are reasonable chances that the stagnant effluents at these ponds contribute to seepage/leakage of effluents to adjoining river*
- iii. As the existing ponds are not adequate to cater even the present reduced effluent, additional area has been allotted by the solar evaporation ponds being developed at new location at Khed near CHWTSDF which are being HDPE lined.*

C. Effluent in river:

- i. Some of the effluent collections and conveyance pipelines leading to Jasol and Bithuja CETP are passing through the river bed, which are open and prone to any damage resulting in effluent discharge in river. It is necessary to immediately reroute them, may be along the road.*
- ii. There are symptoms of effluent and hazardous waste presence in the River at certain locations at detailed in Report. RPCB needs to issue directions to lift this effluent and hazardous waste for necessary treatment and disposal.*
- iii. There was continuous seepage from the ponds near the stone pitched section of old HRTS entering in the river, which needs to be diverted back for treatment.*
- iv. There are at least two reported incidents of 5.3.2018 and 17.4.2018 where RPCB has observed breach/bypass resulting into discharge of effluent in river.*
- d. There is a huge gap of scientific and technology based regulatory interventions from RPCB and CPCB, in terms of characterization of CETP influent and effluent, CETP unit process performances, HRTS Vs Solar evaporation ponds, consent conditions, reuse of RO supernatant for industrial purposes, issuance of directions for reduced hydraulic capacity of CETP, hazardous waste handling and characteristics.*

33. Way forward;

Thought scope of commission is very specific, following points would be helpful for improving overall environmental management in the industrial areas.

- a. The entire industrial water use in this area is based on ground water. This area is already a critical area from ground water availability point of view. It is*

necessary to make it mandatory to reuse the RO supernatant for industrial purposes as it has reduced TDS of 3-5000 mg/lt against 8000- 20000 in the natural ground water. This will not only reduce groundwater extraction but also, reduce the effluent sent for solar evaporation, besides making CETP operations more viable.

- b. Individual industries need to segregate their effluent for separating very high TDS streams like silicate streams, which can be separately treated by CETP to reduce TDS load on CETP and RO plants.*
- c. Individual industries who have installed own ETP and not the members of CETP need to be regulated effectively by conducting surprise audits of their claims for effluent disposal by solar evaporation. There are more than 100 units and they are important part of environmental management of the industrial area. Previously, stringent action including closure has been taken by RPCB against many of these units.*
- d. It is necessary to check the stability of the ponds through a structural safety audit urgently and take suitable strengthening measures. In the meantime an electronic surveillance along with watch and ward shall be in place to identify any breach and leakages.*
- e. The construction of ponds at new site near CHWTSDF shall be expedited and put into use after necessary approvals. The existing unlined ponds at Balotra shall be gradually discontinued simultaneously. RPCB needs to assess the adequacy of ponds using the solar evaporation rates for the particular type of effluents rather than a straight jacket formula.*
- f. ZLD plant up gradation shall be expedited and till that time the CETPs may be operated even at lower capacity in proportion to the solar evaporation pond capacities.*
- g. A holistic appraisal of the entire effluent management in the industrial area including treatment, disposal and reuse shall be undertaken to ensure that proposed up gradation is sustainable in long term. One option for examination could be to treat this industrial effluent along with domestic wastewater of Balotra.*
- h. RPCB has a skeleton staff and infrastructure at Balotra. There is no full-fledged laboratory and samples are sent far away to Kota. RPCB needs to strengthen their scientific manpower and infrastructure at Balotra on priority. RPCB need to have an enforcement policy of the RPCB with a focus on scientific appraisal and evaluation of the pollution control systems and status of environment for taking science based informed regulatory decisions.”*

7. On 6.7.2018, the Tribunal considered the report and directed that the same be acted upon by the State PCB to ensure that the area is made free from pollution. The compliance status was further considered on 03.08.2018 as follows:

“ xxx

xxx

xxx

However, the Learned Counsel for the Applicant has submitted that in the action plan submitted by RSPCB, there are other recommendations made by the Court Commissioner which have not been included by the Member Secretary.

According to him, firstly, nothing has been said about the damaged pipeline of Gandipura which transport effluent to Bithuja CETP, as a result to which the effluent is discharged in river Luni. Further, it is said that the pipelines are spread out in the river bed of Jasol industries for transporting to Jasol CETP.

Secondly, concrete boundary wall of Bithuja HRTS land and HDPE lining has not been done. Immediate action is required to stop the percolation into ground water which would result in its contamination.

Thirdly, the RO Plant for Bithuja is still pending consideration before the Committee for Environmental Clearance. The same needs to be expedited.

Fourthly, the hazardous waste at Bithuja CETP is lying in open. It requires to be removed in a proper manner by transporting it to RAMKY landfill area.

Fifthly, there are about 100 ETP units operating in Balotra-Bithuja and Jasol but they do not dispose the hazardous waste scientifically nor they are performing the forced solar evaporation. It causes serious danger to the Environment.

All the aforesaid points mentioned by the Learned Counsel for the Applicant have been duly noted by the Member Secretary, PCB present in person.”

8. Since the default was continuing, vide order dated 23.08.2018, the Chairman and the Member Secretary of the State PCB were required to appear in person. Vide order dated 10.12.2018, the Tribunal noted that **there was huge discharge of untreated effluents in river Luni on 04.12.2018 which was not disputed by the CETP Trust.** Though the stand of the CETP Trust was that industries functioning illegally were responsible, this plea was rejected. **The CETP Trust having 214 industrial units was required to pay environmental compensation of Rs. 1 crore for restoration of environment.**

9. On 07.01.2019, a joint Committee of Dr. Ajay A. Deshpande, former Expert Member, NGT and Professor A.P. Singh, Professor and Dean, BITS Pilani was required to examine the functioning of 111 ETPs and 03 CETPs, HRTs and the other facilities and submit updated status on the ground.

10. Accordingly, the joint Committee visited the sites on 24th – 25th January, 2019 and submitted its report dated 19.02.2019. The issues of concern framed by the Committee were mentioned in the report as follows:

“3. Issues of concern:

- i. River Luni is polluted due to discharge of industrial effluents and sewage disposal.**
- ii. Polluted water discharged/flowing into River Luni and illegally discharged in surrounding areas are a constant threat for the riverine system of Luni, health of villagers and to the agriculture.**
- iii. Installed CETPs not achieving zero liquid discharge (ZLD) and effluents being discharged into River Luni directly or indirectly.**
- iv. The functioning of solar evaporation ponds (so called HRTS) are not effective. Allocating more number of solar evaporation ponds with increase in land area of RO reject is not an effective solution.**
- v. Industries with individual ETPs and solar evaporation do not comply fully with the environmental quality standards.**
- vi. Industries discharging effluents to CETPs do not comply fully as they do not have primary effluent treatment plants (PETPs).”**

11. The Committee referred to the background of deficiencies in working of CETPs, HRTS resulting in discharge of untreated effluents in the river. The Committee carried out inspections of the CETPs, Solar Evaporation Ponds (SEPs), river Luni and had interaction with the villages and farmers. The Committee found huge gap of scientific and technology based regulatory interventions from RPCB and CPCB, in terms of characterization of CETP influent and effluent, CETP unit process performances, HRTS Vs Solar Evaporation Ponds, consent conditions, reuse of RO supernatant for industrial purpose, issuance of directions for reduced hydraulic capacity of CETP, hazardous waste handling and characteristics.

12. The observations of the Committee with regard to functioning of the CETPs are:

“7. Observations:

7.1 Common Effluent Treatment Plants (CETPs):

The Committee visited all the three CETPs located in Balotra, Jasol and Bithuja to study following aspects;

- a. Installed and utilization capacity
- b. Inlet and outlet effluent quality
- c. Stipulated consent conditions
- d. Unit wise operations

7.1.1 CETP located at SPL-2, RIICO Industrial Area, Khed Road, Balotra:

- i. This CETP is meant for receiving effluent from 403 industrial units of allocated wastewater discharge capacity of 15.33 MLD. There are 120, 114, 139 and 30- member units which are located in 1st phase, 2nd phase, 3rd phase and 3rd phase Ext. industrial area of Balotra with 3.031 MLD, 4.614 MLD, 6.376 MLD and 1.312 MLD allocated wastewater discharge capacity respectively. These industrial units are mainly textile processing units dealing with Dyeing, Printing and Finishing.
- ii. Installed capacity of CETP is 18.00 million litres per day (MLD). At the time of inspection, the inlet flow was about 6.3 MLD.
- iii. Though the plant has installed 6.0 MLD capacity RO Plant, it is not satisfying the overall full capacity treatment requirements of member industrial units and therefore presently, these industries are operating with 50% of its capacity. Also, scientifically whether this RO plant is capable to operate there is a need to assess at its full capacity of 6.0 MLD. Approx. 1.5 MLD RO permeate water has been used by member units using tankers out of 8-9 MLD raw industrial wastewater. Remaining waste water is going to Solar Evaporation Ponds (so called HRTS). **Thus, ZLD condition is not being achieved/fulfilled by the plant at all. It is essential that a scientific mechanism is developed in association with RIICO for reutilization of treated water with the industries. It is also necessary that RSPCB must conduct frequent surprise checks (at least fortnightly) to verify influent and effluent characteristics along with their flow observations at each unit level of the plant (i.e. primary, secondary, tertiary, inlet to RO plant, outlet of RO plant with permeate and RO reject, solar evaporation ponds etc.) conditions.** All data pertaining to frequent checks must be recorded and made available in RSPCB office at Balotra which can be verified by concerned agencies wherever needed.
- iv. It has been informed that work order of 18.0 MLD capacity RO Plant has been given on 05.07.2018. However, its installation process including construction of foundation of unit, procurement of machinery/ equipment/ membrane etc. is very slow which clearly indicates that **non-compliance of CETP standards would continue to damage environment and ecosystems without adequate ZLD process completion through heavy loadings of untreated waste water on SEPs.**
- v. The consent granted to operate this CETP (Annexure R2) is valid till 31.7.2022 and stipulated with condition to dispose quantity of treated effluent as well as RO Reject into solar

evaporation ponds (so called High Rate Transpiration System). **The disposal of treated effluent is being done at 274 Bigha land in Ambey Valley Area and 175 Bigha land in village Khed.**

- vi. The technical data of CETP is provided at Annexure R-3. Though this CETP is designed based on raw water characteristics with TSS 800mg/L; BOD 500-700 mg/L COD 1300-2000 mg/L, surprisingly the actual average values of these parameters for the last six months have been received at the plant with 4017 mg/L (@2470-6250 mg/L); 3400 mg/L (@2602-3904 mg/L); 660 mg/L (520-840 mg/L) respectively. **These values are much higher than the designed values of TSS and COD parameters which clearly shows that plant is not designed appropriately and not complying with the standards (Annexure R-3(1) & 3(2)).**
- vii. **The flow measuring meter is not installed at the inlet of CETP, the same has been installed at inlet of equalization tank which may not record the actual industrial influent discharge received from member units.** It is suggested that flowmeter should be installed at the very inlet of the plant so that correct and actual recording of flow from all member units can be ensured in order to assess the diurnal variations and its trends.
- viii. As per the authorization consent given by RSPCB (validity of two consents up to 30.04.2020 & 31.05.2023) to dispose hazardous wastes to TSDF site for CETP Balotra is for the quantity 280 MT per month + 350 MTA (1.e. 3710 MT annually), **CETP Balotra has disposed hazardous wastes to TSDF site of about 9697 MT from April 2018 to January 2019 which is much beyond the authorisation limits (Annexure R-4).**
- ix. **This plant is 'non-complying' with respect to;**
- a. **Not meeting the standards with respect to some parameters such as BOD, COD (condition 5 given in the consent)**
 - b. **Forced evaporation by Mist evaporators is not effective in handling the total inlet quantity of R.O. rejects effluent. Also, location of Mist evaporators provided in solar evaporation ponds are not proper as they have been provided at the embankment boundary adjacent to others land/ farm or the river bank.**
 - c. **Sludge was found stored haphazardly and spillages have been observed at some locations within the premises of CETP.**
 - d. **Though upkeep of this plant is satisfactory with respect to maintenance of machinery, disposal of**

- effluent to solar evaporation ponds is not effective in terms of the final disposal.*
- e. Hazardous wastes disposal to TSDF site is much beyond the authorisation limits prescribed by the RSPCB. Though authorization limit is about 3710 MT annually but disposal has been taken place of about 9697 MT from April 2018 to January 2019. This could be due to sludge stored in the CETP premises and directions by NGT.**
 - f. 2-solar evaporation ponds have been newly constructed in Khed area in addition to 7 in use solar ponds. However, no consent/approval has been taken to construct these newly constructed ponds (Annexure R-5).**
 - g. During the discussions, villagers claim that these solar evaporation ponds are leaking as a result contaminating agricultural farms, groundwater and TSDF site which was also observed by the committee members during the site visit in Khed area ponds.**

7.1.2 CETP located at Samdari Road Bithuja:

- i. This CETP has an installed capacity of 30.0 MLD to cater need of 214 industries located in Bithuja (including Gandhipura) with about 17.12 MLD of discharge. These industrial units are mainly textile processing units dealing with Mercerising and Washing processes. At the time of inspection, the inlet flow was about 8.23 MLD.*
- ii. The consent granted to this plant (Annexure R-6) was valid up to 31.08.2017 and stipulated with condition to dispose quantity of trade effluent into land, horticulture and other uses.*
- iii. The technical data of CETP is provided at Annexure R-7.*
- iv. Though the Plant manager has reported that they were recycling 40% of the treated waste water back to industries for reuse, the flow meter for reuse of treated waste water to member industries was not installed and hence it cannot be verified. Also, actual flow received from stabilization ponds of CETP Bithuja to Solar evaporation ponds are not recorded accurately. The inlet flow measurement has been started from 14 January 2019 (2 weeks before the scheduled visit of inspection team). There was no mechanism of inlet flow measurement earlier.**
- v. It is important that RSPCB must conduct frequent V. surprise checks to verify influent and effluent characteristics along with their flow observations at each unit level of the plant (i.e. primary, stabilization ponds,*

solar evaporation ponds) conditions. All data pertaining to frequent surprise checks must be recorded and made available in RSPCB office at Balotra which can be verified by concerned agencies wherever needed.

- vi. **The peripheral walls of waste stabilization ponds were found damaged at many places which are required urgent as to avoid any seepage repair/maintenance so overflow.**
- vii. *The stone pitching was found at outer side of pond no. 1 of solar evaporation ponds of CETP Bithuja from one side of earthen bund only.*
- viii. **Plantation in the CETP premises was not found adequate.**
- ix. *The details of sludge transported & stored at storage yard are not maintained properly.*
- x. **Large quantities of caustic sludge with hazardous wastes are also accumulated at the bottom of ponds/stabilization ponds Used for CETP at Bithuja. This also clearly indicates that different units of this CETP are non-complying and partially treated industrial wastewater have been contaminating not only river Luni (surface water) but could also contaminate groundwater and soil/land. There is a need to speedy installation of caustic recovery plant.**
- xi. **This plant is 'non-complying with respect to;**
 - a. **The consent granted to this plant was valid up to 31.08.2017 and stipulated with condition to dispose quantity of trade effluent into land, horticulture and other uses.**
 - b. **Not meeting the standards (condition 5 given in the previous consent).**
 - c. **Plantation in the CETP premises was not found adequate.**
 - d. **Upgradation of CETP for caustic recovery.**
 - e. **The disposal of trade effluent is being done presently at 32 Bigha land. Not utilizing effluent with effective high rate transpiration system (HRTS). (Condition 17 of the consent granted). No record of reutilization of treated wastewater was found.**
 - f. **It has been observed that just behind stabilization ponds, a lot of sludge has been covered with external soil/sand just before Committee visit to the site. It appears sludge handling is not appropriate. Actual ground**

condition used to be different than that at the time of inspection of announced visit of the committee members.

- g. A number of newspapers have reported that illegal discharge of effluent into river used to takes place, for which RSPCB has issued notice to CETP authorities very recently (Annexure R-8). Also, illegal discharge into river catchment from solar evaporation ponds has been observed as shown in Fig. 2(a) and Fig 2(b). The illegal discharge was also confirmed by using satellite images which has been accessed by the committee on 17.02.2019 just before submitting this report.*

7.1.3 CETP located at Jasol Laghu Udyog Mandal, Nakoda Road, Jasol:

- i. This CETP is meant for receiving effluent from 112 industrial units of allocated wastewater discharge capacity of 4.63 MLD. These industrial units are mainly textile processing units dealing with Dyeing, Printing and Mercerizing.*
- ii. Installed capacity of CETP is 4.0 MLD (another unit of 2.5 MLD is not in operation). At the time of inspection, the inlet flow was about 1.30 MLD.*
- iii. It has installed 2.5 MLD capacity RO Plant. Approx. 0.5 MLD RO permeate water has been used by member units.*
- iv. The consent granted to operate this CETP (Annexure R9) is valid till 31.1.2022 and stipulated with condition to dispose trade effluent quantity of 1.5 MLD through solar evaporation and remaining 2.5 MLD to be used through recycling. The disposal of treated effluent is being done at 17 Bigha and 17 Biswa land.*
- v. The technical data of CETP is provided at Annexure R-10.*
- vi. This plant is 'non-complying' with respect to;**
 - a. Not meeting parameters such as BOD, Chloride and Sulphates particularly (condition 11 given in the consent). Thus, effectiveness of SBR unit needs to be assessed and monitored closely. It is necessary that RSPCB must conduct frequent surprise checks (at least fortnightly) to verify influent and effluent characteristics along with their flow observations at each unit level of the standards with respect to some plant (i.e. primary, secondary, tertiary, inlet to RO plant, outlet of RO plant with permeate and RO reject, solar evaporation ponds/ mist splasher etc.) conditions. All data pertaining to frequent surprise checks must be recorded and made available in RSPCB office at Balotra which can be verified by concerned agencies whenever needed.**
 - b. Water flow measuring meters at inlet to CETP /for tertiary treatment & RO rejects found not working.**

- c. **Details of waste water treated/reused/forced evaporated (HRTS) has not been maintained properly as not correct correlation exists.**
- d. **Sludge drying beds found fully filled with sludge.**
- e. **Scum formation was found observed in equalization tank which indicates that aeration system was not working properly.**
- f. **Though upkeep of this plant is satisfactory with respect to maintenance of machinery, disposal of effluent to solar evaporation ponds and forced evaporation by Mist evaporators/splasher are not effective.**
- g. **The stack height of the D.G. Set (320 KVA)-01 is not adequate.**
- h. **Plantation in the CETP premises was not found adequate. They should develop green belt using treated effluent.**
- i. **It has been observed that bank of Luni (behind this CETP) has been filled with external soil/sand and labelled through JCB just before Committee visit to the site. It appears all illegal disposal were covered to hide the real status of the site as shown in Fig. 4.**
- j. **There were few discharge pipes which are connected from tanks to outside towards bank of river Luni as shown in Fig. 5. When it was asked about purpose of these pipes, no satisfactory answer was received from CETP officials.**
- k. **The illegal discharge in the river was observed at the location behind CETP Jasol by using satellite images which has been accessed by the committee member on 17.02.2019 just before submitting this report as shown in Fig. 6.**

7.1.4 Solar Evaporation Ponds:

a. Solar Evaporation Pond (HRTS-1 Old) Balotra:

- i. **It is situated on the bank of river Luni and across this on the other side of river Jasol industrial area is located. Discharging of untreated wastewater from legal/illegal industries in the Balotra zone is a regular phenomenon.**
- ii. **The solar evaporation ponds at Balotra (old HRTS site) are unlined except one (1) pond. The other lined pond is subsumed by a larger unlined pond. Rest 04 ponds were not found lined. Seepage of waste water towards River Luni was also observed. The stone pitching at the boundary walls of lagoons was not sufficient.**
- iii. **There are reasonable chances that the stagnant effluents at these ponds contribute to seepage/leakage of effluents to adjoining river. Committee found that seepage is taking place from these ponds which is joining river Luni as shown.**

The seepage into river can also be observed clearly through satellite images which has been accessed by the committee 17.02.2019 just before submitting this report as shown in Fig. on 7.

- iv. Similarly, discharge of waste water from Solar Evaporation Ponds (so called HRTS) in the river is also regular phenomena. Surface evaporation rate in this region is about 5 mm to 6 mm per day. The area of the ponds is insufficient to evaporate the highly polluted waste water even after installation of mechanical mist evaporator. Installation of these mechanical mist evaporators are not effective at all. Ponds are also not fully lined with the impervious material.**
- v. Industries operating on the bank of river blame, SEPs authority and SEPs authority blame industries, for the presence of industrial waste water in the river.**

b. HRTS near TSDF Site, Khed Village:

- i. These solar evaporation ponds are lined with HDPE sheets but are not completely impervious because of damage of lining (improper jointing etc.). Thus, highly polluted water is continuously percolating in the soil and contaminating agricultural lands. The area of the ponds is not sufficient to evaporate this huge amount of wastewater. In fact, solar evaporation technology for evaporation of huge amount of wastewater is not suitable as large area of land is required.**
- ii. Solar evaporation ponds were found almost completely filled with treated effluent. However, no boundary wall was found around the periphery of these solar evaporation ponds.**
- iii. The major concern is related to permission/authorisation of these SEPs by RSPCB. Even after specific request, the Committee was not shown copy of such permission by RSPCB. It was mentioned that the existing consent of CETP has HRTS condition hence the same consent is applicable and valid for this site. However, the committee is of opinion that as the CETP and new SEPs are located at distance, the same consent which is a site specific document, is not applicable at new SEPs site which is more than 10 km away. Another concern is that according to CPCB guidelines for TSDF, published under Hazardous Waste Rules which are part of rules as per the special provisions of HW Rules, there needs to be a buffer of at least 500m from TSDF. And therefore, such installation of SEPs next to TSDF is not only violation of HW Rules, but pose significant risks to TSDF operations and also, the environmental status of the area. The RSPCB surprisingly has not taken any regulatory steps as required by the law.**

- iv. **2-solar evaporation ponds have been newly constructed in Khed area in addition to 7 old solar ponds. However, no consent/approval has been taken to construct these newly constructed ponds as was reported at the time of inspection. (Annexure R-5).**
- v. **It may be noted that a Petroleum Refinery has also been proposed in this area. The construction is in progress which may start soon. It may further lead to the establishment of petroleum-based industries in the region producing additional hazardous wastes.**
- vi. **A number of newspapers have reported that illegal discharge of effluent into river used to takes place, for which RSPCB has very recently issued notice to CETP authorities as already discussed in sec 7.1.1 [Annexure R-8).**
- vii. **It has been observed that seepage/leakage of effluents from SEPs to adjoining areas are taking place continuously. The HDPE liners of all lagoons were found punctured/tear off from the boundary wall side at HRTS II at Village- Khed, Balotra.**
- viii. **During the discussions, villagers claim that these solar ponds are leaking as a result contaminated water has been impacting agricultural farms and groundwater which was also observed by the committee members during the site visit in Khed area ponds as shown in Fig. 8. Even contaminated wastewater is seeping in the premises of TSDF site. The seepage agricultural land and within the premises of TSDF site can also be observed clearly through satellite images which has been accessed by the committee member on 17.02.2019 just before submitting this report as shown in Fig. 9.**

c. Bithuja Solar Evaporation Ponds:

- i. **It is also situated very close on the bank of river. The discharge of untreated waste water from both legal/illegal industries in the Bithuja area is a regular phenomenon.**
- ii. **Similarly, discharge of waste water from Solar Evaporation Ponds (so called HRTS) in the river is also regular phenomena. The illegal discharge was also confirmed by satellite images which has been accessed by the committee member on 17.02.2019 just before submitting this report as shown in Fig. 10. Fig. 11 also demonstrates illegal accumulation of industrial wastewater.**
- iii. **The area of the ponds is insufficient to evaporate the highly polluted waste water even after installation of mechanical mist evaporator. Installation of these mechanical mist evaporators are not effective at all. Ponds are also not fully lined with the impervious material.**
- iv. **Though the solar evaporation ponds at Bithuja are lined, it is not very effective due to absence of geo-**

synthetics at the bottom of the ponds, which is necessary not only to provide stabilization of top lining but also to prevent blooming of top membrane. As a result, top lining membrane get punctured at several locations. Thus stagnant effluents at these ponds contribute to seepage/leakage of effluents to both ground water and adjoining river.

7.2 xxx.....xxx.....xxx

7.3 Common problem in individual ETP industries claiming ZLD and not member of CETPs

- *Some industries have not provided meter at RO reject, RRO feed & RO permit for calculation of waste water treated through RO.*
- *There is possibility of using flexible pipes by some of the industries to transfer settled sludge which is generated from primary clarifier from one tank to another underground tank or for transfer of RO reject or to transfer waste water*
- *Most of the industries are not maintaining the record of chemicals being used.*
- *Most of the industries are not maintaining the record of RO membrane change or its disposal of TSDF.*
- *Non-technical personnel are employed for the operation of ETP plants.*
- *No Hazardous waste storage site is properly maintained in the premises of industry.*
- *Many of the ETP industries are not disposing their sludge to designated site (i.e. TSDF Khed Road, Balotra as observed from the records). Disposal of sludge from ETP industries has also been found irregular in some of the industries. In fact, the generation of HW sludge is one of the performance indicators of efficient ETP operation.*
- *There are no efforts from RSPCB to scientifically assess the performance of ETPs through random audit including unit process performance, HW audit, chemicals used and energy consumed etc.*
- *DG set provided with acoustic enclosure/ closed room but with inadequate stack height.*
- *Boiler used in the industry are not updated as per fuel used and hence chimney plume may contain high concentration of un-burnt hydrocarbon & SPM.*
- *The solar evaporation tank and the fogging type nozzles are not appropriate for disposal of RO reject and installed fogging type nozzles are inadequate to evaporate RO Reject as shown in Figs. 18-19.*
- *The periodical check of the effectiveness of ETPs by examining the physico-chemical parameters of the influents and effluents of industrial ETP units are not found.*

7.4 Common problem in industrial areas:

- ***At some places, in industrial area of Balotra, accumulation of industrial waste water observed on road side due to bursting/leakages from CETP conveyance pipe line as shown in Fig. 20, which might be running under pressure instead of under gravity. The functioning of all pipelines must be audited at proper interval as per design specifications by the well-recognised agency.***
- ***In Balotra industrial area, the RIICO storm water Drain has been found full of industrial wastewater at several places due to overflow from CETP conveyance system and illegal discharge from the industries as shown in Fig. 21.***
- ***Hazardous and Non-hazardous wastes are dumped in industrial area along the road as shown in Fig.22***

7.5 Suggestions to improve performance improvement of CETP

- *In the influent of CETP, influence of different types of dyes have been observed as shown in Fig. 26. We were informed that dyes of many colors are used in the textile industry. An in-house experimentation on raw effluent through a series of tests on characterization of dye suspensions as well as on optimization of coagulation-flocculation process is necessary to improve performance of the CETPs. Better understanding of the influent characteristics of dye can facilitate a better treatment as per the load on influent.*
- *For characterization of suspensions, the scan mode of UV Visible spectrophotometer can be used to identify major peaks for different dyes present in the raw water sample and this should be repeated for every stage of treatment to identify which dyes are efficiently removed by which individual process.*
- *Since the bulk of Suspended Solids is removed by coagulation-flocculation process, any optimization of it will accrue more money to the CETP as the sludge is purchased by the cement industry to be used as a co-fuel. Further it will result in lesser pressure on tertiary treatment in terms of activated carbon treatment and pressure filters thus saving cost of treatment.*
- *Even after tertiary treatment using granular activated by carbon bed, a typical color was seen to persist. During our inspection of the CETP, Balotra we found that though the coagulation/flocculation was able to make substantial difference in the effluent quality, there was not much change after activated carbon treatment. One reason may be that perhaps the carbon bed was exhausted which is required to be replaced with designed proper interval, the other could be that activated carbon treatment was less effective against the predominantly colored dye residual observed after the previous treatment step. In this unit same coloured effluent has been observed with large foam formation. The dark greenish sludge in the treatment units can be seen very clearly in CETP Jasol, which may be due to reaction of reactive dyes as shown in Fig. 27.*

- *We had during an observation that the TDS addition to the raw processing of cloth is much higher at Balotra than that at Jodhpur, the reasons for which should be ascertained. The strict volumetric discharge limit on industries has perhaps prompted some industries to adopt some measures for reduction in the quantity of water used for processing the cloth. Though it is a good practice, but it results in a more concentrated effluent, which further requires upgrading the treatment strategy. Some of the possible alternatives are indicated below.*
 - *Acid activated sand filtration may be tried to improve the dye removal, which may prove as a less costly substitute to activated carbon and pressure filtration adopted presently.*
 - *Another option may be replacing this step by ozonation, which may be relatively costlier dye removal option, but it may again bring the quality of this treated water to an acceptable level for one reuse within the industry (TDS may govern this choice) as the colour removal would be very high.*
- *Upgradation of all CETPs to treat the waste water up to reusable levels can also be achieved by adopting modern reliable technology like Electro-plasma technology, forward osmosis technology etc., so that CETP can meet the future challenges.*

7.6 General Suggestions

- *There was a distinct agitation among farmers we met who wanted that no illegal wastewater should be allowed to discharge as it was creating havoc with their soil productivity. They have requested with great anger about percolation of trade effluent into their agricultural land from solar evaporation ponds as shown in Fig. 28. In fact, solar evaporation ponds located to TSDF site are also a threat to TSDF site as percolation/seepage has been observed even in the premises of TSDF site from these ponds. Compensation to farmers may be evaluated by ponds. agricultural scientists based on per unit area loss of money due to lesser crop production in deteriorated soil health, but the command area to be covered for compensation should be delineated in advance using scientific techniques to avoid false claims made later (soil investigation may cover some signature pollutants apart from high TDS impact).*
- *The strict volumetric discharge limit on industries has perhaps prompted some industries to transfer/ outsource some process steps generating polluted streams to small industries, which may or may not be connected to the CETPs.*
- *Near third phase RIICO industrial area Balotra, as shown in Fig. 29, we found that there exist some locations in RIICO industrial area where a large quantity of wastewater is stagnated and contaminating groundwater, soil and air quality heavily. Surprisingly, this land area belongs to RIICO*

and they are not bothered to prevent illegal discharge of heavily is illegally discharged, which to contaminated wastewater into their land.

- From Fig. 30, it can be understood easily that this area is progressively high contaminated by the wastewater and sludge from the industries over the years.
- We propose that RSPCB conducts a short & surprise study on mass balance to identify the factual conditions at the outlet located in the premises of CETPs and the inlet point of solar evaporation ponds to know whether same quantity and quality of wastewater is being conveyed from outlet of CETPs to solar evaporation ponds or not. If the total flows are matching quantitatively but concentration of dyes is higher in the total mixed effluent after mass balance, or if volumetric loads at the inlet of solar evaporation ponds are more than the outlet of CETPs, unauthorized discharges of untreated or partially treated industrial effluents are reaching to the solar authorities in such cases should identify such culprits and take appropriate punitive measures.
- Similarly, the deposited sludge in the river channel should be studied and its dredging may be useful to minimize adverse impacts on health. Based on the sludge characteristics either this can be used as a co-fuel by cement industry or disposed in any other environmentally acceptable technologies.
- Upgradation of all CETPs to treat the waste water up to reusable levels can also be achieved by adopting modern reliable technology like Electro-plasma technology, forward osmosis technology etc., so that CETP can meet the future challenges.
- The CETP authorities informed that they are contemplating to place RO and MEE combination, as a way to achieve ZLD norms, but had a fear that they would lose competitiveness as similar measures were not enforced in neighbouring states which has already resulted in migration of a few industries, the above mentioned step may bring down the volumetric requirement for treatment of effluent as demand reduction can be achieved making RO-MEE process less costly.
- Alternatively, technologies like nano-filtration and vacuum membrane distillation (examples are available in Tamil Nadu) may also be explored for their competitiveness to RO-MEE combination, which has its inherent limitations. While designing MEE, they must include appropriate capacity of Preheaters, Calandrias, Vapour Separators, Condensers and Boilers.”

13. The Committee also observed that according to the villages, the pollution had resulted in skin diseases and affected the fertility of the soil. Ground water sources were deteriorated which required regulatory monitoring. The Committee also referred to the report of the National Productivity Council (NPC) prepared on the request of the Department of the Environment of Rajasthan in June, 2010 highlighting following points:

“8. Damages to the Environment and Compensation:

- i. **Soil has been found affected in the agricultural land due to application of effluents for irrigation. Agricultural area has been declined considerably from 57% to 44% in Barmer which can also be seen in barren land which has increased significantly.**
- ii. **A study on ground water quality with salinity, nitrates and fluoride parameters indicates that the ground water quality in Balotra block is unpotable and not suitable for drinking. As per NPC report, quality of groundwater and soil in the study area has impacted adversely due to textile effluent on the environment, which used percolate in the recharge wells in the villages near to river bank.**
- iii. **The study starting from Kumpawas in upstream to Sodhon ki Dhani in the downstream of about 23790 hectares shows that the economic damages caused by the textile processing industries in Balotra, Bithuja and Jasol areas of Barmer study area during last 15 years is estimated at Rs. 7627.91 lakhs.**

9. Concluding observations and Action Plan, (2019):

After assessing overall environmental status of the area and the nature of industries in existence (Textile) and remedial measures taken to control industrial pollution by installing CETPs, the Committee considered to place the following suggestions which may be considered as a modified version of already existing action plan suggested by earlier submissions.

The key observations with Action Points are given below:

9.1 The River Luni and its Rejuvenation:

- i. *The river Luni is known as Maruganga of Marwar region of western Rajasthan. The River is not having its natural flow presently but, it is only carrying industrial waste water as well as domestic sewage.*
- ii. *Water quality is "not-fit" for any use though this river used to be considered as the lifeline of the western Rajasthan.*

The Action Plan:

- i. *The identified stretches of the river may be dredged/scrapped so as to remove hazardous industrial and sewage sludge deposited in those stretches after carefully studying environmental issues.*
- ii. *River may be canalised (earthen canal) at appropriate locations without interfering riverine ecosystem.*
- iii. *Not allowing industrial (even treated) and sewage disposal into River Luni. To monitor this, CCTVs be installed at strategic locations and monitored by District Collector and Regional Office of RSPCB.*

- iv. *RSPCB must monitor regularly river water quality and quantity at critical locations to apply mass balance of selected stretches so that illegal disposal of industrial wastewater into river can be monitored.*
- v. *Similar to the analysis presented in this report by the Committee, it is suggested that remote monitoring studies should be performed by RSPCB HQ at least once in fortnight to know ground reality of industrial clusters without human interference. It will help them to take necessary steps for further proceedings and action plans.*

9.2 The Ground Water:

- i. *Industries are using ground water supplied by tankers through private parties.*
- ii. *There is no regulation on supply of such ground water by private parties to the industries.*
- iii. *Granting permission by CGWB to industries and those being done by private parties through tankers is not clear on permissions and many applications are pending with CGWB.*

The Action Plan:

- i. *Regular monitoring of the groundwater is to be done at key location as to understand impact of industrial activities in groundwater. It is necessary that RSPCB must conduct groundwater quality parameters tests at key groundwater pumping wells along the river. All data pertaining to these tests must be recorded and made available in RSPCB office*
- ii. *Through Industrial Association and State Government, some of the village wells having relatively less TDS and EC, may be fitted with RO and Fluoride, Arsenic and other contaminant removal system and provide potable/usable water to villagers and farmers for their use. This plan may be proposed and executed within six months.*
- iii. *To conserve ground water, in these towns, dual piping system been enforced and waste water of kitchen and bath, be used for flushing of toilets. This can be planned and executed within one year. (This may cover hotels, new residential societies/ complexes, and other Institutions) including Nakoda area.*

9.3 Industrial Pollution Control:

- i. ***None of the CETPs is meeting the standards. These plants are 'non-complying' with respect to designed influent and effluent characteristics as described in section 7.1.***
 - a. ***Not meeting the standards with respect to some parameters such as BOD, COD etc.***
 - b. ***Hazardous wastes disposal to TSDF site is much beyond the authorisation limits prescribed by the RSPCB to CETP Balotra.***
 - c. ***2-solar evaporation ponds in Khed area have been newly constructed in addition to 7 in use solar ponds. However, no Consent/approval has been***

- taken to construct these newly constructed ponds.
- d. **Solar evaporation ponds are leaking due to ineffective liners as a result they are contaminating agricultural farms, groundwater and TSDF site and river Luni. The treatment process through solar evaporation ponds are also not effective.**
 - e. **Forced evaporation by Mist evaporators is not effective in handling huge quantity of R.O. reject effluent. Also, location of Mist evaporators provided in solar evaporation ponds are not proper.**
 - f. **6.0 MLD R.O. Plant installed at CETP Balotra is not sufficient. The progress of installation of another 18.0 MLD R.O. Plant at CETP Balotra is very slow.**
 - g. **The consent granted to CETP Bithuja was valid up to 31.08.2017 and stipulated with condition to dispose quantity of trade effluent into land, horticulture and other uses.**
 - h. **Plantation in the CETP premises was not found adequate.**
 - i. **Large quantities of caustic sludge with hazardous wastes are also accumulated at the bottom of SEP ponds/stabilization ponds used for CETP at Bithuja.**
 - j. **Not utilizing R.O. effluent with effective high rate transpiration system (HRTS). No record of reutilization of treated wastewater was found.**
 - k. **Illegal discharge into river catchment from solar evaporation ponds has been observed through satellite images and print media.**
 - l. **CETP Jasol not meeting the standards with respect to some parameters such as BOD, Chloride and Sulphates etc.**
 - m. **Water flow measuring meters at inlet to CETP /for tertiary treatment & RO rejects found not working at CETP Jasol. Scum formation was found observed in equalization tank.**
 - n. **Details of waste water treated/reused/forced evaporated (HRTS) has not been maintained properly.**
 - o. **Disposal of effluent to solar evaporation ponds and Forced evaporation by Mist evaporators/splasher are not effective. Also, sludge drying beds found filled with sludge. At CETP Jasol. The stack height of the D.G. Set (320 KVA)-01 is also not adequate.**
 - p. **There were few discharge pipes which are connected from tanks of CETP Jasol to outside towards bank of river Luni. They should be removed immediately.**

9.4 Environmental Compensation:

- i. Team could not get authentic official records on damages to agriculture, land loss, crop loss, loss of ground water quality and health.

The Action Plan:

- i. State Department of Agriculture and Health may provide information on status of agricultural loss, ground water conditions and health due to pollution by textile units.
- ii. Environment compensation and relief to villagers and farmer may be considered and at the same time, detecting factors of natural desertification effects. State Government may provide information within 2 months.

10. Industries with ETP and not member of CETP:

There are several units which are not connected to CETP and claim they are ZLD with individual ETPs and also SEPs. The efficiency and adequacy of such evaporation more particularly a: individual ETPs claiming ZLD has not been scientifically evaluated by RSPCB, based on actual solar evaporation rate based on colour of effluent, high TDS and also, presence of limited spray nozzles. The commission observed two distinct patterns of forced evaporation in the industries at Balotra, Bithuja and Jasol. In first system, there are 4-8 spray nozzles and they are fitted on a pipe with 2-5 HP motors and are used to spray the high TDS effluent in air to evaporate the effluent. These spray nozzles are covered either from 2 or 3 sides by walls, and the sprayed effluent many times reach the land outside the designated area, using those lands for land application of waste. There are no separate records of such operations making all such operations very sketchy and doubtful. In fact, in one plant at Bithuja the evaporation was continued even after sunset when it was dark. Mere visual observations can show that these are camouflaging activities and such ZLD systems without any proper evaluation or appraisal are nothing but a short cut for proper evaporation and effluent disposal. The commission is of strong opinion, that though such Solar energy evaporation is an energy efficient way, unless proven Scientifically, there is a need to use forced evaporation like 1 or such ZLD, EB rather than such spray nozzle systems where the performance is not scientifically evaluated. However, there are few systems of such ZLD where the systems are much better organized. Commission visited one such Indosynth plant at Bithuja where, the jet nozzles were installed along with a mist sprayer. The Effluent pond was having much bigger area and also enough shallow to force evaporation rate. The sprayed effluent was falling within the pond. This system is practiced by few of these ZLD units and is much better than the one described earlier. However, RSPCB has not conducted any scientific appraisal of such system.

11. Enforcement by RSPCB and CPCB:

- *Consent is the most important tool with the SPCB to enforce the environmental regulations and is the legal instrument for any further legal actions as per the law. It is therefore necessary that the consent management is sound and the entire regulatory decision making needs to be based on scientific and technical assessment of industry manufacturing process, expected pollution load and most importantly; adequacy, sustainability and techno-economic feasibility of the pollution control systems. The commission during its visit has observed that many of the industries are operating either without consent or without proper renewal of consent. Many of these industries have applied for renewal or grant of consent to operate but the application is pending with the RSPCB for time varying from few months to nearly 2 years. This is very unfortunate as such pendency has resulted into blatant operation of these industries without the evaluation or appraisal of their pollution control systems by the RSPCB. This practice of keeping the applications pending goes against the principles of natural justice, efficient operation of pollution control systems and resultantly, encourage the non-compliance and pollution.*
- *There are more than about 56 units which according to RSPCB are illegal and are being operated without RSPCB consent. It was necessary on part of RSPCB to take stringent action against such units. In case they are found operational, they need to be reported for environmental damages recovery.*
- *The SEPs being constructed near TSDF are in violation of CPCB guidelines for TSDF and also, without appropriate Consent from RSPCB. Neither CPCB nor SPCB have taken any effective steps in this regard.*
- *A grievance was raised by CETP authorities that though their member industries have reduced their water consumption and the same is regulated through SCADA systems, there is unauthorised effluent ingress from non-member industries and such data has been shared with RSPCB. It is necessary to identify such defaulting industries and take stringent action against such industries. Moreover, the industries with individual ETP with SEPs and not member of CETP need to be appraised for the adequacy and performance of their pollution control system based on scientific principles of mass balance, HW generation etc. This needs to be given priority by RSPCB either through their core team or through reputed academic institutions.*
- *There are some good examples adopted by very few industries like electrical coagulation for sludge separation, caustic recovery (up to 14% concentration etc.). These initiatives need to be evaluated by RSPOCB and can always be directed to all units if found appropriate. Similarly, RSPCB can engage in reputed academic institutions for innovative solutions including clean technology option, green chemistry alternatives etc for the textile industries.*
- *However, all these aspects referred above required paradigm shift in regulatory approach by RSPCB and also, require*

significant capacity building of the organisation. A casual discussion with the then Member Secretary revealed that there is no specific training program for officers and even, discussions with local officials could reveal the urgent need of capacity building in terms of their understanding of environmental law, governance, technical issues besides use of latest tools and techniques for industrial waste management.

- Though the RSPCB is the field level enforcement agency, considering the concurrent visits enforcement by CPCB through their enforcement and directions, both these agencies need to streamline strategy urgently to address above issues.

12. Suggestive Action Plans for Industrial Pollution Control:

As per section 17 of Water Act 1974, it is the function of RSPCB to develop action plan for control of Pollution in such cases. The team has made an attempt to develop such an action plan which can be further evolved by RSPCB and CPCB and all the actions needs to be taken on priority in close coordination with local government agencies. Such a time bound action plan is the necessity to improve the present scenario which is serious and require urgent interventions. Some of the actions listed below like action against illegal units, prevention of discharge in rivers, clean technology adoption etc. do need not to wait for action plan and can straight away implemented in the field.

- i. RSPCB need to assess scientifically whether 6.0 MLD RO plant installed at CETP Balotra is capable to operate at its full capacity of 6.0 MLD. Approx. 1.5 MLD RO permeate water has been used by member units using tankers out of 8-9 MLD raw industrial wastewater. CETP Association, RSPCB and RIICO, should develop and execute plan of reutilization R.O. permeate by the industries themselves through closed conduit pipelines. Response to this action points may be provided in 4 weeks.
- ii. The installation of 18.0 MLD capacity RO Plant has to be speed up. It should be installed within next 3 months. If it is not, CETP Balotra should pay compensation against damage to environment and ecosystems.
- iii. It is also necessary that RSPCB must conduct frequent surprise checks (at least fortnightly) to verify influent and effluent characteristics along with their flow observations at each unit level of the plant (i.e. primary, secondary, tertiary, inlet to RO plant, outlet of RO plant with permeate and RO reject, Solar evaporation ponds etc.). All data pertaining to frequent surprise checks must be recorded and made available in RSPCB office at Balotra which can be verified by concerned agencies wherever needed.
- iv. As there is no CTO granted to CETP Bithuja, it should be examined by RSPCB immediately. If the plant is not capable to meet the standard within 4 weeks, it must be closed after the deadline.
- v. There should be regular inspection and maintenance schedule of closed pipeline carrying effluent to CETPs by

- CETPs agencies, RSPCB and RIICO. All observations to be recorded and made available whenever needed.*
- vi. RIICO and industrial Association should clean all the storm water drains and no choking should be seen.*
 - vii. Pipelines carrying industrial effluent from industries to CETPs and solar evaporation ponds should be audited for hazard prevention with safety. Routine checks should be done by duly accredited agency. The pipeline route should be marked and well displayed for public and maintenance purposes.*
 - viii. RIICO with Industrial association, should work out for use of solar panel to energize the boilers and minimize use of wood or coal as fuel.*
 - ix. All the member industries of CETP be enforced to setup PESTP. All industries with ETP must meet ZLD prescribed standard. If they do not meet the standard within 4 weeks, they must be closed.*
 - x. Untreated wastewater flow generated from different industrial areas must be monitored zone wise. Also, proactive monitoring by authorities of CETP agencies, RSPCB, District administration and RIICO is must to enforce the law.*
 - xi. There should not be any seepage/leakage of effluents from solar evaporation ponds to adjoining agricultural lands, river and groundwater. RSPCB, RIICO, district administration and CETP agencies should prepare action plans to prevent seepage and illegal disposal of industrial effluents within 4 weeks*
 - xii. All the illegal industries operating at Balotra who have been issued closure notice by RSPCB, 56 in numbers, in 2017 shall be inspected and if found in operation shall be immediately be reported to Hon'ble Tribunal for further necessary action including levying environmental damages. The commission would like to recommend that the RSPCB shall verify the compliance of its own direction with regard to closure of illegal industries, and in case these industries are operational for any time after closure directions, exemplary action in terms of necessary penalties based on polluter pays principle shall be imposed on them besides the legal actions including the prosecution. A committee under Collector can be recommended to verify the operation based on raw material purchase, GST, electricity bill etc.*
 - xiii. All ETP industrial units must record physio-chemical characteristics of influent and effluent at different stages of their treatment processes at least once in 3 months to know ground reality of functioning of their industrial units.*
 - xiv. The best practices adopted by some of the industries need to be showcased. The caustic recovery at the industry level is a good example which should be encouraged to adopt at decentralized way.*
 - xv. Industries should have information board with necessary information displaying both in Hindi and English outside their main gate.*

- xvi. *No further new industries, particularly which generate trade effluents, should be allowed by RSPCB till existing industries meet the prescribed effluent standards.*
- xvii. *There is huge scope of alternates of textile industries at and around Balotara like handicrafts, Carpets, Salt processing industries, etc. which may be explored with care with appropriate development plans.*
- xviii. *Irrigation and flood control Department should examine for releasing water from upper stretches of river Luni for maintenance of flow. This, however, should be done only after ensuring proper treatment of sewage and industrial effluent.*
- xix. *RSPCB in association with CETPs agency, RIICO and district administration should prepare systematic strategy to develop green belt using treated effluent within 4 weeks. Plantation and greenery should also be developed along river banks so that the soil erosion be minimized in the area. Some species of vegetation which may be adapted/tried in desertic climate like Prosopis juliflora, Salvadora persica, Acacia tortilis, Albizzia amara, Tecomella unduleta cineraria, Dichrostachys nutan, Capparis decidua, Cenchrus ciliaris, etc. Expenditure of plantation may be borne equally by these agencies.*
- xx. *Awareness should be generated in society about the threat of water pollution organized in schools and colleges as a part of Swachchh Bharat Mission.*
- xxi. *Strict prohibition of disposal of garbage and solid wastes in to river must be ensured by district administration.*
- xxii. *As per CPCB guidelines for TSDF, there needs to be a buffer zone of at least 500m from TSDF. And therefore, installation of SEPs next to TSDF is not only violation of HW Rules, but pose significant risks to TSDF operations and also, the environmental status of the area. The RSPCB must take necessary action to fulfil regulatory steps as required by the law.*
- xxiii. *There is a need to develop science-based enforcement which can be implemented by well-trained human resources. RSPCB must work for its capacity building of human resources through exposures from training programs/workshops. Experts from Textile/Environmental Engineering from reputed Institutions/organizations may be associated with RSPCB to improve understanding of optimized processes of industrial activities so that cleaner technology alternatives can be adopted.*
- xxiv. *The non-compliance has been observed by all the stakeholders i.e. CETP, industries, ETP industries, illegal industries, RSPCB and also, CPCB. There is urgent need to prioritize actions amongst them.*
- xxv. *RSPCB shall prepare a time-bound action plan based on a suggestive proposal given in this report with responsibility matrix and time frame with costs. Similarly, the role of CPCB must be defined clearly. It seems they are everywhere taking stringent action even for non-installation of CEMS.*

But no involvement though long pending issues pertaining to remediation of environmental pollution. In fact, there is total absence of regulatory action by CPCB. At other places, CPCB is proactive and initiates directions etc.

13. Surveillance and Monitoring:

The Team suggest that there is a need to have regular surveillance mechanism to monitor the compliance of Action Plan as well as ground level verifications. For this purpose, a District Level Task Force under the chairmanship of District Collector with representatives of State Pollution Control Boards, RIICO, Transport Department and Police and also be represented by District Legal Services Authority. The task force may meet and review the progress of implementation of Action Plan initially on monthly basis and also carryout random checks. It would also be appropriate to have a Monitoring Committee headed by an eminent expert to monitor progress of implementation of Action Plans for Balotra, Pali, Jasol industries including CETPs in an integrated manner.”

14. *The Tribunal considered the above report vide order dated 06.03.2019. In view of the findings in the report that there was serious violation of environmental norms affecting the environment and the public health which was on account of continuing pollution for a long time which remained unchecked by the State authorities, **directed the State of Rajasthan to deposit Rs. 30 crores as interim compensation for damage to the environment with the CPCB which could be recovered from the defaulting industries.** The Tribunal also directed the Secretary, Health and Agriculture to give the status of health of the villagers and the damage to the agriculture. The action plan suggested by the Committee was directed to be implemented by the State. The said plan included dredging of the river, canalization of the river, installation of CCTV camaras to check illegal disposal of effluents and waste into the river. The State Ground Water Board, RIICO and the State Industries Department, alongwith District Collector, Barmer were directed to ensure that water supply to the industries is regulated and illegal borewells are closed. The industries could function only if they set up ETPs/PETPs. CETP was required to comply with the standards. The relevant extracts from the order are:*

“2. We have considered the various observations made in the report, after carrying random inspection of the industries, inter alia, relating to CETP at Bituja, Balotra and Jasol, Solar Evaporation Ponds, the common problems in ETPs of the industries claiming ZLD and those which are not Members of CETP. Committee has specifically pointed out the issues relating to adverse impact of industrial effluents and by consumption of river water, on health and agriculture. It has noted that:

(a) The river Luni at Balotra is receiving industrial effluents and sewage as a result of which, it is not even fit for irrigation purpose.

(b) The installed Common Effluent Treatment Plants (CETPs) are not complying with the prescribed standards and the effluents are discharged into river Luni directly or indirectly.

(c) The solar evaporation ponds termed as High Rate Transpiration System (HRTs) are also not effectively performing and are occupying a huge area of land. Thus, not serving the purpose.

(d) The individual members of CETPs are also noncomplaint.

3. In such a critical situation, we consider it appropriate to direct the State Government to deposit Rs. 30 Crores with CPCB within one month, as an interim measure, towards environment compensation till complete details on health effect and damages to the agriculture are received. The said amount of Compensation may be later on recovered, by the State Government, from the defaulting industries.

4. We also direct Secretary Health and Agriculture State of Rajasthan to submit reports in respect of the status on health of villagers and agriculture and the damages be assessed to these causes within one month.

5. We consider appropriate to pass further directions, on the suggestion given by the committee, for improving the condition of damage caused to environment, as under:

5.1. The concerned department of State Government shall implement the action plan suggested by the committee which has been highlighted in the report from pg. 50 to pg. 59.

5.2.(a) Rejuvenation of river Luni by dredging/scraping to remove hazardous industrial and sewage sludge. (b) Canalization of the river at appropriate locations without interfering with riverine eco system. (c) Installation of CCTV at strategic locations to check illegal and unauthorized disposal of effluents and solid waste into the river. All the actions shall be complied within 4 months.

5.3. (a) State Ground Water Board, RIICO and the State Industries department, along with Collector Barmer, should ensure that ground water supply to the industries, through tankers, is properly regulated and their sources should be labelled as well as status in respect of reserve should be ascertained. A report on the Status of availability of potable water to the affected villages and on availability of irrigation water may also be provided. This action should be completed within one month.

(b) The Borewells which have been contaminated by industrial effluents or river water, should be remediated or alternatively, Treatment/Remediation System may be installed for them at the cost of the industries for public use and this action be co-ordinated by the Secretary of State Water Resources. This action be completed in 4 months.

The respondent shall immediately take up all the above actions and file time-bound execution plan as directed within a period of two weeks and shall file an interim report within a month in respect of the progress made.

5.4. (a) The industries in the area should not be allowed to operate till they setup required ETP/PETP and meet the prescribed norms.

(b) The treated industrial effluent should be utilized by the industries. Action plan in this regard, with time bound execution plan, be approved from State Pollution Control Board, within one month.

(c) The State Pollution Control Board shall ensure that the CETPs comply with the standards and no waste water be discharged into the river, directly or indirectly. The industries should utilize treated water from CETPs, instead of consuming fresh water reserves. This action shall be completed within 4 months. The State Pollution Control Board shall upload the status of consent and compliance to these directions on its website, within one month from today.

6. We further direct State Government to furnish a performance guarantee of Rs. 10 crores within a month, for implementation of action plan suggested by the Committee.

7. We, at this stage, do not contemplate any coercive measures against State PCB or Industrial Development Corporation or any other Department with the expectation that, the action plan will be implemented in true spirit and monitored through a robust surveillance and monitoring mechanism suggested under para-13 (page-59) of the report.”

15. Vide order dated 03.05.2019, the Tribunal noted that compensation of Rs. 30 crores was deposited by the State of Rajasthan, which could be recovered from the defaulting industries.

16. Vide order dated 08.07.2019, the Tribunal considered the objections filed by the CETP Operator (Balotra Water Pollution Control Treatment & Research Foundation Trust) with regard to requirement of buffer zone of 500 meters from TSDF, suggested by the Commissioner, appointed by the Tribunal, as accepted by the Tribunal. The CETP Operator wanted the distance to be reduced to 200 meters in terms of CPCB guidelines under the Hazardous and other Waste Management Rules. However, this objection was rejected, in view of frequent breach of HRTS to which lasting solution was in terms of the expert Committee report.

17. Vide order dated 23.08.2019, the Tribunal further noticed the grievance of discharge of the untreated industrial effluents from the industries at Gandhipura, in non-conforming area. The Tribunal sought response from the State PCB and the RIICO.

18. *Vide further order dated 23.10.2019, the Tribunal directed the Collector, Barmer to remove the illegally operating industries and also give list of 216 industries at Bituja. Vide order dated 20.11.2019, the direction to remove the illegal operating industries was reiterated which was to be complied with the Divisional Commissioner.*

19. *Vide order dated 04.09.2019, it was noted that 23 industries were operating at Gandhipura, which was non-conforming area. The Tribunal directed the State PCB to revoke the consent which had been given in respect of such units. Against the said order, Civil Appeal Diary No. 36493/2019, M. Dinesh Processors & Ors. Vs. State of Rajasthan & Ors. was dismissed by the Hon'ble Supreme Court on 04.11.2019.*

20. *The main question which still remains for consideration is the compliance of environmental norms by the industries at Balotra, Bithuja and Jasol in District Barmer. It is seen that non-compliance has been repeatedly found by the fact-finding Committees constituted by this Tribunal on 19.03.2015, 05.05.2018 and 10.12.2018 as well as other reports of the PCB and the applicant. The last report, in pursuance of order dated 10.12.2018, was the report dated 07.01.2019 which has already been quoted in extenso, which led to the detailed order dated 06.03.2019.*

21. *The latest affidavits available are:*

- i. Affidavits dated 17.01.2020 and 29.01.2020 filed by the applicant.*
- ii. Affidavit dated 20.02.2020 filed by the State PCB.*
- iii. Affidavits dated 19.12.2019 and 05.02.2020 filed by the Collector, Barmer.*
- iv. Affidavit dated 14.02.2020 filed by the CETP Operator.*
- v. Affidavit dated 19.12.2019 filed by the Divisional Commissioner.*
- vi. Affidavits dated 19.12.2019 and 15.01.2020 filed by the RIICO.*

22. *The stand of the applicant is that violation of environmental norms is continuing. Inter-alia, it is pointed out that all the Solar Evaporation Ponds (SEPs) have not been lined as found by the State PCB in its report dated 18.11.2019. Four industrial units are operating illegally, as per report of the State PCB dated 28.11.2019. SEPs at Bithuja CETP were not properly functioning, as found in the report of the State PCB dated 02.12.2019. HRTS/CSEP facility of Balotra CETP was not properly functioning as found by the State PCB on 17.12.2019. Show cause notice dated 19.12.2019 was issued by the State PCB for illegal storage of sludge and default on account of collapsing of the wall resulting in spreading of the sludge. Show cause notice dated 26.11.2019 was issued for revoking the consent to operate for various violations. CETP Trust has not stopped using unlined SEP in violation of consent conditions dated 22.05.2019 (Sr. No. 23 & 24).*

23. *The State PCB in its affidavit filed on 20.02.2020 has stated that action will be taken after considering the stand of the CETP in response to the show cause notice. Closure direction has been issued on 10.01.2020 against the polluting units, based on the inspection dated 28.11.2019. Further show cause notice has been issued to the CETP and bank guarantee of Rs. 10 lacs has been forfeited, with further direction*

to dispose of the sludge and to upgrade the CETP by 30.04.2020. Further action was to be taken after hearing the CETP on 17.03.2020. The CETP had given an action plan for disposal of the hazardous waste by 31.03.2020 and upgradation of CETP by 30.04.2020. However, neither the State PCB has filed compliance status thereafter nor the CETP operator has filed the latest compliance status. According to the applicant, non-compliances are continuing. Learned counsel for the State PCB is not aware of the updated position but is not able to dispute the stand of the applicant.

24. As per affidavit of the Collector, Barmer filed on 05.02.2020, the entire area in question is over-exploited in terms of the ground water. No permission for extraction of ground water for commercial or industrial purposes has been granted as the water is not sufficient in the area. In 1982, the State Government had issued a moratorium against new industries that are water oriented or discharging effluents. Nothing much has been done to comply with the directions of this Tribunal. Most of the ETPs are non-compliant. Rate of solar evaporation is not sufficient. ETPs are not changing RO membranes. The State PCB has to ensure that PETPs are installed and they follow the norms. The CETP Trust does not have a RO plant. Caustic Recovery Plant was required to be established till January, 2020. SEPs at Balotra and Khed are not serving their purpose as there are seepages going into the river. It is concluded as follows:-

“ xxx xxx xxx

14. That in view of the above submissions, it is submitted that the present counter affidavit may kindly be taken on record and **strict view be taken against the Balotra CETP Trust, the ETP's, State Authorities and the State Board for its non-commitment to the issues in hand and impose heavy penalties upon Balotra CETP Trust, ETP's and the industries for continuous violation of law relating to pollution of environment applying Pre-Cautionary Principle, Polluter Pay Principle and Principle of Sustainable Development. It is further submitted that the industry is an admitted polluted and while adjudicating the present matter this Hon'ble Court on various occasions has penalized the industry by applying the above principles.”**

25. We may now refer to the affidavit filed by the CETP operator on 14.02.2020 to the effect that no untreated effluent is being discharged into the river or the water body. Effluent from the members is being received through closed conduit pipeline. Disposal of sludge is being outsourced. Only lined SEPs are being used. HRTS boundaries are being stone pitched and there is garland drain alongside the SEPs. Damage to the HDPE liner was being looked into. PTZ cameras have been installed. There is no electricity connection at Khed road and therefore, there is no purpose in installing CCTV camera. Monitoring of effluent is being gauzed and taken care of by flow meter. The CETP is sending the entire load to Tertiary Treatment Plant and then to SEPs and then to the RO where water is being recycled. The status of SEPs and HRTS does not permit movement and installation of evaporation guns.

26. The affidavit of the Divisional Commissioner dated 19.12.2019 mentions certain compliances while information about other compliances is said to be with the concerned parties.

27. From the above resume and particularly from the latest affidavits filed by the applicant, the Collector and the State PCB, it does appear that violation of environmental norms is still continuing even after about 16 years of monitoring first by the High Court and thereafter by this Tribunal. Self-serving denial by the CETP operator does not, in the circumstances, inspire any confidence and will require verification. Such unsatisfactory situation needs to be expeditiously remedied to enforce citizens right to clean environment and stringent approach needs to be adopted against chronic non compliances.

28. The Tribunal has noticed similar factual situation with regard to continuing pollution in adjoining area of Jodhpur (order dated 23.11.2020 in O.A. No. 329/2015, Gram Panchayat ARABA vs. State of Rajasthan & Ors) and adjoining area of Pali (vide separate order of date in O.A. No. 32(THC)/2014, Kishan Paryavaran Sangaharsh Samiti, Jaipur vs. State of Rajasthan & Ors.). It was found necessary to require close monitoring at the ground level for compliance of the environmental norms in light of the findings already recorded by the Expert Committees and directions of this Tribunal. There is need for a stringent approach against violators of environmental norms, affecting public health and damage to fertility of land and availability of drinking water which is scarce but necessary for survival and to give effect the rule of law and the right of the citizens to clean environment. This is all the more necessary in view of failure of compliance of law inspite of repeated orders. There is track record of chronic non-compliances but not showing responsible behaviour by the CETP operator and the industries. Apart from prosecutions, the polluting activity has to be stopped by closure orders and for past violations, deterrent compensation is required to be assessed and recovered. This requires credible monitoring and assessment at ground level.

29. Having regard to the factual position noted above, we direct **constitution of a Monitoring Committee to be headed by Justice Prakash Chandra Tatia, (former Chief Justice of Jharkhand High Court), presently stationed at Jodhpur, who is also heading two other Committees** for monitoring compliance of pollution norms for adjoining areas of Jodhpur and Pali, in terms of order of this Tribunal dated 23.11.2020 in OA 329/2015, Gram Panchayat ARABA vs. State of Rajasthan & Ors and separate order of date in O.A. No. 32(THC)/2014, Kishan Paryavaran Sangaharsh Samiti, Jaipur vs. State of Rajasthan & Ors.. The Committee will also have as its members:

- i. Nominee of CPCB
- ii. Nominee of State PCB
- iii. The District Magistrate, Barmer
- iv. Dr. Ajit Pratap Singh, Prof. BITS Pilani, District Jhunjhunu, Rajasthan

30. The State PCB will be the nodal agency for coordination and compliance. The District Magistrate may facilitate the functioning of the Committee by providing logistics and such other facilities as may be necessary. The Chairman of the Committee will be entitled to remuneration/honorarium to be determined in consultation with the Chief Secretary, Rajasthan. Remuneration and providing logistics during field visits of Dr. A P Singh, Prof. BITS Pilani may be decided by the Chairman of the Committee in the present matter as well as connected matter in O.A. No. 32(THC)/2014, Kishan Paryavaran Sangaharsh Samiti, Jaipur vs. State of Rajasthan & Ors. It will be permissible to have

consolidated remuneration for the task to be executed in O.A. No. 329/2015 (supra), in the present matter as well as in O.A. No. 32(THC)/2014, Kishan Paryavaran (supra), wherein a separate order is being passed today. This will be payable out of the consent funds of the State PCB.

31. It will be open to the Committee to conduct proceedings by video conference, if so required. The Committee will be at liberty to associate any other independent Expert or Institution. **The Committee may take stock of compliance of environmental norms with reference to status found in the earlier studies and the status which may be found on the ground, particularly with reference to order dated 06.03.2019 and other associated issues.** The Committee may interact with all concerned stakeholders, including the villagers through their panchayats and give its recommendations for future course of action, including the final quantum of compensation to be recovered on “Polluter Pays” principles and plan for restoration, utilizing compensation already available and which may be further recommended. The Committee may hold its first meeting within one month and, after taking stock of the situation, may update the action plan within one month thereafter which may propose to remedy the ground situation within six months. **The Committee may give its first action taken report as on 31.03.2021 before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. While furnishing the report to this Tribunal, a copy thereof may be furnished to the Chief Secretary, Rajasthan and other stakeholders, who are required to take remedial steps.**

32. Any party aggrieved by the report can put forward its submissions to this Tribunal before the next date. The concerned authorities will be at liberty to carry out the recommendations of the Committee, if and to the extent there is no objection to such recommendations. It will no longer be necessary for the MoEF&CC and CGWA to appear in these proceedings till further orders.”

Proceedings in OA II i.e. OA 32/2014)

57. As said above, writ petition was filed in Rajasthan High Court (at Jodhpur) and transferred to this Tribunal on 05.03.2014. Since some of the pleadings were already filed by the parties in High Court, which are also relevant in this matter, relied by Tribunal also, we may refer to those relevant pleadings as also including subsequent pleadings filed before Tribunal.

Reply dated 09.09.2013 filed by RIICO Pali (respondent 7) in OA II:

58. This reply was filed before High Court. For the purpose of present order, we do not find preliminary objections raised in the said reply having

any relevance and, therefore, proceed to refer parawise reply to the writ petition submitted by respondent 7.

59. The stand taken by respondent 7 was that it has complied with the directions of High Court; it has developed Mandia Road Industrial Area, Pali-I/II Industrial Area, Industrial Estate Pali and Punyata Industrial Area wherein 90% of industrial units are textile units. These industries are situated in different places and all are not on the bank of river Bandi, therefore, allegations of petitioner were denied. Respondent 7 has developed various industrial areas for carrying out industrial operations with the objective of establishment and development of industries. The units in industrial areas mentioned above except Punyata industrial are discharging effluent in open drains. The effluent is transported to respective CETPs for treatment whereas in Punyata industrial area, effluent is carried to respective CETP by close conduit pipelines, for treatment. Respondent 7 is maintaining drainage system and closed conduit pipeline system for transportation of effluents from various industries to CETP. In some portion of drainage system of industrial area city sewerage also joins drainage system resulting into larger quantity of effluent to be treated and this increase in quantity of effluent some times exceeds the capacity of CETP. In order to avoid over discharge, CETP Trust stopped in take-off effluent in the plant which resulted in overflowing drains in the surrounding areas and sometimes this over-flown effluent entered Bandi river. Some complaints of discharge of effluent directly into river by sub-industrial areas came to knowledge through print media, site visit and some times by other means. In this regard, competent authority to take action against such industrial units is RSPCB. Respondent 7 has repeatedly informed Municipal Council in writing that drains referred in para 20 of the writ petition do not belong to respondent 7; it used to allot

plots in Punyata industrial area to such applicants who are eligible, by allotment committee constituted by District Collector, Pali and the allotment letter used to contain a condition that allottee would have to obtain consent to establish from RSPCB and also consent to operate before commencement of the unit; it (respondent 7) has no active role in the controversy raised by petitioner in as much as its primary duty is to allot industrial land by demarcation of the area by observing standards/directives laid down by various laws.

Reply/counter affidavit dated 17.11.2014 filed by respondent 5 to the writ petition in OA II:

60. Certain preliminary objections have been raised in this reply but the same have not been pressed at the time of argument, therefore, we are not referring the same.

61. Giving parawise reply, respondent 5 has said that the allegations made against it are incorrect. Respondent 5 cannot be held responsible for pollution caused by such industrial units which are not linked to CETP of respondent 5 or working within non-conforming area. In fact, pollution is solely caused by such industrial units which are working in illegal manner. Respondent 5 is working broadly within the limits provided under the conditions of consent to operate issued by RSPCB and also taking steps to set up reverse osmosis plant with new CETP units 5 and 6 and develop Tertiary and Reverse Osmosis Plants for existing CETP units 1 to 4 in phased manner so that treated water is not required to be discharged in the river and maximum thereof is put to reuse. Though High Court had given directions for separating city sewage from treated effluent and pursuant thereto a drain was also constructed but sewage of certain colonies namely Ramdev Road, Dharampura Road, Ram Rahim Colony, Mahavir Nagar, Pancham Nagar and some others is getting mixed with the

effluent reaching CETPs since these colonies are situated on the other side of the drain constructed for carrying city sewage and this increases load on CETPs. Member industries of respondent 5 are operating their units at 50% of their capacity so as to enable CETPs to perform effectively, properly and within norms. Two new CETPs are in the stage of construction and one would become operational by March 2015. Construction (civil work) of CETP unit 5 is complete to the extent of 70% and required machineries have also been procured. However, work has been stalled by RIICO since there was a PIL filed in Rajasthan High Court. Both these CETPs are of the capacity of 12 MLD each and will have Tertiary Treatment Plant as well as Reverse Osmosis Plant.

62. In compliance of High Court's order, industrial units connected to CETPs of respondent 5 have moved to conforming area prescribed by RIICO and no industrial unit functioning in no-conforming area is now connected with CETPs operated by respondent 5. CETPs are functioning within prescribed norms. Disputing the report submitted by Centre for Science and Environment (CSE), it is said that it is unscientific and lack specific details about the study conducted by the said body and the manner of such study hence cannot be a ground for seeking closure of large number of industrial units. Members of respondent 5 are operating their industrial units and subjecting effluent to primary treatment whereafter it is carried through drains (presently through tankers) to CETPs (4 in numbers) fully operational undertaking upto secondary treatment of effluent. 3 CETPs out of 4 are receiving city sewerage also mixed with industrial effluent discharged and released by member units after primary treatment. On account of this mixing, capacity of CETPs of respondent 5 gets adversely affected.

63. In the past 10 years, river Bandi has flown twice and otherwise it remains absolutely dry. River Bandi originates from Aravalli hills and substantial water thereof flows to Hemawas Dam. On account of scanty rainfall and encroachments made in the water course of river Bandi during last thirty years, river has not flown in all rainy seasons except a few days. If base year 1994 is taken, the said river has flown only for 15 days in 1994, 9 days in 1995, 2 days in 1995, 25 days in 1997, 5 days in 1999, 1 day each in the year 2000 and 2001, 12 days in 2006 and 10 days in 2007. In other years, not mentioned above, there was no water in the river and after 2007, the river has not flown till the date of filing the said reply. This reply is based on the letter dated 26.05.2014 issued by Executive Engineer, Water Resources Department, Pali Division. When water has not flown in the river, the question of adverse affect upon electric conductivity of the water does not arise. Further water discharged by CETP does not flow in full width of river, hence it cannot affect ground water in any manner. The alleged Nehra Dam is not technically a dam but an anicut constructed by obstructing flow of river Bandi. Allegations of damage to agricultural crop due to contamination of soil and ground water are baseless and not supported by any scientific or authenticated studies. Sewage set up currently by Municipality has reduced load of city sewerage permitting CETPs to function in a better way. COD value of treated effluent released STP is on an average 600 and the same is being discharged in river. The assertion that river Bandi is a major source of fresh water for drinking purposes is incorrect since drinking water source in the area has been Jawai-Bandh and Hemawas-Bandh through PHED pipeline. Further, it is said that consent to operate issued to respondent 5 provides for discharge of treated effluent into river and the same is being complied by discharging treated effluent largely matching to prescribed parameters. Respondent 5 is not responsible for alleged deterioration of quality of soil.

The river bed of the area has been tested by a private laboratory i.e. AES Laboratory Pvt. Ltd. and no presence of heavy metals has been found. TDS level of ground water in entire western region of Rajasthan is very high. Therefore, this issue cannot be made subject matter of controversy in this case. In fact, looking to quality of underground water in entire western Rajasthan, crops which can be grown are very limited and this is a feature existing since centuries. In Pali district, generally grown crops by irrigation from underground water are wheat, cotton, chana and raida. The economy of entire district is dependent on industrial unit working in the industrial area set up by RIICO and any adverse order having effect of closure would cause huge unemployment besides affecting public revenue which is approximately Rs. 6000 crores per annum in the form of VAT, Income Tax and Service Tax. State Government has constituted a body i.e. 'Prabodhan Samiti' which regularly monitors CETPs and its operations. Members of Agricultural Community i.e. farmers are also members of the said body and no grievance has ever been raised by them. The damage to wall of nallah of CETP-2 was only due to usual wear and tear and it was immediately repaired. Other allegations of mischief and discharge of effluent by passing the land etc. are also denied and it is said that the petition has been filed with some motive though there is no substantive cause to maintain it.

Reply/objection dated 27.11.2014 filed on the same date by applicant to compliance report of RSPCB in OA II:

64. Referring to Tribunal's order dated 05.03.2014 whereby concerned authorities were directed not to allow polluting industries or the industries functioning without statutory consent/NOC, it is said that RSPCB has not stated as to how many industrial units, operating without consent to operate, were restrained. Not a single unit was closed or restrained from operating further. District Magistrate and RSPCB have deliberately flouted

Tribunal's order dated 05.03.2014. Looking to the data given by RSPCB about the consent to operate granted and refused, it becomes evident that about 244 units are operating without consent to operate which is clear negligence and statutory violation on the part of the statutory regulators and other authorities. The deficiencies and irregularities in functioning of CETPs have also been pointed out and despite show cause notices etc., no effective action has been taken. The pathetic condition of River Bandi and Nehra Dam continued and both are suffering due to heavy industrial pollution caused by industrial units by discharging highly toxic industrial effluent. A study was conducted by an NGO and it has been found that at most of the places, water is not fit to be used under any class of surface water.

Compliance report dated 13.05.2015 by RSPCB pursuant to Tribunal's order dated 19.03.2015 in OA II:

65. It is said that in purportive compliance of Tribunal's order, consent to operate applications of 535 units were considered. Consent was granted to 447 units. The status of remaining 88 units is given as under:

- a) The matter of 01 unit namely M/s Master Micon is sub-judice before the Hon'ble Tribunal.*
- b) Directions for closure and disconnection of electricity & Water supply of the 13 defaulter units have been issued under the provisions of Section 33A of Water (Prevention and Control of Pollution) Act, 1974.*
- c) The consent to operate under the provisions of Water Act, 1974 were earlier granted to 15 units and these units have submitted application for renewal of consent to operate which are under process.*
- d) Applications for consent to operate related to 20 units have been examined and consent letters are under issue.*
- e) Applications for consent to operate related to 7 units have been examined and have been refused.*
- f) Applications related to 32 units are under consideration with the State Board and shall be decided on merits of the case."*

66. Further it is said that various directions have been issued to CETP Trust not to admit effluent beyond capacity from member industries particularly those who do not have valid consent to operate and preventive action was taken against defaulting units.

Affidavit-cum-compliance report dated 08.07.2015 filed by RSPCB pursuant to Tribunal order 14.05.2015 in OA II:

67. Replying to the complaint that the units of which consent to operate has expired are continuing to operate, the affidavit stated as under:

- i. One matter of the unit namely M/s Master Micon is sub-judice before the Hon'ble Tribunal in OA No. 445/2013 & 452/2013.*
- ii. One matter of the unit namely M/s Raj Traders, GS-130, Punayata Industrial Area, Pali is combined with the unit M/s Chandra Prabhu Textile, GS-131, Punayata Industrial Area, Pali.*
- iii. Earlier issued directions for closure of the units including the disconnection of electricity and water supply have been remained in force for 12 units.*
- iv. Directions for closure of the units including the disconnection of electricity and water supply have been issued to 07 units after 14.05.2015.*
- v. Consent applications have been refused in case of 04 units.*
- vi. Refusal letter are under issue in case of 05 of units.*
- vii. Consent to operate of 01 unit have expired and notice has been issued to the unit.*
- viii. Consents have been granted to 48 units.*
- ix. Consent letter are under issue in case of 10 units.*
- x. Consent application(s) are under process in case of 7 units for renewal.”*

68. Further, it is said that respondent 5 has been asked to give details in respect of source of water of the each member textile industry vide the Regional Officer RSPCB, Pali's letter dated 12.06.2015.

Additional affidavit filed in OA II on 14.05.2015 by applicant:

69. It is stated that consent dated 19.10.2011 granted by RSPCB to respondent 5 with regard to CETP 6 clearly provides that waste water after treatment to CETP shall not be discharged into the river and that said water shall further be treated through Reverse Osmosis Plant of adequate capacity and would be recycled/reused by member units. Subsequently consent letter dated 30.03.2015 issued by RSPCB to respondent 5 contains condition no. 6 that respondent 5 shall install Reverse Osmosis plant of adequate capacity with scientific arrangement for disposal of RO rejects to achieve ZLD status within 10 months, failing which bank guarantee of Rs. 5,00,000/- shall be forfeited. However respondent 5

though has failed to observe the above conditions but no action has been taken by Statutory Regulator and this requires an explanation.

Affidavit-cum-compliance report dated 08.07.2015 filed by RSPCB in OA II:

70. This affidavit has been filed pursuant to Tribunal's order dated 05.03.2014 and 02.05.2014. It is said that about 535 units applied for consent to operate under Water Act 1974 and Air Act 1981 at different times which remained pending for various reasons. Those applications are pending for active consideration before RSPCB. Whenever such consent would be granted, condition shall be imposed that industries will discharge their trade effluent within treatment capacity of CETPs and comply other stringent conditions to control pollution of water so as to prevent pollution in Pali. CETPs as well as industries connected thereto remain voluntarily closed for 15 days during March-April 2014 for repair and maintenance work and for this limited purpose, consent to operate was granted by RSPCB to CETP unit-I at Mandia Road, unit-II at Mandia Road, unit-III at Punayata Road and unit-IV at Punayata Road vide RSPCB's letters dated 29.04.2014, 07.04.2014, 07.04.2014 and 06.03.2013, respectively. Pertinent condition mentioned in the said letters is that CETPs would operate on such reduced capacity as may be necessary so as to comply prescribed standard under EP Act 1986, for discharge of trade effluent. Directions were also given to member units for proportionate reduction in their operations and discharge of industrial effluent. With regard to action required to be taken against defaulting units, as directed vide order dated 05.03.2014 issued by Tribunal, it is said that orders of closure and disconnection of electricity were passed in respect of three industries, application for consent was refused to six units and consent to operate was granted to 52 units. Besides, show cause notices proposing refusal to consent were issued to three units and letters pointing out deficiency in

consent applications were issued to ten units. RSPCB is well aware of critical status of pollution and has initiated various reformatory and remedial actions including prosecutions, closure orders etc. Directions have also been issued to CETPs for scientific management of hazardous sludge of CETPs but since CETP trust has failed, RSPCB has taken action by filing eight criminal complaints in the Court of Chief Judicial Magistrate, Pali against the said Trust. Similarly, pursuant to order dated 02.05.2014 of Tribunal, closure orders were issued to 24 units, consent was refused to 61 units and in the process of refusal to 27 units, consent to operate was granted to 249 units and in the process of grant to 28 units. Besides show cause notices proposing refusal to grant consent were issued to 116 units and in the process of issue of notice to 11 units. Further 23 units applications for consent to operate are under process. The experts have found that CETPs installed at Pali were non-complying in treating waste water lacking adequate hydraulic capacity to treat the entire effluent generated by textile units at Pali and transport their effluent to respective CETPs. Further member industries do not maintain any discipline in discharging effluent to the permitted quantity but indiscriminately discharge effluent even beyond the permitted quantity which results in hydraulic shock loads on routine basis compromising functioning of respective CETPs. There are various reasons for the same but the fact remains that malfunctioning of CETPs is due to both technological inadequacy as well as failure of internal governance by CETP Trust. In the circumstances, RSPCB has suggested certain actions relating to improvement in technology as well as operational governance to remediate the situation and costs thereof must be borne by CETP Trust and its member industries. These suggestions are given under three heads namely:

- (a) **Technological improvements leading to ZLD:** Trust entrusted for establishment, operation and maintenance of the CETPs is required to take following steps for technological improvement of the CETPs;
- (b) **Improving the internal governance and operations by CETP Trust:** The Trust is also required to take certain actions to improve the governance and operation of the CETPs;
- (c) **Actions by individual units enforced through CETP Trust:** The member units are required to take steps to ensure that CETPs function as per the prescribed norms. CETP Trust is required to establish a system to enforce the implementation of these actions by member industries.

Affidavit dated 08.10.2015 filed by respondent 5 in OA II:

71. It is said that there are about 630 member units of respondent 5 where against only 550 are operational and remaining 80 are either vacant plots or activities which do not generate any pollution. Consent to operate was issued in favour of 495 units and 468 member units out of 495 have applied for NOC under HWMHR Rules 2008. For abstraction of ground water, about 306 member units have already applied for NOC to CGWA. Tribunal had observed in its order dated 20.08.2015 that industrial units situated at Mandiya Road and RIICO Phase I/II are yet to be connected to the CETP through conduit pipelines and directions were issued to concerned authorities to install the said pipelines. It is said that an estimate of Rs. 61.64 crores was prepared by Regional Office, RIICO, Pali and it is in process. CETP unit-I was installed and would be restarted only after upgradation in line. Work of construction of another CETP that is unit no. 5 commenced but could not be completed due to Court case, i.e., a Public Interest Litigation filed which has been dismissed on 14/15.05.2015 and now the matter has proceeded for establishment of

additional unit. Referring to order of Tribunal in **OA 358(T_{HC})/2013, M/s. Laxmi Suitings vs. State of Rajasthan & Ors.**, it is said that the **condition of Jodhpur and Pali are similar, therefore, matters of both the places may be considered by issuing similar directions.**

Additional affidavit by RIICO pursuant to Tribunal's order dated 08.10.2015 in OA II:

72. Giving background of establishment of industrial area, it is said that Phase I and II Industrial Areas commenced in 1979, Mandia Road Industrial Area in 1980 and Punayata Industrial Area in 2005-06. The number of plots in the said areas are/were 71, 124, 521 and 334 respectively. Besides, there is an Industrial Estate developed by State, transferred to RIICO wherein there are 38 plots. Punayata Industrial Area was developed in pursuant to directions given by Rajasthan High Court in **Mahaveer Nagar Vikas Samiti & Ors. Vs. State of Rajasthan & Ors.** RIICO is not a profit earning undertaking but established to develop industrial areas on no loss no profit basis. It charged development charges for making available stipulated infrastructure facilities in the industrial area. At the time of establishment of industrial areas in 1979-80, the laying down of closed conduit pipeline was never imagined hence not made part of administrative and financial sanctions and the cost thereof was also not recovered from industrial units. It is only in the year 2005-06, the said cost has been made a component assessed for ascertaining development charges and being realised from industrial units. Since RIICO has realised charges for closed conduit pipelines in 2005-06 when Punayata Industrial Area was established, closed conduit pipelines had been laid down in the said area. The obligation to lay down such pipelines upon RIICO can be done only if it has realised cost thereof. Though **Tribunal had directed RIICO to lay down the said pipelines but it would put huge financial burden upon RIICO which it find difficult to**

bear and, therefore, such obligation should not be put on RIICO. It has no funds sufficient to meet the said expenses. The responsibility of connecting concerned industrial units to CETP is on the Trust operating CETP and they must bear the cost since they have to ensure transportation of effluent to CETP from industrial units through closed conduit pipelines. However, for compliance of Tribunal's order, RIICO had started action and called for tenders for preparation of DPR.

Affidavit-cum-compliance report filed on 08.10.2015 by RSPCB in OA II:

73. Pursuant to Tribunal order dated 20.08.2015, this affidavit was filed. It is said that a team was constituted to make inspection of various industrial units and accordingly the said team after inspecting 626 units gave report and status of said 626 units was shown as under:

<i>Total industries</i>	626
<i>Non water polluting/vacant plots/under establishment/Commercial activity as Folding, Packaging, storage etc.</i>	76
<i>Water Polluting textile industries</i>	550
<i>Details of 550 water polluting industries</i>	
<i>Valid consent to operate</i>	495
<i>Direction of closure issued</i>	25
<i>Without valid consent</i>	30
<i>Status of 30 without valid consent to operate units</i>	
<i>Under consideration with Hon'ble N.G.T.</i>	01
<i>Earlier Consent application refused and show cause notice for intended direction of closure issued</i>	10
<i>Industries under renovation/dismantle stage/closed/non operational however having membership and connectivity from the CETP, Pali</i>	06
<i>No. of Units of which Consent application pending</i>	13
<i>Details and action taken by the Board on pending application(s)</i>	
<i>Consent to operate application(s) under consideration with Board</i>	05
<i>Consent renewal application under consideration with Board</i>	02
<i>Show cause notice for intended refusal of consent to operate along with intended direction of closure issued</i>	04
<i>Earlier Consent application refused and show cause notice for intended direction of closure issued and the management applied for consent after refusal</i>	02

74. Further, it is said that RSPCB, Regional Office, Pali received 468 applications for authorization under Hazardous Waste(M,H &TM) Rules 2008 during August to September 2015 and the said applications are under active consideration. RSPCB has also received 306 applications for NOC from CGWA for abstraction of ground water during August and September 2015 and the same are under active consideration and in the meantime water requirements is being met by industrial units through water supplied by tankers. The inspection team also found 71 industries operating in non-conforming areas in and around Pali city located at Sumerpur Road, Bajrangbari, Talabki pal, Gandhi Nagar, Indra Colony, KeriyaDarwaja, Ramdev Road, Adarsh Nagar, RangniyokaMohalla, RamleelaMaidan, Hyder Colony etc. without any permission from local bodies as well as RSPCB. The Punayata Industrial Area was developed by RIICO for accumulating industries running in non-conforming areas and plots were allotted, a 12 MLD capacity CETP was also constructed which is operational. At that time all industries in non-conforming areas were closed and shifted but since the structures were not demolished, many industries are using old premises as godowns, natural drying of processed fabric, table printing, kadaf padding, silicate padding/washing, grey cloth washing etc. The units located near Bandi-River side were found discharging no effluent in to the river instead waste water was found stored in to *kucha* pits in and around the premises. In few places in Rangaiyon ka Mohalla, Sipahiyon Ka Bas, Ghosi Colony, Keriya-Darwaja, Hyder Colony etc., some proponents were doing dyeing and washing of cloth and generating and discharging coloured wastewater in the sewer line/open municipal drains. The representatives of some units told that they were doing this work from their fore-fathers as cottage work/industries and it is their main traditional work.

Affidavit filed in OA II on 03.12.2015 by respondent 5:

75. This affidavit gives details of up gradation of CETPs II, III and IV and status of closed conduit pipes installed in Punyata Industrial area. It is said that the pipes have been made operational and effective steps are being taken for up gradation. Further it is said that Electro Magnetic Flow Meters to SCADA system have been installed by 453 out of 550 member industrial units of respondent 5 and the system is now operational in those units.

Affidavit cum compliance report dated December 2015 filed by RSPCB pursuant to Tribunal's order dated 08.10.2015 in OA II:

76. The affidavit says:

- (i) Various letters issued by RSPCB to CETP Trust Pali, RIICO District Collector and Chairman of Prabodhan Samiti, Municipal Commissioner, Nagar Parishad, Pali for cleaning and removal of blockage in closed conduit pipelines laid in Punayata Industrial Area. The work is in progress and as informed in District Monitoring Committee dated 27.11.2015, the closed conduit pipeline would become operational by 30.11.2015. All other complications/problems would also be solved.
- (ii) RSPCB had advised CETP Trust for installation of individual ETPs with RO system in member units with discharge capacity of 100 KLD or more.
- (iii) Representations however, against the said suggestion were submitted by Rajasthan Textile Hand Process Association, Laghu Udyog Bharti and Pali Water Pollution Control Treatment & Research Foundation i.e. respondent 5.
- (iv) CETP Trust has submitted DPR for upgradation of existing CETP units 2, 3 and 4 so as to achieve Zero Liquid Discharge status.

- (v) RSPCB has required CETP Trust to provide details of chemical consumption, electricity bills and quantity of treated effluent vide letter dated 30.10.2015.
- (vi) The said details had been supplied by CETP Trust in the meeting of District Monitoring Committee Pali dated 27.11.2015.
- (vii) CETP Trust Pali has informed of having deposited Rs. 6,16,40,000/- as 10% of cost and expenses required to lay closed conduit pipeline for its member unit.
- (viii) RSPCB had also issued various directions including closure direction to 71 units which are not conforming prescribed standard and not connected with CETP/situated and operated in non-conforming area without any treatment facility.

Affidavits filed by respondent 5 i.e. Pali WPCTRFT in OA II:

77. The affidavit dated 10.03.2016 has been filed on 16.03.2016 by respondent 5 to explain massive mishap occurred at Nehra Dam for which respondent 5 was blamed by various stakeholders and also print media. It is said that a meeting was held on 12.08.2015 in the office of District Collector, Pali and it was decided that there is an expectation of good rain fall and possibility of good crop, therefore, the officials of respondent 5 would ensure that industrial effluent and city sewerage may not get mixed with water accumulated in Nehra Dam for the purpose of irrigation. Another meeting was held on 06.10.2015 in the office of Assistant Engineer, Water Resources Department, Pali wherein it was decided that water accumulated at Nehra Dam for irrigation purposes would be allowed to be used for two allocations and the said two allocations were released to farmers on 29.10.2015 and 18.12.2015. Respondent Foundation was responsible to maintain blockades until 28.12.2015. However, the said blockage unfortunately and due to passage of time could not withhold the

pressure of water resulted into damage on 02.01.2016 after fulfilment of condition which were to be complied by respondent 5, therefore, is not responsible for mishap of damage of blockades.

Short affidavit dated 10.03.2016 by respondent 5

78. It has been filed on 16.03.2016 by respondent 5 to place on record test reports dated 07.03.2016 to find out the results of the steps taken by respondent 5 towards upgradation of CETP and to ensure its proper functioning. The report shows that the effluent discharged by CETP is within prescribed norms.

Another Affidavit dated 10.03.2016:

79. Affidavit dated 10.03.2016 has been filed on 16.03.2016 to place on record the modified Draft Project Reports (hereinafter referred to as 'DPR') whereby respondent 5 proposed to upgrade CETP units 2, 3 and 4. It is said that DPR was prepared by Expert Consultant M/s Sapient Techno Consultants and submitted in the office of RSPCB at Pali and Jaipur on 28.10.2015. Head Office of RSPCB vide letter dated 11.02.2016 observed that some modifications were required in DPR and consequently, modified DPRs for units 2 and 3 vide letter dated 29.02.2016 and for unit no. 4 vide the letter dated 09.03.2016. It is said the upgradation of units 2, 3 and 4 will be started as soon as DPRs of the project are approved and necessary funds are released by State and Central Governments.

Counter affidavit dated 10.03.2016 filed by respondent 5 in response to Additional affidavit of RIICO:

80. Replying additional affidavit of RIICO, counter affidavit dated 10.03.2016 has been filed on 16.03.2016 in Tribunal by respondent 5 stating that CETP unit 1 was established entirely at the cost of RIICO. Operation and maintenance was also undertaken by RIICO from 1983 to 1987. RIICO is a Government of Rajasthan undertaking and a catalyst for

industrial establishment and development in State of Rajasthan. RIICO not only help in physical infrastructure development but also assist for loan etc. to the concerned proponent. By providing physical infrastructure, it is the duty of RIICO to provide basic infrastructure including roads, power, street light, drainage etc. RIICO collects Service Charge @ Rs. 6.65 per sqm/year with an annual increase of 10% in the Service Charge. The idea behind collection of Service Charge is to provide basic infrastructure facilities to industries set up in industrial area developed by RIICO. Consent to operate issued by RSPCB contains condition for transportation of industrial effluent through closed conduit pipe lines and it is bounden duty of RIICO to provide member unit of respondent 5 with basic infrastructure facility i.e. closed conduit pipe line for smooth functioning. The plea of financial scarcity by RIICO cannot justify its deficiency in performance and services for which it is under an obligation to provide. RIICO is regularly collecting Service Charges and, therefore, under an obligation to provide requisite services to industrial units in respective industrial areas, the submissions of RIICO absolve from its obligations have no stand and cannot be accepted. The condition stating the consent to operate to ensure transportation of industrial effluent through closed conduit pipes does not clarify as to who has to borne this cost but from the facts it is evident that it is the body responsible for maintenance of industrial area who has to lay down such pipe lines.

Counter affidavit dated 07.04.2016 filed on 07.05.2016 filed by RIICO in reply to the counter affidavit by respondent 5 in OA II:

81. Here the stand taken by RIICO is same as we have already referred above, hence not repeated.

Affidavit-cum-compliance report dated 10.05.2016 filed by RSPCB in OA II

82. Pursuant to Tribunal's order dated 08.04.2016, this affidavit was filed, virtually repeating the facts as already stated by respondent 5 with regard to deposit of Rs. 6,16,40,000/- as 10% cost and expenses required to lay closed conduit pipe and reactivation of same in connection thereof with SCADA Server. It is further said that closure orders dated 12.10.2015 to 71 units were issued and these units are not connected with CETP but operating in non-conforming area without any treatment facility.

Affidavits dated 22.07.2016 (3 No.) and 19.05.2016, all are filed by Respondent 5:

83. The first affidavit raised complaint that Tehsildar has held construction of CETP unit 5 as an encroachment imposing penalty of Rs. 165 and directed for removal of the said encroachment. Respondent 5 has filed an appeal before Collector. On account of the aforesaid litigation execution of upgradation of CETP unit 4 has been stalled. The second affidavit states that effluent discharge after treatment by CETP is maintaining prescribed standards as per testing report of Jagdamba Laboratories dated 11.07.2016.

84. Third affidavit gives status report/progress of upgradation of CETP units 2, 3 and 4 and steps taken in furtherance thereof.

85. Fourth affidavit gives details of the steps taken for installation of 12 MLD capacity CETP unit 5 stating that bidding process has started and 12 months period would take for completion of the work from the day of start of work which is still at the stage of bidding.

86. **Reply-cum-affidavit filed on 18.07.2016 by RSPCB** (respondents 2 and 3) is a parawise reply of OA II registered before this Tribunal. Here also facts stated are almost common to what already stated by respondent 5 in its affidavits and reports referring above, hence we are not repeating

the same. However, it is pointed out that in WP no. 5436/2007 which related to units connected to CETP at Pali, High Court issued directions which **we have already reproduced in para 13 above.**

87. It is said that the said directions are being complied with in substance. Further, in WP No. 6954 of 2007, relating to units located at non-conforming areas of Pali, High Court issued following directions.

- i. All the petitioner industries should shift to the allocated industrial area, within a period of four months, if after depositing the balance amount of the allotment once to the RICO so that direction no.3 of the Division Bench judgment is enforced effectively and without endless delay as all the petitioner-industries are presently working at a place other than an industrial area set up by RICO rather large number of industries exist on agricultural lands now falling in the residential areas.*
- ii. RICO will provide all basic facilities in the newly setup industrial area within a period of two months. The facilities aforesaid would be those which are otherwise provided by the RICO in general for setting up of an industrial area.*
- iii. All the petitioner-industries will pay the remaining amount of allotment price to the RICO within a period of fifteen days.*
- iv. All the petitioner-industries will start their work in the new industrial area only, after conforming the requirement of the Act of 1974 and, thereby, without compliance of the provisions of the aforesaid Act, no industry would be allowed to discharge its trade effluent.*
- v. The respondents- pollution Board, RICO, Trust coordinating with each other under the Chairmanship of the collector of Pali will ensure that the compliance of the directions aforesaid is made within the time-schedule and if any industrial unit makes violation of the direction, then immediate action be taken for closure of those industries effectively and without discrimination. Any lapse in that regard would be viewed seriously by this Court.*
- vi. No petitioner- industry will discharge polluted water in the river Bandi.*
- vii. The parties would otherwise make strict compliance of the directions of this court in the case of Mahaveer Nagar Vikas Samiti and if for that purposes, any industry is to be closed they may pass the necessary orders if not already passed, so that without further delay, at least now the judgment of the Division Bench is complied with, otherwise it will remain an endless process effecting environmental because even after passing of more than a period of four years the compliance of the judgment has not been made and if serious action is not taken in the matter, process of compliance of the Division Bench judgment will remain unattended, more so when the directions of the Division Bench are in the larger interest of the public and basically to avoid health hazard due to water pollution.*
- viii. No industry should allow operating in violation of the judgment of the Division Bench and also the provision of Water Pollution Control Act.”*

88. With regard to the disposal of consent applications, the status as on 11.05.2016 was given as under:

<i>Status of water polluting textile industries (Survey Sep. 2015)</i>	
<i>Total industries</i>	626
<i>Non water polluting/vacant plots/under establishment/Commercial activity as Folding, Packaging, storage etc.</i>	76
<i>Water Polluting textile industries</i>	550
<i>Status of water polluting textile industries as on 11.05.2016</i>	
<i>Total industries (Survey Sep. 2015)</i>	626
<i>Non water polluting/Vacant plots/Under establishment/Commercial activity as Folding, Packaging, storage etc.</i>	71
<i>Water Polluting textile industries</i>	550+05 (Punyata Industries Area Units)=555
<i>Details of 555 water polluting industries (Textile)</i>	
<i>Valid consent to operate</i>	466
<i>Direction of closure issued</i>	15
<i>Direction of closure ceased & under establishment stage</i>	01
<i>Red category dismantled & cte issued under orange category</i>	01
<i>Without valid consent</i>	72
<i>Status of 72 without valid consent to operate units</i>	
<i>Industries under renovation/dismantle state/closed/non operational however having membership and connectivity from the CETP, Pali</i>	04
<i>Earlier application refused/returned & not applied for consent & show cause notice for intended direction of closure issued</i>	04
<i>Show cause notice for intended refusal/show cause notice for intended refusal with intended direction of closure issued</i>	06
<i>Not applied after the expiry of consent and show cause notice for intended direction of closure issued</i>	20
<i>Consent renewal application under consideration with Board</i>	32
<i>Consent application under consideration with Board</i>	06

89. We do not propose to add bulk to this order by giving details of various status reports and affidavits/compliance report submitted by RSPCB and other officers/authorities but give a brief referral thereof as under:

- i. RSPCB has submitted compliance reports dated 26.10.2016, 01.12.2016, 22.02.2017, 14.04.2017, 27.07.2017, 16.08.2017, 02.03.2019, 04.07.2019 and 31.01.2020.
- ii. RSPCB has also filed affidavit/additional affidavits dated 19.03.2018, 24.04.2018, 09.08.2019 and 16.12.2019.
- iii. RSPCB has filed status report dated 30.10.2018.
- iv. Respondent 5 has filed affidavits dated 18.01.2017, 11.09.2017, 05.03.2019, 08.05.2019, 08.05.2019, 17.12.2019, 20.11.2019 and 15.02.2020.
- v. Status reports/Compliance reports/affidavits have been filed by District Collector, Pali (Respondent 6) dated 11.06.2018, 11.04.2019, 16.10.2019, 01.02.2020 and 22.04.2021.
- vi. Reports/affidavits/additional affidavits have been filed by Commissioner, Jodhpur dated 03.07.2018, 11.04.2019, 16.10.2019 and 01.02.2020.

90. Besides above, reports/affidavits/ compliance reports etc. have been filed by various other authorities as below:

- i. Response by respondent 5 to the report dated 08.10.2018 filed by Divisional Commissioner, Jodhpur.
- ii. Response of respondent 8, Municipal Corporation, Pali to report dated 30.10.2018 filed by Divisional Commissioner, Jodhpur.
- iii. Response by respondent 9 (RTHP) to report dated 20.11.2018 filed by Divisional Commissioner, Jodhpur.
- iv. Compliance reports by Secretary, Department of Environment, Rajasthan dated 27.02.2019 and 02.03.2019.
- v. Affidavits dated 11.04.2019 filed separately by Departments of Medical and Health, Transport and Public Health, Engineering Department and Agriculture.

- vi. Compliance report dated 16.05.2019 by Commissioner, Municipal Council, Pali.
- vii. Additional Affidavit dated 31.01.2020 by Additional Chief Secretary, Industries, State enterprises, DMIC and MSME.
- viii. There are some written submissions file by the parties which we may refer at a later stage whenever it is necessary. Here we may just give reference to the said written statements dated 21.11.2016 and 22.04.2017 filed by respondent 5, and dated 01.12.2016, 15.04.2017, 25.07.2018 and 16.11.2019 filed by applicant.

91. Central Ground Water Board, Western Region, Jaipur has filed counter affidavit/reply dated 25.02.2019 in compliance of Tribunal's order dated 31.01.2019. It has given status of ground water scenario of Pali district. The affidavit shows that there are 9 blocks in district Pali and 6 thereof are in the category of over exploited, 2 semi-critical and 1 Pali itself in safe category.

92. The applications for grant of NOC of different blocks received by Ground Water Department and the manner the same have been dealt with are given in the form of chart as under:

Status of Online Application of Pali District (As on 19.02.2019)

Block	Category of Block	Total Online Application	NOC Issued	Under Process			Rejected *	Hard Copy not Received	Total
				Query Raised & Reply Awaited	Under Process	Forwarded to CGWA, New Delhi			
Bali	Over Expolited	13	-	4	3	-	6	-	13
Desuri	Over Expolited	16	-	4	-	-	12	-	16
Jaitaran	Over Expolited	9	-	-	2	-	6	1	9
Kharchi (Marwar Jn.)	Over Expolited	5	-	1	2	-	2	-	5
Pali	Safe	637	3	54	-	5	574	1	637

Raipur	Over Expolited	25	-	3	4	-	18	-	25
Rohat	Over Expolited	5	-	2	-	1	1	1	5
Sojat	Over Expolited	2	-	-	1	-	1	-	2
Sumerpur	Over Expolited	16	-	5	4	-	7	-	16
Total	Over Expolited	728	3	73	16	6	627	3	728

93. It is also stated that there are 22 observations well in Pali district for monitoring ground water condition; level of total dissolved solids is higher in 8 stations, concentration of fluoride is higher in 11 stations nitrate contents are higher in 5 stations and iron concentration is higher in 1 station.

Orders passed by Tribunal in OA II i.e. OA 32/2014:

94. **Order dated 07.12.2020:** Several orders have been passed from time to time but instead referring to the same, we find that a detailed order was passed on 07.12.2020 in which earlier orders were also considered. Hence, we find it appropriate to place relevant extract of order dated 07.12.2020 passed in OA II, which is as under:

“2. Case of the applicant – Samiti is that dyeing and printing industries of Pali town are discharging effluents in Bandi river which is a tributary of Luni river, leading to water pollution which is a source of drinking water of the livestock as well as the inhabitants of the nearby villages. There is water scarcity in the area. Nehra Dam was set up as an irrigation project. The effluent has severely damaged the environment in the area. A study found that Common Effluent Treatment Plants (CETPs) do not have adequate capacity to treat the effluents. The number of factories is continuously increasing, without corresponding increase in the capacity to treat effluents. The State PCB initiated prosecution of Pali Water Pollution Control Treatment and Research Foundation, Mandia Road, Pali (CETP management), in terms of office order dated 01.06.2012 for violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974 (The Water Act, 1974). There are many industrial units in non-conforming areas, in violation of environmental laws which need to be closed and shifted. The non-compliant industries need to be closed to give effect to the environmental norms in view of law laid down in Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647. There is need to prevent environmental degradation and to invoke the “Polluter Pays” principle. The State, under the Public Trust Doctrine, must

take remedial action for protection of the environment and to give effect to right of citizens to clean environment.

3. This Tribunal, vide order dated 05.03.2014, sought response of the opposite parties and directed that the industries operating without requisite consents under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 be closed and steps be taken to prevent pollution. The matter has thereafter been considered on several occasions in the last six years. For the purpose of this order, we may only refer to some of the significant orders.

4. Vide order dated 03.10.2016, the Tribunal directed joint inspection by the Central Pollution Control Board (CPCB) and the State PCB to ascertain the ground situation.

5. Accordingly, an inspection report was filed **on 26.10.2016** with regard to the status of six CETPs and 578 textile and dyeing industries. Vide order dated 26.05.2017, the Tribunal considered the report and since the CETP were not adequately treating the effluents, the Tribunal directed restricted working of the industries under a roaster, to be prepared, **and constituted a Monitoring Committee comprising of CPCB, State PCB, Member of faculty of IIT, Jodhpur and Dr. Brij Gopal, Environmental Specialist at Jaipur to further assess the functioning of the CETPs.** It was also directed that only industries having standalone ETPs be connected to the CETPs.

6. In compliance of the above, the Monitoring Committee submitted its report dated 15.04.2018 recommending as follows:

“1. In view of the grave situation of the water quality of the river and Nehda reservoir, ground water quality and land pollution, and in the overall interest of the health of the people of Pali, we recommend that no treated or untreated industrial effluent should be allowed to be discharged in river or on adjacent land in any form. Further, considering not only the feasibility but also the economic viability and the environmental sustainability of CETP, even on a small to moderate scale, we recommend that:

- a) The industries should be required to recover water and reuse it from the tertiary treated effluent instead of discharging into the river.
- b) CETP-VI should adopt multi stage Reverse Osmosis System (RO Plant), of adequate capacity for recovery of water and its reutilization by the member units of CETP, followed by RO reject management system such as Multi Effect Evaporator, and residual salt management.
- c) The CETP management should also prevent the river and land from any damage from the RO reject generated from CETP.
- d) CETP-II, III and IV should also be upgraded to incorporate a tertiary treatment system together with the multi stage Reverse Osmosis System (RO Plant) of adequate capacity for reuse and reutilization of treated water along with the reject management system such as Multi Effect Evaporator, and residual salt management.

- e) *The individual industries should periodically monitor the quality of effluent discharged from the primary treatment facilities for smooth and efficient operation of CETPs, and should comply with the consent conditions.”*

7. *The Tribunal, vide order dated 28.05.2018., directed remedial action by the industries/CETPs as per above recommendations, to be verified by the Collector, Pali and the Divisional Commissioner, Jodhpur.*

8.. *The matter was thereafter reviewed on 21.12.2018 and since the deficiencies had continued, **it was considered necessary to require an updated report of the status of compliance and further action required comprising of three-member expert Committee** comprising of Dr. A.P. Singh, Professor and Dean, BITS Pilani, Dr. A.B. Akolkar, Former Member Secretary, CPCB and Dr. A.B. Gupta, Professor, NIIT, Jaipur. The Committee visited the site and examined the compliance status with reference to the earlier action plan dated 15.04.2018. The issues noted in the report are:*

“3. Issues of concern:

- i. *River Bandi is polluted due to discharge of industrial effluents and sewage disposal of Pali town.*
- ii. *Polluted water flowing in River Bandi is a constant threat for health of villagers and to the agriculture.*
- iii. *Installed CETPs not achieving zero liquid discharge (ZLD) and effluents still being discharged into River Bandi.*
- iv. *Industries discharging effluents to CETPs without having primary effluent treatment plants (PETPs).”*

9. *The Committee submitted its report on 15.01.2019. It was found that river Bandi was polluted by flow of coloured effluents in the Nehra Dam. There was deposit of green coloured sludge. Water quality was beyond norms. CETPs were deficient. There was loss to the farmers on account of damage to the soil. Ground water sources were depleted. Recommendations in the earlier report dated 15.04.2018 remained by and large uncomplied. The concluding observations and action plan in the said report are as follows:*

“10. Concluding observations and Action Plan, (2019):

The present Team of Scientists has referred the available Inspection Reports placed on record of Hon'ble Tribunal on issues relating to pollution issues caused by textile units in Pali. The Team has also examined water quality data that is, of river Bandi at Nehda Dam, ground water report of CGWB and performance report of CETPs.

*After assessing overall environmental status of the area and the nature of industries in existence (Textile) and remedial measures taken to control industrial pollution by installing CETPs, **the Committee considered to place the following suggestions which may be considered as an upgraded version of already existing action plan suggested by earlier***

Committees. The key observations with Action Points are given below:

10.1 The River Bandi and its Rejuvenation:

- i. The River Bandi is not having its natural flow but, it is only carrying industrial waste water as well as domestic sewage.**
- ii. Water quality is "not-fit" for any use.**
- iii. The River water has been deteriorated to the worst quality. It has been reported that upstream location of river at Hemawas reservoir indicate pH 8.22, BOD 1.13 mg/l, COD 28 mg/l and TDS 470 mg/l against the downstream location of river at Nehda Dam with pH 7.9 to 8.61, BOD 9.9 to 44 mg/l, COD 94 to 313 mg/l and dissolved solids 4008 to 6624 mg/l.**

The Action Plan:

- i. The river may be dredged so to remove industrial and sewage sludge deposited.**
- ii. River may be canalised (earthen canal) at appropriate locations.**
- iii. Not allowing industrial (even treated) and sewage disposal into River Bandi. To monitor this, CCTVs be installed at strategic locations and monitored by District Collector and Regional Office of RSPCB.**
- iv. Tertiary treated industrial and sewage effluent after its utilisation and if surplus, may go into river but not exceeding value of BOD; 3mg/l, TDS/FDS; not more than 2100 mg/l and fecal coliform; less than 230 MPN/100ml.**
- v. To prohibit unauthorised/illegal discharges of industrial effluent through tankers and particularly from adjoining States should be monitored at inter-State borders and within the State also at various check-posts. Further, vigilance squad should also be deployed to check such incidences of discharging effluents in the River through tankers.**
- vi. RSPCB must monitor regularly river water quality and quantity at critical locations including NH bypass bridge location (with inflow and outflow) to apply mass balance of selected stretches so that illegal disposal of industrial wastewater into river can be monitored.**

10.2 The Ground Water:

- i. Industries are using ground water supplied by tankers through private parties.**
- ii. There is no regulation on supply of such ground water by private parties to the industries.**
- iii. Granting permission by CGWB to industries and those being done by private parties through tankers is not clear on permissions and many applications are pending with CGWB.**

The Action Plan:

- i. Through Industrial Association and State Government, some of the village wells having relatively less TDS, may be fitted with RO and Fluoride, Arsenic and other contaminant removal system and provide potable/usable water to villagers and farmers for their use. This plan may be proposed and executed within six months.**
- ii. To conserve ground water, in Pali town, dual piping system be enforced and waste water of kitchen and bath, be used for flushing of toilets. This can be planned and executed within residential (This may cover hotels, new residential one year. societies/complexes, and other Institutions).**

10.3 Sewage Treatment and its utilisation:

- i. The treated sewage (at secondary level) of 7.5 MLD plant is presently disposed into River Bandi.*
- ii. M/S Pali Zila Dugdh Utpadak Sahakari Sangh Ltd. is sending its effluent to this STP for treatment,*
- iii. The STP of 15 MLD located in the same premises is under construction and targeted for completion before March, 2019.*
- iv. The 7.5 MLD plant is not receiving full sewage due to incomplete sewer line works and connections.*

The Action Plan:

- i. The existing plant of 7.5 MLD should be provided with tertiary system to remove fecal coliforms to meet the standards.*
- ii. Treated effluent be further refined and entire effluent from this plant be utilised by industries as process water and thereby prohibiting use of ground water being supplied by tankers.*
- iii. Steps may be initiated at this stage to use 15 MLD treated sewage for industries.*
- iv. In no case, effluents from both the plants to go into river. If it is required to be discharged as surplus then it should meet standards of BOD; less than 3.0 mg/l and FC; less than 230 MPB/100 ml.*

10.4 Industrial Pollution Control:

- i. None of the CETPs is meeting the standards**
- ii. No standards are given for CETP-2 and sending its effluent to CETP-6.**
- iii. CETP-2 has poor maintenance.**
- iv. No standards prescribed to CETP-3 and sending effluent to CETP-6.**
- v. CETP-4 has also not been given standards for disposal to CETP- 6. But, as per consent, effluent is consented for disposal of effluents to river.**
- vi. CETP-6 is disposing non-compliant quality of treated effluent to river. Facilities to recover water and supplying to the industries is not complied.**

The Action Plan:

- i. CETP Association, RSPCB and RIICO, should review that why not receive all waste water of CETP 2, 3 and 4 directly at CETP-6 for treatment and dispense with the functioning of CETP 2,3 and 4 which for practical purpose not serving any purpose. Response to this action points may be provided in 4 weeks.
- ii. If, CETP 2, 3 and 4 are to be operated, then they should be provided with outlet norms which will become inlet norms of CETP-6. Consent granted to CETPs, be accordingly modified and consent may be granted within 4 weeks.
- iii. There should be regular inspection and maintenance schedule of closed pipeline carrying effluent to CETPs.
- iv. RIICO and industrial Association should clean all the storm water drains and no choking should be seen.
- v. In industrial area of Pali, no waste should be burnt.
- vi. RIICO with Industrial association, should work out for use of solar panel to energize the boilers and minimize use of wood or coal as fuel.
- vii. All the member industries be insisted to make pH correction particularly of units generating effluent less than 50 KLD.

10.5 Environmental Compensation:

- i. **Team could not get authentic official records on damages to agriculture, loss of ground water quality and health**

The Action Plan:

- i. State Department of Agriculture and Health may provide information on status of agricultural loss, ground water conditions and health due to pollution by textile units.
- ii. Environment compensation and relief to villagers and farmer may be considered and at the same time, detecting factors of natural desertification effects. State Government may provide information within 2 months.

11. Surveillance and Monitoring:

The Team suggests that there is need to have a regular surveillance mechanism to monitor the compliance of Action Plan as well as ground level checking. **For this purpose, a District Level Task Force under the chairmanship of District Collector with representatives of State Pollution Control Boards, RIICO, Transport Department and Police and also be represented by District Legal Services Authority. The task force may meet and review the progress of implementation of Action Plan on weekly basis and also carryout random checks. It would also be appropriate to have a Monitoring Committee under chairmanship of Divisional Commissioner (Jodhpur) to monitor progress of implementation of Action Plan for Pali as well as Jodhpur industries including CETPS as has already been directed by the Hon'ble Tribunal.”**

10. The Tribunal considered the matter vide order dated 31.01.2019. **In view of serious violation of environmental norms, in violation of earlier orders, the Tribunal required the CETP operator to pay compensation of Rs.1 Crore and the State to pay compensation of Rs.20 crore on polluter pays principle** for restoration of the environment and also directed remedial action to control pollution and to provide relief to the victims, as follows:

- I. The concerned authorities in the state **should implement the upgraded/ revised Action Plan suggested by the Committee.**
- II. The Secretary, Department of Agriculture, Government of Rajasthan shall **get an assessment done on loss of agriculture to the farmers/villagers, on the damages caused to agriculture land by use of contaminated water of river Bandi as well as to the wells in nearby area and submit a report within one month, suggesting compensation to the farmers (one time ex-gratia).**
- III. **The Secretary, Department of Health of the State shall file a report on status of health of villagers in the area due to use of contaminated water within one month and also report on health check-up camps organized. He will also report on action taken on any previous work/reports on such incidences.**
- IV. **The Secretary for Water Resources of the State Government and Central/State ground water agencies will file, through its Secretary, report on status of ground water reserves, and quality in the catchment of Bandi. The report should clearly highlight status of ground water contamination in context of industrial and sewage discharge in the open. Report should also be filed in context of providing potable water to the affected villagers, including setting up of water purification/treatment plants through Polluters. Action taken report to this effect should be filed within one month.**
- V. The Secretary of the State Environment Department should file a report on actions taken on the report of National Productivity Council prepared in the year 2010 relating to "Study of Health and Environment impact due to pollution from textile units in Pali". This report was prepared at the instance of Department of Environment, Government of Rajasthan. The status report should be filed within one month.
- VI. **We direct the State Transport Department to keep vigil at different check-posts within the districts of Pali to control and prohibit discharge of unauthorized effluents through tankers into river Bandi or at any other locations. This action should also include prohibiting entry of any unauthorized tankers from the neighbouring districts. The daily report to this effect should be e-mailed to the office of the Collector (Pali) and to the Regional Office of State PCB.**

- VII. We direct Central Ground Water Board (CGWB) to file status of ground water scenario in Pali district indicating; (a) pendency of applications for grant of permissions received from industries (b) ground water level and its quality in the Pali district.
- VIII. We direct Rajasthan Pollution Control Board to grant consents under the Water Act to the industries and disseminate the status on its website. No industries should be allowed to operate without having valid consent. **The action should also be taken so that the member units to the CETP should have at least, pH correction before letting out the effluent in a closed conduit reaching to CETP. We further direct RSPCB to resolve the issue relating to granting of consent to CETP (Unit No.6) stipulating zero liquid discharge with reference to river Bandi and ensuring that the treated effluent is supplied to the Member Units. RSPCB should ensure that no industrial and sewage effluent is discharged into the river (even treated) and instead, it should be utilized by the industries. The Board should take coercive action against the defaulting industries including imposing environment compensation as well as launching prosecution. A report to this effect, shall be filed before 1st of March, 2019. In case of failure, the Tribunal will take coercive action against the Board.**
- IX. RSPCB should monitor the compliance and file reports to the tribunal. First such report should be filed before 01.03.2019.
- X. Further, the new STP of 15 MLD which is reported to have been under constructions, should also be equipped so that treated effluents are supplied to the industries.
- XI. **We direct CETP operator to set up system for proper treatment and recovery of water for supply to the Member Units and minimizing use of ground water to almost zero level, within two months.**
- XII. We direct the Commissioner, Pali Nagar Nigam to set up the required system to meet the standards for 7.5 MLD sewage treatment plant and not to discharge treated effluents into river Bandi.
- XIII. **The Divisional Commissioner (Jodhpur), will have a plan prepared for dredging of river Bandi and also canalising it at an appropriate locations within one month. While issuing such directions natural conditions and ecology should be protected.**
- XIV. We further direct RSPCB and RIICO and the Industrial Association of Pali to use the treated effluents for industrial purpose. Any further requirement of finished water, may be undertaken at the cost of industries. This action should be completed within one month.
- XV. **We direct the Chief Secretary of the State of Rajasthan to deposit Rupees twenty Crores as an interim amount,**

within one month, towards environment compensation to CPCB, which may be recovered from the polluters. Chief Secretary will also ensure that the aforesaid Reports called for on Health, Agriculture and Ground Water are filed by the concerned Secretaries, within time.

XVI. We impose environment compensation of Rupees One Crore on CETP operators for discharging effluents into river Bandi and not setting up system for reuse of treated water for supplying to the industries to be deposited with CPCB, within one month.

XVII. We direct Collector, Pali to review the status of compliance of directions of the Tribunal weekly and the same be reviewed by the Divisional Commissioner, (Jodhpur) in one month.”

11. **By further order dated 18.10.2019, the Tribunal directed verification of status of compliance by the CETPs and the industries, in comparison to the earlier status, by an expert (Prof. AP Singh from BITS Pilani). The report 27.11.2019 was considered on 18.12.2019.** It was found that the functioning of the CETPs was still not satisfactory. The industrial effluents from the units connected to the CETPs were not being treated and were being discharged in open fields or in the river. Relevant extracts from the order dated 18.12.2019 are as follows:

“6. The Court Commissioner had made following observations on the functioning of the Common Effluent Treatment Plants (CETPs) at Pali, Rajasthan:

“ CETP – 1:

- It is non-operative.

CETP-2:

- This CETP is meant for receiving effluents from 282 textile units of Mandia road industrial area, Pali. At the time of inspection on 11th November, 2019 following observations were noted:

o The permitted operated capacity of CETP-2 has been prescribed as maximum up to 5.4 MLD by the State Pollution Control Board against its designed capacity of 8.4 MLD). It is surprising how the plant is running underflow at the time of inspection, especially when 282 textile units are to be served from Mandia road industrial area, Pali.

o Though the provision of an electromagnetic meter has been provided after the equalization tank (in transfer line to flash mixer section), it was initially non-functional and was installed recently just few days before the inspection visit of Commissioner. It is to be noted that the flowmeter is required to be installed at the inlet point of conveyance influent system (before Conduit Termination Pit) rather than providing it after the equalization tank (in transfer line to flash mixer section). Also, flow and effluent quality data are not being monitored

through SCADA system at CETP-2 which is the violation of condition no. 16 stipulated in CTO order no. 2017-2018/PLG/1025 dated 19/06/2017.

o There is no recording of effluent flow at the outlet of CETP-2. No flow meter exists at the outlet which is violation of condition no. 7 stipulated in CTO order no. 2017-2018/PLG/1025 dated 19/06/2017. It is very essential that the flow at the outlet of CETP-2 be measured accurately with proper flowmeter to ensure that the same flow is being discharged into the inlet of CETP-6 especially when both CETPs are located far away and not in the same premise.

o Scrapper of oil & grease trap was nonfunctional.

o CETP-2 is non-complying with respect to input parameter quality parameters such as pH (=11.1), total suspended solids (848 mg/L). Similarly, as per RSPCB test results of samples, lead concentration was found 1.08 mg/L at the outlet of CETP-2 which is also non-complying.

o Log book of operation, electric meter/water meters'/chemicals consumption etc. are not maintained properly. From the examinations of the produced log book, it has been inferred that artificial data have been created with instant entry in the log book. Consumptions of chemicals and utilities are not recorded.

o CETP-2 is non-compliance with respect to conditions numbers 16, 17, and 18 stipulated in the CTO order no. 2017-2018/PLG/1025 dated 19/06/2017.

o Records of generation and disposed sludge are not being maintained in the prescribed format for the last six months.

o Condition of secondary treatment units was clearly revealing that biological treatment is very poor and failed.

o Neither run hour meters are provided nor any log book is maintained for operation of influent/effluent handling pumps installed with different units of CETP. In absence of same, regulated operation of CETP may not be ascertained.

o Records related with routine engineering maintenance are not being maintained.

o Though CETP-2 is physically present, it is essentially being used as a pumping station to receive the wastewater from industries and pump the same to CETP-6 without any effective treatment.

o Due to above deficiencies and observations made, it is inferred that CETP-2 is noncomplying with respect to various conditions stipulated in the CTO.

CETP- 3:

- The consent granted for this CETP is valid till 31st March, 2022 for install capacity of 9.080 million litres per day (MLD). Though the plant has been planned to cater to the needs of 62 units located in RIICO industrial area and Mahavir Udyog Nagar, it is not in operation for the last six (6) months.

CETP-4:

- This plant is presently operational without any formal CTO letter because consent to operate under Water Act, 1974 was valid upto 30th September, 2018 and the CETP IV still needs to get consent to operate.

- This CETP has an installed capacity of 12.0 MLD to cater to the needs of 215 industries located in Punayata industrial area.

- The treated effluent from this plant goes to CETP-6 for further treatment.

- No correlation could be established between effluent discharged from CETP-4 into CETP-6 and influent received at CETP-6 from CETP-4 due to lack of appropriate flowmeters at proper location though there exists a flowmeter at the outlet of CETP-4. It is very essential that the flow coming from the outlet of CETP-4 be measured accurately at the inlet of CETP6 with proper flowmeter to ensure that the same flow is being discharged into the inlet of CETP-6 especially when flexible pipes are being used and both CETPs are located far away and not in the same premise. There is no proper layout of piping systems/signage at the plant which ascertain whether these pipes are coming from a particular treatment unit (e.g. CETP-2, CETP-4 etc.) or coming directly from industrial units.

- Aeration system in equalization tanks has not been found effective at the time of inspection.

- Sludge drain facility has not been provided in equalization tanks.

- In the absence of metering arrangements at appropriate location in inlet of Conduit Termination Pit of CETP-4, actual quantum of influent could not be assessed /recorded accurately. Thus, it is difficult to ensure whether plant is running within the prescribed flow capacity as given in the CTO or not.

- Log book of operation, electric meter/ water meters'/chemicals consumption etc. are not maintained properly. From the examinations of the produced log book, it has been inferred that artificial data have been created with instant entry in the log book. Analysis of treated water quality is clear indicator of poor O & M of CETP.

- Records of generation and disposed sludge are not being maintained in the prescribed format for the last six months.

- Filter Press has not been provided for dewatering of sludge.

- *The Programmable Logic Controller (PLC) based chemical dosing facilities have not been provided. During inspection related operations are being performed manually by unskilled labour in an unscientific manner. In the absence of any surveillance and automated system, usage of appropriate chemicals with optimum dose for treatment cannot be ascertained.*
- *Condition of secondary treatment units was clearly revealing that biological treatment is very poor and failed.*
- *Record of Total Suspended Solids (inlet and outlet) and sludge drains etc. are not being maintained for primary clari-flocculator.*
- *Controlling parameters like dissolved Oxygen (D.O.) & Mixed Liquor Suspended Solids etc. are not monitored in the aeration tank.*
- *Record of sludge drains was not being maintained for secondary clarifier. In the absence of such monitoring efficiency of clarification at secondary (biological sludge) treatment could not be established.*
- *Performance of centrifuge was poor. Sludge (in Slurry form) was being filled in tractor trolley.*
- *Neither run hour meters are provided nor any log book is maintained for operation of influent/effluent handling pumps installed with different units of CETP.*
- *Bulk quantity of sludge was stored in shaded storage area. Sludge is also stored in open space as shades provided for storage of sludge are not of sufficient capacity.*
- *General house keeping all around sludge storage area was very poor. Even the yard site and other area were becoming greenish due to spillage of sludge. The dried sludge was becoming air born with movement of vehicles.*
- *Records of sludge generation and disposal are not being maintained in prescribed FORM-3 in HWMR2016.*
- *Examination of past data revealed that disposal of sludge is almost equal to daily generation and, if a large quantity of hazardous sludge is stored in yard and lying in open lagoon over the years, it clearly indicates that sludge is not being disposed at same rate as it is being generated. It is clear indication of violation of Rule 8 of the HWMR 2016, if large quantity of sludge is continuously being stored in the yard since long.*
- *Referring to quantity of sludge stored in yard and on basis of details of sludge disposal it was concluded that final disposal of sludge, to SLF or for Co-processing, is not being done as per provisions of Rule 8 of the Hazardous and Other Waste (Management and Transboundary Movement) Rules 2016.*

- *Accumulated (Stored) sludge in the yard may become a cause of severe environmental degradation & water pollution in that vicinity.*
- *Online treated effluent quality monitoring analyzers were not in operation.*
- *Though CETP-4 is physically present, it is essentially being used as a pumping station to receive the wastewater from industries and pump the same to CETP-6 without any effective treatment.*
- *CETP-4 is non-complying with respect to water quality parameters. The samples taken from inlet and outlet of CETP-4 were tested by Rajasthan State Pollution Control Board, Head Office, Central laboratory, Jaipur.*
- *This plant is 'non-complying' with respect to:*
 - o *Not meeting the standards (condition given in the consent attached as Annexure R-8, page 2966-2971 of earlier report submitted on 16th January 2019). In fact, at present this CETP is operating without valid consent of State Board as the consent granted was expired on 30.09.2018.*
 - o *Not utilizing effluent with high rate transpiration system (HRTS) as specified under condition 8 of the consent.*
 - o *Upgradation of CETP for ZLD and tertiary system (condition 20 and 21 of the consent).*
 - o *In addition, CETP-4 is not complying with the condition no. 9, 10, 11, 16, 22, 24 & 25 of the consent.*

CETP-5:

- *This plant is yet to be completed.*

CETP-6:

- *Consent to operate to this Plant under Section 25/26 of Water Act, 1974 and under Section 21 of Air Act, 1981 was granted on 27.02.2019 and is valid up to 31.01.2023 with the condition of zero liquid discharge with scientific arrangement for disposal of RO rejects to achieve the status of Zero Liquid Discharge (ZLD). The work for installation of Zero Liquid Discharge facility is yet to be started.*
- *This CETP is meant to treat the waste water being received from CETP 2, 3 (non-functional at the time of inspection on 10.11.2019) and 4 with a total installed capacity of 12.0 MLD.*
- *The CETP-6 is based upon physico-chemical, secondary biological treatment technology followed by Tertiary treatment facility. Tertiary treatment facility is comprised of Pressure Sand Filters and Activated carbon columns only. (At the time of surprise*

inspection on 21.11.2019, Pressure Sand Filters and Activated carbon columns were non-operational).

- *As per consent granted to CETP-6; no waste water is to be disposed and it should be based on ZLD. However, it has been found that effluent wastewater from CETP-6 is being discharged and getting stored in a pool of temporary arrangement of earthen walls constructed on the bed of river Bandi itself.*
- *Neither run hour meters are provided nor any log book is maintained for operation of influent/effluent handling pumps installed with different units of CETP.*
- *The electromagnetic meter provision has been made after the equalization tank (in transfer line to flash mixer section), which is not appropriate location for capturing inflow of the plant. It should be installed at the inlet point of conveyance influent system (before Conduit Termination Pit or receiving inlet sump). Also, it is not being monitored through SCADA system at CETP-6.*
- *No correlation could be established between effluent coming from CETP-2, CETP-3 & CETP-4 into CETP-6 due to lack of appropriate flowmeters at proper location. It is very essential that the flow coming from the outlets of CETP-2, CETP-3 & CETP-4 be measured accurately at the inlet of CETP-6 with proper flowmeter to ensure that the same flow is being discharged into the inlet of CETP-6 especially when flexible pipes are being used and both CETPs are located far away and not in the same premise. There is no proper layout of piping systems/ signage at the plant, which can ascertain whether these pipes are coming from a particular treatment unit (e.g. CETP-2, CETP-4 etc.) or coming directly from the industrial units.*
- *Online effluent quality monitoring system is not being operated and maintained. Also, for exact metering of discharge water, outlet meter is to be installed into the discharge line of ACF & PSF section.*
- *The Programmable Logic Controller (PLC) based chemical dosing facilities have not been provided. During inspection, related operations are being performed manually by unskilled labor in an unscientific manner.*
- *Record of Total Suspended Solids (inlet and outlet) and sludge drains etc. are not being maintained for primary clari-flocculator. In the absence of such monitoring efficiency of clarification of primary (chemical sludge) effective treatment could not be ascertained.*
- *As per technical design of this CETP, clarified water tank has not been provided before SBR.*
- *Designed/Original PLC based operation of SBR is not in use. Different operations of SBR section are controlled manually.*

- Records of regular back washing of tertiary treatment units as well as replacement of sand filter media and activated carbon columns is not being maintained.

- Record of replacement of filter media is not available with CETP operator. It was reported that the media was replaced long back. Further, the result of treated effluent is clear indicator of poor efficiency of ACF & MGF.

- Sludge generation from CETP-6 unit is about 700 MT/month. Examination of the past data revealed that disposal of sludge is almost equal to daily generation. However, about 6750 MT sludge has been found stored at common sludge yard of CETPs at time of inspection, which is a clear indication that generation and disposal data provided in the record is not authentic. It was told that even more than 10000 MT of sludge have been stored in similar manner for a very long time, which is violation of provisions of Haz. Waste (M, H & TBM) Rules 2016. The Management of CETPs does not has any action-plan for the lifting & disposal of the stored sludge in prescribed time frame under H & OW (M & TM) Rules, 2016.

- Records of generation and disposed sludge are not being maintained in prescribed format.

- Filter Press has not been provided for dewatering of sludge.

- Bulk quantity of sludge was stored in shaded storage area. Sludge is also stored in open space as shades provided for storage of sludge are not of sufficient capacity.

- General house keeping all around sludge storage area was very poor. Even the yard site and other areas were becoming greenish due to spillage of sludge. The dried sludge was becoming air born with movement of vehicles.

- Accumulated (Stored) sludge in the yard would become a cause of severe environmental degradation & water pollution in that vicinity.

- As per R.O., Pali, CETP authorities are not maintaining and sharing complete record of effluent treated, chemicals consumed, energy consumption, records of sludge disposal and disposal etc. They do not share such data on monthly basis which is violation of point no. 10 & 16 stipulated in the CTO order dated 27/02/2019.

- o The quality of treated effluent is not within the prescribed standards limit. For example, concentration of Chloride is 2560 mg/L and Fluoride is 3.78 mg/L which are noncomplying to the standards.

- o Observations made by the RSPCB in last few months reveal that quality of treated effluent from CETP-6 is not complying with respect to other parameters as well.

o Also, online treated effluent quality monitoring analyzers were not in operation. o The working different treatment units at CETP-6 has been found poor. Also, Routine maintenance of the plant is very poor. Records related with routine engineering maintenance are not being maintained properly.

o A lot of noise pollution occurs if D.G. sets are functioning. Intense noise was observed from compressor house. Acoustic enclosure for control noise level has not been provided.”

7. The Court Commissioner also made a surprise visit to CETP-6 on 21.11.2019 and has observed as follows:

“• Just after arrival at the plant, all incoming pipes coming to the inlet sump were running full of flow. However, just within 5 minutes, inlet flow from one of the pipes was stopped and flow was reduced in other pipes. It is felt that it was done intentionally to reduce the inflow. The flow meter reading was observed as 420 m³/hr. Surprisingly there was no variation observed in the flow meter during this time. Probably it is because it is placed at the wrong location to capture inlet flow or flowmeter might not be working accurately or it might have been calibrated to show a particular fixed range of flow only. It may be recalled that flowmeter was recording similar range of flow of (about 427 m³/hr) during the inspection on 10.11.2019 when there was low inlet flow observed as compared to that during the surprise visit on 21.11.2019. The difference in water level in inlet sump can be seen on both inspection dates.

• One additional flexible pipe line discharging raw influent into inlet sump has also been observed during the surprise visit which was not there during a visit on 10-11th November 2019. On enquiry, it was told that it is laid down from Punayata Industrial Area to inlet sump of CETP-6 to carry the industrial wastewater influent directly to CETP-6 without pretreatment in CETP-4, which is violation of the order of Hon'ble NGT Dated 26/05/2017.

• Samples were taken at inlet, just after secondary clarifier (ACF & PSF units) and at the outlet of CETP-6. Few critical parameters were tested in the Laboratory by the Commissioner. The results were quite alarming as shown in Table 1. The analysis report of treated wastewater of CETP collected at the final outlet of CETP-6 indicates that six important parameters out of eight, which were tested, are exceeded much beyond the prescribed limit of design parameters. These are COD with observed value of 940 mg/L against the prescribed limit of 250 mg/L; Chloride value of 3757 mg/L against the prescribed limit of 1000 mg/L; Total Suspended solids (TSS) value of 155 mg/L against the prescribed limit of 100 mg/L; Oil and grease value of 30 mg/L against the prescribed limit of 10 mg/L. BOD₃ (at 27 °C) value of 320 mg/L against the prescribed BOD limit of 20 mg/L; The values of other parameters were found to be pH = 8.0 (within limit); Total Dissolved Solids = 11140 mg/L, Total Hardness = 280 mg/L. The detailed analysis report is given in Table 1.

• Immediately, observations were made at the outlet to get effluent flow data. It was further surprising to note that the flow

meter reading of outflow which was observed as 124 m³/hr reduced to 111 m³/hr which was further reduced to 92 m³/hr within 3-4 minutes. The colour of effluent at the outlet was also changed very dramatically from dark green to pale yellow within 3-4 minutes. At the time of surprise inspection, the sudden change in outlet flow and its colour from dark green to pale yellow within 3 to 4 minutes shows that-

- o The outlet treated effluent flow was possibly diverted and some clear water of same TDS might be introduced.*
- o The flow was possibly reduced by sludge decanting from secondary clarifier to reduce the surface over flow rate.*
- o Chances of introduction of any bleaching agent (Like sodium hypochlorite etc.) in the outlet pipe at the time of inspection may not be ruled out.*
- o As stated earlier, the sludge generation is out of limit so probably, a part of the sludge might be recirculated to raw water or equalization tank or somewhere in the process of flow through pipes, which might be one of the reason of high COD at the outlet.*
- o The BOD is also too high at the inlet of CETP6, hence reduction is not as per the stipulated limits. The main cause of BOD might be that some waste water stream be fed directly to the pipe/stream coming from primary CETPs (CETP-4 or CETP-2).*
- o As the treated water has high COD in the test samples taken during the surprise visit as shown in Table 1, it shows that the chemical treatment is ineffective. Probably only pH correction might have been done at the site using some acid. The parameter reduction is only due to settling of the sludge in the clarifiers etc. PSF/ACF are initially nonoperative at the time of sudden inspection and were operated partially after some time, it was not clear whether they were in line or NOT. There is no pressure gauge/flow monitoring device available in PSF/ACF, which is essential in order to keep regular watch of working conditions of tertiary treatment units (basically it is only primary unit of tertiary treatment). Also at the time of sudden inspection, effluent at the outlet was having typical smell which was disappeared within 3-4 minutes at the time of inspection itself probably due to reduction in flow as stated earlier.*

• Above observations clearly shows that CETP-6 is 'noncomplying' with respect to:

- o Not meeting the effluent standards and several other conditions given in the consent.*
- o As per the technical data of CETP-6 provided at Annexure R-10 (page 2973-2977 of earlier report submitted to Hon. NGT on 16.01.2019). It is inferred that though this CETP-6 is designed based on raw water characteristics with BOD 700-1000 mg/L;*

COD 3000-3500 mg/L, Oil and grease 100 mg/L, the actual average values of these parameters at the inlet sump during the surprise visit has been found as 2360 mg/L (BOD); 4351 mg/L (COD); 460 mg/L (Oil & Grease) respectively (Table 1). These values are much higher than the designed values of parameters which clearly shows that the flow coming from CETP-2 and CETP-4 to inlet sump of CETP-6 is not complying the standards. Not only CETP-2 & CETP-4 are noncompliance with respect to their effluent (outlet) meeting requirement standards but also CETP-6 does not meet its input design parameters. CETP-3 was also found nonfunctional at the time of inspection.

o Similarly, CETP-6 does not meet its effluent design parameters standards as explained under item no. (iv) mentioned above (Table 1). It clearly indicates that the all CETPs are not complying with the standards.”

8. The Court Commissioner has also made observations on the status of River Bandi (Jodhpur by-pass) from a site located at NH-62 Jodhpur By-pass Bridge (upstream location of the river in Pali town) where ditches/pools in the river bed were seen.

9. Channelization work was going on to separate out effluent of industrial wastewater with natural river flow. From the By-pass Bridge, ponding of industrial treated effluents were observed in large area.

10. It has been found that effluent wastewater from CETP-6 is being discharged and getting stored in the pools (4 Nos.) of temporary arrangement of earthen walls (Dhora) construction on the bed of river Bandi itself. As this storage facility is spread in the area of about 107650 m² without any lining, the possibilities of leakage and seepage of stored effluent from earthen pool into the river cannot be denied, in addition to its seepage into the groundwater. This is vulnerable to contamination of fresh water resources especially when it accumulates highly contaminated treated effluent as can be observed in sampling test results conducted by RSPCB on 11.11.2019.

11. Interestingly, the concentration of some of the parameters of the sample taken from the Cess Pool (located at back side of plot no. 18, PIA Pali) is of similar order of magnitude as was measured by the commissioner for a sample taken at the final outlet of CETP-6 (within the premise) on 21.11.2019 during his surprise visit.

12. The following concluding observations were made with respect to performance of the CETPs:

“ None of the CETPs is meeting the standards. These plants are ‘non-complying’ with respect to designed influent and effluent characteristics as described in section 6.0.

a. Not meeting the standards with respect to some parameters such as BOD, COD, Oil & Grease, Chloride etc.

b. The consent granted to CETP-2 for Collection, Generation, Reception, Storage of Chemical Sludge (Cat-34.3) @ 10 TPD was valid up to 31/07/2019.

c. CETP-4 is presently operational without any formal CTO letter because consent to operate under Water Act, 1974 was issued vide letter dated 26.11.2015 and the same was valid up to 30.09.2018. Agency has applied for renewal of consent to operate vide online application dated 30.06.2018. Agency has applied for renewal of consent to operate vide online application dated 30.06.2018.

d. Plantation in the CETP premises was not found adequate.

e. Untreated wastewater discharged from RIICO drain has been contaminating Bandi river. RSPCB should ensure that no industrial and sewage effluent is discharged into the river (even treated) and instead, it should be utilized by the industries as directed by the Hon'ble Tribunal vide its order dated 31.01.2019.

f. Six out of total eight parameters tested by the Commissioner during his surprise visit on 21.11.2019, have alarming values, much beyond the permissible one, in the effluent of CETP-6 at the outlet. Trade effluent after treatment by the CETPs do not meet the prescribed standards as was noticed during the surprise visit on 21st November 2019.

g. In fact, all the CETP units have been found as prolonged noncompliance of consent conditions. These plants are 'non-complying' with respect to designed influent and effluent characteristics, and Operation and Maintenance issues, such as chemical's consumption, energy usage, handling, disposal and management of sludge, acoustic for D.G. sets etc. as described in Section 6.

h. The electromagnetic meter provision has been made after the equalization tank (in transfer line to flash mixer section), which is not appropriate location for capturing inflow of the plant. It has to be installed at the inlet point of conveyance influent system (before Conduit Termination Pit or receiving inlet sump).

i. The present tertiary treatment available at CETP-6 and provision of PSF & ACF at the plant is eyewash.

j. SCADA online monitoring system in any of the CETPs are non-functional.

k. As per the earlier CTO issued dated 23.03.2015, CETP trust, Pali was asked to install Reverse Osmosis (R.O.) Plant of adequate capacity supported with scientific arrangement for disposal of RO rejects to achieve the status of ZLD within 10 months to ensure compliance of E.C. conditions and consent conditions, which was not fulfilled and the earlier time frame given for installing ZLD system was expired in January 2016. The deadline to achieve the status of ZLD has been extended in the revised CTO upto 31.08.2020.

l. As per consent granted to CETP-6; no waste water is to be disposed and it should be based on ZLD. However, it has been found that effluent wastewater from CETP-6 is being discharged and getting stored in a pool of temporary arrangement of earthen walls (Dhora) constructed on the bed of river Bandi itself. The accumulated effluent received from the outlet of CETP-6 at Cess Pool (Dhora) is highly contaminated and has noncompliant quality as discussed in Table 2. The temporary and non-engineered structure of such kind would be vulnerable to both groundwater contamination and river Bandi due to seepage of stored effluent.

m. The Programmable Logic Controller (PLC) based chemical dosing facilities have not been provided at any of the CETPs. During inspection related operations are being performed manually by unskilled labor in an unscientific manner. In the absence of any surveillance and automated system, usage of appropriate chemicals with optimum dose for treatment cannot be ascertained.

n. Neither run hour meters are provided nor are any log book is maintained for operation of influent/effluent handling pumps installed with different units of CETP.

o. Accumulated (Stored) sludge in the yard has become a cause of severe environmental degradation & water pollution in the vicinity.

p. General house keeping all around sludge storage area was very poor. Even the yard site and other area were becoming greenish due to spillage of sludge. The dried sludge was becoming air born with movement of vehicles.

q. Examination of past data revealed that disposal of sludge is almost equal to daily generation and, if a large quantity of hazardous sludge is stored in yard and lying in open lagoon over the years, it clearly indicates that sludge is not being disposed at same rate as it is being generated. Sludge generation from CETP-6 unit is about 700 MT/month. Examination of the past data revealed that disposal of sludge is almost equal to daily generation. However, about 6750 MT sludge has been found stored at common sludge yard of CETPs at time of inspection, which is a clear indication that generation and disposal data provided in the record is not authentic. The Management of CETPs does not has any action-plan for the lifting & disposal of the stored sludge in prescribed time frame under H & OW (M &TM) Rules, 2016.

r. There is no pressure gauge/flow monitoring device available in PSF/ACF, which is essential in order to keep regular watch of working conditions of tertiary treatment units.

s. There is no proper layout of piping systems/signage at the plant, indicating details of inflows/outflows carrying out by the piping system. It is not clear whether some of these pipes are

coming from a particular treatment unit (e.g. CETP-2, CETP4 etc.) or coming directly from the industrial areas.”

The Tribunal directed the CETP to pay further compensation of Rs. 10 crores for the damage to the environment to the CPCB. The State PCB was directed to impose compensation of Rs. 10 lac each against the non-compliant units.

12. In view of above background, question for consideration is further course of action.

13. In compliance of order dated 18.12.2019, an additional affidavit filed by the Additional Chief Secretary (ACS), Industries, on 31.01.2020, stating that interaction session was held with the local entrepreneurs and office bearers of the CETP foundation on 02.01.2020. A visit to the CETPs was undertaken on 03.01.2020. The deficiencies were found in CETPs 1,2, 3, 4 and 6. Further meetings were held on 10.01.2020, 13.01.2020 and 21.01.2020. The CETP operator was directed to prepare a time bound action plan to remedy the deficiencies pointed out by the Court Commissioner, appointed by this Tribunal vide order dated 18.10.2019. The affidavit mentions the proposal to remedy the deficiencies in functioning of the CETPs in terms of suggestions of the Court Commissioner. Further mention is made to the action plans submitted by the Municipal Council, Pali, the District Industries Centre, Pali and the RIICO Limited, Pali.

14. The State PCB has filed its affidavit on 31.01.2020 in respect of compliance status by the industrial units. According to the affidavit, out of 569 industries, there were deficiencies in 95 for which show cause notices were given. Out of the industries having ETPs, two were closed. Nine were found closed. Further report of compliance with regard to environmental compensation and inspection of the remaining units will be given later. However, no further report has been filed even though 10 months have passed since filing of the above affidavit nor learned Counsel appearing for the PCB is aware of current factual position.

15. Affidavit filed by the Divisional Commissioner on 01.02.2020 purports to give the status of interaction with the concerned departments. The affidavit filed by the Collector on 01.02.2020 also mentions the dates of meetings held with the concerned departments.

16. The Respondent No. 5 (CETP Operator) has filed its affidavit on 14.02.2020 giving the action plan which was filed before the ACS, Industries. The synopsis of the work done mentions the disposal of sludge, SCADA online monitoring systems in the CETPs, SCADA for member units, electromagnetic flow meter, achievement of operational standards, appointment of technical advisor, implementation of ZLD at CETP unit 6, plantation in CETP. Status/Compliance report has also been filed with regard to the implementation of suggestions of the Court Commissioner dated 18.12.2019.

17. From the above resume of proceedings, it is patent that **four independent fact-finding reports (dated 26.10.2016, 15.4.2018, 15.1.2019 and 27.11.2019) have shown continuous and rampant violation of industrial norms by the industries in discharging**

untreated effluents in water bodies or on land. This has resulted in contamination of water, damage to the soil and adverse impact on environment and public health. There is no authentic and updated status of compliance available. The affidavit of the ACS Industries merely mentions proposal for remedial action. Same is the position of the affidavit of the CETP operator. The PCB has still not taken action against the polluting industries as per directions in order dated 18.12.2019. Review applications of the CETP Operator and the Industries Association, being Review applications 3 and 6 of 2020 were dismissed on 19.2.2020. Still, compensation of Rs.10 crore has not been deposited as per order dated 18.12.2019. IA 89/2020 has been filed for modification of order dated 18.10.2019 by the Rajasthan Textile Hand Processing Association with regard to environment compensation of Rs. 10 lacs against the non-compliant units on the ground that the compensation is exorbitant. IA 95/2020 has been filed by the CETP operator for review of direction to deposit Rs. 10 crores as compensation with the CPCB in terms of order dated 18.12.2019 on the ground of financial difficulties. The applications are untenable in view of the said order having attained finality, after dismissal of review applications and will stand rejected. The order dated 18.12.2019 is based on expert verification reports about the deficiencies in the functioning of the CETPs and violation of environmental norms by discharge of untreated effluents in the water bodies and in the soil. **The amount required to be deposited in terms of order dated 18.12.2019 be now deposited within one month, failing which the Tribunal will have no option except to take coercive measures under section 25 of the NGT Act read with section 51 CPC, which may include civil imprisonment of the office bearers of the management of the CETP.** The CETP will be at liberty to recover 50% of the compensation to be paid from its members proportionate to the load, if found viable. The recovery will be as per law, only from member units who exceeded the prescribed load. It is, however, made clear that the Tribunal is not concerned with the inter-se dispute of CETP and its members. CETP will, in any case, be liable to pay compensation, already determined irrespective of whether it recovers the amount from its members or not. **The State PCB must comply with directions in the order dated 18.12.2019 against concerned polluting units failing which coercive measures will have to be taken against the Member Secretary and Chairman of the PCB. The Chief Secretary, Rajasthan may look into their failure so far as inaction being result of collusion is not ruled out, in absence of any explanation during today's hearing. For default in payment by the erring units in question, State PCB and the District Magistrate, Pali must ensure disconnection of the electricity and water supply of the erring units. The compliance report may be filed by the CPCB, State PCB and the District Magistrate, Pali before the next date.**

Likewise, the Chief Secretary, Rajasthan must also comply with the direction in the order dated 18.12.2019 to deposit Rs. 20 crores with the CPCB within one month, failing which the Tribunal may have to take coercive measures. The State will be at liberty to recover the amount from the erring officers/units.

The amount recovered is to be spent for restoration of the environment as per restoration plan to be prepared in terms of this order.

18. We are also of the view that though the problem of water pollution by the textile and other industries in the area has been in issue first before the High Court and then before this Tribunal, for the last more than 15 years, the first order relied upon in the proceedings is the order of the High Court dated 9.3.2004 and non-compliance has continued, as already noted. There is thus need for stringent approach and continuous monitoring of directions already issued by this Tribunal at the ground level. While the Tribunal has determined interim environmental compensation on ad hoc basis, the final compensation needs to be assessed as per laid down parameters.

19. Having regard to the factual position noted above, we direct constitution of a Monitoring Committee to be headed by Justice Prakash Chandra Tatia, (former Chief Justice of Jharkhand High Court), presently stationed at Jodhpur, who is also heading another Committee for monitoring compliance of pollution norms at Jodhpur, in terms of recent order of this Tribunal dated 23.11.2020 in OA 329/2015, Gram Panchayat ARABA vs. State of Rajasthan & Ors. The Committee will also have as its members.

- v. Nominee of CPCB
- vi. Nominee of State PCB
- vii. District Magistrate, Pali
- viii. Dr. Ajit Pratap Singh, Prof. BITS Pilani, District Jhunjhunu, Rajasthan

20. The State PCB will be the nodal agency for coordination and compliance. The District Magistrate may facilitate the functioning of the Committee by providing logistics and such other facilities as may be necessary. The Chairman of the Committee will be entitled to remuneration/honorarium to be determined in consultation with the Chief Secretary, Rajasthan. It will be permissible to have consolidated remuneration for the task to be executed in O.A. No. 329/2015 (supra), in the present matter as well as in O.A. No. 34(THC)/2014, Digvijay Singh vs. State of Rajasthan & Ors. wherein a separate order is being passed today. This will be payable out of the consent funds of the State PCB.

21. It will be open to the Committee to conduct proceedings by video conference, if so required. The Committee will be at liberty to associate any other independent Expert or Institution. The Committee may take stock of compliance of environmental norms with reference to status found in the earlier studies and the status which may be found on the ground now particularly with reference to orders dated 31.01.2019 and 18.12.2019 and other associated issues. The Committee may interact with all concerned stakeholders, including the villagers through their panchayats and give its recommendations for future course of action, including the final quantum of compensation to be recovered on "Polluter Pays" principles and plan for restoration. The Committee may hold its first meeting within one month and, after taking stock of the situation, may update the action plan within one month thereafter which may propose to remedy the ground situation within six months. The Committee may give its first action taken report as on 31.03.2021 before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. While furnishing the report to this Tribunal, a copy thereof may be furnished to the Chief Secretary, the Additional Chief Secretary,

Industries, Rajasthan and other stakeholders, who are required to take remedial steps.

22. *Any party aggrieved by the report can put forward its submissions to this Tribunal before the next date. The concerned authorities will be at liberty to carry out the recommendations of the Committee, if and to the extent there is no objection to such recommendations. It will no longer be necessary for the MoEF&CC and CGWA to appear in these proceedings till further orders.”*

Proceedings in OA III i.e. OA 329/2015:

Reply-cum-Affidavit/compliance report by RSPCB dated 03.12.2015 pursuant to order dated 08.10.2015 in OA III

95. This affidavit is sworn by Shri. M.C. Sharma, Regional Officer, RSPCB, Jodhpur. It says that a 20 MLD capacity of CETP is functioning since 2004 for treatment of industrial effluent of industries at Jodhpur; waste water generated from textile industries, steel re-rolling units, dyes and other miscellaneous units is being treated at CETP, effluent generated by industrial units is conveyed upto CETP through close conduit pipelines, waste water generated from other miscellaneous activities and sewage generated from habitation/colonies in nearby areas following through **RIICO** open drains also reach upto CETP and part of waste water taken for treatment in CETP, one STP of 50 MLD is functioning at Salawas where 30-40 MLD of sewage is reaching through sewerage system laid down in nearby colonies; another STP of 50 MLD capacity is in the process of installation likely to be commissioned by December,2015, due to inadequate sewerage system domestic sewage of all colonies/habitations in and around industrial area is not reaching upto the existing STPs, hence, it is necessary for the concerned authorities to make necessary arrangement for the said effluent. Reference is made to order of Tribunal dated 01.05.2015 in **OA No. 358(THC)/2013, Laxmi Suiting v. State of Rajasthan** directing concerned authorities to take appropriate action. The directions issued by Tribunal in **Laxmi Suiting v. State of Rajasthan (supra)** also say that one more CETP is to be installed for

treatment of effluent generated by industries and for the said purpose 25 Bigas land was purchased by RIICO from JDA for allotment to the trust of industries. Reference is also made to Tribunal's order dated 06.08.2015 in **O.A. No.448(T_{HC})/2013, U.R. Beniwal v. State of Rajasthan & Others** observing that 170 industrial units are connected to the conduit pipe leading CETP, other units are expected to obtain connection by 15.09.2015. For performance of CETP, a report was called from joint Committee comprising RSPCB, MoEF&CC, CPCB, Officers of CETP and a representative of **CGWA**. Tribunal also observed that as directed earlier, 299 units were to deposit Rs. 5 Lakhs each with concerned authorities but 94 units have not so deposited. Direction was given to concerned authorities to serve notice upon industrial units to pay Rs. 5 Lakhs within one month and in default, to take appropriate action. Pursuant to Tribunal's order dated 06.08.2018 passed in **U.R. Beniwal & Others v. State of Rajasthan & Others (supra)**, a Committee was constituted by office order dated 11.08.2015 who submitted report on 15.09.2015 expressing its opinion that entire sewage and industrial effluent should be properly segregated and treated to conform prescribed norms and recycled waste water be used in industrial process or agricultural instead of being discharged in river Jojari. Committee also observed that District Administration of District Barmer should make necessary arrangement to release water accumulated in village Doli in river Luni by constructing suitable conveying system. Affidavit also said that RSPCB issued directions for closure and disconnection of electricity and water supply against 303 defaulting units; identified 38 textile processing units established on agricultural land near Jojari river and action under Section 33A of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred as the '**Water Act, 1974**') is under process against the said defaulting units. Affidavit further said that Regional Officer, RSPCB

Balotra inspected affected area on 01.10.2015 and recommended in its report that problem was created by stopping natural flow of river Jojari at village Doli (District Barmer) though flow of river or natural drain should not be blocked and instead a passage should be given to its natural flow as per geographical gradient and they were be allowed to meet river Luni which is flowing near in village Kalyanpur. Further industrial waste water and municipal waste water of Jodhpur city should be treated upto to prescribed standards as per Environment (Protection) Rules, 1986 (hereinafter referred to as '**EP Rules, 1986**') before discharging into river Jojari. In paragraph 16 of affidavit, RSPCB official very categorically stated that approximate volume of sewerage generated in Jodhpur city is 150-160 MLD where against treatment capacity of 2 STPs at Nandari and Salawas is 20 MLD and 50 MLD respectively i.e., total 70 MLD, as a result whereof, 90 MLD sewage is being discharged without treatment. 150 MLD STP is under construction at village Salawas likely to be commissioned by December, 2015 but the fact remains that presently only 70 MLD effluent was being treated. Jodhpur Nagar Nigam also had planned to establish a STP of 50 MLD at Basni Benda but it is only in the stage of planning. Major contributors of effluent are textile processing and steel re-rolling units connected to 20 MLD CETP. In paragraph 19 it is also admitted that there was flooding on 16.08.2015 due to excessive rain water runoff in the river, though Administration took immediate remedial steps. It is also pointed out that similar complaint was under consideration before Tribunal at Principal Bench in ***Shatrudhan Rajpurohit & another v. State of Rajasthan & Others (supra)***. With reference to compliance of Tribunal's order dated 08.10.2015, Regional Officer, RSPCB Jodhpur said that Additional Chief Secretary, Department of Environment wrote letter dated 27.10.2015 to District Collectors, Jodhpur and Barmer to constitute a Committee for compliance of Tribunal's order. Divisional Commissioner

Jodhpur vide order dated 29.10.2015 constituted a Committee comprising District Collectors, Jodhpur and Barmer or their representatives, Sub-Divisional Officer Luni and Balotra, Regional Officer, RSPCB, Jodhpur and Balotra. Additional Collector, Barmer wrote a letter dated 18.11.2015 and informed that effluent of industries and sewage of Jodhpur is continuously coming in villages Doli, Kala, Doli Rajgura and Araba of District Barmer. He further said that illegal industries are operating on agricultural land and residential area of revenue village of Araba and Doli of Tehsil Pachpadra.

Reply-cum-Affidavit dated 16.04.2016 filed by District Collector, Barmer pursuant to Tribunal's order dated 07.04.2016 in OA III

96. This reply affidavit is sworn by Shri Sudhir Sharma, District Collector Barmer. It only refers to the meeting dated 19.08.2015 convened under Chairmanship of Divisional Commissioner wherein certain directions were issued; Additional Chief Secretary, Environment's letter dated 27.10.2015 directing Divisional Commissioner to constitute a Committee pursuant to Tribunal's order dated 08.10.2015 and consequential Commissioner's order dated 27.10.2015 constituting Committee and lastly letter dated 04.04.2016 issued by Sub-divisional Officer, Balotra directing different Authorities in Balotra to take appropriate action in respect of problem caused by polluted water in village Doli and Araba.

Reply-cum-Affidavit dated 17.04.2016 filed by District Collector Jodhpur (respondent 3) pursuant to Tribunal's order dated 07.04.2016 in OA III

97. This affidavit is sworn by Shri Ayub Khan, Sub-divisional Officer, Luni. It is said that in a meeting convened under the Chairmanship of Divisional Commissioner, Jodhpur on 16.08.2015, directions were issued to concerned authorities to take necessary steps to remove/resolve

problem arising due to collection of water in village Doli and nearby areas at the time of excess rains. With regard to the directions issued by Tribunal vide judgment dated 01.05.2014 in **Laxmi Suiting v. State of Rajasthan (supra)**, 25 Biga land in Khasra No. 90 was allotted to RIICO by JDA authorities for constructing CETP with 25 MLD capacity at village Salawas. Further, pursuance of meeting dated 09.08.2015 of District Administration, necessary steps were taken for closure of 27 factories in Salawas, 4 in Tanawada, 1 in Bhandu Kalan, 3 in Nandwan, 3 in Heerkheda, 1 in Gram Bhakri (Bhacharna and 1 in Rajeshwar Nagar (Dhawan 1). Copy of order dated 27.08.2015 has been filed as Annexure III to the affidavit. A list of 106 industries functioning in non-industrial areas causing water pollution has also been filed along with the affidavit stating that action has been taken by disconnecting their electricity connection. The document at page 332 of Paper Book of OA III shows that that these 103 units were working in Salawas, Basni, Viniyakiya, Sangria, Shobhawato ki Dhani, Tanawada, Madhuvan, Kayalana Chowraha, Haddi Mill, Rajeev Gandhi Nagar Chopasani Housing Board non-conforming areas. Details of these units are as under:-

S. No.	Name	Address	Area
1.	Aaftab Dyeing	Khasra No. 129, Boranada Road Salawas, Luni, Jodhpur	Salawas Non-conforming
2.	Ajanta Creation	Near UIT Colony, Phase -I, Basni, Jodhpur	Basni Non-conforming
3.	Akhraj Ji Ka Bera	Basni Benda Gaon Jodhpur	Viniyakiya Non-conforming
4.	Ambika Sells	Ram Nagar, Sangria, Jodhpur	Sangria Non-conforming
5.	Anusha Fashion	12(A), Ram Nagar Indutrial Area, Sangria Fanta, Salawas Road, Jodhpur	Sangria Non-conforming

6.	Arjun Print	1-A, Khasra No. 1031.740, Basni, Phase -II, Jodhpur	Basni Non-conforming
7.	Ashapura Complex	Plot No. 16, behind Bhomiya Than, Sangria, Jodhpur	Sangria Non-conforming
8.	Babulal Gaur HUF	115, 115.2, Salawas, Boranada Road, Jodhpur	Salawas Non-conforming
9.	Bagtawar Singh Rajpurohit	83, 83A, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
10.	Bakhtawar Textiles	Salawas Boranada & Area Main Road, Jodhpur	Salawas Non-conforming
11.	Bhandari Impex	Balaji Nagar, Sangria and Arear Jodhpur	Sangria Non-conforming
12.	Bhawani Industries	Near Darbi Textiles Road, Junao Ki Dhani, Jodhpur	Basni Non-conforming
13.	Braham Singh	Plot No. 115, 116, 117, Shobhawato Ki Dhani, Jodhpur	Shobhawato ki Dhani Non-conforming
14.	Chandan Fashion	Near Railway crossing, Tanawada, Jodhpur	Tanawada Non-conforming
15.	Chandrapal Singh	Viniyakiya Road, Bansi Benda Gaon, Jodhpur	Viniyakiya Non-conforming
16.	Chetna Impex (Vimla Agro)	Khasra No. 47/1, Block No. 7, Tanawada, Jodhpur	Tanawada Non-conforming
17.	Chaudhary Industries	Plot No. E&F, Khasra No. 177/3, Bhomiya Ji ki Than, Sangria, Jodhpur	Sangria Non-conforming
18.	Daulat Industries	Plot No. 8A, 8B, 9 and 9A, Dhanano Ki Dhani, Pal, Jodhpur	Basni Non-conforming
19.	Dhanu Print	Plot No. 267, Near Mahadev Mandir, Park No. 3, Rajeev Nagar, Jodhpur	Basni Non-conforming
20.	Diamond Textile (Raju Bhai)	Amrit Nagar-2, Shobhwa wato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
21.	Dinesh Kumar Gupta	100A, Khodiyaar Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
22.	Femina Skin Art & Prints	Plot No. 21, Khasra No. 228/48, Jain Mandir, Tanawada	Tanawada Non-conforming
23.	Gaffar Sahab	Opposite Plot No. 62, Surya Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming

24.	Ganpati Madeup & Garment	Plot No. 21, Junao Ki Dhani, Pal, Jodhpur	Basni Non-conforming
25.	Ganpati Prajapati Ka Bera	Viniyakiya Road, (near Pappu Ram Prajapat), Jodhpur	Viniyakiya Non-conforming
26.	Gopal Rathi (Shree Ji Textiles)	Khasra No. 26, Boranada, Salawas Road, Jodhpur	Salawas Non-conforming
27.	Gopal Ji Ghanchi	Khasra No. 659/660, Plot No. 32, Surawato Ki Babsid, Gram Gewa, Kayalana Chowraha, near Laxmi Textile, Jodhpur	Kayalana Chowraha Non-conforming
28.	Gulam Mohammad	C-1, Near Masjid, Bhagwan Mahavir Colony, Near Haddi Mill, HIA, Jodhpur	Haddi Mill Non-conforming
29.	H.R. Textiles (Mumtaz Bano)	Khasra No. 47/1, Tanawada, Jodhpur	Tanawada Non-conforming
30.	Hemant Prints	Plot No. 41, 42 Khasra No. 228/48, Tanawada, Jodhpur	Tanawada Non-conforming
31.	Jaan Print (Rishi Chopra)	Marudhar Kesari Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
32.	Jagdamba Fabrics	Khasra No. 26/5, Main Salawas Road, Tanawada, Jodhpur	Tanawada Non-conforming
33.	Jayashree Print	Plot No. 75, & Area, Tanawada Khasra No. 33/53, Jodhpur	Tanawada Non-conforming
34.	Jaysingh Maali S/o Mangi Lal Maali	Khasra No. 659/660, Plot No. 1, Surawato Ki Babdi, Gram Gewa. Kayalana Chowraha, near Laxmi Travels, Jodhpur	Kayalana Chowraha Non-conforming
35.	Jaysingh Maali S/o Mangi Lal Maali	Khasra No. 659/660, Plot No. 1, Surawato Ki Babdi, Gram Gewa. Kayalana Chowraha, near Laxmi Travels, Jodhpur	Kayalana Chowraha Non-conforming
36.	Jannat Fabrics	Tanawada Fanta, near Jain Mandir, Salawas Road, Jodhpur	Tanawada Non-conforming
37.	Jitendra Industries	Plot No. DK No. 177/3, near Bhomiya Ji Than, Sangria, Jodhpur	Sangria Non-conforming
38.	JMD Industries	Plot No. 2, Khasra No. 468/1 & 470, Junao Ki Dhani, Pal, Jodhpur	Basni Non-conforming

39.	Junawa Print	467, 468/1 & 470 Pal, Janao Ki Dhani, Jodhpur	Basni Non-conforming
40.	Jyoti Enterprises	Tanawada main Road, Jodhpur	Tanawada Non-conforming
41.	Kamdhenu & Madeup Garments	Plot No. 19, Junao Ki Dhani, Pal, Jodhpur	Basni Non-conforming
42.	Kamal Textiles (Dagaji Ki Textile)	Khasra No. 313, Bherawat Dairy Farm, Near Mahadev Mandir, Boranada Road, Pal Gaon, Jodhpur	Pal Non-conforming
43.	Khatoon Exporters	Khasra No. 118, Salawas Luni Jodhpur	Salawas Non-conforming
44.	Kishan Chauhan (Pappuram Prajapat Ka Bera)	Viniyakiya Road, Basni Benda Gaon, main Road, Prakash Choudhary, Jodhpur	Viniyakiya Non-conforming
45.	Krishna Garments	Plot No. 20, Junao Ki Dhani, Pal, Jodhpur	Basni Non-conforming
46.	L R Creation	Junao Ki Dhani, Jodhpur	Basni Non-conforming
47.	MB Industries	Block No. G, Khasra No. 177/3, Bhomiya Ji Ka Than, Jodhpur Salawas Road, Sangria, Jodhpur	Sangria Non-conforming
48.	Madanlal Putra Sukhlal Bhati	416/6, Gram Gewa, Jodhpur	Gewa Non-conforming
49.	Maharanisa Fabrics	Khasra No. 26/1, Tanawada Fanta, Main Salawas Road, Near Jain Mandir, Jodhpur	Tanawada Non-conforming
50.	Mamta Fab Print	Khasra No. 115, 115/2, Salawas Boranada Road, Jodhpur	Salawas Non-conforming
51.	Manoj Kumar Putra Pukhraj Tated, Ambika Textile	176/8, 176/9 Salawas Boranada Road, Jodhpur	Salawas Non-conforming
52.	Mariyam Fabrics	236/99, near Haddi Mill, Kachchi Basti, Jodhpur	Haddi Mill Non-conforming
53.	Mariyam Fabrics	2-C, Near Masjid, Bhagwan Mahavir Colony, near Haddi Mill, HIA, Jodhpur	Haddi Mil Non-conforming
54.	Mateshwari Fabrics	Khasra No. 115, 115/1, Salawas Boranada Road, Jodhpur	Salawas Non-conforming
55.	Mohanji Khatri	Shobhwato Ki Dhani, Near GSS, near	Shobhawato Ki Dhani

	(Old Name Mohammad Sharif)	shopping complex (old address Amrit Vihar Shobhawato Ki Dhani)	Non-conforming
56.	Mohammad Ali Chhipa (Haji Mohammad)	Vyasji Ki Babdi, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
57.	Mohammad Nisar	Khasra No. 26/1/1, Tanawada, Jodhpur	Tanawada Non-conforming
58.	Mohammad Salim S/o Abdul Rahman (Sana Print)	Tanawada & Area, Jodhpur	Tanawada Non-conforming
59.	Mumtaz w/o Mohammad Haneef	154/2, 155/2, Boranada Salawas Road, Jodhpur	Salawas Non-conforming
60.	Muniya Devi (NK Gupta)	Khodiyaar Nagar, Jodhpur	Shobhawato Ki Dhani Non-conforming
61.	Nadeem Rehan s/o Raj Mohammad	Meghwalo ka Shamshaan, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
62.	Navkaar Exporters	Near Railway Crossing, Tanawada, Jodhpur	Tanawada Non-conforming
63.	Nawab Industries	Plot No. 33, Tanawada Jodhpur	Tanawada Non-conforming
64.	Nazim Ansaari	Plot No. 7-A, Bhagwan Mahavir Colony, near Haddi Mill, HIA, Jodhpur	Haddi Mill Non-conforming
65.	Plot No. 83, 84, Murli Nagar	Plot No. 83, 84, Murli Nagar	Shobhawato Ki Dhani Non-conforming
67.	Pakiza Fabric	Khasra No. 176/6, 176/7, Salawas, Luni, Jodhpur	Salawas Non-conforming
68.	Pari Impex	Khasra No. 132/2, Balaji Nagar, Sangria, Jodhpur	Sangria Non-conforming
69.	Plot No. 422 (Junaid)	Marudhar Kesari Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
70.	Plot No. 423 (Vaan Print)	Marudhar Kesari Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
71.	Plot No. 424	Marudhar Kesari Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
72.	Plot No. 424	Marudhar Kesari Nagar, Shobhawato Ki Dhani, Jodhpur	Shobhawato Ki Dhani Non-conforming
73.	Prahlaad Singh Bhati	Farm House of Mangilal, near Palo Maidan, Jodhpur	Viniyakiya Non-conforming

74.	Prakash Choudhary Ka Bera	(Near Bera of Pappuram Prajapat) Viniyakiya Road, Jodhpur	Viniyakiya Non-conforming
75.	Pramod & Pramod	Ramnagar, Sangria	Sangria Non-conforming
76.	Prathna Handicraft	Ramnagar, Sangria	Sangria Non-conforming
77.	Praveen	Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	Rajeev Gandhi Nagar, Chopasani Housing Board Non-conforming
78.	Praveen	Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	Rajeev Gandhi Nagar, Chopasani Housing Board Non-conforming
79.	Prem Singh	Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	Rajeev Gandhi Nagar, Chopasani Housing Board Non-conforming
80.	R.K. Enterprises (old name Rahul Enterprises)	Near Railway crossing, Tanawada, Jodhpur	Tanawada Non-conforming
81.	Reeshabh Creation	Balaji Nagar, Sangria Industrial Area, Jodhpur	Sangria Non-conforming
82.	Royal Export	Khasra No. 89/5/5 Gaon, Salawas, Tehsil Luni, Jodhpur	Salawas Non-conforming
83.	Royal Handicraft	Amrit Nagar -2, Shobhwato Ki Dhani	Shobhawato Ki Dhani Non-conforming
84.	Rupadevi Patel	Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	Rajeev Gandhi Nagar, CHB Non-conforming
85.	Saar Industries	Khasra No. 8/5, Road No. 8. MIA, Phase -II, Basni, Jodhpur	Basni Non-conforming
86.	Salasar Balaji Industries	Block No. G, Khasra No. 177/3, Near Bhomiyaji Than, Sangria, Jodhpur	Sangria Non-conforming
87.	Sangam Fabric	Plot No. 138, Mahavir Nagar, HIA, Jodhpur	Haddi Mill Non-conforming
88.	Saraswati Textile	10 Rishabh Nagar, Tanawada, Jodhpur	Tanawada Non-conforming
89.	Saahnoor Bano w/o Mohammad Ramjaan (Zakir)	35, Mangalam Colony	Shobhawato Ki Dhani Non-conforming
90.	Shree Balaji Enterprises	Plot No. 1, Khasra No. 177/3, Near Bhomiyaji	Sangria Non-conforming

		Than, Sangria, Jodhpur	
91.	Siddi Vinayak Printings	35-36, Khasra No. 228/48, Tanawada, Salawas, Jodhpur	Tanawada Non-conforming
92.	Sindhi Textiles	Khasra No. 89/5/5, Plot No. 2, Tanawada & Area, Jodhpur	Tanawada Non-conforming
93.	Shrimati Anop Kanwar	Plot No. 173-181, Shree Ram Nagar Basni, Jodhpur	Basni Non-conforming
94.	Shrimati Hanja Devi w/o Vikram Singh	Plot No. 115, 116 Shobhwato Ki Dhani	Shobhawato Ki Dhani Non-conforming
95.	Sona Textile	Plot No. 7, 7A, 7B, 8 Junao Ki Dhani, Jodhpur	Basni Non-conforming
96.	Sonana Printings	Khasra No. 182, behind Bhomiya Ji ka Than, Sangria, Jodhpur	Sangria Non-conforming
97.	Shubhro Bano w/o Farukh Bhai	Rishabh Nagar, Tanawada	Tanawada Non-conforming
98.	Suncity Holdings & Trading Limited	Plot No. 15-16, Dhinao-Ki-Dhani, Pal, Luni, Jodhpur	Basni Non-conforming
99.	Surtaram Patel s/o Sukhram Patel	Khasra No. 824/751, Sardar Patel Colony, near Amrit Nagar, Pal Road, Jodhpur	Rajeev Gandhi Nagar, CH B Non-conforming
100.	Ruchh Damb	Trilokji Ka Bera, Viniyakiya Road, near Nagar Nigam Drain	Viniyakiya Non-conforming
101.	VN Exporters	Plot No. 3, B, Khasra No. 470, Gheenani Ki Dhani, Dhubri Textile, Gaon- Pal, Jodhpur	Basni Non-conforming
102.	Vardhmaan Industries	Near Derbi Textile Road, Junao Ki Dhani, Jodhpur	Basni Non-conforming
103.	Vetex Creation	Junao ki Dhani, Pal, Jodhpur	Basni Non-conforming
104.	Vineeta Fabric	177/3-B, Bhomiyaji Ki Than, Sangria, Jodhpur	Basni Non-conforming
105.	Western Wooden Handicraft	Khasra No. 1096/740 & E-3, Road No. 6, near Masjid, Phase - II, Basni, Jodhpur	Basni Non-conforming
106.	Jhham Jhham Textile	6/1, Near Masjid MIA, Phase - II, Basni, Jodhpur	Basni Non-conforming

98. JDA vide letter dated 12.04.2016, informed District Collector, Jodhpur about action taken against 153 illegally running textile units and order of closure passed by Competent Authority in 73 matters. With regard to treatment of effluent, reference is made to JNN's letter dated 12.03.2016 stating that population of Jodhpur of area within Nagar Nigam is about 12 Lakhs and 80% of the area is covered with sewerage network, 135 litre/capita/day water is made available and 80% thereof is resulting in generation of sewerage, thereafter, total 108 MLD sewerage would be generated every day. The present capacity of treatment of effluent is only 70 MLD, STP at Salawas with 50 MLD and STP Nandari with 20 MLD and another 50 MLD STP at Salawas is under construction, likely to be completed by 31.07.2016. It is also said that in view of future increase in population in next 30 years, another STP at Basni Bhenda with 40 MLD capacity is proposed. With respect to illegally operating industries units in Luni, it is said the closure orders for 38 industries were issued and one of such order dated 02.12.2015 issued to M/s Sangam (Gudu Bhai) is filed as Annexure R/8 to the affidavit. In 12 matters, action was taken under Section 177 (Rajasthan Tenancy Act, 1955). Pursuant to meeting dated 12.04.2016, joint action was taken by RSPCB, JDA, JVVNL, PHED and District Administration, Luni on 13.04.2016 seizing 37 industrial units.

Affidavit-cum-report dated 25.04.2016 filed on 17.05.2016 by RSPCB pursuant to Tribunal's order dated 07.04.2016 in OA III

99. This affidavit is sworn by Shri K.C.A. Arun Prasad, Member Secretary, RSPCB. It says that there are 284 textile units, 91 steel re-rolling units located in industrial area at Marudhar, industrial area, Basni Phase-I and II, behind new power house, light industrial area, heavy industrial area, Saboo Industrial Estate, Junao Ki Dhani, Boranada etc. These units are members of CETP operated by Jodhpur Pradushan Nivaran Trust (hereinafter referred to as 'JPNT'). RSPCB has granted

consent to operate 203 textile units out of 284, applications of 8 units have been refused while 65 applications are pending. 2 units have been closed and 6 are proposed to install. In respect of steel re-rolling units, 90 were issued consent while in respect of 1 unit consent to establish was refused. The said unit has resubmitted application for Consent to Establish and Consent to Operate which is pending. RSPCB has issued directions for closure of 87 textile units identified by joint inspection team comprising officials of RSPCB, JDA, JNN and District Administration in 2015. These units were found established/functioning without having captive ETP or without connectivity with CETP and still functioning in the areas near Sangaria, Tanawad, Salawas, Viniyakiya, Basni Bhenda, Amrit Nagar Pal Road and Shobhawati ki Dhani. List of these 87 units is filed as Annexure R-1 and details of the said units are as under:-

LIST OF UNITS FOR WHICH DIRECTION IS ISSUED AND NOT CONNECTED WITH JPNT THROUGH CONDUIT PIPELINE SYSTEM

S. No.	Name and Address of Units	Date of direction issues	Date of disconnection of electricity/ seizer of DG sets
1.	Sh. Dinesh Gupta (M/s Gupta Textile)	05.05.2015	04.05.2015
2.	Sh. Abdul Gaffar (M/s Standards Fabrics)	05.05.2015	04.05.2015
3.	Muniya Devi, Khodiyar Nagar	05.05.2015	04.05.2015
4.	Plot No. 425, Marudhar Kesari Nagar, Shobhawatonn Ki Dhani	05.05.2015	04.05.2015
5.	Plot No. 424, Marudhar Kesari Nagar, Shobhawatonn Ki Dhani	05.05.2015	04.05.2015
6.	Plot No. 423, Marudhar Kesari Nagar, Shobhawatonn Ki Dhani	05.05.2015	04.05.2015
7.	Plot No. 422, Marudhar Kesari Nagar, Shobhawatonn Ki Dhani	05.05.2015	04.05.2015
8.	Bagtawan Singh Rajpurohit, 83, 83A, Shobhawaton ki Dhani	05.05.2015	04.05.2015
9.	Smt. Hanja Devi W/o Vikram Singh, Plot No. 115, 116 Shobhawatonn ki Dhani	05.05.2015	04.05.2015
10.	Braham Singh, Plot No. 115, 116, 117, Shobhawatonn ki Dhani	05.05.2015	04.05.2015

11.	Shahnoor Bano w/o Mohd. Ramzan, 35, Near Mangalam Colony	05.05.2015	04.05.2015
12.	Opposite Plot No. 83, 84 Near Murli Nagar	05.05.2015	04.05.2015
13.	Raju Bhai (M/s Diamond Textile) Amrit Nagar-II, Shobhawaton ki Dhani	05.05.2015	04.05.2015
14.	Mohd. Ali Chhipa (Hazi Mohd.) Near Vyasji Ki Baori, Shobhawaton ki Dhani	05.05.2015	04.05.2015
15.	Royal Handicraft (Saleem Bhai) Near Meghwalo Ka Shamshaam, Shobhawaton ki Dhani	05.05.2015	04.05.2015
16.	Nadeem Rehan s/o Raj Mohd. Near Meghwalo Ka Shamshaan, Shobhawaton ki Dhani	05.05.2015	04.05.2015
17.	Vineeta Fabrics, Khasra No. 177/3 B, BKT Sangria, Jodhpur	13.05.2015	06.05.2015
18.	Anushka Fashion, 12(A), Khasra No. 156, 157 Ram Nagar Ind. Area, Salawas Road, Sangria Phanta, Jodhpur	16.01.2015	06.05.2015
19.	Pakiza Fabrics, Khasra No. 176/6 & 176/7, village – Salawas Tehsil Luni, Distt. Jodhpur	02.06.2015	07.05.2015
20.	Mamta Fab Prints, Khasra No. 115, 115/2, village Salawas, Tehsil Luni, Distt. Jodhpur	30.01.2015	07.05.2015
21.	Ambika Sales, Ram Nagar, Sangaria, Jodhpur	08.05.2015	10.05.2015
22.	Pramod & Pramod (Naresh Textile), Ram Nagar, Sangaria, Jodhpur	08.05.2015	10.05.2015
23.	Naxmin Ansari, Plot No. 7A, Bhagwan Mahaveer Colony, Near Haddi Mill Heavy Industrial Area, Jodhpur	15.05.2015	10.05.2015
24.	Mariyam Fabrics, 2-C, Near Masjid Bhagwan Mahaveer Colony, Near Haddi Mill, Heavy Industrial Area, Jodhpur	15.05.2015	10.05.2015
25.	Gulam Mohd. s/o Anwar, C-1, Near Masjid Bhagwan Mahaveer Colony, Near Haddi Mill, Heavy industrial area, Jodhpur	15.05.2015	10.05.2015
26.	Manoj Kumar s/o Pukhraj Tatar (Ambika Textile), Salawas Main Road, Jodhpur	08.05.2015	11.05.2015
27.	Mumtaz w/o Mohd. Hanif, 154/2 & 155/2, Boranada – Salawas Road, Jodhpur	08.05.2015	11.05.2015
28.	Nisar Mohd. s/o Hazi Usman, Khasra No. 154/1 & 155/1, Boranada – Salawas Road, Jodhpur	08.05.2015	11.05.2015

29.	Jyoti Enterprises, Tanawada Main Road, Jodhpur	08.05.2015	11.05.2015
30.	Subhro Bano w/o Faruq Bhai, Rishabh Nagar, Tanawada, Jodhpur	08.05.2015	11.05.2015
31.	Mohd. Saleem s/o Abdul Rehman (Sana Prints), Tanawada, Jodhpur	08.05.2015	11.05.2015
32.	Prathana Handicraft, Ram Nagar, Sangaria, Jodhpur	08.05.2015	11.05.2015
33.	Prahlad Singh Bhati, Mangila Ka farm House, Near Polo Ground, Jodhpur	08.05.2015	11.05.2015
34.	Kishan Chauhan (pappuram Prajapat Ka bera) Vinayakiya Road, Basni Benda Gaon, Main Road, Near Prakash Choudhary's Bera, Jodhpur	08.05.2015	11.05.2015
35.	Salasar Balaji Industries, Khasra No. 177/3, Block No. 6, Main Jodhpur - Salawas Road, Sangaria, Jodhpur	13.05.2015	13.05.2015
36.	M.B. Industries, Plot No. A, Khasra No. 177/3 Near Bhomiyaji ka Than, Sangaria, Jodhpur	13.05.2015	13.05.2015
37.	Jitendra Industries, Plot No. D, Khasra No. 177/3, Near Bhomiyaji ka Than, Sangaria, Jodhpur	13.05.2015	13.05.2015
38.	Shri Balaji Industries, Plot No. 1, Khasra No. 177/3, Near Bhomiyajit Ka Than, Sangaria, Jodhpur	13.05.2015	13.05.2015
39.	Choudhary Industries, Plot No. E&F, Khasra No. 177/3, Near Bhomiyaji ka Than, Sangaria, Jodhpur	13.05.2015	13.05.2015
40.	Sonana Prints, Khasra No. 182, Behind Bhomiyaji Ka Tha, Sangaria, Jodhpur	13.05.2015	21.05.2015
41.	Navkar Exports, Near Railway crossing, Tanawada, Jodhpur	13.05.2015	21.05.2015
42.	Chandan Fashion, Near Railway Crossing, Tanawada, Jodhpur	13.05.2015	21.05.2015
43.	Mateshwari Fabrics, Khasra No. 115, 115/1 Salawas Boranada Road, Jodhpur	13.05.2015	22.05.2015
44.	Babulal Gaur HUF, Khasra No. 115, 115/2 Salawas Boranada Road Jodhpur	13.05.2015	22.05.2015
45.	Khatun Exports, Khasra No. 118, Salawas Luni, Jodhpur	13.05.2015	22.05.2015
46.	Bakhtwar Textile, Salawas Boranada	13.05.2015	D.G. Seized on 27.10.2015

47.	Sindhi Textile (Star Ind.) Khasra No. 89/5/5 Plot No. 2, Tanawada, Jodhpur	13.05.2015	22.05.2015
48.	Royal Exports (Classic Agro), Khasra No. 89/5/5, Salawas, Tehsil Luni, District Jodhpur	13.05.2015	22.05.2015
49.	P.S. Industries, Khasra No. 244 & 247/2, Salawas, Luni, Jodhpur	13.05.2015	22.05.2015
50.	Nawab Industries Plot No. 33, Tanawada, Jodhpur	13.05.2015	22.05.2015
51.	H.R. Textiles (Mumtaz Bano) Khasra No. 47/1 Tanawara, Jodhpur	13.05.2015	22.05.2015
52.	Saraswati Textile, 10, Rishabh Nagar, Tanawara, Jodhpur	13.05.2015	22.05.2015
53.	Maharanisa Fabrics, Khasra No. 26/1, Front, Tanawara Fanta, Near Main Salawas Road, Jodhpur	13.05.2015	22.05.2015
54.	Jannat Fabrics (Jakir Husain) Tanawara Fanta, Jodhpur	13.05.2015	22.05.2015
55.	Femina Screen Art, Plot No. 21, Khasra No. 228/48, Tanawara Jodhpur	13.05.2015	22.05.2015
56.	Hemant Prints Plot No. 35-36, Khasra No. 228/48, Tanawara, Salawas Jodhpur	13.05.2015	22.05.2015
57.	Siddhin Vinayak Prints, Plot No. 35-36, Khasra No. 228/48, Tanawara, Salawas, Jodhpur	13.05.2015	22.05.2015
58.	Chetna Impex (Vimla Agro), Khasra No. 47/1, Block No. 7, Tanawara, Jodhpur	13.05.2015	22.05.2015
59.	Jagdamba Fabrics, Khasra No. 26/5, Main Salawas Road, Jodhpur	13.05.2015	22.05.2015
60.	Jai Shree Prints, Plot No. 75, Khasra No. 33/53, Industrial Area, Tanawara, Jodhpur	13.05.2015	22.05.2015
61.	Rishabh Creation, Plot No. 1&3, Balaji Nagar, Sangaria, Ind. Area, Jodhpur	13.05.2015	01.06.2015
62.	Pari Impex, Khasra No. 132/2, Plot No. 2, Balaji Nagar, Sangaria, Jodhpur	13.05.2015	01.06.2015
63.	Bhandari Impex, Balaji Nagar, Sangaria, Ind. Area Jodhpur	13.05.2015	01.06.2015
64.	Ashapura Impex, Plot No. 16, Behind Ind. Area, Jodhpur	13.05.2015	01.06.2015
65.	Ganpati Prajapati Ka Bera, (Near Pappuram Prajapat Ka Bera) Vinayakiya Road, Jodhpur	22.05.2015	01.06.2015
66.	Prakash Choudhary Ka Bera, (near Pappuram Prajapat Ka bera) Vinayakiya Road, Jodhpur	22.05.2015	02.06.2015

	(electric connection in favor of Sh. Jog Singh)		
67.	Madan Lal s/o Sukhlal Bhati, 416/9, Gram Gewa, Jodhpur	05.05.2015	12.05.2015
68.	Gopal Rathi (Shreeji Textile), Khasra No. 26, Boranada, Salawas Road, Jodhpur	05.08.2015	DG seized on 27.10.2015
69.	Smt. Anop Kanwar, Plot No. 173/181 Shri Ram Nagar, Basni, Jodhpur	13.05.2015	No electricity (old DC); Factory was closed
70.	Aftab Dyeing, Khasra No. 129, Boranada Road, Salawas Luni, Jodhpur	13.05.2015	Open plot. No textile unit
71.	R.K. Enterprises, near Railway Crossing, Tanawada, Jodhpur	Old name as Rahul Enterprises 08.05.2015 (new 13.05.2015 for R.K. Enterprises)	11.05.2015
72.	Mohd. Nisar, Khasra No. 26/1/1, Tanawada, Jodhpur	13.05.2015	No unit found at site
73.	Surbhit Textile	30.06.2015	25.08.2015
74.	Chandrapal Singh, Vinayakiya Road, Basni Benda Gaon, Jodhpur	17.07.2015	D.G. Seized on 06.08.2015
75.	Trilokji Mali Ka Bera (Smt. Indu and Narpal Singh) Vinayakiya Road, Basni Bhenda Gaon, Jodhpur	17.07.2015	06.08.2015
76.	Akherajji Ka bera, Basni Benda Gaon, Jodhpur	17.07.2015	06.08.2015
77.	Dhanu Prints, Near Plot No. 267, Mahadev Temple, Park 3, Rajiv Nagar, Jodhpur	17.07.2015	25.08.2015
78.	Prem Singh, Khasra No. 824/751, Sardar Patel Colony, near Amrit Nagar, Pal Road, Jodhpur	17.07.2015	04.08.2015
79.	Praveen, Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	17.07.2015	04.08.2015
80.	Praveen, Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	17.07.2015	04.08.2015
81.	Gopalji Gandhi, Khasra No. 659/660, Plot No. 32, Surawato Ki Bawari, Gram Gewa, Near Kaylana Choraha, Near Laxmi Travels, Jodhpur	17.07.2015	04.08.2015
82.	Jai Singh Mali s/o Mangilal Mali, Khasra No. 659/660, Plot No. 1, Surawato Ki Bawari, Gram Gewa	17.07.2015	04.08.2015

	Near Kaylana Choraha, Near Laxmi Travels, Jodhpur		
83.	Jai Singh Mali s/o Mangilal Mali, Khasra No. 659/660, Plot No. 30&70, Surawato Ki Bawari, Gram Gewa Near Kaylana Choraha, Near Laxmi Travels, Jodhpur	17.07.2015	04.08.2015
84.	Mohanji Khatri (Old name – Mohd. Sarif) Shobhawato Ki Dhani, Near GSS, in front of Shopping complex (old address Amrit Vihar, Shobhwato ki Dhani) Jodhpur	17.07.2015	D.G. Seized on 04.08.2015
85.	Rupa Devi Patel (Adjoining to Surtaram Patel) Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	17.07.2015	04.08.2015
86.	Surtaram Patel s/o Sukharam Patel, Khasra No. 824/751, Sardar Patel Colony, Near Amrit Nagar, Pal Road, Jodhpur	17.07.2015	04.08.2015
87.	M/s Jodhpur Sari Chapai Udhyog, E-216, Road No. 6, Phase –II, Basni, Jodhpur	02.09.2015	Closed

100. Further, pursuant to Tribunal's order, joint Survey was conducted and a team identified 30 units illegally established on agricultural land near villages Salawas, Nandwan and Heerkheda. RSPCB, vide letter dated 02.12.2015 issued direction under Section 33A of the Water Act, 1974 for closure of above 38 textile units and Collector Jodhpur, JVVNL and CGWA were requested to ensure compliance of closure order. List of these 38 units is Annexure R-2/2, which are:

LIST OF 38 TEXTILE PROCESSING FACILITIES AGAINST WHICH CLOSURE DIRECTIONS HAVE BEEN ISSUED UNDER WATER ACT, 1974 ON 02.12.2015

S. No.	Name of industry	Address	Location
1.	Sangam (Gudu Bhai)	Salawas Boranada Road, Luni	Jodhpur
2.	Yesdeep	Salawas Boranada Road, Luni	Jodhpur
3.	Om Ji Patel (Near Mohd. Habid Units)	Salawas Boranada Road, Luni	Jodhpur
4.	Mohammad Habid	Boranada Road, Luni	Jodhpur

5.	Mohammed Raies	Khasra no. 126/14 Part -B, Salawas Boranada Road, Luni	Jodhpur
6.	Dinesh Panwar (Ramesh Ji Mali)	Salawas Boranada Road, Luni	Jodhpur
7.	Mohammad Habid ke Samane vali Factory	Salawas Boranada Road, Luni	Jodhpur
8.	Mohammad Raies ke Samane vali Factory	Salawas Boranada Road, Luni	Jodhpur
9.	Om Ji Patel (behind Salawas Petrol Pump)	Salawas Boranada Road, Luni	Jodhpur
10.	Sona Ram, Manager (near Salawas Petrol Pump)	Omji Patel Salawas Petrol Pump Ke piche, Salawas Boranada Road, Luni	Jodhpur
11.	Sona Ram 2 Manager (Near By Salawas Petrol Pump)	Omji Patel Salawas Petrol Pump Ke piche, Salawas Boranada Road, Luni	Jodhpur
12.	M.M.R. Nea Sona Ram 2 Units	Omji Patel Salawas Petrol Pump Ke piche, Salawas Boranada Road, Luni	Jodhpur
13.	Salim s/o Barkat Kha Ji	Salawas Boranada Road, Luni	Jodhpur
14.	Rameshwar Ji (Near Gopal Rathi Units)	Salawas Boranada Road, Luni	Jodhpur
15.	Sawat Ram S/o Lumbha Ran Pital	Khasra No. 359, Hirakheda, Luni	Jodhpur
16.	Lalu Ram (Balu Ram) s/o Jagha Ram Patel	Khasra No. 211, Hirakheda, Luni	Jodhpur
17.	Kishana Ram S/o Jagha Ram Jat	Khasra No. 205, Hirakheda, Luni	Jodhpur
18.	Achala Ram s/o Biram Ram Jat	Khasra No. 231, Nandvan, Luni	Jodhpur
19.	Jima Ram s/o Lalu Ram Bhamu Jat	Khasra No. 227/1, Nandvan, Luni	Jodhpur
20.	Ramjan Kha, edu kha, Gaji Kha, s/o lichu Kha, Pinjara	Khasra No. 71, 72, Nandvan, Luni	Jodhpur
21.	Ganga Ram s/o Hari Ram Jat	Khasra No. 203, Hirakheda, Luni	Jodhpur
22.	Bala Ram, Jima Ram, Kera Ram, Gena Ram s/o Jama Ram Patel	Khasra No. 211, Hirakheda, Luni	Jodhpur
23.	Mohan Ram, Budha Ram, Mohan Ram s/o Bhaga Ram Jat	Khasra No. 348, Hirakheda, Luni	Jodhpur
24.	Viram Ram, Budha Ram, Mohan Ram s/o Bhaga Ram Jat	Khasra No. 87/2, Hirakheda, Luni	Jodhpur
25.	Gorakh Ram S/o Girdhari Ram Meghwal	Khasra No. 89, Hirakheda, Luni	Jodhpur
26.	Kala Ram, Dana Ram, s/o Chutara Ram, Patel	Khasra No. 234, Hirakheda, Luni	Jodhpur

27.	Bagha Ram, Achala Ram, Sona Ram, Pema Ram S/o Biram Ram Jat	Khasra No. 230/1, Hirakheda, Luni	Jodhpur
28.	Jima Ram s/o Labhu Ram Jat	Khasra No. 227, Hirakheda, Luni	Jodhpur
29.	Bhanwara Ram, Shera Ram s/o Punna Ram Jat	Khasra No. 247, Hirakheda, Luni	Jodhpur
30.	Kala Ram, Shiv Ram, Bhaira Ram, Kehra Ram, Dana Ram s/o Chutara Ram Patel	Khasra No. 154, Hirakheda, Luni	Jodhpur
31.	Jima Ram, Pukha Ram s/o Lichman Ram Jat	Khasra No. 86, Hirakheda, Luni	Jodhpur
32.	Achala Ram, Sona Ram, Prema Ram s/o Biram Ram Jat	Khasra No. 228, Hirakheda, Luni	Jodhpur
33.	Jiya Ram, Ananda Ram Patel	Khasra No.-- Hirakheda, Luni	Jodhpur
34.	Surta Ram, Ananda Ram Patel	Khasra No.-- Hirakheda, Luni	Jodhpur
35.	Biraham Ram Meghwal (Near by Gorkh Ram Girdhani Ram Units)	Khasra No.-- Hirakheda, Luni	Jodhpur
36.	Arjun Ram s/o Girdhani Ram Meghwal (near by Gorkh Ram Girdhani Ram units)	Khasra No.-- Hirakheda, Luni	Jodhpur
37.	Laxman Ram s/o Lalu Ram Jat	Khasra No.---\ Hirakheda, Luni	Jodhpur
38.	Gueshwar Ram Meghwal (Near by Gorkh Ram Girdhari Ram units)	Khasra No.-- Hirakheda, Luni	Jodhpur

101. Further it refers to meeting dated 12.04.2016 held under the Chairmanship of District Collector, Jodhpur on 12.04.2016 for compliance of Tribunal's orders dated 21.08.2015, 08.10.2015, 3.12.2015 and 07.04.2016.

Reply cum affidavit dated 14.05.2016 filed by Collector Jodhpur pursuant to Tribunal's orders dated 07.04.2016 and 26.04.2016 in OA III (p/395):

102. It is said that District Admiration is already working to give effect to directions issued by Rajasthan High Court vide judgment dated 01.05.2014 in **Laxmi Suiting vs. State of Rajasthan (supra)**; JDA has allotted land measuring 25 bighas to RIICO for construction of a CETP of 25 MLD capacity; as per directions issued in the meeting dated 19.08.2015

steps for closure of 27 factories in Salawas, 4 in Tanawada, 1 in Bhandu Kalan, 2 in Nandwan, 3 in Heerkheda, 1 in Gram Bhakri (Bhacharna) and 1 in Rajeshwar Nagar (Dhawan 1) have been taken. Details of these industries are given in documents filed collectively as annexure R/15 which show closure of following industries:

Sl. No.	Name	Khasra no.	Condition of Khasra
Salawas			
1	Mohd. Hanif s/o Murad Ali	154/2	Khatedari
2	Mohd. Nisar s/o Mohd. Usman	154/1 155/1	Khatedari
3	Shrikant Sharma	115/11	Khatedari
4	Kesaram s/o Bhanwarlal	115/9	Khatedari
5	Babulals/o Bhanwarlal	115/8	Khatedari
6	Anwar s/o Ramzan	118/14	Khatedari
7	Guddu khan s/o Ramzan	119/3	JDA
8	Jugun Khan	119/4	JDA
9	Padmaram s/o Shimbhu ram	233	Khatedari
10	Kevalram s/o Kisnaram	197	Khatedari
11	Likhmaram s/o Hukmaram	198	Khatedari
12	Rughnath Singh s/o Kaansingh	216	Khatedari
13	Jogaram s/o Dhanaram	232	Khatedari
14	Omaram s/o Natharam	224	Khatedari
15	Kamal Rathi	126/14	JDA
16	Sankar lal s/o Kishnaram	227	JD
17	Shrif Khan s/o Farid khan	242	JD
18	Kishor aror s/o Hira lal	242	JD
19	Salim s/o Noor Mohd.	89	JD
20	Jugun Khan	89	JDA
21	Pukhraj Mali s/o Laduram	248	JD
22	Anwar Husain	252	JD
23	Firoz s/o Mohd. Ismile	252	JD
24	Murad Ali s/o Jahur Khan	246	JD
25	Monika w/o Manish	10	Khatedari
26	Hazari Singh s/o Bhomaram	856/403	JDA
27	Meema Devi w/o Mohan lal	100	Khatedari
Tanawada			
1	Suresh s/o Lal chand	26	Khatedari
2	Jakir Husain	26	Khatedari
3	Hifjul Rehmana s/o Gulam Rabbasi	47	Khatedari
4	Salim	47	Khatedari
Bhandu Kalan			
1	Bhawani Singh s/o Mod Singh	149/1	Khatedari
Nandwan			
1	Achla Ram s/o Biram Ram	231	
2	Jima Ram s/o Lalu Ram	227/1	
Heerkheda			
1	Sanwat Ram s/o Lumba Ram	359	
2	Lalu Ram s/o Jagaram	211	
3	Kishna Ram s/o Jagaram	205	

Gram Bhakri (Bhacharna)			
1	Guman Singh s/o Jorawar Singh	138	

103. Affidavit further says that Additional Chief Secretary, Environment vide letter dated 27.10.2015 directed Divisional Commissioner, Jodhpur to constitute Committee pursuant to Tribunal's order dated 08.10.2015; vide letter dated 29.10.2015, Commissioner constituted Committee for district Jodhpur and Barmer respectively; the area in dispute is within the administration of JDA, therefore, authorized officer-cum-Tehsildar had registered complaints under Section 31 to 35 of JDA Act against 153 units; several orders have been passed against 73 units and rest 80 units are in the process of hearing before authorized officer cum Tehsildar; the problem of acquisition of water is mainly due to discharge of sewage of untreated industrial effluent which is 135 liter per capita per day and the total volume of effluent is about 108 MLD in Jodhpur city everyday which increases to 150 to 160 MLD during monsoon season; there are two treatment plants of 20 and 50 MLD operating at Nandari and Salawas respectively and 1 STP of 50 MLD is under construction in Salawas, likely to be completed by 31.07.2016; looking to the volume of effluent discharge everyday as also during monsoon season, one more treatment plant with capacity of 40 MLD is proposed to be constructed at Basni Banda, Jodhpur for which tenders have been invited; pursuant to the decisions taken in the meeting dated 12.04.2016, joint action was taken by RSPCB, JDA, JVVNL, PHED and Tehsildar, Luni, on 13.04.2016 sealing 37 units; District Administration seized 2 factories on 15.05.2016 and 10 on 12.05.2016 and these steps taken to overcome the problem pointed out and doing their best.

Additional Affidavit cum reply dated 21.09.2016 filed by District Collector, Barmer pursuant to Tribunal's order dated 22.07.2016 in OA III:

104. Collector has said in the affidavit that for appropriate disposal of the matter, actual locational details of river Jojari would be relevant and the same have been given by stating that last village of district Jodhpur on NH-25 (earlier called NH-112) is village Dhawa, adjacent to first village of district Barmer i.e., village Doli; boundaries of village Dhawa and Doli touch each other and form bifurcating line of district Jodhpur and Barmer; as per Revenue record, entire river Jojari is flowing within the boundaries of district Jodhpur and run from villages Nandari, Sriyade Nagar, Uchiarda, Basni Benda, Jhalamand, Kudi Bhagtasni, Salawas, Bhandu and Dhawa; as per Revenue record, no portion of river Jojari comes within district Barmer but as a matter of fact water of river Jojari when over flows, comes into boundaries of district Barmer, more particularly, the villages just adjacent to boundary of district Jodhpur and Barmer i.e. villages Doli and Araba; in the affidavit filed by District collector, Jodhpur, it is admitted that due to some reasons, effluent discharged by industries situated in district Jodhpur, is flown into river Jojari and contaminate it; during rainy season, contaminated water of river Jojari flows in district Barmer and more particularly, in villages Doli and Araba; the extent of river Jojari is upto the boundaries of District Jodhpur and, thereafter, there is no river channel flowing or going in district Barmer; there is no industry situated in village Doli Kallan, Doli Rajgura and Araba which may pollute over flown water of river Jojari and which enters the area of aforesaid villages which form part of district Barmer; no industrial waste of district Barmer is flowing through any water channel into river Jojari; as a matter of fact, the extent of river Jojari is only upto district Jodhur and entire industrial effluent as well as sewerage of district Jodhpur is flowing into river Jojari and such contaminated water is entering the boundaries of district Barmer; it is reiterated that no industry situated within the boundary of district Barmer is contributing

to contaminate water of river Jojari; and pursuant to the meetings convened by Divisional Commissioner on 22.07.2016 and 29.08.2016, District Administration of Barmer actively participated and apprised all the authorities about the real facts and situation and extended all their support and cooperation to prevent contamination of water and discharge of effluent in river Jojari.

105. With regard to other aspects namely, land allotted by JDA for establishment of new CETP and closure of industries etc., reply is similar as given in the earlier affidavit. Supply of drinking water to the residents of village Araba is undertaken through pipelines installed under “Vrihad Pariyojna Ummed Sagar-Dhawa-Samadari Khandap” and the said water is free from any contamination coming from water of river Jojari. PHED department is regularly making inspections and testing drinking water and ensures safe and hygienic water supply for human as well as animal consumption in the area. For restoration of the damage caused to surface soil due to over flown contaminated water of river Jojari in the agricultural field of Araba, instructions have been issued to remove surface soil upto 2 inches from the field and store it at some other place so as not to be used for any other purpose. Directions have also been issued for proper poundage to stop rain water to reach agricultural fields during rainy season. In order to avoid any adverse effect of accumulated water during rainy season Pesticides Department is taking care by sprinkling pesticides from time to time. STPs should be constructed within the boundaries of district Jodhpur only i.e., near the places, pollution is generated, otherwise, it will create more problem than solving it. It has been planned to construct a water diversion channel from Nandanwan to Luni river, of around 16 kms, through which treated water will be taken to river Luni after treatment in district Jodhpur itself.

Affidavit-cum-compliance report dated 27.09.2016 filed by RSPCB pursuant to Tribunal's order dated 22.07.2016 in OA III (p/489):

106. This is a short affidavit stating that pursuant to Tribunal's order dated 22.07.2016, RSPCB has issued show cause notices to 171 units to show cause as to why environmental compensation may not imposed on the principle of 'polluter pays'.

Affidavit-cum-Compliance report dated October 2016 filed by respondents pursuant to Tribunal's order dated 22.07.2016 in OA III:

107. Reference has been made to Tribunal's order dated 22.07.2016 giving following directions:

“

- *A complete and comprehensive survey should be done about the industrials units illegally operating in Jodhpur District?*
- *The dates since these units have been functioning?*
- *Who are the owners of these units?*
- *What are the products or items manufactured by these units?*
- *What effluents they are releasing and where?*
- *The sources of water being used by these units?*
- *Whether the units are connected to CETP by a conduit pipe or not?*
- *After passing of the earlier directions of the Tribunal, how many units have been actually closed down?*
- *How is the sludge being disposed of?”*

108. Pursuant to the above directions, survey was conducted by District Collector, Jodhpur along with other officers and, thereafter, a meeting was convened on 06.08.2016 at Gram Panchayat Bhawan, Salawas where the matter was discussed and following directions were issued:

“

- *Use of drainages for storm water and action should be taken against those units which are polluting these drainages.*
- *Awareness regarding use of treated sewage water among the farmers*
- *The seized units should be installed with flex banners mentioning orders of the Hon'ble Tribunal*
- *Untreated sewage water should not be discharged in Jojhri river.*
- *Use of treated water by industrial units*
- *A team has been constituted of various departments which was directed to conduct a thorough survey and to take necessary actions.”*

109. In view of the above directions, a joint action was taken by officers of various departments namely Revenue, JDA, RSPCB, RIICO, JVVNL, GWD, Nagar Nigam, PHED etc., pursuant where to, 290 units were found violating laws and consequently, 199 units have been closed. 64 units out of 290 were working without consent to operate. Appropriate action for closure of remaining units is in process. With regard to use of treated sewage water, a meeting was convened on 07.09.2016, participated by representatives of industrial units and their associations, Regional Officer, RSPCB, Senior Regional Manager, RIICO, Regional Manager, RIICO, Mining Engineer, Jodhpur. In the said meeting, use of sewage treated water, scarcity of water in dark zones, water uses for mining purposes, maximum utilization of treated sewage water was discussed and it was concluded that treated sewage water must be utilized by the agencies in the following quantity:

a.	<i>For existing industrial area Boranada</i>	<i>6 MLD</i>
b.	<i>For new Industrial Area (proposed) at Baranada/ Salawas</i>	<i>9 MLD</i>
c.	<i>For mining purpose</i>	<i>20 MLD</i>
d.	<i>For plantation/greenry in the city</i>	<i>2 MLD</i>
e.	<i>For industries at Balotra</i>	<i>50 MLD</i>
f.	<i>Propoed Industrial Area at Rohat, Pali</i>	<i>30 MLD</i>
g.	<i>Remaining water with low TDS to farmers</i>	

110. List of 290 units is filed as annexure R/27 and brief summary of 290 textile units is given on page 529 as under:

<i>Sr. No.</i>	<i>Area/ Place</i>	<i>Units</i>	<i>Closed Units</i>	<i>Running</i>	<i>Consent to Operate</i>	<i>Total</i>	<i>Remarks</i>
<i>1</i>	<i>Luni</i>	<i>119</i>	<i>115</i>	<i>4</i>	<i>0</i>	<i>119</i>	<i>Action Pending by Team</i>
<i>2</i>	<i>Jodhpur</i>	<i>41</i>	<i>25</i>	<i>1</i>	<i>15</i>	<i>41</i>	<i>Action Pending by Team</i>
<i>3</i>	<i>NNJ</i>	<i>88</i>	<i>39</i>	<i>7</i>	<i>42</i>	<i>88</i>	<i>Action Pending by Team</i>
<i>4</i>	<i>RIICO</i>	<i>42</i>	<i>20</i>	<i>15</i>	<i>7</i>	<i>42</i>	<i>Action Pending by Team</i>
	<i>Total</i>	<i>290</i>	<i>199</i>	<i>27</i>	<i>64</i>	<i>290</i>	

Progress report dated 20.11.2016 filed on 15.12.2016 on behalf of respondents in OA III:

111. The above report has been filed accompanied by an affidavit sworn by Shri Ayub Khan, Sub Divisional Officer, Luni. It is stated that after closing down 199 units by District Administration, Jodhpur, further 27 units have been closed down and list of the said 27 units is filed as annexure R/33. 109 units have deposited environmental compensation with RIICO and list of the said units is filed as annexure R/34 while 171 units who were issued notices requiring to deposit environmental compensation as also 7 more units who were issued similar notices, have not deposited any amount. List of such 178 units is filed as annexure R/35. Only 3 units established after 01.05.2014 have complied with directions of Tribunal and these units are:

- (i) A.K. International, Plot No. 2, Nakoda Industrial Area
- (ii) MEHRAN TEXTILES, 7-8 Nakoda Industrial area, II, Phase Basni
- (iii) Surendra Impex, Plot No. 3, Nakoda Industrial Area

112. Commissioner, Nagar Nigam Jodhpur issued a letter dated 30.11.2016 intimating Divisional Commissioner of Jodhpur regarding preparation of plan for use of treated sewage water. With regard to use of treated water, Collector Jodhpur issued a letter dated 30.11.2016 (annexure R/40).

Reply dated 27.02.2017 filed on behalf of District Collector, Barmer, Rajasthan pursuant to Tribunal's order dated 24.01.2017

113. In the above reply, District Collector, Barmer has referred to its compliance affidavit filed on 21.09.2016 and reiterates that there is no industry situated within the boundary of district Barmer contributing to contamination of water of river Jojari. Balotra is a town in district Barmer situated in South-West direction and about 60km away from villages Doli

and Araba. There is no industry situated between Doli-Araba and Balotra and Balotra is also not connected in any manner to river Jojari. Balotra on the other hand is situated in the downstream and not even a single droplet of industrial effluent and sewerage, flows into river Jojari in district Barmer. It is only when river Jojari overflows, its water enters the boundary of district Barmer and not otherwise. The extent of river Jojari is only upto the boundaries of district Jodhpur and there is no river channel flows or going into district Barmer. Whenever there is overflow, water of river Jojari spread out in open land of nearby villages falling in the boundary of district Barmer. In fact, industrial effluent contribution by industries in district Jodhpur contaminates the open land in the nearby villages coming in district Barmer and no effluent is discharged in river Jojari from any area coming in the boundaries of district Barmer. The water spread in the open fields due to overflow of river Jojari particularly in monsoon season and cause contamination, settle in the area comes in District Barmer and this has to be removed by removing surface soil upto 2 inches for restoration of the surface soil but the allegation that any industry in district Barmer is causing pollution to the water of river Jojari is not correct. In any case, district administration and other concerned authorities in district Barmer are taking all preventive measures to minimize effect of pollution and such steps detailed in para 12 of the reply are as under:

- “(a) Public Health and Engineering Department (hereinafter referred as PHED) sub division Balotra has taken all steps to ensure safe drinking water by completely isolating the water supply pipe lines from polluted water. Drinking water in the affected area is safe and there is no possibility of contamination of drinking water.*
- (b) Samples of water from traditional water reservoirs of these villages have been tested and safe drinking water is ensured by PHED. Further PHED is directed for continuous monitoring of the situation and to guarantee the safe drinking water for public and animals.*

- (c) *Department of agriculture examined soil samples from the affected region in the laboratory, Barmer according to which the electrical conductance of samples was found between 4.0 to 6.6 which indicates the mineral status (or salinity). Electrical conductance of normal soil is usually less than 1.0. The samples were found to be more saline than normal which adversely affect the germination of seeds and lastly the productivity and fertility of soil. Therefore Agriculture department is helping farmers to remove polluted un-useful upper layer of the soil which is already mentioned in the above paras. That Department is also helping the villagers to maintain the mineral level of soil and prevent water logging in the fields.*
- (d) *Medical Department is ensuring all measures to prevent development of malaria parasite by spraying anti larval oil and adding gambusia fish to the water logged fields and affected area.*
- (e) *In last rainy season, the water flow has changed its TO and followed a different path causing a great damage to the fields and polluted the water reservoir (nadi) of village Dol Rajguru contaminating the drinking water for animals, also it had badly affected the pasture land (Gochar) and agricultural land up to 253 beegha of 18 farmers in our district Barmer this year. The land which was under the water in the past years is still barren and not fit for agriculture.”*

114. It is suggested that the situation can be improved only by controlling pollution by the industries functioning in the area of district Jodhpur and further by repair of river banks and annicut structures in river Jojari in district Jodhpur.

Reply dated February 2017 to Show Cause Notice (filed on 28.02.2017) on behalf of District Collector, Jodhpur, Rajasthan pursuant to Tribunal's order dated 24.01.2017

115. It is said that in compliance of Tribunal's order, a meeting was held by Collector, Jodhpur on 06.08.2016 and following directions were issued:

- a. Directions were given to RIICO, Boranada to use the drainages for storm water and further directed to take action against those units polluting the drainages.*
- b. After the personal visit of the District Collector, directions were given to the inspection committee to install the banners on the seized units mentioning the orders of this Hon'ble Tribunal.*
- c. Directions were given to the Nagar Nigam to make sure that no untreated sewerage water is discharged in the river Jojari.*
- d. Directions were given to JPNT to not to release the untreated water in the river Jojri.*

- e. *Directions were given to Nagar Nigam to maximize the utilization of STP.*
- f. *A team was constituted and the same was directed to conduct a thorough survey and to take necessary actions against the erring units.”*

116. Consequently, Officers of various departments constituted a team and conducted a survey. They found 290 industrial units operating, out of which 199 were closed by the team. 64 units, out of 290 units were operating with Consent to Operate issued by RSPCB. Later, 27 more units were closed down. With regard to use of treated sewerage water and other issues relating to contamination of river water, Divisional Commissioner, Jodhpur convened a meeting on 29.08.2016 and issued following directions:-

- “i. Directions were issued to District Industry Centre, Jodhpur (DIC) for conducting a meeting and assessing the requirement of water need by the industries (i.e. present and proposed industrial area) and further directed to assess the cost of transferring the treated water through pipeline for their consumption.*
- ii. Directions were issued to Nagar Nigam & JDA to monitor the quality of treated water from STP (i.e. STP Salwas-50MLD and STP Nandara-20MLD) and further directed to present a proposal for using of the treated1 water.*
- iii. Directions were issued to Agriculture/Horticulture Department to undertake a study and report with regard to the utilization of treated water in agriculture.*
- iv. Directions were issued to the Irrigation Department with regard to the repairing of anicuts on river Jojri in fixed time schedule.*
- v. Directions were issued to Ground Water Department to monitor the TDS level of the ground water in Jodhpur, Pali and Balotra.”*

117. Another meeting was held on 07.09.2016 with representatives of industrial units and their associations, Regional Officer, RSPCB, Senior Regional Manager RIICO, Regional Manager, RIICO and Mining Engineer, Jodhpur, wherein usage of sewage treated, scarcity of water in dark zones, water used for mining purposes and maximum utilization of treated sewage water was discussed and it was concluded with a proposal that

treated sewage water may be utilized by the above agency in the following quantity:-

- a. *For existing industrial area in Boranada = 6MLD*
- b. *For new industrial area proposed in Boranada and Salawas = 9 MLD*
- c. *For mining purpose = 20MLD*
- d. *For plantation/greenery in the city = 2MLD*
- e. *For industry in Balotra = 50MLD*
- f. *For industrial area at Rohat, Pali =30MLD*
- g. *Remaining water with low TDS to farmers.”*

118. Reference is made to further meetings held on different dates and it is said that an inspection was carried out on 22.02.2017 by joint team of Revenue Officers, who found that 42 units, earlier closed down, had again started to operate illegally. District Collector vide letter dated 23.02.2017 directed Regional Officer, RSPCB to take strict action against the above 42 erring units and submit compliance report.

Affidavit-cum-Compliance report dated 15.03.2017 filed by RSPCB pursuant to Tribunal's order dated 24.01.2017

119. A joint team comprising Sh. Mahaveer Mehta, Regional Officer, RSPCB and Sh. P. Jagan, Scientist 'D', Regional Directorate, CPCB, Bhopal made a joint inspection between 13-16.02.2017 of CETP-Jodhpur and river Jojari from upstream to Doli Araba village. Team also collected samples of treated wastewater from final outlets of STPs at Nandari and Salawas and also collected samples of final outlet of CETP, effluent and sewage flowing through RIICO drain near CETP, river Jojari at Dhawa and eastern pond at Doli Kalan. Besides other, Committee reported that out of 488 textile industries required to deposit Rs. 5 lakh each towards environmental compensation, only 310 industries have deposited a total sum of Rs. 1,550 lakh to RIICO Ltd., Jodhpur upto October, 2016. Remaining 178 industries were issued notices and only one unit has paid Rs. 5 lakh on 23.11.2016 but no realization could be made from remaining

177 units due to their closure. The recommendations made by Committee are as under:

“RECOMMENDATIONS:

Following recommendations are made to resolve the problem of discharge of industrial/domestic wastewater into the RIICO drain which is finally leading to Jojari River and causing problems to the nearby villagers in the downstream of Jojari river at villages Doli/Araba:-

• **Jodhpur Pradushan Niwaran Trust (JPNT) and member industries:**

Presently, wastewater reaching to CETP site through conduit pipelines is less than 10 MLD depending on the discharge by the member units. It appears that part of untreated effluent is being discharged through over flow from the pipeline or discharge into RIICO drain. Therefore, JPNT must adopt measures to ascertain discharge of ensure effluent of member units should ensure discharge only into conduit system and ensure that the flow meter readings are submitted every day to the CETP through e-mail and a complete record of the same is maintained.

JPNT should also ensure that the member industries discharge waste water through single outlet only and there should not be any switch on-off arrangement on the flow meter mandatorily otherwise the very purpose of verification of actual discharge is defeated.

- *To exercise better control on the effluent being discharged by each unit, tamper proof GPRS based flow measuring device should be installed in every unit and daily record of the same is to be maintained. JPNT be directed to ensure compliance in reference to each unit. Further, the steel rolling mills have not installed flow meter which should be directed to install GPRS based flow meters.*
- *All the member units must install flow meter on the sources of water such as bore well or collection tank and as such directions be issued by JPNT to all the member units to submit compliance of the above and cross check this information with the discharge of waste water so that the units which may be discharging into RIICO drain may be Find out and suitable action taken against them.*
- *JPNT should take the land from RIICO for installation of new CETP at the earliest possible or should expedite action for enhancing the capacity of the existing CETP to 30 MLD and also the measures taken for utilizing the treated effluent for agricultural purposes. At present, the treated wastewater is being discharged into the RIICO drain at CETP which is also carrying untreated waste water and sewage from the industrial areas and nearby habitations etc.*
- *JPNT should conduct detailed survey of the number of Adaans (drying structures) provided in individual member industries to check on the unauthorized washing activities and such Adaans should be commensurate with the production figures of consent to operate by the State Board and the extra ones should be removed. JPNT should also mention the numbers and sizes of Adaans in the membership letters to the member industries.*

- The JPNT should install the RO plant at the CETP to maintain ZLD by reusing the treated water in industries.
- The JPNT should ask all the member industries (having discharge of 50 KLD and above) to construct holding tanks for storage of effluent and discharge into the conduit pipes at different timings so as to prevent overflow of conduit system in to RIICO drain.

a. Action to be taken by Jodhpur Nagar Nigam:

- The Nagar Nigam, Jodhpur must properly operate the STP at Salawas-I and Nandari and commission the new STP at Salawas-II without delay.
- The Nagar Nigam, Jodhpur must expedite construction of proposed STP at Basni Benda and to plan to construct new STPs of adequate capacity in line with the total domestic wastewater generation to prevent/ to resolve the problem of untreated sewage discharge in to Jojari River.
- The Nagar Nigam, Jodhpur must ensure that the domestic wastewater generated from the residential colonies near industrial areas must be diverted to STP (I) & (II) at Salawas so that the problem of discharge of domestic wastewater into Jojari River as well as domestic wastewater accumulation near the industrial areas can be resolved. Jodhpur Nagar Nigam should also lay down complete sewage system for collection of the raw sewage so that the STPs can function on their full capacity.

b. Action to be taken by RIICO authorities:

- The RIICO authorities should ensure that the domestic waste water generated from the industries should be diverted to STPs at Salawas.
- The RIICO authorities should take action for development of new industrial area with proper infrastructure and allot the plots for shifting the industries located/operating in non-conforming area.
- That RIICO should allot/hand over the land to JPNT for establishment of new CETP in compliance of directions of Hon'ble NGT in the matter of Laxmi Suitings.

c. Action to be taken by District Administration Jodhpur and Barmer:

The District Collector, Barmer and Jodhpur should take action to channelize the path for flowing of River Jojari from Dhawa (Jodhpur district) to Doli/Araba (Barmer district) into Luni River. It was observed that water is accumulated at Doli village and some flow was observed towards Araba village but no water observed in and around Araba village because of the fact that farmers are using accumulated water for agriculture. Therefore, coordinated action should be taken by district administration and water resources department to restore the Jojari river path by clearing the encroached land at Doli and Araba, so that the accumulation of waste water/rain water can be prevented.

d. Action to be taken by Jodhpur Development Authority (JDA):

- *The Jodhpur Development Authority should expedite the matter of removal of sludge from the river Jojari as per the NGT orders passed in Laxmi Suiting v/s State of Rajasthan & Ors. The Jodhpur Development Authority (JDA) had issued a Notice inviting tender on 24.09.2016 but had to be retendered as only one incomplete tender was received.*
- *The Jodhpur development Authority (JDA) should take action in their jurisdiction for removal of plant and machinery of illegal textile units which have been established in the agricultural areas of Jodhpur without land conversion which, is a gross violation of the JDA rules and master plan of JDA. In the past also, many such illegal units have been closed down by District Administration and RSPCB and their electric connections were disconnected but it has been observed that for the time being they remain closed and the operations are illegally resumed during odd hours later on thereby arising same situations. A strict action is to be taken by the JDA to ensure that new such areas or pockets are not developed in future and all such areas where there are unauthorized units whether closed or not, should be earmarked by JDA authorities and removed completely. Looking to the gravity of the matter, JDA and District Administration should take action for dismantling / removal of all illegal units in non-conforming areas with proper intra departmental action and coordination.”*

Reply affidavit dated 26.04.2017 filed on behalf of CPCB, pursuant to Tribunal’s order dated 24.01.2017

120. CPCB has also filed, along with reply, the report of joint Committee of Sh. Mahaveer Mehta, Regional Officer, RSPCB and Sh. P. Jagan, Scientist ‘D’, Regional Directorate, CPCB, Bhopal, which we have already referred above.

Status report dated 21.05.2017 filed on behalf of State of Rajasthan pursuant to Tribunal’s order dated 15.05.2017.

121. Tribunal by order dated 15.06.2017 directed RSPCB and District Administration and all concerned to ensure that blockage of river is immediately removed. Consequently, the above report was filed on behalf of State of Rajasthan. It is said that river Jojari originates in hill rocks near Birai in Tehsil Bhopalgarh of district Jodhpur. It flows for about 125.5 kms from North-East district to South-West district in Jodhpur. The co-ordinates of river are:

Longitude: 73°08’ & 74°00”

Latitude: 26°07' & 26°43"

122. There is no blockage in the flow of river Jojari and there is no illegal encroachments on the banks of said river as on the date of filing said report. Water Resource Department conducted a survey regarding encroachment intercepting free flow of river Jojari and did not find any encroachment which would have obstructed free flow of the said river. In order to safeguard natural flow area of river Jojari, Water Resource Department has demarcated boundaries of river by fixing up RCC pillars with base area 0.60m x 0.60m tapering to 0.30m x 0.30m at the top, to be embedded 0.90m below NSL and 0.60m as top projection above NSL for pillars having total height of 1.50m. The base is got fixed in situ in C.C. (1:4:8) in trench of 0.90m x 0.90m x 0.90m (Bottom 0.30m in hard soil mixed with kankar and 0.60m above in hard soil). The C/C spacing of pillars has been kept as 30 meters longitudinally in JDA limits along the river.

123. Regarding anicuts on river Jojari for rain water storage, Water Resource Department forwarded three proposals, as under:

- "a) Repair and Restoration of Banar, Nandra 1st, Nandra 2nd, Uchiyada, Basni Benda, Salawas and Nandwan Anicuts at Jojari River amounting to Rs. 296.21 Lacs.*
- b) Construction of Anicuts at D/s of Nandra 1 Anicut and D/s of Uchiyada Anicuts on Jojari river amounting to Rs. 100.80 Lacs.*
- c) Strengthening of banks and capacity enhancement o Somer Talab of village Jajival Purohitan P.S. Mandore amounting to Rs. 130.48 Lacs."*

124. The said proposals have been accepted for administrative and finance sanction by Water Resource Department in its meeting dated 08.05.2017. Regarding sludge removal the status reports says:

"Work of removing the sludge in River Jojari began in 2015 when the qualitative characterization and quantitative assessment of sludge deposited in the bed of river Jojari was assigned to one Dr. S. K. Singh, Professor, MBM Engineering College, Jodhpur in January 2015 who then submitted a report of study dated 02.07.2015. That according to the findings of the study, approximately 1.10 Lac Tonnes of sludge

was found hazardous, which was to be removed and tentative expenditure to be incurred was estimated as Rs. 32.50 crores (Rs. 30.00 crores for excavation and disposal at TSDF and Rs. 2.50 crores for construction of channel for diversion of water flowing in the river).

For initial corpus, an amount of Rs. 1.0 crore each from RIICO RSPCB, JPNT and JDA was deposited in the dedicated account for carrying out the work.

As discussed in another meeting dated 22.09.2016 held under the Chairmanship of the District Collector, the JDA prepared and floated notice-inviting-tender for the proposed work after getting it duly approved from the committee. In furtherance to the above, a Work Order vide letter no. EE(Zone-South-A)/2017-18/69 dated 27.04.2017 has already been issued to one M/s Ramky Enviro Engineers Ltd.

As per the Work Order, the work has already been initiated on 07.05.2017 and the intended date of completion of work after the execution period of 12 months (which includes initial work of earthen channel construction for draining out accumulated water in the identified stretch followed by excavation, removal, drying, transportation & disposal of Hazardous waste) is 06.05.2018.

As per the schedule, the total envisaged Hazardous Waste proposed to be removed is to the tune of 80000 MT. The Work Plan in this regard is attached according to which mobilization of manpower, machinery and survey team is in process. Initial survey and demarcation work has also been started. That the work of removal of sludge from the River Jojari will start by the end of May-2017 and as on date Earthen Channel/ Approach Road is under way. The space on river bank is being identified where sludge is to be stacked for initial drying. The dried sludge is to be transported to TSDF site at Balotra for treatment and disposal.”

Affidavit dated 27.05.2017 filed by applicant in response to Status Report dated 21.05.2017 filed by State of Rajasthan and reply affidavit dated 26.04.2017 of respondent 10

125. The stand of State of Rajasthan that there is no blockage in the river Jojari and no illegal encroachments have been made, is disputed by applicant and it is said that on page 662, joint report of Sh. Mahaveer Mehta, Regional Officer, RSPCB and Sh. P. Jagan, Scientist ‘D’, Regional Directorate, CPCB, Bhopal, says otherwise and the extract thereof is as under:

“No river path exists beyond Doli village due to Construction of earthen dams for using waste water for irrigation by the Doli Villagers. Entire waste water was spread near Doli Village where Jojari river has been encroached, and therefore no river path exists after Doli village, and therefore after the rainy season, rain water, mixed with industrial and

in domestic waste water of Jodhpur city c flows in downstream through agricultural fields thereby creating accumulation in agricultural fields around village Doli extending to village Araba.”

126. The pictures filed in the status report filed by State of Rajasthan are said to be unmarked and undated and do not clarify the position as above. The status report of State of Rajasthan is challenged as an eyewash and misleading. Further, joint report of CPCB and RSPCB do not mention anicuts as a possible solution when State Government must clarify what role the anicuts play in controlling pollution at village Araba and if the same would not contribute to improve upon the situation on the ground, then why any investment be made thereon. Status report also do not clarify the problem pointed out by joint Committee in its report on page 661 that due to flowing of waste water at Dhawa village towards Araba and Doli villages, accumulation of ground water at these areas is happening, and possibility of ground water contamination cannot be ruled out for this reason but no stand has been taken by State as to how the said problem will be resolved. Referring to joint Committee report, it is said that there is shortage of 90 MLD treatment capacity on account whereof untreated sewage of 90 MLD is being released in river directly and further 50 MLD STP has yet not commissioned, hence State must take immediate action to commence 50 MLD STP at Salawas and also to complete other proposals of the project.

127. Page 664 of joint Committee report regarding site visit of STP at Nandari, point out that STP was not functioning properly, ponds were completely covered with water hyacinth/jalkumbhi and algae; surrounding areas were dumped with cow dung etc. and all tanks were almost full of sludge. Page 664 of joint Committee report shows that analysis of samples of STPs at Nandari and Salawas did not meet standards of BOD, COD and TSS and nothing has been said about the

same. On page 664 of joint Committee report, it is said that 395 water polluting industries were in operation which included 291 textile, 91 steel and 13 others, while 213 units were closed but no clear facts have been stated regarding current number of defaulters, who should be directed to close down their ventures to prevent pollution.

128. There is an admission on the part of joint Committee on page 665 that untreated wastewater flowing in RIICO drain having domestic waste water from the city area and untreated wastewater from habitation and commercial activities in and around industrial areas is also being discharged into river Jojari but to prevent pollution respondents have not mentioned with regard to any concrete step.

129. On page 669 of joint Committee report, it is said that during peak times of textile processing activity, overflow of wastewater in RICCO drains happens but to prevent no concrete step is suggested or shown. With regard to recommendations made by Committee, applicant said that respondents be directed to take appropriate steps for compliance.

Short response affidavit dated 23.08.2017 filed on behalf of State of Rajasthan in reply to applicant's response dated 27.05.2017 to the Status Report dated 21.05.2017

130. We find that this short response affidavit is repetition of facts as contained in status report dated 21.05.2019 filed by State of Rajasthan, hence we are not repeating the same.

Affidavit dated 07.03.2018 filed on behalf of Commissioner, Jodhpur Development Authority

131. It is said that to comply Tribunal's order, a meeting was called by Chief Secretary, Government of Rajasthan on 06.03.2018 and the decisions taken therein are:

- “1. Since Jodhpur Development Authority is the nodal agency for executing the works, Commissioner Jodhpur Development Authority will be made Officer Incharge of the case and the present Officer Incharge, SDM Luni will be made additional Officer Incharge. Necessary orders in this regard will be issued today by District Collector, Jodhpur.
2. M/s Ramky Enviro Engineer Ltd, (Contractor) has stated that they have completed all the preparatory works like survey, demarcation and channelizing work related to removal of sludge and were waiting for permission from Jodhpur Development Authority for starting the excavation work. However, looking to the urgency of the matter they have started the excavation work today and undertake that the same shall be completed by 31st May 2018. The contractor was directed to submit an affidavit today so that the same may be produced before the Hon'ble National Green Tribunal tomorrow and relying on their assurances and undertaking it was decided to continue with the Contractor rather than issuing a fresh tender.
3. All four agencies i.e. Rajasthan State Pollution Control Board, RIICO, Jodhpur Pollution Control & Research Foundation (JPCRF), and Jodhpur Development Authority were directed to pay Rs. One Crore more, each, to the Jodhpur Development Authority by 31st March 2018.
4. At present 70 MLD sewage is being treated by the two STPs operational at Salawas Phase-I and Nandari. With regard to the 50 MLD STP at Salawas Phase-II, it has been decided that the same will be made operational by 30th April 2018. Further, the 40MLD capacity STP at Basni Benda for which work order has already been issued and the work has started, is expected to be completed by November 2019.
5. It was decided that a Team comprising of Member Secretary, RSPCB, Commissioner Jodhpur Development Authority, SDM, Luni, Regional Officer Jodhpur and Commissioner, Jodhpur Municipal Corporation will attend the hearing scheduled before the Hon'ble National Green Tribunal tomorrow i.e. on 07.03.2018 in order to assist the Hon'ble Tribunal.
6. It was decided that in addition to the existing monitoring committee, Principal Secretary (Environment and Forest) will conduct monthly review meetings at his level and will also visit the site if required.
7. It was directed that action plans will be prepared by all the stakeholders with respect to 1Issues concerned with them with clear timelines.”

Affidavit cum compliance report dated 14.06.2018 filed on behalf of RSPCB on 15.06.2018 pursuant to Tribunal's order dated 30.05.2018

132. By order dated 30.05.2018, Tribunal directed immediate closure of the following industries in the light of Commissioner's report dated 21.05.2018:

1. *M/s. Rishab Creations, Nakoda Industrial Area*
2. *M/s. Vertex Industries, Nakoda Industrial Area*
3. *M/s. Sarvotam Prints, Nakoda Industrial Area*
4. *M/s. Lakshya Prints, Near Nakoda Industrial Area*
5. *M/s. A K International, Plot No. 2, Nakoda Industrial Area*
6. *M/s. Sruendra Impex, Plot No. 2, Nakoda Industrial Area*
7. *M/s. Reliable Industries*
8. *M/s. Chanchal Industries*
9. *Daulat Industries, Heavy Industrial Area, Jodhpur*
10. *Rajasthan Battery, 25, LIA opposite ITI Jodhpur*
11. *M/s. Sorabh Textiles, 24 A LIA, Jodhpur*
12. *M/s. S. Kumar Industries, 8 B LIA, Jodhpur*
13. *M/s. Osian Impex, 36(1) HIA, Jodhpur*
14. *M/s. RamaGlobal 21(2) & 22(1) A HIA, Jodhpur*
15. *M/s. Mohanlal Textiles, 19D, HIA, Jodhpur*
16. *M/s. Mohanlal V N Exports, HIA, Jodhpur*
17. *M/s. B.P.B. (India), G-625, MIA, 2nd Phase, Basni (S.S. Steel Patta/Patti)*
18. *M/s. Kothari Textile, F-627, MIA, 2nd Phase, Basni*
19. *M/s. Rajesh Metals, G-624, MIA, 2nd Phase, Basni (S.S. Steel Patta/Patti)*

133. RSPCB has stated that order of Tribunal has been complied with and abovementioned 19 industries have been issued closure directions. Thereafter, the above industries submitted applications stating of rectification of deficiencies and the same have been verified by Officials of RSPCB in the inspection conducted on 08.06.2018. The inspection report annexed as Annexure-A/3 shows comments of Member Secretary, RSPCB that concerned industries have rectified all the deficiencies pointed out in Commissioner's report.

Rejoinder affidavit dated 21.07.2018 in response to status report submitted by Divisional Commissioner in OA III:

134. It is said that the complaint of continuous poisoning of water and soil by industrial violators who have no regard for human life as also the environment stood confirmed by the said report. Steps have been taken and polluting industries have also given various assurances but as a matter of fact there is no substantial improvement in the situation and whatever done, has a very little impact on the ground. Industries operating

in Bhandukalan, Salawas, Tanawada, Sobhato ki Dhani etc. are operating with impunity and brazenly discharging chemicals in river Jojri causing devastating impact on downstream and threat to the lives of thousands of villagers besides affecting flora and fauna adversely. Such continued violation of environmental laws cannot be conceived without complicity of local officials whether belong to revenue or police or even statutory regulators i.e., Pollution control authorities. These illegally running industries are profiteering from their illegal act in violation of law, leaving hapless villagers at the mercy of God and causing irreversible damage to ecology in the area. Textile industries polluting water by processing washing, dyeing etc., dumping huge pollutant in the river, wholly unafraid of any otherwise action by the concerned authorities. There is an urgent need of identification of these violators and strictest action their against. Applicants have relied on certain authorities of Supreme Court. In **MC Mehta vs. Kamal Nath, (1997)1SCC388**, Court said:

“Historically, we have changed the environment to fit our conceptions of property. We have fenced, plowed and paved. The environment has proven malleable and to a large extent still is. But there is a limit to this malleability, and certain types of ecologically important resources - for example, wetlands and riparian forests - can no longer be destroyed without enormous long-term effects on environmental and therefore social stability. To ecologists, the need for preserving sensitive resources does not reflect value choices but rather is the necessary result of objective observations of the laws of nature.

135. Commissioner’s report also shows that during surprise visit, discharge was found much higher in volume than it was during his officials disclosed visit to the industrial entrepreneurs. This is clearly sabotage on the part of violators in respect of report and an attempt to mislead Tribunal. This could not have been possible without active connivance of officials of RSPCB and other machinery involved in organizing the visit. Strict action against such conniving officials is needed. Report also shows that Primary Treatment Plants have not been installed in any of the industry in the city; various industrial areas have not properly laid down

sewer system and have no proper collection and segregation mechanism for effluents and other waste water discharged in the industrial area leading to ETPs and STPs. Though industries have been asked to implement zero discharge system but in absence of even Primary Treatment Plants and other requisite infrastructures, it is inconceivable to curb violation. Reliance is placed on **Municipal Council, Ratlam vs. Shri Vardichand & Ors., 1980 AIR 1622**, where Court said:

“Industries cannot be allowed to run at the expense of public health.”

136. Applicant has also referred to the observations of Supreme Court in **People United for Better Living in Calcutta-Public vs. State of W.B., 1992 SCC online Cal 232**, where it has said:

“In a developing country there shall have to be developments, but that development shall have to be in closest possible harmony with the environment as otherwise there would be development but no environment, which would result in total devastation, though however, may not be felt in present but at future point of time, but then it would be too late in the day, however, to control and improve the environment;... there should be proper balance between the protection of environment and development process....The society shall have to proper, but not at the cost of environment and in the similar vein, the environment shall have to be protected but not at the cost of the development of the society and as such a balance has to be found out and administrative actions ought to proceed.”

137. In **MC Mehta v. UOI (1997)4SCC463** (river Ganga flowing through Kanpur-tannery matter) said,

*“...just like an industry that does not pay minimum wages to its workers cannot be allowed to exist, **an industry which fails to set up a primary treatment plant be not permitted to continue to be in existence for the adverse effect on the public at large which is likely to ensure by the discharging of the trade effluents** from the tanneries to the river Ganga would be immense and it will outweigh any inconvenience that may be caused to the management and the labour employed by it on account of its closure.”*

138. Report also highlighted root cause of pollution i.e., by passing of flow through RIICO drain and complete failure of JPNT in controlling and monitoring its members. Those industries who are not member of JPNT are also equally responsible. The recommendations made in the report should be directed to be executed with a time bound programme.

Reference is also made to the observations made in the report that at several places in villages Araba and Doli, flood water with industrial effluent was present causing severe deterioration of agricultural land and polluting wells, ponds, and ground water in the region making it unsuitable for consumption. There was deficiency of water for drinking and bathing, and wildlife is suffering in as much as Blackbucks are seriously getting exposure of contaminated water, soil and plantation which is endangering their very existence. Steps need be initiated by District Administration for rehabilitation of land, soil and water and for removal of accumulated sewage and effluent. Deadly cocktail of untreated chemical effluent and sewage containing poison and heavy metals is contaminating ground water tables which is real danger of pollution likely to level across the State and may reach as far as Rann of Kuchh. On the issue of deep subsoil and water, Supreme Court in **Meddireddy Padma Rambabu & Ors. vs. District Forest Officer, 2002 (1) ALD 728** said,

“Enjoyment of right by the owner, it is trite, cannot be in the manner, which would be injurious to health or otherwise hazardous... Deep underground water belongs to the State in the sense that doctrine of public trust extends thereto. Holder of a land may have only a right of user and cannot ask any action or do any deeds as a result whereof the right of others is affected. Even the right of user is confined to the purpose for which the land is held by him and not for any other purpose... A person who holds land for agricultural purpose may, therefore, subject to any reasonable restriction that may be made by the State may have the right to use water for irrigational purposes and for the said purpose he may also excavate a tank.”

In **Tirupur Dyeing Factory Owners Association vs. Noyyal River Ayacutdars Protection Association and others, (2009)9SCC737**, Court said after referring to its earlier judgment in Indian Council for **Enviro-Legal Action vs. Union of India (1996) 3 SCC 212**,

“Once the industrial activities carried out are found to be hazardous or inherently dangerous, the person carrying on such activities are liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying out his industrial or commercial activities...polluting industries are absolutely liable to compensate for the harm caused by it to villagers

or other affected persons of the area, to the soil and to the underground water and hence, the industry is bound to take all necessary measures to prevent degradation of environment and also to remove sludge and other pollutants lying in the affected area.

139. Applicants in the rejoinder affidavit have prayed that strict action including heavy cost and penalty be imposed upon the polluters; rehabilitation of the affected area be directed; capacity of treatment plants be enhanced; other infrastructure be provided and a time bound action plan must be laid by State to prevent any future environment disasters in the area.

Affidavit dated 28.08.2018 filed by Member Secretary, RSPCB in OA No. 521/2015, M.M Charitable Trust vs. State of Rajasthan & Ors. and OA III

140. Inspection report has given details of individual industries; reference whereof was made in Tribunal's order dated 30.05.2018 and concluding comments are summarized as under:

“Comments: *Based on the observations mentioned above, the following summary is made for both Textile and Stainless Steel Re-rolling units separately.*

A. Textile Units:

Primary Treatment Plant: *Effluent generated at the unit level is passed through settling tanks with compartments so as to reduce the velocity, to settle down suspended particles and to capture any other floating material. Apart from this PH correction is made to some extent. Since the effluent is of alkaline nature, it is used in the CETP for neutralizing the acidic effluent generated from the SS Re-rolling units. Hence, efforts to treat the effluent at the unit level are not desirable. Handling of sludge at individual unit level will be difficult to ensure and use of extra chemicals at unit level will also increase. However, the Board will examine this issue and will issue appropriate directions to these units regarding any enhancement in capacity of the settling and holding tanks based on their effluent discharge or about installation of PTP in the lines of Pali.*

Connection to the JPNT Pipeline: *It's a general practice that effluent from individual units is passed through a chamber before being connected to the JPNT pipeline. These chambers are provided to remove any solid particle that passes the meter and which causes clogging of the main pipelines. This chamber provides an opportunity for someone to make bye-pass arrangements. The Board will issue necessary direction to the trust to rectify this issue with their member units.*

Hazardous Waste Management: *Not much of sludge is generated at the individual unit level. However, it will be necessary to have proper arrangement to collect, dry and store the material collected from the settling tanks before sending the same to the CETP for further*

scientific disposal. Some of the units have not provided proper facility to address this.

In view of the above, the following units which are having inadequate facility to settle and hold the effluent/units which have not provided SCADA system at the outlet/units which still have two or more chambers between their outlet and JPNT line, namely M/s Sarvotam Prints (Nakoda Industrial Area), M/s A.K. International (Plot No. 2, Nakoda Industrial Area), M/s Surendra Impex (Plot No. 2, Nakoda Industrial Area), M/s Rajasthan Battery (25 LIA), M/s S. Kumar Industries (8B, LIA), M/s Osian Impex 36 (1) HIA, M/s Rama Global, 21(2)&22(1)-A HIA, M/s Mohanlal Textiles (19D, HIA), M/s V.N. Exports, HIA) and M/s Kothari Textiles (F-627, MIA, 2nd Phase) may be directed to further improve the facility. These units can rectify these deficiencies in a short period and hence, the Board may be allowed to decide on the operation of these units after taking evidence based compliance.

B. Stainless Steel Re-rolling Units: Rectifications observed by the Court Commissioner has been addressed by all these units and all these units can be allowed to operate. SCADA system has been put in place both at the individual unit level and at the trust. Checked the system at the Central level and found to be encouraging. This effort of establishing SCADA system will help to monitor all the units connected with CETP in a better way.”

141. Affidavits have also been filed by M/s. Rama Global, 21(2) & 22(1)-A HIA, Jodhpur, M/s. Osian Impex, 36(1) HIA, Jodhpur, M/s. A.K. International Plot no. 2, Nakoda Industrial Area , M/s. Surendra Impex, Plot no. 2, Makoda Indsutrial Area, M/s. Mohan Lal Textiles, 19-D, HIA, Jodhpur, M/s V.N. Exports (Exim) , Plot no. 19-B HIA, Jodhpur stating that they have complied with directions and whatever deficiencies were found, have been rectified/removed.

Court Commissioner’s (Birla Institute of Technology & Science, Pilani) report dated 15.09.2018 pursuant to Tribunal’s order dated 30.08.2018 in OA III:

142. The aforesaid Commissioner was supposed to verify, whether the deficiencies pointed out in earlier Court Commissioner’s report in respect of 5 steel re-rolling industries have been removed or not and the said industries are:

- (i) M/s B.P.B. (India), G-625, MIA, Phase II, Basni, Jodhpur
- (ii) M/s Chanchal Industries, A-4 5, Marudhar Industrial Area, Phase II, Basni, Jodhpur

- (iii) M/s Reliable Steel, 6, New Nakoda Indsital Estate, Nr, MIA-II, Basni, Jodhpur
- (iv) M/s Rajesh Metals, G-624, MIA, 2nd Phase, Basni, Jodhpur
- (v) M/s Daulat Industries, 17-A, Heavy Industrial Area, Jodhpur

143. Court Commissioner's observations made during surprise visit of the said industries and over all observations and comments, noticed in the said report are as under:

“Overall observations and Comments:

- *During the surprise inspection by the court commissioner on 10.09.2018 at five industries, it was found out that there is a significant improvement in the working environment of these five steel re-rolling industries with appropriate facilities for the workers. This time, no evidence of unauthorized disposal of effluent has been found by these steel industries, which was observed in some of these 5 industries during earlier inspection.*
- *Primary Treatment Plant is also available now in all 5 industries. However, they are designed for different effluent characteristics. These industries are the member units of Common Effluent Treatment Plant (CETP) run by Jodhpur Pollution Niwaran Trust (JPNT). It seems that there is no prescribed standard set by CETP authorities and/or RSPCB for effluent characteristics (say pH, oil and grease, TDS, TSS, heavy metals etc.) to be disposed from the industry to CETP pipeline so that adequacy of PTP can be ensured. In Environment (Protection) Amendment Rules, 2015 (enforced from 1st January, 2016) it is mentioned that state pollution control board may decide inlet norms for CETP. Hence, it is recommended that CETP authorities and RSPCB should make appropriate standards for the influent of CETP so that adequacy of PTP for industry can be ensured.*
- *RSPCB should ensure that each industry must display all necessary information about the industry **outside the factory main gate in Hindi and English** both on 6' x 4' information board as prescribed by PCB. The details must include name, address, production capacity of the industry, validity of the consents and average quantity of water consumption, waste water and sludge generation etc.*
- *A surprise inspection was also done at CETP, Jodhpur to verify whether SCADA system of these 5 industries are connected online with the monitoring server located at CETP. During the inspection at CETP, it has been found that all 5 steel industries mentioned above are connected with online monitoring server at CETP. It has also been observed that merely 46 industries (including both steel and textile industries) are connected with online monitoring server at CETP out of total ~419 industries as on the date of inspection, i.e. 10 September 2018.*

- *pH was also measured at the influent chamber of CETP which was found as ~0.7 implying that HDPE pipeline conveying wastewater from all steel re-rolling industries to the CETP is highly acidic. The red color of wastewater in acidic influent chamber of CETP indicates that there is possibility of involvement of disposal of wastewater into HDPE pipeline from industries other than steel re-rolling.*
- *As mentioned in the report submitted to the Hon'ble Tribunal on 18.05.2018 by court commissioner, all 19 industries, which were inspected during his earlier visits, were found non-complying necessary standards. These 19 industries were inspected randomly at that time as a sample of the entire industrial cluster. It indicates that there may be deficiencies in complying the standard in many other industries among the total 419 industrial units (312 Textile industries, 94 Steel Re-Rolling Industries and 13 Miscellaneous). The concerned authorities should ensure that all industries comply strictly the standards as per the rules and regulations.”*

Compliance affidavit dated 14.11.2018 filed by RSPCB pursuant to Tribunal's order dated 28.09.2018 in OA III:

144. Affidavit states that vide Office Order dated 05.10.2018, 6 teams were constituted to inspect all units connected with CETP Jodhpur and details of the teams are as under:

<i>Team-1-Sh. S.P. Singh, SEE-</i>	<i>Smt. Nidhi Khandelwal, AEE</i>
<i>Team-2-Sh. Rajeev Mahnot, EE-</i>	<i>Sh. Santosh Basetia, JSO</i>
<i>Team-3-Sh. H.R. Kasana, EE-</i>	<i>Sh. Mahesh Madhav, JSE</i>
<i>Team-4-Sh. Rajnish Jain, EE-</i>	<i>Sh. Ankur Pathak, JEE</i>
<i>Team-5-Sh. Bhuvnesh Mathur, EE-</i>	<i>Ms. Payal Pancholi, JSO</i>
<i>Team-6-Sh R.K. Dhingra, EE-</i>	<i>Sh. Anil Agarwal, AEE”</i>

145. Further, two more teams were constituted vide Office Order dated 11.10.2018 as under:

<i>Team-1-Sh. Neeraj Mathur, SEE-</i>	<i>Sh. O.P. Shardul, JSO</i>
<i>Team-2-Sh. Arvind Agarwal, AEE-</i>	<i>Sh. Manoj Meena, JSO”</i>

146. It is further said that closure of 19 units was ordered by Tribunal's order dated 30.05.2018. RSPCB also directed closure of 12 more units. These 31 units were not inspected by the above teams. Further, RSPCB issued notices to 370 units under Section 33A of Water Act 1974. Out of remaining 18 units, 12 units were found not in operation/closed and 6 had no deficiencies. 361 units out of 370 were issued notices who had submitted their reply, examination whereof is in process.

Report dated 15.11.2018 pursuant to Tribunal's order dated 23.10.2018 in OA III:

147. The team comprising Dr. Ajit Pratap Singh, Professor and Dean, Civil Engineering Department, BITS, Pilani, Professor Akhilendra Bhushan Gupta, MNIT, Jaipur and Dr. A.B. Akolkar, Former Member Secretary, CPCB was constituted vide order dated 23.10.2018 and to submit report addressing following issues:

- i) Inspect Common Effluent Treatment Plant (CETP) Jodhpur and give opinion with regard to standards required for CETP.
- ii) Suggestion on neutralization of acidic effluent at inlet of CETP.
- iii) Inspection of two industries (M/s. Universal Dye Stuff and M/s. Dauxil Products) to verify compliance status.

148. Findings and observations are given by the aforesaid Committee in para 5, reference and interaction in para 6 and action plan (status and recommendation) in para 7, which are as under:

“5. Findings and observations

5.1 Two Industries

- i) *M/s Universal Dye stuff.*
 - a) *The Industry was closed. CPCB has directed for closure through its order dated 25 October 2018. (Dye Unit)*
 - b) *Electricity has been disconnected from the electric pole.*
 - c) *Pipeline of industry connected to pipeline carrying effluent to CETP was disconnected.*
- ii) *M/s Dauxil Product. (Dye Unit)*
 - d) *Industry was closed. CPCB has issued closure through its order dated 25 October 2018.*
 - e) *In front of entry gate of the unit, brownish patches were indicating mishandling of raw material/product.*
 - f) *There was no PETP.*
 - g) *Consent copy was not given on spot as no office Member was available.*

5.2 Random inspection of textile and steel industry to check compliance status.

The Committee took instant decision to inspect some units on random basis to check their compliance status and house - keeping and the observations are as under:

- a) *M/s Shiva Steels, Block No. 7-8, Jodhana Industrial Estate, Jodhpur*
 - *Unit was operating with valid consent and conditions prescribed have been linked with previous year.*

- *House-keeping was very poor, floors were damaged and steel plates were spread floors.*
 - *Pickling/Washing poorly maintained and highly acidic waters were splashing on unlined floor. Pungent fumes were observed, which can be highly damaging to health of the workers on inhalation. It is recommended to install hood to channelize these fumes away from the working area.*
 - *There is no PETP prescribed.*
 - *Unit has shown outlets connecting to main pipeline for discharging acidic effluents but, piping within industry was observed to be choked.*
 - *The safety equipment (masks, helmets, gloves, eye glasses, shoes) were not being used by the workers.*
 - *Flow meter at the inlet and outlet were not under working conditions.*
 - *There was no adequate washroom facilities for workers. The working environment of workers are very poor.*
- b) *M/S B. P. B. (India), G-625, MIA, Phase II, Basni, Jodhpur*
- *This Unit was closed as per the Hon. NGT order and subsequently permitted to operate after completion of PETP works and improvement in house-keeping.*
 - *This Unit may be referred as ‘Model’ for replication by other steel Units for following good practices.*
- c) *M/S Mayur Saree Printing Udyog, Phase II, MIA, Basni, Jodhpur (Unit ID 52749)*
- *The Unit was involved in washing of printed/plain cloth as job work.*
 - *Washed water is disposed into drain without PETP but, standards have been prescribed in the consent.*
- d) *M/s Rishabh creations, Nakoda Industrial Area, Jodhpur*
- *This Unit falls under Washing and Printing category.*
 - *This Unit was closed earlier due to non-compliance as per the order of Hon. NGT and subsequently upgraded operating conditions and has set-up PETP works, which consists of holding tank added with coagulant as well as coagulant aid and allowing settling.*
 - *The Committee felt that other such textile units can also set up similar PETPs, which can bring pH correction and removal of suspended solids reducing the risk of choking of common pipeline of CETP.*
- a) *Other Units.*
- Besides steel, textile and dye units, the RIICO industrial area has also allotted plots to other category of industries and many of such units fall under “Handicraft” Category and not reported to be discharging trade effluents.*

5.3 Environmental status and maintenance in RIICO Industrial Area.

The Committee also observed and noted issues relating to environmental management and existing infrastructure and these are summarized as under:

5.3.1 Drains and Pipeline.

- i) Open drains in entire industrial and non-industrial area were found to be filled with garbage, industrial solid waste.
- ii) There has been spillage of wastewater from drains flowing onto the roads.
- iii) At many places, drains have been in dilapidated conditions.
- iv) Textile and steel industries are using such drains for unauthorized disposal of effluents.
- v) At one location, it was observed that effluent of a steel industry instead of going into the designated HDPE pipeline, was found to flush on the road side spilling highly acidic effluent. At many locations, similar conditions have been observed due to leakages.
- vi) Underground HDPE pipeline for carrying acidic effluent particularly for steel industry has been a concern for the Committee. The Committee was not convinced on proper operation and was maintenance issue of their pipeline. It was emphatically expressed by the CETP Management that underground pipeline which is of HDPE has been well laid and accident/damage proof. But, as question raised by the Committee on its maintenance, monitoring and safety audit, no satisfactory answer has been received. It was also placed before the Committee that, so far, no accident has been reported and hence it is safe. Committee was of the view that if it has not happened so far does not mean that there are no such chances in future also and therefore, performance Audit/risk assessment of pipeline and improvement in pH correction at the level of individual industry is essential.
- vii) The industrial area is littered with industrial solid waste which is disposed into drains and even burnt at several locations causing air pollution problem.

5.3.2 Infrastructure issue

- i) Industries do not have their proper Information Boards.
- ii) Road Maintenance is poor.

5.4 Common Effluent Treatment Plant.

- i) CETP was inspected to observe functioning of Neutralization, flocculation, sedimentation, biological treatment and tertiary treatment.
- ii) Samples from inlet and outlet of CETP have been collected for analysis. At the time of inspection, following observations were made:
The pH of acidic influent at CETP was found 1.2.
Acidic Inlet flow = 0.69 Mld
Alkaline Inlet flow = 7.2 Mld
Total inlet flow (acidic + alkaline) 7.89 Mld
Outlet discharge = 10.44 Mld
- iii) Treated effluents or CETP are disposed into RIICO drain whereas, as per consent granted by RSPCB, it is required to be disposed into river Jojri through its own drain rather than disposing it directly into RIICO drain.

5.5 RIICO Drain

- i) *On the day of inspection (01.11.2018) the flow in the drain was about 45 Mld.*
- ii) *pH of the wastewater flowing into RIICO drain was 12 before it met the CETP treated effluent.*
- iii) *It has been a fact that, the drain is receiving effluent of Textile units and sewage effluents generated from residential areas.*

5.6 Sewage Treatment Plants (STPs)

- i) *There are two STPs of 50 Mld each. Operator of STP informed that some of the textile units are discharging effluents into sewer as a result, significant foam formation was noticed.*
- ii) *The treated sewage is reported to be used by farmers and finding its way through drain to the river Jojri.*

5.7 Village Araba, Bhandu, Doli

- i) *It was observed that effluents of CETP, other industries and untreated sewage of Jodhpur city finally flows through river Jojri travelling through various villages. Such effluents are not meeting standards of 'Irrigation' though these are utilized by some of the farmers.*
- ii) *During interaction with Gram Panchayat, Araba, their main grievance was relating to: (i) Drinking water to villagers; (ii) They do not want that sewage and industrial effluent to pass through their village.*

5.8 River Jojri

- i) *The Location where the river was dredged, was inspected. The river remains dry at its upper reaches and as it travels down, carries only industrial and sewage effluent.*

5.9 Kayalana Lake

- i) *On 3rd November, 2018, the Kayalana lake was inspected. Through one of lift canal, fresh water from Indira Gandhi Canal (IGC) is let into Kayalana lake. Through this lake, water supply to the city of Jodhpur as well as for industrial/irrigation purpose is supplied.*

5.10 Ground Water Status

- i) *Ground water in the Jodhpur block is reported to be shallow.*

6. Reference and Interaction

- i) *Committee examined the consent documents of industries and CETP. Interaction was also made with RSPCB (Regional Officer) to discuss consent issuing process. The observations are as under:*
 - a) *Consents granted to the industries are linked with previous years. This means, the running valid consent does not indicate standards prescribed instead, it refers earlier granted consents.*
 - b) *PETP standards have also been prescribed to the industry visited.*
 - c) *Complete list of industries with consent and compliance status is not available at the website of RSPCB*

7. Action Plan: Suggestions and Recommendations.

- i) The Committee after field visit and in-depth review suggests the Action Plan for better operation of industries and improving performance of CETP. The Action Plan on each issue with time-lines is as under:

7.1 Two units

- i) The two industries namely M/s Universal Dye Stuff and M/s Dauxil Product which were found to be closed should remain closed. These units should have pre/primary effluent treatment plant (PETP) before letting out their effluent into drain or pipeline reaching to CETP. Both the units should comply with PETP standards.
- ii) RSPCB should grant consent under Water and Air Act and authorization for handling hazardous waste and then to permit for operation. The conditions of CPCB like installation of on-line devices should be initiated and connected with server of CPCB.

7.2 Industries with PETPs

- i) All the Steel industries generating effluents should set up PETP within 90 days and only treated effluent should be disposed into pipeline leading to CETP. Industry may be given with option that:
- a) They should be closed immediately till they set up PETP/ or
b) Pay up compensation @ Rs. 25000/- per day till they set up PETP but not exceeding 90 days.
- ii) Steel industries should comply with PETP norms.
- iii) The Textile/Dye-stuff or other effluent generating industries should have PETP and should not be permitted to operate till they set-up and comply with PETP norms. Such units should pay compensation charges @ Rs. 25000/- per day or close immediately.

7.3 PETP Standards

- i) As per Notification of MoEF&CC dated 01.01.2016, SPCBs are required to notify PETP standards for required treatment design of CETP. Since, the CETP has been in existence prior to the notification (01.01.2016), the State Board has prescribed general standards as PETP standards which can be followed by the all industrial units as PETP standards:

Parameter	Steel	Textile and Others
pH	5.5-8.5	6.5-8.5
Oil & Grease	20 mg/ l	20 mg/ l
Phenolic Compounds	5.0 mg/ l	5.0 mg/ l
Ammonical Nitrogen	50mg/ l	50 mg/ l
Cynide	2.0 mg/ l	2.0 mg/ l
Chromium hexavalent	2.0 mg/ l	2.0 mg/ l
Chromium (total)	2.0 mg/ l	2.0 mg/ l
Copper	3.0 mg/ l	3.0 mg/ l
Lead	1.0 mg/ l	1.0 mg/ l
Nickel	3.0 mg/ l	3.0 mg/ l
Zinc	15 mg/ l	15 mg/ l
Arsenic	0.2 mg/ l	0.2 mg/ l
Mercury	0.01 mg/ l	0.01 mg/ l

<i>Cadmium</i>	<i>1.0 mg/ 1</i>	<i>1.0 mg/ 1</i>
<i>Selenium</i>	<i>0.05 mg/ 1</i>	<i>0.05 mg/ 1</i>
<i>Fluoride</i>	<i>15 mg/ 1</i>	<i>15 mg/ 1</i>
<i>Boron</i>	<i>2.0 mg/ 1</i>	<i>2.0 mg/ 1</i>
<i>Total Suspended Solids</i>	<i>600 mg/ 1</i>	<i>600 mg/ 1</i>

{Explanation to the suggested PETP Standards.}

It has been observed that PETP standards were already in existence notified by MoEF&CC in the year 1995 at SI.no. 55. It can be considered that the concentrations suggested for each parameter mentioned above are the optimum level which can be treated in CETP.

7.4 CETP – JPNT

- i) Should comply with standards prescribed and not to dispose effluents to river. Treated effluent should be reused by the Member industries or may be utilized for irrigation with proper irrigation management plan.*
- ii) Hazardous waste should be disposed as per rules and with due Authorization.*
- iii) CETP should have onsite and offsite disaster management plan.*
- iv) HDPE pipeline should be audited for hazard prevention with safety. Routine checks should done by duly accredited agency. The pipeline route should be marked and well displayed for public and maintenance purpose.*

7.5 Action for RIICO RSPCB

- i) RIICO should periodically remove sludge and waste.*
- ii) Drains should be repaired (by RIICO).*
- iii) Burning of waste should be stopped (by RIICO).*
- iv) No further new industries, particularly which generate trade effluents, should be allowed by RSPCB till existing industries meet the prescribed effluent standards.*
- v) Industries should have information board with necessary information displaying both in Hindi and English outside their main gate (RSPCB).*
- vi) All the valid consents given by the RSPCB should be displayed at RSPCB website.*
- vii) District Magistrate shall ensure closing of Units with RSPCB immediately or recover compensation @ Rs. 25000 per day but not exceeding 90 days and thereafter close till they set-up PETP and meet the standards.*
- viii) With JPNT, RSPCB should ensure proper sludge collection on door-to-door basis from each of the industry.*

7.6 *All three STPs should meet prescribed standards for fecal coliform and treated water should be utilized for irrigation. (Jodhpur Sewage Board).*

7.7 *Kalyanur village and other villages should be provided and covered for potable water supply. Necessary clearance to the proposal of Araba Gram Panchayat be examined and granted.*

7.8 *Irrigation and flood control Department should examine for releasing water from upper stretches of river Jojri and Luni for*

maintenance of low. This, however, should be done only after ensuring proper treatment of sewage and industrial effluent.”

Compliance affidavit dated 10.01.2019 filed by Secretary, Department of Environment, State of Rajasthan pursuant to Tribunal’s order dated 16.11.2018:

149. It is said that RSPCB has deposited Rs. one crore on 04.01.2019 with CPCB as directed by order dated 16.11.2018. For compliance of the recommendations made by the Committee, Secretary Environment convened meetings on 20.11.2018 and 13.12.2018 and various decisions were taken in the said meetings. Minutes of the meetings are filed as annexure R/2 collectively (Page 1196 to 1198 respectively).

Compliance affidavit dated 12.03.2019 filed by Secretary Environment, State of Rajasthan pursuant to Tribunal’s order dated 16.11.2018 in OA III:

150. In this affidavit also, reference is made to the meetings convened on 20.11.2018, 13.12.2018, 24.01.2019 and 26.02.2019. With regard to further compliance of Committee’s report dated 15.11.2018, affidavit mentions progress as under:

“a) Two units:-

- 1. M/s. Universal Dye Stuff: The Central Pollution Control Board Vide letter dated 25.10.2018 issued directions under section 5 of the Environment (Protection) Act 1986 and the unit shall remain Close till the compliance is achieved and verified by CPCB. The Regional Officer, Jodhpur has verified that the unit is non-operational.*
- 2. M/s. Dauxil Product: The Central Pollution Control Board vide letter dated 25.10.2018 issued directions under section 5 of the Environment (Protection) Act 1986 and the unit shall remain close till the compliance is achieved and verified by CPCB. The Regional Officer, Jodhpur has verified that the unit is non-operational.*

b) Industries with PETPs:-

- (i) Out of the total 94 steel industries (JPNT Member) 86 units have installed PETP, remaining 7 units were found non-operational during the inspection, and the JPNT has cancelled the membership of 1 unit.*
- (ii) Out of the total 312 Textile industries (JPNT Member) 273 units have installed PETP, remaining 37 units were found non-operational during the inspection and the JPNT has cancelled the membership of the 2 units.*
- (iii) Out of the total 13 other units industries (JPNT Member) 4 units have installed PETP, remaining 2 units were found non-operational during the inspection and the JPNT has cancelled the membership of the 9 units including non-operational units.*

Photo copy of the list of 363 units who have installed PETP, 44 units which were found closed during the inspection and 12 units who have converted to non-polluting industries and their membership have been cancelled by the JPNT, are annexed herewith and marked as Annexure R/3 (collectively).

c) PETP Standards:-

As per Notification of MoEF&CC dated 01.01.2016 and in compliance of the directions passed by this Hon'ble Tribunal. The Rajasthan State Pollution Control Board has adopted the PETP standards vide office order dated 11.03.2019. The photocopy of the office order dated 11.03.2019 is annexed herewith marked as Annexure R/4.

d) CETP-JPNT:-

The CETP vide letter date 08.03.2019 has submitted the detailed compliance report in response to NGT Order dated 16.11.2018 and in response to the queries raised in the meeting dated 20.11.2018, 13.12.2018 and 24.01.2019. The photo copy of the letter dated 08.03.2019 along with compliance report of the CETP Trust is annexed herewith and marked as Annexure R/5 (Collectively).

e) Action for RIICO and RSPCB:-

The State Board will file the detailed compliance report.

f) STPs:-

Municipal Corporation, Jodhpur has submitted the compliance report of this Hon'ble Tribunal order dated 16.11.2018 through letter dated 20.12.2018. The photo copy of the compliance report dated 20.12.2018 is annexed herewith and marked as Annexure R/6

g) Potable water supply for villages:-

The PHED is providing drinking water to the effected villages. The photo copy of the PHED, City Circle, Jodhpur letter dated 05/12/2018 is annexed herewith and marked as Annexure R/7.

h) Release of water from upper stretches of river Jojri:-

In compliance of the directions passed by this Hon'ble Tribunal, a meeting was convened under the Chairmanship of District Collector, Jodhpur on 11.02.2019. In the meeting it was informed by the officials of the concerned department that there is no excess water available in Kaylana Lake which can be released in river Luni so as to maintain e-flow of the river. The photo copy of the minutes of the meeting dated 11.02.2019 is annexed herewith and marked as Annexure-R/8.

i) Weekly progress report:-

In compliance of the directions passed by this Hon'ble Tribunal, the District Collector, Jodhpur and Regional Officer, RSPCB, Jodhpur has reviewed the weekly progress of the directions passed by this Hon'ble Tribunal. The photo copy of the weekly progress reports are annexed herewith and marked as Annexure-R/9 (Collectively).”

Affidavit cum Compliance Report dated 14.03.2019 filed by RSPCB pursuant to Tribunal's order dated 16.11.2018 in OA III (p/1300):

151. Tribunal by the above order issued certain directions pursuant whereto, RSPCB deposited Rs. one Crore with CPCB vide receipt dated 04.01.2019. It also stated in the said affidavit that High Powered Committee in its report dated 15.11.2018 provided action plan for operation of industries and improvement in the performance of CETP. The progress of the action plan stated in para 4 is as under:

“a) Two Units:-

1. *M/s. Universal Dye Stuff:-The Central Pollution Control Board vide letter dated 25.10.2018 issued direction under Section 5 of the Environment (Protection) Act, 1986 and the unit shall remain close till the compliance is achieved and verified by CPCB. The undersigned has verified that the unit is non-operational.*
2. *M/s. Dauxil Product:- The Central Pollution Control Board vide letter dated 25.10.2018 issued directions under Section 5 of the Environment (Protection) Act, 1986 and the unit shall remain close till the compliance is achieved and verified by CPCB. The undersigned has verified that the unit is non-operation.*

The aforementioned two units were closed by the CPCB after closure direction and the matter of these units is under process with the State Board and CPCB.

b) Industries with PETPs:-

- (i) *Out of the total 94 steel industries (JPNT Member) 86 units have installed PETP, remaining 7 units were found non-operational during the inspection, and 1 unit has changed the process to non-polluting industry. The JPNT has also cancelled the membership of the said 1 unit.*
- (ii) *Out of the total 312 Textile industries (JPNT Member) 273 units have installed PETP, remaining 37 units were found non-operation during the inspection and 2 units have changed the process to non-polluting industries. The JPNT has also cancelled the membership of the 2 units.*
- (iii) *Out of the total 13 other units industries (JPNT Member) 4 units have installed PETP, remaining 2 units were found non-operation during the inspection and 7 has changed the process to non-polluting industries. The JPNT has also cancelled the membership of the 9 units.*
- (iv) *Photo copy of the list of 363 units who have installed PETP, 44 units which were found closed during the inspection and 12 unit who have converted to non-polluting industries and their membership have been cancelled by the JPNT, are annexed herewith and marked as Annexure R/2 (collectively).*

c) PETP Standards:-

As per Notification of MoEF&CC dated 01.01.2016 and in compliance of the directions passed by this Hon'ble Tribunal, the Rajasthan State Pollution Control Board has adopted the PETP standards vide office order dated 11.03.2019. The photocopy of

the office order dated 11.03.2019 is annexed herewith marked as Annexure R/3.

d) CETP-JPNT:-

The CETP vide letter dated 08.03.2019 has submitted the detailed compliance report in response to NGT Order dated 16.11.2018 and in response to the queries raised in the meeting dated 20.11.2018, 13.12.2018 and 24.01.2019. The photo copy of the letter dated 08.03.2019 along with compliance report of the CETP Trust is annexed herewith and marked as Annexure R/4 (Collectively).

e) Action for RIICO and RSPCB:-

The State Board has complied with the actions suggested by the committee at point no. 7.5. The photo copy of the compliance with respect to actions suggested by the committee is annexed herewith and marked as Annexure-R/5.

f) STPs:-

Municipal Corporation, Jodhpur has submitted the compliance report of this Hon'ble Tribunal order dated 16.11.2018 through letter dated 20.12.2018. The photo copy of the compliance report dated 20.12.2018 is annexed herewith and marked as Annexure-R/6.

g) Potable water supply for villages:-

The PHED is providing drinking water to the effected villages. The photo copy of the PHED, City Circle, Jodhpur letter dated 05/12/2018 is annexed herewith and marked as Annexure R/7.

h) Release of water from upper stretches of river Jojri:-

In compliance of the directions passed by this Hon'ble Tribunal a meeting was convened under the Chairmanship of District Collector, Jodhpur on 11.02.2019. In the meeting it was informed by the officials of the concerned department that there is no excess water available in Kaylana Lake which can be released in river Luni so as to maintain e-flow of the river. The photo copy of the minutes of the meeting dated 11.02.2019 is annexed herewith and marked as Annexure-R/8.

i) Weekly progress report:-

In compliance of the directions passed by this Hon'ble Tribunal, the District Collector, Jodhpur and undersigned has reviewed the progress weekly. The photo copy of the weekly progress reports are annexed herewith and marked as Annexure-R/9 (collectively)."

Additional affidavit dated 16.03.2019 filed by RIICO pursuant to Tribunal's order dated 16.11.2018 in OA III:

152. Tribunal by order dated 16.11.2018 directed RIICO to take action as per para 7.5 of Expert Committee's report submitted on 15.11.2018.

Consequently, this affidavit was filed giving details of the steps taken by

RIICO as under:

“

- *That time and again, the NIT was published and in pursuance thereof, the work order was issued in favour of the successful contractor for*

regular cleanliness of the storm water drain throughout the RIICO Industrial Area, Jodhpur. Copies of the NIT dated 30.01.2019 is enclosed herewith and marked as Annexure-A/1. Copies of the work order dated 07.06.2018, 12.09.2018, 25.10.2018 & 27.11.2018 are enclosed herewith and marked as Annexure-A/2 collectively.

- That the action for the cleaning of the sludge and drain in RIICO Industrial Area, Jodhpur is going on war footing and as of now, almost 70% of the stretch of storm water drain has already been cleaned up. The rest of the work of cleaning and de-sludging of storm water drain is still in progress on regular basis. That RIICO is showing its due diligence towards the regular cleaning and up-keeping of its Industrial area and has adopted a initiative of “Safai Abhiyan” a periodical drive undertaken for cleanliness of its Industrial Areas. It is further submitted that a committee is also constituted for timely execution of its plan which is duly acknowledged by media reports around 66 kilometres stretch of Roads along with 40 Kms drain stretch in various Industrial Areas in Jodhpur are cleaned in this specific drive wherein around 6900 tonnes of waste was lifted during this particular drive from 14 Feb 2019 till 05 March. The copies of “Safai Abhiyan” office order dated 11.02.2019 and 13.02.2019 along with media reports and photographs showing the work of cleaning of storm water drain are being submitted herewith and marked as Annexure-A/3 collectively.
- That with regard to the maintenance of the drains of the industrial Area of Jodhpur, it is submitted that the work is carried under the supervision and RIICO has time and again issued notices to the Chairman of Jodhpur Pradushan Niwaran Trust (JPNT) for maintenance of its conduit pipelines and the same is also duly brought to kind notice to RSPCB to take action against the defaulting units. Copies of the notice to JPNT and RSPCB are enclosed herewith and marked as Annexure-A/4 collectively.”

153. Steps were taken by RIICO in respect of up-keeping and cleanliness of storm water drains as well as burning of waste in the industrial area. Further, on the directions of Tribunal, for ensuring that no waste should be burnt within the industrial area, various steps taken by RIICO are stated as under:

- i. Vide letter dated 07.03.2017 duly approved by M.D., RIICO Unit Heads were directed to ensure that no burning of leaves, municipal solid waste, oil products etc. should be allowed in RIICO Industrial Area.
- ii. Vide office communication dated 14.03.2017, the RIICO Jodhpur has requested all industrial associations to inform all industrial units for not burning any waste/leaves/oil etc. in either the plot or within the industrial area. Also, RIICO has brought the same before District Level Industrial Committee (DLIC), in their monthly meetings, presided by district Collector Jodhpur in the presence of representatives of all major Industrial Association. A copy of the communication dated 14.03.2017 and DLIC meetings minutes dated 25.05.2017 and

24.07.2017 is enclosed herewith and collectively marked as Annexure-A/5.

- iii. In this regard, a vigilance committee of RIICO has been formed vide office order dated 27.02.2019. The said committee is constituted to take action against the defaulters. A copy of the order dated 27.02.2019 is enclosed herewith and marked as Annexure-A/6.”

Affidavit cum Action taken Report dated 09.05.2019 filed by RSPCB in OA III (p/1475):

154. In furtherance of Tribunal’s order 22.04.2019, it is said that a meeting was convened under Chairmanship of Chief Secretary, State of Rajasthan on 01.05.2019 to consider the issues stated in the order dated 22.04.2019 passed by Tribunal and the said meeting was attended by Chairperson, RSPCB; Principal Secretary, Environment; Principal Secretary, PHED; Director General of Police, Secretary, LSG; MD, RIICO; Member Secretary, RSPCB; MD, JVVNL; District Collector, Jodhpur; CEO, Jodhpur Municipal Corporation; representatives of JPNT Trust, Jodhpur and officers of the concerned departments.

155. Vide office order dated 03.05.2019, Principal Secretary, RSPCB constituted a team comprising (i) Shri Veer Singh Brijvasi (SEE), (ii) Shri Neeraj Mathur (SEE), (iii) Shri Anil Agarwal, AEE, (iv) Smt. Payal Pancholi, JSO, with the direction for inspection/sampling of CETP, Jodhpur and to carry out performance evaluation of CETP including electricity bills, chemical consumptions, every process stage sampling, compliance of consent to operate, sludge management and treated waste water use. On the basis of the inspections carried out by the officials of RSPCB, it issued directions vide letter dated 08.05.2019, exercising powers under Section 33A of Water Act, 1974. It required JPNT to show cause as to why consent to operate application dated 31.07.2018 be not revised for non-compliance of the provisions of Water Act, 1974 and Air Act, 1981. The deficiencies and non-compliances mentioned in the said report were as under:

- “a) The CETP was not being operated at optimum capacity of 20 MLD.
b) No acoustic enclosure was provided at DG set.

- c) *Sludge was found stored on kaccha land and thus leaching to ground.*
- d) *Sludge was having high moisture content showing that dewatering process of sludge was not adequate.*
- e) *Online continuous effluent monitoring system at outlet was not working.*
- f) *Dense concentrations of acidic fumes were experienced at the inlet of Alkaline Effluent drain, hydrochloric acid and chlorine gas were being added.*
- g) *Trust also taking acidic effluent to CETP through tankers from some steel member units.*
- h) *Diffused aeration system was not working in the alkaline effluent equalization tank near to main road/laboratory building.*
- i) *Some plastic and other material was seen floating in the corner near to main road/laboratory building, reveals that the required cleaning is not carried by trust.*
- j) *Two floating aerators (fitted with 12.5 HP motors) only were seen in the acidic effluent equalization tank, which is insufficient considering the area of equalization tank.*
- k) *The Secondary clarifier for alkaline effluent is located very closed to the road of sludge yard, due to movement of tractors, vehicles used for handling of sludge and the quantum of sludge lying near the boundary of clarifier, the addition of sludge dust in the effluent cannot be denied.*
- l) *In the channel of acidic effluent for fluoride removal, the sludge from the channel is removed manually instead any mechanical removal system.*
- m) *The lining in the acidic effluent fluoride removal channel is broken and at the end no lining is made, thus acidic effluent is percolating to the ground.*
- n) *The Trust has provided sand filters and carbon filters for tertiary treatment of alkaline effluent and the defined date for change the media in these filters has already expired on 10th April 2019. Besides, leakages from every valve with these filters were observed and accumulated on floor.*
- o) *No flow measuring device on final outlet of acidic effluent has been provided by the Trust.*
- p) *No online device has been provided to measure the pH of intake alkaline effluent and acidic effluent to ensuring the inlet parameters to CETP.*
- q) *The Trust has not provided flow measuring device to measure the quantity of final outlet of effluent going outside the premises after mixing of acidic and alkaline effluent.*
- r) *The decanters provided for removal of water from sludge were not able to removing water properly from sludge, thus the sludge coming from decanters was in slurry form and same was being disposed in the sludge yard.*
- s) *Two-wheeler is being used for transportation of sludge from member units of CETP in violation of the HWMR, 2016.*
- t) *The Trust has dug a separate kaccha channel for carrying the treated effluent for utilization it by farmers in the nearby area. During inspection, it was observed that waste water coming outside from the premises of CETP getting mixed with the untreated effluent carried through RIICO channel. At few places approximately at a distance of 1-2 Kms from CETP, the waste water was partly being taken into agriculture fields and forming cess pool. Presently there is no crop in the fields and remaining waste water finally terminating into River Jojari.*

- u) *The system adopted by Trust for handling of sludge is very poor and the same should be improved before the monsoon season.*
- v) *The Trust is disposing the CETP sludge on the open field adjoining to CSTP at Salawas in violation of HWMR. During visit of this site, it was observed that huge quantity of wet sludge has been dumped by CETP/member units on kaccha land. The disposal of sludge should be stopped and same should be removed immediately considering coming monsoon season.*
- w) *During the visit of site near CSTP at Salawas, it was found that number of tractor trolley was carrying the wet sludge from member units of CETP for disposal on open land in violation of HWMR.*
- x) *Trust has not installed R.O. Plant of required capacity with MEE for scientific of RO reject and reuse of treated waste water by member unit despite the directions of Hon'ble NGT and various directions issued by the State Board*
- y) *No metal recovery plant to recover metals from sludge is installed.*
- z) *Bore well has been constructed near sludge yards without prior permission of CGWA.*
- aa) *No retaining wall was found around secondary clarifier for alkaline effluent to avoid any sludge addition due to movement of vehicles in the area.*
- bb) *Housekeeping was not found good*
- cc) *No Scada System is installed to monitor and regulate discharge of effluent from member units."*

156. The officials of RSPCB collected samples from the final outlet of CETP and analysis report shows that CETP has failed to achieve prescribed norms. The details of samples were given in para 13 in the form of chart as under:

<i>Sample collected on</i>	<i>Parameter</i>	<i>Result</i>	<i>Standards</i>
<i>29.04.2019</i>	<i>TSS(mg/l)</i>	<i>190</i>	<i>100</i>
	<i>COD(mg/l)</i>	<i>468</i>	<i>250</i>
	<i>BOD(mg/l)</i>	<i>200</i>	<i>30</i>
	<i>Pb(mg/l)</i>	<i>0.19</i>	<i>0.1</i>
	<i>Iron(mg/l)</i>	<i>4.87</i>	<i>3</i>
<i>25.04.2019</i>	<i>COD(mg/l)</i>	<i>313</i>	<i>250</i>
	<i>BOD(mg/l)</i>	<i>148</i>	<i>30</i>
<i>02.04.2019</i>	<i>BOD(mg/l)</i>	<i>34</i>	<i>30</i>
	<i>Lead as Pb(mg/l)</i>	<i>0.295</i>	<i>0.1</i>
<i>11.03.2019</i>	<i>COD(mg/l)</i>	<i>466</i>	<i>250</i>
	<i>BOD(mg/l)</i>	<i>247</i>	<i>30</i>
	<i>TSS(mg/l)</i>	<i>308</i>	<i>100</i>
	<i>Iron as Fe (mg/l)</i>	<i>6.72</i>	<i>3</i>
<i>18.02.2019</i>	<i>BOD(mg/l)</i>	<i>105</i>	<i>30</i>

157. Besides above, the said notice also pointed out following infirmities on the part of JPNT in operation of CETP:

- “14. And whereas manholes of JPNT got overflow many places and due to which untreated waste water reach to the Jojri river through drains, which is violation of Environmental laws.
15. And whereas unit has failed to comply with the conditions of consent to operate under provisions of Water Act, 1974 and Air Act, 1981 issued vide boards letter dated 07.09.2016.
16. And whereas unit is working in violation of provisions/rules of Hazardous management Waste rules 2016.
17. And whereas the Trust has not submitted long term plan for installation of R.O. plant for reuse of 75% of the treated effluent in accordance with the directions passed by the Hon’ble NGT.
18. And whereas Trust has failed to comply with the directions issued by the Board time to time and willfully non-complying from with the provisions of Water Act, 1974 and Air Act, 1981.”

158. RSPCB vide the above letter dated 08.05.2019, in exercise of power under Section 31A of Air Act, 1981 and 33A of Water Act, 1974 issued following directions:

- “1. That RO Plant along with MEE of adequate capacity to reuse at least 75% of the treated effluent back in the industrial process of the member units will be installed latest by 30.11.2019. Further, Draft Project Report (DPR) for the same will be submitted to the State Board within one month.
1. That the Sludge presently stored in the open field adjoining to CSTP at Salawas will be shifted to CETP, Jodhpur sludge storage yard within 3 days. Further, the stored sludge in the storage yard at CETP will be disposed of at the Hazardous Waste Treatment & Disposal Facility at Balotra within 15 days.
2. That the closed conduit pipeline will be cleaned/ repaired/ augmented at the required places within one week to stop any spillage.
3. That the remaining work of up-gradation of CETP will be completed within one week to ensure that standards prescribed for the treated effluent for the CETP are complied with.
4. That Online Effluent Monitoring System will be made operational by one week.
5. That a bank guarantee of Rs 3 Cr will be submitted to the State Board to complete the aforesaid works as per the time scheduled prescribed above within one week.
6. That an interim environmental compensation of Rs 20 lakhs is imposed on the Trust for illegal and unscientific storage of hazardous waste on open land and for not complying with the prescribed standards for treated effluent by the CETP. The aforesaid environmental compensation needs to be deposited to the State Board within one week.”

159. Three separate teams were constituted by 3 different orders passed on 03.05.2019 for (a) inspection/ sampling of textile/steel units having PTP located at Jodhpur, (b) to inspect and conduct survey of industrial units (other than RIICO industrial units) located in

residential/agricultural land/non-conforming area, (c) to inspect and conduct survey of industrial units/commercial activity/business house or any other facility located at industrial areas of Jodhpur to identify units which are discharging untreated/partially treated effluent into RIICO drains. The officials of RSPCB inspected units at Jodhpur and based on the inspection report, RSPCB took certain steps stated in para 8 of the said action taken report as under:

- “(i) That the State Board has issued closure directions dated 08.05.2019 against 15 unauthorized units alongwith direction to pay Environment Compensation by such units. The photo copy of the list of 15 units against whom directions for closure have been issued is annexed herewith and marked as Annexure-R/ 7.*
- (ii) That Out of the total 94 steel industries (JPNT Member) 87 units have installed PETP, remaining 06 units were found non operational during the inspection, and 01 unit has merged with another industry.*
- (iii) Out of the total 312 Textile industries (JPNT Member) 283 units have installed PETP, remaining 19 units were found non operational during the inspection and 10 units have changed the process to non polluting industries. The JPNT has also cancelled the membership of the 11 units.*
- (iv) Out of the total 13 other industries 07 units have installed PETP, remaining 06 units were found non operational during the inspection.”*

160. Vide letter dated 07.05.2019, RSPCB issued directions under Section 33A of Water Act, 1974 to District Collector for securing closure of unauthorised units being operated on agriculture/revenue land at village Bhandu, Tanwara, Salawas and other areas of Jodhpur. It also issued letter on the same date i.e. 07.05.2019 under Section 33A of Water Act, 1974 to Commissioner, Jodhpur Municipal Corporation for securing closure of unauthorised units being operated on agriculture/revenue land in the jurisdiction of Municipal Corporation. Another letter was issued on 27.04.2019 to Commissioner, Municipal Corporation, Jodhpur requesting it to submit short term and long term action plan for re-use of treated sewage water from STPs. Another letter of the same dated i.e. 27.04.2019

was issued by RSPCB under Section 33A of Water Act, 1974 addressed to Senior Regional Manager, RIICO Jodhpur for management of industrial effluent/domestic effluent and solid waste in industrial area of RIICO at Jodhpur. In order to comply directions issued by RSPCB, District Collector vide order dated 04.05.2019 constituted a team comprising a) Commissioner, JDA, b) Police Commissioner, Jodhpur (West), c) Executive Engineer, Jodhpur Vidyut Vitran Nigam Limited, Jodhpur, d) Regional Manager, RIICO, Basni/Boranada, e) Sub-Divisional Officer, Luni, Regional Officer, RSPCB, Jodhpur, g) Tehsildar, Luni, for closure of illegal/unauthorised units. It is said that the above team is taking action of dismantling the unauthorised units at Jodhpur since 07.05.2019.

Rejoinder affidavit dated 11.05.2019 responding to affidavit cum compliance report filed by Secretary, Department of Environment, State of Rajasthan pursuant to order dated 16.11.2018 in OA III (p/1526):

161. Referring to the minutes of the meeting dated 06.03.2019 stated in para 4 of the affidavit cum compliance report, applicant has said that it is evident that CETP is not being maintained and operated properly and most units which are members of JPNT operated CETP have not installed PETPs also. Moreover, even the industries who have installed PETPs, are not operating the same properly and effectively to meet the standards. Mere termination of membership does not mean that the industry is precluding from operating illegally and causing pollution. Such industries which have no CETP connection are directly polluting the vicinity with effluent and sewage and no record of non-member units have been placed by Government before Tribunal. Reference is made to the letter dated 18.05.2019 sent by head of Dept. of Civil Engineering, JNV University, Jodhpur stating that Jodhpur CETP lacks capacity even to treat 20 MLD effluent and sludge. In para 11 of the rejoinder affidavit, it is said that the statement that potable water is being provided to villagers of village Araba

is false and it is reiterated that no facility of potable water in the said village is available. In order to procure potable water, tankers are sent from the village to neighbouring villages to get potable water for daily consumption and inaction on the part of State in respect of making potable water available to the villagers in village Araba is violation of Fundamental Right to Life under Article 21 of the Constitution. It is said that various reports prove beyond doubt that there is large scale contamination of surface and ground water due to release of heavy metals. Even alkalinity of water is extremely high. State has also failed in providing e-flow to river Jojari.

Rejoinder affidavit dated 11.05.2019 responding to Affidavit cum Compliance Report filed by RSPCB pursuant to order dated 16.11.2018 in OA III (p/1543):

162. Referring to directions given by Tribunal vide order dated 16.11.2018, it is said that the authorities have failed to inspect industries functioning without PETP and no steps have been taken to recover Rs. 25,000 per day on from such industries as directed by Tribunal. The complaints regarding failure on the part of authorities in checking the pollution etc., are reiterated in the affidavit.

Affidavit cum Compliance Report dated 20.05.2019 pursuant to Tribunal's order dated 16.11.2018 filed by Ms. Shikha Mehra, Secretary, Department of Environment, State of Rajasthan in OA III (p/1567):

163. The said compliance report is almost similar to affidavit cum compliance report filed on behalf of RSPCB which we have already dealt with hence not repeating here.

Reply dated 09/11-07-2019 filed on behalf of Secretary, Water Resource Department, State of Rajasthan sworn by Superintending Engineer, Water Resources Circle, Jodhpur, Rajasthan pursuant to Tribunal's order dated 10.05.2019 in OA-III

164. Several directions were issued by Tribunal vide order dated 10.05.2019 and in furtherance thereof this affidavit was filed. The

directions were complied with and Chief Engineer, Water Resource Department, issued letter dated 04.06.2019 requiring Superintending Engineer to take appropriate action, whereafter Executive Engineer vide letter dated 11.06.2019 directed Assistant Engineer, Water Resources Sub-Division, Jodhpur to collect samples from river Jojari for testing and submit report. Consequently, samples were collected at four different locations/points namely Nandri, Salawas, Nandwan and Basni and report was submitted on 04.07.2019. the testing report given by Agricultural Department and the Agricultural Research Officer (Chemicals), oil Testing Laboratory is that the water is not suitable for irrigation purpose. On the issue of considering possibilities of releasing fresh water at the upper stretches of river Jojarithrough Kaylana Lake or through lift canal of IGC for revival of river Jojari so as to maintain its minimum e-flow. The affidavit says that Kaylana Lake which is an artificial lake covering an area of 84 sq.km. is a source of drinking water for the city of Jodhpur and the surrounding towns and villages. The Rajeev Gandhi Lift Canal (hereinafter referred to as '**RGCL**') is under the administrative control of the Public Health Engineering Department of Rajasthan. It brings surface water to Jodhpur from Indira Gandhi Nahar Project providing drinking water to Jodhpur and five other urban towns. The release of water to RGLC is in accordance to pre-decided allocation pegged at 240 cusecs. The same is consumed for drinking water. There is no other source from which fresh water can be released in the river Jojari to maintain its e-flow.

165. For complying Tribunal's directions regarding report on dried rivers as to whether they are not being mis-utilized for the purpose of disposal of solid and liquid waste, it is said that even Secretary, Water Resources Department, Government of Rajasthan issued a letter dated 25.06.2019 directing various authorities to supply report on the above subject. The

report submitted by various Departments on the subject and the content thereof are given in brief in para 9 stating that Industries Department, Rajasthan informed that except Jodhpur, Bhilwara and Jaipur districts, solid and liquid waste from non-RIICO areas of other districts is not being disposed in dried rivers. The reports further said asunder:-

- “i. In Jodhpur, some unauthorized industries are disposing liquid waste in Jojri River, for which the District Collector has constituted a task force. It is also found that the industrial waste is disposed by one M/s Guljug Industries in local nallah which ultimately meets in Rampura River.*
- ii. In Bhiwara, M/s Sona Processor Industries in Guvaradi village is disposing waste in local nallah which ultimately gets discharged in Banas River. Similarly M/s Suzuki Processors Ltd. is disposing liquid waste in local nallahat Gram GudaMandal which meets Kothari River.*
- iii. In Rajasmand district, Dumping yard/Marble-granite cutter Industries are situated on the banks of river Gomti near Siyana, Sirohi, Bamantukda, Chaparkhedhi, Khatamala etc. There is possibility of transportation of slurry in river during monsoon period.*
- iv. Old deposits of Marble waste, slurry exists in the river bed of Gomti which are used for construction of banks of river Gomti.*
- v. Old relic(remains) of Mable waste and slurry exists in river bed of Khari at few locations.*
- vi. In Dausa district, some sand stone industries had disposed slurry in river Banganga in past which is now stopped.*
- vii. In Jaipur, the liquid and solid waste of Sanganer and nearby areas are being disposed in Drivyavati River.*
- viii. The remains of the old slurry disposed in Rivers at Rajsamand and Dausa districts were found.”*

166. Another report was submitted by Commissioner, Industries Department, Rajasthan vide letter dated 05.07.2019, as under:

“Rajasthan State Industrial Development & Investment Corporation Ltd. (RIICO) has informed that except Jadhpur and Pali districts, solid and liquid waste from RIICO areas of other districts is not being disposed in dried rivers.

- i. Regarding Jodhpur, RIICO informed that the beneficiaries industries of Jodhpur Industrial areas have formed a Trust known as Jodhpur PradushanNivaran Trust. RIICO has allotted land free of cost to this Trust for establishment of 20MLD*

CETP. The operation and maintenance of this CETP is also done by trust according to prescribed criteria of RSPCB.

- ii. For transfer of effluent from industries to CETP, the Trust has laid the pipeline, the O&M of which is also being done by Trust as per standards fixed by RSPCB.*
- iii. The treated effluent is disposed by RIICO into River Jojri. In case of more liquid waste coming out of industries than the capacity of pipeline, the liquid waste comes out of the manhole due to negligence of the Trust and RSPCB, which flows to the rain water drain constructed by RIICO and ultimately gets discharged in RiverJojri.*
- iv. RIICO has allotted 25 Bigha land free of cost for proposed CETP at Salawas to newly constituted SPV by the name Jodhpur PradushanNivaran Research Foundation. The SPV will establish CETP and necessary pipe lines.*
- v. In Pali district, RIICO has allotted land for establishment of 6 joint treatment plants by SPV named SanyuktAphishtUpcharSayantra Foundation for disposal of polluted waste of working textile industries in RIICO phase I, II, Industrial Estate, Mandia Road and Punayata. Four CETP are functional and its O&M is being carried out by SPV.*
- vi. The liquid waste coming out of industries is transported to joint treatment plants through pipelines, the operation and maintenance of these lines is done by foundation (SPV) as per guidelines of RSPCB. The responsibility of disposal of effluent as per CTO dated 19.2.2019 issued by RSPCB lies with the constituted trust. The responsibility for ensuring actions of treatment & disposal by SPV lies with RSPCB.”*

167. A third **report dated 05.07.2019** was submitted by Local Self Government Department, Rajasthan and brief contents thereof as stated in para 11, are as under:

“Local Self Government Department, Rajasthan has informed that out of 191 ULB’s, 08 ULBs are found to dispose the solid and liquid waste in the dried rivers. Directions have been issued to ULB’s to prepare DPRs for the treatment of Solid/Liquid waste in the dried river and find the alternate land immediately. Apart from these ULB’s, no other ULB is disposing the waste in dried rivers.

Details of the 8 ULB’s discharging solid and liquid waste in dried rivers are:

Sl. No.	Name of ULB/District	Type of waste disposal in dried river	Remarks
1	Hanumangarh	Liquid Waste	-
2	Tijara (Alwar)	Liquid Waste	-

3	Udaipur (Jhunjhunu)	Liquid Waste	-
4	Pali	Liquid Waste	Already in compliance in NGT case 32/2014
5	Falna (Pali)	Liquid Waste	-
6	Sadri (Pali)	Liquid Waste	-
7	Balotra (Barmer)	Liquid Waste	Already in compliance in NGT case 202/2016
8	Pipar City (Jodhpur)	Solid Waste	-

LSG informed that in O.A. 202/2016 (Sewerage flowing in Luni River in Balotra), O.A. 32/2014 (Pollution in Bandi River in Pali), O.A. 673/2018 (Pollution in Chambal in Kota, Keshoraipatan) and O.A. 329/2015 (Pollution in Jojri River in Jodhpur), directions have been given by this Hon'ble Tribunal not to pollute the rivers with solid waste or untreated waste water and to make proper arrangement for the disposal. The LSG has informed that Compliance is being done by the Commissioner Municipal Corporation Kota, Executive Officer Municipal Board Keshoraipatan, Commissioner Municipal Council Pali, Commissioner Municipal Council Balotra and Commissioner Municipal Corporation Jodhpur.”

168. The conclusions about liquid and solid waste being disposed by various departments in dried rivers are stated in para 12 as under:

Sl. No.	Name of District	River	Type of waste disposal in dried river	Waste from	Remarks
1	Jodhpur	Jojri, Rampura	Liquid Waste/ Industrial waste	RIICO area, Industries other than RIICO area	-
2	Bhilwara	Banas, Kothari	Liquid Waste	Industries other than RIICO Area	-
3	Dausa	Banganga	Old Liquid Slurry	Industries other than RIICO Area	-
4	Rajsamand	Gomti, Khari	Liquid Slurry	Industries other than RIICO Area	-
5	Jaipur	Dravyawat	Solid and liquid waste	Industries other than RIICO Area	-
6	Pali	Bandi	Liquid waste/ Industrial waste	RIICO Area	Already in compliance in NGT case 32/2014
7	Hanumangarh	Ghaggar	Liquid waste	ULB	STP work in progress, waste will not dispose

8	Tijara (Alwar)		Liquid waste	ULB	Work plan of STP is in process waste will not dispose after STP construction
9	Udaipurwati (Jhunjhunu)	Nagal	Liquid Waste	ULB	Work Plan of STP is in process, waste will not dispose STP construction
10	Falna (Pali)	Mitidi	Liquid Waste	ULB	-
11	Sadri (Pali)	Sukari	Liquid Waste	ULB	-
12	Balotra	Luni	Liquid Waste	ULB	Already in compliance in NGT Case 202/2016
13	Pipar City (Jodhpur)	Jojri-II	Solid Waste	ULB	-

Counter affidavit dated 09.07.2019 filed on behalf of Central Ground Water Board, Jaipur pursuant to Tribunal's order dated 10.05.2019 in OA-III

169. This affidavit was filed by Central Ground Water Board (hereinafter referred to as '**CGWB**'), Western Region, Ministry of Water Resources, River Development & Ganga Rejuvenation, Jaipur, in response to Tribunal's direction that the said Board should file a statement showing the source of water supply to the industries located in RIICO and non-RIICO area and ground water regarding which permission has been granted to industries to use for industrial purposes. It should also contain the permissions granted to the ground water suppliers in context of "**over-exploited**" zone.

The affidavit stated:

"(a) The source of water supply to the industries located in RIICO and non-RIICO area in the part of Luni Block (safe) and Mandore block (over exploited) of Jodhpur district pertaining to Jojri river stretch is ground water in all the 111 applications received by CGWA. Amongst them, 13 are also getting water from water supplying agencies. The detail of Source of water for 111 Nos. (87 nos of applications in Luni and 24 in Mandore block) of industrial applications are enclosed as Annexure R/2 and (b) No NOC has been granted by CGWA in the Mandore block (over exploited) of Jodhpur district. NOC permission for ground water withdrawal has been granted by CGWA to One industry for industrial and domestic use in Luni block being categorized as safe block (enclosed as Annexure R/3)."

Affidavit dated 11.07.2019 filed by Additional Superintendent of Police, Rajasthan Police pursuant to Tribunal's order dated 17.05.2019 with respect of constitution of Special Task Force in OA-III

170. By order dated 17.05.2019, Tribunal directed for constitution of Special Task Force, to assign its duty, to check defaulting units causing pollution and submit daily report to Additional Director General, Traffic, Rajasthan Police. A chart has been filed showing that 112 units were checked by the Task Force. Most of the units were found closed and in respect of others, unit wise status has been mentioned. Another chart is also enclosed in respect of 47 units giving similar report. It is said that the Task Force has complied with the directions issued by Tribunal. In some cases, reports were also lodged and copies of some FIRs are also placed on record.

Affidavit cum Action Taken Report dated 11/19.07.2019 filed on behalf of RSPCB pursuant to Tribunal's order dated 10.05.2019 in OA-III

171. This affidavit was filed to place on record compliance of the directions given vide Tribunal's order dated 10.05.2019. It is said that vide order dated 13.06.2019, RSPCB constituted 17 teams for inspection and survey/sampling. The said teams inspected 274 units in a span of four days, collected samples and submitted along with inspection reports. The samples so collected were analyzed at Central Laboratory, Jaipur. The reports were finalized on 08.07.2019 and action in furtherance thereof is in progress. RSPCB vide order dated 25.06.2019 constituted an Environment Compensation Cell at its headquarter Jaipur headed by an Officer of the rank of Senior Environmental Engineer and also laid down guidelines and procedure for dealing with the cases of gross violation of environmental loss. The team's constitution is as follows:

- | | |
|--|------------------|
| “1. Chief Environmental Engineer, RSPCB: | Member |
| 2. Ground Incharge, Environment Compensation Cell: | Member Secretary |
| 3. Legal Adviser, RSPCB: | Member |
| 4. Accounts Officer, RSPCB: | Member” |

172. Guidelines for imposition of environment compensation on polluters and procedure, broadly to be followed, an action to be taken in case of failure for deposition of environment compensation is detailed in the said order as under:-

“A. Guidelines for imposition Compensation on polluters

1. *The' imposition of the Environment Compensation will be guided by the principle given in various court orders and the principle of 'POLLUTER PAYS'.*
2. *The objective and spirit of imposition of Environmental Compensation would be to prevent further Environment damage due to pollution and to act as a deterrent for any act future omission/commission of any act which would lead to pollute the environment.*

B. Procedure to be followed would largely as follows:-

1. *The Regional officer, RSPCB shall submit a detailed report of pollution matters/incidents to the Environment Compensation Cell not exceeding 07 days from the date of identification of violation/incidence of pollution by the individuals/units/industries/mines/institution/entities etc.*
2. *The Environment Compensation Cell constituted by the State Board shall put up the case before the Environment Compensation Committee, RSPCB within 07 days of receipt of report from Regional Officer's.*
3. *The Environment Compensation Committee will examine and submit its report along with its recommendations for imposition of Environment Compensation on defaulting individuals/ units/ industries/ mines/ institution/ entities etc., to the competent authority i.e. Chairperson for final approval.*
4. *The authority for issuing the direction for imposition and deposition of environmental compensation will be Member Secretary, RSPCB as prescribed for issuing the direction under section 5 of Environment (Protection) Act, 1986; Section 33-A of the Water (Prevention & Control of Pollution) Ac, 1974; Section 31-A of Air (Prevention & Control of Pollution) Act, 1981.*
5. *The environment compensation shall be deposited in the Environment Compensation Fund by any mode except cash. The account of which shall be maintained by the Accounts section.*

C. Actions to be taken in case of failure for deposition of Environment Compensation.

1. *Consent to Establish and Consent to Operate of the defaulter shall be refused without any prior notice.*

2. *Legal actions/prosecution/contempt of Hon'ble Court's order & Tribunal's order against the defaulter in accordance with law. The Legal action may include filing of Execution Application before the Hon'ble Tribunal.*
3. *No new/renewal Consent to Establish and Consent to Operate of the defaulter shall be entertained until and unless the Environment Compensation is being deposited.*
4. *The defaulting individuals/units/industries/mines/institution/entities etc., shall pay the Environmental Compensation within 45 days from the receipt of order. In of failure to do so, the defaulting case individuals/units/industries/mines/institution/entities etc., shall be liable to pay additional 10% of the total environmental compensation per month till such payment is made.*
5. *After expiry of six months by the defaulter in depositing the Environment Compensation, the concerned District Collector shall be requested to recover the Environment Compensation amount in accordance with law i.e. Rajasthan Public Demand Recovery Act, 1952 or any other Act for the time being in force.”*

173. It is also pointed out that for non-conforming environmental norms interim compensation was imposed on 73 units which collectively comes to Rs. 265 lakhs. The details of these industries are as under:

Sl. No.	Name of the Industry	Address	Date of directions for imposing Environmental Compensation
1	Gorakharam S/o GirdharamMeghwal	Kh. No. 89, village Nandwan, Tehsil-Luni, District Jodhpur	04.07.2019
2	Jeemaram S/o LikhmaramJat& Others	Kh. No. 86, village – Nandwan, Tehsil-Luni, District Jodhpur	04.07.2019
3	Surtaram S/o JayrupromJat	Kh. No. 84, 85, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
4	Birmaram S/o GordhanramMeghwal	Kh. No. 89, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
5	KalaramDanaram S/o Chutraram Patel	Kh. No. 234, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
6	Jiaram S/o Laluramjat	Kh. No. 227, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
7	Arjunram S/o GirdhariramMeghwal	Kh. No. 89, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019

8	Jiaram S/o Andaram Patel	Kh. No. 338, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
9	Salim S/o Barkat Khan Cheepa	Kh. No. 71, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
10	Kalaram S/o Chutraram	Kh. No. 154, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
11	BagaramVegarah S/o ViramramJat	Kh. No. 230/01, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
12	VeeramBudah Pi-Bhagwanramjat	Kh. No. 87/2, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
13	Bhanwararam S/o Sheraramjat	Kh. No. 247, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
14	Achalaram S/o Viraramjat	Kh. No. 228, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
15	Ramjan, indukhanvagarah, pi misu khan pinjara	Kh. No. 71, 72, village – Nandwan, Tehsil- Luni, District Jodhpur	04.07.2019
16	Mohd. Hanif S/o Murad Ali	Khasra No. 154, Salawas, Tehsil – Luni, District Jodhpur	04.07.2019
17	Kesaram S/o BhanwarLalBramin	Khasra No. 115/3 Boranada Road, Salawas	04.07.2019
18	M/s Tilaram S/o Bhoma Ram	Khasra No. 111, Salawas	04.07.2019
19	Khatoon Industries Anwar Ali	Khasra No. 118, Boranada Road village, Salawas	04.07.2019
20	SangamGuddu Khan S/o Ramjan Khan	Khasra No. 118, Boranada Road village, Salawas	04.07.2019
21	Jugnu Khan	Khasra No. 119, Boranada Road village, Salawas	04.07.2019
22	Muse Khan	Khasra No. 118/5, Boranada Road village, Salawas	04.07.2019
23	Navla ram S/o Bhoma Ram Mali	Khasra No. 111, Boranada Road village- Salawas	04.07.2019
24	Vinayak Prints BabuLal Gaur	Khasra No. 115/3, Boranada Road village – Salawas	04.07.2019
25	Kavita Sharma W/o Shrikant Sharma	Khasra No, 115/1, Boranada Road village – Salawas	04.07.2019
26	M/s Ranchod Patel S/o Kheta ram (in front of Haneef)	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
27	Narayan Ram Meghwal	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
28	Mohd. Hanif unit – I	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
29	Mohd. Hanif Unit – II	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019

30	RameshwarRathi	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
31	M/s U.S. Export (Salim S/o Jabrudin)	Kh. No. 125, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
32	Pakija Fabrics (Mohd. Nisar)	Kh. No. 176/6, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
33	Manoj Kumar S/o Pukhrantated	Kh. No. 176/8, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
34	KanaramBhati Unit-I (Aarif)	Kh. No. 127, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
35	KanaramBhati Unit-II (Om Ghandhi)	Kh. No. 127, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
36	KanaramBhati Unit –III (VimalRathi)	Kh. No. 127, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
37	Yashdeep	Kh. No. 126, village Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
38	RamswaroopPrajapat	Kh. No. 26, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
39	Saraswati Textile (Saraswati Devi W/o Jugal Kishore)	Kh. No. 26, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
40	Suresh Industries	Kh. No. 26, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
41	SubaBano W/o FarukhBhai	Kh. No. 26, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
42	Chandan Fashion (SubhashGolecha)	Kh. No. 67/06 Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
43	R.K. Enterprises	Kh. No. 67/05, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
44	Jannat Fabrics	Kh. No. 26, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
45	H.R. Textiles (MamtazBano/Hijzul RahmanRabbani)	Kh. No. 47/1, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
46	Behind Arora Textiles (Sahjadhussen S/oJafarHussen)	Kh. No. 242, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
47	Femina Screen Art	Kh. No. 242, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
48	R.K. Agro Industries	Kh. No. 47, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
49	Navab Industries	Kh. No. 148, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
50	ChetnaImpex	Kh. No. 47/1, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
51	Hemant Printers	Kh. No. 248, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019

52	Kgn Enterprises (Sana Prints MohdSalim S/o Abdul Rahman)	Kh. No. 247, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
53	Sindhi Textile	89/5, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
54	Royal Export	89/5/5, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
55	Navkar Export	Kh. No. 248, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
56	Chogg Singh	26	04.07.2019
57	Ramzan S/oummerdinChippa	Kh. No. 248, Tanawra, Tehsil Luni, District – Jodhpur	04.07.2019
58	Murad creation (MohdParvez S/oZahoor Mohammad)	Kh. No. 246, Salawas, Tehsil Luni, District – Jodhpur	04.07.2019
59	S.K. Chouhan P. No 426, 427, Shobhawatonkidhani, Jodhpur	P. No. 426, 427 Shobhawatonkidhani Jodhpur	04.07.2019
60	Dinesh kumargupta, 100 A, Khodiya Nagar, Shobhawatonkidhani Jodhpur	P. No. 426, 427 Shobhawatonkidhani Jodhpur	04.07.2019
61	Muniya Devi (N.K. Gupta), Khodiya Nagar, Shobhawatonkidhani Jodhpur	Shobhawatonkidhani Jodhpur	04.07.2019
62	Bagtawar Singh rajpurohit, 83, 83A, Shobhawatonkidhani Jodhpur	Shobhawatonkidhani Jodhpur	04.07.2019
63	Braham Singh, Plot no. 115, 116, 117, Shobhawatonkidhani Jodhpur	Shobhawatonkidhani Jodhpur	04.07.2019
64	Abhishek S/oArju Singh KH No. 137 & 134 RawlaBera, Shobhawatonkidhani Jodhpur	Shobhawatonkidhani Jodhpur	04.07.2019
65	Mohan jiKhatri (Old name-MohdSarif, Near GSS, Amritvihar), Shobhawatonkidhani Jodhpur	Near GSS, AmritVihar, Shobhawatonkidhani Jodhpur	04.07.2019
66	Plot No. 423 (Wana Prints) Shobhawatonkidhani Jodhpur	MarudharKeshri Nagar, Shobhawatonkidhani Jodhpur	04.07.2019
67	Plot no. 424, Shobhawatonkidhani Jodhpur	MarudharKeshri Nagar, Shobhawatonkidhani Jodhpur	04.07.2019
68	Plot no. 425, Shobhawatonkidhani Jodhpur	MarudharKeshri Nagar, Shobhawatonkidhani Jodhpur	04.07.2019
69	Bhawani Singh S/o Mod Singh	Khasra No. 149/1, Village Bhandu, Tehsil Luni	04.07.2019
70	Mohammad Nisar S/oMohd. Usman	Khasra No. 154/1, 155/1, Boranada road, salawas	04.07.2019
71	Jugnu Khan bhaktawar textile	Khasra No. 119/1, Boranada road, Village- salawas	04.07.2019
72	Kamal Rathi S/oGopalRathi	Kh No. 126, Boranada Road, Village-Salawas,	04.07.2019

		<i>Tehsil-Luni, District-Jodhpur</i>	
73	<i>P.S. Industries (Abhishek Arora S/o Kishore Arora)</i>	<i>Kh No. 247, Salawas, Tehsil-Luni, District-Jodhpur</i>	<i>04.07.2019</i>

174. RSPCB also issued letter dated 10.07.2019 to JNPT Trust operating CETP directing it to ensure compliance of Tribunal's order dated 16.11.2018 and 10.05.2019 and submit compliance report.

Affidavit cum Compliance Report dated 17.07.2019 filed on behalf of Secretary, Department of Environment, State of Rajasthan pursuant to Tribunal's orders dated 16.11.2018 and 10.05.2019 in OA-III

175. It is said that meetings were convened on 20.11.2018, 13.12.2018, 24.01.2019, 26.02.2019 and 02.05.2019 to consider implementation of action plan and Secretary of department is regularly monitoring action plan as suggested by Expert Committee. The progress report in respect to implementation of action plan is annexed as Annexure R-2 in a form of a chart, which read as under:

“

Item no.	Details of the Action Plan	Progress made
7.1 Two Units	<p>i) <i>The Two industries namely M/s Universal Dye Stuff and M/s Dauxil Product which were found to be closed should remain closed. These units should have pre/primary effluent treatment plant (PETP) before letting out their effluent into drain or pipeline reaching to CETP. Both the unit should comply with PETP standards.</i></p> <p>ii) <i>RSPCB should grant consent under Water and Air Act and authorization for handling hazardous waste and then to permit for operation. The conditions of CPCB like installation of on-line devices should be initiated and connected with server of CPCB.</i></p>	<p><i>M/s Universal Dye Stuff was closed in compliance of CPCB directions. M/s Universal Dye Stuff is not having consent and authorization from the State Board. The unit is presently closed and directions issued by CPCB for closure under section 5 of EPA is for still enforce.</i></p> <p><i>M/s. Dauxil Products was closed in compliance of CPCB directions. CPCB has revoked the directions and unit has installed ETP and incinerator. Unit has Consent under Air & Water Act having validity upto 31.05.21 and application for authorization under Hazardous Waste Rules is pending. Unit was found operative during the visit</i></p>

		<p>on 05/05/2019 by the team of Head office.</p> <p>The latest inspected report of M/s. Dauxil Products dated 13.06.19 is enclosed at Annexure "A".</p>
7.2 Industries with PETPs	<p>i) All the Steel industries generating effluents should set up PETP within 90 days and only treated effluent should be disposed into pipeline leading to CETP. Industry may be given with option that:</p> <p>a. They should be closed immediately till they setup PETP/ or</p> <p>b. Pay compensation @ Rs. 25000/- per day till they set up PETP but not exceeding 90 days.</p>	<p>i. All the steel member units of CETP installed PTPs and are discharging their effluent in the HDPE pipeline laid by Jodhpur PradushanNiwaran Trust</p> <p>a. PTPs have been installed by all the units.</p> <p>b. PTPs installed before 31.12.2018.</p>
	<p>ii) Steel industries should comply with PETP norms.</p>	<p>ii) All the units are complying with the PETP norms.</p>
	<p>iii) The Textile/Dye - stuff or other effluent generating industries should have PETP and should not be permitted to operate till they set-up and comply with PETP norms. Such units should to pay compensation charges Rs. 25000/- per day or close immediately.</p>	<p>iii. Membership of all the dye-stuff units have been cancelled. All the textile units have installed PTPs in their unit and are complying with the norms.</p>
7.3 PETP Standards	<p>i) As per Notification of MoEF& CC dated 01.01.2016, SPCBs are required to notify PETP standards for required treatment design of CETP. Since, the CETP has been in existence prior to the notification (01.01.2016), the State Board has prescribed general standards as PETP standards which can be followed by the all industrial units as PETP standards:-</p> <p>ii) It has been observed that PETP standards were already in existence notified by MoEF& CC in the year 11 1995 at Sl.no. 55. It can be considered that the concentrations suggested for each parameter mentioned above are the optimum level which can be treated in CETP.</p>	<p>The State Board has already adopted the standards as suggested by High Power Committee. The copy of order passed by SPCB on 11.3.19 enclosed at Annexure "B"</p> <p>JPNT has upgraded the CETP for de-fluoridation by automatic double lime treatment. The analysis reports of sample collected on enclosed at Annexure "C". JPNT has made a contract with Prof. S.K. Singh, JNU, Jodhpur for preparation of plan for utilization of treated water Designing of RO plant, preparation tender document and expert supervision.</p>

<p>7.4 CETP- JPNT</p>	<p>i) Should Comply with standards prescribed and not to dispose effluents to river. Treated effluent should be reused by the Member Industries or may be utilized for irrigation with proper irrigation management plan.</p>	<p>We are discharging effluent as per the prescribed standards which could be used for irrigation and horticulture purpose. The work for preparation of DPR of R.O. plant for two units of 6 MLD, to be installed at CETP, Jodhpur has been awarded to Dr. S.K. Singh of MBM Engineering College, Jodhpur. For this purpose, an amount of Rs. 6,48,000/- has been deposited in the account of Jai Narain Vyas University Jodhpur, Development Fund Account vide chq no. 210862 dated 29.05.2019. Dr. S.K. Singh will prepare the DPR in about 30 days' time and it will be submitted to you as preparation tender soon as it received.</p>
	<p>ii) Hazardous waste should be disposed as per rules and with due Authorization.</p>	<p>Disposal of hazardous waste is being done as per rules with a valid authorization from RSPCB.</p>
	<p>iii) CETP should have onsite and offsite disaster management plan.</p>	<p>A private agency is being contacted for preparation of disaster management plan. The work would be completed shortly.</p>
	<p>iv) HDPE pipeline should be audited for hazard prevention with safety. Routine checks should be done by duly accredited agency. The pipeline route should be marked and well displayed for public and maintenance purpose</p>	<p>Status of the HDPE pipeline of the Trust has been examined by National Safety Council (Govt. undertaking). NSC HAS SUBMITTED A REPORT IN WHICH THEY HAVE FOUND THE PIPELINE IS IN ORDER (PARA NO. 4.11, PAGE NO. 19). Copy of the report enclosed at Annexure "D".</p>
<p>7.5 Action for RIICO and RSPCB</p>	<p>i. RIICO should periodically remove sludge and waste. ii. Drains should be repaired (by RIICO). Burning of waste should be stopped (by RIICO). iii. No further new industries, particularly which generate trade effluents, should be allowed by RSPCB till existing industries meet the</p>	<p>The State Board has complied with the action suggested by the committee at point no. 7.5. The photo copy of the compliance with respect to actions suggested by the committee is annexed and marked as Annexure "E".</p>

	<p>prescribed effluent standards.</p> <p>iv. Industries should have information board with necessary information displaying both in Hindi and English outside their main gate (RSPCB).</p> <p>v. All the valid consents given by the RSPCB should be displayed at RSPCB website.</p> <p>vi. District Magistrate shall ensure closing of Units with RSPCB immediately or recover compensation @ Rs. 25000 per day but not exceeding 90 days and thereafter close till they set-up PETP and meet the standards.</p> <p>vii. With JPNT, RSPCB should ensure proper sludge collection on door-to-door basis from each of the industry.</p>	
7.6	All Three STPs should meet prescribed standards for fecal coliform and treated water should be utilized for irrigation. (Jodhpur Sewage Board)	Related to JDA and Nagar Palika, Jodhpur. However, last two analysis reports alongwith comparative statement is enclosed at Annexure "F".
7.7	Kalyanur village and other villages should be provided and covered for potable water supply. Necessary clearance to the proposal of Araba Gram panchayat be examined and granted.	PHED has informed that Kalyanpur village and other villages have been provided potable drinking water.
7.8	Irrigation and flood control Department should examine for releasing water from upper stretches of river Jojri and Luni for maintenance of flow. This, however, should be done only after ensuring proper treatment of sewage and industrial effluent.	The Water Resource Department has informed that there is no water available for fresh release in Jojri river from Kaylana and other sources. Water available is only sufficient to cater to the need of drinking water in Jodhpur area. The report is given at Annexure "G"
8.0	Execution and Monitoring of Action Plan i) District Magistrate under convener of RO, RSPCB shall monitor execution of Action Plan on a weekly basis.	District Magistrate is holding weekly review meetings to monitor the implementation of the action plan.
	ii) Secretary Environment of State will monitor progress on monthly basis with Member Secretary of RSPCB and concerned Department and will file bi-monthly report of compliance.	Secretary Environment is holding monthly review meetings for progress of the implementation of the Action Plan. Recent meeting was held on 13.06.2019. Bi-monthly

		<i>progress is being submitted on 20th July 2019.</i>
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176. Progress report in respect of Tribunal proceedings were required to be submitted by Police Authorities. In this regard, several progress reports were submitted as under:

Sl No	Date of progress report	Filed on	Authority who filed
1	31.07.2019	01.08.2019	Additional DGP Traffic Rajasthan Police
2	28.08.2019	29.08.2019	Additional DGP Traffic Rajasthan Police
3	28.09.2019	30.09.2019	Additional DGP Traffic Rajasthan Police
4	30.10.2019	31.10.2019	Additional DGP Traffic Rajasthan Police
5	25.11.2019	29.11.2019	Additional DGP Traffic Rajasthan Police
6	30.1.2.2019	31.12.2019	Additional DGP Traffic Rajasthan Police
7	29.01.2019	30.01.2019	Additional DGP Traffic Rajasthan Police
8	03.03.2020	03.03.2020	ADJ Traffic Rajasthan Jaipur
9	28.06.2020		Special Task Force
10	11.09.2020		Special Task Force, Jodhpur
11	10.10.2020		Director General of Police, (Traffic) Jaipur
12	06.11.2020		Director General of Police, (Traffic) Jaipur

177. In the above reports, progressive figures of number of FIRs registered and charge sheet filed were given and as per the last report dated 06.11.2020, 52 FIRs were registered and 40 charge sheets were submitted in Court.

Status report dated 30.08.2019 filed by CGWB, Western Region, MoWR, RD & GR, Jaipur on 30.08.2019 pursuant to Tribunal's order dated 02.08.2019 in OA-III

178. The said report states as under:

“.....

- *In compliance to the above cited order the bore well located in the following industries have been sealed in presence of STF.*

S.N o.	Name of Industry	Address	No of bore well
1	<i>M/s. Sorabh Textile</i>	<i>24-A, Light Industrial Area, Jodhpur</i>	<i>One sealed on 29.08.2019</i>
2	<i>M/s. F.R. Textile (Sara Textile)</i>	<i>E-528, MIA, Phase-II, Basni, Jodhpur</i>	<i>One sealed on 29.08.2019</i>

The sealing reports and Photographs are endorsed as Annexure II &II.

The District Collector, Jodhpur has been informed as per direction (AnnexureIII).

Two bore well were sealed earlier on 27.07.2019 as informed in previous hearing on 02.08.2019.

The team of CGWB, Special Task Force and Discom, Jodhpur has visited the premises of industries at village Salawas and Nandwana of Luni block where illegal extraction was reported based on local enquiry/input. It has been observed that these industrial units were recently closed and their premises is locked by the local authorities hence well entry is not accessible. The groundwater abstractions is stopped in these units. The 5 notices were pasted on the gates of Industries as follows:-

S.N o.	Name of Industry	AddressKhasra No.	Remark
1	Mohm. Hanif S/o Murad Ali	154, Village SalawasLuni	Notice Paste
2	Kesaram S/o Bhawarlal Brahmin	115/3, Village SalawasLuni	Notice Paste
3	Khaitan Industries Anwar Ali	118 , Village SalawasLuni	Notice Paste
4	MohmadHanif Unit I	126, Village SalawasLuni	Notice Paste
5	M/s. Ramchandra Patel S/o Khet Ram	126, Village SalawasLuni	Notice Paste

Few photographs are endorsed as Annexure - IV

- The industries which are withdrawing Groundwater illegally are being identified based on the records of CTO denied by RSPCB, local enquires and by any source and the team of CGWB, State DISCOM is been tasked to undertake the immediate ground action for sealing.
- 82 NOC has been issued by CGWA in safe block of Luni till date. The applications being received by CGWA online are under process as per the CGWA guidelines.”

Status report dated 06.09.2019 filed by CGWB, Western Region, MoWR, RD & GR, Jaipur on 06.09.2019 pursuant to Tribunal’s order dated 30.08.2019 in OA-III

179. The said report stated as under:

“.....

- In compliance to the above cited order the bore well located in the following industries have been identified and sealed in presence of STF.

S.N o.	Name of Industry	Address	No of bore well
1	M/s. Dhariwal Prints	F-542, MIA, 2 nd Phase, Basni, Jodhpur	One sealed on 5.09.2019

2	M/s. C.K. Textiles	F-320, 321, 2 nd Phase, Basni, Jodhpur	One sealed on 5.09.2019
3	M/s. Sorabh Textile	24-A, Light Industrial Area, Jodhpur	One sealed on 29.08.2019
4	M/s. F.R. Textile (Sara Textile)	E-528, MIA, Phase-II, Basni, Jodhpur	One sealed on 29.08.2019
5	M/s. S.K. Chauhan	Plot No. 426, Sobharato Ki Dhani, Jodhpur	Onesealed on 30.08.2019

The sealing reports are endorsed as Annexure I (A), 1(B), I(C), I(D), I(E) and the Photographs as Annexure-II

The District Collector Jodhpur has been informed as per direction (Annexure-III-A, III-B and III-C).

Two bore well were identified and sealed earlier are as follows:-

S.N o.	Name of Industry	Address	No of bore well
1	Raj Text Prints	Khasra No. 458, 459, Gram: Dhundhara, Tehsil: Luni, Jodhpur	One sealed on 27.07.2019
2	Universal Dyes Stuff	F-251, Road No. 7, MIA, Phase-II, Basni, Jodhpur	One sealed on 27.07.2019

- The team of CGWB, Special Task Force and DISCOM, Jodhpur has visited the premises of industries at village Salawas, Nandwana and Sobharato Ki Dhani of Luni block for action on illegal extraction. It has been observed that these industrial units were recently closed and their premises are locked by the local authorities hence well entry is not accessible. The notices were pasted on the gates of 11 Industries as follows:-

S.N o.	Name of Industry	AddressKhasra No.	Remark
1	Mohm. Hanif S/o Murad Ali	154, Village SalawasLuni	Premises Locked, Notice Paste
2	Kesaram S/o Bhawarlal Brahmin	115/3, Village SalawasLuni	Premises Locked, Notice Paste
3	Khaitan Industries Anwar Ali	118, Village SalawasLuni	Premises Locked, Notice Paste
4	MohmadHanif Unit I	126, Village SalawasLuni	Premises Locked, Notice Paste
5	M/s. Ramchandra Patel S/o Khet Ram	126, Village SalawasLuni	Premises Locked, Notice Paste
6	M/s. Braham Singh	Plot No. 115, 116, 117 Shobhawalo Ki Dhani, Jodhpur	Premises Locked, Notice Paste

7	M/s.Wana Prints	Plot No. 423, MarudharKesari Nagar, SKD, Jodhpur	Premises Locked, Notice Paste
8	M/s. Wana Prints	Plot No. 424, MarudharKesari Nagar, SKD, Jodhpur	Premises Locked, Notice Paste
9	M/s. MohanjiKhatri (Old name Mohd. Sarif)	Near GSS, AmritVihar, SKD, Jodhpur	Premises Locked, Notice Paste
10	M/s. Abhishek S/o Arjun Singh	K.N. 137 & 134, RawlaBera, SKD, Jodhpur	Premises Locked, Notice Paste
11	M/s.Bhagtawar Singh Rajpurohit	83, 83 A, SKD, Jodhpur	Premises Locked, Notice Paste

Few photographs of pasting Notices are endorsed as Annexure - IV

Sample Copy of Notice is attached as Annexure-VI

- The industries which are withdrawing Groundwater illegally are being identified based on the record of CTO denied by RSPCB, local enquires & input by any source. The team of CGWB, STF and DISCOM has been tasked to undertake the immediate ground action for sealing to stop illegal extraction of ground water.
- 87 NOCs have been issued by CGWA in safe block of Luni till date. The applications being received by GWA online are under process according to the guidelines of CGWA.”

Report dated 10.01.2020 submitted by Regional Remote Sensing Centre-West (RRSC-W), Jodhpur pursuant to Tribunal’s orders dated 02.08.2019 in OA-III

180. The observations made in the said report read as under:

- “1. At Salawas, the channel carrying effluent water towards Sewerage Treatment Plant (STP) and the treated water channel after STP is mostly underground. Figure 3 shows the satellite data and corresponding field photograph of the narrow channel going to STP. **Plate 3 & 3A** and **plate 4 & 4A** depicts the satellite data and corresponding field photograph. The channel after STP is not visible in the high resolution satellite data. **Plate 5, plate 6, and plate 7** were supplemented in the Annexure-II shows that these areas containing the outlet from STP. **Plate 7** shows the inlet of treated water from STP in Jojririver. **Plate 7A** shows the field photograph with respect to **Plate 7**. Figure 4 shows the treated water merging in Jojririver. **Visual signature of treated water from STP and Jojri river water looks similar at this confluence stage at Salawas village.**
2. A narrow water drain originating from Boronada industrial area towards Salawas exists parallel to the road connecting Salawas village. **Plate 8** and **Plate 8A** shows the digital image

of this road. **Plate 8B** shows the field photo of the narrow channel. **Visual signature of this narrow channel is similar to the field bund and road network. Constituents of this narrow channel cannot be traced out from the very high resolution satellite image.**

3. Few of the effluents coming from the industrial units were inspected in the field. It is observed that the outlets are having release points in this narrow channel; some were even kept under foot-over bridges. **These effluent release points are neither visible nor traceable in the satellite data.** **Plate 9** and **Plate 9A** shows the satellite data and field photos representing few release outlets.
4. In the extent of Upper Left Coordinates (Latitude, Longitude) of (26.127369°, 72.981863°) and Lower Right Coordinates (Latitude, Longitude) of (26.127495°, 72.986469°) treated water from STP and untreated water from industrial effluents joins in Jojri. The extent is shown in figure 5. **Plate 10** represents satellite data with effluents from sewerage line from Boronada industrial area towards Salawas village (Red Circle) and treated water from STP into Jojri (Green Circle). **Visual interpretation doesn't distinguish significantly between untreated water from Boronada industrial area and treated water from STP.**
5. Field visit has been done at BandooKalan village where numerous textiles units were congregated. **It has been observed that wild vegetation is being covered on Joiri river making it difficult to identify the inlet and outlets of water to the BandooKalan industrial congregation both in the satellite data and also in-situ.** **Plate 11** and **Plate 11A** represents the high resolution satellite data of BandooKalan and field photos of the jojri at BandooKalan respectively. Figure 6 shows the satellite data of BandooKalan.”

Affidavit cum Action Taken Report dated 29.01.2020 filed on behalf of RSPCB on 30.01.2020 pursuant to Tribunal's order dated 15.01.2020 in OA III

181. The affidavit states that Officials of RSPCB inspected 25 defaulting textile units where against FIR's were registered between 26.01.2020 to 28.01.2020. Out of 25 units, one unit, M/s. Nakoda Textile is located in industrial area and remaining 24 units are located at a non-conforming/agricultural land. Based on inspection report, RSPCB issued directions on 29.01.2020 for closure and disconnection of electricity under Section 33A of Water Act, 1974 to all 24 units running in non-conforming

area/agricultural land. The matters of 24 cases have also been referred to Environment Compensation Committee for computation and imposition of adequate environment compensation. With respect of M/s. Nakoda Textile, it is said that no non-compliance was found during inspection.

Status Report submitted by Regional Remote Sensing Centre-West (RRSC-W), Jodhpur vide email dated 30.01.2020 pursuant to Tribunal's orders dated 15.01.2020 in OA-III

182. Tribunal had directed to identify other spots on the ground, on the basis of satellite imageries so as to enable to take samples for testing of the effluents at those spots. CPCB was also directed to depute a Senior Scientist/Senior Environmental Engineer to work in coordination with RRSC-W. The study was conducted on 21/22.01.2020 in different villages, 19 points were identified and water samples were collected during the field work. Out of these 19 points, 6 were earlier reported in the draft report of RRSC-W, 3 were suggested by CPCB based on their expertise and remaining 10 were jointly identified. Observations made in the said report are as under:

“5. Observations

- a. It is observed that satellite data provides a synoptic view of the study area of Jojririver to facilitate identification of points for water sample collection.*
- b. Outlets or spots where industrial effluents are being released directly into the channels or river cannot be identified in the High Resolution Satellite Imagery (as mentioned in the draft report).*
- c. Multispectral satellite data is not able to distinguish between polluted water and normal water (as mentioned in the draft report).”*

Status Report submitted on behalf of CPCB through Scientist-E, Regional Director, Bhopal vide email dated 30.01.2020 pursuant to Tribunal's orders dated 15.01.2020 in OA-III

183. 19 spots were identified on satellite imageries, detailed in para 1 of the report, as under:

S. No.	Location/spots & description of satellite view	Date of Satellite Imagery	Latitude	Longitude
1	Banar Village U/s River Jojri (Ref.)	14.09.2019	26.338238	73.142414
2	Stagnated Red color water in river Jojri	18.07.2019	26.309043	73.123654
3	STP Nandri (Red color water & foaming)	18.07.2019	26.302535	73.11286
4	Underground Drain in Right bank of River Jojri	29.05.2019	26.268245	73.106253
5	Vyas College road	14.09.2019	26.19626	73.052456
6	WTP 19.2MLD Kudihod village filter wash drain	14.09.2019	26.196609	73.053605
7	Ansal API Township project Water impounding	29.05.2019	26.182488	73.050634
8	Gora hotel Rd near Dangiyawas bypass	14.09.2019	26.23605	73.077999
9	Water impounding behind AshianaAmarbagh township	14.09.2019	26.192204	73.038509
10	Drain near Sangaria railway Phatak	29.05.2019	26.186914	73.005844
11	Red color Agricultural field & drain	29.05.2019	26.17655	73.006402
12	Drain on right bank of River near Salawas Bridge	16.11.2018	26.148964	73.008579
13	Drain discharge on right bank of river Jojri near Salawas	06.04.2018	26.128175	72.985103
14	Blue color effluent drained in Boranada Drain	06.04.2018	26.127256	72.982318
15	Nandwan-Salawas Rd	08.09.2019	26.124432	72.974062
16	Bhandoo-Nandwan-Salawas Rd	02.02.2019	26.110064	72.890902
17	BandooKallan cluster of 46 units (dismantled)	02.02.2019	26.11877	72.905664
18	DoliKallan water impounding	03.05.2019	26.065174	72.660452
19	Drain DoliRajguron (Raika bas)	03.05.2019	26.06141	72.66073

Status report dated 07.02.2020 submitted by CPCB, Regional Director, Bhopal pursuant to Tribunal's order dated 15.01.2020:

184. Vide order dated 15.01.2020, Tribunal required identification of spots on the ground and to take samples of effluent lying therein and test report thereof. In order to comply the said order and to identify spots where

untreated industrial waste was being discharged in open land/nallah/rivers based on visible drains, impounding water, colored imaginary agriculture field etc., Chairman, CPCB directed Regional Director, CPCB Bhopal to depute officers pursuant whereto Senior Scientist/senior environmental engineer was deputed and the process of identification was undertaken. Details of 19 locations/spots, identified are, as under:

<i>S. No.</i>	<i>Location/spots & description of satellite view</i>	<i>Date of Satellite Imagery</i>	<i>Latitude</i>	<i>Longitude</i>
1.	<i>Banar Village U/s River Jojri (Ref.)</i>	<i>14.09.2019</i>	<i>26.338238</i>	<i>73.142414</i>
2.	<i>Stagnated Red color water in river Jojri</i>	<i>18.07.2019</i>	<i>26.309043</i>	<i>73.123654</i>
3.	<i>STP Nandri (Red color water & foaming)</i>	<i>18.07.2019</i>	<i>26.302535</i>	<i>73.11286</i>
4.	<i>Underground Drain in Right bank of River Jojri</i>	<i>29.05.2019</i>	<i>26.268245</i>	<i>73.106253</i>
5.	<i>Vyas College road</i>	<i>14.09.2019</i>	<i>26.19626</i>	<i>73.052456</i>
6.	<i>WTP 19.2 MLD Kudi hod village filter wash drain</i>	<i>14.09.2019</i>	<i>26.196609</i>	<i>73.053605</i>
7.	<i>Ansal API Township project Water impounding</i>	<i>29.05.2019</i>	<i>26.182488</i>	<i>73.050634</i>
8.	<i>Gora hotel Rd near Dangiyawas Bypass</i>	<i>14.09.2019</i>	<i>26.23605</i>	<i>73.077999</i>
9.	<i>Water impounding behind Ashiana Amarbagh township</i>	<i>14.09.2019</i>	<i>26.192204</i>	<i>73.038509</i>
10.	<i>Drain near Sangaria railway Phatak</i>	<i>29.05.2019</i>	<i>26.186914</i>	<i>73.005844</i>
11.	<i>Red color Agricultural field & drain</i>	<i>29.05.2019</i>	<i>26.17655</i>	<i>73.006402</i>
12.	<i>Drain on right bank of River near Salawas Bridge</i>	<i>16.11.2018</i>	<i>26.148946</i>	<i>73.008579</i>

13.	<i>Drain discharge on right bank of river Jojri near Salawas</i>	06.04.2018	26.128175	72.985103
14.	<i>Blue color effluent drained in Boranada Drain</i>	06.04.2018	26.127256	72.982318
15.	<i>Nandwan-Salawas Rd</i>	08.09.2019	26.124432	72.974062
16.	<i>Bhandoo-Nandwan-Salawas Rd</i>	02.02.2019	26.110064	72.890902
17.	<i>Bandoo Kallan cluster of 46 units (dismantled)</i>	02.02.2019	26.11877	72.905664
18.	<i>Doli Kallan water impounding</i>	03.05.2019	26.065174	72.660425
19.	<i>Drain Doli Rajguron (Raika bas)</i>	03.05.2019	26.06141	72.66073

185. In respect of the above identified areas, field observations are also mentioned in detail in para 2 of the report as under:

S. No.	Identified locations & description of satellite view	Field observations
1.	<i>Banar Village U/s River Jojri (Ref.)</i>	<i>River water was found stagnated. River water was found in use of mustard crop.</i>
2.	<i>Stagnated Red color water in river Jojri</i>	<i>River water was found colourless. A underground 4 inch pipeline of about 65 mtrs length was found; used for discharging textile effluent from nearby unit in past. On the day of visit, unit was found locked. No discharge was found from the unit's illegal outlet.</i>
3.	<i>STP Nandri (Red color water & foaming)</i>	<i>Flow (0.4m³/sec) was observed in drain adjacent to Waste Stabilization process (WSP) based 20 MLD STP. The WSP was full of Hyacinths. Red colored industrial effluent discharge was recorded. Effluent color was red & foaming was recorded in drain. The drain was found broken in many points; colored drain effluent was found in use for crop & vegetables. The effluent was found drained in river Jojri's stretch.</i>
4.	<i>Underground Drain in Right bank of River Jojri</i>	<i>An about 50 mtrs long Kaccha drain was found discharging sewage directly in river with 1.89 KL/min flow on 9:30 AM of 22.1.2020. Above which sewer was flowing in pucca underground drain. Sewage sludge found deposited in right bank of the river.</i>

		<i>River water above this point was found used in Mustard cropping & pomegranate fields.</i>
5.	<i>Vyas College road</i>	<i>Sludge & foaming was observed in river Jojri.</i>
6.	<i>WTP 19.2 MLD Kudi hod village filter wash drain</i>	<i>Water Treatment Plant (19.2 MLD), Kudi hod was found operational. Direct discharge of filter bed wash & clarified solids were found in river's left bank.</i>
7.	<i>Ansal API Township project Water impounding</i>	<i>Colorless water was found impounded in the foundation of Ansal API Township. No industrial effluent was found discharged. The water impound may be rain water & groundwater.</i>
8.	<i>Gora hotel Rd near Dangiyawas Bypass</i>	<i>River water was found diverted due to the ongoing road construction. River water color was blackish.</i>
9.	<i>Water impounding behind Ashiana Amarbagh township</i>	<i>Domestic sewer drain was found discharging effluent through kaccha drain. Abandoned concrete drains structure was also found. In past, it may be used to drain the effluent directly in river Jojri.</i>
10.	<i>Drain near Sangaria railway Phatak</i>	<i>CETP, Jodhpur outlet drain was found diverted in agricultural fields (Wheat crop) near Sangaria railway Phatak.</i>
11.	<i>Red color Agricultural field & drain</i>	<i>CETP, Jodhpur outlet drain was found diverted in agricultural fields of wheat crop.</i>
12.	<i>Drain on right bank of River near Salawas Bridge</i>	<i>Greenish color industrial effluent was found discharged through drain towards right bank of the river Jojri. Stagnated effluent-cum-river water with sludge was observed near the Salawas railway bridge.</i>
13.	<i>Drain discharge on right bank of river Jojri near Salawas</i>	<i>Reddish colored effluent was observed discharging from STP, Salawas drain towards right bank of river. The effluent of Basni & Sangaria Industrial area may be discharging through STP drain.</i>
14.	<i>Blue color effluent drained in Boranada Drain</i>	<i>Bluish colored industrial effluent of Boranada industrial Area was found discharging through pucca drain in right bank of river.</i>
15.	<i>Nandwan-Salawas Rd</i>	<i>River water was blackish in color. River water was stagnated due to the earthen bund constructed 2 km downstream of the river.</i>
16.	<i>Bhandoo-Nandwan-Salawas Rd</i>	<i>River water was blackish in color. Sludge was found in river bed.</i>
17.	<i>Bandoo Kallan cluster of 46 units (dismantled)</i>	<i>This location was selected based on the satellite image of 2.2.2019 showing industrial cluster on the left bank of river, however on the day no such industrial activity was observed. River water flowing from upstream was found black in color.</i>
18.	<i>Doli Kallan water impounding</i>	<i>River water found stagnated here. Salt layer was found deposited. No water flow in downstream from this point. Water birds were observed.</i>
19.	<i>Drain Doli Rajguron (Raika bas)</i>	<i>The river water is diverted towards Doli Rajguran village form Doli kalan village in pucca drain and discharged in agricultural land. On the day, no flow was observed in drain; however domestic effluent was found stagnated in the drain. The agriculture land of Doli Rajguran village, where the</i>

		<i>river water was discharged earlier was found covered with white layer of salt. It was informed by villagers that since last 1 month there is no flow in drain as the river water is pumped by villages situated above the Doli Rajguran village & being used in mustard & wheat crop.</i>
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186. 19 samples were collected and results of analysis reports are given in para 3, as under:

S. No.	Sampling location	Wastewater parameters				
		pH	TSS	BOD	COD	FC
1.	Banar Village U/s River Jojri (Ref.)	7.98	32	5.6	40	--
2.	Stagnated Red color water in river Jojri	8.59	124	12.8	880	--
3.	STP Nandri (Red color water & foaming)	7.24	48	54	360	--
4.	Underground Drain in Right bank of River Jojri	7.21	174	118	760	>1600
5.	Vyas College road	7.35	88	74	720	>1600
6.	WTP 19.2 MLD Kudi hod village filter wash drain	7.79	04	3.6	40	--
7.	Ansal API Township project Water impounding	8.56	1008	8.8	400	--
8.	Gora hotel Rd near Dangiyawas Bypass	7.20	3222	63	1320	--
9.	Water impounding behind Ashiana Amarbagh township	7.25	514	58	520	>1600
10.	Drain near Sangaria railway Phatak	8.32	860	125	1680	--
11.	Red color Agricultural field & drain	8.74	1150	146	2480	--
12.	Drain on right bank of River near Salawas Bridge	7.43	1660	146	400	--
13.	Drain discharge on right bank of river Jojri near Salawas	6.94	380	150	1680	>1600
14.	Blue color effluent drained in Boranada Drain	6.38	320	395	2000	--
15.	Nandwan-Salawas Rd	7.73	210	64	1560	>1600

16.	Bhandoo-Nandwan-Salawas Rd	8.45	270	62	480	--
17.	Badoo Kallan cluster of 46 units (dismantled)	8.09	430	63	1320	--
18.	Doli Kallan water impounding	8.28	76	25	120	--
19.	Drain Doli Rajguron (Raikas)	7.64	148	22	240	--

187. In the comments, the status report said:

“The higher values of Chemical Oxygen Demand (COD) found in the range of 360mg/l to 2480mg/l at sampling location S. No. 2 to 5 and 7 to 17 is may be due to the following reasons:

Direct discharge of untreated domestic effluent from nearby habitation.

Sludge deposition on the river bed.

Discharge of partially treated effluent from STP at Nandri & Salawas.

Discharge of treated CETP outlet & untreated RIICO drain outlet &

Direct discharge of untreated effluent of Boranada, Sangaria & Basni industrial area on right bank of the river.

Direct discharge of domestic & industrial effluent found at various locations viz. Location no. 2, 3, 4, 6, 9, 12, 13 & 14 needs to be stopped. Therefore, concern authorities i.e. RIICO, RSPCB, Municipal Corp. Jodhpur & PHED needs to directed for necessary preventive action to stop direct discharge into river Jojri.

Additional affidavit sworn on 12.03.2020 filed by RIICO pursuant to Tribunal’s order dated 24.02.2020:

188. The affidavit has given details of steps taken by RIICO Jodhpur pursuant to Tribunal’s order dated 24.02.2020 and the said steps mentioned in para 6 are:

“With regard to the said issue, following steps have been taken by the RIICO, Jodhpur;

That a team of officers of RIICO, Unit Jodhpur including Shri R.K. Attri, Regional Manager, Sh. H.N. Bunkar, Asst Regional Manager & Sh T.C. Sharma, Sr. Draughtsman was constituted vide order dated 26.02.2020 to conduct survey of locations pointed out by the Hon’ble NGT as well as entire Industrial Area Jodhpur to identify the units which are discharging effluents in open area/RIICO drains. The team has conducted the survey on 29.02.2020 and 01.03.2020 of all the Textile and Steel Units established & functional in industrial area Basni I & II, Transferred areas namely Heavy Industrial Area (HIA), Light Industrial Area (LIA), Behind New Power House (BNPH) & New Jodhpur to identify the discharge from various units through conduit pipe line directly into RIICO drain and spillage from JPNT main holes. Copy of the order dated 26.02.2020 is enclosed herewith and marked as Annexure-A/1. Copy of the survey report are enclosed herewith and marked as Annexure-A/2.

That the team inspected the locations 2,3,4,6,9,12,13 & 14 shown in the report of the CPCB & found that all the locations are outside the RIICO Industrial Area. **With regard to location no. 12 the committee reported discharge of mixed effluents in the Jojari River.** In such circumstances a letter dated 06.03.2020 was immediately being sent to RO, RSPCB to take appropriate action to check and analyse the sample of the said discharge and to take preventive course of action. As the CETP operated by JPNT is monitored by RSPCB (with regard to parameters of effluents being discharged in the drain after treatment) the RSPCB can initiate appropriate action against JPNT. Copy of photograph of the location and letter dated 06.03.2020 are being submitted herewith and marked as Annexure-A/3.

That the team has also observed spillage of effluent from 18 manholes located at different locations on the closed conduit pipeline laid by JPNT, and submitted the geo-tagged photographs of the same. The pipeline was laid to carry primary treated effluent from individual units to the CETP for further treatment, but at the said 18 locations the said primary treated effluent was found spilling/over-flowing and entering in RIICO drains which were constructed for the purpose of storm water drainage and in this regard a letter no. 3825 dated 05.03.2020 was issued to President JPNT to rectify the choked close conduit pipeline and repair manholes and to stop overflow of effluent in RIICO Drains. Further RSPCB was also intimated vide letter no 3894 dated 06.03.2020 to take cognizance of such default of JPNT and to take appropriate preventive or punitive measures. Copies of the Report of team alongwith geotagged photographs of the locations are enclosed as Annexure-A/4 collectively and letter no. 3825 dated 05.03.2020 to JPNT & letter no 3894 dated 06.03.2020 to RSPCB are enclosed herewith and marked as Annexure-A/5 collectively.

It is submitted that prior to the order dated 24.02.2020 issued by the Hon'ble NGT, the RIICO Jodhpur has observed spillage at JPNT manholes and same was intimated to the JPNT along with copy to RSPCB to take preventive measures. RIICO Jodhpur is regularly monitoring the upkeeping of the industrial areas and in this regard a regular assistance is provided to the various concerned authorities. Copy of the notice dated 10.02.2020 issued to JPNT is enclosed herewith and marked as Annexure-A/6. In this view of matter, it is clear that appropriate actions are being taken by the RIICO in making compliance of the directions given by the Hon'ble Tribunal.”

Supplementary affidavit dated 13.03.2020 filed by CPCB pursuant to Tribunal's order dated 24.02.2020:

189. Affidavit shows that CPCB wrote a letter dated 27.02.2020 to Member Secretary RSPCB requiring to supply list of 58 units placed in white category by the then Collector whose bore wells were sealed by CGWA. RSPCB in turn sent a letter dated 03.03.2020 to CGWA requiring

it to depute an officer for identification/location of the sealed 58 tubewells. Further a letter dated 03.03.2020 of CGWB, State unit Jodhpur has been placed on record whereby Shri RK Ojha, Chief Draft Man was nominated to find out location of 58 units whereof bore wells were sealed. The affidavit does not show as to what action was taken by CGWA which actually was the direction given by Tribunal vide order dated 24.02.2020.

Affidavit dated 13.03.2020 filed by RSPCB pursuant to Tribunal's order dated 24.02.2020:

190. Affidavit provides details of the action taken by Special Task Force and also by RSPCB. It is said that Special Task Force furnished details of 25 units against which FIRs were registered and action was taken there against by RSPCB. 10 units were inspected by RSPCB on 27.01.2020, 28.01.2020, 05.02.2020 and 07.02.2020. Out of 10 units, FIR was registered against one unit under Sections 406 and 188 of I.P.C., Water Act 1974, Air Act 1981 and EP Act 1986. RSPCB issued notices dated 13.02.2020 to 9 units for closure. Earlier closure direction was issued by letter dated 29.01.2020 to 24 units pursuant where to 20 units were closed. Chief Engineer, Jodhpur Vidyut Vitran Nagar Limited vide letter 12.03.2020 informed that industries at sl. No. 13, 15 and 19 were not traceable whose electricity was required to be disconnected by RSPCB. Further 58 units were inspected by RSPCB between 4th to 8th March, 2020 wherein bore wells were sealed by CGWA. During inspection, out of 58 units, 19 were found in Red category, 18 in Orange, 07 in Green and 06 in White Category. 8 units did not fall in any of the category as no plant/machinery was found installed. Pursuant to inspection report, RSPCB issued notices with regard to non-compliance of the provisions of Water Act, Air Act and EP Act and the deficiencies/non-compliances found in the said units.

Supplementary Affidavit dated 17.08.2020 filed by Regional Director, CGWB, Jaipur:

191. It is in furtherance of Tribunal's orders dated 24.02.2020 and 16.03.2020 as also earlier affidavit dated 13.03.2020 filed by CGWB stating that out of 58 units, a list was submitted by RSPCB of 14 industries falling under White Category or Non Industries Category, wherein bore wells were found and sealed by CGWA. These industries were issued notices requiring information with regard to commencement of firm, date of construction of well, average quantity of ground water withdrawal per day and purpose of ground water used from bore well. One of such notices dated 20.03.2020/02.06.2020 addressed to M/s. Zargar Handicraft, Basni, Jodhpur is placed on record. CGWB received reply only from 7 industries out of 14 and environment compensation was determined following CPCB Guidelines in respect of M/s Rajab Engineering Works, Rs. 71940/- and M/s. Raj Kamal Fabrics, Rs. 17480/- but since less than the minimum of Rs. 50000/- was proposed, minimum was proposed in respect to other 12 units. Chart of determination of compensation in respect to 14 units given along with the report is as under:

List of 14 Firms regarding Levy of Environmental Compensation to be recovered for illegal abstraction of ground water in industrial area of Luni Block of Jodhpur district							
S N	Name of industry	Use of Ground Water	Illegal Quantity of Ground water	Rate of Environmental Compensation (ECR_{GW}) in Rs./m³	Calculated Environmental Compensation (ECR_{GW}) in Rs.	Lavy of Environmental Compensation (ECR_{GW}) in Rs.	Remarks
1	Swaraj Daimond	Drinking, Domestic or green belt development or plantation	Not Available	Not Available	Not Available	50000=00	
2	Raj Kamal Fabrics	Drinking, Domestic or green belt development or plantation	2185 m ³ (5m ³ /day of ground water since 17.06.2018 to 27.09.2019)	8	2185*8=17480	50000=00	The firm has applied for regulazation of its tube well.
3	Mohammed Farooq Aladin (On Rent)	Drinking, Domestic or green belt development	Not Available	Not Available	Not Available	50000=00	

		<i>or plantation</i>					
4	<i>Khokhar Udhog</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
5	<i>Super Job</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
6	<i>Mohammed Rafique Factory</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
7	<i>Kuchaman Agri Co.</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
8	<i>Deepa Enterprises</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
9	<i>Shive Lal & Sons</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
10	<i>Mahajan Textile</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
11	<i>Rajab Engineers Works</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>11990 m3 (4m3/day of ground water since 01.01.2010 to 20.12.2019)</i>	<i>6</i>	<i>11990*6=71940</i>	<i>71940=00</i>	
12	<i>K R Creations</i>	<i>Drinking, Domestic or green and tanker supply</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	
13	<i>Zargar Handicraft</i>	<i>Drinking, Domestic or green belt development or plantation</i>	<i>Not Available</i>	<i>Not Available</i>	<i>Not Available</i>	<i>50000=00</i>	

14	Vishal Mart Timber	Drinking, Domestic or green belt development or plantation	Not Available	Not Available	Not Available	50000=00	
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192. CGWB also sent letter dated 13.07.2020 to District Collector, Jodhpur for realization of environmental compensation determined against 14 units and submit action taken report to Tribunal.

Affidavit cum compliance Report sworn on 29.07.2020 filed by Regional Officer, RSPCB pursuant to Tribunal's order dated 16.03.2020:

193. It is said that the list of 14 units out of 58 falling in White Category or engaged in non-industrial activity was furnished to District Collector as well as CGWA. 14 units out of 58 were found non-operative/dismantled/closed and these 14 units are:

S N	MIS Unit ID	Name of Industry	Address of industry	Date of inspection	Industry or non industry	Category	Activity/sector cover under unit	Status of unit
1	37487	Shree Lakshi Textiles	MAI Phase II, Basni, Jodhpur	05/03/2020	Industry	Red	Textile	Non-operative
2	4987	Mohnot Stainless Steel	Heavy Industrial Area, Jodhpur	06/03/2020	Industry	Red	S.S. Patta Patti	Under shut down condition (Non-operative)
3	4828	Chemical and Mineral Industries	Light Industrial Area, Jodhpur	06/03/2020	Industry	Orange	Hydrated & Quick Lime	Non-operative
4		Vineet & Co.	MIA Phase I, Basni, Jodhpur	07/03/2020	Industry	Orange	Guar Gum	Non-operative
5	4812	Adarsh Textile	Light Industrial area, Jodhpur	06/03/2020	Industry	Red	Textile	Non-operative (under dismantled stage)
6	57299	Modi Industries	BNPH, Opp. Diesel Shed, Jodhpur	05/03/2020	Industry	Red	Textile	Non-operative (under dismantled stage)
7	31379	Grinding Minerals	HIA, BNPH, Jodhpur	07/03/2020	Industry	Red	Textile	Non-operative
8	63080	Dhariwal Prints	MIA Phase II	06/03/2020	Industry	Red	Packing of finished textile cloth	Non-operative

			Basni, Jodhpur					
9	24131	C K Textile	Mia Phase II Basni, Jodhpur	05/03/2020	Industry	Red	Dismantled the plant and machinery	Non- operative
10	19924	Sorabh Textile	Light Industrial Area, Jodhpur	06/03/2020	Industry	Red	Closed/demol ished the plant and machinery	Non- operative
11		S K Chauhan	SKD, Jodhpur	07/03/2020	Industry	Red	Textile	Non- operative /Dismantl ed
12	64812/ 73073	P S Industries	Salawas Luni, Jodhpur	04/03/2020	Industry	Red	Printing & Washing of cloth	Non- operative
13	31054	Hemant Prints	Tanawada , Luni, Jodhpur	04/03/2020	Industry	Red	Printing of Cloth	Non- operative
14	29172	Universal Dye Stuff	Mia Phase II, Basni, Jodhpur	05/03/2020	Industry	Red	Dye & Dye Intermediate	Non- operative

194. The affidavit further says that show cause notices were issued to remaining 30 units which were found non-complying and after considering reply if any further action would be taken in accordance with law. It is also said that 11 units have not submitted reply to the show cause notices already issued. These 30 units, listed in annexure 3 to the report, are as under:

<i>S N</i>	<i>Name of industry</i>	<i>Address of industry</i>	<i>Category</i>	<i>Date of inspection</i>	<i>Date of SCN issued</i>
1	<i>G K Tobacco Industries</i>	<i>MIA Phase II Basni, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
2	<i>Rajasthan Celluloid industries</i>	<i>MIA Phase II Basni, Jodhpur</i>	<i>Orange</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
3	<i>Mayur Exports</i>	<i>Heavy industrial area Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
4	<i>Dinesh Pouches Pvt. Ltd.</i>	<i>Heavy industrial area, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
5	<i>Amber Enterprises</i>	<i>Heavy industrial area, Jodhpur</i>	<i>Green</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
6	<i>Lalji Handicraft</i>	<i>MIA Phase II,</i>	<i>Green</i>	<i>05/03/2020</i>	<i>12.03.2020</i>

		<i>Basni, Jodhpur</i>			
7	<i>Creative Art & Craft</i>	<i>Ganpati Vihar, Tanawar a Phanta, Jodhpur</i>	<i>Green</i>	<i>04/03/2020</i>	<i>12.03.2020</i>
8	<i>Bhargav industries</i>	<i>MIA Phase II, Basni, Jodhpur</i>	<i>Orange</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
9	<i>Dhoot Dal mills</i>	<i>MIA Phase II, Basni, Jodhpur</i>	<i>Orange</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
10	<i>Bharat Cottage Industries</i>	<i>Sangaria, Jodhpur</i>	<i>Green</i>	<i>04/03/2020</i>	<i>12.03.2020</i>
11	<i>Apex Tubes Pvt Ltd.</i>	<i>Light Industrial Ara, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
12	<i>Qualitech Metal Industries</i>	<i>MIA Phase II, Basni Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
13	<i>Janta Naswar Factory</i>	<i>Industrial area, BNPH, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
14	<i>Usha Processing</i>	<i>MIA Phase II Basnis Jodhpur</i>	<i>Green</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
15	<i>Muse Khan</i>	<i>Tanawad a Salawas, Jodhpur</i>	<i>Red</i>	<i>08/03/2020</i>	<i>12.03.2020</i>
16	<i>Sunder Marbles & Minerals</i>	<i>Industrial Estate, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
17	<i>New Mahesh Tents</i>	<i>Heavy industrial area Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
18	<i>Arawali Engineers</i>	<i>MIA Phase II, Basni, Jodhpur</i>	<i>Green</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
19	<i>Suncity Stels</i>	<i>Basni, Jodhpur</i>	<i>Orange</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
20	<i>Khemchan d Handicraft</i>	<i>Tanawad a, Luni, Jodhpur</i>	<i>Orange</i>	<i>04/03/2020</i>	<i>12.03.2020</i>
21	<i>Chopra Chemicals</i>	<i>MIA Phase II, Basni Jodhpur</i>	<i>Red</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
22	<i>Sharma Industries</i>	<i>MIA Phase</i>	<i>Orange</i>	<i>07/03/2020</i>	<i>12.03.2020</i>

		<i>II, Basni Jodhpur</i>			
23	<i>Somiflex Belting (Somi Conveyor Belting Ltd.)</i>	<i>Sangaria Jodhpur</i>	<i>Orange</i>	<i>04/03/2020</i>	<i>12.03.2020</i>
24	<i>Raj Tex Prints</i>	<i>Gram Dhundha ra, Luni, Jodhpur</i>	<i>Red</i>	<i>07/03/2020</i>	<i>12.03.2020</i>
25	<i>M.R. Industries</i>	<i>Mia Phase II, Basni, Jodhpur</i>	<i>Red</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
26	<i>Diamond Job works</i>	<i>HIA, BNPH, Jodhpur</i>	<i>Red</i>	<i>05/03/2020</i>	<i>12.03.2020</i>
27	<i>Sara Textile</i>	<i>HIA, BNPH, Jodhpur</i>	<i>Red</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
28	<i>S.B. Textile</i>	<i>Heavy industrial area, Jodhpur</i>	<i>Red</i>	<i>06/03/2020</i>	<i>12.03.2020</i>
29	<i>U.S. Agency Pvt. Ltd.</i>	<i>MIA, Phase I Basni Jodhpur</i>	<i>Orange</i>	<i>07/03/2020</i>	<i>08/03/2020</i>
30	<i>Cross Country</i>	<i>Phase-II, Basni, Jodhpur</i>	<i>Orange</i>	<i>04/03/2020</i>	<i>08/03/2020</i>

Orders passed by Tribunal in OA III i.e. OA 329/2015:

195. **Order dated 21.08.2015-** this order was passed while hearing the OA for admission and after notices, grievance of the applicant, notices were issued.

196. **Order dated 08.10.2015-** Applicant raised grievance about flooding of agricultural fields and area in the vicinity of village pond with unregulated flow of sewerage as well as industrial effluents discharged by industrial units at Basni, Tanawara, Salawas and Sangaria in District Jodhpur exposing village as well as river Jojari to massive pollution. Counsel for RSPCB stated that unauthorized industrial units mainly textile have mushroomed and release of effluents by them is the cause. Tribunal directed RSPCB to take appropriate action against such units

expeditiously and close them as early as possible. It also directed District Collector Jodhpur and Barmer to take action for removal of industries causing pollution in agricultural fields.

197. **Order dated 03.12.2015-** Tribunal noticed grievance of applicant about discharge of untreated sewage from Jodhpur city into river Jojari causing pollution. Further that regular discharge was 160 MLD of sewage in Jodhpur while treatment capacity was only 70 MLD. Tribunal found that JDA and JNN were prime facie responsible for construction or maintenance of STP but not impleaded. Hence they were directed to impleaded as respondents 8 and 9 and notices were issued to them.

198. **Order dated 07.04.2016-** Tribunal found gross apathy and negligence on the part of authorities and lack of response which was not appreciated and thereafter authorities were permitted time to submit their stand.

199. **Order dated 26.04.2016-** Reiterating observations regarding continuous violations of the part of the authorities, Tribunal issued bailable warrants to District Collector Jodhpur and also sought presence of Member Secretary RSPCB. On behalf of District Magistrate Barmer, Additional District Magistrate appeared and placed record. He was directed to come again on the next date.

200. **Order dated 22.07.2016-** Affidavit of District Magistrate was considered and finding lack of details therein, Tribunal said:

*“...we have also perused the affidavit filed by the District Collector, Jodhpur, and on perusal of the same we are unable to gather as to what are the total number of units illegally operating and releasing industrial effluent into agricultural fields and in Jhojari river. In **different paragraphs of the affidavit, different figures in respect of industrial units has been given and the annexures filed along with it gives totally different figures.** As a matter of fact, no specific action has been taken by the District Collector,*

Jodhpur in compliance of the direction passed by this Tribunal. The so-called action taken as reflected from the reply is that some notices were issued under different laws by different authorities like the Tehsildar, etc. However, one thing is very clear from the affidavit that there are industrial units which are being run illegally and they are releasing industrial effluents without any proper treatment, since quite sometime. As pointed out by the officer before us, for a period of 4 years.

Therefore, we have to issue directions, once again, to the District Collector, Jodhpur to take immediate steps and comply the following directions:

- 1. A complete and comprehensive survey should be done about the industrials units illegally operating in Jodhpur District?*
- 2. The date since when these units have been functioning?*
- 3. Who are the owners of these units?*
- 4. What are the products or items being manufactured by these units?*
- 5. What effluents they are releasing and where?*
- 6. The source of water being used by these units?*
- 7. Whether the units are connected to CETP by a conduit pipe or not?*
- 8. After passing of the earlier directions of the Tribunal, how many units have been actually closed down.*
- 9. How is the sludge being disposed of?"*

201. RSPCB informed of closure of 83 + 38 units but it was not shown as to what further steps were taken for penalizing them for past violations for which time was granted to furnish details.

202. **Order dated 03.10.2016-** Tribunal considered response of various authorities. Collector Jodhpur informed that out of 290 units, 190 have been closed. 15 units found running, did not have either consent to operate or connected with CETP. 12 running units were not connected to CETP but discharging effluents in RIICO drain. Collector Jodhpur was directed to take appropriate steps for closure of such units. 177 units were issued notices proposing environmental compensation where against 64 units had paid the same. RSPCB also informed that remaining 55 units will be examined and if found liable to pay compensation, action would be taken. District Collector Jodhpur was required to inform about steps taken for removal of sludge and submit report.

203. By **order dated 24.01.2017**, CPCB was directed to be impleaded and notice was issued to it.

204. Several orders thereafter were passed from time to time but we find it appropriate to refer to order dated 23.11.2020 wherein earlier proceedings were also referred to and thereafter matter was considered on merit and Tribunal constituted a Monitoring Committee headed by Justice Prakash Chandra Tatia, former Chief Justice of Jharkhand High Court, presently stationed at Jodhpur as was done by orders dated 07.04.2020 passed in OA I and II. The relevant extract of the order dated 23.11.2020 passed in OA III is reproduced as under:

“3. The matter has been considered earlier in the last five years on several occasions, in the light of the material placed on record in response to orders passed from time to time. The orders passed inter-alia are dated 07.04.2016, 22.07.2016, 24.01.2017, 30.01.2018, 16.03.2018, 30.05.2018, 30.08.2018, 23.10.2018, 16.11.2018, 22.04.2019, 10.05.2019, 17.5.2019, 2.9.2019, 16.10.2019 and 24.2.2020. It is not necessary to refer to all the said orders but reference is required to some of the orders for dealing with the issue.

4. Vide order dated 23.10.2018, an Expert Committee comprising Dr. Ajit Pratap Singh, Professor, BITS, Pilani, Dr. Akhilendra Gupta, Professor, MNIT, Jaipur and Dr. A.B. Akolkar, former Member Secretary, CPCB was appointed to visit the site and to submit an independent factual status report, particularly about functioning of CETP and treatment of effluents by the industrial units.

5. The Committee visited the site on 01.11.2018 and carried out sample inspection of certain textile and other industries mentioned in the report. The Committee examined the environmental status in the RIICO Industrial Area, quality of water in RIICO Drain, functioning of CETP, STPs, water quality of River Jajori and of Kayalana Lake. The Committee found absence of individual pre-treatment plants (PETPs) in many units for treatment of effluent before it is carried to the common effluent treatment plant (CETP). The Committee also found functioning of industrial units, including those handling of hazardous waste, without requisite statutory consents. Further, it was found that CETP and STPs were not meeting the standards. Drains were not duly maintained. The regulatory authorities were not taking action for compliance of law. The Committee found contamination of water which necessitated steps to supply drinking water to the affected villages. It suggested as follows:-

“7.1 Two units

i) The two industries namely M/s Universal Dye Stuff and M/s Dauxil Product which were found to be closed should remain closed. These units should have pre/ primary effluent treatment plant (PETP)

before letting out their effluent into drain or pipeline reaching to CETP. Both the units should comply with PETP standards.

- ii) RSPCB should grant consent under Water and Air Act and authorization for handling hazardous waste and then to permit for operation. The conditions of CPCB like installation of on-line devices should be initiated and connected with server of CPCB.**

7.2 Industries with PETPs

- i) All the Steel industries generating effluents should set up PETP within 90 days and only treated effluent should be disposed into pipeline leading to CETP. Industry may be given with option that:**

- a) They should be closed immediately till they set up PETP/or**
b) Pay up compensation @ Rs. 25000/- per day till they set up PETP but not exceeding 90 days.

- ii) Steel industries should comply with PETP norms.**

- iii) The Textile/Dye-stuff or other effluent generating industries should have PETP and should not be permitted to operate till they set-up and comply with PETP norms. Such units should pay compensation charges @ Rs. 25000/- per day or close immediately.**

7.3 PETP Standards

- i) As per Notification of MoEF & CC dated 01.01.2016, SPCBs are required to notify PETP standards for required treatment design of CETP. Since, the CETP has been in existence prior to the notification (01.01.2016), the State Board has prescribed general standards as PETP standards which can be followed by the all industrial units as PETP standards:*

Parameter	Steel	Textile and Others
pH	5.5-8.5	6.5-8.5
Oil & Grease	20 mg/ 1	20 mg/ 1
Phenolic Compounds	5.0 mg/ 1	5.0 mg/ 1
Ammonical Nitrogen	50mg/ 1	50 mg/ 1
Cynide	2.0 mg/ 1	2.0 mg/ 1
Chromium hexavalent	2.0 mg/ 1	2.0 mg/ 1
Chromium (total)	2.0 mg/ 1	2.0 mg/ 1
Copper	3.0 mg/ 1	3.0 mg/ 1
Lead	1.0 mg/ 1	1.0 mg/ 1
Nickel	3.0 mg/ 1	3.0 mg/ 1
Zinc	15 mg/ 1	15 mg/ 1
Arsenic	0.2 mg/ 1	0.2 mg/ 1
Mercury	0.01 mg/ 1	0.01 mg/ 1
Cadmium	1.0 mg/ 1	1.0 mg/ 1
Selenium	0.05 mg/ 1	0.05 mg/ 1
Fluoride	15 mg/ 1	15 mg/ 1
Boron	2.0 mg/ 1	2.0 mg/ 1

Total Suspended	600 mg/ l	600 mg/ l
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{Explanation to the suggested PETP Standards.}

It has been observed that PETP standards were already in existence notified by MoEF & CC in the year 1995 at SI.no. 55. It can be considered that the concentrations suggested for each parameter mentioned above are the optimum level which can be treated in CETP.

7.4 CETP – JPNT

- i) Should comply with standards prescribed and not to dispose effluents to river. Treated effluent should be reused by the Member industries or may be utilized for irrigation with proper irrigation management plan.**
- ii) Hazardous waste should be disposed as per rules and with due Authorization.**
- iii) CETP should have onsite and offsite disaster management plan.**
- iv) HDPE pipeline should be audited for hazard prevention with safety. Routine checks should done by duly accredited agency. The pipeline route should be marked and well displayed for public and maintenance purpose.**

7.5 Action for RIICO RSPCB

- i) RIICO should periodically remove sludge and waste.**
- ii) Drains should be repaired (by RIICO).**
- iii) Burning of waste should be stopped (by RIICO).**
- iv) No further new industries, particularly which generate trade effluents, should be allowed by RSPCB till existing industries meet the prescribed effluent standards.**
- v) Industries should have information board with necessary information displaying both in Hindi and English outside their main gate (RSPCB).**
- vi) All the valid consents given by the RSPCB should be displayed at RSPCB website.**
- vii) District Magistrate shall ensure closing of Units with RSPCB immediately or recover compensation @ Rs. 25000 per day but not exceeding 90 days and thereafter close till they set-up PETP and meet the standards.**
- viii) With JPNT, RSPCB should ensure proper sludge collection on door-to-door basis from each of the industry.**

7.6 All Three STPs should meet prescribed standards for fecal coliform and treated water should be utilized for irrigation. (Jodhpur Sewage Board).

7.7 Kalyanur village and other villages should be provided and covered for potable water supply. Necessary clearance to the proposal of Araba Gram Panchayat be examined and granted.

7.8 Irrigation and flood control Department should examine for releasing water from upper stretches of river Jojri and Luni for maintenance of low. This, however, should be done only after ensuring proper treatment of sewage and industrial effluent.

8. Execution and Monitoring of Action Plan

i) District Magistrate under convener of RO, RSPCB shall monitor execution of Action Plan on a weekly basis.

ii) Secretary Environment of State will monitor progress on monthly basis with Member Secretary of RSPCB and concerned Department and will file bi-monthly report of compliance.”

6. The Tribunal considered the matter vide order dated 16.11.2018 and sought the response of the State. Accordingly, the Secretary, Environment, Rajasthan filed response as follows:-

“

a) Two Units:-

1. *M/s. Universal Dye Stuff:- The Central Pollution control Board vide letter dated 25.10.2018 issued directions under section 5 of the Environment (Protection) Act, 1986 and the unit shall remain close till the compliance is achieved and verified by CPCB. The Regional Officer, Jodhpur has verified that the unit is no- operational*
2. *M/s. Dauxil Product:- The Central Pollution control Board vide letter dated 25.10.2018 issued directions under section 5 of the Environment (Protection) Act, 1986 and the unit shall remain closed till the compliance is achieved and verified by CPCB. The Regional Officer, Jodhpur has verified that the unit is no- operational*

b) Industries with PETPs:-

- (i) *Out of the total 94 steel industries (JPNT Member) 86 units have installed PETP, remaining 7 units were found non-operational during the inspection, and the JPNT has cancelled the membership of 1 unit.*
- (ii) *Out of the total 312 Textile industries (JPNT Member) 273 units have installed PETP, remaining 37 units were found non-operational during the inspection, and the JPNT has cancelled the membership of 2 units.*
- (iii) *Out of the total 13 other units industries (JPNT Member) 4 units have installed PETP, remaining 72 units were found non-operational during the inspection, and the JPNT has cancelled the membership of 9 units including non-operational units.*

*Photo copy of the list of 363 units who have installed PETP, 44 units which were found closed during the inspection and 12 units who have converted to non-polluting industries and their membership have been cancelled by the JPNT, are annexed herewith and marked as **Annexure R/3 (collectively)**.*

c) PETP Standards:-

*As per Notification of MoEF & CC dated 01.01.2016 and in compliance of the directions passed by this Hon'ble Tribunal. The Rajasthan State Pollution Control Board has adopted the PETP standards vide office order dated 11.03.2019. The photocopy of the office order dated 11.03.2019 is annexed herewith marked as **Annexure R/4**.*

d) CETP-JPNT

The CETP vide letter date 08.03.2019 has submitted the detailed compliance report in response to NGT Order dated 16.11.2018 and in response to the queries raised in the meeting dated 20.11.2018, 13.12.2018 and 24.01.2019. The photo copy of the letter dated 08.03.2019 along with compliance report of the CETP Trust is annexed herewith and marked as **Annexure R/5 (Collectively)**.

e) Action for RIICO and RSPCB:-

The State Board will file the detailed compliance report.

f) Steps:-

Municipal Corporation, Jodhpur has submitted the compliance report of this Hon'ble Tribunal order dated 16.11.2018 through letter dated 20.12.2018. The photo copy of the compliance report dated 20.12.2018 is annexed herewith and marked as **Annexure R/6**.

g) Potable water supply for villages:-

The PHED is providing drinking water to the affected villages. The photo copy of the PHED, City Circle, Jodhpur letter dated 05/12/2018 is annexed herewith and marked as **Annexure R/7**.

h) Release of water from upper stretches of river Jojri:-

In compliance of the directions passed by this Hon'ble Tribunal a meeting was convened under the Chairmanship of District Collector, Jodhpur on 11.02.2019. In the meeting it was informed by the officials of the concerned department that there is no excess water available in Kaylana Lake which can be released in river Luni so as to maintain e-flow of the river. The photo copy of the minutes of the meeting dated 11.02.2019 is annexed herewith and marked as **Annexure- R/8**.

i) Weekly progress report:-

In compliance of the directions passed by this Hon'ble Tribunal, the District Collector, Jodhpur and Regional Officer, RSPCB, Jodhpur has reviewed the weekly progress of the directions passed by this Hon'ble Tribunal. The photo copy of the weekly progress reports are annexed herewith and marked as **Annexure R/9 (Collectively)**.”

7. The matter was thereafter reviewed on 17.05.2019. It was found that malfunctioning of CETP had not been remedied. Discharge of untreated effluents was continuing, resulting in diseases in the area. In such unsatisfactory situation, the Tribunal directed the DGP, Rajasthan to constitute a Special Task Force (STF) to check such activities 24×7 to be headed by an officer of the rank of Additional SP. The STF was to keep vigil over illegal discharge of industrial effluents and take appropriate legal action. System of receiving complaints from public in respect of such discharge through mobile was to be introduced so that the special task force could come into action. The Tribunal was to consider the factual and action taken reports.

8. Further order dated 02.08.2019 was passed after considering the report submitted by the STF. The Tribunal directed remedial action, including action against illegal extraction of ground water.

9. Last order to which reference may be made is the order dated 24.02.2020. By the said order, the Tribunal considered the report of the CPCB, showing that there was serious violations of parameters and it was necessary to stop discharge at various locations. The Tribunal noted the report of the CGWA that 58 units were illegally extracting water which were sealed and the PCB had failed to take necessary action. The Tribunal directed the statutory authorities to take remedial action and to file compliance report.

10. We have heard the learned Counsel for the parties present. At the outset, learned Counsel for the State PCB pointed out that I.A. Nos. 532/2019 and 660/2019 have been filed by the State PCB for modification of orders dated 17.05.2019 and 02.08.2019 and that the State PCB filed CA No. 3525-3528 of 2020, Rajasthan State Pollution Control Board & Ors. v. Gram Panchayat, ARABA before the Hon'ble Supreme Court. The Hon'ble Supreme Court, vide order dated 27.10.2020, directed that the applications should be decided at the earliest preferably within six weeks.

11. Accordingly, while reviewing the matter and passing further order, we have taken up the said applications for consideration. We have heard learned Counsel for the State PCB in support of the said applications.

12. The applications state that in a meeting held on 01.05.2019 under the Chairmanship of Chief Secretary, Jaipur, there were deliberations on the dimensions and spread of pollution problem in Jodhpur due to illegal discharge of industrial and domestic effluents discharged into the river Jojari and following decisions were taken:-

- “
- a) District Collector, Jodhpur will constitute a committee of the concerned departments and will take action against the illegal water polluting industries being operated on agriculture/revenue area and residential areas including action under provisions of Rajasthan Tenancy Act, Rajasthan Land Revenue Act and Agriculture land Allotments rules,
 - b) JVNL will disconnect the electric supply of all the illegal units on the recommendation of the District Collector, Jodhpur.
 - c) If required, District Collector, Jodhpur may also dismantle the recalcitrant industries which operate even after disconnection of the electricity by M/s JVVNL.
 - d) All the departments including S.P. Jodhpur will provide all logistic support to implement the aforesaid directions.
 - e) Vigilance squads including police personnel will be constituted by District Collector, Jodhpur which will keep a vigil on the illegal discharging of the effluent/ solid waste being disposed into river or at other unauthorized places. Deterrent action will be taken by concerned departments against the violators found during the patrolling
 - f) Deterrent action will be taken by concerned departments against the violators found during the patrolling.”

13. Thereafter, Committees were constituted comprising Commissioner, Jodhpur Development Authority; Police Commissioner, Jodhpur (West); Superintendent Engineer, Jodhpur Vidyut Vitran Nigam Limited; Regional Manager, RIICO, Basni/Boranada, Sub-Divisional Officer, Jodhpur; Regional Officer, RSPCB and Tehsildar, Jodhpur for taking further action. Directions were issued under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 by the State PCB to the District Collector, Jodhpur, Commissioner, Jodhpur, the Development Authority and the Municipal Commissioner, Jodhpur. Accordingly, further action was taken and number of industries were dismantled with the assistance of the police authorities. The actions taken are as follows:-

“a) Vide office order dated 25.06.2019 a permanent full fledged Environment Compensation Cell (ECC) has been constituted at RSPCB Headquarter, Jaipur headed by a Senior Environmental Engineer. Further vide office order dated 25.06.2019, the applicant State Board constituted an Environmental Compensation Committee' to assess the Environmental Compensation to be imposed on defaulting industries/ individuals and recommend it to the Chairperson for final approval. The photo copy of the office orders dated 25.06.2019 are annexed herewith and marked as Annexure-I.A. /11 (Coll.). The Environment Compensation Cell is fully functional since the date of its constitution i.e. 25.6.2019. **The applicant State Board has imposed Environment Compensation of Rs. 8.5 Crores over 387 defaulting industries of Rajasthan in 3 meetings of ECC held so far, out of which 237 industries are from Jodhpur district and on CETP Jodhpur also.** The photo copy of the details of environment compensation is annexed herewith and marked as Annexure-I.A./12.

b) That the applicant State Board vide office order dated 11.07.2019 constituted a committee of Officers from the RSPCB Headquarters to conduct inspection/ sampling of CETP, Jodhpur on fortnightly basis and also to conduct surprise inspections. The photo copy of the office order dated 11.07.2019 along with CETP, Jodhpur inspection reports are annexed herewith and marked as Annexure I.A./13 (Coll.).

Similarly, vide office orders dated 18.07.2019, the State Board has also constituted similar teams for inspection and sampling every fortnight, of the other major CETP's in the state i.e. the CETP at Bhiwadi, Pali, Sanganer (Jaipur) and Balotra, BithujaJasol. The photo copy of the office orders dated 18.07.2019 along with inspection reports of CETP's are annexed herewith and marked as Annexure. I.A./14 (Coll.).

c) That an ENVIRONMENT VIGILANCE AND POLLUTION CONTROL CELL (EVPC) at RSPCB headquarter, Jaipur has been constituted by the applicant State Board vide office order dated 18.07.2019 in order to keep a strict vigil over the industries causing pollution from the headquarter and a Senior Environmental Engineer has been made its In charge. Further, 6 dedicated POLLUTION CONTROL AND VIGILANCE SQUADS (PCVS)' (mobile patrolling units) have been made operational for round the clock surveillance and

carrying out inspections/checking/ monitoring/sampling in the 5 industrial clusters/ districts of Rajasthan where the pollution problem is grave, i.e at Jodhpur, Balotra, Pali Bhiwadi, and one at the RSPCB Headquarter, Jaipur. The photo copy of the office orders dated 18.07.2019, 22.07.2019, 31.07.2019 are annexed herewith and marked as Annexure-I.A./ 15 (Coll.).

- d) That the Pollution Control and Vigilance Squads set up and made functional are mobile patrolling vehicles which are GPS tagged and their movement can be tracked on the software. Dedicated helpline numbers have been put in place for all five Pollution Control Vigilance Squads for the public to register complaints. The patrolling squads are functional since the date of their constitution and within a short span of one month, the vigilance squads have inspected over 214 industries at various places and actions have been initiated against non-complying industries. The details of the inspection carried out by the vigilance squads are annexed herewith and marked as Annexure-1.A./ 165 (Coll.).
- e) **That one of the biggest shortcoming of the applicant State Board in effective functioning till now has been the shortage or man power, as it is not proportionate with the increased number of industries in the recent times. In this regard, the state government has sanctioned 146 posts of various levels of officers by its order dated 29.07.2019 This would strengthen the functioning of State Board including patrolling, monitoring and inspections, once these officers are recruited. The process of recruitment to these newly created posts has been initiated already.** The photo copy of the Government letter dated 29.07.2019 is annexed herewith and marked as Annexure-1.A./ 17.
- f) That the applicant State Board has strengthened the monitoring of the CETPs through the Online Continuous Emission Monitoring System (OCEMS) with the master server installed at R\$PCB Headquarter, Jaipur. Out of the 17 CETP's of the state (including the CETP at Jodhpur) 13 are connected to the said server and data of the flow of effluent of 10 CETP's is being received round the clock. Recently the CETP Trusts were called for an OBH in the RSPCB headquarters and categorically told and given directions u/s 33A of the Water Act 8 31 A of the Air Act to ensure the supply of uninterrupted and non-tampered data to the RSPCB Server failing which the board will take action against them. The photo copy of the directions dated 0 1.08.2019 is annexed herewith and marked as Annexure-I.A./ 18.
- g) That the applicant state board, sent several surprise inspection teams from the R\$PCB headquarters to Jodhpur to inspect and take samples from the industries, and imposed environmental compensations for the sample results which failed to meet the prescribed parameters for trade effluents.
- h) That the applicant state board conducted workshop cum training of all the ETP owners and operators in Jodhpur. Pali, Balotara, to train them and ensure that the ETPs are operated in a technically correct manner. The photo copy to the office order

dated 24.07.2019 along with some of the photographs of the said trainings are annexed herewith and marked as Annexure-I.A./19 (Coll.).

- i) **That the applicant state board has issued directions to the Regional Manager, RIICO, for taking action against the industries discharging untreated effluent in the RIICO Drain.** The photo copy of the directions dated 27.04.2019 is annexed herewith and marked as Annexure-I.A./20.
- j) **That the applicant state board has issued directions to the District Collector, Jodhpur for ensuring that no industry operates from the agriculture fields/ residential areas and further that the agriculture lands are not used for any industrial process leading to discharge of untreated effluents in the river jojari.** The photo copy to the directions dated 07.05.2019 is annexed herewith and marked as Annexure-MA/21.”

In view of the above, it is stated that there is no need of parallel institutions to perform the same functions.

14. I.A. No. 660/2019 is for amendment of the prayer in I.A. No. 532/2019 that the role assigned to the STF be performed by the Pollution Control Vigilance Squads and Inter-Departmental Monitoring Committee constituted by the Collector and police support may be given, if required.

15. We have also perused the affidavit filed today by the State PCB on the subject of inspection of 58 units engaged in illegal extraction of ground water stating as follows :-

- “A) List of 14 units out of the total 58 units, which are falling under white category or were engaged in non-industrial activity, has been sent to the District Collector and CGWA vide letters dated 14.03.2020 and 01.07.2020. The photo copy of the letters dated 14.03.2020 and 01.07.2020 along with list of 14 units is annexed herewith and marked as Annexure-1 (Collectively).
- B) 14 units out of total 58 units were found non-operative/dismantled/closed. The photo copy of list of 14 which are non-operative/dismantled/closed is annexed herewith and marked as Annexure-2.
- C) Show cause notices have been issued to remaining 30 units which were found non-compliant out of the total 58 units. Out of the total 30 units 19 units have submitted their reply to the show cause notice and after verification of reply further action will be taken accordingly. Remaining 11 units have not submitted reply to the show cause notice; therefore, further action against all such units will be taken in accordance with law. The photo copy of list of 30 units to whom show cause notices have been issued is annexed herewith and marked as Annexure-3.”

16. We also refer to other interim/misc. applications which are said to be pending. I.A. 719/2019 has been filed by Nadeem Khan son of Shri Raj Mohammad Sharif, Jodhpur, being for de-sealing of the plot

which is given on rent for printing business. I.A. No. 720/2019 has been filed by Abdul Jabbar, Mohammad Ali, Mohammad Farukh and Mohammad Sajid with similar prayer stating that they were not discharging any effluents and the units have been wrongly sealed. M.A. No. 283/2018 has been filed for waiver of cost of Rs. 10 Lacs in terms of order dated 30.01.2018 and M.A. No. 1389/2018 has been filed for impleading Jodhpur Pradushan Nivaran Trust (JPNT) which is operating the CETP, which has been opposed by the said JPNT.

17. We now proceed to deal with the issue on merits as well as all pending applications.

18. From the resume of proceedings noted above and from the averments in IA 532/2019, filed by the State PCB quoted earlier, it is undisputed that the problem is serious and remedial action taken is hardly adequate. Serious damage to the environment has taken place which is continuing in violation of basic right to clean environment. Specious plea of the State that it does not have staff is self-confessed failure of governance and Constitutional responsibility of the State. If after 56 years of enactment of Water Act, prohibiting discharge of effluent or sewage in water bodies, which is criminal offence with minimum prescribed sentence, gross violations are continuing, there is undoubted failure of the State for which lack of staff can be no excuse.

19. It is true that the statutory functions are to be discharged by the statutory authorities but if they fail to do so, the Tribunal can certainly make them accountable and set up a credible monitoring mechanism as held in *State of Meghalaya vs All Dima Hasao Students Union*, (2019) 8 SCC 177, paras 157-166. However, we do find that the STF earlier constituted may not be the solution. It is the statutory mechanism which must be made accountable and required to perform its duties. The State PCB has not filed any updated status report and perhaps it was assumed that after setting up of STF, the PCB was not to perform its functions. The unsatisfactory state of affairs needs to be urgently remedied by stopping polluting activities, taking coercive measures against the erring entities and taking appropriate restorations steps, including supply of drinking water to the affected victims on account of contamination of groundwater by pollution and remediation of the river stretch.

20. Accordingly, we modify the mechanism earlier set up by way of STF and direct the statutory authorities to perform their functions of ensuring compliance of environmental laws by preventing polluting activities, taking coercive steps against the polluters, including prompt assessment and recovery of compensation, as per law and necessary restoration measures. Meaningful enforcement of law for protection of right to clean environment, which is right to life, is the undoubted Constitutional mandate. Pressing need is to take stock of the ground situation, prepare an action plan and execute the same. This requires coordinated efforts and effective monitoring. For this purpose, we direct constitution of a five-member monitoring Committee to be headed by Justice Prakash Chandra Tatia, former Chief Justice of Jharkhand, (also former Chairperson AFT and Rajasthan Human Right Commission) stationed at Jodhpur, with representatives of CPCB, State PCB and District Magistrates, Jodhpur and Barmer. The Committee will be at liberty to associate any other independent Expert

or Institution. The Committee may meet within one month to take stock of the situation, including the compliance of the order of the Tribunal dated 16.11.2018 in terms of the action plan suggested by the earlier Committee. It may prepare a further comprehensive time bound plan to remedy the situation at the earliest, preferably within six months. Any aggrieved party can give suggestions or place their grievances before the Committee through the State PCB or the District Magistrate. The Committee may have public consultation particularly through the concerned Panchayats for the surviving grievances, including the supply of drinking water. The Committee may also identify and assess the damage to the agriculture or otherwise. The Committee may consider whether it is possible to augment the water flow of the Jajari River by getting water from any other source, in the manner suggested by the earlier Committee or otherwise. The State PCB will be the nodal agency for compliance and coordination. The District Magistrates may facilitate the functioning of the Committee by providing logistics and such other facilities as may be necessary. The Chairman will be entitled to such honorarium/ remuneration as may be determined by the Chief Secretary, Rajasthan in consultation with him. This will be payable out of the consent funds of the State PCB. The prosecution initiated may be dealt with as per law. The Committee may give its report to this Tribunal mentioning the steps taken and status as on 31.03.2021 with recommendations for future course of action, before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. Simultaneously, with the giving of the report to this Tribunal, a copy of the report be furnished to the Chief Secretary, Rajasthan for appropriate action and response, if any.”

205. Since Monitoring committee constituted in all the three matters was common, it submitted a common report initially an interim report dated 20.04.2021 and later final report dated 22.07.2021. Monitoring Committee identified common issues in all the three matters.

Interim report dated 20.04.2021 filed by Monitoring Committee pursuant to Tribunal’s order dated 23.11.2020 and 07.12.2020:

206. Common interim report dated 20.04.2021 filed by Monitoring Committee pursuant to Tribunal’s order dated 23.11.2020, 07.12.2020 and another order of the same date 07.12.2020 filed along with RSPCB letter dated 22.04.2021. The above Committee identified common issues involved in OA I, II, and III, as under:

- “(1) the effluents generated by the textile Industries of Jodhpur, Pali, Balotra, Jasol, and Bithuja,*
- (2) the effluents generated by the steel Industries at Jodhpur,*
- (3) sewage from Jodhpur, Pali, Balotra,*

- (4) industries are of similar type; textile industries exist at all three places along with steel industries at Jodhpur. Also, CETP at Jodhpur is common for both industries,
- (5) industrial and sewage, all falling in rivers/tributaries Jojari, Bandi and Luni and ultimately effluents are being discharged directly or indirectly into the Luni river,
- (6) affecting three adjacent areas are; Jodhpur, Pali and of Barmer District.
- (7) The preventive measures are the same for all polluters of these three areas.”

207. Committee suggested following steps to be taken by respective departments:

- “1. **Gandhipura, Balotra industries resettlement may be considered by the Hon’ble NGT, if Hon’ble NGT finds it appropriate.**
2. **Immediate efforts are to made to use the full utilisation capacity of those CETPs which are underutilised currently.**
3. *Till the existing system continues, effluents at the outlet of factory premises are kept within prescribed limits (in terms of both quantity and quality) through strict checks by the respective Trusts and inspection by the RSPCB. Also, installation of SCADA meters (with auto cut arrangement at consented discharge) in all CETP member units in Jodhpur, Pali & Balotra to be ensured within next three months.*
4. *Effluents at the outlet of CETP premises be kept within prescribed limits by strict checking by the respective Trusts and inspection by the RSPCB.*
5. **Treated water at CETP shall not be allowed to mix effluents with any untreated or treated sewage.** CETPs shall not be allowed to mix their treated effluents in any storm water drain of, and municipal drains. Duty is of the respective CETP Trust, authorities and Municipal Bodies.
6. *and Municipal Bodies should have strict supervision of their respective all drains and manholes and shall not allow any industrial effluents and sewage in their drains and manholes. If this is violated by the trust or industrialists, a complaint be filed in court U/S 133 Cr.P.C. and before the concerned RSPCB.*
7. *If or local body is mixing storm or sewage, as the case may be, in CETP’s treated effluents, the CETP Trust shall file a complaint to RSPCB who shall take action against the erring officer.*
8. *Points No. 1 to 7 shall apply mutatis mutandis to STPs and Municipal Body managing the STPs and **in STP plants, where chlorination treatment is not provided to the effluents the Municipal Corporations should install Chlorination plants immediately.***

9. SPCB shall have the responsibility to check all defaults, referred above, irrespective of the initial responsibility of any individual or body.
10. The Policy of Zero Liquid Discharge (ZLD) is for all. Therefore, all the stakeholders, including municipal bodies should be asked to furnish written undertaking by what time they will fully obey this policy and they be directed not to discharge untreated, chemical or dyes or any effluents mixed water in any river so as to take other and others effluents to hundreds of kilometers.
11. **R.O., RSPCB of the area shall furnish details of all end points/check points of their area where, at the end effluents enters public properties. All such critical locations/spots where effluents are being discharged into the river should be identified and the list be submitted on or before May 7, 2021. From these points samples to be taken every month and at any time as surprise check which may substantially prove that the public and aggrieved persons got or situation is improving. Therefore, the R.O., RSPCB, after identifying the spots, shall take samples every month and shall conduct random surprise check and take samples and shall keep record readily available for inspections of RSPCB's higher authorities. R.O., RSPCB shall produce monthly inspection reports before this or any Committee as per direction of NGT. Also, the respective R.O., RSPCB should develop a mechanism to upload the test results of the samples which are collected at these critical points on regular basis at the RSPCB website without any delay so that they are available to public. The monitoring and sharing of test results shall continue till this direction is modified.**
12. **R.O., RSPCB of the area shall take stern action against industry which found discharging effluents in any public drain, RIICO drain, or in any public place or in river etc.**
13. **The municipal bodies, who were directed to submit any better planning for better sewage management, uninfluenced by financial requirements have not come out with any proposal even after three months, may now submit plan if they have any.**
14. **There are two sets of industrial areas in Rajasthan, one developed by the and another as earmarked in the Master Plan for the city. In our opinion, both are "industrial use confirming area". The state government should take a policy decision to demarcate areas earmarked for "non-polluting industries" and "polluting industries". (we came to know that in non- area, several industries have been given 'Consent to Establish' and 'Consent to Operate' textile and Steel industries and they are running for the last decades). By separate and earmarked areas for polluting industries, the effluents management will be better and shall be less expansive for the state, local administration and shall be under better control of RSPCB. It is essential, otherwise, a large number of polluting industries with Consent orders from RSPCB would be under impression that the land holder/ owner has Pattas for industrial land,**

duly issued by the state government or by authorised body of the state.

15. Provisions of Sec. 133 Cr. P.C. is not in use for immediate removal of public nuisance from public places when effluents are continuously running. Local administration should use this provision in congested areas also so that polluters (both small and large pollutant sources) can be prevented to cause pollution in public places.
16. Hon'ble NGT, if thinks appropriate to consider may consider, whether, CETP may be considered as extended part of the industry's premises? The industry is taking effluents to the CETP, in conduit pipes, if without exposing the effluents to public, public places like, public drain or river or exposing effluents to environment. Effluents generation is not prohibited. Prohibition is against it's discharge out of industries premises without treatment. Therefore, the processing at CETP is a process which, due to practical purpose cannot be completed within industries premises. Therefore, a place has been taken by the industries and provided by the government or local body is solely used for the only process which cannot be completed within industry premises. Whether, in these circumstances, CETP may be an extended premise of industry. It appears from the judgment of the Hon'ble Supreme Court delivered in the case of Paryavaran Suraksha Samiti this issue was not considered as it was not raised. The issue has other aspects therefore, views of industries and pollution control Board will be relevant.
17. All government departments, specifically, Industries department, Revenue department, PHED, Electricity Companies, SPCB, , Local Bodies, local administration shall continue to discharge all their legal duties during all times uninfluenced by the monitoring by the Committee as the Committee is to supplement the work to prevent pollution and the Committee's working is not in supersession of anyone's statutory functions."

Common final Report dated 22.07.2021 by Monitoring Committee:

208. Monitoring Committee said that interim report dated 20.04.2021 as well as final report dated 22.07.2021 be taken as final report in the matters. It summarized Progress Reports in respect of steps taken by authorities.

209. Progress and Implementation Report received from Regional Officer, Jodhpur, Pali and Balotra was stated as under:

"(A) Progress and implementation Report by R.O. Jodhpur

1. Common Effluent Treatment Plant (CETP) is not achieving the prescribed norms of effluent discharge and Monitoring, Operation & Maintenance (O & M) of the plant requires further improvement. Further, the revamping work of CETP was initiated long back but the pace of work was very slow, and it has not been completed for long. Therefore, a review meeting was conducted with the Management of Jodhpur Pradushan Nivaran Trust (JPNT) on dated 24-12-2020 at the level of Regional Officer. During the meeting, the status of the Operation, Maintenance, and revamping works of CETP was reviewed for further expedition. To monitor the status of effluent discharge from member units and effluent being received at CETP, the SCADA system is an essential tool because with help of this system the discharge from member units may easily be monitored at the server of CETP or by State Board if connected with the server of State Board.

2. During the meeting it was noticed that out of 378 member units, the data of only 213 units was fetched by the SCADA server at CETP and the SCADA was not connected with the server of the State Board and therefore, status of discharge from the remaining unit was not under the surveillance of JPNT. Further, looking at the status of effluent discharge into river Jojari through RIICO drain possibility of excess/illegal discharge from member units could not be denied. Further, the progress of revamping works was also observed to be very slow. **The Management Trustee of CETP was directed to complete both works in a time-bound manner. (Minutes of Meeting attached). Due to this, the trust has started updating of SCADA and the pace of revamping works was increased for the early expedition.**

3. The CETP was not disposing of the Hazardous sludge as per prescribed norms and the sludge was being stored in violation of provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. In order to streamline the storage & disposal of Hazardous sludge, a meeting was organised with Cement Manufactures and CETP Trust. The objective of this meeting was to streamline storage & disposal of Hazardous waste as per provisions of. Rules, 2016.

4. As a result of this meeting the hazardous waste generated from the CETP could be channelized to cement plants for co-processing. The disposal of hazardous waste was expedited and CETP has disposed of 21001.6 MT of sludge during the period December 2020 to March 2021. At present, the CETP is disposing of the sludge regularly, as per provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

5. In order to take up different issues of CETPs and Textile sector & to ensure operation as per norms, a stakeholder meeting of CETP & Textile sector was organised under the chairmanship of the Chairperson of the State Pollution Control Board on dated 03/02/2021. In this meeting different issues related with effective monitoring of textile industries and CETP i.e., installation & operation of SCADA meters, up gradation of SCADA software, Connectivity of SCADA with server of State Board, Thumb rule to assess the discharge from textile industries, status of revamping of existing CETP etc. were discussed. Further, in order to cope up with problem of

illegal discharge into river Jojari through RIICO drain, status of installation of new CETP was also reviewed.

Due to consistent pursuance of the Board the work SCADA meter installation in all 86 member units of Steel sector has now been completed. The access to SCADA system of Steel sector has been provided to State Board and now data of all these units is being received and monitored at servers of CETP & State Board.

6. The work of up gradation of SCADA system in member industries of Textile sector is likely to be completed by 15-06-2021. Further, calibration of SCADA meters installed in individual industries is likely to be completed by 30/06/2021.

7. After completion of above works the CETP & State Board could effectively monitor the CETP member industries in terms of quantum of effluent discharge and effluent reaching at CETP.

8. Similarly, the revamping work of CETP for the treatment of Steel sector effluent has been completed and commissioned in June 2021. The revamping work of CETP for the treatment of textile industry effluent is expected to be completed by 30-06-2021.

9. After completion of this revamping works, it is expected that CETP may be able to treat the effluent of Steel and Textile sectors up to prescribed norms.

10. Due to the pursuance of the Board, the JPNT has now initiated proceedings for the construction of additional CETP of Capacity 25 MLD. A separate agency (SPV) for monitoring and implementation of different works related to this new CETP has been constituted in name of M/s Marwar Pollution Control and Research Foundation. The agency has initiated proceedings for the preparation of DPR for this plant.

11. It is important to mention that, in compliance with the order passed by Hon'ble NGT, the land for this new plant was allotted by M/s RIICO Limited in the year 2018 however; the construction of the plant is not initiated till now.

12. Action taken to control water pollution in river Jojari due to discharge of domestic sewage of town. The State pollution control board is regularly pursuing the Municipal Corporation Jodhpur for up-gradation of existing Sewage Treatment Plant (STP) and to provide additional STP so that total sewage of the city may be treated and utilised back for gainful usages and water pollution if river Jojari may be controlled.

13. Following the instructions of the Board, the Municipal Corporation Jodhpur has planned and started up the gradation of the Sewage Treatment system (Waste Stabilisation Pond) at Nandri. The pond is now being upgraded on Phytoride Technology. The work is expected to be completed by December 2021.

14. Similarly, Municipal Corporation has also restarted construction work of 40 MLD STP at Basni Bainda. The construction of this plant

was stopped two years back due to financial crises. The work is presently in progress.

15. The Jodhpur development authority has also started the construction of two additional Sewage Treatment Plants at the Vivek Vihar & Uchiada area of the city. Foundation Laying of these projects was done by Hon'ble Chief Minister of Rajasthan on dated 03/06/2021. The capacity of these plants shall be 15 MLD at Vivek Vihar and 06 MLD at Uchiada.

16. After completion of these works, the problem of water pollution in river Jojari due to discharge of Sewage may be significantly controlled. A

17. Action taken by the Board for compliance of orders issued by Hon'ble NGT in the matter of OA 329/2015 for stakeholder Department/CETP Trust.

18. The Board is regularly pursuing different stakeholder departments for their respective works in the matter of compliance of orders passed by Hon'ble NGT from time to time.

19. Regulatory actions by the State Pollution Control Board for compliance of provisions of the Water (Prevention and Control of Pollution) Act, 1974 and orders passed by Hon'ble NGT in the matter of OA 329/2015.

20. In order to fulfil its regulatory obligation, the State Board is regularly identifying the defaulting CETP member industries of Textile & Steel Sectors responsible for the malfunctioning of CETP in terms responsible for water pollution in river Jojari.

21. During the month of Feb-March 2021, the State Board has issued notices to 91 textile industries for non-compliance of conditions of consent to operate. The replies of the units have been received and are under examination. The action got delayed due to the outcome of the COVID 19 pandemic during April & May 2021.

(B) Progress and implementation Report by R.O., Pali

1. CETP VI Progress- CETP is submitting weekly progress to the weekly meeting chaired by the District Collector.

At present (as per the last report dated 02.05.2021) CIVIL work of the ZLD plant is ongoing. PCC work of RO and ESR Tank has been completed. UF, RO tank and pump house construction is ongoing. ZLD work of CETP-06 was to be expected for completion is upto December-2021.

River drazzing was carried out from CETP-6 to Bandi River Bridge.

2. CETP IV Progress EOI for up-gradation of CETP-4 is issued and after completion of tender, work of up-gradation is going to start.

Cleaning around the plant has been done.
Plantation increased.

3. STP Municipal Corporation Pali has submitted their progress vide letter no. 512 dated 02-06-2021.

- a. That the inlet of STP is increased upto 7 MLD and 2 MLD are using by industries. Trust and MCP are directed to develop the method to increase the use of treated waste in STP and efforts to be made to reach zero discharge in River.
- b. Total household connection of sewage is 48300 and 12247 connections has been done.

4. Action taken by Board against defaulter units.

- a. Letter to CETP Trust by Board. A Monthly sampling of STP and CETP has been carryout.

5. Ro-RSPCB-Pali has conducted a meeting with Board of Director and Chairman/Secretary of Association on dated 16-03-2021 and directed that-

a) Dress is to be given to the person employee, involved in working with trust receiving of wastewater from unit to CETP/ Open and close valve.

b) CTV camera is to be installed at the main gate of the unit to watch on lock (valve).

c) The Trust should make separate rooms in CETP units I & II for the MRIA unit and at CETP VI for PIA units and keep all the keys & maintained records.

d) Trust will start working automatic SCADA System within 3 months (i.e., no manual work as the opening of valve etc. required).

Letters to CETP dated 05.03.2021 & 06.04.2021 were also issued for compliances.

6. Survey has been conducted by the team of RSPCB, municipality & District ADM to the units established and operated along the riverbed to stop the possibility of discharge in the river.

Based on the inspection report, total 35 units have been directed to-

- a. Close all the outlets towards the river side and in the RIICO drain.
- b. Do whitewash/paint on the back side wall of the unit (towards riverside)
- c. Clean the river just the backside of industrial premises.

One matter of defaulter unit has been forwarded to HO for closure of the unit and has confirmed the direction of closure under the provision of Water Act, 1974.

(C) Progress and implementation Report by R.O., Balotra: -

- (a) Action Taken/up-gradation works by CETPs and Municipal Council, Balotra (CSTP) after Hon'ble NGT Committee visit of

Balotra Textile Cluster constituted under the Chairmanship of Hon'ble Justice PC Tatia Ji

(b) Balotra CETP Up-gradation Work Status-

Trial runs for 18 MLD RO Plant of 18 MLD ZLD project has been completed. Work of installation of 1 MLD MEE (2 nos. x 500 KLD) is underway and is informed to be completed by end of June 2021. Civil construction work of the Solar Evaporation Pond (SEP) of 1.7 MLD capacity has not started yet. This is reported to be completed by Sept 2021. Up-gradation of the existing 18 MLD CETP is underway and is reported to be completed by end of June 2021.

(c) However, considering the slow pace of ongoing work due to lockdown it is expected that installation of 1 MLD MEE (2 nos. x 500 KLD) and up-gradation of the existing 18 MLD CETP may get delayed by one month (i.e., till 31/07/2021). Construction of Solar Evaporation Pond (SEP) of 1.7 MLD capacity may take another 6 months (i.e., 31/12/2021)

Bithuja CETP Upgradation Work Status-

(d) Construction of 30 MLD chemical treatment (Chemical House, Flash Mixer, Clariflocclater, Thickener, etc) under up-gradation of 30 MLD CETP has been completed. Centrifuges for de-watering of sludge that would be generated due to chemical treatment have not been installed as yet. This chemical treatment has not been commissioned as yet.

Jasol CETP Up-gradation Work Status

(e) I stage of 2.5 MLD capacity RO plant has been installed and work of electrical fitting is underway. I stage is reported to stark working at end of June 2021. Work of installation of II Stage, III Stage RO plant and 250 KLD capacity MEE is reported to be completed by 31/10/2021.

Balotra STP Up-gradation Work Status

*(f) An electronic water meter has been installed at the inlet and outlet of STP, Chlorine gas cylinder for disinfection of treated water. However, during the inspection on 09/06/2021 for verification of up-gradation works, STP was found non-operational due to maintenance, **Chlorine gas cylinders were not connected to pump, repairing work of secondary aeration tank and sludge thickener was observed underway.***

*(8) I considered the factual and progress reports submitted by the R.O., Jodhpur, Pali and Balotra. It appears from the reports referred above that, R. O. Jodhpur, Pali and Balotra followed the CETP Trust and STP management and monitored the progress of pending works to ensure the implementation of the directions given by the Hon'ble NGT. **At present progress at Balotra and Pali is in place but at Jodhpur, the CETP and the STP management was very slow and at the time of submission of the report by the R.O.,***

Jodhpur, the progress was not visible. However, after that, number of announcements came from the state government about establishing new STP and reconstitution of the CETP Jodhpur which topic will also be discussed in this report.

(9) First of all, it was a matter of concern that the industrial effluents and sewage problems are under consideration of Hon'ble NGT and before that, the issues were under consideration of Hon'ble Rajasthan High Court and by this time one and a half decades passed and petitioners, villagers and the affected persons were very much agitated till today. After taking stock of things relating to the issues involved, the **Chairperson believes that it will be another futile exercise if the Committee will proceed to just ensure the implementation of the orders and directions without noting the hurdles came and coming in the way of the effective implementation. Therefore, along with getting the pending things done, The Chairperson took notes of the challenges which are required to be met with by the different stakeholders. Therefore, this concluding report is incorporating the challenges which are required to be dealt with appropriately. Therefore, challenges and hurdles have been discussed in this concluding part of the report in some detail. This part also points out, where corrections are required for the implementation of environmental laws and the orders of the Hon'ble NGT effective.**

(10) Looking to the nature of pollution problems, time since it is going on, involvement of large number of industries and big sewage management problem of Rajasthan's second-biggest city, Jodhpur, and more serious problem created by the illegal textile industries, even after strong monitoring by the Hon'ble NGT itself, yet the petitioners, residents of the village of Araba, Balotra, Pali are very much agitated till this time. The objections raised by the petitioners including the petitioner, Shri Digvijay Singh (O.A. 34/2014THC) about the HRTC and solid industrial waste management requires in-depth study and if needed, immediate correction is required. At the same time, because of very strong orders only, several steps are taken, particularly, at Balotra and Pali and by the industrialists independently and through CETP heading to reach the target of Zero Liquid Discharge (ZLD) policy. **Some progressive steps, like, using SCADA system and online monitoring is in good progress at Pali and Balotra but it is not implemented up to the mark at Jodhpur.** At Jodhpur, the ZLD may be a plan in dreams only. **There cannot be different planning and different schemes for the same types of industries merely because they are situated at a distance of less than or about a hundred kilometres from each other and situated in three different but adjoining districts of the one state.** Even, then it is better to have one scheme for Jodhpur's industrial effluents, where two types of polluting industries are running. The reason for it is, that the effluents from Textile and Steel Industries in Jodhpur are treated by the same CETP at one place. The process for treatment of these two separate effluents are different but completed at one premise and the end product is produced and passes out in one drain only. This is going on since inception of the CETP and is convenient also. Therefore, all steps are required to be the same. Hence, the interim report was given as a common report for all matters and this concluding remark for all three

matters will avoid multiplication because different reports may create confusion.”

210. Monitoring Committee also considered challenges and hurdles in implementation of environmental laws and Tribunal’s directions and made suggestions as under:

*“(A) The Committee is of the view that the state should re-look industrial development policy. There are two types of industrial areas in Rajasthan. One is known as RIICO industrial area. This industrial area is developed, managed and is under the administrative control of the RIICO. The RIICO gives land by executing lease deeds in favour of the industrialists. The lease deed contains several conditions which are required to be obeyed by the lessee. Violations of conditions entail forfeiture of the lease. Other industries are the industries for which Pattas/Lease deeds are given by the state through competent authority. In such Pattas and lease deeds also, the right to forfeit lease rights are vesting in the lessor/ state/ competent authority. This second industrial area is called a private industrial area. **The issues that required immediate consideration by the state have several reasons.** First, the competent authority gives Patta/lease for industrial land. In the Pattas/Lease, a specific condition is there that the lease or Pattas has been granted for establishing only non-polluting industry. But I found, in most or may even in all cases, this condition was not noticed, nor brought to notice of the Pollution Control Board and PCB gave consent-to-establish and consent-to-operate Textile and Steel Industries in Jodhpur, Balotra and Pali Districts despite the prohibitor condition in the lease or Patta. This fact was admitted in almost all meetings taken by the Committee. Due to paucity of time with the Committee and due to pandemic situations documentary evidence could not be placed on record by the Committee. **Therefore, specific reports may be called from JDA, Jodhpur and the Municipal Bodies of the Pali and Balotra that whether every lease and Patta for industrial land is given with the prohibitor condition that the land shall not be used for establishing polluting industries. The report may also be called from the R.O., Jodhpur, Pali and Balotra that whether, in private Industrial areas, consent to establish and consent to operate permissions have been given to those applicants in whose deeds there is specific condition incorporated that the land shall not be used for establishing polluting industries.** Textile and Steel Industries are in the category of polluting industries. If it is found that, for private industrial lands, without noticing conditions to establish only non-polluting industries, the permissions have been granted to establish Textile and Steel Industries in Jodhpur, Pali and Balotra and by now if large number of these industries are established on these private industrial plots than they may be regularised by framing One Time Scheme (OTS) for regularisation of such industries. By this time, the situation may have become irreversible, therefore, the One Time Regularisation scheme has been suggested. This regularisation is suggested because of the reason that establishing Textile and Steel Industries is not prohibited totally. Such industries can be established and, but the industrialists*

are required to follow the laws and not allowed to discharge any effluents which do not meet the standards prescribed for these effluents.

In future, an undertaking be obtained by the PCB from the applicants that the land for which permission to establish Textile and Steel Industry is being sought has no restrictions against such use.

(B) Scattered polluting industries

Secondly, as is found from the fact situation and mentioned above, there are no total restrictions against establishing Textile and Steel Industries and permission to establish such industries can be given upon compliance of norms prescribed under the Environment Act and any other Laws, Rules and Regulations etc. Then, while declaring any area earmarked for industrial purposes, whether it is RIICO Industrial Area or the private industrial area, **the plan itself should show the area, within the RIICO/private industrial area, that where, in clusters, Patta/lease for similar polluting industries are to be given. Scattered Textile and Steel Industries in RIICO and private Industrial areas are unmanageable for implementation of pollution control laws. Scattered industries are an unnecessary financial burden upon the state exchequer and also upon the industrialists. It is also an unnecessary burden upon the PCB, unnecessary losses to manpower, a burden upon resources, unnecessarily long and unnecessary bending and turning pipelines and drains resulting in mixing of polluting effluents with non-polluting discharge, like, rainwater and sewage, whereby, the industrial effluents increase in volume and covers and damaging more area than which could have been damaged by the only industrial effluents. This problem may be an eye-opener of all working to control pollution.**

(C) Sewage management, uncontrolled and unnoticed area, Pollution Generation and Pollution Spreaders-

We take a glaring example from Jodhpur which appears to be the most serious matter. **A comparatively very smaller quantity of treated industrial effluents from CETP, Jodhpur, about maximum, 20 MLD is mixing with about 110 MLD (But in my opinion it may be 180 MLD to 300 MLD) sewage of Jodhpur. This huge quantity is falling in the Jojari river. Not only this but in this, illegally established industries' effluents mixing in the same Jojari river! And this is the entire problem of the not only villagers of Araba, but it is the serious environmental problem for hundreds of acres of Barmer and Jodhpur Districts. One seasonal river which was flowing in the only very short rainy season and was rare source for drinking water and for irrigation is now an effluent's river, running round the clock, round the year and destroying the entire area in the reach of this river liquid. This is only because of the quantity of sewage that the effluents are reaching to Araba after damaging the entire area coming in contact with these mixed industrial effluents with city sewage, treated or untreated! But no action was taken against the Municipal Corporation Jodhpur in the last several decades. The facts demonstrate that problem of industrial effluents was not much serious as compared to the problem created by the Municipal Corporation, Jodhpur. If**

private industries would have discharged 100 to 300 MLD chemicals and dyes mixed sewage in any river, what would have been the consequences, one can easily imagine. The Committee missed the opportunity to collect exact data of sewage and storm which is going into the river Jojari, yet the Committee has reasons to believe that total discharge of sewage and other water, storm mixed with chemicals and dyes, slight or more may be up between 180 MLD to 300 MLD! The approach of all stakeholders may have been different in the handling of the pollution in question problems if effluents and storm discharge of Jodhpur city, Jodhpur Industrial Area, and the effluents of illegal industries would have been noticed.

Not only that the sewage problem contributed to spreading effluents only from Jodhpur area. The problem of Jodhpur sewage is found to be most alarming because Jodhpur is the second biggest city of the state of Rajasthan and it's pollution maybe 15-20 lacs. We may look the facts of another comparatively very small city, Pali. **The Pali sewage also is reaching into the Jojari river.** As submitted by the R.O., Pali, the following is the status of sewage pollution-

1. Pali City (sewerage) discharge - 25 to 30 MLD
2. STP - Present discharge - 5 MLD (2.5 MLD Re-Use in Industry)
Future discharge - 22.5 MLD (7.5 MLD + 15 MLD capacity of STP)
3. Wastewater discharging from Pali (Bandi river) to reaching Diwandi village (app. 42 km) thereafter at village Dhundara (District-Barmer) and meets with river Jojari.
4. Analysis of STP - beyond the limit (colour, BOD, COD, TSS, TDS)
Analysis of CETP - beyond the limit (colour, BOD, COD, TSS, TDS)
5. Total discharge reaching at Nehda dam-30 MLD Analysis of Nehda Dam-beyond limit (colour, BOD, COD, TSS, TDS)
6. At Diwandi, village (RO, Pali): Analysis- beyond the limit (colour, BOD, COD, TSS, TDS)

The wastewater discharging from Pali (Bandi river) to reaching Diwandi village (app. 42 km)! Thereafter, at village Dhundara (District- Barmer) and meets with river Jojari.

211. Monitoring Committee further considered pollution generation and spreading and said:

“(12) Pollution generation and spreading

(A) **Pollution generation and spreading of pollution are two separate issues. There are many directions for pollutions generating industries. But pollution speeders are yet to be dealt with.** From the facts considered while considering the sewage management of Jodhpur City, we found the volume of liquid discharged from the Jodhpur city and it's nearby areas that the spreader of the pollution, in the case before us is the Jodhpur Municipal Corporation for both, legal and illegally established Textile and Steel Industries.”

212. Thereafter, in para 13 of the report, Monitoring Committee considered some specific aspects including location of industries, road distance etc. and said:

“(13) Special Case-

(A) I would prefer to request to the Hon’ble NGT to take special note of the facts of one case of alleged ONE illegal industry situated on agricultural land Khasra No. 149/1, Village Bhandu, Tehsil Luni, Dist. Jodhpur! This “industry” as mentioned in the order passed by the RSPCB, dt. 08.08.2016, this industry was running by one Bhanwar Singh in the year 2016 without obtaining Consent to Establish and Consent to Operate from the Board under the Water Act, it was running without environmental permissions, without installation of the tamper-proof electronic meter, without depositing Rs. 5 lakhs, without installation of adequate treatment facilities for treatment of wastewater, like, effluents treatment plant and R.O. Plant and was not connected to any Common Treatment plant to achieve zero discharge of liquid. Therefore, SPCB passed the order directing to close the industry run by said Bhanwar Singh. Despite all defaults by the said Bhanwar Singh and closer order against him by the SPCB dt. 08.08.2016, said Bhanwar Singh was found continuing the industrial activities on the land in question in the year 2019. The premises was inspected on 08.05.2019. What was found on the spot, i.e., at the time of the inspection on 08.05,2019 tells the magnitude of the industrial activities on one piece of agricultural land alleged to have been one person only? We may look at the list of the seized articles. Following articles found on the spot:-

Jiggers -436,
Jumbo Jiggers- 46
Continuous mercerising padding machine -13,
Continuous washer 9,
Jet Dyeing machine 7,
Hydro Dryer -02,
Kier -4,
Boiler 4 – 1.5 TPH,
Washing tanks 33,
Silicate washer 6
Silicate padding 8,
D.G. set 2 Nos. each – 15 kVA and
Caustic padding 18.
Cloth -16000 thans were seized from the premises.

(B) Location of Industry- just near the river in question, Jojari river, very convenient for dumping the effluents in the Jojari river. Location is advantageous for getting support from all textile industries of all areas of Jodhpur, Balotra, Bithuja, and Jasol and all legal and illegally established industries can support each other from this industry at Bhandu.

(C) Road distances from Bhandu Industry to other industrial areas-

- (a) Only about 20 km away from Jodhpur industrial area,
- (b) Only about 90 km away from Jasol industrial area, near Balotra
- (c) Only about 85 -87 km away from Bithuja industrial area, near Balotra,
- (d) Only about 80 km away from Balotra industrial area.

Google Photos of the Industry on agriculture land Khasra No. 149/1, Village Bhandu, Tehsil Luni, District Jodhpur are inserted in this report.”

213. With respect to industries running illegally or otherwise causing pollution, Monitoring Committee had examined the matter separately in para 14 and 15 as under:

“(14). Therefore, there are all possibilities of support of several legally established textile industries to the illegally established industries. Such nexus can be broken by taking the help of other departments after collecting the evidence of business of these illegal industries. For such actions, before inspections, a careful survey of industries is required in suspected cases of large establishments. In the inspection of such surveyed industries, the help of officials of the Income Tax department may be taken. The seized business documents may be handed over to the Income Tax Department for their action, if found necessary by the IT department. It appears from the order passed against the Shri Bhanwar Singh that despite finding such large number of the machinery on the spot where illegal activities were going on and where Shri Bhanwar Singh was liable to be prosecuted yet relevant articles were not seized, he was asked to remove articles from the spot. The procedure required to be re looked.

Industry is still running industry, as told by all villagers. The Committee could not verify the fact by visiting the spot due to Corona lockdown from April 2021 till the end of the term of the Committee.

The area of the industry is- 1.02 kilometres! And equivalently 61,493 sq. Meters! (As shown by google on 13.07.2021. Google photos are annexed with this report.)

The facts speak louder than the report and action were taken. From the above machines, only a big industrial business is possible. It is difficult to believe that, in one industry such number of machineries can be (though in the report, it has been shown as industry of one person)! However, orally villagers and others told me that, Modus Operandi for these industrial activities is that the different industrialists are permitted to install their machines on payment of rent by them to the Khatedar Tenant of the land. But it is only heresy, and the fact should have been made clear after obtaining all material facts. Looking to facts mentioned in the report, cupelled with the information received from the different set of people,

allegations cannot be brushed aside easily. Because of lack of vision or because of any other, the seizer report may have saved several other persons, other than named, who were running their independent industries by taking part of the land from the landholder, the Khatedar Tenant of the agricultural land in question.

I believe, the actions were not adequate. The facts were not taken note of. **Appropriate actions were not taken in such a rampant violations of environment laws, endangering the health and lives of human, cattle, causing harm to the land and water, crops and vegetation etc. The government servants have to cooperate and inform all concerns about any violations of law by such environmental player so that they may, take appropriate actions.**

Following facts should have been made clear with documents relevant to, to find out the real persons:-

1. Who is Khatedar Tenant of the land Khasra No. 149/1, whether it is of one person or of more persons?
2. In what name the industrial activities were going on?
3. Who were the persons running the industry/industries on this land?
4. Since when the activities were going on as it was and is essential to assess the environment compensation?
5. Whether any other person's job work was going on the spot? Then those other persons are also liable for violations of environment laws. Therefore, the business documents should have been sieged to identify the persons whose work was going on the spot.
6. Looking at the volume of the business, matter should have been informed to the appropriate Income Tax authorities for verification of the persons involved in the business activities on the spot as well as, if necessary, the IT department could have taken appropriate actions in accordance with the law.
7. Appropriate application of cancellation of Khatedari Tenancy rights of the Khatedar Tenants should have been moved before the Tehsildar of the area, who himself was legally bound to initiate such proceedings even before actions by the Pollution Control Board officers.
8. Appropriate Labour Departments should have been informed so the departments could have taken as could have been essential in accordance with laws, particularly, labour beneficial laws.

These actions were essential looking to the very special facts of this particular case on the principle, the extraordinary disease needs extraordinary treatment. **These actions can be taken and required to be taken immediately to give the strongest message to all polluters to the persons playing with the environment, public and cattle in the country.** The Tehsildar of the said time and if, the industrial activities are going on (which I believe is running), the same Khasra No. 149/1 of the village Bhandu, Teh. Luni, Dist. Jodhpur, strong departmental action may be recommended.

(15) **Illegal Industries in General:-** Illegal industries compete in destroying the environment with the legally established industries. **The legally established textile industries and Steel industries**

started correction after the close monitoring by the Hon'ble NGT. But the illegal industries, which may be small industries to big industries and their effluents may be less in quantity but not less bad. The undermentioned facts will reveal that these illegally established industries have no fear of authorities and administration. The industries which were closed by the orders of the SPCB, were not established and were running from the day of their closer orders. **Therefore, these illegally established textile industries have not got any deterrent message even from the actions of STF.** A further study is required to find out more effective ways to control illegal industrial activities. **The most suitable place for such illegal industries is agricultural land. The most effective preventive action can be by the cancellation of the Khatedari rights of the Khatedar Tenants of such Khatedar.** Cancellation of the Khatedari rights is not an extraordinary step. But the law requires that if one uses or permit others to use his agricultural land for any purposes, other than the agricultural, the Tehsildar should initiate the proceedings for the cancellation of such Khatedar Tenant's Khatedari Tenancy rights and resume the land in favour of the State. So, the government servants, who are bound to act in addition to the implementation of the law will be discharging their duty in preventing illegal activities and will do more pious work by saving the environment and consequential damages to health and hygiene.

A. Illegal industries in Jodhpur for which closer orders were passed:-

Petitioner Gram Panchayat Araba is aggrieved due to pollution generated by the industries at Jodhpur and Villages of Jodhpur District. In Jodhpur industrial area, RIICO and private industrial area, total CETP connected industries are 378, Textile and Steel Industries. Whereas illegally established industries for which closer orders were passed from the year 2015 to 2020 are 242. Year-wise details orders passed for illegally established is as under:-

115 industries in the year 2015
89 industries, in the year 2016
04 industries, in the year 2017
02 industries, in the year 2018
10 industries, in the year 2019 and
24 industries, in the year 2020.

Total 242 illegal industries vs legally running industries are 378.

Environment Compensation recovery orders were passed for Rs. 2,64,50,000/- (in total against all industries in the same year. i.e., only in the year, 2019). It will be relevant to recapitulate here again that this figure includes the environment compensation of Rs. 2 Crores has been awarded against only one Industry, the industry running at Bhandu.

B. Illegal industries in Pali for which closer orders were passed:-

Total from the year, 2015 to 2020 total closer orders passed-174.
Industries closed in confirming areas- (Total-93)
18 industries in the year 2017
06 industries in the year 2018
68 industries in the year 2019

01 industry in the year 2020

Total 93 industries in confirming area, closed.

Industries closed in non-confirming areas-

71 industries in the year 2015

05 industries in the year 2017

03 industries in the year 2018

02 industries in the year 2019

Total 81 illegal industries-81+93= 174

C. Illegal industries in Balotra, Jasol and Bithuja, District Barmer for which closer orders were passed:-

85 illegal industries in the year 2017

33 illegal industries in the year 2018

106 illegal industries in the year 2019

19 illegal industries in the year 2020

04 illegal industries in the year 2021

Total 247 illegal industries

In three districts, in nearby areas to each other, a Total of 663 illegal industries were ordered to be closed in the last five years out of which most of the industries were running on agricultural land! It appears that the Revenue Department of these three districts, the Tehsildar and Patwari of the area, as well as the local bodies including the village Panchayat, believe that illegal conversion of land from agricultural purposes to industrial purposes and generation of pollution and its spreading is the subject matter assigned to the only SPCB and these bodies are not supposed to enforce laws against the persons who violate the laws. This abdication of statutory duties by the bodies and the government officials required to be dealt with sternly. This is, in fact, an unnecessary burden upon the SPCB because of faults and serious inactions on the part of the said officials.

There are laws to terminate rights of the persons holding the agricultural land if it is put to use for the purposes other than agricultural under the Rajasthan Land Revenue Act, 1956, the Rajasthan Tenancy Act, and the rules framed thereunder. But all laws dispensed with by the local revenue officers, Local Bodies, the Municipal Bodies. The role of the SPCB WAS TO COME IN THE LAST WHICH MADE THE ONLY RESPONSIBLE BODY TO ACT! If the revenue officers of lower level, like Patwari and Tehsildar would have enforced the laws against these Khatedar Tenants who are using the agricultural land for industrial purposes immediately, which action is part of their statutory duty, the public may not have sacrificed their environment, livelihood, health and cattle. Shocking is that all illegal activities are in the knowledge of these officers and the higher authorities! ONLY ONE CANCELLATION OF KHATEDARI RIGHT OF ONE PERSON WOULD HAVE MADE SEA CHANGE IN THE IMPLEMENTATION OF ENVIRONMENTAL LAWS AND THE ORDERS PASSED BY THE HON'BLE NGT. ALL LAWS AGAINST ILLEGAL LAND CONVERSION AND ILLEGAL USE OF LAND AND ILLEGAL

CHANGES OF LAND USE OR ON HOLD SINCE DECADES! TOTALLY UNNECESSARY BURDEN CREATED FOR THE SPCB AND THE HON'BLE NGT. The relevant laws are, the Rajasthan Land Revenue Act, 1956, the Rajasthan Tenancy Act, 1955, the Rajasthan Gram Panchayat Act, 1994, the Rajasthan Municipality Act 2009, the Jodhpur Development Authority Act 2009, the Land Conversion Rules, 1981 राजस्थान भू राजस्व (रंगाई, छपाई, विरंजन और धुलाई उद्योग के प्रयोजनों के वलये भूवि का संपररिर्तन और वनयविकरण और कुओं का उपयोग) वनयि १९९१. Since the Committee was assigned the work of monitoring of the implementations of the orders of the Hon'ble NGT, therefore, it was duty of the Committee to find out why the orders of the Hon'ble NGT could not implement even after so many orders of the Hon'ble NGT which the Committee noted in it's Interim Report submitted to the NGT. Relevant part from report is quoted here:-

"The pollution going on for several decades is the fact on record of these case files. A good number of detailed orders and directions were given to the State, SPCB, CPCB, Local Bodies. High officers were called to appear in person on several occasions. Compensations were awarded against wrongdoers; some amounts were recovered, and some amounts are yet to be recovered. Some compensation was paid to victims. Some prosecutions were launched. A Special Task Force (STF) was also constituted to check illegal industries and illegal dumping of effluents in the rivers and drains. Hundreds of illegal industries were closed and even demolished in the past several years."

The Committee Chairperson after taking in to account all the relevant facts of cases was of the view that, first it to be found out that why if last about fifteen years the vigilante people could not get the results despite the fullest support from the Hon'ble NGT and therefore, the Chairperson himself visited all the critical points of the sites and observed in Interim Report:-

"The Committee proceeded to find out reasons why the desired results could not be achieved as wished by the public and as desired in the orders passed by the Hon'ble NGT. For this, Chairperson with different officials of SPCB and at Balotra representative member from CPCB and with Dr. Ajit Pratap Singh visited the almost all critical spots relevant for our purpose. On every relevant point, we found the industrial effluents too high."

It is alleged that the beneficiaries of these illegal textile industries are not only owners and businessmen involved in these illegal industries, but the beneficiaries are some of the industrialists who are running legally established industries. Some industrialists are giving job work to these illegally running industries. It was common in the private talk that the number of legally established industries are the backbone of these illegal industries and giving job work to these illegally established textile industries which are good financial gain for the legally established industries as well as, by this way some of the industries escape from the rigour of not only pollution

laws but avoiding obeying the labour laws and thereby, denying the legal benefits to the poor labours. During our visits, several industrialists themselves complained against such industrialists but no one wanted to name any wrongdoers. Furthermore, the villagers are also engaged in these illegally established industries and therefore, some villager's families are also sympathetic to these illegal industries. The political support cannot be proved by direct evidence but cannot be denied looking at the total number of the industries, the area covered by these industries, the silence of all the departments. Therefore, these illegal industries are not the only problem for the Pollution Control Board but, it is a big challenge for bona fide and law-abiding textile industrialists. **The illegal industries are running parallel to the legally established industries with a huge advantage over the legal industries. All blame for the pollution created by the illegal industries is required to be answered by the legally established textile industries.** Only legally established industries are asked to explain the reasons for pollution at all endpoints. If in place of only closing these illegal industries, their accounts and business deals are scrutinised to find out the industries whose work these illegal industries are doing, more culprits can be identified. **Unless this supply of business is checked the big fishes will be always out of the net. If these big fishes are caught, the backbone of illegal industries may break.**

Only one effective step to stop illegal industries established on agricultural land is, to initiate and cancel the Khatedari Rights of the persons, whose land is used for non-agricultural purposes. It may one of the effective steps to prevent running and stopping illegal industries in future.

The above number of illegal industries is the only number of industries against which the pollution control board took actions. This is in common knowledge, and anyone can without many efforts walk into illegal industries. Illegal industries were not established in one day nor were noticed on any one day. They were established from time to time and are running since last several years. **The first duty was of the Revenue Officers of the area, like, Patwari and the Tehsildar of the area. But none of the revenue officer took any action against these illegal industries established on the agricultural land.** In the state of Rajasthan, as per land revenue laws, if agricultural land is used for any purposes, other than for agricultural purposes, the land may be resumed in favour of the state. It is to be noted that in any village or city, not a single case was registered for resumption of the agricultural land against such rampant violations of the Land Revenue Laws.

So, the revenue officers, made the stringent law totally redundant. This action of resumption of agricultural land was and is not dependent upon the action by the SPCB. This action is absolutely independent and within the statutory duty cast upon the only revenue officers.

These industries have not come up in a day. These industries are those industries that were found in a day when the site was visited. All villagers told very clearly that the village Bhandu in Jodhpur district is, in fact, well established private industrial area, for several years and successfully running illegal industrial area.

After completion of the first part of the work, the Chairperson had a plan to visit this place secretly and then with Committee members and the appropriate team. This important work could not be done because of the imposition of the COVID-19 lockdown restrictions immediately after the first task completion by the Committee.

Chairperson is of the opinion that, an aerial survey report may be obtained of the entire area of villages, specifically, Bhandu, Salawas, Tanawada, and other areas up to Araba from Jodhpur to know the actual working of illegal industries and thereafter, stern action is required. Then, if any illegal industry is found in the area, the Tehsildar, Patwari, and officers of the Gram Panchayat be proceeded departmentally for disciplinary actions.

(H) Pollution generation vs pollution spreading

The facts mentioned above in detail about the discharge of treated and untreated sewage and stormwater in the river is one of the main reasons for reaching the effluents in very long and wide areas. **The Municipal Bodies and RIICO, since more than one and half decades discharging sewage and city's industrial effluents in the rivers and carrying the industrial effluents of legally and illegally established industries to 40-50 or much more kilometres from the place of origin of the effluents. The SPCB did not take any action against these Municipal Bodies and the RIICO officers for the reasons best into the SPCB but one of the reasons appears to be departmental brotherhood. Breaking of this nexus may generate pressure upon the officers to complete the sectioned project in time.** Hon'ble NGT may direct that the SPCB, should not hesitate in taking actions against the officers of the Municipal Corporation and RIICO and why no actions were ever taken against the Municipal Corporation, Jodhpur and RIICO officers of Jodhpur when these two bodies admittedly spreaded the sewage and industrial effluents in river Jojari, that too in several kilometres area. It is pertinent to note that Municipal Corporation, Jodhpur and RIICO officials of Jodhpur, in their written reports submitted to the Committee, admitted that they failed to, not only stop the discharge of effluents in the river Jojari and did not follow the ZLD and discharging the treated and untreated sewage in more than hundred MLD in Jojari river.

(I) Implementation of pollution control laws:-

From the totality of the facts mentioned above, it is clear that, if there are no orders from the NGT, there are no effective actions for environmental laws violations. None of the actions worked. Environment compensation is awarded by the SPCB. It may be enquired from SPCB that, from how many polluters compensation amounts have been recovered by the Board? How and where such compensation amounts have been utilised? How much amount has been utilised for reclamation of the environment? And how much compensation has been paid to the victims? It may be enquired; how many offenders are prosecuted? There appears that no prosecution yet has resulted in the conviction of any offenders. **Till the laws and law enforcement are brought in order, till then, there is strong need of the NGT and it's orders.**

(J) Despite separate jurisdictions and power of authorities and despite administrative instruction fixing responsibilities for taking actions by the RIICO, PCB, Tehsildar, SDM, local bodies still all are shifting responsibilities. Therefore, periodical administrative meetings should be convened of all the above departments to record facts and reasons, for which violation of environmental law by the industries and the local bodies, which department or body did not take action and who is responsible for the lapses.

The serious matter is that, for taking actions against illegal industries in cities or villages, there are broadly two fact situations. One, industries situated on urban land and another, on revenue land i.e., upon agricultural land. When the industry is on agricultural land and is within the jurisdiction of Municipal Corporation or Local Development Authority, there is the involvement of three parties in the matter for taking action. The Tehsildar has jurisdiction to cancel the Khatedari Tenancy rights of the Khatedar tenant whose land is involved. Probably, this action was never taken by the tehsildar. In case of violations of conditions of lease or Patta, relating to environment protection laws, probably, no leases or Pattas were cancelled ever by the JDA, Municipal Bodies, RIICO or by the state, whoever has given Patta or lease. The power to stop and close illegal industries is rarely used by the local bodies. Even in the cases where, the PCB closed the industries involving non-following the conditions of the Patta or lease deed, yet no other consequential legal action was taken against these civil, municipal and environmental law breakers by the Land Revenue Officers and Local Bodies.

If we look at the number of industries which were closed, it is not indicting only that the actions were taken. It also indicates that lawbreakers are not afraid of the actions taken against them. These actions have not given desired results of preventing such huge pollution by the industries in the long area of several kilometres. If some actions here and there are taken, those actions have not given desired results is apparent from the running of a large number of illegal industries on every type of land in these areas. The prosecutions virtually failed. The system requires strict monitoring by the administration of every concerned stakeholder.

(K) Rajasthan State Pollution Control Board

State Pollution Control Board unnecessarily suffered because others did not discharge their statutory duties at all as discussed in this Report. Another matter that requires consideration is, SPCB is required to be made more active. The first hurdle is the very poor cadre strength and then vacancies. The existing even full strength cannot monitor these Textile and Steel industries.

(M) Administrative efficiency

Vision, administrative efficiency and proactive actions are essential for any system's working. Many plants established at Balotra, CETP I, II, III are not used for the purposes for which they were constructed. That may be due to faulty planning or lack of foresight. At Jodhpur, ZLD work has not even at the planning stage whereas private individual industries at Pali and Balotra established their plants and common plants through CETPs.

Different target, like, ZLD was fixed for same industries at Pali and Balotra vis a vis Jodhpur there is no planning, therefore, ZLD policy is a distant dream for Jodhpur.

Different treatment to industries of Pali and Balotra at one side and Jodhpur industries at another side. In Jodhpur preliminary treatment plants at Industries site is the same irrespective of effluents discharge quantity from industries whereas, at Pali and Balotra, preliminary treatment plants are different for industries having less than 50 KLD effluents discharge and different for the industries discharging more than 50 KLD effluents. **No one could give a logical reason for a different types of treatment plants at Pali and Balotra based on the quantity of discharged effluents. Detailed consideration is mentioned in the Interim Report submitted by the Committee to the Hon'ble NGT.**

Since the different treatment plants are established in view of the orders/ observations made by the Tribunal, therefore, this issue can be settled by the judicial order and not by administrative decision unless permitted by the Hon'ble Tribunal.

Similarly, whether the HRTC and water evaporation system are the right way to address the elimination of effluents is required reconsideration. Whether it is removing effluents and making land under the projects useless? Why millions of litres of water be allowed to be evaporated? and whether, the water and the land, both can be saved is the question? The Committee could not examine in depth because of the end of the term of the Committee during the COVID-19 pandemic. The issue may be considered by the Hon'ble NGT.

Conclusion- Role of the SPCB was to come in last but the PCB was held the first and the last responsible for all environmental problems. The first the duty was of the revenue officers to check the illegal land conversion from agricultural land to industrial land under the Sec. 90 A of the Raj. Land Revenue Act, 1956 but the laws have been made redundant. Probably, not in a single case of illegal land conversion, Khatedari Rights were cancelled nor the khatedar was evicted. Probably, not in a single cases Jodhpur Development Authority or Municipal Body or RIICO has cancelled the lease or Patta because of illegal land conversion to industrial purposes or because of breach of conditions of the lease by the lessee or Patta holder despite having condition of forfeiture of rights in the law and in the lease deed or in Pattas.

214. Some further recommendations had been submitted separately by the Chairperson, Hon'ble Justice Prakash Tatia, former Judge who headed Monitoring Committee, as under:

“Further Recommendations (by the Chairperson)

At present neither the STF nor any Monitoring Committee is working. In addition to continue monitoring over the industrialists and CETP Trusts, corrections are required to make system working as it

was found that, all the stakeholders did not took legal actions against the polluters and pollutions spreaders, like, (1) revenue authorities did not took actions against the persons who used the agricultural and for non-agricultural purpose for several years, (2) the local bodies granted lease but even when lease condition was violated and the land marked for non-polluting industry was used for polluting industry, (3) the PCB took no action against the RIICO and Municipal Bodies even when these bodies did not handled the sewage and drainage of large quantity which may be more than 100-300MLD and continuously, since decades discharging polluted and treated and untreated effluents in the rivers and carrying effluents of legal or illegally established industries in rivers. The PSB did not take any action against the Municipal Corporation for discharging STP treated or poorly treated effluents in the river Jojari. The RIICO could not prevent Municipal Corporation, Jodhpur and the CETP from using RIICO storm drain for their sewage and effluents discharge.

For the petitioners and the public, pollution at the only endpoints are relevant which covers entire in between areas. Rest all issues are relating to the pollution management. All most at all places, in the river Jojari, the liquid (better not to say water) was polluted with chemicals and dyes. The river was flowing because of effluents only therefore, it is not river but only effluent's huge Nallah. The relief to the public is still a dream even after so many serious actions taken by the Hon'ble NGT (orders and actions are mentioned in the interim report of the Committee).

Therefore, following are the recommendations by the Chairperson for kind consideration: -

- 1. SPCB and the state should consider increasing the cadre strength of SPCB and meanwhile, fill all vacancies.*
- 2. Laws and laws enforcement system require to be reviewed to make it effective and data be obtained that how much law violator's agricultural land was resumed and how many Pattas and leases of these violators were cancelled. If such actions were not taken, State Government may be asked, why authorities failed in enforcing laws and terms of conditions of the leases and Khatedari Rights?*
- 3. All R.O., be directed to give details of all illegally established industries found on agricultural land in their area till date, to the Tehsildar and Jodhpur Development Authority, Municipal Corporations, Jodhpur, Municipal Bodies of Pali and Balotra of the area concerned for appropriate legal action.*
- 4. For future, all R.O., may be directed to give details of the cases, immediately upon finding any industry established illegally on agriculture land, to the Tehsildar and Jodhpur Development Authority, Municipal Corporations, Jodhpur, Municipal Bodies of Pali and Balotra of the area concerned for appropriate legal action.*
- 5. All Tehsildar may be directed to register cases against persons who used or are illegally using the agriculture land for industrial purpose in their jurisdiction and the give details of such cases registered to the R.O., RSPCB without any delay.*

6. Tehsildar concerned be directed to give a copy of the final order passed in such cases to the R.O., concerned immediately upon passing the final order by the Tehsildar.
7. The R.O. concerned, in the cases where Khatedari rights have not been cancelled and land in question has not been resumed, be directed to send a copy of the order to the Member Secretary, RSPCB, who in turn examine or shall get examined the reasons for not resuming the land in question and if finds the order of the Tehsildar should be challenged, the Member Secretary may send opinion to the District Collector, concerned within fifteen days from receiving the copy of the order from the R.O.
8. Monitoring Committee be constituted to oversee the progress of the projects CETPs and construction of new STP, sewage lines/system/connections, construction of sewage Nallahs, storm drainage. Because the past all projects were delayed inordinately due to not releasing of finances in time and due to other administrative reasons, which caused not only delays but increased the cost of projects resulting in unnecessary financial burden upon the public's money.
9. Gram Panchayats are responsible to maintain the drainage, well, water bodies, catchment areas, pastureland, etc. It is not the only duty of the SPCB to work as a watch dog. The first duty to prevent pollution in any public place within the jurisdiction of the Gram Panchayat is of the Revenue Officers and the Gram Panchayat. Therefore, if any industry is established on any agricultural land within the jurisdiction of the Gram Panchayat, the Revenue Officer, the Tehsildar of the area and the Gram Panchayat be directed to take action immediately and their accountability be fixed in cases of their failure.
10. **To solve the problems of villagers of Araba and all nearby areas of about 40 kilometres, directions are needed against the Municipal Corporation, Jodhpur, Pali and Balotra, the RIICO and the State to give the highest priority to the sewage management to maximum reuse of water after treatment and proper disposal of water which can't be reused.**

Arguments/Written Submissions:

215. The counsel for the parties in the course of arguments referred to the documents and pleadings already available before us and then sought permission to submit written submissions/arguments which was allowed.

Written submission filed by applicant (Digvijay Singh) in OA I

216. The applicant has given brief retrospect commencing from the order dated 02.04.2004 passed by Rajasthan High Court (Jodhpur) in W.P. (C)

No. 759 of 2002, Mahavir Vikas Samiti v. State of Rajasthan & Ors. (*supra*)

and as referred to following six directions:-

- “1. *The Pollution Control Board shall immediately make fresh inspection of the Textile Processing Units at Pali and surrounding areas and in case any of the units are found to be creating pollution and not connected to CETPs shall be closed.*
2. *The units which are creating pollution shall adopt measures to eliminate pollution.*
3. *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 the 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 the residential areas immediately thereafter.*
4. *The Trust shall make modification in the CETPs so that the emissions therefrom are compatible with the norms prescribed by the Pollution Control Board.*
5. *The industrial units which are discharging the industrial pollutant on the land or/and river shall be closed forthwith.*
6. *The State shall employ experts to assess the damage caused to the environment and health of the public by the pollution created by the units. On assessment of the damage, the concerned authority shall file a report in this court within a period of eight weeks, whereupon the question of payment of compensation by the units on the principle of polluters pays shall be determined.”*

217. Rajasthan Government required National Productivity Council to conduct a detailed study in the matter. As per report submitted by the said Council, at Bithuja, from 1996 to 2005, electrical conductivity has increased and reached Moderate Severity range of irrigation water quality standard after 2002; TDS level and chloride value also crossed permissible value for drinking water quality. From secondary data, it was inferred that quality of ground water has become worse since 2001 and this was attributed to discharge of textile effluent and leaching of salts to ground water. Similarly, at Jasol, from 1996 to 2005, electrical conductive levels, TDS levels, sodium and chloride levels etc. had increased; there was high deterioration of ground water after 1999; high value of electrical conductivity and chloride mix, made ground water unusable for

agriculture and drinking purposes; low levels of electrical conductivity and chloride, right at the base year 1996 indicate that the ground water contamination has occurred only recently and attributable to indiscriminate discharge of waste water from textile industries existing in the area which have come up only in 90s.

218. Field work also revealed effect of pollutant on the growth of crops and plants in the vicinity of River Luni where effluents were discharged by industries. Crops grown at the bank of river shows an unhealthy and stunted growth. They also show symptoms of chlorosis, necrosis, leaf burn etc. Bio marker estimation of lead, mercury and chromium helps in detection of such metals in body and these metals are present in textiles dyes as pigments. Lead and mercury were within standards. Out of seven subjects, chromium in urine was high in three cases. Chromium which enters body is eliminated in urine. This indicates presence of chromium in the body which may be due to high presence in food and water.

219. Data at Balotra show a rising trend for diseases like tuberculosis and other respiratory disease, intestinal diseases such as Typhoid, other bacterial diseases such as Plague and diphtheria, infection in digestive system such as stomach and oesophagus, Endocrine and Metabolic disorders, toxemia of pregnancy and postpartum hemorrhage and Lymphatic neoplasm. ENT specialist at Balotra hospital reported an increase in cases of allergy and said that contaminants in wastewater become airborne and are inhaled by the people, responsible for adverse effects.

220. Record shows that the statutory regulators and other authorities are responsible of perpetuating illegality by their inaction resulting in huge pollution of ground and surface water as well as land in the area in

question. State Government also took very arbitrary policies in as much as in 1982 State Government prevented registration of any new textile industry in the desert district of Barmer since damage to environmental was apparent but the said moratorium was revoked in 2011.

221. In written submissions applicant of OA I has recorded 16 prayers it is seeking but we may observe that for granting relief we have to confine with the pleadings of the writ petition/OA as also what is necessary and within the parameters of the statute, i.e., NGT Act 2010.

222. For the purpose of claiming compensation, applicant has referred to the guidelines issued by CGWA for determination of compensation. These guidelines have been discussed by us in *OA 69/2020, Sushil Bhatt vs. Moon Beverages & Ors.* which has been decided by a separate judgment delivered today i.e. 25.02.2022. We have laid down certain principles relevant for determination of environmental compensation depending on facts and circumstances of each case and the relevant nature of damage to environment involved in above matters. Statutory Regulators would act in accordance with observations/directions contained in above judgment.

223. Applicant has also referred to High Court's order dated 17.02.2012 wherein it was said that no effluent shall be discharged in River Luni till next date. The said order was later confirmed on 24.02.2012. An Attempt of CETP Trust to get the order modified failed as High Court declined to do so. The said order, therefore, is still continuing but unfortunately, violators are polluting river by discharging polluted effluent in the river.

224. Applicant of OA I said that there are certain admitted facts, firstly that region of Balotra, Batuja and Jasol, come under Balotra block, under the category of dark zone/over-exploited area and secondly TDS value of groundwater in the area in question ranges from 20000 mg/l to 40000

mg/l which is admitted by authorities as well as Balotra and Jasol CETP Trust. Thirdly, it is said that CGWA does not grant permission for abstraction of groundwater for agricultural or commercial or industrial purpose in such declared dark zone/over-exploited area, as is evident from the statement of Shri Arjit Dev, Scientist 'D', CGWA, Jaipur, recorded in Tribunal's order dated 09.07.2015. In the circumstances pleadings in para 4.3 to 4.4 in OA have to be applied in strictest form and State Government agencies must be held responsible for the damage caused to environment despite having knowledge of continues detrition of the situation. On different aspects, applicant has made submissions under different heads stating that this is evident from orders passed by Tribunal from 19.03.2015 to December, 2019. It would show that illegality has perpetuated and irreparable and irreversible injury has been caused to environment. Under different heads, applicant of OA I has said:-

A. Over Exploited Area: *The issue of the entire Balotra block being a Over Exploited area is an admitted fact and this fact has been made clear by the deposition of the Sr. Scientist of the CGWA which is recorded in order dated 09.07.2015 wherein it is categorically stated that CGWA does not permit extraction of water for industrial purpose. Admittedly, the ground water is the only source for the textile industry. Therefore the question is, should such an industry at all be permitted to conduct its operation which is clearly injurious is the already shattered environment? (Explained in detail at Page 4851 of Objection to the report of Learned Monitoring Committee).*

B. Ground Water TDS: *The issue of TDS has been raised at Para 4 at Page No. 4865 of the Objection to the report of the learned Monitoring Committee of Justice Tatia wherein the Original Applicant has relied upon the findings arrived at by Dr. Ajay Deshpande, Former Expert Member of the Hon'ble Tribunal in his report of May 2018, Para 15 of the report.*

C. Common Effluent Treatment Plants:

1. Bithuja: *214 industries are connected to the CETP at Bithuja which is being managed and operated by Respondent no.8 CETP Trust (Balotra Trust). In order to assess the situation existing as on date it is submitted that Pg 4886 of the Objections to the report of the learned Monitoring Committee may kindly be referred to. This is the inspection report dated 19.12.2020 prepared by the Regional Officer, Bithuja wherein it is clearly stated that the CETP is not meeting the treatment standard of the effluent as enumerated in the consent to operate order. Caustic Recovery*

Plant has not be installed as yet not has the work started. At Page 4892 the report points out the non-compliances of the CETP at Bithuja. The situation today is no different. Neither the CETP Trust at Bithuja has said must about the inspection report in their counter to the objections raised by the Original Applicant, nor has the State PCB submitted any pleading in this regard be it in favour or against the CETP Trust at Bithuja.

2. Balotra: *About more than 400 industrial units are connected to the CETP Trust at Balotra which is being managed and operated by the Respondent no.8. In order to assess the situation existing as on date it is submitted that Pg 4870 of the Objections to the report of the learned Monitoring Committee may kindly be referred to. This is the inspection report dated 19.12.2020 prepared by the Regional Officer, Bithuja wherein it is clearly stated that the CETP is not meeting the treatment standard of the effluent as enumerated in the consent to operate order. Subsequent thereto, the Respondent no.8 on 22.11.2021 hearing submitted that the 18 MLD RO Plant and 1 MLD MEE Plant is ready and operations. And now that CETP at Balotra is fully compliant. In counter to the claim it is submitted that the Hon'ble Tribunal may be pleased to refer order dated 13.09.2021 at Page 3323 (Annex. A) of reply to I.A.30/2021. The said order is a revelation in the sense that the State PCB restrained the CETP at Balotra from taking in the effluent from the industrial units connected to it. The reason for restraining was non-compliances and pending work of RO and MEE. It is rather surprising to see that an inspection is carried out of the CETP at Balotra by Jodhpur Regional Officer, State PCB and report is submitted to the Jaipur office. Based on the said report another order dated 30.09.2021 came to be passed in Supersession of the order dated 13.09.2021 wherein, displaying the craft of clever drafting at page 5104 of the Counter filed by Respondent no.8 to the Objections of Original Applicant, it is stated that, "the intake into the CETP shall be taken only after MEE is commissioner for handling the full load of RO Plant", and "that complete zero liquid discharge status shall be maintained and no discharge of effluent including RO reject shall be made into drain/streamer river or on land" (Implicit in the last condition is the fact that the treated effluent cannot be discharged into the SEP at Balotra and Kher). These observations were made by the State PCB on the ground of submissions made by the Respondent no.8 which is reflected at point no.10 at Page 5104 which says that, "And whereas from the above status observed during inspection, the Board is of the view that the timeline submitted by the CETP Trust authorities regarding completion and commissioning of MEE till 31.03.2022 is unrealistic and therefore unacceptable". It is submitted that during the course of the arguments it was accepted by the Respondent no.8 that the industries in light of the above order dated 30.09.2021 operated from 1st of October to 3rd of November 2021. It was also admitted by the counsel for Respondent no.8 that the Consent to Operate has not yet been issued for RO Plant. These admitted facts shows the blatant disregard Respondent no.8 has for the law, for the orders of this Hon'ble Tribunal and the remarkable ability it has to interpret an order to its convenience and act contrary to it. What is mind boggling is the fact that these facts and developments are well*

within the knowledge of the State PCB. On the Contrary the Original Applicant is constrained to submit that the intention of passing of this order shows malice in law and malice in fact on part of the State PCB. The intent of the State PCB was do something so that it may benefit the industry and help them start their industry while at the same time it must be drafted in such manner that; should it come to the notice of the Hon'ble Tribunal, which is now the case, the State PCB conveniently said that it did not permit them to operate; absent the mandatory requirement of RO Plant and MEE, However the knowledge of the fact that the industry has begun its operation on 1st October 2021 was in the knowledge of the RSPCB as the news was widely published in the newspaper. This latest incident is once again proved the existence of vulgar reality that the regulatory authorities have been completely captured by the deep pockets of the industry.

3. Jasol: *The CETP at Jasol is being managed and operated by Respondent no.9. About 110 units are connected to the CETP at Jasol. The Trust has a 2.5 MLD RO Plant. Currently there is no MEE but it is informed that 50% of the cost has been released. The Work is likely to commence by December and is anticipated to be complete within 6 months.*

D. HRTS/ Solar Evaporation Ponds: *Issue of HRTS has been submitted by the petitioner at Page 4860 of the Objections to the report of the Learned Monitoring Committee (hereinafter referred as Objections) wherein clear violations of the consent to operate order has been mentioned and the said non-compliances continues to take place. Para 5 of Objections at Page 4865 mentions of the remarks made by the learned Former Expert Member of Hon'ble in Tribunal in para 16 of his 2018 report. Para 27 internal page 19 Para 28, 29, 30 and point B, C & D at internal page 27 & 28 of the report of May 2018 by the Former expert member throws further light on the matter. It is submitted that apart from continuous seepage that takes place from the SEP at Balotra, Khed which surfaces in the River Luni because of improper and unscientific methods of storage, the HRTS/SEP facility at Balotra suffered breach on 22.03.2021 which has been duly reported by the learned Monitoring Committee headed by (Retd.) Justice Prakash Tatia as Fig.3(h), 3(i), 3(j), 3(k), 3(l) of the Common Interim Report. The non-compliance of the undertaking given by the Respondent no.8 before the Hon'ble Tribunal that is recorded in order dated 04.10.2017 is a testament of the fact that their defiance of law is writ large in spite of the pendency of this litigation. What hope can the Original Applicant or the native have from the lethargic government departments to enforce the Rule of Law.*

E. RAMKY Landfill Area: *May the Hon'ble Tribunal also seek information and details of the inspection that was carried out on 10.08.2020 and 03.03.2020 of the landfill facility were the toxic waste Sludge is required to be disposed of in a scientific manner. The last two reports of the State PCB of the landfill facility and the situation of the facility throw some very uncomfortable questions as to how is the toxic Sludge being disposed of. The Original Applicant does not have the copies of the said report but*

has gone through the document in the office of the Regional Officer, Balotra. This landfill facility run by RAMKY takes care of the waste disposal i.e. sludge of Balotra, Bithuja, Jasol, of Jodhpur industries and of Pali. The findings of the report clearly point out the unscientific process that is being followed and the serious lacunas that exist in proper functioning of the facility. This facility is being run by Ramkee. In fact the Hon'ble Tribunal had ordered an inspection by the CPCB and directed to submit a report. May the Hon'ble Monitoring Committee call upon the State PCB and the Central Pollution Control Board to furnish the inspection reports that were carried out in the last one year to give a sense to the Learned Monitoring Committee of the situation and its seriousness. Some picture annexed with the written Submissions would give the necessary visual perception to the Hon'ble Tribunal of the actual state of affairs.

- F. Bithuia Industrial Area:** The industries situated at Bithuja are in non-confirming area which would essentially mean that the area in question is not under RIICO and the functioning of the industrial area is not in a planned manner. Therefore looking to this fact the Hon'ble Tribunal was pleased to pass order dated 23.10.2019, "The Learned Additional Advocate General State of Rajasthan is directed to seek instructions in respect of what is meant by confirming area and Non-confirming area, as per clarity the State Law/Policy, on the next date of hearing. Till date there is no clarity of the said issue. It is submitted that the RIICO may be directed to take over the Bithuja Industrial Area and must run it in a proper manner.
- G. Bithuja Jasol Industrial Area:** The status of the area is the same as that of Bithuja which is that there is no RIICO industrial area in Jasol.
- H. Industries with ETP but not connected to CETP:** The issue of ETP's that have mushroomed after the filing of the present O.A. and the stringent action and directions passed by the Hon'ble Tribunal; to really brow beat the court orders and implementation of pollution treatment standards. The Learned Former Expert Member of this Hon'ble Tribunal has dealt with the issue in his 19.02.2019 report submitted in the present matter. The issue is discussed at Page 53 to 54 of the said report. The Former Expert Member opined that, "RSPCB has not conducted any scientific appraisal of such system". The Original Applicant has raised the issue at Page 4858 of the Objections to the report of the Monitoring Committee Justice Prakash Tatia.
- I. Compensation for Agriculture loss from 1995 to 2010 as per NPC:** In this regard it is submitted that in pursuance of the orders of the Hon'ble High Court study was conducted to quantify loss caused to agriculture and the National Productivity Council opined and quantified that the loss caused to Agriculture till 2010 was to the tune of Rs 7627.91 Lacs. Vide order dated 31.07.2015 it was directed by the Hon'ble Tribunal that, "The State Government shall also react to the said report and place before us its view". Thereafter, vide order dated 07.08.2015 it was observed by the Hon'ble Tribunal that, "No reaction of the State Government is before us. As regards the Report of the National

Productivity Council which we had directed to be placed before us today vide order dated 31.07.2015. We expect that some response comes before us and if it is not so, we assume that State has accepted the report. Affidavit shall be filed in the registry". It is submitted that the State Government had formed a committee on 11.09.2015 with a clear mandate that they will study the report and report to the Hon'ble Tribunal within 6 months. The said document is at Page 4971 of the counter to the objection filed by Respondent no.8. However, the State Government till dated has not responded and therefore as per the mandate of the order dated 07.08.2015 has become final. Consequently, the period from 2011 till date a further amount of Rs 7627.91 Lacs must be added for the continued loss due to admitted illegalities of the industry. A total of Rs. 152.54 crores may be ordered to be awarded to the farmers who have suffered loss. For the purposes of identification of persons who have Suffered loss, the Revenue Department may be ordered to carry out the exercise of inviting claims of farmers who have land on the bank of the river will well, a fact which is well documented in the land revenue records and compensation may be immediately distributed within a period of 6 months. It is further pointed out that the Original Applicant has placed record revenue from Page 4917 to 4934 of the Objections to the report of the Monitoring Committee. At Page 4927 and 4928 the revenue record of the joint holding of the Original Applicant's father with other family members. If it is closely observed it would be noticed that the land was being tilled to grow cash crops that are raised on water. These lands are situated on the bank of the river Luni. And today because of the pollution they cannot be used because the ground water has been ruined. Therefore time bound order of compensation may kindly be granted for all those persons, especially those who owned or own land on the bank of the river Luni as the same was a part of the study area of NPC.

- J. Intergenerational Equities:** *It is submitted that the Industry through State must further be made liable for the loss caused to the future coming generations, robbing them off, of their right to clean environment and to enjoy their agriculture land and therefore, consequently impose heavy penalty to compensate the future generation. The Industry must be ordered to deposit a minimum of 100 crores under the head of Intergerational equities.*
- K. Ground water severely contaminated as per finding of the NPC Report (Annexure-10 of O.A.):** *It is stated that since the problem of groundwater contamination cannot be handled only on a localized area (study area) and would require the detailed hydrological studies for estimation of total contaminated ground water volume, groundwater remediation plan, development of conceptual water treatment schemes etc., which is beyond the scope of work of the current study, and hence could not be computed. This aspect may be undertaken by the Government of Rajasthan as a follow up study. Finding has been given by the NPC in regard at Pg 26 of Chapter 1, Executive Summery.*
- L. Effects on Health due to Textile Pollution:** *It is stated in the report of the NPC that the biomarkers estimation of lead, mercury and chromium helps in detection of such metals in body. These metals are present in textile dyes as pigments. Lead and mercury*

were within standards. Out of 7 subjects, chromium in urine was high in three cases. The chromium which enters the body is eliminated in urine. This indicates presence of chromium in the body that may be due to its high presence in food and water. The analysis of hospital data at Balotra showed a rising trend for diseases like tuberculosis and other respiratory diseases, intestinal diseases such as Typhoid, other bacterial diseases such as Plague and diphtheria, infection of digestive system such as stomach and oesophagus, Endocrine and Metabolic disorders, toxemia of pregnancy and postpartum hemorrhage, and Lymphatic neoplasm, Some effects may be due to water pollution and soil contamination by chromium and lead which sampling results of waste water and soil also reveal. The ENT specialist at Balotra hospital reported an increase in cases of allergy and said that the contaminants in the waste water become air borne and are inhaled by the people and may be responsible for the adverse effects

M. Findings of Report of Former Expert Mr. Aiay Deshpande of this Hon'ble Tribunal vide report dated May 2018 and 19.02.2019:

N. Need for Hydrological study of Ground Water and the spread of contaminated water: Since the problem of ground water contamination cannot be handled only on a localized area (study area) and would require the detailed hydrological studies for estimation of total contaminated groundwater volume, ground water remediation plan, development of conceptual water treatment schemes etc, which is beyond the scope of work of the current study, and hence could not be computed. This aspect may be undertaken by the Government of Rajasthan as a follow up study. Finding has been given by the NPC in regard at Pg 26 of Chapter 1, Executive Summery.

O. Implementation of order dated 06.03.2019 in toto based on the report dated 19.02.2019 prepared by Former Expert Member of this Hon'ble Tribunal Mr. Ajay A. Deshpande and Dr. Ajit Pratap Singh:

P. Reparation Cost: May the Hon'ble Tribunal order the CPCB along with other Government Agencies and one independent agency to study and calculate the damage caused due to the operation of the textile industry in a manner which has been detrimental to the environment from day one. The first proof of the realization that the State Government has was the issuance of Moratorium in 1982 directing that no industry should be registered; which came to be revoked in 2011 and the reference of it has been made in Annexure-16 of the O.A. The Second evidence of the knowledge is proved by the fact that the State PCB never granted any Consent to operate to the industry to discharge treated effluent into the River. Rather the condition imposed was that the effluent must be treated to such standard that the treated effluent must be used for plantation or horticulture. It is for this purpose that the government acquired land from poor farmers way back in 1999; were currently the SEP pond at Balotra is situated, next to a residential colony. It is submitted that the purpose of the acquisition was to use land for plantation or

horticulture but today the 256 bighas of land is a pool of toxic effluent which is eventually seeping into the ground water since 4 out of the 5 ponds are unlined (Please refer to order dated 04.10.2017). The situation after 11 years of adjudication since 2011 is much the same and it cannot be said to be anywhere near satisfactory. Therefore, a team of experts of the field must be engaged including the NPC, where the report prepared by the NPC ought to be made the base report and latest scientific conclusions must be drawn; which would give a scientific guidance to take the cause in the necessary direction hereon. The Original Applicant has come across a document titled as **“Report of the CPCB In-house Committee on Methodology for Assessing Environment Compensation and Action Plan to Utilize the Fund”** a copy of which is being annexed as **Annexure -A. It is prayed that the experts may be directed to implement the method of assessing the environment compensation, continuous violation and for illegal extraction of ground water keeping in mind the facts of the present case of continuous illegality.**

Q. Illegal Industries in Jerla: The applicant in person draws the Hon’ble Tribunal’s attention towards the establishment of illegal industrial units in Jerla area which is widely known to the authorities through newspaper reportages. These industries at Jerla and other places are being permitted to be run without consent to operate issued by the State PCB and these units do not have any treatment facility and directly discharge into the municipal waste canal. The applicant has on number of occasions informed the authorities and it has also been widely reported in the daily hindi newspapers read locally. Yet no substantial action has been taken till date to completely stop these units. The issue of Jerla has been raised by the Original Applicant in **para E of the Objections** to the report of the Learned Monitoring Committee at Page 4810 & Annexure -F.

R. Responsibility of Government Agency: The facts of the case from day one, were admitted facts as is clear now after the issues were thrashed out and judicial finding were given from 19.03.2015 to 07.12.2020 by this Hon’ble Tribunal. The Industry, it is proved, has been thriving on illegality and the Government Agencies especially the Prabodhan Samiti chaired by the District Collector and the State Pollution Control Board have been mute spectators especially when the enormity of the damage is taken into consideration. This fact is further fortified by the observation of this Hon’ble Court vide order dated 23.08.2018 (quoted at Page 4842 of the Objections) which states that, **“We are really surprised to see that despite of clear orders passed by the Tribunal, the PCB, on some pretext or the other, is prolonging the proceedings without any just reason. Perusal of the aforesaid orders and what has been noted in the affidavit of PCB itself is a clear example of the same.** We direct the Chairman, RSPCB as well as Member Secretary who has filed the present affidavit, to be present before the Tribunal on the next date of hearing and specific response with regard to compliance of the recommendations made by the Learned Commissioner and those pointed out by the Applicant on 3rd August 2018 shall be fully explained as to whether they have

been complied within letter and spirit or not.” Order dated 10.12.2018 states that **“.....it leaves no room of doubt that the so called steps taken by Mr. Vijay Katta, Regional Officer Balotra, District Barmer is mere formality.....** Quoted at page 4844 of the Objections to the report of the learned Monitoring Committee. It is clear from the facts and the observations by the this Hon’ble Tribunal that the State PCB, Prabodhan Samiti, District Collector, CPCB, CGWA and the State Government have failed in discharging their fiduciary duty and to act in a manner to implement the Public Trust Doctrine; as they are supposed to. The conduct of these agencies must invite the wrath of the Rule of law, judicial disciplining and fastening of responsibility.

- S. Large Textile Project at Newai at a distance of about 30kms from Balotra:** It is prayed to the Hon’ble Tribunal that a large private textile park has been advertised to be coming up at Newai which is hardly 30 kms from Balotra. This area falls in the Balotra Block which comes under Over Exploited Area as per the admission of the CGWA. The Original Applicant made necessary enquiries from the office of the Regional Officer, State PCB and was informed that they have not received any application for approval of the said project. The Original Applicant beseeches this Hon’ble Tribunal that this fact of a private textile park, may be taken into consideration as its anticipated arrival or existence directs his the fundamental questions raised before this Hon’ble Tribunal. Para B, Page 4803 and Annexure-B, Page 4869 of the Objections to the restrained report of the Monitoring Committee. Such projects may kindly be restrained looking to the irreparable and irreversible damage caused to the environment and ground water.
- T. Malicious prosecution:** It is submitted that the Original Applicant was further put to great degree of ordeal, apart from contesting the present matter; when the frivolous FIR came to be lodged against him for damaging the property of CETP Trust at Bithuja and alleging that the Original Applicant was indulging in extortion under Sections 447, 327 and 427/34 IPC in 2016. Subsequently, the FIR came to be withdrawn by the complainant when nothing came to be proved against him by the police, by way of filing of an affidavit before the Hon’ble High Court. A certified copy of the said Affidavit is marked as Annexure-B with the present Written Submissions. Consequently, the FIR was quashed and set aside by the order dated 16.08.2018 of the Hon’ble High Court at Jodhpur. Contesting the present matter for last 11 years since 2011 and filing of the FIR was an attempt by the Respondent no.8 to malign the bonafides of the public cause espoused by the Original Applicant not to mention damage the standing and the reputation of the Original Applicant in the society.
- U. Litigation Cost:** The humble Original Applicant is a practicing lawyer at the High Court of Judicature for Rajasthan at Jodhpur. The Original Applicant has been pursuing the cause since 2011. I am a resident of Jodhpur and Native of Jasol where I have my ancestral agricultural lands. The distance between Jodhpur and Balotra is about 110 Kms. The petitioner has made innumerable

trips to his native arid land to see, verify facts and report to this Hon'ble Tribunal on affidavits. The sheer volume of the present case which runs into thousands of pages is a testament of the effort that has been put to prove again and again the perpetrators of Rule of law and the violation of rights of the innocent natives, the environment, wild life and ecology. In the process it is humbly submitted that the present litigation has consumed enormous amounts of time, lost opportunity due to commitment to the present cause, consumption of resources and energy to bring it to a logical conclusion. Looking to these facts and the efforts of the humble Original Applicant, this Hon'ble Tribunal was pleased to grant interim cost of Rs. 3 Lakh in recognition of the efforts. Therefore, in light of these facts it is humbly submitted that may this Hon'ble Tribunal be pleased to compensate the humble Original Applicant by directing the Respondent Industry to pay Rs 25 Lakh as litigation cost to the Original Applicant."

Written submissions by applicant filed on 03.12.2021 in OA III:

225. Various reports show continued violation on the part of proponents.

Stand taken by applicant in OA III is as under:

"The applicants express their gratitude to Hon. Justice Prakash Tatia and Dr. Ajit Pratap Singh for carrying out such detailed and meticulous studies, which have - in the short time available, and despite COVID disruptions; unearthed the various lapses and shortcomings which, are leading to the modern-day disaster of the Rajasthan desert - poisoning of its water and soil by some unscrupulous elements who have no regard for human, animal or plant life of the state.

Their reports indeed confirm the various submissions made by the applicants before the Hon. Court. The applicants are ever more grateful to the Hon. Court for directing this inspection.

Genesis of the current litigation: River Jojri has been a seasonal river of Rajasthan, starting near Ajmer/Nagore and flows for over 150 Kms before merging with River Luni near Siwana in Barmer district of Rajasthan. Historically, its supposed to be an offshoot of River Saraswati, and ancient texts record that once upon a time the river was a major carrier of water, facilitating major crops like Wheat, Rice and Sugar cane, but upon the desertification of the area, it had become seasonal and only flowed during Monsoons.

The river flows adjoining to Jodhpur, now the second largest and one of the fastest growing cities of India with a population of 30 lakhs and rising. Jodhpur is a regional industrial hub, with a large number of textile dyeing and printing industry, steel industry etc. but with woefully inadequate infrastructure to treat its effluents and sewage, which has been for decades being dumped into the river.

Approx. 300 Million litres of this toxic mix of heavy metals, poisonous chemicals and sewage being discharged daily has revived the flow, and the river has now become perennial, carrying this deadly cocktail 60 kms downstream to villages of Doli Rajpura, Araba Purohitan, Araba Dudawatan, Doli Kalan etc.

What compounds the issue is encroachment on the river path, due to which, no path now exists for the river to flow on towards River Luni, as a result, large areas of agricultural lands belonging to the above villages are now submerged in this toxic cocktail of heavy metals and chemicals-leading to large scale and irreversible damage to the ecology of the area. This has made the soil unfit for agriculture and has poisoned the local water table making it unfit for human consumption. The villagers in the area are forced to buy drinking water and bring it in tankers from other parts of the state. There is a stench in the entire area, which makes it very difficult for the villagers to live in the area.

The toxic heavy metals travelling with the effluent have now entered the food chain, leading to very serious damage to human life, health, domestic cattle's, local wildlife including the endangered Chinkaras, Black Bucks, and all flora and fauna of the area. There is now a prevalence of diseases like Malaria, and Dengue, and rise in cases of Gastro-intestinal disorders and cancer in the area and district.

Aggrieved at Beaucratic apathy and non-responsiveness of the various authorities in the Barmer and Jodhpur districts over years, the Gram Panchayat of the village Araba finally moved the Hon. National Green Tribunal in 2015 vide OA 329/2015.

Since then, despite numerous orders of the Hon. Court; the respondents-including the State Government of Rajasthan, Rajasthan State Pollution Control Board and others have continued to evade and mislead the Hon. Court in terms of action being taken through various limited, ineffective and half measures, which have led to the Hon. Tribunal to - through order dated 30/12/2018 impose a cost of Rs. 10 Lakhs on the State and impose a further cost of Rs. 1 Crore on RIICO and Rajasthan State PCB for their failure to contain the damage due to non-regulation vide order dated 16/11/2018.

Notably, despite various strong judicial orders and directions, the State and its various bodies have failed to bring any respite and relief to the applicants and dumping of sewage and effluents in the river have continued unabated to the extent of 300 million litres very day, leading to the Hon. Chairperson of the Monitoring Committee to observe that the target of Zero liquid Discharge in the river Jojri remains a pipe dream even after a decade and half.

What is indeed worrisome is that despite years of assurances of action being taken against these polluting industries and the individuals behind them-who have absolutely no regard for human life and the law of the land; Little impact seems to be happening on the ground. This can only mean complicity of the very administration which is duty bound to take action against these polluting units.

In addition to the Jodhpur Industry, a lot of fly by night operators have been setting up illegal dyeing and allied factories (Often running them at night) in areas such as Bhandukalan - (operating inside despite closure signages outside premises), Salawas, Tanawada, Sobhato ki Dhani to name a few, and are operating with complete impunity and brazenly discharging chemicals in the river

Jojri, absolutely unmindful of the devastating impact of their action downstream, which is today threatening thousands of lives. Indeed, without the complicity of the likes of Tehsildars, Local Police, Local Pollution control authorities etc, such impunity is not possible. It would not be wrong to state that a mafia is now enjoying a free run, getting unjust enrichment at the cost of hapless villagers of the area as well as city residents and causing irreversible damage to the ecology of the area in the process.

4. *There are large scale reports of textiles being illegally brought into the city each night for washing and treating by truckloads all of the wash then being dumped into the river - something of this magnitude cannot happen without the complicity of the police, toll officers etc.*

Shockingly, the earlier report submitted by Dr. Ajit Pratap Singh in Compliance of order dated 23/10/2018 records that Dr. Singh found in many places during his surprise visits (page 10, 13 of the report) that the discharge found was many times higher than what was seen during the official visit. This is clearly a sabotage of the report and an attempt to mislead this court. This could not have happened without the active involvement of the pollution control authorities in JPNT and State pollution control board/other machinery involved with organizing the visit. Strict action against such conniving officials is also prayed for this gross dereliction of duty shown by these individuals. Similar is the case where records are not being maintained by the authorities for almost a year which can only be to allow illegal discharge to continue (page 11).

Page 12 also records a finding of the data supplied not being accurate - this is again a sabotage.

The 2018 report records non installation of primary treatment plants, that various industrial areas of the city do not have properly laid out sewer systems, or a proper collection and segregation mechanism for effluents and other waste water from the industrial areas leading to ETP's and STP's - this represents a complex problem, created by a serious lacuna in the planning and execution by the state.

Subsequently, The final report dated 21st July 2021 by the monitoring committee further records on page 16 of the report that approx. 300 MLD of Sewage and Effluents are being discharged in the River Jojri, and is responsible for the serious environmental problem for hundreds of acres of Barmer and Jodhpur districts including the area around Village Araba.

It is humbly submitted that this deadly cocktail of untreated chemical effluent and sewage containing various poisons and heavy metals is contaminating the ground water tables, thus through contaminated underground water, there is real danger of this pollution travelling long distances and effecting human and animal life across the state and perhaps as far out as the Ram of Kuuch where the River Luni falls into the Arabian Sea.

This is conclusive proof that between October 2018-Dr. Ajit Singh's report to July 2021 no improvement has taken place, rather the illegal discharge has continued unabated and has

gone up in the last few years from 200 MLD to 300 MLD now, showing gross negligence and complete apathy of the State Government, RSPCB, JPNT, and other state organs. It is thus clear that every possible violation of all key environmental principles and law is happening, and this must invite the strictest penalties from the Hon. Court.

This is also blatant contempt of all court orders and directions, and in light of the fines imposed earlier, shows the callous attitude of the State and its office bearers. Additionally, repeated non-compliance, non-appearance and non-cooperation by the state, and non-prosecution of any defaulters till date clearly make it a case of wilful default and complicity by the state into the large scale corruption without which the decade and half long inaction could not have been possible.

It is therefore prayed that these individuals be identified, and strictest action is taken against them. Therefore, The Hon. Tribunal is requested to pass a stringent order against the State and its various agencies responsible for these serious violations leading to irreversible damage to the ecology of the area, and levy a big compensation which may be directed towards rehabilitation of the effected area in terms of soil replacement, cleaning of the river and the areas water table and to put a complete stop on any discharges in the river-treated or untreated; along with any and all effluents.

The Hon. Tribunal is prayed to direct Central Pollution Control Board to calculate the actual cost of replacement of the effected agricultural soil and underground water. This is significant as to restore the Income of the villagers dependent on agriculture, and to restore fresh water supply to the area.

Given the large scale damage done and the magnanimity of the issue, a radical approach is now needed to prevent further damage and to reverse some of the damage done to the ecology.

The suggested measures would include implementation of all 17 recommendations of the monitoring committee's interim and Final reports as listed on page numbers 2 to 5 of the final report dated 21/07/2021 in a time bound action plan covering all remedial actions over short term (Immediate), medium term (0-6 months) and long terms measures (> 6 months) reportable to this Court.

Additional suggestions by the applicants are as follows:-

- a) Replacement of up to a meter of the topsoil of the effected area to restore agriculture, and ways to clean the water resources like wells, ponds, and ground water of the area : under the intergenerational equity principle.
- b) Compensation and Restitution to the effected people living in the area of Gram Panchayat Araba and adjoining villages whose land and water has been polluted and who are faced with health hazards due to this pollution. Direction to State revenue officials to provide information on the exact Khatas and landholdings of the affected area, direction to the District collectors to provide information and data on the people

resident in the area who the compensation could be disbursed to-Under the Polluter pays principle.

- c) Complete ban on any discharge into the river-zero liquid discharge status.*
- d) Relocation of all Steel, Textile, dying and printing and all other polluting industries in Jodhpur, Pali and Barmer districts to a common industrial area in each district with connectivity to CETP, ZLD, RO and other plants to ensure zero discharge into the rivers Jojri Luni, Bandi and any other river, and to prevent disposal of sewage, effluents etc. on land.*
- e) Cancellation of all leases and licenses and shutting down of defaulting industry till they are relocated to the common Industrial areas.*
- f) Direction to the state to notify a singular agency dealing with all Industry approvals, a singular Industry Policy, SOPs and Operational methodologies, singular standards - all to be in compliance to all current environmental laws, orders of the Hon. Supreme Court and Hon. NGT.*
- g) Removal of all encroachments; and Dredging of the river path ahead of village Araba to allow reconnection; and flow of the river further onto River Luni, and then onto the Arabian Sea via the Ran of Kutch area.*
- h) In the possibility of the above not being possible, lifyitip, Of underground pipelines to allow for the flow out of the accumulated water, and to prevent future accumulation of the river water and flooding of the area of the villages close to Araba.*
- i) Dredging of the river path between Jodhpur to Araba to remove/replace the river bed soil which is laden with the toxic chemicals flowing through it.*
- j) Direction for registration of FIR's and cases against various defaulters under stringent sections like 304/308, and cognizance of environmental poisoning as Culpable Homicide, strict punishments to be given out. This is needed as current sections like 269, 270 IPC etc. are not proving to be dissuasive, and is leading to impunity by the polluters who are taking minor fines as regular cost of operations.*
- k) Strict action against Revenue, PCB, and Police officials of Jodhpur, Pali and Barmer districts of the affected areas for dereliction of duty in turning a blind eye and not taking any action against polluters operating in their area. Notably, Illegal dying and washing operations have been running from Sealed premises as well, with authorities turning a blind eye towards them.*
- l) Detailed investigation by an independent agency like CBI into the real "Big Fish" culprits behind the repeated environmental violations and non-action of State authorities against the violators, arrest and prosecution of those perpetrating this*

crime against humanity, and flora and fauna of the area - including the endangered Chinkaras Black Bucks, Domestic Animals.

- m) Direction to CPCB to also calculate and provide to the Hon. NGT restitution costs (Based on the CPCB methodology for calculation of Assessing Environmental Compensation), to the Applicants and victims of this pollution who have lost their livelihood based on agriculture to damage to their agricultural lands, who have been denied clean drinking water, and are being made to suffer on various accounts arising out of the pollution caused to their villages.
- n) Piped fresh and clean potable water supply to each house in the Araba cluster suffering from polluted ground water.
- o) AT a bare minimum, the following compensation claim for the above restitution to the victims is being suggested which has been arrived at using the formula provided by CPCB for the purpose.

$$EC = PI \times N \times R \times S \times LF$$

Where,

$$EC = PI \times N \times R \times S \times LF$$

EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

a) IF 2015 - the year of filing of the OA is to be taken.

$$PI (80) \times Days (2190) \times R (500) \times S (1.5) \times LF (2) = Rs. 26,28,00,000.$$

b) If 15 year period covering all complaints and start of the pollution reaching the area is to be considered

$$PI (80) \times Days (5475) \times R (500) \times S (1.5) \times LF (2) = 657000000$$

As per the recommendation of CPCB in their Report of the CPCB in-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund, on page 6:"

6. In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2 times on 1st repetition, 4 times on 2nd repetition and 8 times on further repetitions.

7. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.

Given the serious dereliction of duty shown by the state and its various agencies and given the large scale damage to the ecology of the area spread across hundreds of acres, loss of income for the past decade and half, which is expected to continue in the near foreseeable future, grave risk to human, plant and animal health arising out of poisoning of the ground water and entering of heavy metals and poisonous chemicals in the food chain, the applicants are praying for a 8 fold increase in the compensation as per above quoted para 6 of CBCP report.

Hence Restitution Amount claimed:

$PI (80) \times Days (5475) \times R (500) \times S (1.5) \times LF (2) = 65,70,00000$ $\times 8 = Rs. 525,60,00000$

Written submissions filed on behalf of RIICO Balotra (respondent 6) in OA I

226. RIICO in its written submissions, has stated as under:

“The humble respondent-RIICO submits the following written submissions in pursuance of the directions issued by the Hon’ble Tribunal vide its order dated 23.11.2021 with regard to the interim as well as final report so submitted by the Committee:

- 1. That during the course of proceedings of the Committee headed by Hon’ble Justice, Prakash Chandra Tatia, officials of the RIICO Units Jodhpur, Balotara & Pali, have duly attended the meetings and remained present during the inspection as and when required by the Committee. During the said meeting, the officials of the RIICO, Jodhpur, Balotara & Pali have provided full assistance to the Committee and have also provided all the details and responses, asked/inquired by the Committee. The said fact clearly reflects at page no.5 & 6 of the interim report as well as page no.7 of the final report, so submitted by the Committee.*
- 2. That so far as the conforming industrial areas developed and managed by RIICO is concerned, it is stated that the RIICO being a catalyst of industrial promotion in the State of Rajasthan, is establishing industrial area in a planned manner. It is further stated that the entire planning of the industrial area is being done with the help of experts in the field of industrial planning and the entire development work of industrial area such as facilities like roads, road-lights, rainwater harvesting system, plantation, rain/storm-water drain as well as zoning of industries, are being done accordingly. It is stated that the allotment of industrial plots in the industrial area are being made after obtaining the necessary permissions, approvals and consents from the respective authorities such as, Environmental Clearances, Consent to Establish, Consent to Operate, CGWA permission, NBWL permission etc. The RIICO, while establishing the industrial area, are taking care of all environmental norms and also allots industrial plots to the respective allottees with a specific condition that the allottee shall be required to take all necessary clearances, permissions from the respective*

authorities and shall abide by the terms and conditions of such consents/permissions as well as the order passed by the Courts of Law, including the Hon'ble National Green Tribunal on environmental issues. The said conditions are clearly reflected under clause 4 of the lease-deed which deals with all the provisions regarding environment pollution and pollution control measures. A copy of the specimen lease agreement is enclosed herewith and marked as Enclosure-1.

3. That the issue with regard to discharge of effluents in the RIICO drain was raised during the meetings of the Committee. It is stated that the storm water drains is constructed by RIICO to ensure flow of rain/storm water to the nearby catchment area. Thus the storm the storm water drain established in the industrial areas of Balotra are operational/ used only during monsoon/rainy season. The problem of discharge of sewage and effluents in RIICO drain is usually not existing in industrial area Balotra. However, on 20.07.2021 the RIICO Unit Balotra has issued work order for providing and fixing Ferro Covers for drains at industrial area Balotra Phase-I. A copy of the work order dated 20.07.2021 is enclosed herewith and marked as Enclosure-2.
4. That with regard to the 23 industries established and were functioning at Gandhipura area of Balotra District-Badmer, it is stated that in pursuance of the directions given by the Hon'ble Tribunal, the said industries are closed down and the industrial pattas have been granted in favour of the respective industries at Bithuja Industrial Area.

It is further stated that earlier in 2004, the Division Bench of the Hon'ble Rajasthan High Court in the case of Mahesh Pareek Vs. State of Rajasthan (2481/2002) vide its order dated 09.03.2004 has directed the RIICO to develop the industrial area and to shift the industries situated in the non-conforming area to a newly developed industrial area. In pursuance of the said directions, RIICO Unit, Balotara has already developed the RIICO Industrial Area, Phase-IV, which was meant only for textile units. It is stated that after several round of scrutiny and allotment as much as 470 number of industrial plots have already been allotted to the eligible industrial units, which were operating in the non-conforming area, prior to passing of the judgment by the Hon'ble Division Bench on 09.03.2004.

Finally, the State Government has constituted a Committee under the chairmanship of Divisional Commissioner, Jodhpur and the said Committee in its report dated 13.05.2017 has approved 53 applications and the allotment orders to the respective applicants to be issued. Thus, it is stated that the process of shifting of eligible industries from non-conforming area to the conforming area developed by the RIICO has already been completed. It is pertinent to mention here that some litigations are still pending before the Hon'ble Rajasthan High Court, Jodhpur with regard to the rejection of some of the applications by the Committee headed by Divisional Commissioner, Jodhpur.

5. *That for ensuring the establishment of the CETP of the adequate size and for establishment of the same at ZLD level, the RIICO as facilitator to the SPV/Trust has allotted adequate size of land at a token amount of Rs.1/. The RIICO has allotted 25 Acres of land to SPV/Trust on 07.11.2007 for construction of CETP Plant at Industrial Area Balotra IIIrd Phase and allotted 15000 sqm of land to SPV/Trust vide allotment order dated 19.06.2012 and additional land of 4000 sqm on 17.08.2012 for establishment of RO Plant at the industrial Area Balotra IIIrd Phase. Copy of the allotment letters are annexed herewith and marked as Enclosure-3, collectively.*

It is pertinent to mention here that once the land for establishment of CETP is allotted by RIICO to the SPV/Trust. It is the duty of the said Trust to construct and establish the CETP of adequate size, required technology and approved design. The laying down and maintenance of close conduit pipelines for taking effluent from the industrial unit to the CETP and its regular repair and maintenance is also upon the said SPV/Trust. The said Trust is also under Constitutional/Statutory obligation to treat the waste/effluent generated by its member units in scientific manner and standards prescribed by the PCB in that regard.

6. *That it is stated that RIICO are making utmost efforts for repair or maintenance of the RIICO drain as well as to remove all garbage/over-burden lying along with the roadside. The details of the said continuous efforts made by the RIICO are mentioned below:*

In the F.Y. 2018-19–*In the F.Y. 2018-19, an amount of Rs. 124.20 lacs has been incurred by the unit office on the regular maintenance/cleaning of drain, removal of garbage etc. from various industrial areas in Balotra.*

In the F.Y. 2019-20 – *In the F.Y. 2019-20, an amount of Rs. 90.73 lacs has been incurred by the unit office on the regular maintenance/ cleaning of drain, removal of garbage etc. from various industrial areas in Balotra.*

In the F.Y. 2020-21 – *In the F.Y. 2020-21, an amount of Rs.77.22 lacs has been incurred by the unit office on the regular maintenance/cleaning of drain, removal of garbage etc. from various industrial areas in Balotra.*

In the F.Y. 2021-22 – *Presently an expenditure of Rs. 38.12 lacs has been incurred by the Unit Office for the regular maintenance /cleaning of drain, removal of garbage etc. In these tenders, an estimated length for cleaning of drain from various industrial areas in Balotra.*

7. *That with regard to the concern raised by the Committee headed by the Hon'ble Justice Prakash Chandra Tatia regarding the scattered industries, it is stated that under the directions given by the Hon'ble High Court for shifting textile industries to industrial area. In Balotra, the RIICO Industrial Area Phase-4 has been established primarily for shifting of the industrial units*

involved in the textile business wherein 586 plots are planned for establishment of textile units through open auction and to eligible shifting units as per directions of District Administration/ State Govt.

8. *That RIICO as an industrial catalyst is very much committed for ensuring the sustainable development and thus, has taken all possible steps to ensure that the development as well as environment shall go side by side and both the said aspects shall remain in harmony for all the times. The answering-respondent RIICO is committed and ready and willing to abide by its constitutional as well as statutory obligation and undertakes to follow the directions given by this Hon'ble Tribunal in its true letter and spirit so as to ensure safe and hygienic environment for all."*

Written Submissions by respondent 8 (Balotra Water Pollution Control & Research Foundation Trust) filed on 01.12.2021 in OA I:

227. Respondent 8 has filed written submission, stating as under:

"2. That the present OA No.34(THC)/2014 came to be transferred from the Hon'ble Rajasthan High Court to this Hon'ble Tribunal, on the same being transferred the humble respondent no.8 took preliminary objection with regard to same being barred by time and therefore the same was not maintainable. The same finds a mention in the very first order passed by this Hon'ble Tribunal on 5.3.2014. The said submission was also raised before the Hon'ble Tribunal at time of passing of order dtd.19.3.2015 wherein too the said submission was kept aside while stating that 'we may keep aside the technical issue of limitation and will try to find out a solution for the real problem which universally affects everyone of us'. It is submitted that the present OA be dismissed as being barred by limitation as being pleaded and prayed for in Preliminary Objections to the OA.

3. That the respondent No.8 Trust came to be created in 1995 it was then managed by ex-officio government Officials, the District Magistrate being the Chairman of the Trust and other government officials being the office bearers / Trustees of the Trust who helped in operating and maintaining the CETPs at Balotra and Bithuja. Management of the Trust came to be transferred in the hands of Industrialists in the year 2010 only, by way of Government Notification, wherein the ex-officio government officials were made to leave the management of the Trust and the same was handed over in the hands of industrialists for maintaining and operating of the plants. It is thus submitted and as has already been stated in the Preliminary Objections that the alleged damage so caused and as assessed by the NPC as relied by the applicant, the respondent no.8 Trust through its management in present form since 2010 cannot be held responsible.

4. That by way of the said written submissions, the respondent No.8 Trust submits the progress it has undertaken in terms of development being done in the area in question and the investment it has made in the treatment facilities for treating the trade effluent of its members units in the area.

5. That the respondent No.8 Trust constructed the 6 MLD CETP in year 1999 and 12 MLD CETP in year 2005 at Balotra and 30 MLD CETP at Bithuja in year 2006 with the investment being made in form of contribution being made by the member units. Thereafter, additional 18 MLD CETP was constructed at Balotra, which in due course of time was equipped with a Tertiary Treatment Plant. The treated trade effluent as provided by way of consent to operate, discharge its trade effluent at the HRTS facility, which was maintained and equipped in accordance with what was provided and required in line with the consent to operate. Looking into the nature of industrial activity that was being carried out at Bithuja, an additional pipeline for reuse of the water was being established to take the trade effluent from the member units for the same to be treated at CETP and thereafter, using the said treated trade effluent as raw water again. Thereafter, a 6 MLD RO plant was established at Balotra in the year 2015 pursuant to the order being passed by the Hon'ble Tribunal. For handling the R.O. reject more efficiently, another HRTS facility which in course of time came to be known as Solar Evaporation Ponds (SEP) at village Khed was developed by the respondent Trust for the R O Reject to be discharged there. The recent and latest construction of 18 MLD RO plant under IPDS scheme of the Ministry of Textiles, Government of India now equips and stands out the respondent Trust with being only the second Industrial hub in the Country to have complete treatment facility equipped with RO Plant, MEE and SEPs for its member units. In order to ensure that no pilferage or additional discharge is received in excess to the treatment facility that can be handled by the CETP, the member units are being connected through a SCADA system, the readings of which are displayed and monitored at the head office of RSPCB. Thus, ensuring that no discharge goes above the prescribed quantity. In addition to the above-mentioned developments, the respondent Trust has spent an additional amount of Rs.15 crores towards the upgradation of both the CETPs at Balotra and Bithuja. A chart displaying the amount of investment being made by the respondent Trust since 2010 towards upkeep and development of treatment plants is annexed herewith and marked as **Annexure-8/1.**

6. That in furtherance of the directions of this Hon'ble Tribunal, close conduit pipeline has been established by the RIICO in order to ensure that no trade effluent is discharged through open drains, such that no trade effluent can spread out in open and cause problem of pollution.

7. That during the course of arguments, the working of MEE (Multiple-Effect Evaporator) was submitted to be established and operationalized by the respondent No.8 Trust in terms of the permission of operation being given to it by the RSPCB vide its order dated 30.9.2021. In furtherance of which, the electricity bills of the Special Purpose Vehicle (SPV), which has been constituted to operate and maintain the 18 MLD RO plant alone are placed on record in order to establish the phenomenal hike in the reading of the electricity bill from the time pre 30.09.2021 and post 30.09.2021 wherein, the MEE was made operational and effective. It is submitted that the electricity bills prior to 30.09.2021, generated bills to the tune of Rs.9 to 13 lacs per month that also for erection and commissioning work only. However, once the MEE was made operational, the electricity bill in the month of October were above Rs.30 lacs which clearly establishes

the working of the MEE and RO at the CETP Balotra. In addition to the electricity bills, the invoices towards the purchase of coal being procured by the respondent Trust for operating the MEE clearly establish the MEE being operational. The copy of electricity bills along with the invoices towards purchase of coal are annexed herewith and marked as Annexure-8/2 collectively.

8. That it is humbly submitted that the area in question i.e. Balotra and Bithuja, do not fall in 'Over Exploited' zone as alleged. The same falls under the category of 'Saline' zone as has been confirmed by the Regional Director, CGWA. In response to communication dated 25.11.2021, being sent by the respondent Trust to the CGWA asking the details as to the status of the applications being made by the member units towards the groundwater extraction, the CGWA vide its communications dated 26.11.2021 confirmed that out of the 385 applications received till date, it had granted consent to 360 units for extracting the groundwater and 25 applications were in process. In addition to the said response being received from the CGWA, the additional guidelines and NOC being received by one of the member units are being placed on record in order to show that the industrial units in the area in question have been permitted to extract the groundwater which comes in the category of saline. The copy of communications dated 25.11.2021, 26.11.2021, additional guidelines and sample NOC being obtained from CGWA are annexed herewith and marked as **Annexure-8/3** collectively.

9. That the respondent Trust regularly monitors the sludge disposal in accordance with the Hazardous Waste Management (HWM) Rules for which it has executed a contract with RAMKY which on a regular basis collects the sludge from the sludge yards of respondent No.8 Trust at Balotra and Bithuja Plants both, and disposes of them in accordance with the rules. The details as to the amount of sludge that has been discharged by the respondent No.8 Trust from both Balotra and Bithuja, are given in the form of chart which has been annexed and marked as **Annexure-8/4**.

10. That it is humbly submitted that in order to reduce the load at inception and at the CETP, the member units of the respondent No.8 Trust which have discharge of above 50 KLD, were directed and have installed La Mel/a at their premises which acts as a Primary Treatment Plant and by way of chemical treatment ensures the sludge separation which largely reduces the hazardous nature of the trade effluent, that has been discharged and makes it easy for the trade effluent being received at the CETP for its treatment that as many as 65 member units of the respondent No.8 Trust have installed the said facility in form of primary treatment plant. That in addition to the La Mella being installed at member units which have discharge of above 50 KLDs. Furthermore, as many as 30 units whose discharge is above 100 KLD have additionally installed filter press at their units in form of primary treatment which ensures that the sludge which is being segregated as being pressed into dry sludge cake and only thereafter, the same has been send to be disposed in accordance with Rules. For the units which have a discharge of less than 50 KLD, since installation of the said facilities is economically not viable, the same have been mandated to install pH correction tanks wherein only the prescribed level of trade effluent is being sent for treatment to CETP, where the parameters of the said effluents are according to norms

which are being duly verified by pH strips. The member units were mandated to install the said plants in form of primary treatment plant by the respondent Trust by virtue of the orders being passed by the Hon'ble Tribunal. The requisite primary treatment facility at the member units have been subsequently verified and confirmed by the RSPCB as well.

11. That with the advent of the 18 MLD RO plant which is currently being permitted to operate at 6 MLD by virtue of order dated 30.9.2021 being passed by RSPCB, the respondent Trust is in a position to reuse 85 (Y0 of the total trade effluent i.e. being received at the inlet for the same to be treated by it and by reusing the said trade effluent in the form of raw water again, the Trust has been able to largely negate the extraction of groundwater.

12. That looking into the nature of industry that is being operated in industrial area at Bithuja, in addition to compliance of stipulations in the Consent to Operate being issued to it by RSPCB, CETP trust has initiated installation of Common Caustic Recovery Plant The consent to operate CETP, Bithuja being issued by RSPCB is annexed herewith and marked as **Annexure-8/5**.

13. That the amount of compensation as assessed by the National Productivity Council in its report as submitted by the applicant, cannot be taken into consideration for the reasons as already mentioned in the counter to the objections being filed by the applicant to Justice Tatia's report. However, it is submitted at the cost of repetition that the said report has not been accepted by the State Government so far. In addition to the same, it is further submitted that this Hon'ble Tribunal had directed the State Government to assess the damage being caused to the agricultural fields of farmers whose land had been effected by the effluent being generated by industrial units at Balotra, Bithuja and Pali. The State Government in its comprehensive affidavit and after carrying out detailed study and survey had filed before Hon'ble Tribunal in OA No.32(THC)/2014 a comprehensive report stating that an estimated loss or damage caused to the fields of farmers was roughly amounted to Rs.7.5 crores whereas, the NPC in its report had assessed the said loss of Rs.99 crores approximately. It is submitted in backdrop of the same that the survey and report of NPC thus, cannot be taken into consideration, firstly, because of the same having not been accepted by the State Government till date and secondly, the amount of loss assessed by the State Government and as by the NPC largely differ in terms of their assessment. Therefore, the State Government be directed to assess the loss caused in the area in question and accordingly, an environmental compensation be ordered to be paid by those illegal working units which have polluted the area in question. The report of the NPC cannot be relied upon and further needs to be discarded for the reason that the same does not admittedly takes into consideration the correct data and figures and empirical study for the area in question i.e. Balotra. The NPC report at Chapter-X in para 4 records the fact that the yield has been considered as the weighted average yield of major Rabi and Kharif crops for the last 10 years of data in Pali District in absence of data in Barmer District, same values have been considered in loss assessment for Barmer area also. It is submitted while relying from the report of the central groundwater authority that the underground water in the area in question is saline. Also looking into geographic

location of area in question, the same being located in one of the largest desert district of the country i.e. Barmer, no agricultural activity through underground water takes place and the agriculture is entirely dependent upon rainfall. Furthermore, the Girdawri being already placed on record in form of objection to the submission made by the applicant duly reflect the fact of increase in yield in the agricultural produce in the area in question in general. Furthermore, the study of agricultural department with regard to Pali in the estimated loss caused to agricultural field being to the amount of Rs.7.5 crore as against the estimated loss of Rs.99 crore being assessed by the NPC clearly goes on to show as to why NPC report should not be considered for Balotra and reassessment for the area in question should be carried out independently while taking into consideration the required correct data and figures by way of empirical studies. In case of Balotra as well the State Government had carried out preliminary enquiry and in order to conclude the total damage caused had sought further time of 6 months in 2019. The copy of preliminary report prepared by State Government is annexed herewith and marked as **Annexure-8/6.**

14. That various orders have been passed by this Hon'ble Tribunal in the past thereby, mandating the CETP member units to deposit amounts in form of security deposit for environmental compensation thereby accumulating a handsome amount still left to be utilised. So far as the status of any pending applications being made by the land holders towards the damage being caused to their respective khatedari land is concerned it is submitted that no application is pending towards any compensation to be made good. A huge amount in the form of security deposit of compensation has also been deposited with the RSPCB by virtue of order dated 4.11.2015 being passed by Hon'ble Tribunal, wherein, depending on the discharge capacity of the individual unit, environmental compensation to be adjusted in the future was deposited by each member unit. The certificate dated 29.11.2021 being issued by Tehsildar, Pachpadra certifying the fact that the office of Tehsildar, Pachpadra has not received any letter from any land owner with regard to the compensation to be paid because of damage caused to their land because of the effluent from the CETP at Balotra and Bithuja and also the said letter states that no farmer and land owner is due to be compensated from any past application being so made. The copy of the letter dated 29.11.2021 is annexed herewith and marked as **Annexure-8/7.**

15. That it is submitted that at this juncture, while referring to communication dated 6.1.2016 being written by the SDM, Balotra to District Collector, Barmer may be relevant wherein it records the fact that the crop across the river is entirely based on rainfall and depending upon the rainfall received, the yield of the crop ranges in the particular area. The said communication also records the fact that there is nothing on record to prove that the trade effluent being discharged by the industrial units situated on the banks of the river have been responsible for the damage to the crop. Furthermore, with the increase in the urbanization and industrial activity and land being used in various other purposes in the area in question i.e. Balotra, Bithuja and Jasol, the area in general for the sown crops has seen reduction in the size. The said communication duly reflects the fact as asserted by the respondent No.8 Trust with the member units

connected to it and those working illegally in the area in question have not been responsible for the alleged pollution being caused. The copy of communication dated 6.1.2016 is annexed herewith and marked as **Annexure-8/8.**

16. That as has been stated by the respondent No.8 Trust in its past affidavits being filed before the Hon'ble Tribunal that it is by the virtue of various orders being passed by Hon'ble Tribunal the industrial area in question has seen such development in terms of treatment facility, the said order of the Hon'ble Tribunal were largely helped by way of various committee reports being submitted before it.

17. That in brief and in nutshell to state before the Hon'ble Tribunal, the orders, the appointment of Court Commissioners, the submission of their reports and the suggestion contained therein and the compliance so made duly reflects the path so travelled by the respondent No.8 Trust, thereby, leading and progressing it to become only the second Industrial hub in the country which has been equipped with 18 MLD RO plant with MEE & SEPs for reject handling along with the CETP.

18. That it is submitted that this Hon'ble Tribunal vide its order dated 19.3.2015 appointed Joint Inspection Team of RSPCB and CPCB to jointly inspect the area in question and submit its report before the Hon'ble Tribunal in response to which, respondent No.8 Trust submitted its compliance and progress report affidavit before the Hon'ble Tribunal, all of which duly forms the part of the record.

19. That thereafter, this Hon'ble Tribunal vide its order dated 16.3.2018 appointed Dr. Ajit Pratap Singh as the Court Commissioner to carry out inspection of the area in question and submit report, consequent to his study of the area, the learned court commissioner submitted his report before Hon'ble Tribunal and gave various suggestions in the same to be carried out by the respondent No.8 Trust. The respondent No.8 Trust in furtherance of which, filed its compliance report before the Hon'ble Tribunal which is present at Pg. No.2895-2918 in the record of Original Application No.34/2014 by this Hon'ble Tribunal.

20. That thereafter, this Hon'ble Tribunal vide its order dated 04.05.2018 appointed Dr. Ajay Deshpande as the Court Commissioner to carry out inspection of the area in question and submitted report dated 30.05.2018, consequent to his study of the area, the learned court commissioner submitted his report before Hon'ble Tribunal and gave various suggestions in the same to be carried out by the respondent No.8 Trust. The respondent No.8 Trust in furtherance of which, filed its compliance report before the Hon'ble Tribunal which is present at Pg. No.2920-2935 in the record of Original Application No.34/2014 by this Hon'ble Tribunal.

21. That thereafter, this Hon'ble Tribunal vide its order dated 7.1.2019 appointed a joint team of Doctor Ajit Pratap Singh and Dr. Ajay Deshpande who were appointed as the court commissioners, to carry out their field survey of the area in question and also to check the progress from the past and recommend the suggestions for the way forward. The learned court commissioners inspected the said area and submitted their report before this Hon'ble Tribunal on

19.2.2019 and gave various suggestions therein. The said suggestions while being duly taken into consideration were acted upon by respondent No.8 Trust and were being duly complied with and a compliance/progress report in form of affidavit before this Hon'ble Tribunal which forms a part of the record of Original Application No.34/2014 at Page No.3184-3265.

22. That thereafter, the present and the latest report which is before this Hon'ble Tribunal's consideration, being provided under the chairmanship of Mr. Justice Prakash Tatia, Hon'ble the former Chief Justice of High Court of Jharkhand, was filed before this Hon'ble Tribunal in form of interim report dated 20.4.2021 and final report dated 21.7.2021. On a bare perusal of the said report, the extracts of which have reproduced for the kind consideration of this Hon'ble Tribunal in the form of counter to the submissions being made by the applicant, duly reflects the fact that the said court appointed a committee in the chairmanship of Mr. Justice Prakash Tatia, duly noted and recorded the its appreciation with regard to the development and progress of the work with regard to the treatment of trade effluent in the area in question i.e. Balotra.

23. Thus, looking into the entire facts, various orders being passed by Hon'ble Tribunals, various suggestions being given by court commissioners, compliance being made thereof by respondent No.8 Trust, enables respondent No.8 Trust to submit assert before Hon'ble Tribunal that it and its member units have been completely working in a legal fashion and the alleged pollution in the area in question cannot be attributed to it as is also reflected in the report of the learned court commissioner in the chairmanship of Justice Prakash Tatia. Thus, in sequence to the findings of the learned Court Commissioner's report it can safely be stated that the Trust and member units who are legally working cannot be held responsible for the alleged pollution.”

Written submissions filed by RSPCB, Balotra (respondent 7) in OA I:

228. In written submission, RSPCB has submitted as under:

- “1. That the State Board vide letter dated 22/05/2019 has granted the consent to operate to CETP Balotra having validity upto 30/04/2024. The CETP, Balotra has 18 MLD capacity (physico chemical and biological treatment system (primary, secondary and tertiary treatment)). With the financial assistance from Ministry of Textile, Government of India under IPDS (Integrated Processing Development Scheme) the work of upgradation of CETP plant 18 MLD along with installation of R.O. plant of capacity 18 MLD followed by MEE of capacity 01 MLD have been completed and same have been made operational in the month of October 2021, the work of construction of Solar Evaporation Ponds (SEPs) at Khed is going on. Out of expected total R.O reject of approx. 2.7 MLD from 18 MLD RO plant, 01 MLD is to be disposed through the MEE and balance 1.7 MLD through the SEPs which are under construction at Khed. The above work has been delayed due to Covid-19 pandemic.
2. That earlier due to the limited capacity of the CETP to handle the R.O. rejects, the State Board vide letter dated 03/05/2021 had restricted the CETP Balotra to take the effluent from the member units upto 06 MLD

only. The photo copy of letter dated 03/05/2021 is annexed as Annexure- 1.

3. That presently the CETP Balotra has 375 member units. For effective monitoring of functioning of CETP Balotra an on-line continuous effluent monitoring system with connectivity to CPCB and RSPCB servers have been installed and same is functioning. Also a centralized SCADA system has been installed at CETP Balotra for effective monitoring of effluent generation from the member units. In addition to this for monitoring of effluent characteristics recently on-line continuous effluent monitoring system has been installed at CETP Balotra by RSPCB through Rajcomp Info Services Ltd. (RISL); connection of same with RSPCB server is under progress. Further, PTZ camera has been installed on sensitive areas towards river side.
4. That the officials of the State Board inspected the CETP on 07.09.2021 and on the basis of observations made during an inspection, the State Board vide letter dated 13/09/2021 directed the CETP under section 33 A of the Water Act 1974 “that any intake of effluent into the CETP shall be stopped with immediate effect till further orders”. Subsequent to letters dated 15.09.2021 and 17.09.2021 received from the CETP, an inspection was carried out on 22.09.2021 and taking into account the observations made during an inspection, intake upto 6 MLD was permitted into the CETP vide letter dated 30.09.2021 subject to the following additional conditions:-
 - A. That total generation/ discharge of effluent from member units and intake of effluent into the CETP shall be regulated/restricted up to 06 MLD.
 - B. That intake into the CETP shall be taken only after MEE is commissioned for handling the full load of RO reject.
 - C. That complete zero liquid discharge status shall be maintained and no discharge of effluent including RO reject shall be made into drain/stream or river or on land.

The photo copy of inspection report dated 07.09.2021 and 22.09.2021; Board’s letters dated 13/09/2021 & 30/09/2021 and CETP letter dated 15.09.2021 and 17.09.2021 are annexed Annexure-2. (Collectively).

5. That the State Board vide letter dated 27/02/2019 has granted the consent to operate to CETP Bithuja having validity upto 31/08/2022. CETP, Bithuja has 30 MLD capacity. The CETP is operated and maintained by Balotra Water Pollution Control and Research Foundation Trust (CETP Trust). Presently, CETP has 191 member industries. The work of upgradation of existing physio-chemical of CETP Bithuja has been completed, the above work was delayed due to Covid-19 pandemic. The treated effluent is collected in SEPs. The CETP Trust has not submitted the action plan for up-gradation of CETP upto the ZLD. Presently the CETP is taking the effluent form the member units upto 6-7 MLD, due to its inability in handling more effluent. For effective monitoring of effluent characteristics on-line continuous effluent monitoring system has been installed at CETP Bithuja by RSPCB, through RISL, connection of same with RSPCB

server is under progress. Further, PTZ camera has been installed on sensitive areas towards river side.

6. That a Common Caustic Recovery Plant (CCRP) of 500 KLD capacity is proposed to be installed at Bithuja with financial assistance of State Board. Total estimated cost of this CCRP is Rs 7.2 Cr. State Board shall extend assistance of Rs 6.0 Cr and rest is to be borne by the CETP Trust. The work of construction of same has commenced in the month of August 2021.
7. That the State Board vide letter dated 12/02/2018 has granted the consent to operate to CETP Jasol which is valid upto 31/01/2022. CETP Jasol has 110 member units and has 4 MLD capacity followed by 2.5 MLD capacity RO plant. Solar Evaporation Ponds (SEPs) have been provided for disposal of RO plant rejects. The CETP is operated and maintained by Jasol Water Pollution Control Treatment Trust (CETP Trust). With the financial assistance from Ministry of Textile, Government of India under IPDS (Integrated Processing Development Scheme) work of installation of 2.5 MLD additional R.O plant is also under progress. Further, for disposal of R.O reject 250 KW MEE is also proposed, the above work was delayed due to Covid-19 pandemic. Presently the intake at CETP Jasol is restricted to 2 MLD due its inability handling more effluent.
8. That for effective monitoring of functioning of CETP Jasol an on-line continuous effluent monitoring system with connectivity to CPCB and RSPCB server has been installed which is functioning. Further, for effective monitoring of effluent generation from the member units, a centralized SCADA system has been installed at CETP Jasol. In addition to this for monitoring of effluent characteristics recently an on-line continuous effluent monitoring system has been installed at CETP Jasol by RSPCB through RISL, connection of same with RSPCB server is under progress. Further, PTZ camera has been installed on sensitive areas towards river side.
9. That all the member units associated with the CETPs have installed primary treatment plants for pre-treatment of effluent. Continuous monitoring of same is also being carried out by the Board Officials.
10. That the State Board has imposed an Environmental Compensation of Rs. 1,55,45,000/- on the units located at Balotra, Bithuja and Jasol (CETP connected units), out of total Environmental Compensation Rs. 1,27,92,000/- has been recovered from the units. The State Board is taking necessary action to recover the balance amount of environmental compensation.
11. That the officials of the State Board are continuously carrying out inspections and analysis of samples of effluent of the units. In last two years directions of closure were issued against the 24 defaulting units located at Balotra cluster. The list of 24 industries is annexed as Annexure -3.
12. That the Hazardous Sludge generated from the CETPs is being disposed off regularly at CTFD land fill site. From Dec'20 to Oct'21 total sludge generated and transported from CETP Balotra, Bithuja and Jasol is 21287.19 MT, 34113.37 MT and 5048.48 MT

respectively. Copy of letter received from the Balotra Waste Management Project is annexed as Annexure-4.

13. That the State Pollution Control Board has filed criminal prosecution against CETP, Bithuja under section 43/44 of Water Act 1974 before the ACJM, Court, Balotra on 18.07.2018 and 04.01.2019 and against CETP, Balotra on 05.05.2017 which are pending before the learned ACJM Court.
14. That the Municipal Council, Balotra has established a Sewage Treatment Plant of 09 MLD. The State Board vide letter dated 26/09/2014 had granted the consent to establish. The STP was inspected on 09.06.2021 on the basis of deficiencies observed during inspection, a show cause notice vide letter dated 13.09.2021 was issued to the Municipal Council, Balotra. Further, an inspection was conducted on 06/10/2021 and on the basis of deficiencies observed during inspection dated 06.10.2021 and due to non-submission of reply of show cause notice dated 13/09/2021, the State Board has refused the consent to operate application dated 29/06/2020. It is pertinent to mention that the discharge of effluent from the STP created many cess pools along on the Pachpadra-Jerla-Iton Ki Dhani area before emptying into Jojari River area which is the tributary of Luni river. The photo copy of refusal letter is annexed as Annexure-5.”

Written submissions by RIICO filed on 30.11.2021 in OA II:

229. RIICO has said as under:

“1. That during the course of proceedings of the Committee headed by Hon'ble Justice, Prakash Chandra Tatia, officials of the RIICO Units Jodhpur, Balotara & Pali, have duly attended the meetings and remained present during the inspection as and when required by the Committee. During the said meeting, the officials of the full RIICO, Jodhpur, Balotara & Pali have provided full assistance to the Committee and have also provided all the details and responses, asked for by the Committee. The said fact clearly reflects at page no.5 & 6 of the interim report as well as page no.7 of the final report, so submitted by the Committee.

2. That so far as the conforming industrial areas developed and managed by RIICO is concerned, it is stated that the RIICO being a catalyst of industrial promotion in the State of Rajasthan, is establishing industrial area in a planned manner. It is further stated that the entire planning of the industrial area is being done with the help of experts in the field of industrial planning and the entire development work of industrial area such as facilities like roads, road-lights, rainwater harvesting system, plantation, rain/storm-water drain as well as zoning of industries, are being done accordingly. It is stated that the allotment of industrial plots in the industrial area are being made after obtaining the necessary permissions, approvals and consents from the respective authorities such as, Environmental Clearances, Consent to Establish, Consent to Operate, CGWA permission, NBWL permission etc. The RIICO, while establishing the industrial area, are taking care of all environmental norms and also allots industrial plots to the respective allottees with

a specific condition that the allottee shall be required to take all necessary clearances, permissions from the respective authorities and shall abide by the terms and conditions of such Consents permissions as well as the order passed by the Courts of Law, including the Hon'ble National Green Tribunal on environmental issues. The said conditions are clearly reflected under clause 4 of the lease-deed which deals with all the provisions regarding environment pollution and pollution control measures. A copy of the specimen lease agreement is enclosed herewith and marked as **Enclosure-1**.

3. That the issue with regard to discharge of effluents in the RIICO drain was raised during the meetings of the Committee. It is stated that the storm water drains is constructed by RIICO to ensure flow of rain/storm water to the nearby catchment area. Thus the storm the storm water drain established in the industrial areas of Pali are operational used only during monsoon rainy season. The problem of discharge of sewage and effluents in RIICO drain is usually not existing in industrial area Pali.

4. That with regard to the many industries established and were functioning at areas of Pali city, it is stated that in Hon'ble pursuance of the directions given by the Tribunal, the said industries are closed down and the industrial pattas have been granted in favour of the respective industries at Punayata Industrial Area.

It is further stated that earlier in 2004, Division Bench of the Hon'ble Rajasthan High Court in of the case of Mahaveer Vikash Samiti Vs. State of Rajasthan vide its order dated 09.03.2004 has directed the RIICO to develop the industrial area and to shift the industries situated in the non-conforming area to a newly developed industrial area. In pursuance of the said directions, RIICO Unit, Pali has already developed the RIICO Industrial Area, Punayata, which was meant only for textile units. It is stated that after several round of scrutiny and allotment as much as 275 number of industrial plots have already been allotted to the eligible industrial units, which were operating in the non-conforming area, prior to passing of the judgment by the Hon'ble Division Bench on 09.03.2004.

It is pertinent to mention here that some litigations are still pending before the Hon'ble Rajasthan High Court, Jodhpur with regard to the rejection of some of the applications by the Committee headed by District Collector, Pali.

5. That for ensuring the establishment of the CETP of the adequate size and for establishment of the same at ZLD level, the RIICO as facilitator to the SPV Trust has allotted adequate size of land at a token amount of Rs. 1/. The RIICO has allotted 20225.00 Sqm. of land to SPV/Trust for construction of CETP plant at Industrial area Mandia Road, Pali and allotted 36994.00 Sqm. of land to SPV/Trust for construction of CETP plant at Industrial area Punayata, Pali and allotted 23482.70 Sqm. of land to SPV/Trust for construction of CETP plant at Industrial area Phase-IV, Pali and allotted 40000.00 Sqm (@ 14/- per sqm.) land to SPV/Trust for construction of CETP plant at Industrial area Mandia Road, Pali and copy of the allotment letters are annexed herewith and marked as Enclosure-2, collectively.

It is pertinent to mention here that once the land for establishment of CETP is allotted by RIICO to the SPV/Trust. It is the duty of the said Trust to construct and establish the CETP of adequate size, required technology and approved design. The laying down and maintenance of close conduit pipelines for taking effluent from the industrial unit to the CETP and its regular repair and maintenance is also upon the said SPV/Trust. The Said Trust Is also under Constitutional Statutory obligation to treat the waste/effluent generated by its member units in scientific manner and standards prescribed by the PCB in that regard.

6. That it is stated that RIICO are making utmost efforts for repair or maintenance of the RIICO drain as well as to remove all garbage/over-burden lying along with the roadside. The details of the said continuous efforts made by the RIICO are mentioned below:

In the F.Y. 2018-19- In the F. Y. 2018-19, an amount of Rs.80.06 lacs has been incurred by the unit office on the regular maintenance /cleaning of drain, removal of garbage etc. various industrial areas in Pali.

In the F. Y. 2019-20- In the F.Y. 2019-20, an amount of Rs.134.79 lacs has been incurred by the unit office on the regular maintenance/cleaning of drain, removal of garbage etc. various industrial areas in Pali.

In the F. Y. 2020-21- In the F.Y. 2020-21, an amount of Rs.35.31 lacs has been incurred by the unit office on the regular maintenance/ cleaning of drain, removal of garbage etc. various industrial areas in Pali.

In the F. Y. 2021-22- In the F. Y. 2020-21, an amount of Rs.69.88 lacs has been incurred by the unit office on the regular maintenance/ cleaning of drain, removal of garbage etc. various industrial areas in Pali.

7. That with regard to the concern raised by the Committee headed by the Hon'ble Justice Prakash Chandra Tatia by regarding the scattered industries, it is stated that under the directions given by the Hon'ble High Court for shifting textile industries to industrial area. In Pali, the RIICO Industrial Area Punayata has been established primarily for shifting of the industrial units involved in the textile business wherein 333 plots are planned establishment of textile units and unit office Pali has already allotted 275 plots for establishment of textile unit and to eligible shifting units as per directions of District Collector, Pali.

8. That RIICO as an industrial catalyst is very much committed for ensuring the sustainable development and thus, has taken all possible steps to ensure that the development as well as environment shall go side by side and both the said aspects shall remain in harmony for all the times. The answering-respondent RIICO is committed and ready and willing to abide by its constitutional as well as statutory obligation and undertakes to follow the directions given by this Hon'ble Tribunal in its true letter and spirit so as to ensure safe and hygienic environment for all.”

Written submissions by RIICO in OA III

230. RIICO has stated that

- “1. That during the course of proceedings of the Committee headed by Hon'ble Justice, Prakash Chandra Tatia, officials of the RIICO Units Jodhpur, Balotra a Pali, have duly attended the meetings and remained present during the inspection as and when required by the Committee. During the said meeting, the officials of the RIICO, Jodhpur, Balotra & Pali have provided full assistance to the Committee and have also provided all the details and responses, asked / inquired by the Committee. The said fact clearly reflects at page no.5 8 6 of the interim report as well as page no.7 of the final report, so submitted by the Committee.

During the course of the proceedings of the Committee, the RIICO Unit-Jodhpur has been asked to submit its explanation with regard to the query regarding flow of effluent as well as sewage through the RIICO drain as well as the policy of ZLD.

In response to the same, the RIICO Unit- Jodhpur has engaged a scientific consultant i.e. Prof. S.K. Singh, Head of Department, Department of Civil Engineering Et Architecture, MBM Engineering College, Jodhpur. With the assistance of Prof. S.K. Singh, a preliminary report on the observation raised by the Committee headed by Hon'ble Justice Mr. Prakash Chandra Tatia, was being prepared and the same was submitted before the Committee. In the said report, various suggestions as well as remedial measures were also highlighted on behalf of the RIICO, Jodhpur. Reference of the said report is clearly being mentioned at page 10 and 11 of the interim report so submitted by the Committee. A Copy of the communication dated 25.03.2021 received from that Committee is enclosed herewith and marked as Enclosure-I. A Copy of the preliminary report submitted on behalf of the RIICO Unit, Jodhpur is enclosed herewith and marked as Enclosure-2.

2. That so far as the conforming industrial areas developed and managed by RIICO is concerned, it is stated that the RIICO being a catalyst of industrial promotion in the State of Rajasthan, is establishing industrial area in a planned manner. It is further stated that the entire planning of the industrial area is being done with the help of experts in the field of industrial planning and the entire development work of industrial area such as facilities like roads, road-lights, rainwater harvesting system, plantation, rain/storm-water drain as well as zoning of industries, are being done accordingly. It is stated that the allotment of industrial plots in the industrial area are being made after obtaining the necessary permissions, approvals and consents from the respective authorities such as, Environmental Clearances, Consent to Establish, Consent to Operate, CGWA permission, NBWL permission etc. The RIICO, while establishing the industrial area, are taking care of all environmental norms and also allots industrial plots to the respective allottees with a specific condition that the allottee shall be required to take all necessary clearances, permissions

from the respective authorities and shall abide by the terms and conditions of such consents / permissions as well as the order passed by the Courts of Law, including the Hon'ble National Green Tribunal on environmental issues. The said conditions are clearly reflected under clause 4 of the lease-deed which deals with all the provisions regarding environment pollution and pollution control measures. A copy of the specimen lease agreement is enclosed herewith and marked as Enclosure-3.

3. *That the issue with regard to discharge of sewage in the RIICO drain was raised during the meetings of the Committee. The said issue was also being addressed in the preliminary report so submitted on behalf of the RIICO Unit, Jodhpur. It was clearly mentioned in the said report that so far as the domestic waste generated within the industrial area is concerned, the condition of lease clearly provides that the allottee shall construct septic tank, sewage treatment plant of appropriate size and design for storage/disposal of the domestic waste generated by the concerned industries.*

The storm-water drain constructed and managed by the RIICO is only meant for flow of the storm/rainwater and no other water treated/untreated is allowed to be discharged in the said storm-water drain. However, it was clearly mentioned in the report that outside the industrial area established by the RIICO, there are few industrial pockets developed by the private individuals and the same are situated along with RIICO drain. It was further stated in the report that in the course of time, some residential colonies have also been developed and in absence of the sewage system/sewage line being developed by the local authority, domestic water was being discharged from these colonies in RIICO drain. It is stated that as a part of the remedial measure, it was clearly mentioned in the said report that the Municipal Corporation, Jodhpur should immediately plan to lay sewage line in the residential area in the vicinity of RIICO industrial area and shall connect the same to the STP. The recommendation has already been made for Municipal Corporation, Jodhpur to construct pumping station for the sewage water at appropriate place, of appropriate capacity to pump driveaway discharge of Bhairav Nala up to the STP by closed pressure pipeline.

4. *That the Committee headed by Hon'ble Justice Prakash Chandra Tatia at page 18 of the interim report as well as page 4 of the final report has clearly observed that it is the duty of the RSPCB to take action against the individual / authority for discharging effluent in public drain, RIICO drain or any river. It is stated that during the meetings of Zila Probodhan Samiti headed by District Collector and having the representatives of RIICO, RSPCB, JoDA, Municipal Corporation Jodhpur, etc. the issue of discharge of sewage water in the RIICO drain was being raised by the RIICO on several occasions. It is stated that on number of occasions, when opening of sewer outlet in the RIICO drain is reported, the action has been taken by the RIICO to close the said sewer outlet during its regular repair and maintenance of RIICO drain. **The root cause of discharge of sewer in the RIICO drain is lack of laying down of sewer-line in the residential colonies developed over the year and its non-***

connectivity with the sewage treatment plant. Whereas, the RIICO drain was being constructed as a part of planning of RIICO industrial area just for ensuring the flow of the storm-water into the river.

5. That the issue with regard to the discharge of effluent in the RIICO drain was also addressed in the preliminary report submitted with the assistance of expert Prof. S.K. Singh. in the said report, it is clearly mentioned that the root cause for discharge of effluent was chocking of inadequate size of conduit pipeline by the SPV i.e. Jodhpur Prudushan Niwaran Trust (JPNT) as well as overflow of main-holes and excess discharge by the member units. It is further stated that the overflow coming from the conduit pipelines installed by the JPNT is resulting in discharge of effluent in the RIICO drain. As a part of suggestion for solving the problem, the remedial measure was also suggested that JPNT should re-check and make fair assessment of adequacy of the pipeline design and to install additional pipeline network to carry the waste water from the member units to the CETP.
6. That the Committee headed by Hon'ble Justice Prakash Chandra Tatia has clearly directed that RSPCB is required to take action against the industries/ individuals discharging the effluent/ rain-water in the public drain, RIICO drain and river. It is stated that during the spot inspection being made by the RIICO, some of the industrial units were found to be operational in an irregular manner and their effluent/ waste-water was being discharged in the RIICO storm-water drain. In this regard, the notices were issued to the respective industries and the intimation of the same has also been sent to the RSPCB as well as JPNT. Copy of the notices so issued by the RIICO, Jodhpur is enclosed herewith and marked as Enclosure-4, collectively.
7. That for ensuring the establishment of the CETP of the adequate size and for establishment of the same at ZLD level, the RIICO as facilitator to the SPV i.e. Jodhpur Pradhushan Niwaran Et Research Foundation (JPNRF) has allotted adequate size of land at a token amount of Rs.1/-. The RIICO has allotted 10.38 acre land to Jodhpur Pradhushan Niwaran Trust on 05.05.1998 for construction of 20 MLD capacity CETP. The trust has implemented and started CETP in the year 2003 after obtaining consent and clearances from the RSPCB. Apart from this, for the construction of additional CETP of 25 MLD capacity to JPNRF, the RIICO has allotted 25 bigha (4 Hect.) land on 24.11.2017 at free of cost, for which the RIICO has paid Rs.2.57 crore to the JDA for purchasing the said land. Copy of the allotment letters are annexed herewith and marked as Enclosure-5, collectively.

It is pertinent to mention here that once the land for establishment of CETP is allotted by RIICO to the SPV/Trust. It is the duty of the said Trust to construct and establish the CETP of adequate size, required technology and approved design. The laying down and maintenance of close conduit pipelines for taking effluent from the industrial unit to the CETP and its regular repair and maintenance is also upon the said SPV/Trust. The said Trust is also under Constitutional/Statutory obligation to

treat the waste/effluent generated by its member units in scientific manner and standards prescribed by the PCB in that regard.

8. *That it is stated that RIICO are making utmost efforts for repair or maintenance of the RIICO drain as well as to remove all garbage/over-burden lying along with the roadside. The details of the said continuous efforts made by the RIICO are mentioned below:*

In the F.Y. 2018-19-*In the F.Y. 2018-19, an amount of Rs.76.80 lacs has been incurred by the unit office on the regular maintenance / cleaning of drain, removal of garbage etc. As per details available in office in this F.Y. 5 Km of drain repairing and maintenance, cleaning of drain in 20 Km in length and 10,000 cubic meter removal of garbage/over burden was lifted from the industrial areas including transferred industrial areas, Basni and Sangaria.*

In the F.Y. 2019-20-*In the F.Y. 2019-20, an amount of Rs.340.15 lacs has been incurred by the unit office on the regular maintenance / cleaning of drain, removal of garbage etc. As per detail available in office in this F.Y. 13 Km of drain repairing and maintenance, cleaning of drain in 20 Km length and 15000 cubic meter removal of garbage / over burden was lifted from the industrial areas including transferred industrial areas, Basni and Sangaria.*

In the F.Y. 2020-21-*In the F.Y. 2020-21, an amount of Rs.102.40 lacs has been incurred by the unit office on the regular maintenance / cleaning of drain, removal of garbage, etc. As per detail available in office in this F.Y. 3.38 Km of drain repairing and maintenance, cleaning of drain in 16 Km length and 14100 cubic meter removal of garbage / over burden was lifted from the industrial areas including transferred industrial areas, Basni and Sangaria.*

In the F.Y. 2021-22-*Presently an expenditure of Rs.10.10 lacs has been incurred on cleaning and maintenance of drain in 1.4 Km length. In the F.Y. 2021-22, the tenders of Rs.141.86 lacs has been invited and work order of Rs 103.42 Lac issued by the unit office for the regular maintenance / cleaning of drain, removal of garbage etc. In these tenders, an estimated length for cleaning of drain 50 Km length, removal of over burden 9500 cubic meter etc. has been taken.*

9. *That with regard to the concern raised by the Committee headed by the Hon'ble Justice Prakash Chandra Tatia regarding the scattered industries, with regard to Jodhpur, it is stated that the Hon'ble NGT vide its judgment dated 01.05.2014 passed in Laxmi Suitings cases has given the following directions to RIICO:*

“State Govt. / Authorities to identify and establish separate industrial area or expansion of existing industrial area for shifting of industries existing around the industrial area as of today to the newly established or expanded demarcated industrial area.”

In compliance of the above, the RIICO for the purpose of development of Industrial Area Kakani has acquired 344.09 hectare private land in the village Kharabera Purohitan and Kakani, Tehsil - Luni, Jodhpur and award was passed on 04.08.2015. It is submitted that khatedars of village filed writ petition No.04/2016 titled "Balu Singh Et Ors. Vs. State a others" connected 7 writ petitions, wherein the Hon'ble High Court vide its order dated 14.12.2015 directed not to dispossess the khatedars. It is submitted that the petition filed by the khatedars were dismissed by the Hon'ble High Court vide its judgment dated 27.04.2021 holding that the land acquisition proceedings are in larger public interest. It is stated that now development works for the industrial area has already been started and the work order issued, which will be completed within one year.

Copies of work orders are annexed herewith and marked as Enclosure-6

It is stated that the said industrial area has been planned while keeping in mind that similar nature of industries are to be established in the same zone and therefore, the proper zone planning has been done while developing the said industrial area and in the said industrial area, Kakani three separate zones for cluster of similar industries such as 'Steel Zone', 'Textile Zone' and 'General Zone' are already planned.

10. *That RIICO, as an industrial catalyst is very much committed for ensuring the sustainable development and thus, has taken all possible steps to ensure that the development as well as environment shall go side by side and both the said aspects shall remain in harmony for all the times. The answering-respondent RIICO is committed and ready and willing to abide by its constitutional as well as statutory obligation and undertakes to follow the directions given by this Hon'ble Tribunal in its true letter and spirit so as to ensure safe and hygienic environment for all."*

231. After the judgment was reserved, some progress reports have also been filed.

232. **PROGRESS REPORT DATED 28.01.2022 filed by respondent 5 (Pali Water Pollution Control Treatment & Research Foundation Trust) in OA II:** Since the purpose of Tribunal is to do substantial justice which is necessary for protection, preservation and maintenance of the environment, we have considered all these reports. Report dated 22.01.2022 has said:

“PALI Textile Common Effluent Treatment Plant (CETP)

CETPs under Implementation by Pali CETP Trust : As part of water conservation and recycling, and to free up bore well water resource as well as to attain Zero Liquid Discharge, the trust intends to have effluent recycling plant for all CETPs stage wise which includes the implementation of ZLD of 3 different CETP Projects, namely:

- **12 MLD ZLD CETP at Unit No. 6 Pali, Rajasthan (Brownfield Project)**
- **12 MLD ZLD CETP at Unit No. 4 Pali, Rajasthan (Brownfield Project)**
- **7 MLD ZLD CETP at Unit No. 7 Pali, Rajasthan (Greenfield Project)**
- **15 MLD Sewage Treatment Plant Water Recycling Network, Pali (Greenfield Project)**

Overview of the Current CETP Projects in Pali, Rajasthan

CETP	Capacity in MLD	Type of Project	Units	Scheme*	Technology	Project Cost (Rs. In Cr.)	GoI/ State Funding (Rs. In Cr.)	Status
Unit No. 6, Punayata Industrial Area	12.00	Brownfield	400	IPDS	UF+RO+ Thermal treatment	100.00	GoI: 50.00 Cr. State 25.00 Cr.	Completion targeted by March 2022 (ZLD)
Unit No. 4, Punayata Industrial Area	12.00	Brownfield	240	State	UF + RO + Thermal treatment + Caustic Recovery System	167.50	43.50	Tender has been awarded, work in progress completion CETP upgradation by June 2022 completion by 2023 (ZLD)
Unit No. 7, Pali	7.00	Greenfield	54	IPDS	RO Reject Treatment	169.24	Proposed GoI 75.00 Cr. Proposed State 42.00 Cr	Proposal is submitted to Ministry of Textiles for approval
Sewage Treatment Plant (STP) Water Recycling Network, Pali	15.00	Greenfield	--	-	Water Recycling Network	-	-	Currently DPR is under preparation
Total	46.00		694			436.74		

*

State: Establishment of Integrated CETPs and up-gradation of Existing CETPs
IPDS Integrated Processing Development Scheme

Present Status and Progress of all the projects is summarised below:

- 1. 12 MLD ZLD CETP at Unit No. 6 Pali, Rajasthan**

- i. The Project has been revised and approved for implementation under the **Integrated Processing Development Scheme (IPDS) by Ministry of Textiles** in October 2019
- ii. Approved Project Cost of the Project is Rs. 100.00 Cr. including GoI Grant funding of Rs. 50.00 Crores and State Grant funding of Rs. 25.00 Crores. So far, GoI and State Govt both has released 50% of its share amounting to Rs. 25.00 Crores and 12.5 Crores respectively to the SPV.
- iii. The tender was floated by the SPV in December 2019 through a transparent manner for Design, Engineering, Construction, Procurement, Erection (Installation), Testing and Commissioning (EPC Basis) along with 10 years of comprehensive O&M costs.
- iv. The project was awarded to M/s **M/s. Saurashtra Enviro Projects Pvt. Ltd. (SEPPL)** - An Environmental Infrastructure Development company who has been tied up with **Veolia Group**, one of the world-renowned company is Water, Waste and Energy Management
- v. **Hon. Chief Minister of Rajasthan** laid the foundation stone on 28th Jan 2021.
- vi. The CETP after up-gradation is designed to meet the quality of treated effluent at various stages as per the regulations.
- vii. The project is currently under implementation and the Plant is expected to be completed by 31st March 2022 and fully operational by **May 2022**.

2. 12 MLD ZLD CETP at Unit No. 4 Pali, Rajasthan

- i. The Project has been sanctioned and approved for implementation under the **State Scheme for Establishment of Integrated CETPs and up-gradation of Existing CETPs** by the Department of Industries, Govt. of Rajasthan.
- ii. Approved Project Cost of the Project is Rs. 167.50 Cr. including State Grant funding of Rs. 43.50 Crores.
- iii. The tender was floated by the SPV in February 2021 through a transparent manner for Design, Engineering, Construction, Procurement, Erection (Installation), Testing and Commissioning (EPC Basis) along with 15 years of comprehensive O&M costs.
- iv. The project was awarded to the Project Execution Company in June 2021.
- v. The CETP after up-gradation is designed to meet the quality of treated effluent at various stages as per the regulations.

- vi. *The CETP up gradation is expected to be completed by June 2022*
- vii. *The ZLD plant is expected to be completed by **April 2023***
- viii. *The plant is expected to be fully operational by May 2023*

3. 7 MLD ZLD CETP at Unit No. 7 Pali, Rajasthan

- i. *Project Proposal (**Greenfield project**) has recently been submitted to Ministry of Textiles along with all supporting documents as per the requirement of the stipulated Scheme guidelines along with a request letter to the Ministry for approval and grant funding of the project under Integrated Processing Development Scheme (IPDS).*
- ii. *The Proposed Project Cost of the Project is Rs. 169.24 Crores including GoI Grant funding limited to Rs. 75.00 Crores and State Grant funding of Rs. 42.00 Crores*
- iii. *The tender for this project is expected to be floated by the SPV by May 2022 through a transparent manner for Design, Engineering, Construction, Procurement, Erection (Installation), Testing and Commissioning (EPC Basis) along with comprehensive O&M costs.*
- iv. *The project is expected to be awarded to the Project Execution Company by June 2022.*
- v. *The new CETP is designed to meet the quality of treated effluent at various stages as per the regulations.*
- vi. *The new CETP is expected to be completed by **December 2023***

4. 15 MID Sewage Treatment Plant (STP) Water Recycling Network, PAII

- 1:- *MOU has been done between Pali Municipal Corporation and CETP Foundation that 15 MLD of Treated Sewage Water is to be used in member textile industries, Industries have started taking treated water from the STP through tankers.*
- 2:- *CETP foundation is floating a tender for developing pipeline distribution network of STP treated water for the supply to member units. The project will be completed by May 2022.*

That the Pali Foundation which operates and maintains, has put in lot of effort and labour to ensure that those industries can thrive with no damage to the environment, as a result of the same the steps have been elaborated above, the same has well been recorded in the report prepared by the Monitoring Committee under the chairmanship of Hon'ble Justice Prakash Tatia. It is ensured that the above timelines as given above would be strictly adhered to and the projects will be completed within the given time frame. Thus, the present progress report

may kindly be considered towards the commitment of the Pali Foundation towards both the industry and environment, in order to achieve the ultimate goal and objective of clean environment with thriving economic growth.”

Affidavit-cum-status report filed by District Collector Pali in OA II:

233. Affidavit has been sworn by Ansh Deep, District Collector Pali and he has given status report dated 25.11.2021 as under:

*“A- That in compliance of recommendation related to action against textile processing units being operated in industrial areas nearby Bandi River and operating in non-conforming area, Joint teams were constituted vide order dated 10/12/2020. The photo copy of the order dated 10/12/2020 is annexed herewith and marked as **Annexure-R-1**.*

B. That the joint teams have carried out inspection of total 184 industries from 07/12/2020 to till date and 41 industries were found non-compliant as they were having outlets on riverside boundary wall and/or dumped solid waste in nearby embankment of river etc. All these 41 industries were directed by the State Board to close all outlets, clean river on both side of the premises and paint the wall on back side of the unit within 03 days. After 03 days inspections were carried out to verify the compliance of direction given by the Board. Besides, closure direction under section 33(A) under Water Act, 1974 was confirmed against one non-compliant industry. That one complaint was received against illegal ground water supply through pipelines in Industrial area against which action regarding removal of pipelines has been taken. Copy of the SDO letter dated 24.11.2021 and list of such units is enclosed as Annexure-R-2.

C. That survey of non-conforming area was conducted on 07.04.2021 and 12.04.2021 in order to verify the operational status of illegal industries. 26 units were inspected, no textile processing printing/washing activities were found and electric supply connections were also disconnected. Copy of survey reports are enclosed as Annexure-R-3. It is further submitted that the Municipal Council, Pali has conducted survey of municipal area and identified 16 household tie-dye units. Out of 16 units, 11 units have been closed and notices issued against remaining 05 units and action for their closure is under process. The photocopy of the Municipal Council survey report is annexed herewith and marked as Annexure-R-4.

D. That Environmental Compensation of total Rs. 2,55,95,000/- was imposed by the State Board on 35 defaulter Industrial units and on Pali Water Pollution Control Treatment and Research Foundation Trust (CETP, Pali) out of which Rs. 20,95,000 have been received as Environmental Compensation from 21 units and CETP pali has deposited Rs. 5,00,000 as partial amount out of total Environmental Compensation of Rs. 1.0 Crore. It is submitted that 14 Industrial units have obtained interim relief from the Central Zonal Bench of this Hon'ble Tribunal against the

Environmental Compensation (Rs. 1.4 Crores) imposed by the State Board, hence, the recovery of said Environmental Compensation is pending. Copy of list of the units on which Environmental Compensation imposed and received is enclosed as Annexure-R-5. The Hon'ble NGT, Central Zonal Bench stay orders dated 07.06.2021 and 01.07.2021 are enclosed as Annexure-R-6.

- E. That in matter to keep vigil at different check-posts within districts of Pali to control and prohibit discharge of unauthorized effluents through tankers into River Bandi or at any other locations, two flying squads of Transport Department is regularly checking the tankers entering and plying in Pali area. Total 1,859 vehicles were checked and 07 tankers were seized. FIR lodged against 2 defaulter tankers which were found discharging polluted waste water. The 02 seized tankers are still in police custody pending the receipt of FSL report. No irregularity regarding discharge of effluent through unauthorized vehicle was found by the department during last 4-5 months. Copy of report of S.P. Pali and D.T.O., Pali is enclosed as Annexure R-7.*
- F. That sample of treated waste water from CETP & STP are being collected on monthly basis by the RSPCB and the samples were analysed at Central Lab Head Office, RSPCB. The analysis result reveals that the treated effluent does not confirm to standards. The work of up-gradation of CETP is going on which is likely to be completed by December, 2021. The State Board has filed Criminal Prosecution against the CETP Trust, Pali under section 15 read with section 19, Environment (Protection) Act, 1986 having case no. 391/2018 pending before the Hon'ble High Court, Jodhpur. Copy of comparative statement of analysis results of CETP and STP for last 10 months is enclosed as Annexure-R-8.*
- G. The work for up-gradation of CETP-06 up to ZLD level is under progress and likely to be completed by December 2021. Copy of progress report dated 22.11.2021 is enclosed as Annexure-R-9.*
- H. The work for up-gradation of Sewage Treatment Plant (Capacity-7.5 M.L.D.) up to tertiary level is proposed by L. S.G. Department; however, DPR in this regard is still awaited. Sewage Treatment Plant (Capacity-15M.L.D.) is operational up to tertiary level and MoU has been signed for reuse of treated sewage by the industry on payment basis. Municipal Council, Pali has conducted survey of municipal area and identified 16 household tie-dye units. Out of 16 units, 11 units have been closed and notices issued against remaining 05 units and action for their closure is under process. Copy of MoU and progress report dated 24.11.2021 is enclosed as annexure-R-10. It is further submitted that in Pali, the work of laying sewer line and house connections is in progress, 21,124 number of houses have already been connected with sewer line and 27,176 houses are yet to be connected. After completion of connections with the sewer line, discharge of sewage in to the river shall stop. The work of connection of sewer line and house connection is likely to be completed by April, 2022.*

- I. *That RSPCB has constituted 04 teams for surveillance vide letter dated 29.07.2021 in the industrial areas in order to avoid any illegal discharge outside the industry and/or in the River. The teams are monitoring on daily basis and no complaint regarding illegal discharge of waste water and illegal disposal of waste from industrial areas were received in last 4 months. Annexure -11.*
- J. *That for capacity building of Officers of the local bodies and development authorities, the State Board has started a 04 days training program in order to up-grade the skills towards up-gradation requirement and operations of sewage treatment plant. In the first phase training of 35 engineers from Local Self Government and Development Authorities have been conducted in March 2021 at Malviya National Institute of Technology, Jaipur.”*

Affidavit cum status report dated 25.11.2021 filed by District Collector, Jodhpur, in OA III:

234. This affidavit is sworn by Shri Inderjeet Singh, District Collector Jodhpur, giving status report, referring to Tribunal’s order dated 24.11.2021, and reads as under:

- “A- That Jodhpur Development Authority is executing lease/Pattaa for industrial use in its industrial zones with the prohibiter condition to establish non-obnoxious industries only. Further, there is no private industrial area established in Jodhpur till now.*
- B- That in compliance of recommendation related to action against illegal textile processing activities being done in areas en-marked for non-polluting industries and on agriculture land etc. a joint team was constituted vide order dated 14/05/2019 and amended on dated 14/07/2021. The photo copies of the letters are annexed herewith and marked as Annexure-R-1 (Collectively).*
- C- That the Joint team has carried out survey of 33 industries in month of August 2021. During this survey 04 units were found operating illegally. The actions under the relevant Acts have been initiated.*
- D- That to treat the city sewage at present 03 Sewage Treatment Plant are in operation, which are located at Nandri (20 MLD) and Salawas (50 MLD x 02). The treated sewage does not conform to prescribed standards as observed from analysis results of the samples collected by the State Board from time to time.*
- E- That in order to enhance Capacity of sewage treatment 03 Sewage Treatment Plant are under construction, which are located at Basni Benda (40 MLD), Vivek Vihar (15 MLD) and Uchiada (10 MLD). The photocopy of the status received from Jodhpur Nagar Nigam and Jodhpur Development Authority are annexed herewith and marked as Annexure R-2 (Collectively).*
- F- That for capacity building of Officers of the local bodies and development authorities, the State Board has started a training*

program in order to up-grade the skills towards up-gradation requirement and operations of sewage treatment plant. In the first phase training of 35 Engineers from Local Self Government and Development Authorities have been conducted in March, 2021 at Malviya National Institute of Technology, Jaipur.

- G- That the treated effluent discharged by CETP does conform to the prescribed standards. Therefore, the CETD has taken up revamping of primary, secondary and tertiary treatment units of CETP. It is also submitted that the revamping work of both treatment Units (Textile & Steel) of CETP has been completed in July, 2021 and commissioned. The Regional Officer, Rajasthan State Pollution Control Board has verified completion of revamping work. However even after completion of revamping work the treated effluent does not conform to standards. Therefore, the State Board has refused the consent to operate of CETP, Jodhpur vide letter dated 17/11/2021. A comparative chart of analysis results of the samples collected during the period January, 2021 to August, 2021 and photocopy of the State Board letter dated 17/11/2021 is annexed herewith and marked as Annexure-R-3 (Collectively).*
- H- The SCADA system for member units of CETP has been provided in all 378 operating member units (292 Textile & 86 Steel of CETP Jodhpur. This SCADA system is operational & regular functioning. The system has been verified by Regional Officer, Rajasthan State Pollution Control Board. The photocopy of the status received from the State Board vide letter dated 24/11/2021 is annexed herewith and marked as Annexure-R-4.*
- I- That Hazardous Sludge is being disposed off regularly from premise of CETP Jodhpur. It has been verified by the Regional Officer, Rajasthan State Pollution Control Board that from December 2020 to October 2021, total 34342 MT of sludge has been disposed to Secured Land fill site and/or to cement Plants. At present 3000 MT Sludge is stored in CETP yard. The photocopy of the status report is already marked as Annexure-R-4.*
- J- That the State Board has imposed an Environmental Compensation of Rs. 20,00,000/- on CETP Trust, Jodhpur which has been recovered from the Trust. It is further submitted that the State Board has also filed Criminal Prosecution against the CETP Trust, Jodhpur under section 43 & 44 of the Water Act, 1974 having case no. 81/2019 pending before the Court of Learned ACJ-Cum-MM No.4, Jodhpur.*
- K- That there is an issue of overflow of effluent from closed conduit lines and manholes in industrial area. There is a proposal to up-grade the conveyance system for which DPR has been prepared by the SPV.*
- L- That an additional CETP is proposed to be established at Salawas, Jodhpur for which a provision of Rs. 50 Cr. has been made for financial assistance under a scheme of the State Government for up-gradation of CETPs and establishment of new CETPs. Further, new Special Purpose Vehicle Marwar Pollution Control and*

Research has been formed and RIICO has also allotted land to the SPV for the new CETP.”

Discussion on merits

235. In all the three matters, the common issues relate to the following aspects:

- (i) Ensuring water supply to the affected villages;
- (ii) Maintenance of RO and their rejects wherever installed for public supply;
- (iii) Past/Present effects on agriculture and settling compensation in terms of past reports;
- (iv) Groundwater permission by CGWA in the critical area to industries;
- (v) Granting permission to the private water supplier through tankers;
- (vi) Rejuvenation of River Bandi (Pali), Jojri (Jodhpur) and Luni (Balotra) relating to dredging, river front maintenance and e-flows.
- (vii) How CETPs allowed to operate without consents and why no action taken (prosecution/compensation);
- (viii) Status of upgradation of CETPs (RO/MEE) and utilising treated water and not discharging effluents in the river;
- (ix) Compliance monitoring of individual industries (CETP) including SCADA calibration;
- (x) Hazardous waste management including management of TSDF;
- (xi) Carrying capacity of each area and overall restoration;
- (xii) Regular Health checks and
- (xiii) Involvement of Gram Panchayats and awareness.

236. In this case facts are self-speaking. Continuous pollution on account of rampant establishment of industries generating hazardous waste and industrial effluent and discharging the same in water bodies/ rivers as noted above without appropriate treatment is admitted.

In all the three matters concerns/complaints of applicants were found true and thereafter various orders were issued/passed for prevention of further degradation of environment, protection of rivers and environment and restoration/remediation. Dozens of affidavits and compliance reports have been filed but we have no hesitation in stating that the same do not show an urgent desire in the concerned regulatory and statutory authorities to justify their constitution and empowerment by law for protection of environment. It appears that under the fear of orders of Court/Tribunal, some work was attempted/done but comparing need of the alarming situation, very little work was done and that too only to give a colour of compliance but the fact remains that substantially there is non-compliance and no effective measures were taken by the concerned statutory regulators and other statutory authorities. The result is that environment has continued to be degraded and damaged by the polluters including industries, municipal bodies and other statutory bodies like RIICO. It is really unfortunate that those who were responsible and under statutory obligation to take care of protection of environment have failed to do so. No doubt some steps have been taken but they are almost negligible and have not resulted in substantial improvement in the situation which has gone from grim to grimmest. This has been highlighted by Monitoring Committee in its interim report as well as final report. We really appreciate the labour put in by the committee in submission of its exhaustive report pointing out various irregularities, making recommendations, etc. Apprehending a stern order from Tribunal, some of the concerned authorities have filed their written submissions/compliance/progress reports.

237. By written submissions of respondent 8 in OA I (Digvijay), an attempt has been made by operator of CETP i.e. respondent 8 to clear of

itself though it has failed to discharge its duties and obligations and is a polluter causing pollution, liable to pay environmental compensation on the application of 'Polluter Pays' principle.

238. The entire written submission of respondent 8 is nothing but an attempt and effort on the part of Trust to explain its conduct, efforts and constraints in operating CETP etc. but the fact remains that for discharge of untreated or partly treated effluent in river, industrial units as also the CETP operators, all are equally, jointly and severely responsible. Since in the environmental laws, it is absolute liability and whatever may have be the reason, that will not give justification to the proponent to continue to pollute water bodies by discharging polluted effluent generated by the commercial activities of proponents, hence no benefit can be claimed or allowed to respondent 8 when it is proved that polluted effluent has been discharged in river and damage to environment has been caused.

239. OA-I has been pending for the last more than 11 years in as much as writ petition was filed in High Court in 2011 and remained pending for almost 3 years thereat and thereafter transferred to this Tribunal in 2014 and here also almost 7 years have passed. In such a long time, if proponents could not take complete and effective steps for prevention and discharge of pollutants in water bodies they have to blame themselves and mere sincere efforts, financial or otherwise constraints or other obstructions would not be sufficient to condone the offence of environmental laws. We, therefore, do find ourselves satisfied to hold that industrial units generating industrial effluents and operators of effluent treatment plants by not keeping the standards and ultimately discharging untreated/partially treated effluent in water bodies causing pollution and damaging environment and Statutory Regulators are under an obligation to determine appropriate environmental compensation and take other

preventive and remedial action including prosecution in accordance with law.

240. Similar is the position in respect of the written submissions of RIICO filed in OA I and II.

241. Here also an attempt has been made by RIICO to absolve itself from any liability though RIICO is the real culprit in the matter. It is under an obligation for providing infrastructure to industries allowed to be established in industrial areas developed and/or managed by RIICO.

242. RIICO has to ensure that appropriate arrangement is made for effluents flow from the industries and also that the industries do not release/dischage untreated or partially treated effluent in river or other water bodies or land so as to damage water bodies and environment. It is unmindful allotment of land to industries without caring to the availability of infrastructure which has allowed load of industrial effluent for its treatment and discharge by CETP but could not be done due to inadequate capacity/strength. RIICO has allowed such industries to develop and in the process, the system of treatment of industrial effluent and its discharge has suffered as requisite infrastructure was not available. It is true that RIICO is not generating industrial effluent on its own but it is causing and creating the ground for such generation, aiding and abetting by permitting to establish new units or expansion though requisite infrastructure is not available, on the assurance that requisite infrastructure shall be provided by it. Under the statute whereunder RIICO was constituted for development of industrial estate, infrastructure relating to drains etc. is the responsibility of RIICO. Yet the said obligations have not been discharged properly. We, therefore, cannot accept the defense of RIICO that it is not responsible for anything which has happened to the water

bodies and environment due to discharge of polluted industrial effluent by the industries established in the industrial areas developed by RIICO and defense taken by RIICO is rejected. Statutory Regulators are under statutory obligation to determine appropriate environmental compensation and also to take other punitive and remedial action against RIICO.

243. The progress report filed by respondent 5 on 28.01.2022 and District Collector in OA II show some compliance but still, much is wanting and needed. In fact, for many things there is a promise to do something in future without appreciating that no one can be allowed to continue to cause pollution on the assurance that in future and after sometime it would be able to take steps for mitigating the continued pollution. Causing pollution and discharging polluted effluent in water bodies is an offence not only under Water Act 1974 and EP Act 1986 but it is also an offence under provisions of IPC as well as PMLA Act, 2002. Thus, nobody can claim that it should be allowed to continue to commit offence for some further period. This Tribunal cannot permit the same. We cannot allow anyone to continue to commit offence.

244. We may appreciate the steps taken by respondent 5 for implementation of ZLD type CETPs and for upgrading or completion of other CETPs in the concerned industrial area of district Pali. Similarly some progress reports also show some forward movements but still insufficient to prevent pollution. However, fact remains that the subsequent remedial steps taken would not condone act of violation of environmental norms by discharge of untreated/partially treated effluent in water bodies degrading environment and to that extent polluters are bound to pay environmental compensation and undergo other statutory consequences. In our view, it would be appropriate for Statutory

Regulators i.e. RSPCB as also CGWA to determine appropriate environmental compensation for discharge of pollutant effluent and abstraction of ground water and also to take other preventive and remedial action in accordance with law, taking year as a unit for computation of compensation.

245. The view we are taking is in conformity with the law laid down by Apex Court in a catena of decision particularly, relating to environment. Courts have laid down that the “sustainable development” must be the foundation for considering environmental matter and this is also embedded in Section 20 of NGT Act 2010.

246. In ***Rural Litigation and Entitlement Kendra & Others vs. State of U.P. & Others, AIR1985SC652***, issue of indiscriminate limestone quarrying causing ecological disturbance was brought to the notice of Supreme Court. Issues involving environment and development opposing each other were sought to be canvassed. Court preferred primacy to environment through the concept of ‘sustainable development’ and further said that whosoever has caused harm to environment, has absolute liability, not only to compensate the victim of pollution, but also to bear cost for restoration of environmental degradation.

247. In ***Rural Litigation and Entitlement (supra)***, Court said that over thousands of years, man had been successful in exploiting ecological system for his sustenance but with the growth of population, demand for land has increased and forest growth is being cut down. Man has started encroaching upon nature and its assets. Scientific developments have made it possible and convenient for man to approach the places which were hitherto beyond his ken. Consequences of such interference with ecology and environment had now come to be realised. It is necessary that

the Himalayas, and Forest growth on mountain range should be left uninterfered with so that there may be sufficient quantity of rain. With regard to **top soil**, Court said that “*the **top soil can be preserved without being eroded** and the natural setting of the area may remain intact* tapping of (natural) resources have to be done with requisite attention and care, so that ecology and environment may not be affected in any serious way, (and) there may not be any depletion of water resources and long term planning must be undertaken to keep up the national wealth. It has always to be remembered that these are permanent assets of mankind and are **not intended to be exhausted in one generation**”.

248. Court emphasised that preservation of environment and keeping ecological balance unaffected is a task which not only governments but also every citizen must undertake. It is a social obligation and every citizen must remind to himself that it is his fundamental duty as enshrined under Article 51A(g) of the Constitution.

249. In **Sachidananda Pandey vs. State of West Bengal & Others, AIR1987SC1109**, dealing with the matter pertaining to environment, Court said that whenever a problem of ecology is brought before it, the Court is bound to bear in mind Article 48A and 51A(g) of the Constitution. When a court is called upon to give effect to the directive principles of fundamental duties, it cannot shirk its shoulders and say that priorities are a matter of policy and so it is a matter for the policy making authorities. The least court must give is, to examine whether appropriate considerations are gone in mind and irrelevancies are excluded. In appropriate cases Court could go further but how much further would depend upon the circumstances of the case. Court may always give necessary directions.

250. In ***M.C. Mehta vs. Union of India***, AIR1987SC1086 (**Sodium gas leak case**), issue of gas leak in a chemical factory and its repercussions came to be considered. Court expanded the doctrine of liability by modifying 'strict liability' principle enshrined in *Rylands v. Fletcher* to 'absolute liability; and said, "*enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of persons working in the factory and residing in the surrounding areas, poses an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken-the enterprise must be absolutely liable to compensate for such harm and it should be not answer to the enterprise to say that it has taken all reasonable care....*".

251. Court also said that **larger and more prosperous enterprise, greater must be the amount of compensation** payable for the harm caused on account of the activity being carried on by the industry.

252. In ***Vellore Citizens Welfare Forum vs Union Of India & Others*** (1996)5SCC647, Court held "*In view of the Constitutional and Statutory Provisions-- , "Precautionary" Principle and "Polluter Pays" Principle are part of the Environmental Laws of our country*".

253. Explaining "Precautionary" principle, Court said that it includes (i) environmental issues - by the State Government and statutory bodies – must anticipate, prevent and attempt causes of environmental degradation (ii) where there are threats of serious and irreversible damage, lack of full scientific certainty should not be used as a reason for proposing cost effective measures to prevent environmental degradation (iii) the 'onus of

proofs' is on the actor or the developer/industrialist to show that the action is environmentally benign.

254. "Polluter Pays" principle was interpreted stating that absolute liability for harm to environment extends not only to compensate victim of pollution but also the cost of restoring environmental degradation. Environmental protection and prevention of pollution is primarily function of executive but unfortunately, they have failed.

255. In ***Virendra Gaur vs. State of Haryana, (1995)2SCC577***, Court said that Government had no power to sanction lease of land vested in municipality for being used as open space for public use. The word 'environment' is of broad spectrum which brings within its ambit "hygienic atmosphere and ecological balance". It is duty of State and every individual to maintain hygienic environment. State in particular has duty to shed its extravagant unguided sovereign power and to forge in its policy to maintain ecological balance in hygienic environment. Court further said:

*"Enjoyment of life and its attainment including their **right to life** with human dignity encompasses within its ambit, **the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed**, any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water pollution etc. should be regarded as amounting to violation of Article 21."*

256. Court also held that hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a human and healthy environment. Court further said

"Therefore, there is a constitutional imperative on the State Government and the Municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the manmade and the natural environment."

257. In *Indian Council for Enviro-Legal Action vs. Union of India, (1996)3SCC212*, Court said that once activity carried on is hazardous or inherently dangerous, a person carrying on such activity is liable to make good, the loss, caused to any other person, by his activity, irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. It was held that **polluting industries are absolutely liable to compensate for the harm caused by them to the people in the affected area, to the soil and to the underground water.**

258. **Polluter Pays Principles** means absolute liability for harm to the environment, not only to compensate victims of pollution but also cost of restoring environmental degradation. Remediation of damaged environment is part of the process of 'sustainable development'. As such, **polluter is liable to pay cost to the individual sufferers as well as cost of reversing the damaged ecology.**

259. With respect to polluter pays principle, Court in *Indian Council for Enviro-Legal Action vs. Union of India (supra)*, in para 65, said that **any principle evolved in this behalf should be simple, practical and suit to the conditions obtaining in the country.**

260. In *Indian Council for Enviro-Legal Action (supra)*, issue of damage to mother earth by industries producing toxic chemicals was brought to the notice of the Court. It was found that water in wells and streams turned dark and dirty rendering it unfit for human consumption or even for cattle and for irrigation. Court issued various directions which included closure of industries.

261. Again issue of pollution from tanneries in rivers including river Ganga was considered by Supreme Court in *Vellore Citizens' Welfare*

Forum (supra). Recognizing principle of 'sustainable development', Court held that it is a balancing concept between ecology and development and remediation of damage to the environment is part of the process of sustainable development; precautionary principle, polluter pays principle and new burden of proof have become part of environmental law of the country.

262. In **M.C. Mehta vs. Kamal Nath & Others, (1998)1SCC388** a two Judges Bench had an occasion to examine, "whether natural resources can be allowed to be used or processed by private ownership for commercial purpose". The background facts giving rise to above issue are, that a news item was published in daily newspaper 'Indian Express', dated 25.02.1996, under the caption "Kamal Nath dares the mighty Beas to keep his dreams afloat". The news item reveals that after encroachment of 27.12 bighas of land which included substantial forest land, in 1990, a Club was built in Kullu-Manali valley by a private company 'Span Motels Private Limited', which owns a resort- Span Resorts. The land was later regularised and leased out to the company on 11.04.1994. At the time of regularisation, Mr. Kamal Nath was Minister of Environment and Forests. The swollen Beas changed its course, engulfed Span club and adjoining lawns, washing it away. Thereafter, management took steps and by using bulldozers and earth-movers, turned course of Beas by blocking flow of river just 500 meters and creating a new channel to divert River to atleast 1 km downstream. Supreme Court took *suo-moto* cognizance of the matter, and case was registered as W.P. No. 182/1996 under Article 32 of the Constitution. Notices were issued to the company as well as Mr. Kamal Nath. After considering the pleadings and other material, Supreme Court decided vide Judgment dated 13.12.1996 recording a finding that Motel had encroached upon an area of 22.2 bighas adjoining to the lease-hold

area. Earlier, 40 bighas 3 biswas land, alongside Kullu- Manali Road on the bank of river Beas, was granted on lease to the above Motel for a period of 99 years with effect from 1.10.1972 to 1.10.2071. Besides above, the motel encroached upon 22.2 bighas of land further. It also built extensive stone, cemented and wire-mesh embankments all along the river bank. Various activities undertaken by motel show a serious act of environmental degradation on its part. Motel tried to defend construction raised by it on the ground that it was to protect lease land from floods. Court held that **motel interfered with natural flow of river by trying to block natural relief/spill channel of the river.** With regard to river, it was observed that Beas is a young and dynamic river, runs through Kullu valley, between mountain ranges of Dhaulandhar in the right bank, and Chandrakheni, in the left. The river is fast flowing, carry large boulders, at the time of flood. When water velocity is not sufficient to carry boulders, those are deposited in the channel often blocking flow of water. Under such circumstances, the river stream changes its course by remaining within the valley but swinging from one bank to the other. The right bank of river Beas where motel is located, mostly comes under forest; the left bank consists of plateaus, having steep bank facing the river, where fruit orchards and cereal cultivation are predominant. The area is ecologically fragile and full of scenic beauty, should not have been permitted to be converted into private ownership, and for commercial gains. Having said so, Court refers to the right of public to nature and natural resources and said that public has a right to expect certain lands and natural areas to retain their natural characteristic. Court refers to the work of David B. Hunter (University of Michigan) and Professor Barbara Ward where it was stressed upon that major ecological tenet is that the world is finite. Earth can support only so many people and only so much human activity before limits are reached. Absolute finiteness of the environment when coupled

with human dependency on the environment, leads to the unquestionable result that human activities will, at some point, be constrained. There is a commonly recognised link between laws and social value but to ecologists, a balance between laws and values is not alone sufficient to ensure a stable relationship between humans and their environment. Laws and values must also contend with the constraints imposed by the outside environment. Unfortunately, current legal doctrine rarely accounts for such constraints, and thus environmental stability is threatened. Historically, we have changed environment to fit our conceptions of property. We have fenced, plowed and paved. The environment has proven malleable and to a large extent still is. But there is a limit to this malleability, and certain types of ecologically important resources-for example, wetlands and riparian forests - can no longer be destroyed without enormous long-term effects on environmental and therefore social stability. Need for preserving sensitive resources does not reflect value choices but rather is the necessary result of objective observations of the laws of nature. Court refers to the legal theory said to be developed in ancient Roman empire, i.e., 'Doctrine of Public Trust' founded on the idea that certain common properties such as rivers, sea- shore, forests and the air were held by Government in trusteeship for the free and unimpeded use of general public. English law as well as American Law on the subject was also referred to and then it is said in para 34 of the Judgment that our legal system includes Public Trust Doctrine as part of the Jurisprudence. State is the trustee of all natural resources which, by nature, are meant for public use and enjoyment. Public at large is beneficiary of the sea- shore, running waters, airs, forests and ecologically fragile lands. State as a trustee, is under a legal duty to protect natural resources. These resources meant for public use cannot be converted into private ownership. Executive, acting under **Doctrine of Public Trust,**

cannot abdicate natural resources and convert them into private ownership or for commercial use.

263. The activity of fishing and reservoir within areas of national park in Madhya Pradesh was considered in ***Animal and Environment Legal Defence Fund vs. Union of India, (1997)3SCC549***. Court observed that livelihood of tribals should be considered in the context of maintaining ecology in the forest area and if there is shrinkage of forest area, State must take steps to prevent any destruction or damage to the environment, *flora-fauna* and wildlife keeping in mind Articles 48A and 51A(g) of the Constitution.

264. In ***M.C. Mehta vs. Union of India, (1997)2SCC411 (Calcutta tanneries matter)***, Court considered issue of discharge of untreated noxious and poisonous effluents into river Ganga by tanneries at Calcutta, and ultimately issued directions for closure of tanneries, relocation and payment of compensation to the employees.

265. In ***M.C. Mehta vs. Union of India, (1997)11SCC327 (hazardous industries in Delhi matter)***, Court considered issue of pollution caused in Delhi by various industries engaged in hazardous, noxious products etc. and issued directions for shifting, relocation, closure and utilization of land for protection of environment and payment of compensation.

266. In ***M.C. Mehta vs. Union of India, (1997)3SCC715 (Badkal and Surajkund lakes matter)***, Court considered the issue of preservation of tourist spots near Delhi at Badkal and Surajkund lakes. Applying principle of 'sustainable development' and 'precautionary principle', Court banned construction activities within the radius of 1 km from the lakes. Court relied on the reports of experts from National Environmental Engineering Research Institute (NEERI) and Central Pollution Control Board (CPCB)

stating that it is not advisable to permit large scale construction activities in close vicinity of lakes which would have an adverse impact on local ecology. It could affect water level under the ground and also disturb hydrology of the area.

267. In ***M.C. Mehta vs. Union of India, (1997)2SCC353 (Taj Trapezium matter)***, issue of preservation of Taj was considered and Court issued directions for changeover of coal in coal-based industries within Taj Trapezium zone, to the use of natural gas or otherwise industries should stop functioning or shift.

268. In ***T.N. Godavarman Thirumulpad vs. Union of India & Others, (1997)2SCC267***, various writ petitions were filed in Supreme Court involving question about conservation, preservation and protection of forest and ecology. Various orders were passed from time to time, reported in law journals. In ***T.N. Godavarman Thirumulpad vs. Union of India & Others, (2006)1SCC1***, (order dated 23.09.2005), Court considered the question, when forest land is used for non-forest purpose, what measures are required to be taken to compensate for loss of forest land and to compensate the effect on ecology. Court recognized that development of nation undoubtedly involves industrial development but it has to be consistent with protection of environment and not at the cost of degradation of environment. Any programme, policy or vision for overall development must evolve systematic approach so as to balance economic development and environmental protection. Then Court considered the question, “*whether permission to use forest land for non-forest purpose and consequential loss or benefits must cause in imposing liability of payment of ‘Net Present Value’ (hereinafter referred to as ‘NPV’) of such diverted land, so as to utilize the amount for getting back in the long run, benefits which are lost by such diversion?*” In this regard, what should be the guidelines

for determination of NPV, how to compute it, can there be some exemptions etc., are the aspects, to be considered by MoEF. Referring to earlier orders, Court said that MoEF was directed to formulate a scheme providing for compensatory afforestation, whenever permission for diversion of forest land is granted under Forest (Conservation) Act, 1980 (hereinafter referred to as, the 'FC Act'). MoEF, consequently, submitted a scheme with its affidavit dated 22.03.2002, which was examined by Central Empowered Committee (hereinafter referred to as '**CEC**') along with other relevant material and submitted a report/recommendation dated 09.08.2002. MoEF, in principle, accepted recommendations of CEC and it was noticed by Supreme Court in its order dated 29.10.2002. MoEF, by Notification dated 23.04.2004, by exercising powers under sub-section (3) of Section 3 of EP Act, 1986, constituted an authority, i.e., Compensatory Afforestation Fund management and Planning Authority (hereinafter referred to as 'CAMPA'). Court suggested that in the said constitution of CAMPA, MoEF should include an expert in the field of forest and another expert in the field of forest economy development. Some other modifications/amendments in the said Notification were also recommended. Then the question, how NPV be determined, was examined in detail. Court observed that there are different factors which may count for determination of biodiversity valuation and it is for the experts in the field to make suggestion for determination of relevant factors for such computation. Environment is not a State Government's property but a national asset. It is the obligation of all to conserve environment and for its utilization, it is necessary to have regard to the principles of "sustainable development" and "inter-generational equity". Further, Court said, NPV is a charge or a fee within Entry 47 read with Entry 20 of List III of the Constitution. It further said *"the Fund set up is a part of economic and social planning" which comes within Entry 20 of List III and the charge*

which is levied for that purpose would come under Entry 47 of List III and, therefore, Article 110 is not attracted.” The NPV is not only for compensatory afforestation but for ecology. Compensatory afforestation is only a small portion, in the long range efforts, in the field of regeneration. Forest Management Planning involves a blend of ecological, economic and social systems with the economic and social sides of planning, often just as complex as the ecological sides. Rejecting contention of State Government that amount of NPV shall be made over to State Government, Court held, natural resources are not the ownership of any one State or individual, the public at large is its beneficiary. In para 78, Court said

*“The **damage to environment is a damage to the country’s assets as a whole.** Ecology knows no boundaries. It can have impact on the climate. The principles and parameters for valuation of the damage have to be evolved also keeping in view the likely impact of activities on future generation.*

269. Examining various aspects of biodiversity and loss to ecology due to any destruction to biodiversity etc., Court recorded conclusions in para 98 of the judgment, as under:

“In view of the aforesaid discussion, our conclusions are:

- 1. Except for government projects like hospitals, dispensaries and schools referred to in the body of the judgment, all other projects shall be required to pay NPV though final decision on this matter will be taken after receipt of Expert Committee Report.*
- 2. The payment to CAMPA under notification dated 23rd April, 2004 is constitutional and valid.*
- 3. The amounts are required to be used for achieving ecological plans and for protecting the environment and for the regeneration of forest and maintenance of ecological balance and eco-systems. The payment of NPV is for protection of environment and not in relation to any propriety rights.*
- 4. Fund has been created having regard to the principles of intergenerational justice and to undertake short term and long-term measures.*
- 5. The NPV has to be worked out on economic principles.”*

270. Issue of poor efficiency of Common Effluent Treatment Plants at Patancheru, Bollaram and Jeedimetla in Andhra Pradesh was considered

in ***Indian Council for Enviro-Legal Action vs. Union of India, (1998)9SCC580*** and Court issued directions that **industry should not be allowed to discharge effluent which exceeded permissible limits**. Such industries should install system for release of effluents upto permissible limits. Similar directions in the context of UP industries, discharging effluent beyond permissible limits, were issued in ***World Savior vs. Union of India & Others (1998)9SCC247***.

271. Pollution by discharge of effluents by distilleries attached to sugar industries was considered in ***Bhawani River Sakthi Sugar Ltd. Re: (1998)6SCC335*** and directions were issued for control of pollution and monitoring by Statutory Regulators⁵¹⁻⁵⁴

272. In ***M.C. Mehta vs. Union of India, (2004)6SCC588 (Industries in residential area in Delhi matter)***, Court considered the question, “whether industrial activities in residential/non- conforming areas is permissible and what directions should be issued to end such illegal activities”. Various orders were passed in 1995 and onwards resulting in closure, shifting etc., of industries, which, by an estimation were about 1,01,000, operating in Delhi in non-conforming zones but illegally permitted by Municipal Corporation of Delhi to operate in residential areas/ non- conforming areas. An application was filed on behalf of Delhi Government that closure of such a large number of industries functioning in residential/non-conforming areas may render about 7 lakh workers unemployed, causing hardship to 7 lakh families. The question considered by Court was, “*whether a Government can plead such a justification for violation of law and throw to the winds norms of environment, health and safety or is it possible to help the workers even without violating law if there is a genuine will to do so*”. There was an attempt on the part of the concerned authority for regularization of certain areas having

concentration of industries. Deprecating it, Court said, “**Regularization cannot be done if it results in violation of the Right to Life enshrined in Article 21** of the Constitution. The question will have to be considered not only from the angle of those who have setup industrial units in violation of the master plan but also others who are residents and are using the premises as allowed by law.” Court also considered the changes proposed/made in the master plan and said, “The changes in the master plan or its norms to accommodate illegal activities not only amount to getting reward for illegal activities but also resulted in punishing the law abiding citizen.” Commenting upon the authorities, Court said, “lack of action and initiative by the authorities is the main reason for the industry merely continuing illegal activities. **There is total lack of enforcement of law by the authorities concerned.**” Rejecting an argument that industries were working with the consent of Government, Court said that **an illegality would not become legality on inaction or connivance of the Government authorities.** It further said “There cannot be any doubt that non-conforming industrial activities could not have commenced or continued at such a large scale in the capital of the country if the Government and the concerned authorities had performed their functions and obligations under various statutes. But such a situation cannot be permitted to continue forever so as to reach a point of no return, where the chaotic situation in city has already reached. **The law-breakers, namely, the industries cannot be absolved of the illegalities only on the ground of inaction by the authorities.**” Court also rejected an argument on behalf of the industries that if they are ready to pay penalty, so long as the same is paid, they are entitled to continue with their activities. Court held “*merely by payment of penalty, continued misuse cannot be permitted.*” Court condemned authorities for inaction and said that growth of illegal manufacturing activity in residential areas has been without any check or hindrance from

the authorities. The manner in which such large scale violations had commenced, and continued, leaves no manner of doubt that it was not possible without the connivance of those who are required to ensure compliance and reasons are obvious. Such activities result in putting on extra load on the infrastructure. The entire planning has gone totally haywire. The law abiders are sufferers. All this has happened at the cost of health and decent living of the citizens of the city violating their constitutional rights enshrined under Article 21 of the Constitution of India. Further, it is necessary to bear in mind that the law makers repose confidence in the authorities that they will ensure implementation of the laws made by them. If the authorities breach that confidence and act in dereliction of their duties, then the plea that the observance of law will now have an adverse effect on the industry or the workers cannot be allowed. Court, in the light of the facts and pleadings, issued various directions including closure of all industries, came up in residential/non-conforming areas in Delhi on or after 01.08.1990. It also constituted a monitoring committee comprising of officials of Delhi Government, Delhi Police, local bodies and said that the said committee shall be responsible for stoppage of illegal commercial activities.

273. Court also distinguished its earlier judgment in ***Deepak Nitrite Ltd. vs. State of Gujarat, (2004)6SCC402***, observing that it was decided on its own facts and in the light of the circumstance that there was no finding of any damage to the environment. Having said so, Court also said that the decision in the ***Deepak Nitrite (supra)*** cannot be said to have laid down a proposition that in the absence of actual degradation of environment by the offending activities, payment for repair on the application of 'polluter pays' principle cannot be ordered. Court reiterated that "*in India the liability to pay compensation to affected persons is strict*

and absolute and the rule laid down in **Rylands vs. Fletcher, (1868) 3HL 330: (1861-73) ALL ER Rep 1, 626: 19 LT 220**, has been held to be not applicable". Explaining judgment in **Raylands vs. Fletcher (supra)**, Court said, the judgement was rendered in 19th century when all the developments of science and technology had not taken place. In modern day society, with highly developed scientific knowledge and technology, law has to grow to satisfy needs to fast-changing society. It has to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialized economy. Court said:

*"an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes **an absolute and non-delegable duty to the community to ensure that no harm results to anyone.**"*

274. Court further said,

"if the enterprise is permitted to carry on a hazardous or inherently dangerous activity for its profit, the law must presume that such permission is conditional on the enterprise absorbing the cost of any accident arising on account of such activity as an appropriate item of its overheads."

275. Referring to its earlier order dated 14.10.2003, in these very matters, Court said,

*"**principle of good governance** is an accepted principle of international and domestic laws. It **comprises of the rule of law, effective State institutions, transparency and accountability in public** affairs, respect for human rights and the meaningful participation of citizens in the political process of their countries and in the decisions affecting their lives".*

276. Court said that environmental concerns are at the same pedestal as human rights, both being traced to Article 21 of the Constitution. The right to information and community participation for protection of environment and human health are also rights which flow from Article 21.

Consequently, Court directed to destroy 133 containers having hazardous substance, as recommended by Monitoring Committee.

277. In **Research Foundation for Science vs. Union of India & Others, (2005)13SCC186**, considering further, in pending matters, namely, Writ Petition No. 457/1995; SLP(C) No. 16175/1997 and Civil Appeal No. 7660/1997, Supreme Court in its judgment dated 05.01.2005 considered the question, “*how hazardous waste oil imported and lying in 133 containers at Nhava Sheva Port is to be dealt with*”. The Monitoring Committee constituted by Court categorically found that what was imported is hazardous waste and it was imported illegally in the garb of importing lubricant oil. On behalf of the Importers, reliance was sought on the Basel Convention and standards mentioned therein but Court said that Basel Conventions are only guidelines and individual countries can provide different criteria in their national laws. National law laying stricter condition has to prevail. Imported hazardous material has, therefore, to be wasted and the manner it was to be done, left to be decided by the Government within the prescribed time. Court said:

“the liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter pays principle. These principles are part of the environmental law of India. There is constitutional mandate to protect and improve the environment.” In para 28 of the judgment, Court categorically said, “*the national law has to apply and shelter cannot be taken under guidelines of Basel Convention*”.

278. In **M.C. Mehta vs. Union of India & Others, (unauthorised constructions and violation of laws in Delhi matter) (2006)3SCC399**, Supreme Court in its order dated 16.02.2006, dealing with the complaint that officers of State and Statutory Authorities are indulging in illegal activities and must be held accountable, observed:

“If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total

lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. Such blatant misuse of properties at large scale cannot take place without connivance of the concerned officers. It is also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens. Those who own the properties that are misused have also implied responsibility towards the hardship, inconvenience, suffering caused to the residents of the locality and injuries to third parties. It is, therefore, not only the question of stopping the misuser but also making the owners at default accountable for the injuries caused to others. Similar would also be the accountability of errant officers as well since, prima facie, such large scale misuser, in violation of laws, cannot take place without the active connivance of the officers. It would be for the officers to show what effective steps were taken to stop the misuser.”

279. In ***Intellectuals Forum, Tirupathi vs. State of A.P. & Others, (2006)3SCC549***, a complaint was raised, in writ petitions filed before Andhra Pradesh High Court, that there is a systematic destruction of percolation, irrigation and drinking water tanks in Tirupathi town, alienation of Avilala tank bed land to Tirupathi Urban Development Authority and AP Housing board for housing purposes. The writ petitions were dismissed on the ground that the activities were in public interest in view of growing population in the town and need of housing accommodation for the people. In appeal, Supreme Court formulated following four questions of law:

- “1. *Whether the Urban Development could be given primacy over and above the need to protect the environment and valuable fresh water resources?*
2. *Whether the action of the A.P. state in issuing the impugned G.Os could be permitted in derogation of Articles 14 and 21 of the Constitution of India as also the Directive Principles of State Policy and fundamental duties enshrined in the Constitution of India?*
3. *Whether the need for sustainable development can be ignored, do away with and cause harm to the environment in the name of urban development?*
4. *Whether there are any competing public interests and if so how the conflict is to be adjudicated/reconciled?”*

280. Referring to the responsibility of State to protect environment and the principle of sustainable development, Court said,

“merely asserting an intention for development will not be enough to sanction the destruction of local ecological resources. What this Court should follow is a principle of sustainable development and find a balance between the developmental needs which the respondents assert, and the environmental degradation.”

281. Considering the facts that ground realities are different, huge amount has been spent and natural resource lost is irreparable and beyond the power of Court to rectify, best way was to accept findings of the Committee which suggested some rectification but with change in quantum of the area. Report was accepted by the authorities. Thus Court decided matter on the peculiar facts of the case but issued separate orders in respect to two tanks namely, Peruru tank and Avilala tank, restraining any further construction in the area and to take other steps for avoiding/preventing any loss/damage to the said tanks.

282. In ***Karnataka Industrial Areas Development Board vs. C. Kenchappa and Others, (2006)6SCC371***, acquisition of agricultural land for industrial purposes was challenged on the ground of adverse impact on environment, deprivation of villagers of their fertile agricultural land etc. for setting up of an industrial establishment by Gee India Technology Centre Pvt. Ltd. Karnataka Industrial Areas Development Board sought to acquire land which was challenged in writ petition. The writ petition was allowed to the extent of acquisition of land which was reserved for grazing cattle, agricultural and residential purpose. High Court also directed that whenever there is an acquisition of land for industrial commercial or non –agricultural purpose, except of residential purposes, authorities must leave one kilometre area from the village limits as a free zone or green area to maintain ecological equilibrium. Consequently, acquiring body, i.e., Karnataka Industrial Areas

Development Board came in appeal. Supreme Court examined in the light of several decades continuous degradation resulting in continuous depletion of environment and observed that the entire world is facing a serious problem of environmental degradation due to indiscriminate development. Industrialization, burning of fossil fuels and massive deforestation are leading to degradation of environment. Court said that if we carefully evaluate entire journey of judicial pilgrimage from the decade of 1960 till 2006, one would find that in the decade of 1960, hardly anyone expressed concern about ecology and environment. In the decade of 1970, a serious concern about degradation of ecology and environment was articulated and it was realised that for a civilized world both development and ecology are essential. The concern was examined in detail later leading to the principle of sustainable development. Court allowed appeal and disposed the matter by issuing directions which included that *“in future, before acquisition of lands for development, the consequence and adverse impact of development on environment must be properly comprehended and the lands be acquired for development that they do not gravely impair the ecology and environment.”*

283. In ***Susetha vs. State of Tamil Nadu & Others (2006)6SCC543***, Court said that natural water storage resources are not only required to be protected but also steps are required to be taken for restoring the same if it has fallen in disuse. The same principle cannot be applied in relation to artificial tanks.

284. In ***Research Foundation for Science Technology and Natural Resource Policy vs. Union of India & Others, 2007(15)SCC193*** (order dated 11.09.2007 in IA 34 of 2006 In WP (C) No. 657 of 1995), Court considered the issue, *“whether permission for dismantling of ship “Blue Lady” at Alang, Gujarat should be granted or not”*. The ship, a passenger

liner, built in France in 1961, was a steam turbine driven vessel, registered as a Barge under the flag of Bahamas. The ship was beached on 15.08.2006/16.08.2006, off the Alang coast which is located on the west coast of Gujarat. Alang is the largest ship recycling yard and one of the choicest ship-scraping destination for ship owners around the world. Observing that ship breaking is an industry, Court said that **when apply principle of 'sustainable development', one has to keep in mind concept of development on one hand and concepts like generation of revenue, employment and public interest on the other hand and here the principle of proportionality comes in.** Court examined report of Technical Experts Committee and said that suggestions made by the said Committee, must be observed. It will satisfy the concept of "balance". Permitting Ship breaking, Court also observed that recycling is a key element of sustainable development.

285. In ***U.P. Pollution Control Board vs. Dr. Bhupendra Kumar Modi & Another, (2009)2SCC147, (order dated 12.12.2008)*** in (*Criminal Appeal No. 2019 of 2008*), order of High Court of Judicature at Allahabad, Lucknow Bench, quashing complaint, filed by State PCB under Section 44 of Water Act, 1974 was challenged. High Court quashed proceedings on the ground that there was no material on record to show that Dr. Bhupendra Kumar Modi, at the relevant time, was incharge and responsible to the company for conduct of its business. The only question considered by Court in Appeal, was, "whether the view taken by High Court is justified or not". Court did not find the view of High Court to be correct in view of the averments made in the complaint, read with Sections 25, 26, 44 and 47 of Water Act, 1974 and hence allowed Appeal and set aside the order. Before Supreme Court, an argument was raised that the proceedings commenced in 1985 and long time has passed but rejecting

this, Court said that lapse of long period cannot be a reason to absolve respondents from the trial, considering nature of the matter involving public health. If it is ultimately proved that the act of accused has affected public health, Court cannot afford to deal lightly with cases involving pollution of air and water. It said,

*“The message must go to all concerned persons whether small or big that the courts will share the parliamentary concern and legislative intent of the Act to check the escalating pollution level and restore the balance of our environment. **Those who discharge noxious polluting effluents into streams, rivers or any other water bodies which inflicts (sic harm) on the public health at large, should be dealt with strictly de hors to the technical objections.** Since escalating pollution level of our environment affects on the life and health of human beings as well as animals, the courts should not deal with the prosecution for offences under the pollution and environmental Acts in a causal or routine manner”.*

286. In **Fomento Resorts & Hotels & Another vs. Minguel Martins & Others, (2009)3SCC571 (order dated 20.01.2009)** in (Civil Appeal No. 4154 of 2000), a private company approached State Government for acquisition of land comprised in Survey nos. 788, 789, 803, 804, 806 and 807 of Village Taleigao, Dona Paula for construction of Beach Resort Hotel Complex by highlighting its benefits. Acted thereupon, acquisition proceedings were initiated. Acquisition proceeding were challenged but in the meantime hotel project was completed and commenced function. Goa Bench of Bombay High Court allowed writ petition and quashed acquisition notification by judgment dated 26.06.1984. The judgment was reversed in appeal by Supreme Court in **Fomento Resorts and Hotels Ltd. vs. Gustavo Renato Da Cruz Pino, (1985)2SCC152** and matter was remitted to High Court. Subsequently, parties compromised and writ petition was withdrawn from High Court. The hoteliers entered into an agreement with the Government. The hoteliers thereafter, applied for extension of hotel building and this issue was raised again in a writ petition filed in High Court which was allowed by observing that extension

of hotel building was impermissible. The issue of acquisition was also raised. Supreme Court formulated it as issue one and answered in negative in para 35 of the judgment. Next question was, whether public access to beach, available through survey no. 803 before acquisition, could have been restricted by hoteliers. Court refers to public trust doctrine and said that there is an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest, mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management thereof. In para 54 of judgment, Court said,

*“The **heart of the public trust doctrine is that it imposes limits and obligations upon government agencies and their administrators on behalf of all the people and especially future generations. For example, renewable and non-renewable resources, associated uses, ecological values or objects in which the public has a special interest (i.e. public lands, waters, etc.) are held subject to the duty of the State not to impair such resources, uses or values, even if private interests are involved. The same obligations apply to managers of forests, monuments, parks, the public domain and other public assets”.***

287. Elaborating it, in para 55, Court said,

*“**Public Trust Doctrine is a tool for exerting long-established public rights over short-term public rights and private gain. Today, every person exercising his or her right to use the air, water, or land and associated natural ecosystems has the obligation to secure for the rest of us the right to live or otherwise use that same resource or property for the long term and enjoyment by future generations. To say it another way, a landowner or lessee and a water right holder has an obligation to use such resources in a manner as not to impair or diminish the people’s rights and the people’s long term interest in that property or resource, including down-slope lands, waters and resources”.***

288. Referring to ancient Indian heritage and culture which was in harmony with nature, Court said:

*“The Indian society has, since time immemorial, been conscious of the necessity of protecting environment and ecology. The main moto of social life has been “to live in harmony with nature”. Sages and Saints of India lived in forests. **Their preachings contained***

in Vedas, Upanishadas, Smritis etc. are ample evidence of the society's respect for plants, trees, earth, sky, air, water and every form of life. It was regarded as a sacred duty of every one to protect them. In those days, people worshipped trees, rivers and sea which were treated as belonging to all living creatures. The children were educated by their parents and grandparents about the necessity of keeping the environment clean and protecting earth, rivers, sea, forests, trees, flora fauna and every species of life.

289. Court reiterated that natural resources including forest, water bodies, rivers, seashore etc. are held by State as a trustee on behalf of people and specially the future generations. These constitute common properties and people are entitled to uninterrupted use thereof. State cannot transfer public trust properties to a private party. If such a transfer interferes with the right of the public, Court can invoke public trust doctrine and take affirmative action for protecting right of people to have access to light, air and water and also for protecting rivers, sea, tanks, trees, forests and associated natural eco-systems. The questions, were answered observing that access road cannot be obstructed. Court also upheld the view taken by High Court that extension of hotel building was illegal and, therefore, it has to be demolished.

290. In ***Tirupur Dyeing Factory Owners Association vs. Noyyal River Ayacutdars Protection Association & Others, (2009)9SCC737***, Court said:

“in spite of stringent conditions, degradation of environment continues and reaches a stage of no return, the court may consider the closure of industrial activities in areas where there is such a risk. The authorities also have to take into consideration the macro effect of wide scale land and environmental degradation caused by absence of remedial measures. The right to information and community participation for protection of environment and human health is also a right which flows from Article 21.

291. In ***T.N. Godavarman Thirumulpad (104) vs. Union of India & Others, (2008)2SCC222***, (order dated 23.11.2007) in (IAs No. 1324, 1474 and 2081-82 in WP(C) No. 202/1995), an application was filed on behalf

of M/s. Vedanta Alumina Ltd. seeking clearance for use of 723.343 ha of land including 58.943 ha of reserve forest land in Lanjigarh Tehsil of Kalahandi District for setting up alumina refinery. Court proposed certain conditions which if agreeable, it would consider grant of clearance but in the context of principle of sustainable development *vis-a-vis* mining activities, Court said: “*while applying principle of sustainable development one must bear in mind that **development which meets the needs of the present without compromising the ability of future generations to meet their own needs is sustainable development**--it is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity.*” Court further said that “*mining is an important revenue-generating industry*” but Court cannot allow country’s national assets to be placed into the hands of companies without a proper mechanism in place and without ascertaining credibility of the user agency.

292. In ***News Item Published in Hindustan Times Titled “And Quiet Flows The Maily Yamuna”, In Re, (2009)17SCC708*** (order dated 12.04.2005), Supreme Court continued to consider the issue of pollution of river Yamuna, deprecated authorities for their inaction/negligence and said,

“It is for the Government to implement the laws. It is no answer to say that the master plan, building bye-laws and other laws were observed in breach and the authorities were silent spectators. It seems that there was connivance of officers/officials concerned without which it is quite difficult for such large-scale unauthorized acts to take place”.

293. In para 13 of the order, Court referred to its earlier order dated 10.04.2001 wherein it has said:

“...right to life guaranteed under Article 21 of the Constitution would surely include the right to clean water, which is being

deprived to millions of citizens of Delhi because of large-scale pollution of River Yamuna”.

294. Court recorded its concern in para 16 of the order, and said:

*“This is a most unsatisfactory way of tackling the problem which, admittedly as per the Government’s perception too, is alarming and emergent. How seriously the measures have been taken is evident from the fact that **despite the orders of this Court, there is no assistance or affidavit from the National River Conservation Authority. It seems evident that the Government and its functionaries and authorities have failed in their public duty** and obligations towards the citizens of Delhi. Despite all these years, they have not been able to provide clean water of Class ‘C’ category which had been directed years back”.*

295. In ***News Item Published in Hindustan Times Titled “And Quiet Flows The Maily Yamuna”, In Re, (2009)17SCC545*** (order dated 14.02.2006), Court noticed attempt of the authorities in placing alleged scheme for improvement of water quality, without any clarity, and in para 5 said:

*“We do not know what are the so-called innovative and convenient ways of which suggestion is given in the affidavit. The **authorities have to be clear in their perception and palm of action** lest the huge amounts incurred with a view to improve the water quality go down the drain. **After clearly laying down the plan of action in consultation with all concerned, there has to be meticulous implementation, then alone some progress can be made in improving the quality of water.**”*

296. Further in para 7, Court said, since State/authorities are not in a position to make available the basic services on the pretext of server limitation, there shall be no regularization of unauthorized colonies. Court clarified that regularization should be made only if it is possible for the respondents to make available the basic services.

297. In ***Meghwal Samaj Shiksha Samiti vs. Lakh Singh & Others (2011)11SCC800***, Court shows its concern for protection of water body. In village Raniwara Kalan, District Jalore, Rajasthan, in Revenue records, a village pond as ‘*gair mumkin nada*’ was recorded. After sometime it fell

into disuse whereafter District Collector allotted 0.48 hectares of the area of the said pond to Meghwal Samaj Shiksha Samiti on 99 years lease. The said allotment was challenged in a writ petition filed in High Court which was allowed vide judgment dated 20.11.2002. Court said that once the land was recorded as pond, it was incumbent upon the authorities concerned to restore and maintain the same as pond and it could not have been allotted for any purpose or construction. The allottee in Appeal before Supreme Court placed reliance on the report of *Patwari* that there was no water in the pond and hence, it could have been allotted but rejecting the same, Court relied on the judgment in ***Hinch Lal Tiwari vs. Kamala Devi (2001)6SCC496***, and said that if land was recorded as pond it had to be maintained as it is and the report of *Patwari* will not be of any consequence. In ***Hinch Lal Tiwari (supra)***, it was found that once a pond is existed and recorded in Revenue records, merely because for some time or otherwise, it has encroached or dried up, will not change its nature and it has to be protected. In para 13 of the judgment Court said: *“the material resources of the community like forests, tanks, ponds, hillock, mountain, etc. are nature’s bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution.”*

298. Court further said that Revenue Authorities should make all attempts to develop the pond if it is so recorded and cannot take advantage of any encroachment or drying up of the pond. Protection and preservation of the pond would prevent ecological disaster and provide better environment to the people at large.

299. In ***Samaj Parivartana Samudaya & Others vs. State Of Karnataka & Others, (2013)8SCC154*** (order dated 18.04.2013 deciding

Writ Petitions 562 of 2009, 411 of 2010, 66 of 2010 and 76 of 2012 and other connected appeals), issue of systematic plunder of natural resources by a handful of opportunists seeking to achieve immediate gains in the context of mining of Iron Ore and allied minerals in the State of Karnataka was considered. While deciding, Court referred to its earlier order dated 28.09.2012 wherein resumption of mining was allowed subject to payment of **minimum compensation of Rs. 5 crores per hectare** and further additional amount on the basis of final determination of national loss caused by illegal mining and illegal use of land for overburden dumps, roads, offices, etc. **Court also required guarantee money to be paid by leaseholders, to the extent of 15% of the sale proceeds of the iron ore sold.** Looking to the gravity of situation, Court observed that an extraordinary situation has arisen on account of large scale illegalities committed in the operation of mines in question resulting in grave and irreparable loss to the forest wealth of the country besides colossal loss caused to the national exchequer. The situation being extraordinary, the remedy, indeed, must also be extraordinary. Illegal mining, apart from playing havoc on the national economy had, in fact, cast an ominous cloud on the credibility of the system of governance by laws in force. It has a chilling and crippling effect on ecology and environment. Thereafter in the light of the joint committee constituted by court, it passed various directions.

300. In ***State (NCT of Delhi) vs. Sanjay, (2014)9SCC772***, (order dated 04.09.2014 in Criminal Appeals No. 499/2011 with Nos. 2105-12/2013), authority of Police and other law enforcement agencies for prosecution under Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'MMDR Act, 1957') was challenged and considered. Issue for consideration was 'whether Section 21 and 22 of the

aforesaid Act would operate as bar against prosecution of a person who has been charged with allegations which constitute offences under Section 379/114 and other provisions of IPC, 1860. In other words, whether MMDR Act, 1957, explicitly or impliedly, excludes provisions of IPC when act of an accused is an offence under both statutes. The contention was that the offence, if any, committed under the provisions of MMDR Act, 1957 but no complaint had been made, then no cognizance can be taken in IPC and since the offence is covered by MMDR Act, 1957, provisions of IPC cannot be resorted to. Considering the above question, Court said that mining activity also cause and destruct environment if conducted in absence of proper scientific methodology; **lack of proper scientific methodology for river sand mining have led to indiscriminate sand mining**; and weak governance and corruption have led to widespread illegal mining. Court referred to UNEP Global Environmental Alert Service report, stating in reference to India, that sand trading is a lucrative business, and there is evidence of illegal trading broadly under the influence of sand mafias; **mining of aggregates in rivers has led to severe damage to river, including pollution and changes in level of pH; removing sediment from river causes the river to cut its channel through the bed of the valley floor, or channel incision, both upstream and downstream of the extraction site; leads to coarsening of bed material and lateral channel instability; it can change the riverbed itself**; removal of more than 12 million tonnes of sand a year from the Vembanad Lake catchment in India has led to lowering of the riverbed by 7 to 15 centimeters a year; **Incision can also cause alluvial aquifer to drain to a lower level, resulting in a loss of aquifer storage; and can also increase flood frequency and intensity by reducing flood regulation capacity**. However, lowering the water table is most threatening to water supply exacerbating drought occurrence and severity

as tributaries of major rivers dry up when sand mining reaches certain thresholds. Illegal sand mining also causes erosion. Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion. Quoting above report of United Nations, impact of sand mining was further discussed in para 34 and 35 of the judgment, as under:

*“34. The report also dealt with the **astonishing impact of sand mining on the economy**. It states that the tourism may be affected through beach erosion. Fishing, both traditional and commercial, can be affected through destruction of benthic fauna. Agriculture could be affected through loss of agricultural land from river erosion and the lowering of the water table. The insurance sector is affected through exacerbation of the impact of extreme events such as floods, droughts and storm surges through decreased protection of beach fronts. The erosion of coastal areas and beaches affects houses and infrastructure. A decrease in bed load or channel shortening can cause downstream erosion including bank erosion and the undercutting or undermining of engineering structures such as bridges, side protection walls and structures for water supply.*

35. Sand is often removed from beaches to build hotels, roads and other tourism-related infrastructure. In some locations, continued construction is likely to lead to an unsustainable situation and destruction of the main natural attraction for visitors-beaches themselves. Mining from, within or near a riverbed has a direct impact on the stream’s physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, in stream roughness of the bed, flow velocity, discharge capacity, sediment transportation capacity, turbidity, temperature, etc. Alteration or modification of the above attributes may cause hazardous impact on ecological equilibrium of riverine regime. This may also cause adverse impact on in stream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow-paths.”

301. In **Rajendra Shankar Shukla & others vs. State of Chhattisgarh & others, (2015)10SCC400**, (order dated 29.07.2015 in Civil Appeal No. 5769-70/2015 with Nos. 5771-75/2015), certain land owners whose land was acquired for Town Development Scheme, namely, Kamal Vihar Township Development Scheme No. 4, challenged acquisition of land on various grounds including violation of requirement of EC under EIA 2006. Having lost before Single Judge and Division Bench in High

Court, land owners came to Supreme Court. The question relating to EC under EIA 2006 was considered as issue no. (vi) in para 116-126. Court held that since land in question was in 'critically polluted area', the category of the project from 'B1' would be treated as category 'A' and Competent Authority to grant EC was MoEF&CC not SEIAA. Hence, EC granted by SEIAA was illegal. Court, however, held, if there is any deviation in land use from proposal as disclosed in the application, a fresh EC would have to be sought by the proponent. In the case, there was a change in land use but not such fresh EC was sought. In the circumstances, Scheme could not have allowed to proceed illegally. In para 126, Court said, *"therefore, we are of the opinion that due to the **change in the scope of the project, Respondent No. 2 RDA was required to seek sanction for the project from the Central Government. The same has not been done...failed to obtain the environmental clearance requirement which is the mandatory requirement in law for initiating any project by the RDA...town development scheme prepared through incompetent authorities with blatant violation of legal and environmental procedure cannot be the reason for deprivation of constitutional rights of the appellants**"*. Court thus held that acquisition of land will not be valid for an illegal project.

302. In **Anirudh Kumar vs. Municipal Corporation of Delhi & Others, (2015)7SCC779**, (order dated 20.03.2015 in Civil Appeal No. 8284/2013), issue of noise pollution was raised where two doctors running a pathological lab in a residential building, were causing noise pollution. A direction was sought to restrain them from running such lab. Court held that running of pathological lab by respondent owners creates air and sound pollution rampantly on account of which public residents' health and peace is adversely affected. Therefore, public interest is affected and

there is violation of rule of law. Appeal was allowed. The respondent owners were directed to close down their establishment, i.e., pathological lab. Municipal Corporation as well as Pollution Control Committee were directed to ensure that no unlawful activities are carried out in residential premises. Commenting adversely upon role of local bodies and environmental regulatory authority, Court, in para 56 and 57, said:

*“56. Therefore, **both the MCD and the DPCC abdicated their statutory duties in permitting the owners to carry on with the unlawful activities** which inaction despite persistent request made by the appellant and the residents of the area did not yield any results. The counsel for the MCD made the statement before the courts below and even before this Court that there are no illegal activities on the part of the respondent-owners as they are supported by issuance of a Regularisation Certificate. In this regard as discussed previously in this judgement, the issuance of **Regularisation Certificate to run the Pathological Lab in the building is totally impermissible in law** even though the respondent-owners have placed reliance upon Mixed Use of the land in the area as per MPD 2021 referred to supra.*

*57. Further, it is necessary for us to make an observation here that the **conduct of the MCD and the DPCC for their inaction is highly deplorable as they have miserably failed to discharge their statutory duties on account of which there has been a blatant violation of the rule of law** and thereby a large number of residents of the locality are suffering on account of the unlawful activities of the respondent-owners, whose activities are patronised by both the authorities.”*

303. In *Lal Bahadur v. State of UP & Others (2018)15SCC407*, change of master plan and converting green area into residential one was considered. The issue was, whether such conversion is conducive to protection of environment or not. In the master plan of 1995 of Lucknow, area in dispute was reserved as green belt. In master plan 2021, the same area, shown earlier as green belt, was converted as residential. This part of master plan 2021 was challenged before Lucknow bench of Allahabad High Court. Writ petition was dismissed. The matter came in appeal before Supreme Court. Court held in para 12 of judgment that change of area from green belt to residential is in violation of Article 21, 48A and 51A(g)

of the Constitution. Reliance was placed on **Bangalore Medical Trust v B.S. Muddappa & Others (1991)4SCC54**, wherein Court had said that protection of environment, open spaces for recreation and fresh air, playground for children, promenade for the residents and other conveniences or amenities are matters of great public concern and a vital interest to be taken care of in a development scheme. Public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other use. Court also relied on an American Supreme Court Judgment **Agins vs. City of Tiburon, [447 us 255 (1980)]**, wherein Court said: ‘... it is in the public interest to avoid unnecessary conversion of open space land to strictly urban uses, thereby protecting against the resultant adverse impacts, such as pollution,destruction of scenic beauty, disturbance of the ecology and the environment, hazards related geology, fire and flood, and other demonstrated consequences of urban sprawl’.

304. In para 15, Court said that, “This Court had clearly laid down that **such spaces could not be changed from green belt to residential or commercial one.** It is not permissible to the State Government to change the parks and playgrounds contrary to legislative intent having constitutional mandate, as that would be an abuse of statutory powers vested in the authorities’. Court also observed, when master plan was prepared earlier and authorities found importance of such space, it was their bounden duty not to change its very purpose when they knew very well the importance of this place to be kept as open space. Court said,

“The importance of park is of universal recognition. It was against public interest, protection of the environment and such spaces reduce the ill effects of urbanisation, it was not permissible to change this area into urban area as the garden/ Greenbelt is essential for fresh air, thereby protecting against the resultant impacts of urbanization,

such as pollution etc. The provision of the Act of 1973 and other enactments relating to environment could not be permitted to become statutory mockery by changing the purpose in the master plan from green belts to residential one. Authorities are enjoined with duty maintain them as such as per doctrine of public trust.”

305. Ultimately, Court quashed Master Plan 2021 changing use of area in question from greenbelt to residential and said that it shall be held in trusteeship only for the purpose of park in future.

306. In **Sarvepalli Ramaiah (Dead) as per legal representatives and others vs. District Collector Chittoor & Others (2019)4SCC500**, the question was whether an area declared as water body can be leased out or not. Supreme Court said that High Court rightly held that a tank (water body) cannot be alienated, no patta can be granted in respect of tanks and water bodies including those that might have dried up or fallen into disuse. In this regard, Court reiterated and followed its earlier decision and in Para 49 said:

“49. This Court has time and again emphasized the need to retain and restore water bodies and held that **water bodies are inalienable. Land comprised in water bodies cannot be alienated to any person even if it is dry.** Reference may be made to the judgments of this Court in:

- (1) [Susetha vs. State of Tamil Nadu](#), (2006)6SCC543;
- (2) *M.C. Mehta vs. Union of India*, (1997)3SCC715, and
- (3) *Intellectuals Forum v. State of A.P.* (2006)3SCC549.”

307. **Arjun Gopal & Ors. vs. Union of India & Ors., (2019) 13 SCC 523** is a follow up of earlier decision with regard to firecrackers i.e. **(2017) 14 SCC 488**. I.A. No.6 & 8 of 2016 and others were filed by manufactures of firecrackers as well as some other parties. The arguments were raised that there was no sufficient study as to what extent burning of crackers is contributing towards air and noise pollution and whether it was so serious so as to warrant ban. Second argument was raised with reference to the fact that bursting of crackers during Diwali is a religious factor and

therefore, protected under Article 25. In Para 32, Court observed that *“it is an accepted fact that bursting of firecrackers during Diwali is not only the only reason for deterioration of air quality. There are other factors as well. It calls for necessity to tackle the other contributory factors for air pollution and making the air quality as “very poor” and even “poor”. Unregulated construction activity which generates lot of dust and crop burning in the neighbouring States are the two other major reasons, apart from certain other reasons, including vehicular pollution etc.”*. Dealing with Article 25 Court said that *“Article 25 is subject to Article 21 and if a particular religious practice is threatening the health and lives of people, such practice is not entitled to protection under Article 25”*. The issue of economic hardship and unemployment was considered and answered in Para 44 may observing as under:-

“...First aspect is that the argument of economic hardship is pitched against right to health and life. When the Court is called upon to protect the right to life, economic effect of a particular measure for the protection of such right to health will have to give way to this fundamental right. Second factor, which is equally important, is that the economic loss to the State is pitched against the economic loss in the form of cost of treatment for treating the ailments with which people suffer as a result of burning of these crackers. Health hazards in the form of various diseases that are the direct result of burning of crackers have already been noted above. It leads to asthma, coughing, bronchitis, retarded nervous system breakdown and even cognitive impairment. Some of the diseases continue on a prolonged basis. Some of these which are caused because of high level of PM_{2.5} are even irreversible. In such cases, patients may have to continue to get the medical treatment for much longer period and even for life. Though there are no statistics as to what would be the cost for treating such diseases which are as a direct consequence of fireworks on these occasions like Diwali, it can safely be said that this may also be substantial. It may be more than the revenue which is generated from the manufacturers of the crackers. However, we say no more for want of precise statistical data in this behalf.”

308. From the law discussed above and the facts and pleadings on record, referred above, it cannot be doubted that here is a case where violation of environmental norms are admitted; continued violation is also going on, concerned and responsible proponents and authorities are trying to justify

their action of continued pollution by discharging untreated/partially treated effluent in rivers on various pretext and excuses but have not been able to find a positive solution to end this illegality and offense in the last almost a decade. There is no explanation of responsible authorities as to how these rampant violations have perpetuated and no effective action as taken. This has to be severely deprecated, castigated, condemned and disapproved.

309. In view of the above discussion and also the material available on record, we find no reason not to accept report submitted by Monitoring Committee, interim as well as final. Accordingly above reports are accepted and arguments raised otherwise by the respective respondents including proponents, are rejected.

310. On the methodology of computation of compensation, we have discussed and considered the matter in detail in an order passed today i.e. 25.02.2022 in **OA No. 69/2020 Sushil Bhatt vs. Moon Beverages Ltd.** (supra) where we have directed Statutory Regulators to consider the principles laid down therein while computing environmental compensation. Statutory Regulators shall follow the same here also.

311. The concern shown by applicants for continuous degradation and damage to environment on the part of proponents is well appreciable and it is for this reason that High Court initially and thereafter this Tribunal in these matters has intervened, obtained various reports and took action from time to time. We have been monitoring these matters for several years and now we find that the issues having been adjudicated, further monitoring may be allowed by Statutory Regulators with liberty to approach Tribunal whenever any guidance/direction is needed.

312. So far as the computation of compensation against individual proponents and violations is concerned, we leave it to be determined by Statutory Regulator for the reason that number of violators are very large, all are not party to these proceedings and in absence of such polluters, no adverse order should be passed. It is for this reason, we are directing Statutory Regulators to take appropriate action, including determination of appropriate compensation against erring proponents in accordance with law.

313. We also make it clear that no individual or personal loss has been shown by applicants, therefore, compensation cannot be awarded to applicants. Instead, the amount of compensation realised would have to be applied for remediation of damaged environment and for compensation to such individuals who have suffered any damage on account of degradation of environment if they come forward and place appropriate material to show that they have suffered on account of degradation of environment which entitled them to claim compensation. Applicants cannot be awarded compensation as no personal damage has been shown. However, if applicants have any material available to show that any personal loss has been suffered, we leave it open to make such claim before concerned Statutory Regulators who shall examine the matter and determine compensation if any, in accordance with law.

314. There are certain aspects on which Monitoring Committee has left the matter to be considered by Tribunal and take a particular view. On such aspects, we find that all concerned stakeholders may be given an opportunity to place their stand in an appropriate manner. Therefore, we constitute a Committee comprising CPCB, CGWA and RSPCB to examine these matters, after hearing all concerned parties. We leave it open to any

party aggrieved, if at all, to approach this Tribunal for further directions, if required. The above Committee have liberty to include any other expert as also the officials of district administration as it find necessary in discharge of its functions as directed.

315. In the light of the above discussion, we dispose of all these OAs with the following directions:

- (i) The recommendations of Monitoring Committee as contained in reports dated 22.04.2021 and 22.07.2021 which we have already quoted shall be complied with by the concerned authorities within 6 months.
- (ii) RSPCB shall ensure that no untreated, or partly treated pollutant is discharged in water or water bodies or land including rivers in question, which do not comply with the environmental laws and norms and any industry including operators of ETP, STP or CETP shall be closed/sealed, if violation is found to have continued. For the period of non-compliance including post violations, environmental compensation shall be determined by Competent Statutory Regulators, against violators, on the principle of 'Polluter's Pay', after giving show cause notice and opportunity and the said amount of compensation shall also be recovered. This entire exercise shall be completed within 6 months.
- (iii) RIICO shall pay environmental compensation of Rs. 2 Crores by depositing the same with the CPCB.
- (iv) The local bodies/authorities of District Barmer and Jodhpur each shall pay compensation of Rs. 2 Crores within 15 days with RSPCB and in case steps required to be taken by them for

stopping pollution for complying with the directions mentioned above within 6 months are failed, they shall pay further compensation of above amount.

- (v) The Statutory Regulators in coordination with the concerned District Magistrates shall make a survey of respective areas of districts Jodhpur and Barmer, prepare detailed exhaustive lists of Industrial Proponents who are causing pollution, air and/or water pollution. A regular monitoring shall be observed by a Committee comprising RSPCB, concerned District Magistrates and CGWA and appropriate remedial action including assessment of compensation as well prosecution shall be taken against the violators.
- (vi) Amount of compensation deposited/recovered as directed above, shall be utilised for remediation and restoration of environmental damage. For this purpose, a joint Committee comprising CPCB, RSPCB, CGWA and District Magistrates Barmer and Jodhpur shall finalise plan within two months and execute the same within six months.
- (vii) Compliance report by respective bodies/authorities in respect of directions as above, shall be submitted by 30th September, 2022 with Registrar General, NGT, PB. If any further direction is required/needed or found necessary the Registrar General, NGT, PB shall place the matter before the Tribunal.

316. With the above directions, the above applications with all pending IAs are disposed of.

Copy may be forwarded to Chief Secretary, State of Rajasthan, RSPCB, CGWA, MOEF&CC, Ministry of Jal Shakti, District Magistrate Barmer and Jodhpur by e-mail for compliance.

Adarsh Kumar Goel,
Chairperson

Sudhir Agarwal,
Judicial Member

Dr. Nagin Nanda,
Expert Member

February 25, 2022
Original Application No. 34 (T_{HC})/2014
and other connected matters
R & AVT