
(2013) 11 MP CK 0033

In the Madhya Pradesh High Court

Case No : Writ Petition No. 18209 of 2013

Adarsh Muni Trivedi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-11-2013

Acts Referred:

Citation : (2013) 11 MP CK 0033

Hon'ble Judges : Krishn Kumar Lahoti, Acting C.J.; Subhash Kakade, J

Bench : Division Bench

Advocate : Anand Shukla, for the Appellant; Vikram Singh, Counsel for Respondent No. 1 and Shri Ishan Mehta, Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

1. Learned counsel for respondents submits that the relief prayed in the petition relates to environment and for the same purpose a matter was filed before the National Green Tribunal, Central Zonal Bench, Bhopal, and the Green Tribunal vide order dated 1.10.2013 has finally disposed of the matter. It is submitted that the controversy involved in this case has already been decided by the Green Tribunal, so nothing survives in this petition. The petitioner has prayed following reliefs:-

(a) The Hon''ble Court may kindly direct the respondents to stop excavation of pit for construction of pond for immersion of idols at present place, which is part of river-bed/flood plain adjacent to river Narmada in the interest of justice.

(b) That, the Hon''ble Court may kindly issue a direction to the respondents to construct any pond for immersion of idols at least 500 meters away from river-bed/flood-lain of river Narmada.

(c) The Hon''ble Court may kindly issue remedial order to fill the pit for restoration of site in the interest of justice.

(d) That, the Hon''ble Court may kindly direct to conduct inquiry against erring

officers in the interest of justice.

(e) That, the Hon''ble Court may kindly issue any other appropriate writ or directions in the interest of justice.

2. The main grievance of the petitioner was in respect of the construction of the pond for immersion of idols near river Narmada, which was constructed in compliance of the directions issued by this Court.

3. It appears that for the immersion of idols a tank was constructed by the Corporation. The construction of the aforesaid tank on the same ground was challenged before the National Green Tribunal and the Tribunal vide order dated 1.10.2013 decided the matter by an order, which reads thus:-

This application is filed u/s 18 read with provisions of Section 14, 15, 16 and 17 of the National Green Tribunal Act, 2010 by the applicant who has appeared in person raising the issue with regard to the alleged violation of certain environmental laws in regard to a site which was designated by the respondents for the purpose of immersion of idols and located in close vicinity of river Narmada in Village Bhatoli near Jabalpur, Madhya Pradesh. The grievances which have been raised are that the respondents have chosen this site which was earlier a stone/boulder mine and have carried out excavation to make the pit deep enough for the purpose of immersion. He further submits that the site is very close to the river and the polluted water from the aforesaid pit seeps into the river thereby causing pollution to the river water. Other issues which have been raised are in respect of use of water pumps to draw the water from the river to fill up the pit and the use of plastic sheet for the purpose of lining which is alleged to be non-technical, non-scientific and crude.

We have heard the applicant in person and perused the material placed before us. Issues relating to immersion of Lord Ganesha idols in the water bodies like sacred rivers and lakes came up before us recently in another matter and directions were issued to the Pollution Control Boards in the States of Madhya Pradesh, Rajasthan and Chhattisgarh to ensure that the immersion is carried out in accordance with the guidelines issued by the Central Pollution Control Board in June, 2010. The applicant has also placed on record a copy of the said guidelines which are available at Page 28 of the paperbook wherein under paragraph 2 the General Guidelines for Immersion have been incorporated. We may also add that under paragraph 1.4.2, it is suggested in the guidelines that "the immersion should be permitted only in the dedicated areas under the control of local authorities, Municipal bodies, Police, etc." This Tribunal directed the respective Pollution Control Boards to ensure that such designated sites are earmarked in the aforesaid purpose and the guidelines should be followed so that the idols are immersed at the aforesaid designated sites only and people should be made well aware in advance of the locations and sites designated for the aforesaid purpose.

From the averments made in the petition, it appears that the local authorities in consultation with the officials of the Pollution Control Board chose the aforesaid

site which as per the averments made in the petition is about 60-70 meters away from the river Narmada and it appears that the site was chosen because it was earlier a stone/boulder mine which could easily be filled and also taking into account of the fact that during the monsoon the pit in question gets filled with flood waters.

As far as the objection raised by the applicant that excavation was carried out is concerned, we are of the view that the excavation which have been carried out is also with a view to make the pit more conducive and people friendly rather than allowing it to remain in its original shape.

It is not the case of the applicant that the aforesaid activity is going to remain there on a permanent basis throughout the year or that the same is liable to pollute the area on account of aforesaid use as a designated site for immersion of idols. We find even from the material placed before us that the steps have been taken by the authorities to line the pit with plastic sheeting material as required in the guidelines issued by the Central Pollution Control Board in 2010 and this was suggested in the guidelines to ensure that as far as possible, polluted water does not seep into the soil so as to pollute the underground water and at the same time for helping in removal of the debris that may be left behind as a result of the immersion within 48 hours as provided in the guidelines.

While we do not intend to interfere in this matter, at the same time we find that in some of the photographs that have been placed on record before us some of the material/debris which was left outside was burnt on the spot itself, as is apparent on page 55 of the petition. While sending copy of this order to the respondent No. 1 Commissioner, Nagar Palika Nigam, Jabalpur (MP) and respondent No. 2 Regional Officer, MP Pollution Control Board, Vijay Nagar, Jabalpur (M.P.), we do not appreciate the aforesaid activity of burning the left over material/debris on the site, which is against the guidelines laid down by the Central Pollution Control Board. The respondent No. 1 and 2 are directed to ensure that in accordance with the guidelines of the CPCB, all such debris/material removed from the pit and left on the banks of the river shall be removed from the designated site of immersion and taken to the solid waste disposal site already earmarked for the aforesaid purpose in accordance with law.

As far as the bunds are concerned, no further digging or excavation shall be carried out and as required by the guidelines (Para 2.4) steps should be taken for keeping the designated site which is a temporary point created having only earthen bunds and the respondents shall ensure the removal of the synthetic lining that has been placed in advance at the bottom of the pit within 48 hours of the immersion of the idols so that no debris is allowed to remain in the pit and no pollution is allowed to take place. The respondents shall ensure the compliance of the guidelines issued by the Central Pollution Control Board, 2010 in this regard.

With the aforesaid observations, this petition, accordingly stands disposed of. Let

the copy of this order be sent to both the respondents for compliance.

As the matter has already been decided by the Green Tribunal, nothing survives in this petition. This petition is accordingly finally disposed of.