
(2011) 01 AHC CK 0084

In the Allahabad High Court

Case No : Public Interest Litigation (PIL) No. 4003 of 2006

Ganga Pollution

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 01 AHC CK 0084

Hon'ble Judges : Ashok Bhushan, J;Arun Tandon, J

Bench : Division Bench

Judgement

1. Heard Sri S.G. Hasnain, learned Additional Advocate General, Sri H.N. Triapthi, learned Counsel for the U.P. Pollution Control Board and Rajeev Lochan Shukla, learned Counsel appearing for the tanneries, and Sri Ajay Bhanot, learned Counsel for the Union of India.

2. An affidavit of Surya Prakash Mishra, Special Secretary, Urban Development Department, Government of U.P. Lucknow has been filed stating to be in purported compliance of the order dated 8.12.2010. This public interest litigation has been entertained and is being proceeded with for pollution regarding river Ganges. One of main source for pollution in river Ganges is discharge of trade effluents from tanneries in Kanpur Nagar. The discharge of effluents from tanneries in Kanpur Nagar has been polluting the river Ganges which was noticed by the Apex Court in its judgment in the case of M.C. Mehta Vs. Union of India (UOI) and Others, . The Apex Court in the above case more than 20 years ago took note that tanneries at Kanpur Nagar are polluting the river Ganga in big way, and direction for closing those tanneries which had failed to take steps required were issued. Following was said in paragraph 22 of the Judgment:

22. Millions of our people bath in the Ganga, drink its water under an abiding faith and belief to purify themselves and to achieve moksha, release from the cycle of birth and death. It is tragic that the Ganga, which has since time immemorial, purified the people is being polluted by man in numerous ways, dumping of garbage, throwing carcass of dead animals and discharge of

effluents. Scientific investigations and survey reports have shown that the Ganga which serves one-third of India's population is polluted by the discharge of municipal sewage and the industrial effluents in the river. The pollution of the river Ganga is affecting the life, health and ecology of the Indo-Gangetic Plain. The government as well as Parliament both have taken a number of steps to control the water pollution, but nothing substantial has been achieved. I need not to refer to those steps as my learned brother had referred to them in detail. Now law or authority can succeed in removing the pollution unless the people co-operate. To my mind, it is the sacred duty of all those who reside or carry on business around the river Ganga to ensure the purity of Ganga. Tanneries at Jajmau area near Kanpur have been polluting the Ganga in a big way. This Court issued notices to them but in spite of notice many industrialists have not bothered either to respond to the notice or to take elementary steps for the treatment of industrial effluent before discharging the same into the river. We are therefore issuing the directions for the closure of those tanneries which have failed to take minimum steps required for the primary treatment of industrial effluent. We are conscious that closure of tanneries may bring unemployment, loss of revenue, but life, health and ecology have greater importance to the people.

3. The question of stopping the river pollution from tanneries at Kanpur Nagar has been heard on several occasions and on 13.7.2010 this Court had passed order taking the view that the tanneries needs to be shifted at an alternative place. This Court on 13.7.2010 passed the following order:

In the matter of shifting of tanneries, the Additional Advocate General submitted that State has now changed its plan and wants to permit reopening of the tanneries at Kanpur. He stated that the STP of 36 MLD, which has been established, would be exclusively earmarked for the treatment of the discharge from the tanneries. The stand so taken is contrary to what was stated in earlier affidavits of the State.

At present the total discharge of dirty water in Kanpur is 409 MLD and the treating capacity of ST Ps at Kanpur is only 106 MLD, yet the State wants to suggest that STP of 36 MLD shall be exclusively used for the purposes of treatment of discharge from tanneries meaning thereby Kanpur Nagar will continue to discharge 303 MLD untreated sewage water in the river Ganges.

As early as on 23rd January 2006 a Division Bench of this Court passed following order:

We, therefore, direct the Chief Secretary of the State of Uttar Pradesh to file a detailed counter affidavit disclosing the steps taken and also the proposed steps to be taken by the State Government for permanent solution. The Member Secretary of the U.P. State Pollution Control Board shall also file an affidavit on behalf of Respondent No. 5 giving details regarding steps taken by the U.P. State Pollution Control Board for prevention and control of pollution in holy river Ganga.

We cannot approve of the scheme as suggested for opening of the tanneries by the State Government. The Chief Secretary of the State of U.P. must ensure immediate shifting of the tanneries and the STP at Kanpur shall be utilised for treatment of the sewage water as is being done till date.

4. On 13.7.2010 the Court had directed for the presence of Chief Secretary of the State to assist the Court in the matter by effective and valuable suggestions and contribution to the pious project which is to be implemented for cleaning the Ganges. On 8.12.2010 this Court has also referred to the Apex Court's judgment in M.C. Mehta Vs. Union of India (UOI) and Others, wherein the State of West Bengal was directed to shift the entire leather industry and reallocate the same to places as identified by the Government of West Bengal on concessions provided by the Government of West Bengal. Learned Additional Advocate General had taken time to obtain instructions in the matter as to what concessions shall be offered to those who are ready to shift their tanneries. Relevant order of the judgment dated 8.12.2010 are quoted below:

Learned amicus curiae relying on the judgment of of the Apex Court in the case of M.C. Mehta Vs. Union of India (UOI) and Others, submits that on account of pollution created by the tanneries in the State of West Bengal, the Apex Court had directed the shifting of the entire leather industry and for reallocating the same to places as identified by the Government of West Bengal on concessions provided by the State Government.

Learned Additional Advocate General as well as Additional Chief Standing Counsel seek time to obtain instructions in the matter and as to what concessions shall be offered to those who are ready to shift their tanneries. The State Government must disclose the concessions and the benefit to be provided to the tanneries which are ready to shift. We are of the view that unless adequate concessions are not extended by the State, there shall be no incentive for the tanneries to shift to the alternate places. The Secretary concerned must file an affidavit in that regard, by the next date fixed.

5. Today when the matter was heard an affidavit was filed stating that one consultant namely M/s Deloitte Touche Tohmatsu India Pvt. Ltd., Gurgaon (State of Haryana) was appointed on 16.2.2010 by the State to suggest the measures with regard to the solution of problem of abatement of pollution due to discharge of waste water of tanneries. The affidavit says that certain interim report has been submitted by the said private concern in meeting dated 27.12.2010. The interim report has not been brought on the record along with the affidavit nor there are any details in the affidavit as to why M/s Deloitte Touche Tohmatsu India Pvt. Ltd., Gurgaon has been appointed as consultant when there are Central Agencies, Institutes and IITs which have expertised and could have been more usefully requested by the State to study the matter and submit report to benefit the State.

6. From various order passed by this Court from time to time and direction

issued specially with regard to shifting of the tanneries, we are constrained to observe that no sincere and effective steps have been taken by the State to tackle the problem of pollution in Ganges specially by stopping the trade effluent of tanneries from Kanpur Nagar. This Court is of the view that the presence of the Chief Secretary of the State for effective implementation, monitoring and for taking concrete measures is necessary and whose presence was already required by this Court in earlier order of this Court. It is to be noted that this public interest litigation is not an adversary litigation and it is for the public interest and the Court requires the presence of Chief Secretary to give concrete and valuable suggestions indicating the time bound steps which are to be taken by the State in this regard which, in our opinion have not yet been taken although several directions have been issued from time to time to the State with regard to the shifting of the tanneries. We have noticed that State has taken shifting stand. In our earlier orders, we have noticed that the Court was informed that the steps are being initiated for acquisition of land for shifting of the tanneries at district Unnao and subsequently it was noticed by the Court that State came with stand that the tanneries at Kanpur be permitted to be reopened and there is no need of shifting. The State agencies have failed to check the polluting water in the river Ganges at several places including Kanpur Nagar. The shifting of tanneries was considered by the Court and appropriate directions have been issued.

7. List on 19.1.2011 at 2 pm to enable the Chief Secretary of the State to assist the Court by his presence specially with regard to the stand of the State regarding shifting of the tanneries and give reasons as to why the private concern has been chosen to study the matter and submit a report who have been again granted two months time to submit a final report. The U.P. Pollution Control Board has also filed an affidavit stating in paragraph 5 of the affidavit that the tanneries who proposed to adopt only operate the unit for dry proceedings and follow 13 conditions as mentioned in paragraph 5. Learned Counsel appearing for the tanneries has prayed time to file an affidavit specially with regard to the conditions mentioned therein. Sri Rajeev Lochan Shukla, learned Counsel appearing for the tanneries has come up with the submission that the chromium discharge is not harmful although there is no pleading to that effect on behalf of the tanneries, he may file appropriate affidavit in that regard to consider the matter further.

8. Sri Ajay Bhanot, Advocate, appearing for the Union of India has submitted that in pursuance of the earlier orders of this Court necessary instructions have been received and on the next date appropriate report with the affidavit shall be filed as well as for STP plant. On the next date further progress regarding transfer of the land at Mori Gate be also brought on record.