

(2008) 10 AHC CK 0102
In the Allahabad High Court

Harchetan Brahmchari Ji Maharaj

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-10-2008

Acts Referred:

Citation : (2008) 10 AHC CK 0102

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

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard Sri A.K. Gupta, learned Counsel for the petitioner, Sri Ajay Bhanot, learned Counsel for the Union of India, Sri M.C. Chaturvedi, Chief Standing Counsel along with Sri S.P. Kesharwani, Additional Chief Standing Counsel on behalf of the State, Sri Shashi Nandan, Senior Advocate, Sri Rajeev Shukla and Sri Iqbal Ahmad Advocates on behalf of the various tanneries association, who have filed impleadment applications in the writ petition, Sri S.D. Kautilya Advocate on behalf of the Nagar Nigam, Allahabad and Dr. H.N. Tripathi through brief holder on behalf of the Pollution Board.

2. A short counter affidavit has been filed on behalf of the Ministry of Urban Development giving details of the financial status of the projects with regard to certain districts in the State of Uttar Pradesh, with specific reference to the scheme namely Jawahar Lal Nehru National Urban Renewal Mission (JNNURM). In Annexure-1 to the affidavit it is mentioned that two projects have been approved by the Ministry of Urban Development for Allahabad and 25% of the payment has already been released.

3. Sri S.P. Kesharwani, Additional Chief Standing Counsel has submitted that steps with regard to establishment of sewage treatment plants at Mori Gate are in progress. He also refers to establishment of sewage treatment plants in district Kanpur Dehat, district Kanpur Nagar as well as district Varanasi. He, however, seeks time to file details with regard to all the sewage treatment plants

established, projects which are underway for establishment of new sewage treatment plants and projects which are proposed with regard to sewage treatment plants in the aforesaid three district, including the schemes pending sanction before the competent authority.

4. He may do so by the next date. Details of all the aforesaid facts in respect to pertaining to aforesaid three districts be supplied in form of affidavit.

5. Learned Counsel appearing for the Union of India has submitted that further instructions are required to be obtained from the Ministry of Environment, qua the project, which was forwarded to Government of India by the State Government with regard to establishment of sewage treatment plants under JICA (Japan International Cooperation Agency). The Government of India vide order dated 26.03.2008 has returned the proposal by observing that Ministry is presently in the process of revamping the river conservation strategy and it has been decided that till a final decision is taken on the subject, the Ministry will not consider any new projects and that the same can be taken up under the JNNUM and UDISSMT Scheme of Ministry of Urban Development.

6. Counsel for the petitioner has contended that the project was not a new project, nor Ganga Action Plan can be treated at par with other projects under JNNURM/UDISSMT hence the refusal of the Government to approve project under JICA was not appropriate.

7. We are of the view that in view of the magnitude of the level of the pollution and other facts with regard to river Ganga, both the State and the Union of India have to take special measures for dealing with the menace.

8. Counsel for the Union of India has stated that appropriate instruction will be obtained and necessary action shall be taken by the Union of India.

9. We make it clear that it will be open for the Union of India to consider the project, which was earlier submitted under JICA with regard to setting up of sewage treatment plant at Allahabad and Varanasi.

10. Sri S.D. Kesharwani, appearing for the State, refers to the affidavit in which the details of sewage treatment plant, which are functioning at Allahabad, has been mentioned. The affidavit itself indicates that there are several open Nalas polluting the river.

11. The counsel for the Nagar Nigam prays for and is allowed time to come up with the proposals and measures for tackling the situation in respect of the discharge of untreated water in Ganga through open Nalas by the next date.

12. This Court vide its order dated 13th July, 2007, vide direction No. 7, directed as follows:

(7) The depth of river Ganges is day by day reducing due to silt and accumulation of sand and other particulars. Unless a particular depth is maintained of the river Ganges throughout its stream running through State of

U.P. sufficient water shall not be available throughout the year. Both the committees may examine as to whether in the leases, which are granted by the State for excavation of sand at the banks of river Ganges, whether along with right of excavation of sand duty to maintain a particular depth of the river Ganges up to both banks according to plan as submitted by the District Magistrates of respective districts can be provided for or any other department of the State can be entrusted to ensure the said job.

13. The Additional Chief Standing Counsel submits that the accumulation of silt and sand in the river Ganges is one of the major problem due to which the quantity/quality of water is reduced. He submitted that at present he has no instructions with regard to steps taken by the High Power Committee and Expert Committee. He prays time to obtain instruction with regard to implementation of direction No. 7 as per the order dated 13th July, 2007, as noted above.

14. The Chief Standing Counsel may do so by the next date, he may file an affidavit with regard to steps taken by the State in respect of the implementation of the aforesaid direction, which is necessary for clearing the silt and accumulated sand in the river.

15. In so far as the applications filed by the different tanneries for being permitted to re-open, we observe that application be filed separately by each tannery/industrial unit disclosing complete facts qua availability of sewage treatment plant units and their grievance. Thereafter the applications will be considered individually.

16. Learned Counsel for the petitioner points out that in the month of October, November and December the sugar industries and other industries situate at the bank of river Ganga, namely Morabadbad, Bijnor and Kanpur, discharge their effluent without treatment in river Ganga.

17. We direct the district administration of the districts concerned and U.P. Pollution Control Board through its unit at Kanpur to ensure that no untreated effluent is discharged in river Ganga and on the next date they may also submit their report in that regard.

18. List the writ petition for further hearing on 06th November, 2008 at 2.00 p.m.

19. When the matter is listed next, name of Sri Iqbal Ahmad Advocate be also shown as one of the counsels for the respondents.

20. Certified copy of this order may be issued to learned Chief Standing Counsel, Sri Ajay Bhanot and Sri S.D. Kautilya Advocate, counsel for the Nagar Nigam, Allahabad.