

(2013) 09 RAJ CK 0152

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 3273 of 1996 and Civil Miscellaneous Application No's. 460 of 2004 and 629 of 2011

Shree Nath Sharma and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 26-09-2013

Acts Referred:

Citation : (2013) 09 RAJ CK 0152

Hon'ble Judges : Amitava Roy, C.J;Veerendr Singh Siradhana, J

Bench : Division Bench

Advocate : S.S. Raghav, Addl. Solicitor General for UOI, Mr. G.K. Garg Assisted by Mr. Vijay Jangid, for Municipal Council, Bharatpur, Mr. Rajendra Prasad, Rahul Kamwar and Mr. Mahendra Goyal, for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard learned counsel for the parties. The petitioners are before this Court seeking the following reliefs:

(a) In the interest of justice, the writ petition filed by the petitioners may kindly be allowed;

(b) By an appropriate writ, order or direction, the respondents may be directed to discharge their duties which they are bound to do as per law and they may further be directed to immediately check the pollution which is rampantly going on in Sujan Ganga Nahar surrounding the Bharatpur Fort and they may be directed to remove the filth and other rubbish from the same and also to remove its filth water and to make provision for flow of fresh water and also to remove its silt to maintain its proper depth.

(c) Respondents may further be directed to reconstruct the peripheral wall around the aforesaid Sujan Ganga Nahar and to take necessary steps in the directions that no dirty water or rubbish or filth is thrown in Sujan Ganga Nahar or by Municipality or by general hospital or by any other respondents or person;

(d) by an appropriate writ, order or direction, the respondents may be directed to immediately remove encroachments made around the periphery of the Sujana Ganga Nahar and to ensure that even in future only unauthorised constructions shall be done in the periphery of Sujana Ganga Nahar;

(e) By an appropriate writ, order or direction, the respondents may be directed to prepare necessary projects/schemes for the proper maintenance and reconstruction of damaged portion of Bharatpur Fort which is a protected monument of historical importance and also to prepare necessary projects and schemes for the development of the Sujana Ganga Nahar so that it becomes a place for Tourists attraction;

(f) By an appropriate writ, order or direction the concerned respondents may be directed to make necessary steps and projects and schemes for the proper disposal of sewerage water and other filth and other unwholesome materials at the proper place;

(g) By an appropriate writ, order or direction, the respondents may further be directed to act in such a manner so that public health is not put at hazard because of the pollution which is existing at present in the city of Bharatpur and particularly in Sujana Ganga Nahar;

(h) Any other relief which may seem fit, just & proper, same may kindly be granted in favour of the petitioners;

(i) Cost of the writ petition may kindly be awarded in favour of the petitioner.

2. In substance it has been averred by them that Bharatpur, in the State of Rajasthan, is a place of historical heritage with its Fort declared to be an officially protected monument under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 with a canal surrounding it named "Sujana Ganga Nahar". This canal was declared as mote surrounding the fort walls as a monument of national importance. The petitioners have alleged discharge of sewerage water, rubbish and filth in this canal resulting in deleterious pollution and consequential degradation of the environment. They have, inter alia, accused the State Pollution Control Board and Municipal Council, Bharatpur of deliberate inaction and resultant deterioration of the ecological ambience of the locality to the detriment and prejudice of the inhabitants thereof. The issues involved, in our comprehension, relate to environment and warrant necessary initiatives to protect the same.

3. Perused the judgment and order dated 09.08.2012 rendered by the Hon'ble Apex Court in Writ Petition (Civil) No. 50/1998 (Bhopal Gas Peedith Mahila Udyog Sangathan & Ors. Vs. Union of India & Ors). The contents of paragraph 39 of the said decision are extracted for ready reference as hereunder:

We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relation

to any of the seven statutes specified in scheme 1 of the NGT Act, should also be dealt with by the specialized tribunal that is the NGT, created under the provisions of the NGT Act. The Courts may be well advised to direct transfer of such cases to the NGT in its discretion, as it will be in the fitness of administration of justice.

4. In this view of the matter, this petition stands transferred to the National Green Tribunal for disposal. The Registry would do the needful. The petition as well as the applications are disposed of on transfer.