

Item No. 02

Court No. 1

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

Original Application No. 134/2015

(With report dated 31.10.2019)

Friends through its General Secretary

Applicant(s)

Versus

Ministry of Water Resources

Respondent(s)

Date of hearing: 04.11.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Respondent(s): Mr. Jigmet Tookpa, Joint Secretary and Mr.
Sundeep, Scientist 'F' for MoEF&CC
Member Secretary, CGWA in person.

ORDER

1. The issue for consideration is steps to be taken for execution and enforcement of order of this Tribunal dated 20.5.2019 on the basis of an Expert Committee report dated 30.4.2019. The subject matter to be dealt with is permissibility of use of Reverse Osmosis (RO) system where Total Dissolved Solids (TDS) level is below a particular threshold and where RO system destroys minerals rendering use of RO treated water harmful for human health. Further question is preventing undue wastage of water rejected in the process.

2. The matter was considered by this Tribunal for more than four years. Finally, on 20.12.2018, having regard to the concern that the 80% of the potable water was being unnecessarily wasted and in absence of remineralization, use of RO system was resulting in adversely affecting health, an Expert Committee with the representatives from Ministry of Environment, Forest and Climate Change (MoEF&CC), Central Pollution Control Board (CPCB), Bureau of Indian Standard, IIT Delhi and NEERI was constituted.

3. Based on the report dated 30.04.2019 by the said Expert Committee, this Tribunal, vide order dated 20.05.2019, held that where the TDS in the water was less than 500 mg/l, use of RO be prohibited. Wherever RO is to be permitted, condition of recovery of water to the extent of more than 60% be required. Further provision should be for enhancement of recovery of water upto 75% in phased manner in future and reuse thereof for permissible purposes. The Tribunal directed the MoEF&CC to issue appropriate notification and file an affidavit of compliance within one month, apart from other directions. The directions are as follows:-

“(i) The MoEF&CC may issue appropriate notification prohibiting use of RO where TDS in water is less than 500 mg/l and wherever RO is permitted, a requirement is laid down for recovery of water be more than 60%. Further provision be laid down for recovery of water upto 75% and use of such RO reject water for purposes such as utensil washing, flushing, gardening, cleaning of vehicles and floor mopping.

(ii) Appropriate directions in the matter may be issued. The Notification/Policy to be notified may also provide for a mechanism for public awareness about ill effects of demineralized water on public

health and for effective enforcement requiring the concerned Local Bodies/Municipal Corporations/Municipalities/ Panchayats and institutions like Public Health Engineering Department (PHED)/ Jal Nigam / Jal Boards etc. be required to display water quality at regular intervals, particularly TDS concentration component by an appropriate mechanism.

(iii) Above regulatory regime may ensure regulating consumption and use of low TDS water by requiring manufacturers to maintain minimum TDS concentration to 150 mg/l or the minimum levels of calcium and magnesium.

(iv) Directions be issued for enforcement of Extended Producers Responsibility by the manufacturers for disposal of cartridges and membranes and requiring the manufacturers to provide proper labeling on the purifier specifying that the unit should be used if TDS is more than 500 mg/l. 3v) MoEF&CC may file an affidavit of compliance by e-mail at judicial-ngt@gov.in within one month.

(vi) The Expert Committee constituted by this Tribunal vide order dated 20.12.2018 along with Central Ground Water Authority may collect and provide data with regard to availability of ground water and its usage in 21 cities mentioned in the report of NITI Aayog and furnish a report to this Tribunal within one month by e-mail at judicial-ngt@gov.in. The said report may be placed in the file of O.A. No. 176/2015 which is listed on 04.07.2019.”

4. The matter was considered on 23.09.2019 and it was observed:-

“The MoEF&CC has still not complied with the same and, instead, has filed an affidavit inter-alia as follows:

It is humbly prayed that in order to delineate the appropriate provisions for effective compliance of the Hon’ble NGT directions 8 months time is required which includes 4 months for Inter-ministerial, stakeholders consultation and finalization of draft notification, 2 months for wide circulation of draft notification for inviting public comments and 2 months for incorporation of public comments and thereafter finalization of the notification. Accordingly, the Hon’ble Tribunal may kindly grant 8 months time.

The above prayer appears to be unreasonable and delaying the matter to the detriment of public interest. Though the applicant suggests that delay will advance commercial interest of those benefitted by delay, we do not propose to go into such allegation in absence of any clear evidence. The fact remains that order of the Tribunal is based on report of Expert Committee which also comprised representative of MoEF&CC and is enforceable without permission of any other authority with penal consequences. Accordingly MoEF&CC may now issue the necessary notification in the light of direction already issued in accordance with the report of the Expert Committee and cover not only the subject of recovery of RO reject water in domestic and commercial use but also in industrial process.

With regard to the further direction requiring the Committee, along with Central Ground Water Authority (CGWA), to collect and provide data with regard to availability of groundwater and its usage in 21 cities mentioned in the report of NITI Aayog and furnish a report to this Tribunal, CPCB has, in their letter dated 01.08.2019, stated that CGWA is not furnishing the information in spite of being required to do so. Let the CGWA do the needful positively within one week failing which the Member Secretary of CGWA will be liable to pay Rs. 1 Lakh as costs. Further necessary report by the Expert Committee be furnished to this Tribunal within one month.7.

The Member Secretary, CGWA and the concerned Joint Secretary, MoEF&CC may remain present in person along with compliance reports on the next date.”

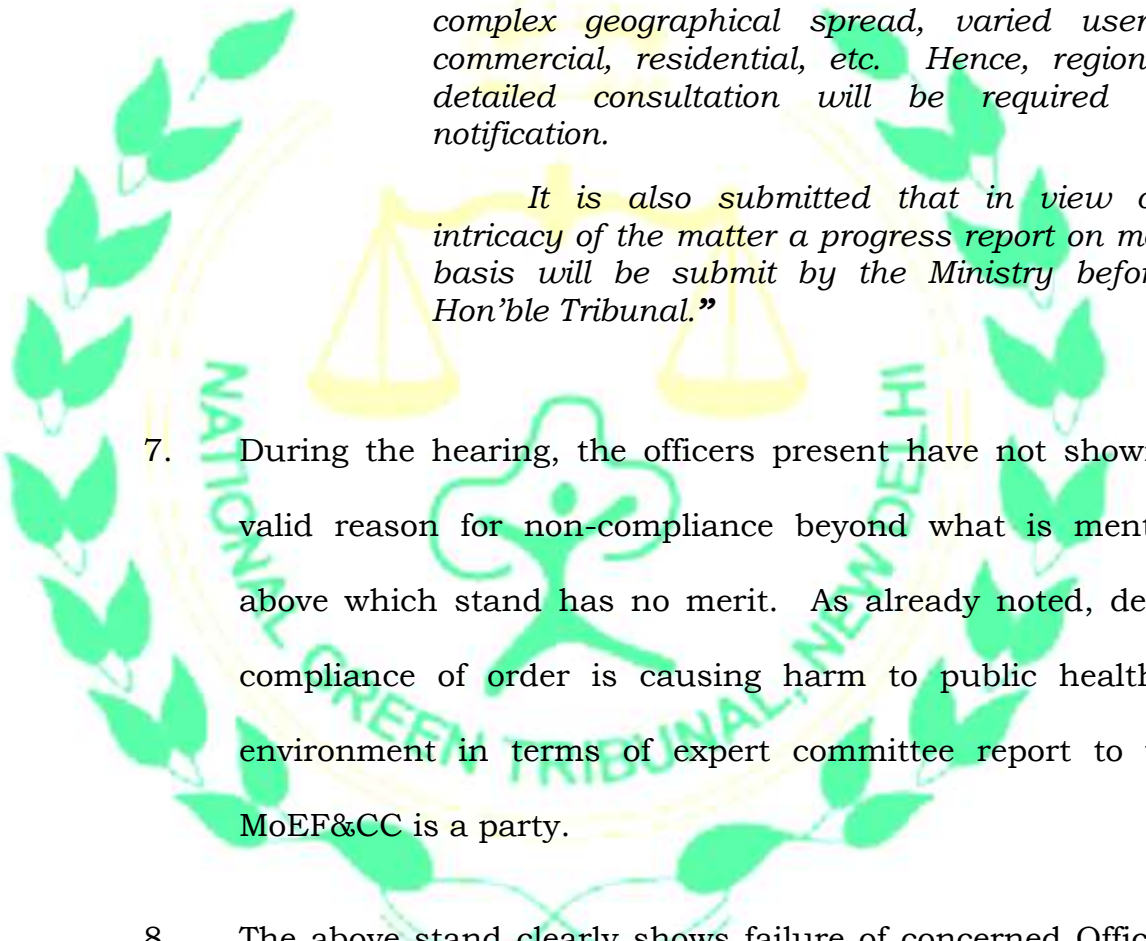
5. Accordingly a status report as on 31.10.2019 has been filed on behalf of the MoEF&CC. Mr. Jigmet Tookpa, Joint Secretary and Mr. Sundeep, Scientist 'F' are present in person on behalf of MoEF&CC.
6. The status report filed by the MoEF&CC is as follows:-

“In order to ensure the compliance of the directions passed by the Hon'ble Tribunal the Ministry after

having consultation with expert institutions like IIT BIS, NEERI, CPCB and examining the legal formalities the Ministry has asked CPCB to frame holistic policy for use of RO Technology in the Country and submit draft notification. However, the draft notification has not been received till date.

Further, it is submitted that after receiving the draft notification from CPCB, the same will be further examined by the Ministry on the aspects of Monitoring Mechanism for compliance of the notification, Institutional Framework for monitoring and implementation of the notification, identification of stakeholders and their roles and responsibilities for various functions, legal sanctity, etc. for consideration. As issuing notification is a policy related matter, comprises features of multi-dimensional in character which inter alia, include complex geographical spread, varied users i.e. commercial, residential, etc. Hence, region wise detailed consultation will be required before notification.

It is also submitted that in view of the intricacy of the matter a progress report on monthly basis will be submit by the Ministry before the Hon'ble Tribunal.”

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7. During the hearing, the officers present have not shown any valid reason for non-compliance beyond what is mentioned above which stand has no merit. As already noted, delay in compliance of order is causing harm to public health and environment in terms of expert committee report to which MoEF&CC is a party.
 8. The above stand clearly shows failure of concerned Officers to comply with the directions of order of this Tribunal dated 20.05.2019. The said order is a binding decree under Section 25 of the National Green Tribunal, Act 2010 and the Officers of MoEF&CC are liable to be proceeded against for non-compliance. Section 26 provides for punishment by way of imprisonment for such failure.

9. Accordingly, we give last opportunity to comply with the directions already issued latest by 31.12.2019 failing which from 01.01.2020, the concerned officer(s) in-charge in MoEF&CC for carrying out the directions of this Tribunal will not be entitled to draw salary till the order of this Tribunal is complied. Further coercive measures may be considered on the next date.

10. A copy of this order be also sent to the Secretary, MoEF&CC for compliance by e-mail.

11. We note that CGWA has given the requisite data to CPCB and CPCB has filed its report on the subject of checking wastage of ground water and connected issue. This aspect will be gone into in O.A. No. 176/2019 fixed for hearing on 28.11.2019.

List for further consideration on 10.01.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 04, 2019
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