Item No. 03

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)

Original Application No. 82/2022 (CZ)
(I.A. No. 68/2022)

Dr. Subhash C. Pandey Applicant(s)

Versus

State of Madhya Pradesh & Ors. Respondent(s)

Date of Hearing: **10.01.2023**

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s): Dr. Subhash C. Pandey
(Applicant in Person)

For Respondent(s): Mr. Sachin K. Verma, Adv.
Mr. Qasim Ali, Adv.
Ms. Samriddhi Sharma, Adv.

ORDER

1. Nature is manifestation of God. The very pious contention of the applicant, a qualified environmental scientists, is that:-

   i. *"Upper lake Bhopal is the most precious water body of the state of Madhya Pradesh, water of which is being used regularly for drinking, and other religious rituals. About 12 lakh people of Capital city Bhopal are dependent on this water body for their drinking needs. Moreover, Upper lake along with Lower lake is jointly called as Bhoj wetland and endorsed as Ramsar site – A Wetland of International significance. Therefore merely for entertainment and making money, no institution or individual be permitted to pollute drinking water body like Upper lake by way of launching cruise ships in it.*

   ii. *Even a small cruise ships carrying passengers and crew has been compared to "floating colonies," and the volume of wastes that they produce is comparably large, consisting of sewage;*

wastewater from sinks, showers, and galleys (greywater i.e. Water from sinks, baths, showers, laundry and galleys); hazardous wastes; solid waste; oily bilge water; ballast water; and air pollution. Hence the waste streams generated by cruise ships are hazardous to environment in many ways.

iii. *The research report says that a mid-sized cruise ship can use as much as 150 tonnes of fuel each day, which emits as much particulate as one million cars !!! In fact cruise ships are a catastrophe for the environment. They dump toxic waste into our waters, fill the planet with carbon dioxide, and kill marine wildlife. Cruise ships' environmental impact is never ending, and they continue to get bigger. However they are all set to start with a small ship of 50 passengers but soon they will come up with bigger and bigger ships. Eventually they will contaminate potable water of the lake and pollute the environment like anything. In addition to other pollutants, a smallest cruise ship which can carry over 50 passengers and crew, on a one week running is estimated to generate 1,500 gallons of human sewage and 5,000 gallons (19,000 litre) of gray water).*

iv. *Carbon emissions and dangerous particulates emitted by cruise ships are caused by the quantity and quality of the fuel used by these floating citadels. The biggest issues with cruise emissions are the levels of nitrogen oxide, which has been linked to acid rain, higher rates of cancer and other forms of respiratory diseases. This cruise emission will contribute a lot in to the air pollution level of capital city Bhopal which has already reached to alert zone."*

2. Further contention of the applicant in person is that :-

i. *"Launching of cruise ship(s) in the Upper lake is direct violation of State Government's own directions given in the Order / Notification released by the Environment Department on 16th March 2022 (Annexure A-2) where it has been clearly mentioned in the B. Regulated Activities iii. That Plying of non-*

motorized boats only be permitted. It clearly means no diesel *cruise ship(s) / motor boats will be permitted in the Upper lake.*

ii. *Unauthorized, illegal and unethical act of BSCCL/ Government agencies/ project proponent (s) /cruise operator(s) is direct violation of provisions of Environment Protection Act,1986, Water (prevention and control of pollution) Act,1974, Air (prevention and control of pollution) Act, 1981 and Biological Diversity Act,2002 given in this behalf.*

iii. *Upper lake, Bhopal has more than 15 kinds of fish and several vulnerable animals like turtles. It is, therefore, important to ask how cruises will impact our ecosystems and socio – economic equations of the communities that live in these landscapes. Moreover, more than 2500 migratory birds across the world are regularly coming to this wetland for breeding and other purposes. Large number of wild animals are also living at adjoining forest called Van Vihar. Therefore launching the cruise ships in the already shrinking Upper lake will hinder the free and frequent movement and development of fishes and other aquatic lives (zooplanktons and phytoplanktons). It may have direct negative impact on aquatic and land biodiversity of the area.*

iv. *However, if cruise tourism is introduced in this region, increasing tourist activities will increase the hindrances in the nesting process of turtles and other aquatic animals and nearby natural habitats of wild animals too. Eventually it will have potential negative impact on aquatic and land biodiversity of the lake. Indeed then fishermen will not be allowed for fishing in the "water paths" of cruise ships. These landscapes are also conflict-ridden; bringing in cruise tourism can exacerbate them. So the lives and livelihoods of fishermen will be compromised in the name of cruise ships and mechanical entertainment, which will be highly detrimental to the local ecosystem. That is why this cruise launching has been experiencing strong resistance from local communities. The existing problems are complex and*

deep-rooted. With the introduction of cruise tourism, the ongoing conflicts may increase."

3. The Wetland Authority, M.P. has issued certain directions vide order dated 20.09.2022, which has been annexed as annexure-2 regarding enforcement of rules dividing the activities within prohibited, permitted and regulated categories.

4. Prohibited activities are as follows :-

   i. *Conversion for non-wetland uses including encroachment of any kind;*
   ii. *Setting up of any industry and expansion of existing Industries;*
   iii. *Manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;*
   iv. *Solid waste dumping;*
   v. *Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;*
   vi. *Any construction of a permanent nature except for boat jetties within fifty metres (50) from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules."*

5. Regulated activities are as follows :-

i. *Subsistence level biomass harvesting (including traditional practices);*
ii. *Sustainable culture fisheries practices (in private lands);*
iii. *Plying of non-motorized boats;*
iv. *Desilting, in case where wetlands inflow regimes and water-holding capacity are impacted by siltation (note that 'deepening' activities are not the same as 'desilting'); &*
v. *Construction of temporary nature*
vi. *Construction of STP/SPH by Municipal Corporation, Bhopal.*

6. Permitted Activities are as follows :

i. *Ecological rehabilitation and rewinding of nature;*
ii. *Wetlands Inventory, assessment and monitoring;*
iii. *Research;*
iv. *Communication, environmental education and participation activities;*
v. *Management planning;*
vi. *Habitat management and conservation of wetland-dependent species;*
vii. *Community-based eco-tourism (with minimum construction activities);*
viii. *Harvesting of wetlands products within regenerative capacity; and,*
ix. *Integrating wetlands as nature-based solutions for climate change mitigation and adaptation.*

7. Applicant has further contended that Section 24(1)(a) of the Water (Prevention and Control of Pollution) Act, 1974 provides that :-

> *"No person shall knowingly cause or permit any noxious or polluting matter determined in accordance with such standards as may be laid down by the State board to enter (whether directly or indirectly) into any stream or well or sewer or on land."*

And Section 17(d) provides that:-

"Section 17 (d) of the Water (prevention and control of pollution) Act, 1974 empowers State PCB to encourage, conduct and participate investigations and Research relating to problems of water pollution and prevention, control or abatement of water pollution. Moreover, Environment (Protection) Act, 1986 under section 5 gives power to State PCB to impose penalty due to violation of environmental laws and start prosecution against the polluters. Moreover, Sec. 17 (1) and 17 (2) of the same act empowers the State Board to impose penalty for contravention of the provisions of Act, the Rules, the Orders and directions given in this behalf".

8. The further contention of the applicant in person is that during the rainy season, the cruise which was under operation in Bhoj Lake was damaged due to heavy rain and due to leakage and partial drowning of the cruise, there was spillage of the more than two hundred liter of diesel into the water body and the water was supplied to the citizens of the Bhopal, which is being used by more than 12 lakhs of the people and thus causing health hazard.

9. It is further argued that no certificate is shown by the operators, giving guarantee of leakage and spillage proof technology of the cruise. There are always probability of spillage in the cruise while refilling the storage tank.

10. In reply to the above contention, Learned Counsel for the State Sh. Sachin K. Verma has submitted that State/Administrative Authorities responsible for operating the cruise are complying the directions issued by the wetland Authority and the State Government. Though the reply filed by him, contains many contradictory facts.

11. The contention of the applicant is that the activities, which are being done by the operators and are being directly or indirectly permitted by

the State Authorities and are in contravention of Government order dated 16.03.2022 and Wetland Rules, 2017.

12. In view of the above facts, we deem it just and proper to call an independent report from the CPCB. CPCB at its own convenience may co-opt Expert Members as required by them and submit the factual and action taken report with regard to the compliance of the rules and Govt. orders.

13. Copy of the objections raised by the applicant be also supplied to the CPCB alongwith the Joint Committee Report to submit alongwith report

14. The applicant has further submitted to implead CPCB as a party on which there is no objection by the opposite parties. Thus CPCB is necessary and proper party and should be impleaded as Respondent No. 10. Applicant is directed to make necessary incorporation and provide the copy of the application and relevant documents to the CPCB for further necessary action and submit the reply and report.

15. We further direct the CPCB and State Pollution Control Board to periodically monitor the activities of cruise running in the Bhoj Wetland and incase of any pollution being caused by the cruise while in operation either under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 to take necessary remedial action in addition to imposition of environmental compensation in accordance with rules.

16. Learned counsel for State Pollution Control Board has submitted that latest status report with regard to the water quality has been filed just yesterday. Copy of the same may be provided to the opposite parties /applicant for reply and response, if any.

17. Learned counsel for respondent no. 2 has sought a short time to file the response. He is permitted to file the response and reply be filed within three weeks. In addition to that we direct the respondent no. 2 to ensure the compliances of Environmental Rules and Government orders quoted above. Respondent No. 2 would be personally responsible if any, violation of environmental rules and norms occur.

List it on **13th February, 2023.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

10th January, 2023
OA No. 82/2022(CZ)
PN