

BEFORE THE NATIONAL GREEN TRIBUNAL (12)
(WESTERN ZONE) BENCH, PUNE

APPLICATION NO.98 OF 2015

CORAM:

HON'BLE MR. JUSTICE U.D.SALVI
(Judicial Member)

HON'BLE DR. AJAY A.DESHPANDE
(Expert Member)

In the matter of:

SHIVAJI GIRIJAPPA VATKAR

Age 70, Occ: retired,

8, Jai Sidhivinayak CHS,

Shivajinagar, Naupada,

Thane (W).

.....APPLICANT

VERSUS

1. STATE OF MAHARASHTRA

Through the Department of Environment

15th Floor, New Administrative Building,

Madam Cama road, Mantralaya, Mumbai-400 032.

2. MAHARASHTRA POLLUTION CONTROL BOARD,

Kalpatearu Point, 3rd and 4th Floor,

Opp. Cine Planet, Sion Circle,

Mumbai, Maharashtra-400 022.

.....RESPONDENTS

Counsel for Applicant (s):

Mr Prakash D. Shejal i/b Mr. Virendra Ichalkaranjkar a/w Mr.
Narendra Ichalkaranjkar, Prajakta Warudkar-Jamode.

SEE COPY

Counsel for Respondent (s):

2/12

Mr. D.M.Gupte for Respondent No.1.

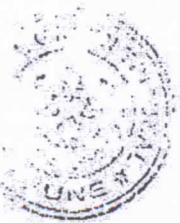
Supriya Dangare, Mr Milind M. Mahajan, Manasi Joshi for Respondent No.2.

DATE: SEPTEMBER 30, 2016.

J U D G M E N T

1. A retired Deputy General Manager of Shipping Corporation of India and active member of Hindu Jan-Jagaran Samittee- NGO, working for betterment of society and religion, has moved this Application seeking direction to State of Maharashtra and Maharashtra Pollution Control Board (MPCB) to stay promotion of paper made idols through the Govt. Resolution No.ENV-2010/case,2011 dated 3.5.2011 -Ex-A, annexed to the Application till re-study of impact of newspaper ink and paper pulp of water and aquatic eco-system is made and further to bring about awareness amongst public of pollution caused by the paper pulp.

2. According to the Applicant, in or around February, 2015, he learnt that paper Mache/paper pulp is a pollutant and if pulp is made of newspaper waste the printing ink used gets mixed in the pulp or its dissolution in water thereby reduces oxygen in the water and causes serious pollution endangering aquatic life. He further learnt, the Application reveals, that the



TRUE COPY

particles of undissolved paper gets stuck into fish gills and lead to fish death. The Applicant added that inquiries made through the RTI query had a revealed response of Respondent No.2-MPCB saying that paper, newspaper, recycled paper if immersed in water causes pollution and there is no scientific data available with MPCB on the said issue vide response of MPCB to the RTI query Ex-B annexed to the Application.

3. Thus, it is case of the Applicant that the Respondent-State is promoting use of paper Mache/paper pulp idols - water pollutants in casual manner without undertaking any study facilitating informed decision in that regard; and the promotion of such paper made idols by the State without proper study will not only increase water pollution, but would erode public faith in the state gradually.

4. At the time of admission, we had granted liberty to the Applicant to carry out research through independent agency and place the results of such research before us. On the plea of Applicant that he may approach the Institute of Chemical Technology (ICT), Matunga with a request to analyze representative samples and prepare data-analysis in order to give scientific report as regards presence of pollution parameters like COD/BOD etc. in the water after immersion of paper idols, we granted liberty to the Applicant to approach



ICT, Matunga with representative samples and obtain a scientific report as aforesaid vide order dated 8th October, 2015.

5. Thereafter, in response to the Notice issued, the Respondents placed their responses before us. In the meanwhile, the Applicant filed additional affidavit dated 7th October, 2015, placing before us research work of Dr. B. Subba Rao done through Environment Protection Research Foundation, Sangli and filed study report annexure 'B' and guidelines of Central Pollution Control Board (CPCB) annexure 'C' annexed to the said affidavit.

6. Respondent No.1 State through Environment Department of Govt. of Maharashtra responded to the Application through an affidavit dated 18th February, 2016. Respondent No.1 pleaded that the Govt. Resolution (GR) date 3rd May, 2011, has been issued to comply with directions of Hon'ble High Court of Bombay vide order dated 22nd July, 2008, passed in PIL/WP(c) No.1325 of 2003 (Janhit Manch Vs Govt. of Maharashtra and Ors) and are merely the guidelines and not the directions issued under Section 5 of the Environment (Protection) Act, 1986. The Respondent No.1 further pleads that a small size idols made from Shadu-clay and paper Mache /paper pulp have to be immersed in the artificial tank and not in the natural water bodies and it is ^{to be} followed by scientific disposal of remains of idols/sludge/water with the help of local



TRUE COPY

[Signature]

Pollution Control Board after completion of immersion so that question of polluting natural resources does not arise. An additional affidavit dated 27th April, 2016 was also filed by the scientist-II of the Environment Department of State of Maharashtra reiterating the aforesaid contentions.

7. Respondent No.2-MPCB through its Regional Officer filed its response vide affidavit dated 3rd May,2016, without specifically admitting, denying or explaining the facts asserted by the Applicant in his Application. The MPCB responded to ICT Report and made reference to the order passed by the NGT (Principal Bench), New Delhi in Original Application No.65/2012(THC) Sureshbhai Keshabhaji Waghvankar & Ors Vs State of Gujarat & Ors as well as scientific study of post idol immersion of water quality following immersion of Plaster of Paris (PoP) idols and others and MPCB guidelines dated 2nd September,2013. Respondent No.2-MPCB however, expressed need for undertaking long term study of impact of idol immersion process on aquatic environment (lake, river, sea, creek and well) to assess impact on immersion of idols made of the different materials on water quality, aquatic life, productivity etc.



12 COPY

8. ICT's Report dated 9th March, 2016 reveals that the Applicant has provided four (4) idol samples made up of recycled papers for checking its pollution causing potential, and

and analysis of four (4) samples each sample in triplicate in water 10% weight by volume suspension sample points out that 10kg of idol has the potential to pollute at least, 1000Ltrs of water.

9. Respondent No.1 State did not respond to this report. However, Respondent No.2 MPCB admits that the water quality with reference to Ph, TDS COD/BOD and metallic contamination was affected. According to MPCB, cause of increase in COD may be because of printing ink organic by dust chemical colour and or unidentified materials and the paper itself when mixed with water would generate suspension that may lead to high BOD and COD and the results of such cannot be compared with water quality required in receiving body and in actual immersion process in ponds, rivers, seas, lakes and wells. The volume of water as well as quality/weight of idol immersion will vary from location to location.

10. Only question that arises in the present controversy over the issuance of GR dated 3rd May, 2011, is whether Respondent No.1 State could have issued such GR promoting use of idols made from paper Mache/paper pulp.



BE COPY

11. Perusal of the GR dated 3rd May, 2011 reveals guidelines/advisory/instructions to the local self-government bodies, Public Committees (Sarvajanik Mandal)

Bach

712
and common people/homes/residential complexes. The Applicant is aggrieved due to the following guidelines/advisory/instructions.

Local self-government bodies

5. Efforts shall be taken to make available idols painted in natural colours and made of Shadu clay as also made from paper pulp at public places so that its used may be encouraged and special facilities/discount should be given for such idols.

Sarvajanik Mandals:

1. Preference should be given to idols painted with eco-friendly colours and made of Shadu clay, as also idols Made of paper-pulp. Preference should also be given to small size idols.

Common People/Homes/Residential Complexes:

3. Idols made of Shadu clay or made of paper pulp and painted with eco-friendly colours should be installed in homes.

12. These guidelines/advisories have been issued admittedly without any study and paper has potential to cause pollution as recorded in I.T.C report dated 9th March, 2016. It can also be seen with reference to paper idols as made in the said GR that it tends to promote use of idols made form paper Mache/paper pulp.

13. Respondent No.1 State contended that the GR was issued in compliance of directions by the Hon'ble High Court of Bombay vide order dated 22nd July, 2008 passed in

[Signature]

disposed of the said Writ Petition as follows:

8/12

"We expect that the Central Government will consider laying down of guidelines for immersion of idols and would also consider related matters with regard to pollution of water bodies. Both the Union Government as well as the State Government shall consider it expeditiously because the time lost involving the pollution might prove dangerous for environment of the country in long run.

8. With the above directions, the writ petition is disposed of".

14. Subsequently, Aurangabad Bench of Hon'ble High Court of Judicature at Bombay made reference to the directions dated 22nd July, 2008 passed in Janhit Manch case (supra) and disposed of the Writ Petition No.5644 of 2005 (Anhashradha Nirmulan Samity Vs State of Maharashtra and Ors) seeking directions to idol makers to prepare idols not exceeding 6 inch in height and width in clay with herbal colours and banned sale of 'Ganesh' Idols made of PoP, on 8th February, 2011 with the following directions:

" In view of the directions issued by this Court, the Central Pollution Control Board constituted a Committee, vide order dated 10/02/2009, to frame guidelines for idol immersion. The said Committee has framed the guidelines and they are published in June 2010 by the Central Pollution Control Board, Ministry of Environment & Forests. The said guidelines are also placed on record for our perusal. We have perused the guidelines. We are sure that these guidelines would be helpful to the concerned agencies including the State Government against whom the directions are sought in the present writ



TRUE COPY

-12

petition, in formulating action plan/strategies for maintaining cleanliness and preserving the environment. In other words, these guidelines would be useful to prevent pollution of water bodies. We hope and trust that the State Government and the concerned agencies would follow the guidelines for idol immersion for preserving the environment before the pollution might prove dangerous for environment of the Country in long run. It is also open for them to formulate action plan for implementation of the guidelines.

4 We are satisfied that the prayers in the writ petition, in view of the guidelines for idol immersion, framed and published by the Central Pollution Control Board, Ministry of Environment and Forests, stand satisfied.

5 Hence the writ petition is disposed of in terms of this order".

15. From reading of aforesaid directions passed by the Hon'ble High Court, it is evident that guidelines published by CPCB, MoEF, ought to have been considered by the State Govt. before issuing such GR and that too without any study as to impact of immersion of idols made of paper Mache/paper pulp on aquatic life. It is also evident from the reply of MPCB as well as response dated 14.9.2010 to the RTI query that impact of water pollution caused by immersion of paper or articles prepared from waste newspapers on aquatic life is not yet known for want of information regarding ^{the} same or want of survey/inspection carried out by MPCB. On the other hand, there is material in the form of study carried out by Dr. S. Subarao, vide study report dated 4.10.2015 on pollution caused due to immersion of paper made 'Ganesh' Idols in water



THE COPY

11/12

bodies Annexure-B to the affidavit dated 7th October, 2015, which points out that suspension of solid due to paper dissolution in water could clog the gills of fish causing death. The extract of CPCB guidelines for idol immersion at annexure-C annexed to the additional affidavit dated 7th October, 2015, opens a window to general guidelines for idols immersion in the following words:

2.1 General Guidelines for Idol Immersion:

- (i) Idols should be made from natural materials as described in the holy scripts. Use of traditional clay for idol making rather than baked clay, plaster of paris, etc. may be encouraged, allowed and promoted.
- (ii) Painting of idols should be discouraged. In case idols are to be painted, water soluble and nontoxic natural dyes should be used. Use of toxic and non-biodegradable chemical dyes for painting idols should be strictly prohibited.
- (iii) Worship material like flowers, vistas (clothes), decorating material (made of paper and plastic) etc. should be removed before immersion of idols. Biodegradable materials should be collected separately for recycling or composting. Non-biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan houses.

16. Nowhere in the guidelines of CPCB has recommended encouragement or promotion of paper Mache/paper pulp made idols and in fact recommended removal of material made of paper before immersion of idols and its segregation into biodegradable material for recycling or composting and non-biodegradable material for its further disposal. Respondent No.1-



TRUE COPY

State therefore, ought to have given thought to these guidelines before issuing the GR in question, which tends to promote use of paper Mache/paper pulp made idols.

17. Learned Counsel appearing on behalf of Respondent No.1 submits that immersion of idols either made of Shadu clay or paper Mache/paper pulp as per the guidelines issued by MPCB and GR dated 3rd May, 2011, is to be done in artificial immersion tank and remains, sludge/water are disposed of scientifically and therefore, there is no likelihood of any pollution being caused to environment and as such no reliefs sought by the Applicant need to be granted. However, it cannot be ignored that Hon'ble High Court expected the State Govt. and concerned agencies to follow the guidelines of CPCB dated 18.6.2010, which do not recommend promotion or encouragement to use of paper Mache/paper pulp idols. Moreover, the State Govt. has not taken any informed decision before issuing GR dated 3rd May, 2011, promoting use of paper Mache/paper pulp idols, as noted above.

18. Our Constitution ensures that the State is for the People, of the People and by the People. Citizens, therefore, repose great faith in the State. Mindless promotion of anything which has potential to cause harm by the State will lead to erosion of this faith necessary for good governance and, therefore,



12/12

uninformed decision taken by the State to promote use of paper Mache/pulp idols needs to be stayed.

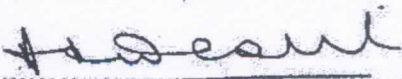
19. As regards our order passed on 9th May, 2013, passed in Original Application No.65/2012(THC) Sureshbhai Keshavbhai Waghvankar & (13) Ors vs State of Gujarat and (5) Ors, it is sufficient to observe that the communication dated 23.1.2012, issued by State of Gujarat was set aside as not having force of law and challenge to CPCB guidelines dated 18.6.2010 was dismissed. We, therefore, pass the following directions:

(1) Respondent No.1 -State of Maharashtra and Respondent No.2- MPCB, shall not promote use of paper Mache/paper pulp idols and the Govt. Resolution No.ENV-2010/case, 2011, dated 3rd May, 2011, so far as it promotes use of paper Mache/paper pulp idols is stayed till long term study on impact of idol immersion and on aquatic environment on water quality, aquatic life, productivity etc. is carried out and informed, decision is taken regarding promotion of paper Mache/paper pulp idols.

(2) Application stands disposed of with no order as to costs.




..... JM
(Justice U.D.Salvi)


..... EM
(Dr. Ajay A. Deshpande)

PUNE
DATE: SEPTEMBER 30, 2016.HK