

Case Note: The appeal has been filed against the judgment of Madras High Court regarding the preservation of ecology of Noyyal river and to keep it pollution free from the dying industries of Tirupur. The Supreme Court has directed the Tirupur Dyeing Factory Owners Association to ensure there is no pollution in the Noyyal river or the Orthapalayam dam due to discharge of effluents from their units and directed the units to ensure compliance with all court directives, including payment of dues, within three months.

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IN THE SUPREME COURT OF INDIA

CIVIL APPEAL NO.6776 OF 2009 @ SPECIAL LEAVE PETITION (CIVIL) NO. 6963 OF 2007

Tirupur Dyeing Factory Owners Association

Versus

Noyyal River Ayacutdars Protection Association and others

WITH

CIVIL APPEAL NO. 6777 OF 2009 @ SPECIAL LEAVE PETITION (CIVIL) NO. 28296 OF 2008

J U D G M E N T

Dr. B.S. Chauhan, J.

1. Leave granted.
2. These appeals have been filed against the Judgment and Order dated 22.12.2006 of the Madras High Court in writ petition no. 29791 of 2003 and order dated 27.2.2007 dismissing the Review Application No.14 of 2007 in the said case.
3. The facts and circumstances giving rise to this case are that a Public Interest Litigation was filed by the Noyyal River Ayacutdars Protection Association, a registered Association (Respondent No. 1), for seeking directions for preservation of ecology and for keeping the Noyyal river in Tamil Nadu free from pollution. According to the said Association, a large number of industries, some of them respondents before the writ court and appellants herein had indulged in dyeing and bleaching works at Tirupur area and discharging the industrial effluents into the Noyyal river which created water pollution to the extent, that the water of the river was neither fit for irrigation nor potable. The pollution also adversely affected the Orthapalayam reservoir and other tanks and channels of the said river.

A similar issue i.e. menace of pollution had also earlier been raised by another association namely Karur Taluk Noyyal Canal Agriculturists Association by filing writ petition(c) no. 1649 of 1996 before the Madras High Court.

The High Court disposed of the said petition vide judgment and order dated 26.2.1998 on the basis of joint Memo of Understanding filed by all the contesting parties, which contained the terms, to implement the pollution control measures and to pay the damages etc.

The High Court directed the Tamil Nadu Pollution Control Board (hereinafter called as "Board") to implement the pollution control and environmental laws and also granted liberty to decide the amount for which dyeing units were liable to reimburse for the loss caused by pollution. The dyeing and bleaching units were directed to contribute an amount to meet the expenses of cleaning of the Orathapalayam dam. For compliance of the said order, a period of three months was given.

4. The dyeing and bleaching units' Association filed an application for extension of time for compliance of the aforesaid directions issued by the High Court but the said application was rejected by the Court vide Order dated 29.4.1998. Being aggrieved, the Association of the unit owners approached this Court by filing the Special Leave Petition (Civil) Nos. 8601, 8641, 8747 and 9150 of 1998. This Court issued some directions in respect of 53 units in Tirupur and 97 units in Karur.

As these directions were complied with, the said petitions were disposed of vide order dated 8.1.1999 as nothing survived.

5. The Government of Tamil Nadu issued order dated 14.12.2000 to carry out a study on the restoration of Orathapalayam Dam with the help of the department of Environmental Sciences of Tamil Nadu, environmental NGOs, entrepreneurs together with Department of Forests. The study was completed and a report was prepared, according to which, there had been no improvement in the quality of water. Thereafter, the present respondent no.1 (Noyyal River Ayacutdars Protection Association) filed Writ Petition no. 29791 of 2003 before the Madras High Court and sought directions that respondent nos. 1-3 therein, would clean the river water stored at Orathapalayam dam within a stipulated time with its own expenses, or to recover the expenses which could be recovered from the dyeing and bleaching Units Associations and thereby preventing the pollution of the Noyyal river in future by the said units i.e. members of the Association. An interim relief was sought to restrain the private respondents from discharging their industrial effluents into Noyyal river.

6. The case was contested by the present appellant as well as by the State Government and other State instrumentalities. It was pointed out to the High Court that recommendations made by various committees to prevent further pollution were being given effect to and a huge amount of Rs. 1,95,00,000/- (rupees one crore and ninety five lacs) would be required for the project of cleaning and a sum of Rs.23 crores was required for installation of treatment plants. The Association of Units owners had to establish R.O. (Reverse Osmosis) system and to attain Zero Liquid Discharge (hereinafter called ZLD) of the trade effluents. Thus, the said Association was required to deposit a sum equivalent of 25% of the R.O. cost and 50% of the project cost etc. and it was also pointed out that 150 pre-treatment plants were also likely to

be established. The Court passed the order dated 26.12.2006, as an interim measure keeping the petition pending, issuing the following directions :

"(a) The CETPs are given time upto the 31st of July, 2007 to achieve the Zero Liquid Discharge(ZLD) of trade effluents subject to the following conditions :

(i) The concerned CETPs are directed to pay a fine on pro rata basis at the rate of six paise per litre from 1st January, 2007 to 31st March, 2007; at the rate of eight paise per litre from 1st April, 2007 to 31st May, 2007; and at the rate of ten paise per litre from 1st June, 2007 to 31st July, 2007. The fine amount payable by the respective CETPs shall be arrived at by multiplying the fine amount i.e. six, eight or ten paise, as the case may be, by the total quantity of discharge of each Member Units of CETP as per the consent certificate or as the quantity found in the application for consent and also by the total number of working days in a month. The fine amount thus calculated shall be paid by the respective CETPs on the last date of every month. In case the CETPs or any of them commit any default in payment of fine, the Pollution Control Board shall direct closure of such defaulting CETP and the Member Units and also disconnect the power supply to such defaulting CETP and the Member Units.

(ii) The CETPs or any of them on achieving Zero Liquid Discharge shall satisfy the Pollution Control Board about their ZLD status and the Pollution Control Board upon verification shall issue appropriate certificate from which date, such CETP shall not be liable to pay the fine. In any event, if the CETPs or any of them fail to achieve the ZLD on or before 31st July, 2007, the Pollution Control Board shall forthwith direct closure of such CETPs and the Member Units and also disconnect the power supply to such defaulting CETP and the Member Units.

(b) The respondents 4 to 7 herein are directed to deposit the balance sum of Rs.8.50 Crores out of Rs.12.50 Crores estimated by the P.W.D. towards the cleaning and desilting operations of the Orathapalayam dam to be carried out by the Public Works Department in two equal instalments, the first of such instalments being payable on or before 28th of February, 2007 and the second instalment to be paid on or before the 30th April, 2007.

(c) The respondents 4 to 7 are directed to deposit a sum of Rs.22,99,98,548/- being the remaining of the total compensation of Rs.24,79,98,548/- awarded by the Loss of Ecology Authority in its Award dated 17.12.2004. This amount shall also be payable in two equal instalments, the first of such instalments being payable on or before the 28th of February, 2007 and the second instalment to be paid on or before the 30th of April, 2007.

(d) The respondents 4 to 7 are further directed to deposit a sum of Rs.12 crores as an ad-hoc compensation towards the estimated loss for the years 2005, 2006 and 2007. This amount shall be payable in two equal instalments, the first of such instalments being payable on or before 15th June, 2007, and the second instalment to be paid on or before 31st July, 2007.

(q) The Public Works Department is directed to continue with the cleaning and desilting operations of the Orathapalayam Dam and the cleaning of the Noyyal

river shall be carried out through the petitioner association as per the orders of this Court. The District Collector, Coimbatore is directed to release a sum of Rs.25 lakhs directly to the petitioner- Agriculturists Association towards the charges for cleaning of the Noyyal river and the works to be carried out upto the confluence point of the river with river Cauvery.

(r) The respondents 1 to 3 are directed to finalise the site for dumping the solid waste from the Orathapalayam dam as well as from the Noyyal river which has been kept in bags and in open spaces. The Pollution Control Board is directed to provide the infrastructure and technical expertise for removal of the solid waste from the units as well as the dam to the notified site. The above exercise shall be done within a period of three months.

(s) Both the Expert Committee as well as the Monitoring Committee shall submit periodical reports before this Court every two months.

(t) The Monitoring Committee shall be paid a sum of Rs.15,000/- per day/per visit as charges."

7. The present appellant filed a Review Petition which was dismissed vide Order dated 27.12.2007. Hence, these appeals.

8. Shri Soli J. Sorabjee & Shri Mukul Rohtagi, learned senior counsel appearing for the appellant have submitted that the High Court while entertaining the Public Interest Litigation passed the impugned order imposing a very heavy fine on the basis of pro rata @ 6 paise, 8 paise and 10 paise per litre for the period of two months, as mentioned therein, for water discharge from each unit amounting to several crores of rupees without any report of the expert committee. There was no material on record on the basis of which such a liability could be fastened on the unit owners. The calculation of fine/compensatory expenses at such a higher rate was not based on any scientific data and, therefore, such imposition of fines etc. cannot be held justifiable. More so, the High Court ought to have allowed the Review Petition filed by the appellant. The appellant has always been willing to safeguard the environment and to prevent pollution and discharge of effluents into Noyyal river or Orathapalayam dam. In view of the fact that the industrial units had undertaken to fix the R.O. plant and to achieve ZLD and it had set up 17 CETPs investing a huge amount of about 700 crores, such onerous liability should not have been imposed. The industrial units have already installed a pre-treatment plant to prevent the untreated effluents to be discharged either into the river or dam.

The High Court failed to appreciate that there are more than 40 thousand families to earn their livelihood on dyeing and bleaching industry. Several lakh persons are employed in its ancillary industries who directly depend on this business and most of them are basically the erstwhile agriculturists who could not earn their livelihood because of the barren nature of their land and for want of proper rain over several years. A large number of people have indulged in transport activities because of such heavy industries in Tirupur area. Therefore, the order impugned is liable to be set aside and appeals deserved to be allowed.

9. On the other hand, Dr. Rajeev Dhawan, learned senior counsel appearing for respondent no. 1 has submitted that in spite of several orders passed by the High Court, there could have been no improvement in the ecological set up of the area. The "precautionary principle" and principle of "polluter-pays" are the integral part and parcel of national environmental law. The appellant is bound to compensate the persons who have suffered the loss because of the activity of its members, as water of the river is neither worth for irrigation purpose nor potable. The members of the appellant association being responsible for the pollution, cannot escape the responsibility of not meeting the expenses of removing the sludge from the river and cleaning the dam and treating the water to make it pollution free. The cost so imposed by the High Court by the impugned order, is based on the report of the Expert Committee. In spite of the fact that the High Court had passed several orders and extended the period from time to time to take all possible measures to establish the RO system and achieve ZLD, no improvement could be made. In case the said members of the Association are not willing to achieve the pollution free atmosphere, they do not have any right to continue with their industrial activities. The appeals lack merit and are liable to be dismissed.

10. Shri Abhishek Gupta, learned senior counsel appearing for the Pollution Control Board has submitted that Pollution Control Board had taken all measures to prevent the pollution and also inspected CETPs established by the appellant and found that there is much improvement but has not been cured fully. Certain steps are still required to be taken by the Association to prevent the menace of pollution.

11. We have considered the rival contentions made by learned counsel for the parties and perused the record. As per the pleadings of the case, Tirupur is the place exporting the finest garments like T-shirts, inner wears to all foreign countries. The competitors are Bangladesh and China. Tirupur is an industrial hub providing employment to 5 lakh persons. The State Government has granted Sales Tax exemption to the units indulged in bleaching and dyeing units, considering the importance of the place and taking into account the nature of the industries. The country earns about 10,000/- crores in foreign exchange annually. The industries have provided the means of livelihood to a large number of persons indulged in transport of passengers and goods in the area to the extent of 80 kilometers radius for the purpose of fetching labourers residing away from the city and to deal with the export business.

12. Undoubtedly, in the earlier writ petition filed by another association for similar relief, the High Court as well as this Court dealt with the case and disposed of the same after compliance of directions issued by the courts. In the instant case, it is evident from the record that the High Court issued directions from time to time but the members of the appellant Association had complied with such orders partly. The High Court constituted an Expert Committee and also the Monitoring Committee to assess the damage caused to the dam and the river and to find out the modalities to remove the effect of pollution. It also got the assessment of the amount required for removing the sludge from the river and for the treatment of the water, making it worth for irrigation and human consumption. So far as imposition of fine @ 6 paise per litre and then enhancing to 8 paise and subsequently to 10 paise per litre periodically is concerned, High Court imposed it on the basis of Award/Report dated 17.12.2004 by the Expert Committee under the heading "Loss of Ecology (Prevention and payments of compensation) by the Authority". The Expert Committee consisted of Hon'ble Mr.

Justice P. Bhaskaran, a retired judge of Madras High Court, the Secretary of the Department of Environment, Government of Tamil Nadu and Member Secretary, Central Pollution Control Board, New Delhi as its Member and Dr. K.R. Ranganathan, former Member Secretary of the Central Pollution Control Board. The Committee had taken note of all previous developments and assessed the loss to ecology and environment in the affected area. It also identified the individuals and families who suffered because of pollution and further determined the amount of compensation to be paid to each affected individual or family. It also fixed the liability for making the payment of compensation. The award mainly provided as under :

(a) The Authority assessed loss to the ecology and environment in terms of use value of the groundwater resources polluted with excessive total dissolved solids (inorganic) utilized for irrigation as a result of the pollutional impact of effluents discharged by textile industries located in and around Tirupur and its vicinity falling in the Noyyal river basin. Extent of the so irrigated land is arrived at 28,449.816 hectares in 68 villages comprised in Seven Taluks or Coimbatore, Erode and Karur Districts.

(b) The Authority identifies 28,596 individuals, affected because of the pollution as eligible for compensation.

(c) The authority assesses the compensation to be paid to the aforesaid individuals as in (b) supra, at a total sum of Rs.24,79,98,548 for the period from 28.8.1996 to 31.12.2004.

.....

It is pertinent to point out that thrust of the work for reversal is preventing further pollution of the ground water which requires a number of cleaning technology and treatment measures to be undertaken by the industries with their own funds.

13. It is evident that the High Court constituted the Monitoring Committee consisting of technocrats and the terms of Reference had been as under:

i) To inspect the cluster of industrial units in and around Tirupur discharging trade effluents either directly and indirectly into the Noyyal river and verify the volume of the polluted water discharged into the river every day.

ii) To inspect and quantify the polluted water stored at the Orathapalayam dam with details as to the present condition of the sluices.

iii) To suggest ways and means for desilting or removing the sludge that has formed in the dam area without delay, taking advantage of the summer months.

iv) To explore and suggest ways and means to clean the stored water and then release the treated water in the river, by adopting any technical industrial process, its estimated cost and the likely time, the process might take its feasibility.

v) To suggest an immediate action plan for remediation of Noyyal river and in particular the Orathapalayam dam and the canals.

vi) To suggest ways and means for preventing the discharge of polluted trade effluents either directly or indirectly into the Noyyal river by the cluster of industrial units in and around Tirupur during the process of cleaning the dam area and later.

vii) To hold discussions with the agriculturists in the area, farmers association, Industrialists, PWD and PCB officials and the Loss of Ecology Authority, Chennai to arrive at a solution relating to the problem as a whole.

viii) To submit interim and final reports within the stipulated time to be fixed by this Hon'ble Court.

ix) To direct the Collectors of Coimbatore and Erode Districts the Pollution Control Board and PWD officials to coordinate with the Committee and provide them necessary transport and other logistic requirements for carrying out their work.

x) To meet specialists having knowledge on public health relating to pollution, their cause and effect and possible preventive measures.

It was, in fact, the Monitoring Committee in its memo dated 12th July, 2005 made various suggestions before the High Court regarding establishment of CETPs and gave costs for various operations and one of the recommendations read as under:

"Apart from the earlier recommendation of the Committee that no CETP which had not achieved financial closure and deposited monies should be permitted to reopen till financial closure is achieved and monies deposited, the committee further recommends that all CETPs deposit the entire project cost within a period of 2 weeks (after adjusting the money spent by them towards the works in progress). If the units do not so deposit, the Committee recommends that they be shut down. The Committee reiterates the fact that all CETPs ought to have commissioned their RO system by today, if not much earlier, if their earlier undertakings were taken into account.

Apart from the condition on deposit of the entire project cost (minus the monies actually spent), the member units of all CETPs should be subject to a fine of at least 10 paise per litre of effluent generated (subjected to a minimum of Rs.10,000 per lakh litres of effluent as reflected in the consent) at least from the 1st of August, 2006." (emphasis added)

14. The Monitoring Committee vide its memo dated 19th July 2006, submitted the Report before the High Court. It also appears from the record that for the purpose of inspection of CETPs the High Court vide order dated 1st August, 2005 constituted a Committee consisting of three lawyers namely Mr. T. Mohan, Mr. S. Thangavel and Mr. M.M. Sundaresh, making the terms of reference as under :

(1) To arrive at time frame within which R.O. plants are commenced and completed in consultation with industries, their consultants and suppliers.

(2) To consult with the expert committee constituted by this court earlier or any member thereof on what measurable required to achieve zero discharge and eliminate pollutants in the effluent through adoption of clean production measures.

(3) To monitor the implementation of reverse osmosis plants and related facilities to deal with R.O. rejects.

(4) To inspect the industries, IETPs and CETPs at periodic intervals with or without prior notice and report to this court on the progress made.

The said Committee also submitted the reports from time to time. The High Court has passed the impugned order after considering the aforesaid reports also.

15. In *Indian Council for Enviro-Legal Action vs. Union of India* (1996) 3 SCC 212, this Court ruled that once the industrial activities carried out are found to be hazardous or inherently dangerous, the person carrying on such activities are liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying out his industrial or commercial activities. Therefore, the polluting industries are absolutely liable to compensate for the harm caused by it to villagers or other affected persons of the area, to the soil and to the underground water and hence, the industry is bound to take all necessary measures to prevent degradation of environment and also to remove sludge and other pollutants lying in the affected area. As the liability of the polluter is absolute for harm to the environment it extends not only to the victims of pollution but also to meet the cost of restoring the pollution free environment.

16. In *Vellore Citizens Welfare Forum v. Union of India* AIR 1996 SC 2715; this Court considered various constitutional provisions including Articles 47, 48-A, 51-A(g) and came to the conclusion that it is the duty of the State to protect and preserve the ecology, as Article 21 of the Constitution guarantees protection of life and personal liberty and every person has a right to pollution free atmosphere. Therefore, the "precautionary principle" and the "polluter-pays" principle have been accepted as a part of the law of the land being the part of environmental law of the country.

17. Similar view has been reiterated in *People's Union for Civil Liberties vs. Union of India and Another* (1997) 3 SCC 433; *AP Pollution Control Board vs. Prof. M.V. Nayudu* AIR 1999 SC 812; and *M.C. Mehta vs. Union of India* (2001) 9 SCC 142, observing that environment and ecology are national assets. They are subject to inter-generational equity. The sustainable development principle is a part of Articles 21, 48-A and 51-A(g) of the Constitution of India.

18. In *M.C. Mehta vs. Union of India* (2004) 12 SCC 118, this Court explained the scope of "precautionary principle" observing that it requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not always necessary that there should be direct evidence of harm to the environment. The concept of "sustainable development" has been explained that it covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development, that can take place and which can be sustained by nature/ecology with or without

mitigation. Therefore, in such matters, the required standard is that the risk of harm to the environment or to human health is to be decided in public interest, according to a "reasonable person's" test. The development of the industries, irrigation resources and power projects are necessary to improve employment opportunities and generations of revenue; therefore, cannot be ignored. In such eventuality, a balance has to be struck, for the reason that if the activity is allowed to go, there may be irreparable damage to the environment and there may be irreparable damage to the economic interest.

A Similar view has been reiterated by this Court in T.N. Godavaram Thirumulpad (104) vs. U.O.I. & Ors. (2008) 2 SCC 222; and M.C. Mehta vs. Union of India & Ors. (2009) 6 SCC 142.

19. In case in spite of stringent conditions, degradation of environment continues and reaches a stage of no return, the court may consider the closure of industrial activities in areas where there is such a risk. The authorities also have to take into consideration the macro effect of wide scale land and environmental degradation caused by absence of remedial measures. The right to information and community participation for protection of environment and human health is also a right which flows from Article 21 (vide Bombay Dyeing & Mfg. Co. Ltd. Vs. Bombay Environmental Action Group and Others; AIR 2006 SC 1489; T.N. Godavaram Thirumulpad vs. UOI and Others (2002) 10 SCC 606; Research Foundation for Science Technology Natural Resource Policy vs. UOI & Ors (2005) 10 SCC 510; N.D. Jayal & Anr. vs. UOI & Ors. AIR 2004 SC 867; M.C. Mehta vs. Kamal Nath AIR 2002 SC 1515; Mrs. Susetha vs. State of Tamil Nadu & Ors. AIR 2006 SC 2893).

20. The correctness of the impugned order is to be tested on the basis of the aforesaid settled legal propositions. This Court vide order dated 18.5.2007 stayed the impugned order of the High Court only to the extent that the directions to close down the industries would not be given effect to from 31.7.2007. This Order has been extended from time to time. On 10th August, 2007, this Court directed the members of the petitioners' association to deposit a sum of Rs.25 crores within a period of six weeks before the High Court and further to file an affidavit as what progress has been made in respect of the CETPs and treatment plants. This Court vide order dated 12.5.09, directed the Board to inspect the Noyyal River and find out whether any pollution is caused by the factories owned by the members of the appellant Association and file a report on or before 27.7.09.

21. The Inspection Committee constituted by the Board made following observations during inspections on 8.7.2009 and 9.7.2009:

(A) There is no flow of surface water in the upstream side of Agrahara Puthur road bridge (S1) across the Noyyal River and it was found dry during inspection on 8.7.2009 and 9.7.2009 with isolated ponding of small quantity of water.

(B) Flow of water was observed in Noyyal River at the stretch of Tiruppur Town where Bleaching and Dyeing units are located and downstream at Orathupalayam Dam.

(C) Along with the primary treated effluent from existing bleaching and dyeing units, domestic effluent from Tiruppur Corporation [Formerly Tiruppur

Municipality], Nallur Municipality and other villages located along the banks of Noyyal River is discharged into Noyyal River, which also contributes to the flow in the River and organic pollution load.

(D) In the entire stretch of Noyyal River falling in the jurisdiction of Tiruppur Corporation and Nallur Municipality, Municipal Solid wastes are being dumped along the River itself, which also contributes to the pollution load in Noyyal.

The impact of industrial pollution on river is revealed by the presence of high pH (alkalinity), very high Total Dissolved solids (TDS), excess chloride (Cl) and percent sodium (%Na). Also Biochemical Oxygen Demand (BOD) and Chemical Oxygen Demand (COD) are not at an acceptable level. Moreover, the dark red colour of the water in the River Noyyal, was seen during inspection.

22. In pursuance of the order of this Court dated 27.07.09, the said Inspection Committee again inspected the 17 CETPs in Tirupur during 3.8.2009 and 4.8.2009 and submitted the Report. The 17 CETPs had paid only Rs. 17,22,46,031/- (Rupees seventeen crores twenty two lacs forty six thousands and thirty one only) as against Rs.55,60,96,848/- (Rupees fifty five crores sixty lacs ninety six thousands eight hundred and forty eight only). This total sum has been arrived at on the basis of number of working days multiplied by the daily consented quantity/applied quantity of effluent of member units, leaving a balance to be remitted as Rs.38,38,50,817/- (Rupees thirty eight crores thirty eight lacs fifty thousands eight hundred and seventeen only). The appellant has deposited a sum of Rs.25 crores in the High Court of Madras as per the direction of this Court dated 10.8.2007.

23. Some of the member units of the CETPs have obtained the consent of the Board in accordance with law. Some of them have applied to the Tamilnadu Pollution Control Board for consent, but consent was not issued to them in view of the provisions of the G.O.Ms.No.213 Environment and Forests (EC-1) Department dated 30.3.1989 and G.O.Ms. No.127.

24. With regard to the technical aspect, Inspection Committee submitted that among the 17 CETPs, 11 CETPs have completed 90% to 97% works relating to the ZLD system. The remaining minor works to be completed related to the establishment of an adequate Solar Evaporation Pan area, considering the evaporation rate as 4.5 mm per sq.m. per day. The other 3 CETPs have completed above 90% of the works relating to the ZLD system. The remaining works to be completed related to the establishment of adequate Solar Evaporation Pan area and loading of the membranes into the RO module, etc.

25. The remaining 3 CETPs have completed below 80% of work relating to the ZLD systems. The remaining percentage of works to be completed relates to the establishment of adequate Solar Evaporation Pan area, Boiler, Crystallizer, loading of the membranes into the RO module, etc.

26. In view of the above fact that this matter is pending before this Court for more than two and a half years and the members of the appellant Association had been permitted to continue their business, it is desirable that the members of the appellant Association should ensure the compliance of all the directions including the payment

of dues etc. issued by the Court within a period of three months from today. They shall ensure that no pollution is caused to the river or dam and if cleaning operation has not yet been completed, it shall be completed within the said stipulated period.

27. Undoubtedly, there has been unabated pollution by the members of the appellant Association. They cannot escape the responsibility to meet out the expenses of reversing the ecology. They are bound to meet the expenses of removing the sludge of the river and also for cleaning the dam. The principles of "polluters-pay" and "precautionary principle" have to be read with the doctrine of "sustainable development". It becomes the responsibility of the members of the appellant Association that they have to carry out their industrial activities without polluting the water. A large number of farmers have suffered because of the pollution caused by them. They could not cultivate any crop in the said land. The committee had made a complete survey and assessed the loss and identified the families which are entitled to compensation. This Court only stayed the operation of the direction of the High Court to the extent that the units of the members of the appellant Association would be closed on 31st July, 2007. The said interim order has been extended from time to time. None of the other directions have been interfered with. A period of more than two and a half year has been passed. Many steps have been taken but the Association has to ensure the compliance of the orders passed by the High Court fully and in order to do, it is desirable that the Association be giving three months time to ensure compliance of directions to make the CETPs functional and pay the balance amount for cleaning the dam and river and meet the compensation to the adversely affected persons within a period of three months from today. The Pollution Control Board is directed to ensure that no pollution is caused, giving strict adherence, to the statutory provisions.

28. The appeals stand disposed of accordingly.

.....CJI.
(K.G. Balakrishnan)

.....J.
(Dr. B.S. Chauhan)

New Delhi;
October 6, 2009.
Item NO.IA
(For judgment)

Court No.9

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO.6776/2009 @ SLP(C)NO.6963/2007

TIRUPUR DYEING FACTORY OWNERS ASS.

Appellant (s)

VERSUS

NOYYAL RIVER A. PROTECTION ASS. & ORS.

Respondent (s)

WITH

C.A.No.6777/2009 @ SLP(C)No.28296/2008

Date : 06/10/2009 The matter was called on for Judgment today.

For Appellant (s) Mr. P.V. Yogeswaran, Adv.
 Mr. K.K. Mani, Adv.

For Respondent (s) Mr. Dayan Krishnan, Adv.
 Mr. Nikhil Nayyar, Adv.
 Mr. V.G.Pragasam, Adv.
 Mr. R. Nedumaran, Adv.
 Mr. S.S. Nehra, Adv.
 Ms. Binu Tamta, Adv.

Hon'ble Dr. Justice B.S. Chauhan pronounced the judgment of the Bench comprising Hon'ble the Chief Justice and his Lordship.

Delay condoned.

Leave granted.

Applications for impleadment/intervention are allowed.

The appeals stand disposed of in terms of the signed judgment.

(Pawan Kumar)
Court Master

(Vijay Dhawan)
Court Master

(signed reportable judgment is placed on the file)

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