

Neutral Citation No. - 2024:AHC-LKO:8930-DB

Court No. - 7

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 4436 of 2003

Petitioner :- Sewage Treatment Plant Lucknow Thru Narendra Kumar

Respondent :- State Of U.P. Civil

Counsel for Petitioner :- B.K. Singh

Counsel for Respondent :- C.S.C., Ashok Kumar Verma, Farid Ahmad, Indu Prakash Singh, Kamlesh Singh, Namit Sharma, Narendra Kumar, Rajiv Srivastava, Rishabh Kapoor, Shailendra Singh Chauhan, Shashi Prakash Singh, Sudhir Pandey, U.P. Singh

connected with

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 6748 of 2008

Petitioner :- Banwari Lal

Respondent :- State Of U.P. Thru Prin. Secy. Housing And 6 Ors.

Counsel for Petitioner :- B.K. Singh

Counsel for Respondent :- C.S.C., Ashok Kumar, Ashok Kumar Verma, Namit Sharma, Pankaj Patel, Puneet Chandra, Rajesh Singh Chauhan, Sudhir Pandey

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Saurabh Lavania, J.

1. Heard Sri B.K. Singh, learned counsel for the petitioner, Sri Tushar, learned State Counsel, Sri Shobhit Mohan Shukla and Sri Puneet Chandra, learned counsel for Lucknow Development Authority, Sri Namit Sharma, learned counsel for Nagar Nigam Lucknow, Sri Raj Kumar Singh, learned counsel for Union of India, Sri A.K. Verma, learned counsel for U.P.P.C.B. and Sri Rishabh Kapoor learned counsel for U.P. Jal Nigam.
2. The present batch of petitions raises concern relating to discharge of untreated water and municipal waste in river Gomti. A number of orders have been passed from time to time by this Court.
3. According to learned counsel for the petitioner, the problem still continues and remains unattended.
4. Sections 14 and 29 of National Green Tribunal Act, 2010 stipulates as follows:-

“14 Tribunal to settle disputes. -

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

29 Bar of jurisdiction. -

(1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment shall be granted by the civil court."

(emphasis added"

5- In ***Bhopal Gas Peedith Mahila Udyog Sangathan Versus Union of India (2012) 8 SCC 363***, the Supreme Court after considering the Scheme of National Green Tribunal Act, 2010 has emphasized on the need of transferring the pleas for enforcement of any legal right relating to environment concerning the enactments specified in Schedule 1 to National Green Tribunal. The relevant observations is reproduced below:-

"40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010, 2010 (for short the 'NGT Act') particularly Sections 14, 29,30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short 'NGT'). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and the NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before the NGT. This will help in rendering expeditious and specialized justice in the field of environment to all concerned.

41. 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 relating to any of the seven statutes specified in Schedule I 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."

(emphasis supplied)

6- Sri Adarsh Mehrotra, who appears in person in one of the connected petitions, submitted that it would be better if this Court continue to monitor the issues as river Gomti is lifeline of the city and there were also illegal constructions raised by the private persons.

7- In our considered opinion since all the issues are covered under the enactments specified in Schedule 1 to the Act, therefore, keeping in mind the mandate of Section 14 and 29 of the Act, we are of the considered opinion that the instant batch of petitions should be transferred to the National Green Tribunal, New Delhi being a judicial body of experts and better equipped to resolve the issues.

8- Accordingly, we direct the Senior Registrar to ensure that all the records are transmitted to the National Green Tribunal within a fortnight after retaining a copy of order sheet of each case and scanned copies of the pleadings, in one set.

9- The parties are at liberty to appear before the National Green Tribunal and pursue the matters.

10- Registry to take follow up action.

(Saurabh Lavania,J.) (Manoj Kumar Gupta, A.C.J.)

Order Date :- 31.01.2024

Jyoti/-