

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 655 OF 2020

IN

CIVIL APPEAL NO. 1359 OF 2017

AMITABH SRIVASTAVA

.....Petitioner(s)

Vs.

RAJENDRA KUMAR TIWARI AND ORS.

.....Respondent(s)

WITH

CONTEMPT PETITION (C) NO. 295 OF 2021

IN

CIVIL APPEAL NO. 1359 OF 2017

WITH

CONTEMPT PETITION (C) NO. 115 OF 2022

IN

CIVIL APPEAL NO. 1359 OF 2017

O R D E R

1. This Court by its judgement "*Techi Tagi Tara vs. Rajendra Singh Bhandari & Ors.*" reported in (2018) 11 SCC 734 had while setting aside directions given by the National Green Tribunal (NGT), considered the issue of framing appropriate norms and guidelines spelling out qualifications and relevant

experience as eligibility conditions for the recruitment of Chairpersons, Member Secretaries and Members of the State Pollution Control Boards (SPCBs) under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention And Control Of Pollution) Act, 1981 and other cognate enactments.

2. The Court had in its judgment taken note of reports of previous Committees i.e. the Bhattacharya Committee (1984), the Belliappa Committee (1990), the Administrative Staff College of India (1994) and the Menon Committee (the last Committee constituted pursuant to the directions of this Court in *"Research Foundation for Science Technology National Resource Policy vs. Union of India & Anr."* (2005) 10 SCC 510) and the Supreme Court Monitoring Committee. The Court also took into consideration the submissions of all parties and directed as follows:

"34. The concern really is not one of a lack of professional expertise – there is plenty of it available in the country – but the lack of dedication and willingness to take advantage of the resources available and instead benefit someone close to the powers that be. With this couldn't-care-less attitude, the environment and public trust are the immediate casualties. It is unlikely that with such an attitude, any substantive effort can be made to tackle the issues of environment degradation and issues of pollution. Since the NGT was faced with this situation, we can appreciate its frustration at the scant regard for the law by some State Governments, but it is still necessary in such situations to exercise restraint as cautioned in *State of U.P. v. Jeet S. Bisht*.

35. Keeping the above in mind, we are of the view that it would be appropriate, while setting aside the judgment and order of the NGT, to direct the Executive in all the States to frame appropriate guidelines or recruitment rules within six months, considering the institutional requirements of the SPCBs and the law laid down by statute, by this Court and as per the reports of various committees and authorities and ensure that suitable professionals and experts are appointed to the SPCBs. Any damage to the environment could be permanent and irreversible or at least long-lasting. Unless corrective measures are taken at the earliest, the State Governments should not be surprised if petitions are filed against the State for the issuance of a writ of quo warranto in respect of the appointment of the Chairperson and members of the SPCBs. We make it clear that it is left open to public-spirited individuals to move the appropriate High Court for the issuance of a writ of quo warranto if any person who does not meet the statutory or constitutional requirements is appointed as a Chairperson or a member of any SPCB or is presently continuing as such."

3. In these proceedings the petitioner(s) complaint of willful and deliberate contempt by the respondents – States. This Court had taken cognizance of the present proceedings and issued notice to all concerned parties i.e. the States and the Union Territories concerned.

4. In response to the show cause notice all the States filed their affidavits. During the course of hearings, this Court had recorded the submissions of the parties including wherever allegations that norms were framed in the letter and spirit of the main judgment. As a result, and during the

pendency of these proceedings some States appear to have amended the Rules or framed fresh Rules. Learned counsel appearing for the petitioner(s) filed several documents responding to the request of this Court to comprehensively portray the nature of changes made by the States through the Rules, in the course of implementing the main judgment.

5. Learned senior counsel Mr. Sanjay Hegde urged that several States have violated the spirit of this Court's directions and by way of example quoted the rules framed by the States of Manipur and Mizoram, to demonstrate that they were vague and general and allow recruitment and appointment of unqualified individuals who can not be characterised as competent or experienced. It was also urged that the nature of directions of this Court is that the States are under a duty to consider the four reports adverted to in the main judgment and frame appropriate rules that would ensure that the State Pollution Control Boards (SPCBs) are efficacious and vibrant bodies or tribunals, equipped to discharge the duties and responsibilities that the law casts upon them. It was urged that induction of academics, professionals, experts and technologists is essential for the functioning of SPCBs or else those bodies would utterly fail and the entire responsibility of enforcement of the concerned enactments i.e. the Water (Prevention and Control of Pollution) Act, 1974 etc.

would fall upon the appellate bodies and ultimately upon the NGT.

6. The appearing States have filed individual affidavits; the rules frames or amended have been compiled in one document. To this Court, it appears that the States have by and large complied with the directions with respect to the framing of appropriate norms including rules, outlining the essential qualifications and necessary experience for the recruitment of three types of positions, in the SPCBs. However, the correctness of those rules and whether they conform to terms of the substantive law i.e. the statutory enactments in question, read along with the observations of this Court, are sought to be made the subject matter of scrutiny by this Court in the present contempt proceedings.

7. Having heard learned counsel for the parties and also having considered the Chart which has comprehensively set out the amended qualifications and experience for each of the three positions and the rules framed, this Court is of the opinion that given the limitations and constraints of contempt proceedings, it would not be appropriate to continue monitoring the matter. At the same time, the Court is also of the opinion that the States of Mizoram and Manipur should take suitable corrective steps to change or amend the rules so as to reflect the need to have qualified and experienced personnel who can man the post of Chairperson, Member

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Secretaries and Members of the State Pollution Control Boards (SPCBs) under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention And Control Of Pollution) Act, 1981 and other cognate enactments in accordance with the directions, having regard to the reports mentioned in the main judgment.

8. In view of the above observations, the Court hereby discharges notice in the present contempt proceedings. At the same time it is clarified that any person or body aggrieved by the rules framed by any State is at liberty to seek such remedies as are available to her or him in law.

10. The contempt petitions are disposed of in the above terms.

.....J.
(S. RAVINDRA BHAT)

.....J
(DIPANKAR DATTA)

New Delhi;
January 30, 2023

VERDICTUM.IN

ITEM NO.48

COURT NO.14

SECTION XVII

S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS

CONMT.PET. (C) No. 655/2020 in C.A. No. 1359/2017

AMITABH SRIVASTAVA

Petitioner(s)

VERSUS

RAJENDRA KUMAR TIWARI AND ORS. & ORS.

Respondent(s)

(FOR ADMISSION

IA No. 55963/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 13484/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 13388/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 11660/2021 - EXEMPTION FROM FILING O.T.)

WITH

CONMT.PET. (C) No. 295/2021 in C.A. No. 1359/2017 (XVII)

(FOR ADMISSION)

CONMT.PET. (C) No. 115/2022 in C.A. No. 1359/2017 (XVII)

(FOR ADMISSION)

Date : 30-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Sanjay R. Hegde, Sr. Adv.
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Mr. Ibad Mushtaq, Adv.
Mr. Shahruk Ali, Adv.

Ms. Shomila Bakshi, AOR
Mr. Gaurav Kumar Bansal, Adv.
Ms. Nandita Bansal, Adv.

For Respondent(s) Mr. Tushar Mehte, Ld. SG
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Ms. Prachi Mishra, A.A.G.
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Mr. Dhanesh Ieshdhan, Adv.

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Mr. Bharat Bagla, Adv.
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Ms. Sampriti Baksi, Adv.

Mr. Avijit Mani Tripathi, AOR
Mr. Vikas Bansal, Adv.
Mr. T.K. Nayak, Adv.
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Mr. Upendra Mishra, Adv.
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Mr. Prang Newmai, Adv.

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Mr. Ashok Basoya, Adv.
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Dr. Joseph Aristotle S., AOR
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Mr. Prashant Kumar Tyagi, Adv.
Mr. P Srinivas Reddy, Adv.

Mr. Shuvodeep Roy, AOR

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Ms. Raveesha Gupta, Adv.
Ms. Mantika Haryani, Adv.
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Ms. Niharika Dewivedi, Adv.
Mr. Ravish Kumar Goyal, Adv.
Mr. Narendra Pal S., Adv.

UPON hearing the counsel the Court made the following
O R D E R

The contempt petitions are disposed of in terms of
signed order.

(NEETA SAPRA)
COURT MASTER (SH)

(Signed order is placed on the file)

(MATHEW ABRAHAM)
COURT MASTER (NSH)