

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

Original Application No. 08/2019 (CZ)

Arham Education Society

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 28.07.2021

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

For Applicant(s):

Ms. Zubia Sajid, Adv.

For Respondent(s):

Mr. Arvind Soni, Adv.
Mr. Shoeb Hasan, Adv.

ORDER

1. This application has been preferred by the Applicant to highlight the issue of air pollution being suffered by students and faculty of the applicant school due to the operation of a poultry farm adjacent to the building of the school. The owners of the farm are operating the poultry in violation to the environmental rights of inhabitants of the area due to which they have to breathe foul smell the entire day. The dead chicks in the poultry are not disposed off in the manner as provided by the pollution control norms. As a result, in addition to the foul smell, the stray animals bring the dead chicks to the surrounding areas causing litter and flies in the applicant's campus which is the cause of air-borne diseases among the students.
2. It is further stated that the applicant has been contesting the issue since 2015 when the poultry farm was about to start its operations. The plight

of the applicant is a recurring cause of action as the students and staff of the school are susceptible to diseases every single day

3. The matter was taken on 09.06.2021, and the Tribunal observed as follows :

“Similar matter had been dealt with by this Tribunal in O.A No. 681/2017(PB) vide order dated 16.09.2020, relevant paras are quoted below :

4. Poultry farms cause extensive pollution to the areas that surround them. As poultry farms have thousands of birds in intensive confinement in each farm, the level of waste is high. This waste is seldom disposed of scientifically, in accordance with law. Pests such as flies, ticks, lice, mites, maggots, scavenging birds and even stray dogs are routinely attracted to the poultry farms. There is an intense odor that emanates from these farms which affects the entire neighborhood and is a source of blatant nuisance.”

“5. The built up fecal matter in the battery cage facilities makes for an environmental hazard and a health hazard for both people and the birds which are constantly exposed to pathogens. In order to keep these birds alive in such intensive and filthy environs, the poultry farm owners regularly administer non-therapeutic antibiotics. The administration of these non-therapeutic antibiotics causes antibiotic resistance in the human beings who consume eggs or meat of such birds.”

“6. Poultry farms impact the ecology and standard of

living of those who surround the farms. Pests which are attracted to the farms make it difficult for the people living in the vicinity to such farms to eat, work or to perform their day-to-day activities. There are several instances where poultry farms situated near various establishments have made it difficult for the residents of those establishments to live normal lives.”

“7. In support of its averments, the applicant has relied upon several Newspaper and other Articles, article published on 07.05.2017 in “The Tribune” titled ‘Children can’t eat, study here, courtesy houseflies- Poultry Farm adjacent to Zirakpur school makes their stay miserable, an article published on 29.04.2011 in “The Hindu” titled “Unhygienic conditions in poultry farms result in fly menace”, an article published in “The Indian Express” on 01.07.2016 titled “Flies in the face of a Karnal village”, an article published in Poultry, Fisheries and Wildlife sciences, volume 1, issue 1 titled “Environmental Impacts of Poultry Production” and an article published in “Indian Journal of Community Medicine” titled “Association of Poultry Farms with Housefly and Morbidity: A comparative Study from Raipur Rani, Haryana”. In short, findings in the said articles are that breeding of houseflies takes place in the poultry farms in the dumped waste. Poor manure management is not only a major cause of pollution of soil and water but it is also a source of highly offensive odor and houseflies and is capable of

affecting the life of people living in the vicinity. Extensive use of antibiotics on regular basis adversely affects health of the persons living around the farms, in violation of the Drugs and Cosmetic Act, 1940. Antibiotic resistance has become a big issue as per several studies, a National Action Plan on Antimicrobial Resistance (NAP-AMR) 2017-2021, a study of Antibiotic Resistance in Poultry Environment, Spread of Resistance from Poultry Farm to Agricultural Field, a study dated 20.07.2017 done by Bloomberg¹ article titled "Indian Poultry Farms Are Breeding Drug Resistant Superbugs" by Natalie Obiko Pearson, highlights that the Indian poultry farms have become a breeding ground for drug resistant superbugs, a study dated 20.07.2017 titled "The Prevalence of Extended – Spectrum Beta-Lactamase-Producing Multidrug-Resistant Escherichia Coli in Poultry Chickens and variation according to farming practices in Punjab, India, a report on "Environmental Status of Some Poultry Farms in India" by CSIR-National Environmental Engineering Research Institute (NEERI), Delhi Zonal Centre, Ministry of Science and Technology and 269th Law Commission Report on Transportation and House-keeping of egg-laying hens (layers) and broiler chickens dated July, 2017. Further, reference has been made to the

¹ <https://www.bloomberg.com/news/articles/2017-07-20/poultry-farms-in-india-resemble-superbug-reservoirs-study-finds#:~:text=Indian%20poultry%20farms%20aren't,mot%20potent%20antibiotics%2C%20researchers%20found.&text=Of%20tested%20birds%20destined%20for,journal%20Environmental%20Health%20Perspectives%20showed>

report by CSIR- National Environment Engineering Research Institute ('NEERI') titled 'Environmental Status of Some Poultry Farms in India', recommending cage free farming for hygienic environment.”

8. The decision of the CPCB exempting the poultry farms with less than one lakh birds from registration with the Pollution Control Boards under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (Air Act, 1981) and Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act, 1974) has been questioned as not being conducive to the clean environment which is part of right to life. The exemption is hit by 'sustainable development' concept to be enforced by this Tribunal under Section 20 read with Section 15 of the National Green Tribunal Act, 2010. It is submitted that poultry farms are a source of odor, attract flies, rodents and other pests that carry disease. The emissions therefrom include gases like ammonia, volatile organic compounds (VOCs), and Hydrogen Sulphide (H₂S) that affect the life of the people living in that vicinity. The poultry farms use large quantity of pesticides and antibiotics in their feeds that contaminate the soil and ground water thereby compromising public health. The reports show that unregulated poultry farming causes pollution of soil and groundwater. The intensive battery cage factory farming facilities pose unacceptable risks to public health and the environment. The studies show that the crowded,

stressful and unsanitary conditions of these facilities give rise to disease, including avian influenza. Use of antibiotics is so rampant that they are being administered as a precautionary measure rather than as a last resort in the case of medical needs. Misuse of antibiotics in poultry farms is leading to multi-drug resistant bacteria, which is spreading into the environment through unsafe disposal of poultry litter and waste in agricultural fields, with the potential of spreading drug resistant infections to humans. Giving of non-therapeutic antibiotics in poultry farms is leading to drug resistance amongst the consumers of such meat and eggs and is causing tremendous financial loss to the nation. Non-therapeutic antibiotics are only needed to be given in poultry farms because the housing conditions of birds in poultry farms are so unhygienic. If better and more hygienic cage free methods of farming were utilized, as recommended by NEERI-CISR, then there would be no need to administer non-therapeutic antibiotics to the animals. The only way to ensure cleanliness is to give the animals space and keep the facilities clean. Unhygienic conditions in the poultry industry is a major health hazards for both humans and animals and has serious negative implications on the animal's health and also on humans who work and live in and near such unhygienic conditions. This certainly calls for effective regulation and not exempting regulatory mechanism provided for such farms with more than one lac birds.”

“10. Response has been filed by the CPCB. In the said reply no justification has been shown as to why poultry farms with less than one lakhs birds have been exempted from the ambit of the Water Act,1974 and the Air Act, 1981. However, it is stated that the use of antibiotics is an issue under the purview of Animal Husbandry and the Drug Control and Food Safety Departments. Reply filed by the MoEF&CC also does not in any manner give any justification for the impugned action. The reply of the Ministry of Health and Family Welfare also does not deal with the issue except to state that use of antibiotics is governed by the Drugs and Cosmetics Act and Antibiotic Policy of the Ministry. Food Safety and Standards Authority of India (‘FSSAI’) has also filed a counter affidavit which does not deal with the central issue, except to say that standards have been laid down for various types of foods. The association of poultry farmers have highlighted the importance of eggs and poultry and need for antibiotics. It is stated that the poultry farms are established far away from the residential areas and, thus, residents are not affected by the activities of the poultry farms. Such activities help the rural areas by providing jobs and source of livelihood. Cheap source of protein is provided by eggs and chickens. A copy of Notification dated 29.04.2019 issued by the Ministry of Agriculture and Farmers Welfare has been placed on record which deals with responsibilities of the poultry farm owners to comply with the rules as per given environmental conditions for the welfare of layer hens which require registration with the Department of Animal Husbandry,

Dairying and Farming. Ministry of Animal Husbandry has also filed an affidavit to the effect that PILs are pending before the Delhi High Court on the subject of compliance of the provisions of the prevention of Cruelty Animals Act, 1960 and Rules framed thereunder.”

“12. Main contention on behalf of the applicant is that unregulated disposal of waste and operation of poultry farms is detrimental to the environment. Waste generated in the natural course on account of fecal matter etc. harms the environment unless safeguards are adopted and use of pests antibiotics has great potential for diseases among the animals and the humans as mentioned in the study undertaken by the NEERI, referred to above and observations made by the Law Commission in its 269th Report. Thus, leaving the field of poultry farm below one lakhs birds unregulated is failure to protect environment, as required under the Water Act, 1974 and the Air Act, 1981. Mere requirement for poultry farms with more than 5000 birds to register with the local bodies could be no substitute for the said statutory regulation nor CPCB has any statutory Authority to delegate its powers to the local bodies. The categorization of poultry industry as green by the MoEF&CC is also arbitrary and not based on any logic. Reference has been made to the report of the NEERI as follows:-

“Poultry production is associated with a variety of environmental pollutants, including oxygen-demanding substance, ammonia, solids, besides the poultry attracts flies, rodents, dogs and other pest that create local nuisances and carry diseases. Poor management of manure, litter and waste water etc. adversely affects the living in the vicinity. Odour is generated for fresh and decomposed waste products such as manures,

carcasses, feathers and bedding litter. Furthermore, intensive poultry production may be responsible for green houses gasses, acidification and eutrophication.”

“13. It was submitted non-therapeutic use of antibiotics and anti- microbial resistance to keep birds alive, overcrowded and unsanitary conditions build up drug-resistant bacteria in the birds which transmits to the consumers to the poultry products.”

4. Replies were filed by the parties and after considering the replies and arguments raised by the parties. The Tribunal observed and directed as follows :

“4. The Applicant school has been making complaints against the poultry farm when the Respondent farm owners had initially established the poultry. The Applicant school has since then approached every authority which is responsible for maintaining cleanliness in the State. However, no proper resolution of the problem is done by the Respondent.

5. In reply to the representations made, the Pollution Control Board has specifically noted in its inspection report dated 19.02.2018 that the poultry farm should be shifted to some other place to stop pollution. But no action has been initiated in pursuance to the report.

6. The authorities have time and again brushed their responsibility to take action against the polluting industry.

7. The Stockholm Declaration of United Nations on Human Environment 1972, read its Principle No. 3, *inter-alia*, thus : “Man has the fundamental right to freedom, equality, and adequate conditions of life. In an environment of equality that permits a life of dignity and well being and bears a solemn responsibility to protect and improve the environment for present and future generations”. Thus we need to protect our environment and strive to make it a better place to live in.

8. Article 21 of the Constitution of India as interpreted by the Hon’ble Apex Court through a plethora of judgments

guarantees a Right to Healthy Environment which entails pollution free and clean air, clean potable water etc.

9. Under the Part IV of the Constitution in Article 48-A, the State is mandated with a duty to endeavour not only to protect but also *to improve the environment* and to safeguard the forests and wild life of the country including the aquatic flora and fauna as well. It is high time on the part of the State Government to formulate a comprehensive policy about compensatory plantation in case trees are cut and a tree audit be conducted before developmental activities like widening of the roads or construction of public structures are undertaken.

10. It is also a Fundamental duty of every citizen of the country under Article 51 A(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

11. In light of the above facts, we deem it just and proper to constitute a committee consisting the following and direct them to submit a factual action taken report within fortnight.

- i. Principal Secretary, Department of Environment, Secretariat Jaipur or representative
- ii. The Collector, District Ajmer, Rajasthan
- iii. State Pollution Control Board, Rajasthan.”

5. In compliance thereof, the Joint Committee consisting representative of Principal Secretary (Environment), representative of District Collector Ajmer and Rajasthan State Pollution Control Board has submitted a factual and action taken report, which is as follows :

“In compliance of the Hon’ble NGT order dated 09.06.2021 in the O.A. No' 08/2019 in the matter of Arharm Education Society and Anr. V/s State of Rajasthan and others, the Poultry Farm of Shri Najmuddin Ahmed S/o Shri Hazi Fakhruddin Ahmed situated at Village – Gegal, NH-08, Tehsil and District - Ajmer was inspected by the team of undersigned Government Officials on dated 6th

July, 2021 to submit a factual action taken report. The observations are as below: -

- Presently, no poultry birds were found in the farm. It was informed that the capacity of the farm is of 12000 birds, It was also informed that the birds are expected to arrive after breeding period i.e., after 15-20 days.
- Overall cleanliness and hygiene of the poultry farm was found satisfactory. Since no poultry were found thus no bad odour (air pollution), litter, fly menace and excreta were observed at the site. it was informed that the excreta are in high demand and are generally transported to farm lands for its utilization as high-quality organic manure. The efforts for control of pests and fly- menace is visible.
- The poultry farm was found surrounded by agricultural farm land with boundary wall of approximately 1.5 meter above ground level from all side. The poultry shed has been made in East - West direction ensuring proper ventilation and free flow of air.
- Arrangement for disposal of carcasses was found in place. A closed collection tank/pit to bury the carcasses using sodium chloride (salt) and facility for spray of medicine and insecticide are found available. The burial pit was compacted with cement and stone and covered with lid of hard plastic.
- A feed mill inside the poultry shed was observed and feed is directly fed through closed delivery pipe. Presently, there is no waste water discharge from the place.
- NOC from Gram Panchayat has been obtained as per CPCB guidelines for commercial poultry farm handling more than 5000 birds. The siting criteria of the poultry farm was found as per CPCB guidelines for poultry farms dated 20.10.2015.

Recommendations: -

- Since no birds are available now, the problem of bad odour (air pollution), fly-menace and dead chicks could not be ascertained. However, the problem cannot be denied after arrival of birds.
- It was advised that proper sanitation and pest control shall be practiced for control of fly-menace. Regular cleaning, spray of pesticides and proper disposal of carcasses are the only solution to control the fly-menace and bad odour problem.
- It is recommended that the Department of Animal Husbandry may ensure hygiene of conditions of poultry farm through regular inspection and guidance after arrival of the birds in the coming day.

- It was made clear to the poultry farm owner and the officials of Animal Husbandry Department to strictly comply with the CPCB guidelines for poultry farm dated 20.10.2015.

Action Taken Report :-

- In absence of any bird in the poultry farm during the visit, it is not possible to give any factual action taken report as per order dated 09.06.2021 in the O.A. No. 08/2019.
- Only instructions to comply with CPCB guidelines for poultry farms dated 20.10.2015 has been given to poultry farm owner and Animal Husbandry Department.
- Any factual action taken report can be given only after visiting the poultry farm when it is in full capacity to check compliance of CPCB guidelines for poultry farms.

6. A perusal of the Joint Committee reveals that No Objection Certificate from the *Gram Panchayat* has been obtained as per the guidelines for Commercial Poultry Farms and siting criteria has also been complied with. In light of the above report, we direct as follows :

1. Respondents are directed to comply the instructions and guidelines issued by the Central Pollution Control Board with regard to Poultry Farm and also to comply the directions issued by the Animal Husbandry Department.
2. In case Respondent is found violating the environmental norms as issued by Central Pollution Control Board, necessary legal action must be initiated with calculation and realisation of environmental compensation.
3. Department of Animal Husbandry should monitor the compliance of the guidelines issued by the Central Pollution Control Board, quarterly.

The Original Application No. 08/2019 is **finally disposed of** accordingly.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

July, 28th 2021
O.A. 08/2019(CZ)
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