

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

D.B. Civil Writ Petition No. 7600/2024

1. Rajendra Choudhary son of Govind Ram Ji Choudhary, aged about 44 years, resident of 60, Marudhr Kesari Nagar, near Gram Nyayalya, Khokharia, Jodhpur.
2. Kalyan Singh Lalaria son of Shri Durga Ram Ji Jat, aged about 45 years, permanent address 154, Lalanio Ka Bas, Roon, District Nagaur at pesent residing at 48, Roop Nagar, Paota C Road, Jodhpur and Ramdev Nagar, Gujrawas, Khokharia, near Gram Nyaylaya, Jodhpur.
3. Virendra Jakhar son of Shri Ram Kishore Choudhary, aged about 43 years, resident of Dhapi Marble Road, near Bhomia Ji Thaan, Nandri, Jodhpur.

-----Petitioners

Versus

1. State of Rajasthan, through District Collector, Jodhpur.
2. Jodhpur Development Authority, Jodhpur through its Secretary.
3. Superintending Engineer, RUIDP, 4th Phase, Tranch II, PIU (Project Implementation Unit), Jodhpur.

-----Respondents

For Petitioner(s)	:	Mr. CS Kotwani, Advocate
For Respondent(s)	:	Mr. Rajesh Panwar, AAG Mr. Ayush Gehlot, AAAG

HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
HON'BLE MR. JUSTICE SANDEEP SHAH

Order

12/05/2025

Per Hon'ble Mr. Sandeep Shah, J:

The petitioners, practicing advocates at Gram Nyayalaya, Jodhpur have filed the present writ petition in the nature of Public Interest Litigation, praying as under:-

"i. The respondents may be directed to cancel the NOC dated 06.01.2011 (Annex.1);

ii. Further prayed that respondent No.3 may kindly be directed to shift the STP plant from the present place, where the NOC has been granted.

iii. That any other relief, which this Hon'ble Court deems fit may also be granted."

2. The case of the petitioners is that a Gram Nyayalaya at Jodhpur was proposed to be constructed at khasra no.119 of Village Khokharia, Tehsil Jodhpur and for that purpose, a piece of land ad-measuring 2 bighas was allocated by way of order dated 6th January 2011. Subsequently, the construction work started and was completed. The Gram Nyayalaya has started functioning since 2017 and as per the avernments made by the petitioners, around 50 lawyers attend the Court everyday, and many litigants also visit the Gram Nyayalaya.

3. Later on, for the purpose of establishing Sewage Treatment Plant (STP), a notice inviting objections was issued by the Jodhpur Development Authority on 25th May 2022, specifying the khasra No.119 of Village Khokharia as the site for construction of STP and also specifying that the capacity of the STP would be 5 MLD. It was further specified that under the Rajasthan Urban Infrastructure Development Project (RUIDP) Phase-IV, the land was sought to be allotted for the purpose of construction of STP. Post issuance of objection notice, the allotment order dated 2nd June 2023 was issued by the Secretary, Jodhpur Development Authority, whereby 4,500 square metres of land was set apart and allotted for the purpose of constructing the STP.

4. As per the averment made by the petitioners, they came to know later on, with regard to the allotment so made, that the allotment of the land was just 30 metres away from the Gram Nyayalaya. Therefore, they raised objections, stating therein that the distance between Gram Nyayalaya and the STP should be at least 1 km and due to the placement of the STP, there will be various health hazards to the lawyers and the staff working in the Court, as there will be forceful inhalation of bio-aerosols, which themselves contain allergy causing micro-organisms and that would be a home to various diseases.

5. The petitioners have also placed on record a project report dated April 2022 which specifies that the STP in question has been proposed with SBR technology and the water from the STP is proposed to be reused after treatment for agriculture, horticulture and development of urban forestry etc. The petitioners have relied upon a research article "Impact on the Quality of Life When Living Close to a Municipal Waste Water Treatment Plant", which is a research work undertaken by some students of the University of Patras, Greece, wherein the general impact of waste water treatment plant at Greece was discussed based upon certain questions submitted to residents. The petitioners have thus prayed for cancelling the allotment order and to shift the STP at some other place.

6. The State Government filed a reply to the writ petition raising preliminary objections with regard to the maintainability of the petition labeled as Public Interest Litigation. This is the stand of the State Government that the decision taken is a policy decision and it is within the domain of the executive to decide as

to which place is fit for establishment of a treatment plant. It has further been asserted that in spite of inviting objection, the petitioners did not submit any objection whatsoever and therefore are estopped from raising the issue of establishment of the STP. The respondents further asserted that the total area allotted for the STP is 4,500 square metres and 33% of the land so allotted would be developed as a green belt, wherein plants would be grown in different rows & layers. Thus, the operational unit of the STP would be more than 90 metres away from the Gram Nyayalaya. It was thus asserted that the green belt corridor would ensure that there is no harmful impact upon the property of the Court or any person attending the Court.

7. The respondents further placed on record the topographical survey plan, Google image, etc., to justify their stand. It has further been asserted by the respondents that the STP being established at the site in question in village Khokhariya is a state of art technology which uses Sequencing Batch Reactor (SBR) technology, which offers various advantages, including efficient biological treatment i.e. the treatment which removes organic matter, nitrifies, denitrifies and removes biological phosphorus from the waste water. The technology further ensures sludge stabilization by reducing odours, decay and also maintaining the level of the pathogenic organisms.

8. It has further been asserted that, due to its effectiveness under various working conditions, the SBR technology is widely used across several states in India and that technology meets environmental requirements and also ensure compliance with the regulatory standards provided under the various legislations

framed for that purpose. The respondents have relied upon an article titled as "A Comparative Study of Different Sewage Treatment Technologies" by Harpreet Kaur and Dr. Sanjay Sharma from the Department of Civil Engineering, National Institute of Technical Teachers Training and Research, Chandigarh, India to fortify the benefits of new technology of JBR treatment plant and less impact upon environment, due to the same.

9. It has further been asserted by the respondents that, as far as bio-aerosol emissions are concerned, they can be controlled under this new technology by adjusting aeration tank operations, and this technology ensures that the emissions are minimal as it uses fine bubble aeration system which lowers the number of airborne micro-organisms. The respondents have asserted in the reply that the STP in question will be equipped with fine bubble diffusers as a part of Sequencing Batch Reactor (SBR) technology, which by itself will effectively minimise bio-aerosol emissions and improve treatment efficiency. To fortify their stand, the respondents have placed on record the drawing for the SBR and P & ID as also the correspondence dated 21st October 2023, while emphasizing that SBR technology would be used for the Sewage Treatment Plant (STP) in question.

10. It has further been asserted by the respondents that the site in question was selected long back in the year 2013, vide decision dated 24th September 2013 taken in the meeting of the JDA and after considering various feasible locations, the site in question was found most suitable after considering all the technical and feasibility reports. It has further been stated that considering the downstream of the sewage, the City Level Committee, after

considering the DPR, had finalised the site and even the RCC pipelines from different wards of Municipal Corporation, Aanganwa village, and Khokhariya, which lead to the sewage treatment plants as a part of the sewage network have been laid down. A huge investment of around 18 crore by Municipal Corporation North, 5.3 crore by Municipal Corporation South, and 47 crore by RUIDP has already been undertaken. The respondents have submitted on record the maps and the minutes of the meeting of the City Level Committee (CLC) and also the expenditure sheets to fortify their stand.

11. It has further been stated that the respondents will ensure that the STP is operative in compact and closed system and the state of art technology will make the odour nuisance to minimal levels. It has again been emphasised that green belt shall be developed with multiple rows of trees. The respondents further placed on record the consent to operate issued by the Rajasthan Pollution control Board for establishment of the STP at the site in question, dated 20th December 2024, and have emphasised that the Pollution Control Board after considering the applicable laws, i.e. *Water (Prevention and Control of Pollution) Act, 1974* and *Air (Prevention and Control of pollution) Act, 1981*, and after considering all the relevant factors has granted the consent to operate.

12. It is the case of the respondents that the consent to operate has not at all been challenged by the petitioner, nor is there any basis to assume that there would be violation of the provisions of the *Water (Prevention and Control of Pollution) Act, 1974* and *Air (Prevention and Control of pollution) Act, 1981*, and therefore, the

petition is premature and misconstrued. The respondents have thus prayed for rejection of the writ petition with costs.

13. The petitioners have filed a rejoinder and affidavits have been filed by both the sides to justify their stands. The petitioners have majorly tried to emphasise that the Gram Nyayalaya was established earlier and thereafter, the STP has been proposed. The respondents, on the other hand, have submitted that the report was prepared earlier and the area was identified for establishment of STP and in the meanwhile, the Gram Nyayalaya came into existence. It is further stated that, initially, the work of preparation of Detailed Project Report (DPR) regarding comprehensive sewage master plan for areas of Jodhpur was awarded in favour of M/s. NK Buildcon Pvt. Ltd. in the year 2010. After getting the survey report, techno economic feasibility studies, etc., it prepared a detailed project report for establishment of STPs, which was submitted before the respondents on 31st July 2013. Subsequently, the matter for approval of reservation of STP land at various places, including Khokhariya, was placed before the board meeting held on 24th September 2013, and a unanimous approval was granted for reservation of land for the purpose of STP vide its proposal no.8. On the other hand, the land for Gram Nayayalaya was allotted on 6th January 2013, the work order was issued on 3rd October 2014 and the construction was completed on 31st May 2015. The petitioners, on the other hand, have placed on record the State Sewage and Waste Water Policy, 2016, which are rather guidelines aimed at enabling local bodies to significantly improve sanitation and hygiene, thereby bringing about a change in the urban

environment. The policy also encourages the private sector to participate in execution of sewage projects and provides various incentives to them.

14. While considering the fact that the STP was alleged to be located just at a distance of 30 metres from the Gram Nyayalaya, this Court vide order dated 27th January 2025 directed the respondents to file an affidavit and bring the original record related to identification of land to find out as to whether the STP was identified earlier or whether the Court building had come up earlier. Subsequently, post filing of affidavit, this Court found that the land for establishment of STP was already identified. Vide its order dated 29th January 2025, the Court observed as under:-

"Having perused the affidavit, we find that even though the land for STP was already identified, without taking proper care to identify the land for court building, the land was identified and court building has come up, which is in front of proposed STP.

At this stage, learned counsel for the respondent submits that he may be granted some time to come out with alternative proposal.

List after two weeks.

Interim order to continue."

15. The respondents thereafter came with the proposal for alternative site, which was 100 metres away from the Court building. The Matter was thereafter fixed on 18th March 2025. Subsequently, on 24th March 2025, the petitioners sought time to respond upon the Court's observation as to why, the relocated place suggested by the State counsel be not accepted and the PIL be closed. The order reads as under:-

"Mr. Rajendra Choudhary, petitioner present-in-person prays for short adjournment to show cause as to why, the relocated place as suggested by the learned counsel for the respondent-State should not be accepted and PIL should not be closed.

List the matter on 27.03.2025"

16. Subsequently, on 15th April 2025, the learned counsel for the respondent-State assured that he shall further hold consultation with the concerned authorities and file an affidavit detailing ownership of the adjoining land to the extent of about further 100 metres away from the proposed site. Thereafter, the State Government filed an affidavit on 23rd April 2025, stating therein that now the proposed STP would be far away from the Court building (204 metres away) and that the present location is about 150 meters away from the earlier proposed site. The respondents have placed on record the Google map, as also the map of the proposed site, along with their affidavit. The relevant portions of the affidavit read as under:-

"3. That in compliance of the order dated 27.01.2025, it is humbly submitted here that the competent authorities of the Jodhpur Development Authority, Jodhpur held consultation with the authorities of RUIDP, whereby, after examining all the parameters and feasibility of the project, the STP has now been proposed at a distance of 204 mt. from the Court building. Also, the present location is about 150 mt. far from the earlier proposed site. In order to suffice the said contention, a copy of the plan along with google map is submitted herewith and marked as Annexure-A/1."

17. Having considered the arguments of both the sides and perused the record of the case, we are of the firm opinion that, as far as, establishment of a sewage treatment plant is concerned, it

is itself in public interest. Initially, though the issue raised was entertained for the reason that the site of the proposed STP was too close (i.e. 30 metres) from the Gram Nyayalaya. However, in view of the subsequent site proposed by the State Government being 204 metres away from the site in question, nothing further remains to be adjudicated in the present case. It hardly needs any reiteration that the establishment of the STP is in public interest and for the public good and some inconvenience at some stage may be caused to the nearby people, but the larger public good cannot be ignored for that reason. The respondents have placed on record the notice inviting objections and the order sanctioning the STP, as also the details with regard to the type of STP being installed, where they would be using sequencing batch reactor technology. They have also placed on record the details of the technology in question, which will ensure minimal environmental impact. Not only this, it is an admitted case that after considering all the adverse environmental impacts, as well as the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of pollution) Act, 1981 and other ancillary facts, the Pollution Control Board has granted the consent to establish the STP in question. The petitioners have not even challenged the consent to establish nor are in a position to deny the fact that the STP technology would be far beneficial and environmental effective than the technology used in other STPs, nor have the petitioners been able to point out any violation of environmental laws or any other laws and guidelines.

18. It is not for the Court, while exercising extraordinary jurisdiction under Article 226 of the Constitution of India, to decide

which site would be more suitable for setting up the sewage treatment plant. This necessarily has to be done by the Government and its Authorities. The location would also depend upon the availability of land. This Court, in Public Interest Litigation, cannot take over the executive function of the State, nor can the Court sit in appeal over each and every administrative decision.

19. Furthermore, the respondents have assured the Court that the green belt, which will be developed in multiple rows, will ensure that there is no environmental hazard. Now, the distance of the STP has also been increased up to 204 metres from the site of the Gram Nyayalaya premises. Thus, there remains no ground to interfere with the present project of setting up of an STP. However, the respondent-authorities shall ensure that there is no violation of any of the applicable environmental and other laws by reason of setting up of the STP. They shall also ensure that all safety requirements for the operations of the said treatment plant including fumigation, disinfection, etc. are taken care of to ensure that there is no spread of infections by reason of establishment of the STP.

20. D.B. Civil Writ Petition No. 7600 of 2024 is thus dismissed. No order as to costs.

(SANDEEP SHAH),J

(SHREE CHANDRASHEKHAR),J