

Item No. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(BY HYBRID MODE)

I.A. No. 537/2023
IN
Original Application No. 06/2012

Nizamuddin West Association

Applicant

Versus

Union of India & Ors.

Respondent(s)

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Dr. Sanjay Sachdeva:

Applicant in I.A. No. 537/2023

Date of hearing: 19.05.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Dr. Sanjay Sachdeva, Applicant in Person in I.A 537/2023

Respondent: Mr. Kunal Anand, Advocate for Delhi Jal Board
Ms. Puja Kalra, Advocate for MCD
Mr. Narender Pal Singh, Advocate for DPCC

ORDER

I.A. No. 537/2023

1. This application has been filed with the grievance against violation of environmental norms in maintaining of the storm water drain touching back of houses in B-Block, Greater Kailash-I, New Delhi.

2. Case set out in the application is that the applicant is BLK-B (North) GK-I, RWA. Drain in question touches houses from B-159 to B-187. Major part of the drain (14209.776 sqm) has been covered but when MCD decided to cover the remaining, some NGO raised objection before this Tribunal on sewage polluted water running into the river Yamuna. Vide order dated 13.1.2015, this Tribunal prohibited covering of drains except

those already covered upto 85% which could be completed with permission of NGT. Delhi Jal Board (DJB) is not able to stop unauthorized discharge of sewage into the drain for over 20 years. Large portion (approx. 90%) of the drain 14209.776 sqm. was covered by MCD. The applicant filed W.P. (C) No. 4246/2019 before the Delhi High Court which was disposed of vide order dated 16.07.2019 with liberty to move this Tribunal since this Tribunal has passed judgment dated 13.01.2015 in O.A. No. 06/2012, relating to control of pollution of river Yamuna. Concluding part of the order of the Tribunal is reproduced below:-

“

94. We are not oblivious of the herculean task which will be required in carrying out the ‘Maily Se Nirmal Yamuna’ Revitalization Project, 2017, but we are of the firm view that any further deferment in taking stern and serious steps for preventing and controlling pollution of River Yamuna, is bound to expose Delhi and its residents to grave environmental disasters. Implementation of provocative action plan postulated by the Expert Committees and as described in this judgment is inevitable to protect public health, public interest and the environment. This is the only solution to bring down the highest contribution of pollutants (76% of the total Yamuna’s Pollution level) to a negligible and preferably to zero percent, in the interest of ecology, environment and to provide clean water to the residents of Delhi.

To ensure complete and effective implementation of the recommendations made by the Expert Committees in their reports dated 19th April, 2014 and 13th October, 2014 respectively, as well as, to identify the authorities responsible for compliance for timely preparation and execution of action plans, prepared in terms of this judgment, we hereby issue the following directions in the larger environmental and public interest:

- i. The Tribunal hereby accepts both the reports filed by the Expert Committees: first report dated 19th April, 2014, read with the gist of recommendations submitted by the Principal Committee on 2nd August, 2014, on the aspects of preservation, restoration and beautification of the banks of River Yamuna and the second report dated 13th October, 2014, read with its annexure, in relation to drainage system in Delhi, together with the Action Plan prepared by the DJB for revitalization of River Yamuna. Both these reports shall form integral part of this judgment. All the concerned authorities of NCT of Delhi, State of UP and State of Haryana shall implement the same without demur and default, expeditiously. The entire project contemplated under these reports and this judgment of the Tribunal shall be completed by 31st March, 2017.*
- ii. **This project shall be called ‘Maily Se Nirmal Yamuna’ Revitalization Project, 2017.***
- iii. Implementation of both these reports and the components of the project shall be simultaneously executed by the*

concerned agencies, who shall prepare their respective Action Plans in terms of the reports as well as this judgment and submit it to the Principal Committee constituted hereinafter, in not later than four weeks from the date of pronouncement of this judgment.

iv. (a) Presently, under the jurisdiction of the DJB, there are 23 STPs in existence or planned to be made operational by 2015. Out of them, the oxidation pond at Timarpur is proposed to be closed, as it was commissioned in the year 1947. The STPs at Okhla and Kondli are lying closed due to inadequate sewerage and majority of the STPs are not operating to their optimum capacity. Thus, we direct that the DJB and other concerned Corporations under whose jurisdiction the existing STPs fall, shall, within two months from today, ensure that all these STPs, including the one proposed to be commissioned at Delhi Cantt., should be made fully operational, should operate to their optimum capacity and operate effectively 24x7, without compromising the quality of treated water released from such STPs.

(b) It is further directed that the Action Plan in regard to installation of STPs on 32 major and minor drains shall be prepared, in accordance with the recommendations in the Expert Committee Report afore-referred and action taken in furtherance thereto, within three months from the date of passing of this order.

(c) All the newly proposed 32 STPs should be constructed and installed with the requisite capacity varying from 0.6 mgd to 10 mgd, at the sites specified in the report of the Expert Committee within the time frame indicated in this judgment. Once, the total of 55 STPs would operate effectively and to their optimum capacity, the water released from them shall be recycled and utilised for agriculture, horticulture and industrial purposes and least of this recycled water would be discharged into the River Yamuna.

(d) Action Plan to be prepared to utilize the treated water from the existing 23 STPs as well as from the 32 proposed STPs. It will be ensured that the release of water from these existing STPs should be strictly in accordance with the prescribed parameters and free of any odour and it should meet the faecal coliforms standards.

(e) Wherever necessary, the technology of the existing STP's should be upgraded to ensure proper performance and adherence to the prescribed standards of effluent discharge.

(f) The concerned authorities shall construct and install 26 pump stations at the locations and of the capacity as indicated in the Action Plan placed before the Tribunal. The process thereof should begin within three months from the date of passing of this judgment.

(g) Further, all the STPs shall be provided with a power backup to ensure that they operate effectively 24x7. It shall be ensured that the functional data of all STPs is online and is connected to the Delhi Pollution Control Committee as well as the Central Pollution Control Board, particularly in respect of COD, TDS, TSS and pH and it shall be ensured that the STP's are operational even during power failures.

(h) All the industrial clusters in Delhi shall be provided with Common Effluent Treatment Plants (CETPs). These CETPs shall be effluent-specific and capacity-specific, with reference to the particular industrial cluster. The installation cost of the CETP shall be borne preferably by the authority that owns and maintains that industrial cluster. In the event of shortage of finances the authority concerned can require the persons running the industrial activity/unit in that cluster to share the cost on 'Polluter Pays Principle' in the ratio 2/3 and 1/3 respectively.

- xviii. **We direct all concerned to make every possible effort to ensure that the storm water drains do not carry sewage. Sewage may be carried through those drains upon which the STP's have already been installed, till the completion of the project. After the completion of the project, steps shall be taken so that only minimal quantity of treated water from the STPs reaches Yamuna.**
- xix. *The CPCB, DPCC in coordination with the DJB, shall collect samples from River Yamuna, its floodplain and from the respective STP's at different places and sites for detailed analysis. This shall form the baseline data for implementation of this project. It will also be helpful in determining the improvement in the water quality.*
- xx. *The authorities concerned shall take all steps to rejuvenate the water bodies associated with River Yamuna.*
- xxi. *All concerned authorities shall deal with utmost priority and expeditiousness, in case any application in furtherance to any construction or authorization is moved by any of the authorities, Corporations or DJB, directly or through the Principal Committee, in execution of the Project. We grant liberty to the State Authorities, Corporation and DJB to approach the Tribunal in the event there is undue delay in dealing with such application in accordance with law.*
- xxii. **There shall be no construction and/or coverage of any of the drains in Delhi by any Authority or Municipal Corporation. All the drains shall be kept obstruction free by the concerned Corporation. Where substantial work (more than 85%) has been completed, such work is permitted to be completed by the Corporation after obtaining specific orders from the Tribunal in that regard. Rest of the work, where construction has just begun, the construction, including iron material, shall be removed. While completing such remnant work, Corporation shall ensure that the cross section of the drains to carry the requisite storm water for the flood of once in 25 years and other effluents, are not compromised. Such construction and/or removal shall be carried on in terms of paragraph no. 61 of this judgment.**
- xxiii. *We constitute the 'Principal Committee' which shall be responsible and under whose supervision the directions contained in this judgment and the project reports shall be completely, effectively and expeditiously complied with. All*

concerned Authorities, Corporations, DJB and any other department, responsible for carrying out directives of this judgment, shall report the matters and submit the respective reports and data to the Principal Committee, for onward transmission to this Tribunal. The Committee shall file quarterly report of compliance before the Tribunal. The Committee shall consist of Special Secretary, MoEF, Joint Secretary of Ministry of Water Resources, Chief Secretary, Delhi Administration, Vice Chairman, DDA, Commissioner of all the Corporations, Commissioner, DJB, Secretary, Department of Irrigation, NCT of Delhi, concerned Secretaries of the States of Haryana, Uttar Pradesh, Himachal Pradesh and Uttarakhand.

The four Members, namely, Professor C.R. Babu, Professor A.K. Gosain, Professor Brij Gopal and Professor A.A. Kazmi shall be the Members of the Principal Committee and shall be associated with commencement and completion of all the aspects of this project. The Delhi Jal Board along with Corporation under whose jurisdiction the required number of STP is to be constructed and established as well as the drains which are to be completed and made obstruction free shall be responsible for execution of the work as contemplated in the action plan, reports of the Committee and the judgment of the Tribunal. They shall work in tandem and under the supervision of the Principal Committee.

- xxiv. All the Authorities, Corporation, DJB, CPCB, DPCC and any other department or authority, directly or indirectly connected with the compliance of these directions and the Project Reports, shall report to the Principal Committee in relation to all the actions taken in furtherance thereto and their progress from time to time. In the event of default, the Head of Department of such Authority/Corporation/Board would be held personally responsible.
- xxv. These specific directions are in addition to any other direction that we have recorded in the entire judgment.
- xxvi. By this judgment, we not only mandate but even request all the concerned Authorities, State Governments and the Principal Committee to ensure timely compliance of these directions, as this is the only plausible and practical way by which River Yamuna would become pollution free and its flood plain conducive for the biodiversity that it deserves. We have no doubt that with the concerted efforts of all concerned, 'Maily Se Nirmal Yamuna' Revitalization Project, 2017, would be a success. It would not only meet the ecological and environmental standards prescribed but would also provide clean air and water to the residents of Delhi, who are entitled to it and have a legal and constitutional right to receive the same. It will also help in providing sufficient water for agricultural and industrial purposes, thus, saving considerable quantity of potable water, so as to enable the concerned authorities to provide the same to all the colonies of Delhi. We also express a pious hope that residents of Delhi would render all help and assistance to all concerned and even abide by their fundamental duty for rejuvenating River Yamuna.

xxvii. We would be failing in our duty if we do not record our sincere appreciation for the contribution made, efforts put in and technical guidance provided, by the Members of the Principal Committee constituted by the Tribunal particularly the Expert Members, namely, Professor C.R. Babu, Professor A.K. Gosain, Professor Brij Gopal and Professor A.A. Kazmi.

xxviii. We grant liberty to all the parties, the applicants or even the public, to approach the Tribunal for any clarification or modification or for removal of any of the difficulties felt by them in implementation of the directions contained in this judgment and/or of the project reports.”

3. We have considered the matter and heard the applicants in person and counsel appearing for DJB, DDA, DPCC and MCD. We are informed that Kushak drain is an approximately 6.5 km-long stormwater drain near South Extension which carries stormwater and sewage from several south Delhi localities such as Mehrauli-Badarpur Road, Chirag Dilli, INA, Defence Colony and Pushp Vihar. It meets the Barapullah drain near Nizamuddin West and then flows into the Yamuna river. It is necessary that the same is kept free from sewage. Channelising/treating and using sewage scientifically as per norms is responsibility of statutory authorities like Municipal Corporation and DJB to effectuate right of citizens to clean environment.

4. Thus, we are of the view that the grievance raised needs to be remedied. Solution may not be to cover the entire drain as suggested on the ground that major part of the drain has already been covered. Liberty to move the Tribunal where major part of drain has been covered such as 85% cannot result in such prayer being granted unless concerns for environment are addressed. Covering of a drain can be allowed only if a proper separate pipeline to carry sewage is provided and only rain water is carried in the drain which is not the case here. Otherwise, covering drain will result in gases getting trapped which can be hazardous. The applicants themselves have mentioned that covering of the drain has resulted in accumulation of poisonous gases released from uncovered part of the drain behind certain houses. Thus, it may not be proper to permit covering of the drain in these circumstances but either to uncover the

entire part or evolve suitable mechanism to ensure that no gases are released from the drain to the detriment of the inhabitants of the houses in the area. Solution can be preventing flow of sewage into the drain and periodic cleaning of drain including de-silting, ensuring that there is no stagnation of water.

5. We, accordingly, issue a direction that a joint Committee of CPCB, DPCC, DJB and MCD may look into the matter and resolve the issue with the mandate of ensuring that no toxic gases are released from the drain in question due to discharge of sewage. Sewage flow may be intercepted at appropriate location and channelized to the nearest STPs. Compliance report in matter be filed within four months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. DJB will be the nodal agency for coordination and compliance. The committee may meet within two weeks and take stalk of the situation. The applicants will be free to make their representation before the Committee. Thereafter, the Committee may meet at such frequencies as may be necessary online or offline and review the progress till remedial action is completed.

List for further consideration on 26.09.2023.

A copy of this order be forwarded to CPCB, DPCC, DJB and MCD by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 19, 2023
I.A. No. 537/2023 in OA No. 06/2012
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