

Item No. 05

(Court No.01)

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

(By Video Conferencing)

Original Application No. 241/2021

(With report dated 14.01.2022)

Raja Muzaffar Bhat

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 08.03.2022

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

Applicant: Mr. Rahul Choudhary, Advocate

Respondent: Mr. Balendu Shekhar, Advocate for MoEF & CC

ORDER

1. Grievance in this application is against failure to prevent illegal mining, discharge of sewage and dumping of solid waste into river Doodh Ganga and Mamath Kull in violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974, judgments of the Hon'ble Supreme Court dated 22.02.2017 inter alia in Paryavaran Suraksha Samiti Vs. Union of India¹ and orders of this Tribunal on the subject.

2. Case set out in the application is that Doodh Ganga is a tributary of the Jhelum River. It originates from Pir Panjaal Mountain and thereafter passing through number of villages and towns up-stream to down-stream like Sogam, Chadoora, Wathora, Kralpora, Bagh-e-Mehtab,

¹ (2017) 5 SCC 326

Channapora, Natipora, Barzulla, Bulbul Bagh, it merges into Hoker Sar Lake, at Lawaypora, Narbal and eventually meets the Jhelum River. Mamath Kull also originates from Pir Panjal Mountains and after passing through number of villages in Budgam District, enters the Mamath Village which is 1 km away from the stream and thereafter first enters the Hokersar Lake and eventually meets the Jhelum River. Rivers Doodh Ganga and Mamath Kull have been subjected to pollution from pesticides from Apple Orchards, discharge of untreated sewage and dumping of municipal solid wastes from the area falling under Srinagar Municipal Corporation and Municipal Committee of Budgam.

3. Precise submissions been set out in the application are as follows:-

- a) *Large quantity of pesticides are flown into the Doodh Ganga River from the Apple Orchards.*
- b) *The Srinagar Municipal Corporation is continuously discharging untreated sewage in river Doodh Ganga from 13 dewatering pumping stations installed at various locations on the banks of river Doodh Ganga.*
- c) *Till date no STPs has been established by the Srinagar Municipal Corporation or any other Government Body in the entire stretch around river Doodh Ganga as a result of which all the untreated sewage from residential, commercial establishments, shopping malls, butcher houses, poultry shops, laboratories, diagnostic centres and domestic sewage are directly discharged into the river without any scientific treatment.*
- d) *A large number of Municipal Solid Wastes are unscientifically dumped on the banks of river Doodh Ganga and during the present rainy season there is a grave danger of the entire waste to be flowing into the river which is a tributary to River Jhelum.*
- e) *A large amount of municipal solid wastes are being dumped unscientifically on the banks of the Mamath Kull stream by the Municipal Committee of Budgam. There is a grave danger of the entire waste to be flowing into the stream which eventually meets River Jhelum, thereby causing major environmental degradation.”*

4. The areas where untreated sewage is being discharged are mentioned to be as follows:

- i. **Sogam** - River Doodh Ganga, originating from Pir Panjaal, after travelling for 30 kms starts getting contaminated as soon as it enters the villages. That Sogam, a village in Budgam District is the starting point of the pollution of Doodh Ganga, where the maximum source of pollution is from the large amounts of pesticides which are sprayed in apple orchards from March onwards. That during monsoon, all these toxics gets washed away and drains into Doodh Ganga, result of which is large scale contamination. Experts from the horticulture and agriculture departments have never created any awareness among farmers on management and protection of water bodies from pesticide sprays.
- ii. **Chadoora, Wathoora and Bagh-e-Mehtab:** Thereafter, the river Doodh Ganga gets completely polluted due to the absence of any Sewerage Treatment Plants (STPs) as soon as it enters Chadoora and Wathoora, a town and village in Budgam District. That a massive amount of untreated sewage is discharged and solid wastes are dumped into the river, All the untreated discharges from residential, commercial establishments, laboratories, shopping malls, butcher houses, poultry shops, laboratories, diagnostic centres and domestic sewage are drained directly into the river. Due to the absence of any STPs, the health of the river, which is a major source of drinking water for residents of Srinagar and Budgam, having an estimated reach of almost five lakh, is persistently degrading due to the negligence of the concerned authorities.
- iii. **Chanapora, Natipora, Barzulla, Bulbul Bagh and other areas:** Furthermore, it is submitted that the Srinagar Municipal Corporation is also flushing waste water from Chanapora, Natipora, Barzulla, Bulbul Bagh and various other areas into Doodh Ganga through its 13 pumps stations without any treatment. Due to absence of any STPs in the entire stretch of Doodh Ganga, all the untreated wastes are discharged by these pumping stations. Also, due to the non-availability of garbage dumping sites and lack of mechanism to treat the wastes, a hefty amount of municipal solid wastes are also being dumped on the banks of Doodh Ganaga thereby worsening the quality of the water. That these unsegregated wastes when dumped illegally into the river bank, also leads to groundwater contamination. That there is a grave danger that during monsoon time these municipal waste will flow into river Doodh Ganga, which is a tributary to Jhelum River.”

5. In support of above, the applicant has filed photographs and a report of the applicant published in Greater Kashmir titled “SMC

converting Doodh Ganga into a drain”. The applicant has also filed copies of letters of the State PCB addressed to the Srinagar Municipal Corporation against dewatering stations having potential to pollute water. The applicant has also annexed representation dated 11.08.2021 addressed to the Chief Secretary, J&K, Member Secretary, J&K Pollution Control Committee, Member Secretary, CPCB, Commissioner, Srinagar Municipal Corporation, Director, Urban Local Bodies, Kashmir, Deputy Commissioners Srinagar and Budgam. The applicant has also relied upon letter dated 10.09.2021 from Regional Director, J&K PCC to the Member Secretary, J&K PCC stating that on analysis of water samples, discharge of pollution in the rivers was established. The letter is reproduced below:

*“As per the inspection report, the analysis of samples collected from Doodhganga at different locations indicate that water in upstream spots i.e. at Sogam, Chadoora and Baghi-e-Mehtab meet the prescribed permissible limit for ‘Class B’ (Out door Bathing Organised) criteria in terms of analysed physicochemical parameters, **whereas in the lower course of river i.e. at Baghat Old Barzulla and Near Tengpora the water quality does not confirm ‘Class B’ Criteria for parameters viz Dissolved Oxygen and Biochemical Oxygen Demand. Comparatively inferior quality in the lower course of river can be attributed to addition of deleterious waste into the water body.***

*The analysis of samples collected from Mamath Kul indicate that water quality in upstream and downstream meets the prescribed permissible limit for ‘Class B’ (Out door Bathing Organised) criteria in terms of analysed physicochemical parameters. However **huge dumps of solid waste were observed along the banks of this stream. The municipal committee Budgam is dumping solid waste on the periphery of the Mamath stream.***

Dewatering pump stations installed at various locations on the bank of Doodh Ganga river are still operational and discharged untreated waste water into the River. No concrete steps have been taken by concerned municipal authorities with regard to scientific disposal of solid waste as dumping of solid waste on the banks of Doodh Ganga continues unabated. Municipal Committee Chadoora is dumping the solid waste generated from the Chadoora town on the Bank of Doodh Ganga near Abshar colony. “

6. The matter was earlier considered on 18.10.2021 in light of above averments and materials. The Tribunal found *prima facie* violation of environmental norms showing failure of statutory regulators in taking remedial action. Accordingly, the Tribunal directed remedial action in accordance with the judgment of the Hon'ble Supreme Court dated 22.02.2017 in *Paryavaran Suraksha Samiti Vs. Union of India*, (2017) 5 SCC 326 and orders of this Tribunal on the subject. The operative part of the order is reproduced below:-

*“6. In view of above material, prima facie it appears that there is continued violation of Water Act to the prejudice of the environment and public health which remains unchecked. Thus, intervention of the Tribunal may be called for. Accordingly, we direct the authorities to verify the facts and take remedial action in accordance with law. We also constitute a five-member Joint Committee of CPCB, J&K PCC, Deputy Commissioners, Srinagar and Budgam and the Director, Urban Local Bodies, J&K. The State PCB will be the nodal agency for compliance and coordination. The Joint Committee may meet within two weeks and undertake visits to the sites in question. The Committee may look into the water quality in terms of Fecal coliform, quantity of sewage being discharged, solid waste being dumped on the banks and the action plan prepared by the River Rejuvenation Committee (RRC) for J & K constituted as per orders of the Tribunal in OA 673/18. Further action be planned and executed accordingly. It may give a factual report to this Tribunal within two 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. A copy of the report may also be given to the Secretary, Urban Local Bodies who may file an action taken report in terms of status of compliance of orders of the Hon'ble Supreme Court in *Paryavaran Suraksha (Supra)* and orders of this Tribunal dated 21.05.2020 and 21.09.2020 in O.A. 593/2017, *Paryavaran Suraksha Samiti v. Union of India & Ors.*, dated 14.12.2020 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues* and dated 06.12.2019 in OA 673/2018, *In re: News item published in “The Hindu” authorized by Shri Jacob Koshy titled “More rivers stretches are now critically polluted: CPCB”* within one month of the said report.”*

7. In pursuance of above, the joint Committee has filed its report dated 14.01.2022 acknowledging the violations but without any meaningful remedial action.

8. **The violations found include dumping of waste on the banks of the river, discharge of untreated sewage into the river, unregulated illegal mining activities and failure to protect the embankments of the river. The report signed by the Additional Secretary to the Government, Housing and Urban Development Department.**

9. Once such serious violations have been found by the State authorities, failure to take stringent action shows apathy to the obligation of the State under the Constitution, particularly the Public Trust Doctrine of ensuring clean environment by protecting rivers and other natural assets. The attitude of indefinitely waiting for funds from outside agencies is not merely ignorance of law but failure of responsibility. Environment being part of Right to life under the Constitution, such pleas are legally untenable and impermissible. It is for the State to arrange resources for its inalienable and basic responsibility. On that pretext, damage to the environment cannot be allowed to take place or to continue. Timeline laid down under the judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha (Supra)* for ensuring setting up of all treatment equipments is 31.03.2018 and after the said date, for any failure the Secretary to the Government is liable to be prosecuted in terms of judgment of the Hon'ble Supreme Court. This Tribunal has also issued directions for taking disciplinary action and payment of compensation for continued failure to manage waste to the detriment of environment and public health.

10. The relevant extracts from the report are reproduced below for ready reference:-

"A. SEWAGE MANAGEMENT

Total sewage generated from 7 wards of Srinagar Municipal Corporation forming the catchment of 13 dewatering stations (10 Main and 3 Secondary) on the two sides of Doodhganga Nallah is estimated as 16.36 MLD whereas the untreated sewage falling into Doodhganga Nallah through these dewatering stations is 12.25 MLD. The balance sewage 4.11 MLD gets treated in Septic Tanks/Soakage Pits. It is proposed to construct modular sewage treatment plants for treatment of untreated sewage coming out from these dewatering stations, 1 No. combined STP for 3 dewatering stations of Chhanpora area (4.8 MLD), 6.00 MLD capacity STP under construction at Aloochoi Bagh is supposed to cater the untreated sewage (2.30 MLD) of Tengpora Dewatering Station. For remaining 6 No. dewatering stations individual modular STPs of capacities 0.6 MLD, 0.10 MLD, 1.30 MLD, 1.55 MLD, 0.80 MLD, 0.85 MLD are proposed. The estimated cost of these modular STPs works out to Rs. 45.00 Cr. The DPRs are being finalized and will be ready by 31st March 2022. These modular STPs are being proposed for funding under AMRUT-2 and once approved and allotted they will be commissioned in 18 months.

The details of drains are as under: -

1. Chhanpora MPS 1.84 MLD
2. Chhanpora IPS 2.14 MLD
3. AfandiBagh 0.82 MLD
4. Chhanpora Sluice 0.61 MLD
5. Pamposh Colony 1.02 MLD
6. Natipora 1.28 MLD
7. Barzulla 1.53 MLD
8. Bulbul Bagh 0.77 MLD
9. MagreyMohallah 0.84 MLD
10. Tengpora Bye-pass 2.30 MLD

TOTAL 12.25 MLD

The maximum pollution in Doodhganga occurs in the stretch between Bagh-i-Mehtab and Bemina. This area is part of Zone 1 of Srinagar City (Sewrage Zone) for which a comprehensive sewerage scheme 125.5 MLD has already been proposed for funding through JICA. It is worthwhile mentioning that the DPR of the project has been technically vetted by CPHEEO with a cost of Rs. 964.48 Cr. at 2017 price level. However, the modular STPs are an interim measure and in case the JICA proposal gets through, the entire polluted portion of Doodhganga shall get covered under the project and the modular STPs shall be shifted and relocated for use in rural habitations. The Long term proposal for treatment of sewage flowing into Doodhganga is the JICA DPR mentioned above which is included in the DPR as a part of Zone I.

All the actions which are needed to be taken as pointed out by the Committee shall be addressed once the project gets funded. The project is being pursued vigorously for funding under JICA.

B. SOLID WASTE MANAGEMENT

Door to Door collection of Solid Waste has been started in all 74 wards of SMC and 529 wards of (40) ULBs, which includes (13) wards of Municipal Council Budgam and (13) wards of MC Chadoora. Photographs of activity at MC Budgam and MC Chadoora are enclosed as **Annexure "A"**.

The MC Budgam and MC Chadoora have taken measures to ensure strict prohibition for illegal dumping of waste on the banks of River Doodh Ganga and Mammath Kull. Special teams have been constituted to keep strict vigil and ensure that no waste is dumped within 500 meters of the banks of water bodies. **Copy enclosed as Annexure**

All municipalities are collecting 100% waste from the households through Door to Door collection. At present, segregation is being done in (32) wards and processing in respect of (9) wards. Once the SWM facilities approved in respect of every MC are established, the segregation of waste as per the provisions of SWM Rules, 2016 would be observed in letter and spirit.

The Municipalities have been asked to identify the bulk generators, existing in their respective towns. The number of rag pickers has been raised from 64 to 137 in last fifteen days.

The municipalities ensuring prohibition of illegal dumping of construction material on roadsides etc. However, usually the demolition waste generated from the constructions is being utilized by the inhabitants for earth filling etc.

After the establishment of Solid Waste Management facilities in all towns, the process of composting/ RDF would definitely yield income for the concerned MC's.

Strict vigil is being kept to prevent Illegal constructions/encroachments in all (40) ULBs. The Municipalities are submitting weekly reports on every Saturday countersigned by concerned elected ward member, certifying therein that no encroachment/ illegal construction has taken place in their areas of jurisdiction. Demolition drives are being conducted by the ULBs in case of violations.

Special Sunday drives are being conducted by the Municipal Councils/ Committees, in which huge quantity of waste has been removed from the water bodies. Besides, ULBs have been directed to formulate of DPRs for preservation/ conservation of water bodies of their respective areas. Water body cleanliness drive photographs enclosed Annexure-**C**.

The waste dumped on the banks of Mammath Kull and Doodh Ganga Nallah has been removed by concerned MC's. The MC Budgam has removed around 50 MTs of waste and MC Chadoora has removed 60MTs of waste, which includes bio-degradable as well non bio-degradable waste. Photographs are attached.

So far, Legacy waste has been identified in five towns viz. MC Bijbehara, MC Kulgam, MC Shopian, MC Baramulla and MC Pampore for which the contour mapping has been recently completed and process has been started for tendering of the job. The tender document is being prepared by the recently

established PMU as per the approved action plan. The ULB-wise details of the contour mapped/ quantified legacy waste in given in the enclosed **Annexure "D"**.

Sites have already been identified for establishment of Solid waste Management facilities in all towns. The details of sites identified in respect of ULBs of District Budgam is given as under:-

S No.	Name of MCs	Land Available	Location
1.	Budgam	10	Laqkipora
2.	Beerwah	21 Kanal	near Plantation Nursury
3.	Chadoora	8 Kanal	At Nagam
4.	Charishairef	5 Kanal	Near village Chrawni
5.	Khanshaib	3 Kanal	Near Plantation beat
6.	Magam	8 Kanal	Sehpora

In order to redress the issue of handling/ managing and disposal of waste generated in the towns of Kashmir Division, the State Level Apex Committee in its meeting held on 16/03/202 under the chairmanship of Chief Secretary of J&K UT approved decentralised Solid Waste Management Action plan for all 76 Urban Local Bodies of J&K UT. Under the said Action plan, the following decentralised technologies have been approved for implementation:-

- i). Bio-methanation process (Bio-gas);
- ii). Waste Management Centres for dry waste management;
- iii). Aerated pit composting plants; and
- iv). Integrated Solid Waste Management.

The overall cost of the project for (40) ULBs of Kashmir Division for establishment of decentralized facilities is **Rs. 191.67 Crores**. The municipality-wise details of beak-up of type and capacity of facilities are given in the statement enclosed as **Annexure "E"**.

The DPR's have been prepared in respect of (20) ULBs and authorization for tendering has been conveyed to (17) ULBs so far. The ULB-wise details status of District Budgam is given as under:-

S. No	ULB name	Date of authorization	Approved amount (Rs in lacs)
1	Beerwah	03.11.2021	125.53
2	Budgam	05.11.2021	251.07
3	Chadoora	08.11.2021	107.18
4	Khansahib	08.11.2021	57.03
5	Chararisharief	22.11.2021	107.85

The DPR of the MC Magam is under preparation and tendering has been initiated at, MC Chadoora. The above land parcels are in possession of concerned Municipal Committes/Councils. The Facilities shall be created within a period of 12 months

The Budgam and Chadoora towns being the important towns of Central Kashmir and to ensure the restoration and preservation the prestigious water bodies of Doodh Ganga and Mamath Kull, comprehensive Solid Waste Management facilities have been approved for Budgam town at the cost of **Rs. 299.47 Lakhs** at PallarBudgam with two Waste Management Centers of 5 TPD capacity and for the Chadoora town at Hayatpora at the cost of **Rs 124.38 Lakhs** consisting of 01 Waste Management Centers of 4 TPD capacity

The Waste generation details of two towns viz. Municipal Council Budgam & Municipal Committee Chadoora are as under:-

S.No	ULB Name	Waste generation 2020 (TPD)	Projected waste generation 2030 (TPD)
1.	Budgam	9.21	10.88
2.	Chadoora	3.05	3.60

As per the approved action plan, an amount of **Rs. 31.31 Cores** has been earmarked for collection & Transportation vehicles. The Directorate of Urban Local Bodies Kashmir has already placed order for procurement of **(107) sanitation vehicles (Hoppers)** through State Motor Garages J&K in the first phase and the MC's are likely to receive the first shipment of supplies from 25th January.

For proper and effective implementation of Solid Waste Management Action plan, a dedicated Project Management Unit has already been engaged by the Department and the PMU has started its work and recently two site visits of MC Baramulla/ Sopore have been conducted by the PMU and two meetings have also been taken in the Directorate in respect of the integrated SWM facilities of Anantnag and Baramulla/ Sopore towns.

he project envisages multiple activities/ measures for waste management/ disposal viz. Establishment Door to Door collection of Solid Waste for its proper disposal, prohibition of dumping of solid and other waste near the banks of rivers, collection and segregation of waste as per SWM Rules, Compliance of SWM Rules by bulk generators, Recycling of waste, management and disposal of C&D waste, Removal & disposal of legacy waste dumped near river banks, Environmental awareness campaigns and sensitization of the inhabitants to prevent dumping of waste into or near the water bodies.

C. AWARENESS ACTIVITIES

Environmental awareness is being created among the communities and people are being educated about the hazards and ill effects associated with the pollution of water bodies. An amount of **Rs. 568.12 Lakhs** has been released to ULBs for IEC activities and an amount of **Rs. 9.50 Lakhs** has been provided for installation of Sign boards on the banks of water bodies. Awareness generated

through announcements, public interactions and media. Some photographs of Sign Boards are enclosed as **Annexure "F"**.

Sustainable awareness campaigns are being organized by all Municipal Councils/ Committees to create awareness among the public particularly in the vicinity of water bodies. The teams have been constituted by the Municipal Councils/ Committees to keep strict vigil to prevent dumping of waste into water bodies/ drains etc. Photographs of some water bodies are enclosed as **Annexure "G"**.

D. REGULATION OF MINING ACTIVITIES

Two mineral blocks 11/bud and 12/bud in Doodh Ganga Nallah have been e-auctioned by the District Level Auctioned Committee, Budgam. Presently, the extraction from both the blocks is being carried out in a controlled and scientific manner in accordance with the approved mining plans, environmental clearances and consent to operate issued by PCC. The extraction is limited upto 1 mtr. depth as per the approved mining plan. Checkpoints have been established at the exit of both the mineral blocks where officials have been deployed to monitor the extraction and transportation of minerals.

No illegal extraction is being allowed anywhere in the adjacent areas of nallah. Whenever complaints is received about illegal extraction, prompt action is taken against the same. So far, 27 vehicles/machines found involved in illegal extraction and transportation of minor minerals in the areas were seized and penalty of Rs.3,41,060/- has been realized from offenders. Besides, registration of FIR's against the persons involved in illegal extraction.

Extraction of minor minerals from Mamath Kull has been completely stopped after the only exit point near Mamath Bridge was disrupted.

Plantation drives have been conducted by the ULBs and target of 25000 plantation has been fixed by the Department for reducing the pollution and enhancing beautification.

Some photographs of the plantation drives conducted at Uri, Ganderbal & Dooru-Verinag are enclosed as **Annexure "H".**

11. The report shows that the water quality of Doodh ganga has deteriorated in downstream locations. The relevant extract from the report is reproduced below:

“xxxxxxxxx

e) Water Quality of the Doodh Ganga River:-

Water quality monitoring of the Doodh Ganga river has been carried out by the JK Pollution Control Committee and the samples

have been collected on 15/11/2021 at the following Sampling locations:-

1. **Sogam, (Up stream of Doodh Ganga)**
2. **Chadoora (Main town market)**
3. **Bagh- e- Mehtaab**
4. **Old Barzulla**
5. **Tengpora Bridge**

The water samples of the aforementioned locations were analysed for various Physico-chemical parameters which include some key parameters such as pH, DO, BOD, COD which are critical for ascertaining the present status and water quality of Doodh Ganga. Besides the physio-chemical analysis the samples were also collected by JK Lake conservation and Management Authority (LCMA) for microbiological analysis (Faecal and Total Coliform) Tot. The water quality analysis data is given in Table-3.

The analysis of samples collected from Doodh Ganga at different locations indicate that water in upstream locations i.e. at Sogam and Chadoora **meet the prescribed permissible limit for 'Class B' (Out door Bathing Organised) criteria in terms of analysed physico-chemical parameters, whereas in the lower course of river i.e, at Bagh-e-Mehtaab, at Old Barzulla and Near Tengpora, the water quality does not confirm 'Class B' Criteria for parameters viz Dissolved Oxygen and Biochemical Oxygen demand. Comparatively inferior quality in the lower course of river can be attributed to addition of sewage/domestic waste into the water body.**

The observed Total Coliform levels do not **meet the prescribed permissible limit for 'Class B' (Out door Bathing Organised) at Baghi-e- Mehtaab and Tengpora.**”

However, Committee does not appear to have collected and analysed the samples for Pesticides.

12. The report of the Additional Secretary has not given the status of Mamath Kull river. Though water quality is said to be meeting primary water quality criteria, the issue of dumping of solid waste on the banks of Mamath Kull remains unaddressed. The relevant extract from the report is reproduced below:

“xxxxxxxxx

A detailed survey of the stretch of Mamath river from Village Mamath to Budgam town has revealed that the main sources of pollution of this stream is due to dumping of solid waste near

Mamath Bridge on the bank of the Mamath stream which is approximately 2 km away from the District headquarter Budgam. During the inspection by the joint committee, huge dumps of solid waste which include both biodegradable and non-biodegradable waste was found accumulated (probably the legacy waste) as the site was previously being used by Municipal Council Budgam as dumpsite in unscientific manner. The adverse impact on environment due to un-scientific management of this waste results into:-

- *Ground and Surface water pollution due to leachate generation from the dumping site.*
- *Air pollution due to bad odour of the waste*
- *Increase in acidity of soil near the garbage heaps.*

xxxxxxxxx

The water samples of the aforementioned locations were analysed for various Physico-chemical parameters which include some key parameters such as pH, DO, BOD, COD which are critical to ascertaining the present status and water quality of Mamath stream.

*The analysis of samples collected from Mamath Kul as shown in **Table 5**. indicate that **water quality in upstream and Down stream meets the prescribed permissible limit for 'Class B' (Out door Bathing Organised)** criteria in terms of analysed physico-chemical and Microbiological parameters. However, dumps of solid waste were observed along the banks of this river. The concerned Municipal Council Budgam is responsible for dumping solid waste on the periphery of this stream and there is every apprehension that during rains there would be leaching of different pollutants and other obnoxious substances into the stream thus making it unfit for use by the local population dependent on it for their day today use.”*

13. In view of above acknowledged failure of the State, we direct the Chief Secretary, J&K to take immediate remedial action to remedy the situation by ensuring clean environment and also taking coercive measures against the erring irresponsible officers, acting in contempt of directions of the Hon’ble Supreme Court and this Tribunal and causing detriment to the environment and public health. We need not comment upon the measures suggested in the report as the Tribunal is concerned with enforcement of obligation of the State to provide clean environment. It is for the State Authorities to decide as to which measures are

appropriate so as to prevent pollution of the river and prevent other violations of environmental norms and what is the source of funding.

14. We find that neither the dumping of solid waste nor discharge of untreated sewage has been prevented nor illegal mining stopped and nor legacy waste cleared for which statutory timelines have already expired.

The State is accordingly held liable to pay interim compensation of Rs. One crore each under all the three heads which may be deposited in a separate account to be utilized for restoration of environment. The amount may be deposited with the District Magistrate, Budgam and spent as per plan approved by the Chief Secretary, consistent with the District Action Plan of the concerned area.

It will be open to the State to recover the amount from the polluters/erring officers in accordance with law. For illegal mining, the loss caused to the State in the form of value of minerals as well as the loss caused to the environment for undertaking such activity without requisite clearances needs to be recovered by the State PCB in light of judgment of the Hon'ble Supreme Court *inter-alia* in *Goa Foundation v Union of India & Ors.* (2014) 6 SCC 590 and *Common Cause Vs. UOI & Ors.*, (2017) 9 SCC 499. It is also open to the State PCB to initiate prosecution against the violators.

15. An action taken report may be filed before the Tribunal by the Chief Secretary personally, after interaction with the concerned officers within three 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. The report may specify status of facilities to treat sewage as well as fecal sludges, protection of flood plain, lifting of waste from the banks of Doodh ganga and Mamath Kull to the identified sites and processing it as

per MSW rules, cow dung management and other associated issues. In view of large scale continuing violations, we consider it appropriate to direct that the Principal Secretary, Urban Development, J&K to remain present in person on the next date by Video Conferencing for interaction.

List for further consideration on 15.07.2022.

A copy of this order be forwarded to the Chief Secretary, J&K and Principal Secretary, Urban Development, J&K by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

March 08, 2022
Original Application No. 241/2021
SN