

Item No. 01

Court No. 1

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

Original Application No. 200/2014

M.C. Mehta

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 07.08.2019

Date of uploading of the order on website: 22.08.2019

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. The matter has been taken up for reviewing the progress of compliance of directions of this Tribunal dated 10.12.2015 and 13.07.2017 on the subject of preventing and remedying the pollution of river Ganga. The matter was earlier being considered by the Hon'ble Supreme Court since the year 1985, before being transferred to this Tribunal, in the year 2014 and 2017¹.
2. The Tribunal dealt with the pollution caused on account of illegal discharge of untreated sewage and industrial effluents either directly into the River Ganga or its tributaries and connected drains, besides, issues of dumping of solid waste,

¹ M.C. Mehta vs. Union of India & Ors. Writ Petition (Civil) No. 3727/1985 order dated 29.10.2014 and 24.01.2017

bio-medical waste, hazardous waste, plastic waste, muck and other waste, illegal sand mining, illegal encroachment of the floodplains, absence of steps for conservation of ground water, reuse of treated water and restoration of water bodies and maintenance of e-flow.

3. The matter was dealt with by two orders dividing the area covered by the River Ganga into different phases and segments. Order dated 10.12.2015 dealt with **Phase-I – Segment-A:** Gaumukh to Haridwar. Order dated 13.07.2017 dealt with:

Phase-I – Segment B: Haridwar to Kanpur,

Phase-II: Kanpur to Uttar Pradesh Border,

Phase-III: UP Border to Jharkhand Border (via Bihar),
and

Phase-IV: Jharkhand Border to Bay of Bengal (West Bengal).

4. As already noted, the proceedings have been pending since 1985. Various orders have been passed by the Hon'ble Supreme Court on the subject before transfer of proceedings to this Tribunal and thereafter by this Tribunal. The result of monitoring for 34 years has not been encouraging. Government of India took initiatives by way Ganga Action Plans I & II and thereafter by way of *Namami Gange*. The progress so far has been far from satisfactory, as noted in earlier orders.
5. While considering the progress of compliance of orders of this Tribunal, vide order dated 19.07.2018 with regard to **Phase-I –**

Segment-A and order dated 28.07.2018 with regard to **Phase-I - Segment-B**, the CPCB/SPCBs were required to display the result of water samples at various locations and atleast at one place within 100 kms showing whether water was fit or not fit for consumption or for bathing. Monitoring Committee was constituted headed by a former Judge of the Uttarakhand High Court for **Phase-I Segment-A** and Allahabad High Court for **Phase-I Segment-B** to take stock of the actions taken with clear measurable indicators of progress and success and to oversee the action plans. The actions were required to cover interception and diversion of drains carrying sewage to STPs, laying of sewerage network, utilization of treated sewage, compliance of norms by industries in the catchment areas, ground water regulation, flood plain regulation, rain water harvesting systems, good irrigation practices and filing list of industries which have the potential for pollution and creation of bio-diversity parks.

6. Further, order dated 29.11.2018 dealt with the progress in the **Segment A and B of Phase-I** on STPs, CETPs, tapping of drains, compliance of MSW Rules, setting up of bio-digesters, sewerage network, improvement in water quality, unregulated ground water extraction, e-flow, public involvement, decentralized waste processing facility close to the source of generation of waste, protection of floodplains and illegal mining.

7. Again, on 11.03.2019 deficient working of CETPs at Jajmau, Banthar and Unnao was considered and directions were issued to consider closure of non-compliant units to improve the water quality.
8. Vide order dated 14.05.2019, this Tribunal considered the report from Justice U.C. Dhyani with regard to **Segment-A of Phase-I** dated 09.05.2019 *inter-alia* pointing out non-compliance in respect of the STPs. The Tribunal directed remedial action including recovery of environmental compensation in view of repeated failures to comply with the directions by the Hon'ble Supreme Court and this Tribunal for the last 34 years. NMCG was to ensure compliance with regard to prevention and removal of encroachments, maintenance of e-flow, afforestation and setting up of bio-diversity parks, ground water regulation, sand mining regulation, stopping any camping on the banks of river Ganga or its tributaries. With regard to **Segment-B of Phase-I**, after noting that the industries were discharging untreated effluents in river Ganga, the Tribunal directed closure of all activities of the members of the dysfunctional CETPs, until the CETPs are compliant. It was further directed that only treated effluents may be discharged into the River Ganga and its tributaries. Further direction was that coercive measures be taken against officers of UPPCB and NMCG colluding in permitting continued operations of polluting activities. Direction was also given for remediation of chromium dumps at Kanpur Dehat, Khanpur and Rakhi Mandi in Uttar

Pradesh and ensuring of proper e-flow from the Narora Barrage.

9. With regard to **Phase-II to IV**, NMCG, in co-ordination with State Governments of Uttarakhand, Bihar, Jharkhand, West Bengal and Uttar Pradesh, was to file Action Plans with firm timelines on the subjects of interception and diversion of drains, utilization of treated sewage, compliances by industries in the catchment area, ground water regulation, flood plain regulation, rain water harvesting and good irrigation practices for water conservation in the light of order of this Tribunal dated 13.07.2017. NMCG was to give information about status of projects planned and executed between Kanpur to Ganga Sagar. Status of water quality in Uttarakhand, Bihar, Jharkhand, West Bengal and Uttar Pradesh was to be displayed on their respective websites. CPCB was also to indicate such status on its website. Flood plains were to be demarcated, encroachments removed, bio-diversity parks set up, afforestation works undertaken, guidelines for bio-diversity parks prepared by the CPCB and the MoEF&CC, flood plains were to be handed over to the State Forest Departments.
10. Vide order dated 29.05.2019, it was directed that Ganga pollution be monitored directly by the Chief Secretaries in view of such monitoring having already been directed in respect of 351 polluted river stretches in different States by the Chief

Secretaries vide order dated 16.01.2019 in O.A. No. 606/2018². No construction zone distance on flood plains was to be measured from the Highest Flood Line (HFL) in the last 25 years and flood plains were to be identified on longitude and latitude. Responsibility for plantations and administrative control of areas beyond HFL were to be handed over to the Forest Departments. UPSPCB was directed to prohibit industrial polluting activities and to revise compensation regime so as to recover the actual cost of restoration. State of UP was to provide funds for remediation of Chromium dumps. E-flow was to be maintained as earlier directed in order dated 29.11.2018. Encroachments were to be removed. Tapping of remaining drains and prevention of pollution was to be expeditiously ensured. After noting the status of progress on sewage infrastructure projects in the Ganga Basin, the Chief Secretaries of Bihar, Jharkhand and West Bengal were directed to effectively monitor the progress. Timelines were directed to be reviewed and prepared. NMCG was to undertake progress on reduction of pollution load and improvement of water quality. Further road map, including identification of accountable persons and taking actions for the lapses was to be prepared.

11. Vide order dated 22.07.2019, prayer for extension of timelines for up-gradation of CETPs at Unnao and Banthar was rejected as the stipulated period of two years vide order dated 13.07.2017 had already expired.

² Compliance of Municipal Solid Waste Management Rules, 2016

12. In the above background, we have heard learned Amicus, learned ASG for the State of Uttarakhand and learned Counsel for the States of Uttar Pradesh, Bihar, Jharkhand, West Bengal, Central Pollution Control Board (CPCB) and National Mission for Clean Ganga (NMCG) and perused the reports and the documents filed.

13. It may be appropriate to note the precise issues which need immediate focus:

- i) Prevention of discharge of untreated industrial waste and sewage in the River Ganga and its tributaries, including tapping of drains and bio-remediation, as applicable;
- ii) Installation of STPs, CETPs, and making existing CETPs functional (including at Jajmau, Banthar and Unnao) and enhance the capacities, so assessed and monitoring of the standards before discharge of water into Ganga River;
- iii) Installation of Continuous Emission Monitoring System (CEMS) at appropriate locations and Online Monitoring System (OMS);
- iv) Usage of treated waste water, of sludge manure and setting up of bio-digesters and septage management
- v) Preventing dumping of waste and scientific waste management including bio-medical wastes, plastic wastes and decentralizing waste processing, including waste generated from hotels, ashrams, etc.;

- vi) Floodplains identification and zone demarcation with restrictions against any development/ construction /encroachment;
- vii) Maintenance of E-flow as notified by Ministry of water Resources including releasing water by Hydel projects and barrages; and
- viii) Other directions including displaying water quality data in public domain and at prominent places, development of bio-diversity parks, prohibition of river bed mining, remediation of chromium dumpsites in Uttar Pradesh, collection of compensation from violators and involvement of society including religious, charitable, social and educational institutions for preventing and remedying pollution of River Ganga.

14. We may now consider the progress State-wise.

State of Uttarakhand

15. Learned ASG appearing for the State of Uttarakhand has indicated progress on the subjects of STPs, use of treated water, action against polluting industries, compliance of norms by hydropower projects, water quality monitoring, e-flow, plantation in bio-diversity parks, action against violators and erring officers and contractors and bio-remediation of sewage. In short, the information furnished shows that out of 18 projects for setting up of STPs, 9 have been completed and the remaining will be completed upto February 2020. Water quality

upto Rishikesh was 'A' class and downstream Rishikesh was 'B' class, which is fit for outdoor bathing as per the 'Designated Best Uses Criteria'³. Hydropower projects have to maintain e-flow of 15% of the average lean season flow. Closure order was passed against 32 non-compliant industries. Show cause notice was issued to 166 units from April to July 2019. Four hotels were found discharging sewage out of which two hotels were closed and the remaining two hotels were found to be complying later. Action was also taken for non-compliance of the Bio-Medical Waste Management Rules, 2016. Compensation was collected from the plastic users/violators and for illegal mining. Rafting camps have been removed, Bio-remediation started wherever required. The State Government along with NHAI will consider preparation or revision of Master Plan for Haridwar – Rishikesh designating 'no motor' zones in some areas, 'only electric vehicles' in some areas, widening of roads, green belts and beautification, Information Education Communication (IEC) activities, by including religious, charitable, social and educational institutions, plantation in bio-diversity parks along river Ganga and its tributaries, including on the encroached land (after removing such encroachments).

16. During the interaction, we have considered the remedial measures for expediting execution of the orders of this Tribunal having regard to long delay caused and importance of

³ <https://cpcb.nic.in/water-quality-criteria-2/>

preventing and remedying the pollution of River Ganga. Since it has been stated that many industries were found operating without consent to operate under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, action in accordance with the provision of law may be undertaken within three months after identifying such units. As already observed by this Tribunal including in the order dated 14.05.2019 that River Ganga being National River with distinct significance for the country, even a drop of pollution therein is a matter of concern. All the authorities have to be stringent and depict zero tolerance to the pollution of River Ganga. Wherever STPs are not operating, immediate bioremediation and/or phyto-remediation may be undertaken if feasible. To avoid procedural delay of tender processes, etc. specifications and norms for undertaking such activities may be specified in consultation with the CPCB as was earlier directed in our order dated 29.11.2018. Performance guarantees may be required to be furnished for ensuring timely performance. It needs to be ensured that setting up of STPs and sewerage network to be completed and carried out so as to avoid any idle capacities being created. Performance guarantees may be taken for preventing such defaults.

17. Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. Bioremediation and/or phytoremediation or any other

remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.

18. With regard to works under construction, after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply. Further with regard to the sectors where STP and sewerage network works have not yet started, the State has to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.

19. There is need to evolve a tourism policy for permitting hotels, vehicles or other such activities consistent with the carrying capacity to avoid pollution of River Ganga. There is also need for proper planning in all the areas adjacent to the River Ganga to regulate traffic and orderly movement, avoiding vehicular pollution and having 'vehicle free' or only non-polluting vehicles, scientific disposal of solid waste dumps consistent with the orders of this Tribunal dated 17.07.2019 in O.A. No. 519/2019⁴.

20. Learned Amicus pointed out that at Gaumukh, there was pollution of sewers and resultantly bacteriophage activity of River Ganges which gives it inherent ability to kill harmful bacteria is decreasing which is not good in terms of maintaining water quality of the River Ganga. There is need to issue guidelines by the MoEF&CC for setting up of biodiversity parks for handing over flood plains of the rivers in the country to the Forest Department, for the purpose, within four months in terms of Para 21. Guidelines for levying compensation for discharge of untreated sewage/effluents into the river in terms of Para 13 of the order dated 14.05.2019 also needs to be devised.

21. We do not consider it necessary to consider point-wise progress in the present order in view of pre-existing directions on each of

⁴ News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes"

the points. The State of Uttarakhand may take action under each head, accordingly.

State of Uttar Pradesh (Phase -I, Segment- B)

22. The State of UP is yet to provide the cost of removing the Chromium dumps in terms of Para 5 of the order dated 29.05.2019. It is reported that out of 86 drains to be tapped, only 33 have been wholly or partially tapped, 59 remain to be tapped. For 23 drains, work is yet to commence. It is stated that the land for tapping of two drains was not available. Needless to say that where the land is not available, the State Government can take steps for its acquisition or purchase.

Directions with regard to State of Uttarakhand in paras 16, 17 and 18 will apply to the State of Uttar Pradesh also with regard to the timelines and compensation.

23. It was stated that though the tanneries were closed for violating the norms of discharge, the dues have not been collected from the members of the CETPs and the industries are clandestinely operating as shown from the data of water samples which contained high Chromium.

24. Chromium dump has been stored since 1976 which is required to be shifted to TSDF. The State of Uttar Pradesh may undertake health survey of the area and ensure shifting of the Chromium dumps within three months failing which it would be liable to pay environmental compensation of Rs. 10 lakhs

per month to CPCB besides furnishing performance guarantee of Rs. 1 Crore to CPCB.

25. Let the remedial measures be taken by the SPCB for effective monitoring by installing CCTV cameras or undertaking surveillance in any other manner with the help of local police.
26. As observed in the case of Uttarakhand above, we do not consider it necessary to consider point-wise progress in the present order in view of pre-existing directions on each of the points. The State of Uttar Pradesh may take action under each head, accordingly.

State of Uttar Pradesh (Phase -II), State of Bihar, Jharkhand and West Bengal

27. With regard to **Phase-II to IV**, it is pointed out that no specific timelines have been laid down in the order dated 13.07.2017. Needless to say that if no specific timelines have been laid down, the compliance has to be ensured within reasonable time. A period of two years has gone by which can be treated as a reasonable time. Even if further allowance is to be made with regard to works under construction, after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply with regard to States of Uttar Pradesh, Jharkhand,

Bihar and West Bengal falling in **Phase II to IV**. Further with regard to the sectors where STP and sewerage network works have not yet started, the States of UP, Jharkhand, Bihar and West Bengal have to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019. Directions for compensation for default in this regard will be on the same pattern as in the case of Uttarakhand and Uttar Pradesh as above.

28. As observed above, we do not consider it necessary to consider point-wise progress in the present order in view of pre-existing directions on each of the points. The States of Uttar Pradesh, Bihar, Jharkhand and West Bengal may take action under each head for Phases-II, III and IV accordingly.

29. As noted on an earlier order⁵ in a study in respect of 97 Ganga towns, the sanitation status was found to be as follows:

“19 towns had municipal solid waste (MSW) plant within the town; 47 towns had adequate litterbins around the ghat area; 41 towns had anti-littering messages/hoardings placed around the ghat area; 72 towns had old & legacy dumpsites as well as garbage vulnerable points (GVPs) in the vicinity of the ghats; 66 towns had at least one nullah draining into Ganga; 34 towns had sweeping & cleaning arrangements at the ghat area; 33 towns had solid waste floating on at least one of the ghats of the town. Further, the report mentions “The output of the survey offers a comprehensive report on cleanliness to aid the Government take action on the identified gaps. It also helps in understanding the

⁵ Order dated 11.03.2019 at para 15

best practices being implemented in various towns and ghats and support in sharing of knowledge among the various stakeholders helping them to inculcate and tailor best actions according to the city's requirement."

The concerned Chief Secretaries may ensure that the above deficiencies are addressed expeditiously.

30. The two Monitoring Committees for **Segment-A Phase-I** and **Segment-B Phase-I** may submit their final reports by 31.10.2019. Thereafter the Chief Secretaries of States of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal Director General, *Namami Gange* and Secretary, Water Resources, Jal Shakti, Government of India may personally monitor the progress and report compliance to the Tribunal in terms of progress at every quarter in a tabular form as follows:

Sr. No.	Targets to be achieved as per orders dated 10.12.2015, 13.07.2017 and 22.08.2019 the timelines	Targets achieved and the reasons for delay in compliance	Targets not achieved and the revised timelines proposed*	Action taken or suggested for violation of timelines or non-achieving of targets

**subject to payment of compensation as mentioned above*

31. Let a further quarterly progress report be filed by the Chief Secretaries of Uttarakhand, UP, Bihar, Jharkhand, West Bengal, with an advance copy to Secretary, Water Resources, Jal Shakti, Government of India by 30.11.2019 by e-mail at judicial-ngt@gov.in. The Director General, *Namami Gange* may

file a consolidated report before the next date by e-mail at judicial-ngt@gov.in.

List for further consideration on 12.12.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 07, 2019
Original Application No. 200/2014
DV

