

Item No. 01

Court No. 1

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

Original Application No. 673/2018

(With Report dated 18.11.2019)

News item published in "The Hindu" authored by Shri Jacob Koshy
Titled

"More river stretches are now critically polluted: CPCB"

Date of hearing: 29.11.2019

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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
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

ORDER

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I. The issue: Remedial action for 351 polluted river stretches in India:

1. This order is in continuation of order dated 08.04.2019 on the subject of remedial action to tackle the problem of pollution of rivers in India which is manifested in the form of 351 identified polluted river stretches based on the data compiled by the Central Pollution Control Board (CPCB) on the basis of analysis of samples by the State Pollution Control Boards (State PCB) as per National Water Quality Monitoring Programme (NWQMP) undertaken by the CPCB. We may note that overlapping issues have also been dealt with *inter-alia* by orders dated 16.01.2019 in O.A. No. 606/2018, dated 22.08.2019 in O.A. No. 200/2014, dated 28.08.2019 in O.A. No. 593/2017, dated 11.09.2019 in O.A. No. 06/2012 and order dated 22.11.2019 in O.A. No. 138/2016.
2. The Tribunal earlier considered the matter by way of a chamber meeting on 10.09.2018 with the participation of all the Members of the Tribunal and the representatives of CPCB, the Ministry of Water Resources (MoWR), the Ministry of Environment, Forest & Climate Change (MoEF&CC), the NITI Aayog, the National Mission for Clean Ganga (NMCG), Ministry of Housing and Urban Affairs (MoHUA), States of Maharashtra, Gujarat, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Bihar, Punjab, Uttar Pradesh, NCT of Delhi and the

Union Territory of Daman & Diu. (Some of the participants participated by video conferencing).

3. Present proceedings were initiated based on a news item dated 17.09.2018 in "The Hindu" under the heading "More river stretches are now critically polluted: CPCB"¹. According to the news item, 351 polluted river stretches have been identified by the Central Pollution Control Board (CPCB). 117 such stretches are in the States of Assam, Gujarat, and Maharashtra. The CPCB has apprised the concerned States of the extent of pollution in the rivers. Most polluted stretches are from Powai to Dharavi – with Biochemical Oxygen Demand (BOD) 250 mg/L; the Godavari - from Someshwar to Rahed – with BOD of 5.0-80 mg/L; the Sabarmati – Kheroj to Vautha – with BOD from 4.0-147 mg/L; and the Hindon – Saharanpur to Ghaziabad – with a BOD of 48-120 mg/L. The CPCB has a programme to monitor the quality of rivers by measuring BOD. BOD greater than or equal to 30mg/L is termed as 'Priority-I', while that between 3.1-6 mg/L is 'Priority-V'. The CPCB considers BOD less than 3mg/L an indicator of a healthy river. In its 2015 Report², the CPCB had identified 302 polluted stretches on 275 rivers, spanning 28 States and six Union Territories. The number of such stretches had now increased to 351 in 2018.
4. The world's major civilizations developed along rivers, which have both united and divided human beings. Water is life, our life and that of others too. Without water there would be no human civilization,

¹<https://www.thehindu.com/news/national/more-river-stretches-critically-polluted-cpcb/article24962440.ece>

²<http://cpcb.nic.in/cpcb/RESTORATION-OF-POLLUTED-RIVER-STRETCHES.pdf>

indeed there would be no life. We use water to drink, navigate, fish, wash, cool down, cook, travel, water plants etc.³

5. It is true that almost all the civilizations appeared on the banks of the big rivers. It shows how vital water is for our survival. The entire life is based on water, from birth to death. The civilization grew slowly on the soil of river Ganga which is considered holy and expanded to Sindhu and Sarasvati regions. The order of rivers in the Nadhi Sukta (RV 10-75) clearly shows east ward march of Indian civilization.
6. The Hon'ble Supreme Court noticed the level of degradation of rivers in India and apathy of the authorities as follows:

“58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.”⁴

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such

³http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Venice/pdf/special_events/bozza_scheda_DOW05_1.0.pdf

⁴ State of Orissa v. Govt. of India, (2009) 5 SCC 492

*rivers and to management as to industrial effluents, sewage, garbage, waste and air pollution, including the water management. We club the ending case of water management with this matter.*⁵

7. It is not necessary to multiply similar observations in series of judgments in the context of several rivers including river Ganga. This has affected Indian civilization as a whole what to talk of aquatic life, loss of biodiversity and affecting food safety. Needless to say that remedial action has to be taken on the principle of 'Intergenerational Equity' also. The fact that 351 river stretches are identified as polluted is a matter of serious concern. This shows that the concern expressed while enacting the Water Act has remained unaddressed. In fact the number of polluted river stretches may go up if the relevant data is considered.

Magnitude of water pollution:

8. The Water (Prevention and Control of Pollution) Act, 1974 (Water Act) prohibits use of any stream or well for disposal of polluted matter. Any person doing so is liable to be prosecuted and punished by imprisonment. Article 48A of the Constitution casts a duty on the State to protect and improve the environment. Article 51A imposes a fundamental duty on every citizen to protect and improve the environment. The Stockholm Declaration (1972) recommended prevention of pollution by adopting the 'Precautionary Principle', the 'Polluter Pays Principle' and the principle of 'Sustainable Development'. Statement of objects and reasons for The Water Act is as follows:

⁵ M.C. Mehta Vs Union of India- W.P. (Civil) No. 13029/1985 dated 25.11.2019

***“The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the growth of industries and the increasing tendency to urbanisation. It is, therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the water courses without adequate treatment as such discharges would render the water unsuitable as source of drinking water as well as for supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy.*”**

A Committee was set up in 1962 to draw a draft enactment for the prevention of water pollution. The report of the Committee was circulated to the State Governments and was also considered by the Central Council of Local Self-Government in September, 1963. This Council resolved that a single law regarding measures to deal with water pollution control, both at the Centre and at the State levels, may be enacted by the Union Parliament. A Draft Bill was accordingly prepared and put up for consideration at a joint session of the Central Council of Local Self-Government and the Fifth Conference of the State Ministers of Town and Country Planning held in 1965. In pursuance of the decision of the joint session, the Draft Bill was considered subsequently in detail by a Committee of Ministers of Local Self-Government from the States of Bihar, Madras, Maharashtra, Rajasthan, Haryana and West Bengal.

*Having considered the relevant local provisions existing in the country and recommendations of the aforesaid Committees, the Government came to the conclusion that the existing local provisions are neither adequate nor satisfactory. **There is, therefore, an urgent need for introducing a comprehensive legislation which would establish unitary agencies in the Centre and States to provide for the prevention, abatement and control of pollution of rivers and streams, for maintaining or restoring wholesomeness of such water courses and for controlling the existing and new discharges of domestic and industrial wastes.**”*

9. The Hon'ble Supreme Court issued directions in several matters that it is the duty of the State to ensure access to clean drinking water which was part of right to life. Pollution of water in any form was required to be prevented. Reference may be made to the observations of Hon'ble Supreme Court in the context of pollution of river Pallar⁶ and river Noyyal⁷ in Tamil Nadu. In *M.C. Mehta Vs. Union of India*

⁶*Vellore Citizen' Welfare Forum v. Union of India*, (1996) 5 SSC 647

⁷(2009) 9 SCC 737

&Ors.,⁸ directions to enforce the statutory provisions by the municipal bodies and the industries by stopping discharge of untreated sewage and effluents in River Ganga were issued by the Hon'ble Supreme Court. It was noted that the water pollution caused serious diseases, including Cholera and Typhoid. Water pollution could not be ignored and adequate measures for prevention and control are necessary. It was also observed that the educational institutions must teach atleast for one hour in a week lessons relating to protection and improvement of environment. Awareness should be created by organizing suitable awareness programs. Likewise, the issue of Calcutta tanneries was considered in *M.C Mehta Vs. Union of India And Ors.*⁹, (Calcutta Tanneries' Matter). The tanneries were directed to be shifted by adopting the 'Precautionary Principle' so as to prevent discharge of effluents in the River Ganga. In view of dangerous potential of pollution, it has been laid down that even the State cannot grant any exemption for discharge of pollutants in water in violation of 'Precautionary' principle.¹⁰

10. This Tribunal also considered the issue of pollution of river Yamuna, in *Manoj Mishra Vs. Union of India*¹¹, river Ganga in *M.C. Mehta Vs. Union of India*¹², river Ramganga which is a tributary of river Ganga in *Mahendra Pandey Vs. Union of India & Ors.*¹³, rivers Sutlej and Beas in the case of *Sobha Singh & Ors. Vs. State of Punjab & Ors.*¹⁴, river Son in *Nityanand Mishra Vs. State of M.P. & Ors.*¹⁵, river Ghaggar in *Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto*

⁸ (1988) 1 SCC 471

⁹ (1997) 2 SSC 411

¹⁰ A.P. Pollution Control Board II v. Prof. M.V. Nayudu, (2001) 2 SCC 62 ¶ 45

¹¹ O.A. No. 6/2012, 2015 ALL(I) NGT REPORTER (1) (DELHI) 139, order dated 13.01.2015

¹² O.A No. 200 of 2014, 2017 NGTR (3) PB 1, order dated 22.08.2017

¹³ O.A. No. 58/2017

¹⁴ O.A.No. 101/2014

¹⁵ O.A. No. 456/2018

Case)¹⁶, river Hindon in *Doaba Paryavaran Samiti Vs. State of U.P. & Ors.*¹⁷, river Kasardi in *Arvind Pundalik Mhatre Vs. Ministry of Environment, Forest and Climate Change & Ors.*¹⁸, River Ami, Tapti, Rohani and Ramgarh lake in *Meera Shukla Vs. Municipal Corporation, Gorakhpur & Ors.*¹⁹, rivers Chenab and Tawi in the case of *Amresh Singh Vs. Union of India & Ors.*²⁰ and *Subarnarekha in Sudarsan Das Vs. State of West Bengal & Ors.*²¹ and *Paryavaran Surakhsha*¹⁷ and issued directions from time to time.

11. In spite of above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise has continued to be discharged in the water bodies including the rivers or the canals meeting the rivers. Violation of law is not only by private citizens but also statutory bodies including the local bodies and also failure of the regulatory authorities in taking adequate steps. There is no corresponding coercive action posing danger to rule of law when large scale violation of law is not being remedied. This leads to lawlessness.
12. It will be appropriate to note the crisis situation in the country on the subject of availability of potable water. The matter has been considered in the report of Niti Aayog on Composite Water Management Index (CWMI).²² Following further information also needs to be noted:

¹⁶O.A. No. 138/2016 (T_{NHRC}), order dated 22.11.2019

¹⁷ O.A. No. 231/2014

¹⁸ O.A. No. 125/2018,

¹⁹ O.A. No. 116/2014,

²⁰ Execution Application No. 32/2016 in O.A. No. 295/2016,

²¹O.A. No. 173 of 2018

¹⁷Order dated 28.08.2019 in O.A. 593/2017 on the subject of preventing untreated sewage and effluents being discharged in rivers.

²² Niti Ayog on "Composite Water Management Index", June 2018, https://niti.gov.in/writereaddata/files/document_publication/2018-05-18-Water-Index-Report_vS8-compressed.pdf.

(i) India is suffering from the worst water crisis in its history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water²³. The crisis is only going to get worse. By 2030, the country's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual ~6% loss in the country's GDP²⁴. As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137BCM. Thus, there is an imminent need to deepen our understanding of our water resources and usage and put in place interventions that make our water use efficient and sustainable.

(ii) India is undergoing the worst water crisis in its history. Already, more than 600 million people²⁵ are facing acute water shortages. Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates.²⁶

(iii) Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India's groundwater wells are declining,

²³Source: WRI Aqueduct; WHO Global Health Observatory

²⁴Source: McKinsey & WRG, 'Charting our water future', 2009; World Bank; Times of India

²⁵ Source: World Resource Institute

²⁶ Source: World Resource Institute

and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million people²⁷.

(iv) With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.

13. As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since 2013. Of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.²⁸

14. As per 'National Health Profile' published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 Deaths due to Acute Diarrhoeal Diseases was reported during the year 2013.²⁹

Main Causes of Pollution of Rivers

15. As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters for various purposes affecting e-flow, encroachment of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent

²⁷ Source: UN Water, 'Managing water under uncertainty and risk', 2010; World Bank (Hindustan Times, The Hindu).

²⁸ <https://www.indiaspend.com/diarrhoea-took-more-lives-than-any-other-water-borne-disease-in-india-58143/>

²⁹ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=106612>

Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not been achieved. As per CPCB's report 2016³⁰, it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in the rural areas.

16. Effective governance is the need of the hour. If pollution does not stop, the industry has to be stopped. If sewage dumping does not stop, local bodies have to be made accountable and the heads of local bodies are to be prosecuted. We may also note that local bodies have been held to be liable to be prosecuted for violation of provisions of the Water Act by a recent judgment of the Hon'ble Supreme Court dated 26.11.2019 in Criminal Appeal No. 1734 of 2019 in Karnataka State Pollution Control Board Vs B. Heera Naik.
17. Steps have also to be taken for awareness and public involvement. Water being scarce and necessary for human existence, a Welfare State cannot plead lack of funds for such overriding need for existence of human life³¹. Thus, requisite budgetary provision has to be made.
18. Procedures for remedial action have to be shortened so that there is no delay to check pollution wherever found. The Tribunal vide Order dated 18.10.2019 in **Compliance of Municipal Solid Waste**

³⁰ http://www.sulabhenvi.nic.in/Database/STST_wastewater_2090.aspx July 16, updated on December 6, 2016

³¹ *Municipal Council, Ratlam vs. Vardhichand* (1980) 4 SCC 162 and *B.L. Wadhwa v. Union of India and Ors.* (1996) 2 SCC 594

Management Rules, 2016 and other environmental issues- O.A. No. 606/2018 while dealing with the issue of procedures of DPRs and tendering process, observed:

“8. Expeditious compliance of directions for clearance of legacy waste sites as well as stopping of discharge of untreated sewage and directions on associated subjects require immediate implementation for protection of environment and public health by curtailing undue delay. As suggested, necessary technologies need to be standardized with cost breakups for operation and maintenance, including procurement. Besides this, the service providers need to be identified and empaneled. This exercise may also require the concerned authorities to explore business models.”

The Tribunal has constituted a Committee headed by Niti Ayog on the subject to give a report within two months.

19. As per laid down standards, river water is considered to be fit for bathing when it meets the criteria of having Bio-chemical Oxygen Demand (BOD) less than 3.0 mg/L, Dissolved Oxygen more than 5.0 mg/L and Faecal Coliform bacteria to be less than 500 MPN/100 ml.
20. As already noted, according to latest assessment by the CPCB, there are 351 polluted river stretches in India i.e. where the BOD content is more than 3mg/L. The plan of CPCB is to target enhancement of river flow. The plan for restoration of polluted river stretches is proposed to be executed through two-fold concepts. One concept is to target enhancement of river flows through interventions on the water sheds/catchment areas for conservation and recharge of rain water for subsequent releases during lean flow period in a year. This concept will work on dilution of pollutants in the rivers and streams to reduce concentration to meet desired level of water quality. Other concept is of regulation and enforcement of standards in conjunction with the available flow in rivers /streams and allocation of discharges

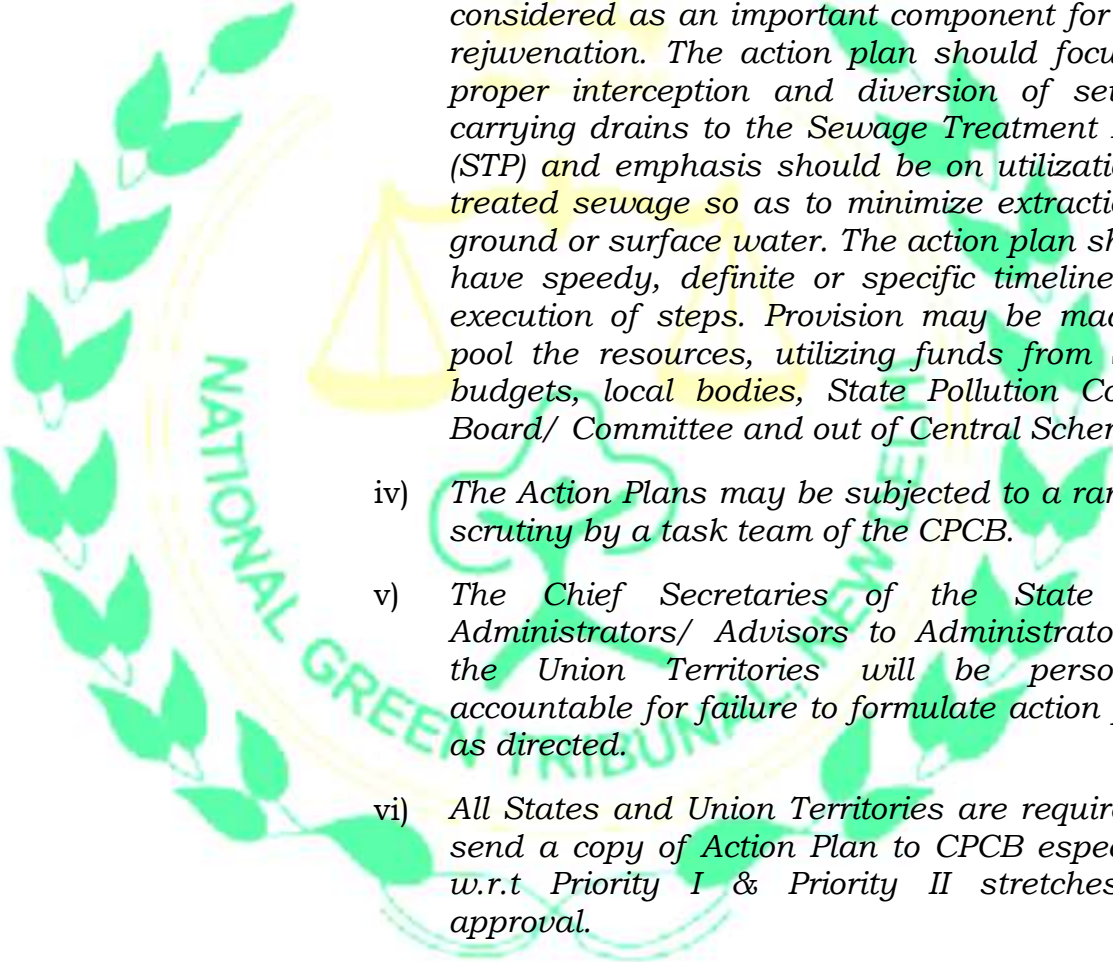
with stipulated norms. The fact remains that designed result has not been achieved and more and more polluted rivers stretches are being added to the list. Apart from pH, D.O., COD and BOD, if other standards such as Faecal Coliform etc. are also ascertained, number of polluted stretches will further go up.

II. Order of the Tribunal dated 20.09.2018 requiring preparation of Action Plans by States/UTs – Preventing discharge of sewage and effluents, dumping of waste, maintaining flood plain zones and e-flow, restoring water quality to bathing standards – timeline : preparation of plans in two months and execution in six months for bringing water quality of rivers to bathing standards:

21. In view of above, this Tribunal found it necessary to take up the matter and direct preparation and execution of river action plans to control pollution and restore water quality of the river as per norms within reasonable time. Accordingly, vide order dated 20.09.2018 proceedings were initiated as already mentioned para 3 above. It may be noted that there have been successful river cleaning programmes in other countries such as relating to river Thames (England), Rhine (Germany) and Danube (France). There being no reason as to why our polluted river stretches also cannot be restored, the Tribunal issued following directions:

- “
- i) *All States and Union Territories are directed to prepare action plans within two months for bringing all the polluted river stretches to be fit at least for bathing purposes (i.e BOD < 3 mg/L and FC < 500 MPN/100 ml) within six months from the date of finalisation of the action plans.*
 - ii) *The action plans may be prepared by four-member Committee comprising, Director, Environment, Director, Urban Development., Director, Industries., Member Secretary, State Pollution Control Board of concerned State. This Committee will also be the Monitoring Committee for execution of the action plan. The Committee may be called ‘River Rejuvenation Committee’ (RRC). The RRC will function under the overall supervision and coordination of Principal Secretary, Environment of the*

concerned State/Union Territory.

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- iii) *The action plan will include components like identification of polluting sources including functioning/ status of STPs/ETPs/CETP and solid waste management and processing facilities, quantification and characterisation of solid waste, trade and sewage generated in the catchment area of polluted river stretch. The action plan will address issues relating to; ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river and plantation on both sides of the river. Setting up of biodiversity parks on flood plains by removing encroachment shall also be considered as an important component for river rejuvenation. The action plan should focus on proper interception and diversion of sewage carrying drains to the Sewage Treatment Plant (STP) and emphasis should be on utilization of treated sewage so as to minimize extraction of ground or surface water. The action plan should have speedy, definite or specific timelines for execution of steps. Provision may be made to pool the resources, utilizing funds from State budgets, local bodies, State Pollution Control Board/ Committee and out of Central Schemes.*
 - iv) *The Action Plans may be subjected to a random scrutiny by a task team of the CPCB.*
 - v) *The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate action plan, as directed.*
 - vi) *All States and Union Territories are required to send a copy of Action Plan to CPCB especially w.r.t Priority I & Priority II stretches for approval.*
 - vii) *The States and the Union Territories concern are directed to set up Special Environment Surveillance Task Force, comprising nominees of District Magistrate, Superintendent of Police, Regional Officer of State Pollution Control Board and one person to be nominated by District Judge in his capacity as Chairman of Legal Services Authority on the pattern of direction of this Tribunal dated 07.08.2018, in Original Application No. 138/2016 (T_{NHRC}), "Stench Grips Mansa's Sacred Ghaggar River (Suo-Motu Case).*

- ix) *The Task Force will also ensure that no illegal mining takes place in river beds of such polluted stretches.*
- x) *The RRC will have a website inviting public participation from educational institutions, religious institutions and commercial establishments. Achievement and failure may also be published on such website. The Committee may consider suitably rewarding those contributing significantly to the success of the project.”*

22. The Tribunal noted that data compiled by CPCB on polluted river stretches indicated that such river stretches were classified in 5 categories as follows:-

I. Criteria for Priority I

- (a) Monitoring locations exceeding BOD concentration 30 mg/L has been considered as it is the standard of sewage treatment plant and in river it appears without dilution.(River locations having water quality exceeding discharge standards for BOD to fresh water sources)
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.
- (c) Monitoring locations exceeding 3 mg/L BOD are not meeting desired water quality criteria but does not affect to Dissolved Oxygen level in water bodies. If BOD exceeds 6mg/L in water body, the Dissolved Oxygen is reduced below desired levels.
- (d) The raw water having BOD levels upto 5 mg/L are does not form complex chemicals on chlorination for municipal water supplies. Hence the water bodies having BOD more than 6 mg/L are considered as polluted and identified for remedial action.

II. Criteria for Priority II

- (a) Monitoring locations having BOD between 20-30 mg/L.
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

III. Criteria for Priority III

- (a) Monitoring locations having BOD between 10-20 mg/L.
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

IV. Criteria for Priority IV

- (a) Monitoring locations having BOD between 6-10 mg/L.

V. Criteria for Priority V

- (a) Monitoring locations having BOD between 3-6 mg/l.
(b) The locations exceeding desired water quality of 3mg/l BOD.

23. Table showing location and categories have been reproduced in the said order and reference to the same will also be made in the later part of this order. The action plans were directed to cover the following:-

A) Source Control

Source control includes industrial pollution control and treatment and disposal of domestic sewage as detailed below:-

(a) Industrial pollution control

- (i) Inventorisation of industries
(ii) Categories of industry and effluent quality
(iii) Treatment of effluents, compliance with standards and mode of disposal of effluents
(iv) Regulatory regime.

(b) Channelization, treatment, utilization and disposal of treated domestic sewage.

- (i) Identification of towns in the catchment of river and estimation of quantity of sewage generated and existing sewage treatment capacities to arrive at the gap between the sewage generation and treatment capacities;
(ii) Storm water drains now carrying sewage and sullage joining river and interception and diversion of sewage to STPs,
(iii) Treatment and disposal of septage and controlling open defecation,
(iv) Identification of towns for installing sewerage system and sewage treatment plants.

(B) River catchment/Basin Management-Controlled ground water extraction and periodic quality assessment

- (i) Periodic assessment of groundwater resources and regulation of ground water extraction by industries particularly in over exploited and critical zones/blocks.
- (ii) Ground water re-charging /rain water harvesting
- (iii) Periodic ground water quality assessment and remedial actions in case of contaminated groundwater tube wells/bore wells or hand pumps.
- (iv) Assessment of the need for regulating use of ground water for irrigation purposes.

(C) Flood Plain Zone.

- (i) Regulating activities in flood plain zone.
- (ii) Management of Municipal, Plastic, Hazardous, Bio-medical and Electrical and Electronic wastes.
- (iii) Greenery development- Plantation plan.

(D) Ecological/Environmental Flow (E-Flow)

- (a) Issues relating to E-Flow
- (b) Irrigation practices

(E) Such other issues which may be found relevant for restoring water quality to the prescribed standards.

III. Order dated 19.12.2018 reviewing the progress of execution of order dated 20.09.2018:

24. On review of the matter on 19.12.2018 to consider status of compliance of order dated 20.09.2018, we found that 16 States/UTs had prepared action plans, but the same were are not complete. Base line data was not been given. Preparation of action plans was assigned to third parties. Details of STPs etc. were not given. Timelines given were too long. Status of e-flow was not been given. Action plans were not proposed to be placed on websites to involve educational and other institutions and the public at large. The said States/ UTs were directed to give revised reports on or before 31.01.2019 to CPCB after complying with the deficiencies. The CPCB was to examine the action plans and, if they met the scientific and technical yardstick, to approve the same and convey it to the respective States/UTs. The States/ UTs, after approval were to

place/host these action plans on the respective websites giving clear timelines for execution indicating the agencies responsible for execution along with the matching budgetary provisions. By way of last opportunity, we extended the time for preparation of action plans till 31.01.2019 with the stipulation that for delay thereafter, compensation for damage to the environment would be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches. The payment was to be the responsibility of the Chief Secretaries of the States/Administrators of the UTs and the amount could be recovered from the erring officers. The CPCB was to prominently place the names of the defaulting States and UTs and a notice to this effect on its website.

25. The SPCBs and Pollution Control Committees of UTs were to display the quality of the water of polluted river stretches on their respective websites within one month alongwith action taken, if any, which was to be revised every three months. The CPCB was also to display the water quality of the river stretches and action/inaction by such States on its websites. It was made clear that BOD will not be the sole criteria to determine whether a particular river stretch is a polluted river stretch but would also include Faecal Coliform (FC) bacteria as one of the criteria for such classification or otherwise. CPCB was to devise within two weeks a mechanism for classification wherein two criteria pollutants, that is BOD and FC, shall henceforth be basis of classification in Priority Classes besides pH, D.O. and COD. Further direction in the order dated 19.12.2018 was that any incomplete action plan would be treated as non-compliance. It was

made necessary to furnish Performance Guarantees to ensure implementation of action plans within the above stipulated time to the satisfaction of Central Pollution Control Board in the sum of:

- (i) Rs. 15 crore for each of Priority I & II stretches
- (ii) Rs. 10 crore for each of Priority III stretches
- (iii) Rs. 5 crore for each of Priority IV & V stretches.

IV. Order dated 16.01.2019 in O.A. No. 606/2018 requiring Chief Secretaries of all the States/UTs to appear before this Tribunal after fully acquainting themselves on the subject of Polluted River Stretches, apart from other significant environmental issues and subsequent directions:

26. While noticing large scale violation of environmental norms particularly with regard to waste and sewage management in the country, this Tribunal directed the Chief Secretaries of all the States/UTs to appear before this Tribunal in person after acquainting themselves with the status of compliance of environmental laws on such issues and action plans for remedying the situation. Accordingly, all the Chief Secretaries appeared on various dates and this Tribunal directed further remedial action including with regard to the restoration of polluted river stretches in terms of the action plans of the States/UTs within six months. The said period of six months is complete in respect of most of the States and Chief Secretaries are required to be present on the dates already fixed. Thus, all the States/UTs have had sufficient notice of their respective failures to comply with the statutory obligations and any further failure has to be viewed seriously and visited with requirement to pay compensation already stipulated.

V. Order dated 08.04.2019 extending time for execution of action plans till 31.03.2021 and requiring Central Monitoring Committee (CMC) to prepare a National Plan for Rejuvenation of Polluted River Stretches as per prescribed timeline:

27. The matter was thereafter taken up on 08.04.2019 in light of consolidated and updated report filed by the CPCB on 05.04.2019 to the effect that 28 States and 3 Union Territories had constituted River Rejuvenation Committees (RRCs). The CPCB constituted a 'Task Team' for scrutiny of the action plans under the Chairmanship of Member Secretary, CPCB. CPCB received 41 out of 45 action plans with reference to P-I, 14 out of 16 action plans with reference to P-II and total 182 action plans were received with reference to P-III to P-V polluted river stretches. 6 out of 61 action plans in respect of P-I and P-II were not received from the States of Assam (P-I: 3 viz., Bharalu, Borsola, Silsako) and P-II:1 (Sorusola)), Manipur (P-II: 1 viz., Nambu) and Uttar Pradesh (P-I: viz., river Hindon). It was submitted that the action plan in respect of River Hindon was required to be implemented by the Government of Uttar Pradesh in compliance of the NGT Orders in Original Application No. 231/2014 & Original Application No.66/2015.

28. The Tribunal further observed:-

“

34. *As already noted, pollution of 351 river stretches has caused serious threat to safety of water and environment. On account of use of polluted water in irrigation, there is threat to food safety. On account of consumption of polluted water in absence of any other source of drinking water being available and partly on account of ignorance of the persons consuming such water, health of human being is threatened, apart from the aquatic flora and fauna, animals wild and domestic who may consume such water. It is therefore, necessary to have regular hygienic survey of the rivers particularly with reference to pathogenic organisms having impact on human health directly or indirectly. It is also important to note that biological health of the rivers is an important aspect. Much of the important biodiversity is lost on account of severe pollution in the rivers. There has to be a regular study of the Indian rivers with regard to biological health and its diversity. We understand that bio-mapping of rivers and setting biological goals/criteria is part of River Rejuvenation*

Programmes in some countries. There is threat to the environmental rule of law of the country.

35. *These are substantial questions relating to the environment. For enforcing legal right to clean environment, which is also a fundamental right, this Tribunal has to pass appropriate orders for relief to the victims of pollution and for restoration of the environment even in absence of an identified victim. All the States and UTs have been duly put to notice of the present case.*
36. *In this endeavor, this Tribunal directed constitution of RRCs by the concerned States/UTs by including Departments of Environment, Urban Development, Industries and the Pollution Control Boards/Pollution Control Committees and further directions to the Chief Secretaries of the States/UTs to monitor the progress. At the national level, CPCB has been required to assist the Tribunal by way of compiling the data and furnishing its views. A copy of order dated 29.09.2018 was directed to be forwarded to the Niti Ayog, Ministry of Water Resources, Ministry of Environment, Forest & Climate Change, Ministry of Housing and Urban Affairs, National Mission for Clean Ganga, apart from other authorities as the said authorities were represented in a chamber meeting before this Tribunal to consider the problem of pollution of rivers.*
- 41. We accept the proposal of CPCB to revise the scale of performance guarantee with regard to timeline. We also accept the suggestions of CPCB to extend the timeline for execution of action plans to the extent that upper limit for execution of the action plans will be two years from 01.04.2019 and the monitoring of the action plans may be done not only at the level of the Chief Secretaries of the States/UTs but also by the CPCB.**
42. *We direct that CPCB with SPCBs and PCCs to launch nationwide programme on biodiversity monitoring and indexing of the rivers to assess the efficacy of river cleaning programme. Further, for safety of human health and maintaining sanctity of the rivers, regular hygienic surveys of the rivers should be carried out with reference to fecal coliform and fecal streptococci, as indicated in the primary water quality criteria for bathing waters. Nodal agency will be CPCB.*
- 43. Having given due consideration to the serious issue and inadequacy of success achieved so far, we find it necessary to constitute a Central Monitoring Committee to undertake a national initiative by way of preparation and enforcement of a national plan to make river stretches pollution free comprising a senior representative of NITI Aayog, Secretaries Ministry of Water Resources, Ministry of Urban Development, Ministry of Environment, Forest and Climate Change, Director General, National Mission for Clean Ganga and Chairman CPCB. Chairman CPCB will be the nodal authority for coordination. Senior most among them will preside over the deliberations.**

- 44. The Central Monitoring Committee will also co-ordinate with the RRCs of the States and oversee the execution of the action plans, taking into account the timelines, budgetary mechanism and other factors. Chief Secretaries of States will be the nodal agency at State level. The Chief Secretaries of the States may undertake review of progress of RRCs by involving concerned Secretaries of Department of Urban Development, Environment, Industries, Irrigation and Public Health, Health etc.**
- 45. We also direct the MoEF& CC to consider a policy for giving environmental awards to outstanding persons (natural and juristic) and Institutions/States and introducing dis-incentives for non compliant states. Such scheme may be framed preferably before 30.06.2019.**

29. The composition of Central Monitoring Committee (CMC) was modified vide orders dated 24.04.2019 and 17.05.2019 in O.A. 606/2018 to the effect that other important issues be also considered by the CMC and having regard to the significance of the issues involved, the deliberations of CMC may be presided over by the Cabinet Secretary if viable and if possible, PMO may depute an observer at important deliberations.

VI. Report of CMC dated 11.06.2019 and order dated 18.07.2019 disapproving the same for not being in conformity with the orders of this Tribunal:

30. The CMC meeting was held on 11.06.2019 without taking cognizance of further orders dated 24.04.2019 requiring other issues also to be taken up for consideration and order dated 17.05.2019 requesting the Cabinet Secretary to preside over the deliberation³². Accordingly, the Tribunal observed that the CMC may now give its report by 31.08.2019 and if no such report was furnished, the Tribunal may proceed without the benefits of such report. MoEF & CC moved an application before this Tribunal seeking extension of time for furnishing of CMC report being I. A. 551/2019 disposed of on

³² Order dated 18.07.2019 in O.A. No. 606/2018 (State of J&K)

04.09.2019. It was observed that report may be furnished by 31.10.2019. No such further report has been received till date. We, thus, have no option but to proceed to deal with the matter without waiting further for such report. Certainly, the Tribunal is deprived of assistance which was expected from senior authorities in Central and State Governments on vital issues of public interest due to apathy shown by the concerned officers. We also note that the MoEF&CC has not given any further response even in terms of Para 45 of the order dated 08.04.2019.

31. We may however consider the report dated 11.06.2019. The report proposes timelines as per following table:

Table 8. Targets proposed by CMC for management of Sewage, Industrial Effluent, Waste and other aspects with timelines up to Year 2024

TASK	PRESENT*	As per Hon'ble NGT (2021)	2022 (Proposed)	2024 (Proposed)
Sewage Management				
• Treatment capacity	35 %	100%	75%	90 %
• Utilisation of treated wastewater	< 2 %	---	20 %	50 %
Industrial Effluent Management				
• Treatment Capacity	98 %	100%	100 %	100 %
• Utilisation of treated effluent	20 %	---	30 %	40 %
• Reduction of fresh water use	---	---	10 %	25 %
Solid Waste Management				
• Collection	80 %	100%	100 %	100 %
• Treatment	26 %	100%	75 %	100 %
E-Flow Management				
• Lean Flow	---	15-20%	15-20%	15-20%

* As per estimates at CPCB

32. The above timelines being in conflict with the mandate of environmental law, the Constitutional guarantees in terms of the judgments of the Hon'ble Supreme Court and earlier orders of this

Tribunal, cannot be accepted. Vide order dated 18.07.2019 in O.A. No. 606/2018 (J&K), Para 47, this Tribunal noted that proceedings dated 11.06.2019 did not meet the mandate of this Tribunal. Further the Tribunal had already fixed specific timelines which the Committee could not change. The Committee was expected to facilitate the directions of this Tribunal and not to nullify the same. As already noted, the issue is a major concern for the people of the country. Discharge of untreated sewage is a criminal offence and affects right to life. Failure to enforce the law cannot be condoned by giving long timelines unconditionally. Apart from the timelines fixed in the order dated 08.04.2019, timelines given by the Hon'ble Supreme Court for 100% sewage in *Paryavaran Suraksha, (2017) 5 SCC 326* have expired. This Tribunal has directed that compensation will be payable if 100% sewage is not ensured even till 31.03.2020. In the context of river Ganga, outer timeline for ensuring that all the requisites STPs are set up is 31.12.2020 and interim in-situ remediation is 31.10.2019 and for Yamuna also somewhat similar timeline has been fixed.

33. We may note the observations of the Hon'ble Supreme Court:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules

framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.³³

“45..... The Government could not pass such orders of exemption having dangerous potential, unmindful of the fate of lakhs of citizens of the twin cities to whom drinking water is supplied from these lakes. Such an order of exemption carelessly passed, ignoring the “precautionary principle”, could be catastrophic.”³⁴

“61. If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. Such blatant misuse of properties at large-scale cannot take place without connivance of the officers concerned. It is also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.”³⁵

“15. Time has come to require the State Governments to explain why they should not be asked to compensate the persons who are being affected by bad air quality. Obviously, the State is run by the administration, why liability should not be imposed for such a tort on the concerned machinery also of the various States which are failing to discharge their basic duties. This Court in *Municipal Council, Ratlam Vs. Vardhichand & Ors.*, reported in (1980) 4 SCC 162 has held they have to take proper and positive action in this direction. It is their bounden duty to provide civic amenities, and also to see that self-created bankruptcy does not come in the discharge of the statutory obligation which are necessary for existence of human life. We have seen during the course of the arguments that one State is passing the burden upon the Centre and then it is stated on behalf of the Central Government that they have framed scheme and it for the State Governments to implement it. We expect not only the ‘policy making’ but also its ‘implementation’. Let the States of Punjab, Haryana, Uttar Pradesh and the Government of NCT of Delhi

³³ INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION Vs. UNION OF INDIA AND OTHERS (1996) 5 SCC 281

³⁴ A.P. Pollution Control Board II v. Prof. M.V. Nayudu, (2001) 2 SCC 62

³⁵ M.C. Mehta v. Union of India, (2006) 3 SCC 399 – Public functionaries

respond, due to the air pollution, why the concerned Government and its concerned machinery, from top to bottom, should not be asked to compensate the citizens of Delhi and adjoining areas for various diseases which are being caused and sufferings and troubles which are being faced and the report indicates the life span is being shortened. Let show cause notice be issued to the various State Governments, and to the Chief Secretaries, to submit reply within six weeks. Let the matter be listed for consideration on 17.01.2020. The Chief Secretaries to the States of Punjab, Haryana, Uttar Pradesh and Government of NCT of Delhi be personally present on that date.”³⁶

34. In view of above observations, the timeline proposed in the minutes of CMC dated 11.06.2019 cannot be accepted and the timeline already laid down will have to be strictly adhered to with the consequences as stipulated therein.

VII. Order dated 22.08.2019 – Directions regarding control of pollution of river Ganga in pursuance of orders of Hon’ble Supreme Court in (2015) 12 SCC 764 and orders of this Tribunal:

35. Vide order dated 22.08.2019 in *Original Application 200/2014*, dealing with the pollution of river Ganga, the Tribunal issued directions and laid down coercive measures to be taken for discharge of untreated sewage in river Ganga:-

*“16.....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.*

³⁶ M.C. Mehta Vs Union of India- W.P. (Civil) No. 13029/1985 dated 25.11.2019

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.**

15. **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.”**

VIII. **Order dated 28.08.2019 in O.A. No. 593/2017, Paryavaran Suraksha Samiti Vs. Union of India, in pursuance of Hon’ble Supreme Court judgment in (2017) 5 SCC 326, for 100% treatment of sewage:**

36. Vide order dated 28.08.2019, the Tribunal held:-

“
15. **It is clear from the order of the Hon’ble Supreme Court³⁷ that the responsibility of operating STPs under Article 243W and item 6 of Schedule XII to the Constitution is of local bodies who have to evolve norms to recover funds for the purpose which is to be supervised by the States/UTs. The norms were to be finalized upto 31.03.2017 to be implemented from the next year, i.e 01.04.2018. In absence thereof, the States/UTs have to cater to the financial requirement from its own resources. The States/UTs are to prioritize the cities, towns, villages discharging effluents/sewage directly into the water bodies. Industrial activity without proper treatment**

³⁷Para 10-13 in *Paryavaran Suraksha Samiti Vs. Union of India*, *Supra*

plants (ETPs and CETPs) is not to be allowed by the State PCBs and the Secretaries, Environment of the States/UTs are to be answerable. Thus, the source for financial resources for the STPs, stands finalized under the binding judgment of the Hon'ble Supreme Court. Authorities and persons accountable are identified. Rigid implementation has been laid down. This Tribunal has been required to monitor compliance of the directions and timelines.

16. It is in this background that the present report needs to be appraised and further directions given. As regards the Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water is accepted as an interim measure. With regard to setting up of STPs, while we appreciate the extensive work of the CPCB based on information furnished by States/UTs, the challenge remains about verification of the said data on the one hand and analysis of the steps taken and required on the other. There is already a database available with the CPCB with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites. This needs to be collated and river basinwise macro picture needs to be prepared by the CPCB in terms of need for interventions, existing infrastructure and gaps therein. The States have given timelines which need to be effectively monitored both by the CPCB and the Chief Secretaries in terms of its execution.
17. **As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is discharged in water bodies. Doing so is a criminal offence under the Water Act and is harmful to the environment and public health. 'Precautionary' principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on 'Polluter Pays' principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs,**

the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018.

21. We may now sum up our directions:-

(iii) All the Local Bodies and or the concerned departments of the State Government have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.”

IX. Order dated 11.09.2019 – Directions in pursuance of orders of Hon’ble Supreme Court in (2012) 13 SCC 736 and dated 24.04.2017 in W.P. No. 725/1994 “And Quite Flows Maily Yamuna” and earlier orders of this Tribunal regarding control of pollution of river Yamuna:

37. Vide the order dated 11.09.2019, in Original Application No. 06/2012, dealing with river Yamuna, the Tribunal observed as follows:

“12. One of the major concerns of this Tribunal is that repeated directions remain un-complied and inspite of largescale failures, no accountability is fixed. There is huge loss to public exchequer for which no action is taken. Timelines are conveniently and unilaterally changed. Officers indulge in blame game in shifting responsibility from one to another. There is failure at higher levels in monitoring and taking actions. If this continues, it is difficult to expect any positive change for long. This requires paradigm shift in approach adopted so far. The approach to be adopted is to have clear time- bound plan with flexibility and due to accountability for failure by way of departmental action and monetary compensation. The rescheduled timelines have to be compressed so as to complete every action by December, 2020 except where shorter timelines are specified in this order or are otherwise possible. If any contract permits longer timeline, it is clearly in violation of binding orders of the Tribunal which has attained finality. Violation thereof is per se criminal offence. Such longer timeline has to be consistent with orders of the Tribunal and compressed within 31.12. 2020. Failing to do so may invite criminal prosecution NMCG may also monitor the compliance. The

Chief Secretaries of Delhi, Haryana and U.P. have to personally see the compliance and have to set up Monitoring Cell directly under them. Vice Chairman, DDA can also monitor and coordinate with Chief Secretary, Delhi. All other departments can monitor subject to overall directions of the Chief Secretaries. This can avoid shifting of responsibilities once ownership is with highest authorities in the State. Monthly review reports may be shared with the Monitoring Committee and also placed on websites of concerned States. Failure and successes of the individual involved may be specifically recorded and reflected in service record of the concerned officer. Stock taking may be done by the Chief Secretaries of the failure and successes so far and appropriate actions be initiated against those who have been responsible for the failure. Nodal Officers may be identified in respect of different projects clearly defining the responsibilities. Wherever there is misappropriation of funds, criminal case has to be registered. Posting of Officers entrusted with the responsibility may be reviewed from time to time depending on their responsibility. Procedure for giving of contracts may be shortened and standardized at State level and if possible at National level by NMCG and CPCB. Giving of contracts should be based on successful credentials instead of mere lowest rates. Pollution load at entry and exist point of each concerned State may or at entry points of each drains need to be recorded periodically. The Chief Secretaries of Delhi, Haryana and U.P. may furnish action taken reports in this regard at the time of their personal appearance before this Tribunal in O.A. 606/2018.

13. *Priorities need to be planned. The first step is to ensure that no pollutant is discharged into the river or drains connected thereto. Projects of setting up and upgradation of STPs including setting up of interceptors, laying of sewerage line network etc. have to be completed within strict timelines. Pending such action, immediate bioremediation and/or phytoremediation or any other alternative remediation measure may be undertaken as an interim measure. Pollution of river or water bodies is a criminal offence which needs to be checked by setting up ETPs/CETPs/STPs. The Hon'ble Supreme Court has directed³⁸ that establishment and proper functioning of ETPs/CETPs/STPs in the country be ensured. This is to enforce the right of access to water. It has been noted by the Hon'ble Supreme Court that water pollution is the cause of various diseases and also affects food safety apart from affecting the environment as such. Following the said judgment, this Tribunal has directed³⁹ that "All the local bodies have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize*

³⁸ (2017) 5 SCC 326

³⁹ Order dated 28.08.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors., O.A No. 593/2017

for restoration of the environment.” While dealing with the pollution of river Ganga, this Tribunal directed:

“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.

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.”⁴⁰

“15. A. (iv):

e). DJB to complete the task of setting up of STPs by 31.12.2020.

g) Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.01.2020, failing which the Govt. of NCT of Delhi 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, sewerage network and its connectivity. For delay of the work, the Chief Secretary, Govt. of NCT Delhi must identify the officers responsible and assign specific accountability. 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, sewerage network and its connectivity by the concerned head of the department.

h) The Govt. of NCT, Delhi will be liable to pay Environment Compensation if defaults take place as under:

i. The operational deficiencies of the existing STPs must be rectified within three months failing which

⁴⁰O.A No. 200/2014 order dated 22.08.2019

Environmental compensation of Rs. 5 Lacs per month for STP shall be deposited with CPCB.

- ii. 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 Yamuna and Rs. 10 lakhs per month to CPCB per incomplete STP, sewerage network and its connectivity will apply.*
- iii. With regard to the situation where works with regard to STP, sewerage network and its connectivity have not yet started, the Govt. of NCT, Delhi has to pay an Environmental Compensation at the rate of Rs. 10 lakhs per month per STP, Sewerage network and its connectivity after 31.12.2020 for the delay in setting up of the same. It will be open to Govt. of NCT of Delhi to recover the said amount from erring officers/contractors.”*

38. This Tribunal has also dealt with the issue of remediation of legacy waste sites at Delhi vide order dated 19.11.2019 in O.A. No. 519/2019 in a time bound manner. Dealing with the delayed action in the matter of river Yamuna, this Tribunal directed that longer timelines are not desirable having regard to serious consequences of the pollution of rivers and the Chief Secretaries of the concerned States must directly take ownership and responsibility of the projects for cleaning of the rivers. It was also observed that procedures for giving contracts need to be shortened and standardized.

39. Again, on 22.11.2019, dealing with the prevention of pollution of river Ghaggar, the Tribunal directed that all concerned States/UTs must ensure installation of STPs till 31.12.2020 in default of which they will be liable to pay compensation at the rate of Rs. 10 lakhs per month per STP and till then *in-situ* remediation must be done.

40. From the above, it is clear that this Tribunal has fixed specific timelines in view of object of the law and repeated failures of the authorities which has resulted in continuing pollution of rivers

adversely affecting the environment and the public health. It is not desirable to prolong the problem on any ground. The apparent conflict in above timelines needs to be clarified. Vide order dated 08.04.2019 in the present matter, timeline for final execution of all steps of action plan stands extended till 31.03.2021 after which compensation is to be recovered from the defaulting States and action is to be against the erring officers. Vide order dated 22.08.2019 in the case of river Ganga, outer timeline for compliance is 31.12.2020. In terms of order dated 28.08.2019 in Paryavaran Suraksha Samiti, outer timeline for 100% sewage treatment is 31.03.2020. We clarify that since order in Paryavaran Suraksha was passed on 28.08.2019 and all concerned have been put to notice, it is desirable that 100% treatment of sewage takes place as directed atleast to the extent of in situ remediation and commencement of setting up of STPs and connecting all the drains and other sources of generation of sewage to the STPs. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as directed vide order dated 28.08.2019, supra. The timelines for Ganga, Yamuna or other rivers covered by specific orders will stand, as already directed. Timeline for completing all steps of action plan till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In view of this, the timelines proposed by the CMC cannot be accepted, as observed earlier. The States/UTs may take necessary steps accordingly.

X. Consolidated status report dated 18.11.2019 filed by the CPCB on the Status of Preparation and Execution of Action Plans:

41. Consolidated status report has been filed by CPCB on 18.11.2019 with reference to the present matter as well as dealing with the *Musi*

River in the State of Telangana (O.A. 426/2018) and with regard to coastal pollution (O.A. 829/2019). Separate orders are passed in O.A. 426/2018 with regard to Musi River and O.A. 829/2019 dealing with the coastal pollution. The present order deals with the issue of 351 polluted river stretches.

42. We may now refer to the report of the CPCB on the subject of 351 polluted river stretches. Extracts from the report are:

“i) Status on Approval of Action Plans for Restoration of Identified Polluted River Stretches: -

61 out of 61 total action plans were received as on 06.09.2019 and 60 action plans have been approved along with the conditions. **Revised action plan for restoration of River Yamuna within Delhi State is awaited from Delhi State Government.** Minutes of all the eight Task Team meetings were also uploaded in CPCB website at <https://cpcb.nic.in/mcncngt-restoration/>. Also, minutes of all the eight task team meetings were also communicated to the concerned authorities for further necessary action at their end. State-wise status of action plans received, action plans approved with conditions by CPCB Task Team w.r.t Priority I & Priority II Polluted River Stretches are annexed at **Annexure-V, Annexure-VI and Annexure-VII**. All the action plans already approved by CPCB Task Team also uploaded by the concerned States/UTs and web links have been provided in CPCB website at <https://cpcb.nic.in/mcncit-restoration/> for having access to the general public.

ii) Criteria for Prioritization of Polluted River Location

In pursuance to Hon'ble NGT order dated 19.12.2018 and to devise a mechanism for classification of polluted river stretch by considering two criteria pollutants such as Bio-chemical Oxygen Demand (BOD) and Faecal Coliform (FC), CPCB has prepared "draft criteria for prioritization of polluted river location". The draft criteria was circulated to all the concerned stakeholders mainly State Pollution Control Boards (SPCBs) and the Pollution Control Committees (PCCs) vide CPCB letter dated 09.01.2019, for providing comments or views by January 2019. Based on the comments received from stakeholders, the draft criterion has been finalised and appraised to Hon'ble NGT on 29.7.2019 (Copy enclosed as **Annexure-VIII**). Afore-said finalised criteria also uploaded in CPCB website at https://cpcb.nic.in/wqm/Guidelines_wqm-23.07.2019.

iii) Submission of Performance Guarantee by the States/UTs for ensuring timely implementation of approved

action plans for rejuvenation of identified polluted river stretches: -

As per Hon'ble NGT order dated 8.4.2019, States/ UTs are required to submit performance guarantee as per revised scale i.e. No. of Polluted River Stretches in a State/UT > 10, 5 to 10 & < 5, the performance guarantee to be submitted in Rupees is 15 Crore, 10 Crore & 5 Crore respectively. **Till date, 09 States (viz., Goa, Gujarat, Haryana, Jharkhand, Madhya Pradesh, Manipur, Odisha, Puducherry, West Bengal and 02 UTs (Viz., Daman, Diu and Dadra Nagar Haveli, Delhi) out of 31 States/UTs have submitted Performance/ Bank Guarantee to CPCB.** State-wise details of performance guarantee or bank guarantees submitted is annexed at **Annexure-IX**.

iv) Review meeting with 11 States/UTs for review of action plans falling under Priority III to V classes

As per Hon'ble NGT Order dated 20.09.2018, all States and Union Territories are required to send a copy of RRC approved action plan to CPCB especially w.r.to only Priority I & Priority II stretches for approval. The Action Plans may be subjected to a random scrutiny by a task team of the CPCB.

The States/UTs which are not required to submit action plans to CPCB seeking approval, CPCB convened a review meeting on 12.09.2019 in CPCB with such 11 States/UTs for reviewing the RRC approved action plans for restoration of polluted river stretches falling under Priority III to V classes in the respective States. 09 out of 11 States/UTs have attended the meeting. CPCB reviewed the action plans and suggested necessary improvements in light of the Hon'ble NGT order dated 20.09.2018. The minutes of the review meeting were also communicated to all the concerned States/UTs vide CPCB letter dated 14.10.2019 (Copy annexed as **Annexure-X**) with a request to take necessary actions.

Following general suggestions were made for incorporation in the prepared action plans and thereafter for taking approval of RRC constituted by the respective State Government or UT Administration for implementation of action plans in respect of P-III to P-V polluted river stretches: -

- (i) Identification of polluting sources including drains contributing to river pollution
- (ii) Map showing Polluted River, its tributaries, drains, major towns, industrial estates, location of STPs/CETPs
- (iii) Functioning status of STPs/ETPs/CETPs and solid waste management and processing facilities in the catchment area of the identified polluted river stretch;
- (iv) Detailed gap analysis w.r.t town-wise water consumption (including ground water consumption), sewage generation,

existing infrastructure in the catchment area and the gap analysis;

(v) Detailed gap analysis w.r.t industrial water consumption, wastewater generation, existing infrastructure for treatment of industrial effluent (both captive ETPs/CETPs and their performance assessment), gap analysis;

(vi) Quantification and characterisation of waste (such as solid waste, industrial hazardous waste, bio-medical waste, E-Waste), STP sludge management, existing infrastructure and detailed gap analysis;

(vii) Latest water quality of polluted river, its tributaries, drains with flow details and ground water quality in the catchment of polluted river;

(viii) Aspects such as ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river (by having watershed management provisions), plantation on both sides of the river, setting up biodiversity parks on flood plains by removing encroachment., proper interception and diversion of sewage carrying drains to Sewage Treatment Plant (STP), upgradation of existing sewage treatment plants if not in a position to comply with effluent discharge norms, emphasis on utilization of treated sewage so as to minimize extraction of ground or surface water be included,

(ix) Speedy, definite or specific timelines for execution of action plans and the estimated budget including the monitoring agency

(ix) Achievable goals with specific timelines for restoration of water quality of polluted rivers.

(x) Organisation-wise action plans with timelines and the estimated budget for implementation of action plans.

v) Format for obtaining status on implementation of Action plans for restoration of polluted River Stretches

In order to assess the progress on implementation of action plans already approved by CPCB, a format seeking status on implementation of action plans for restoration of polluted river stretches has been communicated to the Chief Secretaries of concerned States/UTs and State Pollution Control Boards/ Pollution Control Committees, vide CPCB letter dated 26.9.2019. A copy of CPCB letter dated 26.09.2019 along with the format circulated is annexed at **Annexure-XI**. As on 06.11.2019, filled in formats have been received from 3 States/UTs viz Daman, Diu, Dadra & Nagar Haveli, Andhra Pradesh and Meghalaya.

State-wise Identified Polluted Rivers and the Status of Action Plans received by CPCB in compliance to Hon'ble NGT Orders dated 20.09.2018, 19.12.2018 and 08.04.2019 in OA No. 673 of 2018 (as on 07.11.2019)

Name of the State /	Total No. of	Priority I Identified Polluted River stretches	Priority II Identified Polluted River stretches	Priority — III to V Identified Polluted River stretches	Total Action

UT	Identified Polluted River stretches (PRS)	No. of P-I PRS	Action Plans received w.r.to P-I	No. of P-II PRS	Action Plans received w.r.to P-II	No. of P-III to V	Action Plans received w.r.to P-III to V	Plans Received
Andhra Pradesh	5	0	0	0	0	5	5	5
Assam	44	3	3	1	1	40	40	44
Bihar	6	0	0	0	0	6	6	6
Chhattisgarh	5	0	0	0	0	5	5	5
DD & DNH	1	1	1	0	0	0	0	1
Delhi	1	1	1	0	0	0	0	1
Goa	11	0	0	0	0	11	11	11
Gujarat	20	5	5	1	1	14	14	20
Haryana	2	2	2	0	0	0	0	2
Himachal Pradesh	7	1	1	1	1	5	5	7
J & K	9	0	0	1	1	8	8	9
Jharkhand	7	0	0	0	0	7	7	7
Karnataka	17	0	0	0	0	17	17	17
Kerala	21	1	1	0	0	20	20	21
Madhya* Pradesh	22	3	3	1	1	18	18	22
Maharashtra	53	9	9	6	6	38	38	53
Manipur	9	0	0	1	1	8	8	9
Meghalaya	7	2	2	0	0	5	5	7
Mizoram	9	0	0	0	0	9	9	9
Nagaland	6	1	1	0	0	5	5	6
Odisha	19	1	1	0	0	18	18	19
Puducherry	2	0	0	0	0	2	2	2
Punjab	4	2	2	0	0	2	2	4
Rajasthan	2	0	0	0	0	2	2	2
Sikkim	4	0	0	0	0	4	4	4
Tamil Nadu	6	4	4	0	0	2	2	6
Telangana**	8	1	1	2	2	5	5	8
Tripura	6	0	0	0	0	6	6	6
UP	12	4	4	0	0	8	8	12
Uttarakhand	9	3	3	1	1	5	5	9
West Bengal	17	1	1	1	1	15	15	17
Grand Total	351	45	45	16	16	290	290	351

Note:-

- * **MP State have submitted one combined action plan for river Kolar & River Kaliasot**
- ** **Telangana State submitted one action plan for river Manjeera & River Nakkavagu**

State-wise status of action plans received and the action plans approved by CPCB Task Team w.r.to Priority I & Priority II Polluted Rivers (as on 07.11.2019)

NAME OF THE STATE/UT	Total Identified Polluted River Stretches (PRS) Priority-I & Priority II	Identified PS Priority-II	Identified PRS Priority-II	No. of Action Plans Received	Action Plans Not Approved	Total Action Plans Approved
ASSAM	4	3	1	4	-	4
DAMAN, DIU AND DADRA NAGAR HAVELI	1	1	0	1	-	1
DELHI	1	1	0	1	1	0
GUJARAT	6	5	1	6	-	6
HARYANA	2	2	0	2	-	2
HIMACHAL PRADESH	2	1	1	2	-	2
JAMMU & KASHMIR	1	0	1	1	-	1
KERALA	1	1	0	1	-	1
MADHYA PRADESH	4	3	1	4	-	4
MAHARASHTRA	15	9	6	15	-	15
MANIPUR	1	0	1	1	-	1
MEGHALAYA	2	2	0	2	-	2
NAGALAND	1	1	0	1	-	1
ODISHA	1	1	0	1	-	1
PUNJAB	2	2	0	2	-	2
TAMIL NADU	4	4	0	4	-	4
TELANGANA	3	1	2	3	-	3
UTTAR PRADESH	4	4	0	4	-	4
UTTARAKHAND	4	3	1	4	-	4
WEST BENGAL	2	1	1	2	-	2
TOTAL	61	45	16	61	01	60

State-wise & River-wise recommendations of Task Team - Action Plans for Restoration of Identified Polluted River Stretches- as per Hon'ble NGT Orders dated 20.09.2018, 19.12.2018 & 08.04.2019 (Status as on 07.11.2019)

STATE	RIVER NAME	Status
ASSAM	BHARALU	Recommended subjected to conditions
	BORSOLA	Recommended subjected to conditions
	SILSAKO	Recommended subjected to conditions
	SORUSOLA	Recommended subjected to conditions
DAMAN, DIU AND DADRA NAGAR HAVELI	DAMANGANGA	Recommended subjected to conditions
DELHI	YAMUNA	Not Recommended
	AMLAKHADI	Recommended subjected to conditions

	BHADAR	Recommended subjected to conditions
	BHOGAVO	Recommended subjected to conditions
	KHARI	Recommended subjected to conditions
	SABARMATI	Recommended subjected to conditions
	VISHWAMITRI	Recommended subjected to conditions
HARYANA	GHAGGAR	Recommended subjected to conditions
	YAMUNA	Recommended subjected to conditions
HIMACHAL PRADESH	SUKHANA	Recommended subjected to conditions
	MARKANDA	Recommended subjected to conditions
JAMMU & KASHMIR	DEVIKA	Recommended subjected to conditions
KERALA	KARAMANA	Recommended subjected to conditions
MADHYA PRADESH	CHAMBAL	Recommended subjected to conditions
	KHAN	Recommended subjected to conditions
	KSHIPRA	Recommended subjected to conditions
	BETWA	Recommended subjected to conditions
MAHARASHTRA	GODAVARI	Recommended subjected to conditions
	KALU	Recommended subjected to conditions
	KUNDALIKA	Recommended subjected to conditions
	MITHI	Recommended subjected to conditions
	MORNA	Recommended subjected to conditions
	MULA	Recommended subjected to conditions
	MUTHA	Recommended subjected to conditions
	NI RA	Recommended subjected to conditions
	VEL	Recommended subjected to conditions
	BHIMA	Recommended subjected to conditions
	INDRAYANI	Recommended subjected to conditions
	MULA-MUTHA	Recommended subjected to conditions
	PAWANA	Recommended subjected to conditions
	WAINGANGA	Recommended subjected to conditions
	WARDHA	Recommended subjected to conditions
MANIPUR	NAMBUL	Recommended subjected to conditions
MEGHALAYA	UMKHRAH	Recommended subjected to conditions
	UMSHYRPI	Recommended subjected to conditions
NAGALAND	DHANSIRI	Recommended subjected to conditions
ODISHA	GANGUA	Recommended subjected to conditions
PUNJAB	GHAGGAR	Recommended subjected to conditions
	SUTLEJ	Recommended subjected to conditions
	CAUVERY	Recommended subjected to conditions
	SARABANGA	Recommended subjected to conditions
TAMIL NADU	THIRUMANIMUTHAR	Recommended subjected to conditions
	VAS I STA	Recommended subjected to conditions
TELANGANA	MUSI	Recommended subjected to conditions
	MANJEERA	Recommended subjected to conditions
	NAKKAVAGU	Recommended subjected to conditions
UTTAR PRADESH	HINDON	Recommended subjected to conditions
	KALINADI	Recommended subjected to conditions
	VARUNA	Recommended subjected to conditions
	YAMUNA	Recommended subjected to conditions
UTTARAKHAND	BHELA	Recommended subjected to conditions
	DHELA	Recommended subjected to conditions
	SUSWA	Recommended subjected to conditions
	KICHHA	Recommended subjected to conditions
WEST BENGAL	VINDHADHARI	Recommended subjected to conditions

	MAHANANDA	Recommended subjected to conditions
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CPCB has reviewed action plans w.r.t. Priority I and Priority II polluted river stretches. So far, 60 action plans out of 61 Priority I and Priority II polluted river stretches pertaining to 18 States & 1 UT have been approved by CPCB Task Team in 08 Task Team meetings conducted till date. Action Plan of River Yamuna in Delhi Stretch is not approved by CPCB Task Team till Date. Status along with date of approval of Action plans for Priority — I & II polluted river stretches is given in Table below.

Task Team Meeting	Date of Meeting	Action Plans approved	
		STATE	No of Action
III	11 - 12.02.2019	GUJARAT	6
		HARYANA	2
		HIMACHAL PRADESH	2
		KERALA	
		MADHYA PRADESH	2
		PUNJAB	2
		TELANGANA	3
IV	28.03.2019	WEST BENGAL	2
		DD, DNH	1
		JAMMU & KASHMIR	1
		MADHYA PRADESH	2
		MAHARASHTRA	15
V	24.04.2019	ODISHA	1
VI	31.05.2019	TAMIL NADU	4
VII	16.07.2019	UTTAR PRADESH	4
VIII	06.09.2019	UTTARAKHAND	4
		ASSAM	4
		MANIPUR	1
		MEGHALAYA	2
		NAGALAND	1
Total Action Plans Approved			60

With respect to Priority — III to V polluted river stretches, action plans for 282 out of 290 polluted river stretches have been submitted to CPCB. Kerala (07) and Madhya Pradesh (01) have not submitted Action Plans under these priorities. State- wise status is given in **Annexure I**.

A meeting is scheduled on 12.09.2019 in CPCB, inviting eleven SPCBs/PCCs for presentation to review the RRC approved action plans for polluted river stretches falling under Priority III to V classes. Only Priority III to V polluted river stretches exist in these States/ UTs.

	Total No. of	Priority I Identified Polluted River stretches	Priority II Identified Polluted River stretches	Priority — III to V Identified Polluted River stretches	Total Action

State / UT	Identified Polluted River stretches (PRS)	No. of P-I PRS	Action Plans received w.r.to P-I	No. of P-II PRS	Action Plans received w.r.to p-II	No. of P-III to P-V	Action Plans received w.r.to P-III to P-V	Plans Received
Andhra Pradesh	5	0	0	0	0	5	5	5
Assam	44	3	3	1	1	40	40	44
Bihar	6	0	0	0	0	6	6	6
Chhattisgarh	5	0	0	0	0	5	5	5
DD & DNH	1	1	1	0	0	0	0	1
Delhi	1	1	1	0	0	0	0	1
Goa	11	0	0	0	0	11	11	11
Gujarat	20	5	5	1	1	14	14	20
Haryana	2	2	2	0	0	0	0	2
Himachal Pradesh	7	1	1	1	1	5	5	7
i & K	9	0	0	1	1	8	8	9
Jharkhand	7	0	0	0	0	7	7	7
Karnataka	17	0	0	0	0	17	17	17
Kerala	21	1	1	0	0	20	13	14
Madhya Pradesh	22	3	3	1	1	18	17	21
Maharashtra	53	9	9	6	6	38	38	53
Manipur	9	0	0	1	1	8	8	9
Meghalaya	7	2	2	0	0	5	5	7
Mizoram	9	0	0	0	0	9	9	9
Nagaland	6	1	1	0	0	5	5	6
Odisha	19	1	1	0	0	18	18	19
Puducherry	2	0	0	0	0	2	2	2
Punjab	4	2	2	0	0	2	2	4
Rajasthan	2	0	0	0	0	2	2	2
Sikkim	4	0	0	0	0	4	4	4
Tamil Nadu	6	4	4	0	0	2	2	6
Telangana	8	1	1	2	2	5	5	8
Tripura	6	0	0	0	0	6	6	6
UP	12	4	4	0	0	8	8	12
Uttarakhand	9	3	3	1	1	5	5	9
West Bengal	17	1	1	1	1	15	15	17
Grand Total	351	45	45	16	16	290	282	343

43. According to the report of the CPCB, the action plans have been finalised for all the States/UTs. The CPCB has however made certain suggestions in the action plans with regard to category P-III to P-V polluted river stretches as follows:-

“

- (i) Identification of polluting sources including drains contributing to river pollution
- (ii) Map showing Polluted River, its tributaries, drains, major towns, industrial estates, location of STPs/CETPs
- (iii) Functioning status of STPs/ETPs/CETPs and solid waste management and processing facilities in the catchment area of the identified polluted river stretch;
- (iv) Detailed gap analysis w.r.t town-wise water consumption (including ground water consumption), sewage generation, existing infrastructure in the catchment area and the gap analysis;
- (v) Detailed gap analysis w.r.t industrial water consumption, wastewater generation, existing infrastructure for treatment of industrial effluent (both captive ETPs/CETPs and their performance assessment), gap analysis;
- (vi) Quantification and characterisation of waste (such as solid waste, industrial hazardous waste, bio-medical waste, E-Waste), STP sludge management, existing infrastructure and detailed gap analysis;
- (vii) Latest water quality of polluted river, its tributaries, drains with flow details and ground water quality in the catchment of polluted river;
- (viii) Aspects such as ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river (by having watershed management provisions), plantation on both sides of the river, setting up biodiversity parks on flood plains by removing encroachment., proper interception and diversion of sewagecarrying drains to Sewage Treatment Plant (STP), upgradation of existing sewage treatment plants if not in a position to comply with effluent discharge norms, emphasis on utilization of treated sewage so as to minimize extraction of ground or surface water be included,
- (ix) Speedy, definite or specific timelines for execution of action plans and the estimated budget including the monitoring agency
- (x) Achievable goals with specific timelines for restoration of water quality of polluted rivers.
- (xi) Organisation-wise action plans with timelines and the estimated budget for implementation of action plans”

44. CPCB has also prepared a format for obtaining status on implementation of the action plans which has been sent to all the States and UTs on 26.09.2019. However, only 03 States/UTs have furnished information in the said format till 06.11.2019. The action plan prepared by the Delhi Government which is to be approved by the CPCB has to follow the action points delineated in the order of this Tribunal dated 11.09.2019 in O.A. No. 06/2012.

45. It is observed that the report of the CPCB has focused only on BOD and FC. It has not taken other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification. Further, monitoring gaps in terms of number of

stations have to be identified, upgraded and upscaled so to cover upstream and downstream locations of major discharges to the river. In this view of the matter, CPCB may also ascertain whether there are any other rivers falling in the category of polluted river stretches.

XI. Consideration of the matter for the present order:

46. The report of CPCB shows the status of compliance. As already noted, the action plans have been prepared with respect to 351 river stretches by the concerned States/UTs with regard to category P-I & P-II (the most polluted river stretches), the action plans have been duly recommended by CPCB with certain changes. The said action plans are reported to be complete with respect to necessary components for river rejuvenation including identification of drains, their interception, setting up of STPs, utilization of treated water, identification of flood plain zones, maintaining e-flow, etc. Let the same be executed by 31.03.2021 as already directed. No case is made out to extend the laid down timeline unconditionally. As noted earlier, situation of water pollution is grim in the country and there has been deterioration inspite of the Water Act which was enacted way back in 1974 which was intended to bring about any improvement. This Tribunal has repeatedly put all authorities to notice in the light of earlier orders of the Hon'ble Supreme Court on the subject. Directions were also issued for budgetary support as part of the action plans which has been done in indicative terms. There can be no plea of lack of funds on issue threatening the existence of human beings. We have thus no option except to be strict about the timelines already laid down. We are also of the view that adherence to the timelines must be monitored by the Chief Secretaries of all the

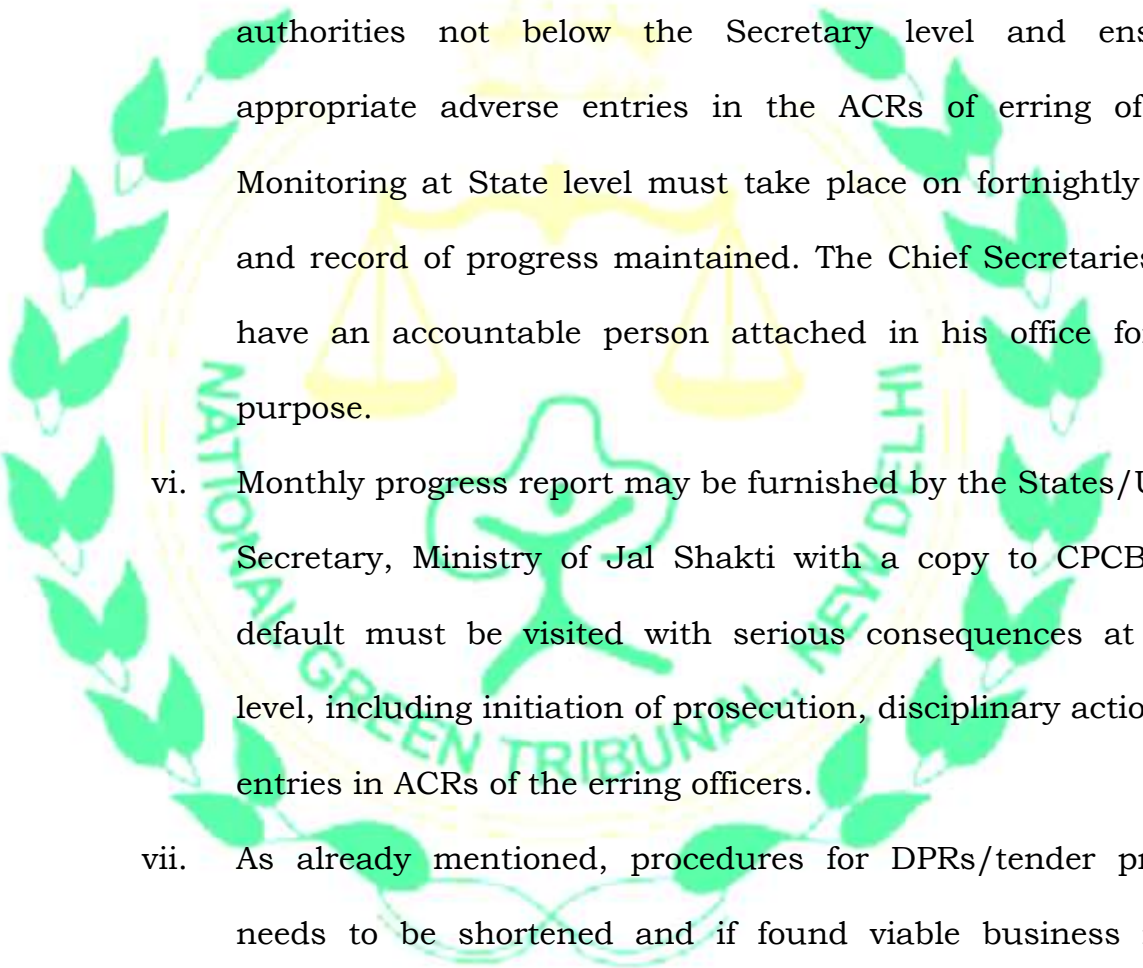
States/UTs and should also be monitored at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB. For this purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance and may give its quarterly report to this Tribunal commencing from 01.04.2020. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the secretary level and ensuring appropriate adverse entries in the ACRs. Monitoring at State level must take place on fortnightly basis and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose. Monthly progress report may be furnished to Secretary, Ministry of Jal Shakti with a copy to CPCB. Steps for in situ remediation as an interim measure may be ensured as directed above as per laid down timeline. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.

CPCB may after scrutiny finalize the action plans relating to P-III and P-IV also as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the action plans prepared by the States which may start forthwith, if not already started.

XII. Directions:

47. We now sum up our directions as follows:

- i. 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.
- ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.
- iii. We further direct that an institutional mechanism be evolved for ensuring compliance of above directions. For this purpose, monitoring may be done by the Chief Secretaries of all the States/UTs at State level and at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB.

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- iv. For above purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance who may take assistance of CPCB and may give its quarterly report to this Tribunal commencing 01.04.2020.
 - v. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the Secretary level and ensuring appropriate adverse entries in the ACRs of erring officers. Monitoring at State level must take place on fortnightly basis and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose.
 - vi. Monthly progress report may be furnished by the States/UTs to Secretary, Ministry of Jal Shakti with a copy to CPCB. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers.
 - vii. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level.
 - viii. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.
 - ix. CPCB may finalize its recommendations for action plans relating to P-III and P-IV as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the

execution of the action plans prepared by the States which may start forthwith, if not already started.

- x. The action plan prepared by the Delhi Government which is to be approved by the CPCB has to follow the action points delineated in the order of this Tribunal dated 11.09.2019 in O.A. No. 06/2012.
- xi. Since the report of the CPCB has focused only on BOD and FC without other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification, a survey may now be conducted with reference to all the said parameters by involving the SPCB/PCCs within three months. Monitoring gaps be identified and upgraded so to cover upstream and downstream locations of major discharges to the river. CPCB may file a report on the subject before the next date by e-mail at judicial-ngt@gov.in.
- xii. Rivers which have been identified as clean may be maintained.

A copy of this order be sent to Secretaries, Ministry of Jal Shakti and MoEF, NMCG, CPCB, the Chief Secretaries of all the States/UTs, and SPCBs/PCCs by e-mail.

List for further consideration on 22.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

December 06, 2019
Original Application No. 673/2018
SN & DV

Concurrence of Justice K. Ramakrishnan, Judicial Member and Mr.
Saibal Dasgupta, Expert Member has been received by e-mail.

(Court Master)

