

Item No. 03

Court No. 1

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

M.A. No. 13/2023

IN

Original Application No. 338/2021

(With report dated 23.01.2023)

Himanshu Sharma

Applicant

Versus

Union Territory of J&K

Respondent

Date of hearing: 10.05.2023

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

ORDER

1. Grievance in this application is against failure of the concerned authorities to take action to prevent pollution of *Ban Ganga* River at Katra in Jammu & Kashmir. It is stated that the river is a source of drinking water for the inhabitants of the town but is polluted by discharge of effluents and dumping of garbage in violation of The Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. The authorities have not taken any action in the matter in spite of large-scale media reporting.

2. Vide order dated 14.12.2021, the Tribunal sought a factual and action taken report from the State PCB and the Municipal Council, Katra. The action taken report was filed by the State PCB, acknowledging the violations. It was found that there was huge piled up garbage and discharge of untreated municipal waste in Ban Ganga River for which remedial action

was required. The report of the Municipal Council, Katra dated 03.02.2022 mentioned some of the remedial measures. Report of the Chief Engineer, UEE Department, State PCB dated 01.02.2022, annexed details of the project for which DPR prepared by IIT, Roorkee was said to be pending for approval. Considering the unsatisfactory state of affairs, the Tribunal directed remedial action by the concerned authorities, to be overseen by the Secretary, Housing and Urban Development Department and the State PCB, J&K. The Tribunal also directed filing of a further action taken report. Operative part of the order is reproduced below:

“xxxxxx.....xxx

7. *We find that the Reports do not address issues of adequacy of installed packages of STPs with their performance in terms of quantity and quality of sewage being carried through box drains before being discharged into Ban Ganga, quantity and characteristics of sewage discharged into the river at three points and the water quality of the river with reference to fecal coliform, as the river is used for bathing purpose. There is need to ascertain this. Further, there is need to ensure proper siting of waste segregation centres at reasonable distance from bank of the river. Sites for installing proposed STP of 1.2 and 4.5 MLD should also be appropriate. There is also need to divert sewage effluent from army settlement, shifting of piggery, relocating pony shed or proper management of mule dung bio-gas plant, ensuring that no effluent or slurry or solid waste goes to the river, transportation of bailed recyclable material to authorised points, Bio-mining of 101757 cubic metres legacy waste and regulating encroachments.*

8. *In view of above serious violations and deficiencies, remedial action needs to be taken as per law by the Municipal Council, Katra, Shri Mata Vaishno Devi Shrine Board (SMVDSB), Katra, to be overseen by the Secretary, Housing and Urban Development Department and the State PCB. Compensation assessed may be utilized for restoration measures. The remedial action may be planned and completed as far as possible within two months. In the said meeting, the issue of requirement of lands for setting up of waste management infrastructure may be duly resolved. Decision may also be taken about apportionment of financial liability between Katra Municipal Council and the SMVDSB. Sanction of DPR or funding may not be delayed as State is under Constitutional obligation to provide clean environment which is component of public health and part of right to life for which State has to arrange funds.*

9. *A joint Committee of the Secretary, Housing & Urban Development Department, CPCB, State PCB, Municipal Council, Katra, SMVDSB, Katra and DFO, Katra may hold a joint meeting within two weeks and finalize the action plan for the remedial action*

with timelines and budgetary support. The Secretary, Housing and Urban Development Department will steer the deliberations. An action taken report may be filed by the Secretary, Housing and Urban Development Department with the status of compliance as on 30.06.2022 by 15.07.2022 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The report may cover all the issues mentioned above.”

3. Vide order dated 30.08.2022, the Tribunal further considered the matter in the light of report dated 15.07.2022 filed by the Housing and Urban Development Department of J&K as follows:

- “i. Execution of comprehensive plan already prepared for solid waste management for Katra Town at a cost of Rs. 8.49 crore which includes collection and transportation of waste and setting up of material recovery facility at village Kundrorian, Tantalab, Katra. The total waste generation in Katra Town being 38 TPD (19 TPD dry waste and 19 TPD wet waste), the processing facility needs to be so designed as to process 19 TPD of wet waste as well as 19 TPD of dry waste.*
- ii. Setting up of alternative disposal facility and landfill site identified at Village Mand, District Udhampur to stop disposal of mixed waste at Tantalab has to be properly set up for processing the waste of Katra, the Shrine Board and other nearby areas without converting such site as legacy waste dump site.*
- iii. Remediation of legacy waste remains pending as the proposal involves cost of Rs. 485 lakhs under SBM. Tender proposes to take up remediation of only 65000 MT in the first phase, against the total legacy waste of 101757 cubic meters. The time taken for remediation of legacy waste is reported to be June 2023. This needs to be preponed in view of statutory timelines, binding orders and continuing adverse impact on environment and public health.*
- iv. Monitoring of removal of left over waste. It is stated that SMVDSB has removed 357.70 MT of garbage and 76.56 MT of garbage on trial basis. Remaining waste from bank of river Ban Ganga is to be removed.*
- v. Further action on proposed DPR at a cost of Rs. 95.69 lakhs to set up two STPs having capacity of 1.2 MLD and 4.50 MLD to treat the entire sewage generated from the area of Katra and SMVDSB. It is stated that it has been submitted to NRCD for approval/financial concurrence and for sanction of MoJS. KMC and SMVDSB need to undertake execution without further delay as their responsibility does not end by just submitting proposals. They have to ensure that no waste water from the urinals/ septic tanks or from piggery/pony sheds goes into River Ban Ganga.*

vi. *Upgrading water quality. Data for the years 2019, 2020, 2021 and 2022 for river Ban Ganga at two locations shows that during 2019 and 2020 BOD has been crossing the value of 3.06 mg/l reaching upto 5.8 mg/l. The data for coliform also indicate that the water quality is not meeting the tolerance limits. This needs to be remedied.”*

4. Considering the above, the Tribunal directed action in mission mode to be monitored by Secretary, Housing and Urban Development Department with the assistance of other members of the Committee constituted by this Tribunal and to file a report of compliance status as on 31.12.2022. Accordingly, such a report has been filed on 23.01.2023 by the Housing and Urban Development Department, J&K. Relevant extracts from the report are as follows:

“4. That in Para 4(i), the Hon'ble NGT has directed that "Execution of comprehensive plan already prepared for solid waste management for Katra Town at a cost of Rs. 8.49 crore which includes collection and transportation of waste and setting up of material recovery facility at village Kundrorian, Tantalab, Katra. The total waste generation in Katra Town being 38 TPD (19 TPD dry waste and 19 TPD wet waste), the processing facility needs to be so designed as to process 19 TPD of wet waste as well as 19 TPD of dry waste."

In this regard, it is respectfully submitted that the waste processing facilities are being designed to cater to the collection & transportation of waste of 38 TPD (19 TPD dry waste and 19 TPD wet waste) and its scientific disposal at Tan Talab. The Collection & Transportation of the waste is being done departmentally by Katra Municipal Committee by 5 number of vehicles (01 Mahindra 407 vehicle with dry and wet waste partition, 3 TATA Yodha vehicle and 1 tractor trolley). In addition to this, 3 No. of Vehicles (Two 30 HP door to door vehicle with dry and wet partition and one e-rikshaw for door to door collection in narrow lanes and one 30 HP vehicle, 1 Jeep mounted vehicle and 1 compactor under the Comprehensive SWM Plan are also operational, each vehicle has dedicated route and timing assigned moreover each vehicle is fitted with loudspeaker, GPS etc. The manpower/vehicles are being utilized efficiently for collection and transportation of the waste generated.

Katra Municipal Committee is segregating and disposing off Municipal Waste in a scientific manner and has imposed ban on burning of the Solid Waste including polythene and protection of the environment. The dry waste is being segregated into different types of plastics, bailed in Bailer machine and scientifically disposed of by Indian Pollution Control Agency, New Delhi (IPCA) through collection of plastic waste and channelizing that waste to energy plant or to respective recycling units. At present, Municipal Committee Katra is

segregating 200 Kg of dry waste from the Municipal waste per day which is going to increase in coming weeks to make Katra a 100% plastic free city.

The Municipal Committee Katra has made Phase Wise Waste Processing/Management Plan for Katra. In the first Phase, MRF facility at Tan Talab site (5000 Sqft), is under construction which will cater around 5-8 TPD, dry waste and is targeted to be made operational by 31st March 2023. MRF centre at KDA Land is under operation, where segregation work is going on and approx. 200 KG-300 KG recyclables are being segregated and baled. The said Plant will cater to maximum about 1-2 MT of Dry Waste on daily basis at full operational level. For processing of wet waste 29 Compost pits are under construction at Tan Talab, which will cater to 1.5 MT of 2 MT of waste for composting on daily basis. Tendering for 21 (out of 29) Compost Pits is under process and the Compost Pits will be made operational by 31st March 2023.

In the Second Phase, an integrated Solid Waste Management facility is proposed to be set up at Tan Talab, by making a space for 260 more compost pits and establishment of 2 Nos of MRF centers of 5000 Sq ft. which will handle all the dry waste. Estimation of covered drain at Tan Talab is also under process to provide pathway for MRF center and passage for sewage water. The DPRs for construction are at advance stage of preparation & shall be completed by ending February, 2023. The R&B Department is the executing Agency, as per the timelines given R&B Department, the process shall take about 06 Months to complete.

5. That in Para 4(ii), the Hon'ble NGT has directed that "Setting up of alternative disposal facility and landfill site identified at Village Mand District Udham ur to stop disposal of mixed waste at Tantalab has to be properly set up for processing the waste of Katra, the Shrine Board and other nearby areas without converting such site as legacy waste dump site."

In this regard, it is respectfully submitted that the Municipal Committee tried to dump the fresh waste of Udhampur at Village Mand site but could not do so due to law and order issues. The said site is allotted and planned for Development of Scientific landfill which will only cater the reject waste (i.e. 20% of total waste) from 6 ULBs. Currently fresh waste is being dumped at earmarked location in Tan Talab site in Katra due to non availability of other dumping site in vicinity. The land at Tan Talab is sufficient for development of an integrated Solid Waste Management Facility of 40 TPD capacity which is targeted to be covered in the Phase 2 of the waste management plan of Municipal Committee, Katra.

6. That in para 4(iii) the Hon'ble NGT has directed that "Remediation of legacy waste remains pending as the proposal involves cost of Rs. 485 lakhs under SBM. Tender proposes to take up remediation of only 65000 MT in the first phase, against the total legacy waste of 101757 cubic meters. The time taken for remediation of legacy waste is reported to be June 2023. This needs to be preponed in view of statutory timelines, binding orders and continuing adverse impact on environment and public health."

In this regard, it is respectfully submitted that in compliance to Hon'ble NGT directions timelines to complete the first phase of bio-remediation of 65000 MT of legacy waste has been pre-poned from 30.06.2023 to 31.03.2023 and the work is going on in full swing. In the second phase, RFP prepared and will be finalized and floated by February 2023, Preparatory activities i.e. Contour Survey for estimation of pending waste is under process and bio-remediation of all the legacy waste is targeted to be completed by February, 2024.

7. That in para 4(iv), the Hon'ble Tribunal has directed that "Monitoring of removal of left over waste. It is stated that SMVDSB has removed 357.70 MT of garbage on trial basis. Remaining waste from bank river Ganga is to be removed."

In this regard, it is respectfully submitted that legacy waste dumped on the banks of Banganga rivulet has been removed completely and site is totally clean. The Shrine Board has removed about 1500 MTs of Waste dumped on the banks of River Banganga through 02 leading firms i.e. M/s Indian Pollution Control Association (IPCA) and M/s Nepra Resource Management Pvt. Ltd. **Photographs attached as Annexure R-6.**

8. That in para 4(v), the Hon'ble Tribunal has directed that "Further action on proposed DPR at a cost of Rs. 95.69 lakhs to set up two STPs having capacity of 1.2 MLD and 4.50 MLD to treat the entire sewage generated from the area of Katra and SMVDSB. It is stated that it has been submitted to NRCD for approval/financial concurrence and for sanction of MoJS. KMC and SMVDSB need to undertake execution without further delay as their responsibility does not end by just submitting proposals. They have to ensure that no waste water from the urinals/ septic tanks or from z e / on sheds goes into River Ban Ganga."

In this regard, it is respectfully submitted that the project is at an advanced stage of approval in the Ministry of Jal Shakti, Government of India, for consideration of funding under National River Conservation Plan (NRCP) is being pursued by the Department rigorously. Pending approval by MoJS, the Department and SMVDSB has taken interim measures i.e. engagement of PMC and acquisition of land for STPs/ IPS 's, the scheme was included in Capex Budget of 2022-23 with an outlay of Rs 9.659 Cr. under Sewerage Sector. The Tenders for engagement of Project Management Consultants stand received. MoU for use of SMVDSB land for construction of 1.2 MLD STP stands signed. The land parcel of 12 kanals belonging to Katra Development Authority for the construction of 4.5 MLD STP has been identified and is available.

To ensure cleanliness of river Banganga, the Shrine Board has taken steps for channelizing rain water through drains constructed alongside the road, so that no rain water enters Chetak Bhawan through drains. Manpower deployment has been enhanced to ensure waste generated inside Chetak Bhawan is cleaned immediately.

Shrine Board conducted a survey from Gulshan Langer to Bathing Ghat 03 near Geeta Mandir and 900 mtrs stretch has been identified on tract along the rivulet which carries all the discharged

waste coming out from the establishments in the Banganga area which enters the Banganga rivulet. The maximum discharge (60%) of the contaminated water was entering in the stretch of 100 mtrs i.e RDO/500 to toilet Block of Bathing Ghat No. 1.

In order to ensure cleanliness of River Banganga, the Shrine Board, in the first phase, has constructed a box culvert covering a total stretch of 100 mtrs connecting three Nallas and 06 drains, having maximum discharge capacity of 35 lac liters of water per day has been constructed at an estimated cost of Rs. 27.17 lacs approximately. As a result, there has been substantial cleanliness in the bathing ghat area at Banganga.

In the second phase, the work for construction of box Culvert covering a stretch of 250 mtrs i.e. bathing ghat no. 1 to Banganga Bridge, near Gulshan Langar having estimated cost of 101 lac approximately has been allotted and the work is under construction, which shall be connected with 02 toilet blocks. The maximum discharge capacity of the culvert shall be 55 lac liter of water per day and the work shall be completed by end of February 2023. Further a 550 mtrs. PCC open drain from RD 0/500 to RD 1/025 along the Banganga rivulets is being constructed at an estimated cost of 60 lac approximately which shall be connected with 06 drains having maximum discharge capacity of 08 lac liter of water per day. The work shall be completed by end of March, 2023.

As a result a dedicated 900 mtrs sewage network shall be constructed on the banks of Banganga Rivulet for channelizing 5.5 MLD waste water discharge per day from more than 500 private establishments situated along the track for subsequent treatment by STPs to be established by UEED.

9. That in para 4(vi), the Hon'ble Tribunal has directed that "Upgrading water quality. Data for the years 2019, 2020, 2021 and 2022 for river Ban Ganga at two locations shows that during 2019 and 2020 BOD has been crossing the value of 3.06 mg/1 reaching upto 5.8 mg/1. The data for coliform also indicate that the water quality is not meeting the tolerance limits. This needs to be remedied."

In this regard, it is submitted that Water Quality of river Banganga Katra is being monitored by the J&K Pollution Control Committee on regular basis and the report for the year 2022 indicates that the water quality BOD is 1.7 mg/1 at the Bathing Ghat, Katra and 2.1 mg/1 below Reasi Bridge. The Shrine Board, JKPCC and Municipal Committee, Katra have taken substantive steps stop the discharge of untreated sewage into the river Banganga to improve its water quality. All the 4 Scrap Dealers have been closed down. 01 piggery unit established on the bank of Banganga after serving legal notice by JKPCC has adopted some remedial measures. Closure against 10 Hotels has been recommended and Environmental Compensation against 6 has been levied by JKPCC. A copy of the report with respect to water quality for the year 2021 is annexed herewith as Annexure R-7.

10. That in Para 5, the Hon'ble NGT has directed that "we are of the view that matter needs to be continuously monitored by the Committee already constituted headed by the Secretary. Housing

and Urban Development Department. We note that notice has been issued to the violating hotels but effective compliance has not been so far ensured. Similarly, stringent action is required for compliance by the scrap dealers.

In this regard it is submitted that the Committee headed by Principal Secretary to Government, H&UDD is continuously monitoring the execution of various works undertaken by the executing agencies.

So far as the cognizance against the violating hotels and scrap dealers is concerned, the same has been taken by the J&K Pollution Control Committee has categorized 2 hotels under red category and both have obtained consent from this committee and 90 hotels under orange category have obtained mandatory consent from the J&K PC and 14 hotels have complied with the directions of J&K PCC and installed required STPs in their respective hotels, besides closure proceedings are under process in case of 10 non-complying hotels. Furthermore, 06 cases of previously non-complying hotels, which have now fulfilled the deficiencies, have been recommended for levying of Environment compensations. Under Green Category 80 hotels have valid obtained consent and 11 hotels have replied to the legal notices and sought time period of 06 months for installation of required septic tanks. Out of 16 Bulk Waste Generating Hotels, 10 have installed Organic Waste Converters. 01 piggery unit established on the bank of Ban Ganga after serving legal notice has adopted some remedial measures.

SDM Katra, in pursuance to Closure orders issued by the J&K PCC in case of 04 scrap dealers, which were found operating in violation of provisions of SWM Rules, 2016 has closed down these 04 Scrap dealers.

11. Hence the Compliance Report with respect to the Status on Subject as on 31.12.2022, in pursuance to Order dated 30.08.2022 is submitted.”

5. From the above, it is seen that waste processing facility for 38 TPD solid waste is yet to be operationalized, legacy waste is yet to be remediated and sewage treatment facilities are yet to come up though the same have been planned. Thus, there is need to take necessary measures and to file status report as on 31.08.2023 by 15.09.2023 with the Registrar General of this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If found necessary, the Registrar General may place the matter before the Bench for further direction.

Subject to above, the application stands disposed of.

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

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 10, 2023
M.A. No. 13/2023
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DV