

Item No.17

Court No. 2

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

Original Application No. 877/2022

Paryavaran Mitra

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 30.01.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Gaurav Sharma Advocate

Respondent: Mr. Pradeep Misra Advocate for UPPCB. (Through VC)
Mr. Vibhav Mishra Advocate for MC Ghaziabad & Nagar Panchayat,
Faridnagar with Mr. Vipin Kumar Singh Sengar, Executive Officer, Nagar
Panchayat.
Mr. Rakesh Kumar Singh, DM, Ghaziabad. (Through VC)

ORDER

1. Applicant, Paryavaran Mitra has filed this Original Application under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as "**NGT Act, 2010**") alleging that there are huge encroachments in the area of pond comprising Khasra No. 10, 33, 310, 343, 355, 387 च, 609, 691, 980, 1046, 1047, 1103, 1109 and 1128 with a total area of 11.1350 hectares is situated at Kasba Farid Nagar, Police Station Bhojpur, Tehsil Modi Nagar, District Ghaziabad, Uttar Pradesh. Encroachments have been caused by raising constructions of houses, animal sheds and other structures for residential and commercial purposes. These encroachments have resulted in pond being converted into mass sewage carrying toxic waste i.e. garbage, plastic, cardboard, thermocol, human waste, animal dung, acidic water, etc., and natural flora and fauna of the pond, including its natural form which has been

totally destroyed and despite several complaints made to authorities, no action was taken.

2. Being satisfied that a substantial question relating to environment due to implementation of Scheduled enactments under NGT Act, 2010 has arisen in the matter, Tribunal found it appropriate to obtain a factual report before proceeding further in the matter and for the purpose constituted a Joint Committee comprising representatives of Commissioner, Municipal Corporation, Ghaziabad, State Wetland Authority, State PCB and District Magistrate, Ghaziabad.

3. Joint Committee submitted report dated 18.03.2023 giving details of 14 ponds in para 7 of the report. It is stated that it requires some further information to verify other facts stated in Original Application. Details of ponds given in para 7 of the report are as under:

S. No.	Khasra No.	Ward/Mohalla	Area (in Hectare)
1	10	Ward no 08 Mohalla Teliyan Bhojpur Seema	0.7970
2	33	Ward no 08 Mohalla Teliyan Bhojpur Seema	0.5880
3	310	Ward no 10 Mohalla Kureshiyan Opposite Pump No 2 (Near Van Vibhaag)	0.0890
4	343	Ward no 10 Mohalla Kureshiyan Naya talab (Near Nafeesh's farm)	2.2950
5	355	Ward no 10 Mohalla Vyapariyan Nakawali (Near Mosque)	0.7080
6	387 El-	Ward no 8 Mohalla Teliyan (Opposite Office)	0.7650
7	609	Ward no 03 Mohalla Gautampuri Jatt ki Maddhya Amarala Seema	0.1520
8	691	Ward no 5 Mohalla Rajputana Holi (Near Chowk)	0.2780
9	980	Ward no 03 Mohalla Gautam purl (Opposite DUDA Flats)	0.8090

10	1046	Ward no 3 Mohalla Gautam Puri (Near Soran Sabhasad)	0.7840
11	1047	Ward no 3 Mohalla Gautam Puri (Near Soran Sabhasad)	0.0380
12	1103	Ward no 11 Mohalla Pust Chowki (Behind Hospital)	0.3670
13	1128	Ward no 7 Mohalla Bhojpuriyan Bada talab	3.0480
14	585	Ward no 3 Mohalla Gautampuri (Behind Maharaja Agrasain School)	0.4170

4. Tribunal considered said report on 21.04.2023 but found it appropriate to have necessary response of all the respondents, in the matter.

5. A status report dated 29.01.2024 has been filed by Nagar Panchayat Parishad, Faridnagar giving details of 14 ponds in para 4 as under:

SI. Nos.	Khasra Nos.	Ward/Mohalla	Area as per record (Hec.)	Area available in (Hec.)	Last measured	Remarks
1.	10	8, Taleyana (W)	0.7970	0.7970	27.12.2023	Dry + Silt
2.	33	8 Taleyana (W)	0.5880	0.5880	27.12.2023	Dry + Wet
3.	310	10 Kureshiyan	0.0890	0.0890	27.12.2023	Wet
4.	343	10 Kureshiyan	2.2950	2.2950	18.01.2024	Wet
5.	355	10 Kureshiyan	0.7080	0.5860	08.01.2024	Wet
6.	387 Gha	8 Taleyana (W)	0.7650	0.7650	27.01.2024	Wet + Filled
7.	585	3 Gouttampuri	0.4170	0.4170	08.01.2024	Dry
8.	609	3 Gouttampuri	0.1520	0.1520	08.01.2024	Filled
9.	691	11 Pust Chowki	0.2780	0.2780	25.01.2024	Wet + Filled
10.	980	3 Gouttampuri	0.8090	0.8090	08.01.2024	Dry
11.	1046	3 Gouttampuri	0.7840	0.7840	20.01.2024	Wet
12.	1047	3 Gouttampuri	0.3080	0.3080	20.01.2024	Wet
13.	1103	5 Holli Chowk	0.3670	0.3670	24.01.2024	Wet
14.	1128	7 Bhojpuriyan	3.0480	2.3400 + reclaiming	27.01.2024	Wet + Encroached

6. It has stated that except pond at Khasra No. 1128 all other ponds have been made encroachment free but with regard to restoration of

ponds to their original form, it is said that the same is under process. With regard to encroached pond, it is said that encroachments are quite old and removal of encroachments will take some time. It is also said that for ponds at Khasra No. 585 and 980, Rs. 17.62 lakhs have been spent for cleaning by removal of sludge and weeds but the chart shows that these ponds are dry and when we questioned as to what kind of removal of sludge and weeds in dry ponds has been made, learned Counsel appearing for Nagar Panchayat Parishad, Faridnagar stated that in fact statement given in para 9 with regard to spending of Rs. 17.62 lakhs is not correct and only tender has been invited and said amount has been earmarked.

7. Shri Rakesh Kumar Singh, District Magistrate, Ghaziabad is present through virtual mode and stated that before spending the amount, matter would be reconsidered and he will look into the matter personally. It is also stated that no Sewage Treatment Plant (hereinafter referred to as “**STP**”) is existing in Faridnagar town and 2 STPs are under consideration in respect whereof Detailed Project Reports are being prepared by UP Jal Nigam with an estimated cost of Rs. 1099.69 lacs and Rs. 1061.06 lacs.

8. When we questioned as to what is the daily generation of sewage and where sewage is being discharged presently, no satisfactory reply could be given. It appears that whatever sewage is being generated, it is untreated and is being discharged directly into storm water drain which is ultimately meeting some river in respect whereof detailed information could not be given either by Executive Officer, Nagar Panchayat Parishad, Faridnagar who is also present in person or by District Magistrate, Ghaziabad.

9. At this stage, without issuing any specific direction, we only direct that proper assessment of sewage generation in terms of septage from septic tanks and grey water generation may be done and accordingly, sewage treatment facilities be established. Such facilities should be operable with desired results in view of the local conditions and not with high cost technologies which Nagar Parishad cannot operate. Simultaneously, utilization of treated sewage for raising plantation or for other irrigation purpose should also be attempted.

10. Situation of maintenance of sewage in Faridnagar town is highly unsatisfactory. It is evident that despite complete prohibition under Section 24 of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as "**Water Act**"), discharge of untreated water i.e. polluting material is continuing on land and stream and no effective steps for its management is presently existing in the town and whatever has been stated in the report dated 29.01.2024 is all at stage of mere consideration.

11. We also take judicial notice of the fact that in OA 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues*, Tribunal is considering issue of management of solid and liquid waste State-wise Pan India and in respect of State of UP, a direction has been issued for creating a ring-fenced account of more than Rs. 5000 crores under the supervision of Chief Secretary, UP who is supposed to allot funds for taking remedial action for management of solid and liquid waste across the State and compliance report is also required to be submitted to Tribunal.

12. In the present case, no reference has been made either to amount deposited in ring fenced account in OA No. 606/2018 nor it is stated as

to whether any amount has been released for Faridnagar town for the purpose of management and handling of liquid waste in said town, nor it is mentioned that any proposal has been sent to Chief Secretary, UP or any request has been made for releasing any amount. It is really surprising that all the authorities in hierarchy are working incoherently and without taking effective steps and unfortunately ultimately environment is the victim, being damaged continuously.

13. If anyone has committed non-compliance of mandatory provisions of Water Act or Environment (Protection) Act, 1986 and has acted in violation thereof, such violation is a criminal offence and responsible person must be prosecuted. Hence, initially we were inclined to issue such directions but, considering the request made by Executive Officer, Nagar Panchayat Parishad, Faridnagar and District Magistrate, Ghaziabad, we are inclined to give one more opportunity to them to take actual effective remedial steps at the ground level and submit a compliance report as per observations contained in Para 10 within three months. We make it very clear that with regard to amount deposited in ring-fenced account pursuant to order passed in OA No. 606/2018 relating to State of UP, appropriate facts shall also be given.

14. We also direct Respondent No. 4, i.e., Additional Chief Secretary/Principal Secretary, Urban Development Department to give its response particularly in respect to use/allocation of funds from the amount of ring-fenced account created pursuant to order dated 23.03.2023 passed in OA 606/2018 with regard to local body in question and also how he (Additional Chief Secretary/Principal Secretary, Urban Development Department) has taken effective steps for management of sewage in Faridnagar town. The said reply shall be submitted within three months. In case no reply is submitted, Additional Chief

Secretary/Principal Secretary, Urban Development Department shall appear in person before Tribunal on the next date of hearing.

15. List this matter on 07.05.2024.

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 30, 2024
Original Application No. 877/2022
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