

Item No. 10

Court No. 2

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

Original Application No. 102/2023
(I.A. No. 432/2024)

Neeraj Chhachhar & Anr.

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 10.01.2025

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

Respondent: Ms. Anjali Rajput, Adv. for the State of Uttarakhand
Ms. Ayushi Mishra, Adv. for R - 4 to 8.
Mr. Ankur Khandelwal & Ms. Sanya Panjwani, Adv. for R - 10.
Mr. Gigi. C. George, Adv. for NMCG
Mr. Mukesh Verma & Ms. Vatsala Tripathi, Adv. for UKPCB (Through VC).

ORDER

1. This Original Application (hereinafter referred to as "**OA**") was registered on a letter petition complaining that constructions of residential apartments have been made in violation of environmental norms and polluting material is being discharged directly in River Ganga.
2. Various orders have passed from time to time which included directions to the authorities concerned for demarcation of flood plain area/flood plain zone to ascertain whether construction in question has been raised in prohibited area or not.
3. District Magistrate, Haridwar has submitted its reply stating that flood plain area has been demarcated and concerned construction in question is beyond demarcated flood plain area. No copy of such demarcation order has been placed on record.

4. However, we find that in Para 6(3) of River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 (hereinafter referred to as "**River Ganga Order, 2016**"), the prohibition is as under:

"6. Prevention, control and abatement of environmental pollution in River Ganga and its tributaries:-

xxxxxx.....xxx
(3) No person shall construct any structure, whether permanent or temporary for residential or commercial or industrial or any other purposes in the River Ganga, Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries:

Provided that in exceptional circumstances like natural calamities or religious events at traditional locations, temporary structures can be raised after prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee:

Provided further that in case any such construction has been completed, before the commencement of this Order, in the River Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga or its tributaries, and if that be so, it shall cause for removing them."

5. Prohibition, therefore, is in respect of "active flood plain area" of river Ganga or its tributaries, but the said Order does not define the "active flood plain area" and instead it defines only "flood plain" as under:

*"(l) **"flood plain"** means such area of River Ganga or its tributaries which comes under water on either side of it due to floods corresponding to its greatest flow or with a flood of frequency once in hundred years;"*

6. Learned Counsel appearing for National Mission for Clean Ganga (hereinafter referred to as "**NMCG**") stated that the phrase "active flood plain" has not been defined, but could not explain as to how and to what extent and in what respect, the prohibition contained in Para 6(3) of

River Ganga Order, 2016 shall apply and what shall be construed as “active flood plain area” of river Ganga or its tributaries.

7. Since we are not able to get proper assistance on this aspect, we find no option but to direct Director General, NMCG to appear on the next date of hearing and explain as to what does the phrase "active flood plain area" of river Ganga or its tributaries as mentioned in Para 6(3) of River Ganga Order, 2016 mean?

8. The District Magistrate, Haridwar shall also place on record the copy of the demarcation of “Flood Plain” in the area in question.

9. List on 14.02.2025.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

January 10, 2025
Original Application No.102/2023
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