

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

ORIGINAL APPLICATION NO. 438/2018

IN THE MATTER OF:

1. Arti

W/o Mr. Ramesh
Add: 1/8, Commercial Complex, Sector-3,
Vaishali, District-Ghaziabad,
Uttar Pradesh-201001

Applicant(s)

Verses

1. CENTRAL GROUND WATER AUTHORITY

Through Its Chairman
Wing-3, West Block-2, Sector-1,
R.K. Puram, New Delhi-110066

2. District Magistrate

Collectorate, Raj nagar
District Ghaziabad,
Uttar Pradesh-201001

3. Jal Nigam, Uttar Pradesh

Through its Chief Engineer
Jal Nigam Office, District Ghaziabad
Uttar Pradesh-201001

4. Ghaziabad Development Authority

Through its Vice Chairman
Navyug Market, Near Old bus stand
Vikas Path, District-Ghaziabad
Uttar Pradesh-201001

5. Radisson Blu Kaushambi

H-3, Sector-14, Kaushambi,
Near to Dabur India Office,
Ghaziabad- 201010

6. Country INN & Suites

64.6, Site IV, Industrial Area Sahibabad,
Ghaziabad-201010

7. Mahagun Sarovar Portico Suites-A Sarovar Hotel

VC3 sector 3, Mahagun Metro Mall,
Vaishali, Ghaziabad-201010

8. Golden Tulip Vasundhara Hotel and Suites

C-5, Sector-18, Vasundhara,
Near Vaishali Metro Station,
Ghaziabad-201012

- 9. Clarks INN**
37/1, Pacific Business Park Site I,
Sahibabad Industrial Area, Sahibabad,
Ghaziabad-201010
- 10. Fortune INN Grazia Ghaziabad**
Plot No.1 Sanjay Nagar Distt. Centre,
Sector 23, Ghaziabad-201002
- 11. Citrus Hotel Ghaziabad**
C-2, RDC, Raj Nagar,
Mahalakshmi Mal, Near New Railway Station,
Ghaziabad-201002
- 12. Hotel Frank INN**
13, Railway Road, Bazaria, Ghaziabad-201001
- 13. Anand Retreat**
KA 74, Near Kaushambhi Metro Station,
Ghaziabad-201010
- 14. Rousha INN**
D-81, Kaushambi,
Near metro station, Kaushambi,
Ghaziabad-201010
- 15. Crystal Palace Hotel**
Plot No. 2163, Sector 16,
Vasundhara, Ghaziabad-201012
- 16. Hotel Parth INN**
C-1, Govindpuram, Hapur road,
Ghaziabad-201013
- 17. Hotel Krishna Sagar NH24**
A-1/1, Udyog Kunj,
Near Ryan International School,
Ghaziabad-201009
- 18. Hotel Samrat Kaushambi**
D24 Kaushambi,
Ghaziabad-212207
- 19. Hotel Rainbow**
Road Near Clock Tower
Ghaziabad-201001
- 20. OYO 12764 Grand INN**
4/353, Behind Rawal Pindi Jewellers,
Main Market Sector 4, Vaishali,
Ghaziabad-201014
- 21. Hotel 12807 Amaira Hotel and Banquets**
1, Plot No. 1, Village Praladhgari,
Vasundhra Ghaziabad-201012

- 22. OYO 8826 Hotel City Garden**
LIC Building, GT Road,
Ghaziabad-201001
- 23. OYO 9301 Hotel RedBury**
Kalka Garhi Chowk,
Ghaziabad-201001
- 24. OYO 9385 Indirapuram**
Bulding No. 662, Shakti Kand 3,
Ghaziabad-201010
- 25. AT Residency**
D-75, Kaushambi, Opp. Pacific Mal, Near Anand
Vihar Metro Station, Ghaziabad-201010
- 26. OYO 058 Ghaziabad**
156/157, Ahasan Ali Compound,
Bazaria, Ghaziabad-200101
- 27. OYO Townhouse 012 Kaushambi Metro Ghaziabad**
Plot No. D-75, Kaushambhi,
Ghaziabad-201010
- 28. OYO Flagship 046 Vaishali Max Hospital**
Plot No.1-3, 4, Vaishali, Sector 1,
Ghaziabad-201010
- 29. Hotel Abhay Palace**
Plot No.4, Sector1, Vaishali,
Near Pushpanjali Crosslay Hosp,
Ghaziabad-201001
- 30. OYO 421 One Hotel**
653/1, Shakti Khand,
3rd, Nehar Road, Ghaziabad-201010
- 31. OYO 13576 Hotel Residency**
7171 Gupta colony, GT road,
Near Ramte Ram Road, Ghaziabad-201001
- 32. OYO 13758 XS Residency**
E3Dr Bhabha Marg, HIG Flats,
Chander Nagar, Surya Nagar,
Ghaziabad-201011
- 33. OYO Flagship 061 Opulent Mall**
178, Chaudhary Mod, G.T. Road,
Bagh Bhathyari, Naya Ganj, Ghaziabad-201001
- 34. OYO 8349 D' Sapphire Crown**
Plot No. 1358-5, Vasundhara
Sector 5, Ghaziabad-201012
- 35. Clarks INN Kaushambi**
Plot No 41, Behind Wave Cinema Mal,
Kaushambi, Ghaziabad-201010

- 36. OYO 1299 Hotel Mukut Regency**
CC-1 Sector 13, Vasundhara,
Ghaziabad-201012
- 37. OYO 10591 Hotel Parktel**
583, Vijay laxmi Pandit Marg,
Near Omaxe Plaza, Shakti Khand 2,
Ghaziabad-201010
- 38. OYO 10887 Hotel West View**
106, Model Town, G.T. Road
(Near Navrang Cinema), Ghaziabad-201001
- 39. OYO 11407 Hotel Royal King**
171, 14D, 132, Ehsaan Ali,
Bazaria, Ghaziabad-201001
- 40. OYO 11452 Golden Castle Lodge**
11, KH No. 1/11, Indirapuram,
Niti Khand I, Ghaziabad-201014
- 41. OYO 12833 Century Grand**
6, Wazirabad Road,
Near Bhopura Chowk Petrol Pump, Sahibabad,
Ghaziabad-201005
- 42. OYO 1391 Hotel Pushpa Vilas**
Plot No. 584, Near Pushpanjali Crosslay
hospital, Sector 1, Vaishali,
Ghaziabad-201010
- 43. OYO 6772 Hotel Mukund**
Plot No. C-5,
Kaushambi Metro Station, Ghaziabad-201010
- 44. OYO 9178 Hotel New Central Park**
Plot No. D-36, Kaushambi,
Behind Kaushambi Metro Station,
Ghaziabad- 201010
- 45. OYO 11629 Hotel Sunshine INN**
43289, Sec-14,
Near Yashoda Hospital, Kaushambi,
Ghaziabad-201010
- 46. OYO 947 Hotel Palazzo Di Lara**
Plot No 11-12, Sector-3,
Near gate No.1 of Mahagun Metro Mall,
Vaishali, Ghaziabad-201010
- 47. Sri Sri Residency**
D-9, Kaushambi,
Ghaziabad-201010
- 48. Hotel Taru INN**
306-307, Railway Road, Bazaria,

Ghaziabad-201001

- 49. Hotel Krishna Sagar**
C-48, RDC, Raj Nagar,
Ghaziabad-201001
- 50. Maiden Residency**
344/1, Pandav Nagar,
Near Hospital Columbia Asia,
Ghaziabad-201002
- 51. Vaishali INN**
339A, Sector 4, Vaishali,
Ghaziabad-201010
- 52. Treebo Ashirwad**
601 Ambedkar Road
Near Choudhary More, Ghaziabad-201002
- 53. Le Crescent**
Plot no-14a, Mall road,
Near DPS school, old building,
Ahinsa khand-2, Indirapuram,
OPOSIT CLOUD 9, Ghaziabad
- 54. Hotel Minar**
12/13 Chhoti Bazaria,
Railway Road, Ghaziabad-201001
- 55. Hotel Grand Tushar**
Chaudhary More, GT Road,
Ghaziabad-201001
- 56. Hotel Shri Drona**
160, Main NH-24, Khora Colony,
Adarsh Nagar, Opp. Indirapuram,
Ghaziabad-201014
- 57. Hotel Raghav**
343-A, Railway Road,
Bazaria, Ghaziabad-201001
- 58. Hotel Sunshine Park**
D-1, Chander Nagar,
Opp. Vivek Vihar, Sahibabad,
Ghaziabad-201010
- 59. Anu Da Rendezvous**
C-96, 97, R.D.C, Rajnagar,
Ghaziabad-201002
- 60. Hotel Prithvi Palace**
2 E 221, Nehru Nagar,
Ambedkar Road, Ghaziabad-201001
- 61. Hotel Imperial**
171, Railway Road, Opp. Police Chowk,

Bazaria, Ghaziabad-201001

- 62. Rajpath Residency**
D-31, Kaushambi, EDM Mall road,
Opp. Anand vihar rail Station,
Ghaziabad-201001
- 63. Hotel Parth Paradise**
B-18, Surya Nagar, Opp. Vivek Vihar,
Delhi NCR, Ghaziabad-201010
- 64. West View Hotel**
106, Modeltown, G.T. Road,
Near Navrang Cinema, Model Town,
Ghaziabad-201001
- 65. S.R. Hotel**
73, Railway Road, Bazaria,
Ghaziabad-201001
- 66. Redbury Hotel**
B3Ambedkar Road, Ghaziabad-201001
- 67. Hotel Blue Stone**
Plot No. 5, Sec-14, Near Seemant Vihar,
Kaushambi, Ghaziabad-201010
- 68. Finestays Homestay**
No. 1/584, Sector 1, Ashok Marg,
Ghaziabad-110032
- 69. Hotel Royal Palace**
110, East Model Town,
Gandhi Nagar, Main Sher Singh Palace,
Ghaziabad-201001
- 70. Hotel Tushar Elegant**
KM-35, Kavi Nagar,
Ghaziabad-201002
- 71. Hotel Skylark**
Shop No-65, Near Post Office,
Old Munsfi Rd, Navyug Market, Naya Ganj,
Ghaziabad-201002
- 72. Madhu Regency**
I1-M-69, Nehru Nagar Society,
Ambedkar Road, Ghaziabad-201001
- 73. Hotel Supreme**
126.127 Railway Road, Bazaria,
Ghaziabad-201001
- 74. Hotel Shubham**
City.20, Railway Road, Bazaria,
Ghaziabad-201001

- 75. Hotel Sharda Ghaziabad**
21 Old Munsfi Road, Navyug Market,
Naya Ganj, Ghaziabad-201001
- 76. Hotel R.K. Residency**
Plot No. 2159, Vasundhara,
Sector 16, Opp. Awas Vikas Complex,
Ghaziabad-201012
- 77. Hotel Heaven**
Near Truck Union, GT Road,
Ghaziabad-201001
- 78. Hotel Embassy**
166 Railway Road, Bazaria,
Ghaziabad-201001
- 79. Darshan Hotel**
Plot No. 240, Adarsh Nagar,
Khora Colony, Opp Indirapuram,
Ghaziabad-201014
- 80. Bharat Guest House**
6-1, Surya Nagar, Near Raghunath Mandir,
Ghaziabad-201011
- 81. Hotel Marina**
162, Railway Road, Bazaria,
Ghaziabad-201001
- 82. Hotel Aashiyana**
160 Rahmed Ali Compound Railway Road,
Ghaziabad-201001
- 83. City Lodge**
198, Kallupura, Maliwara Chowk,
Ghaziabad-201001
- 84. Lemon Tree Hotel, East Delhi Mall, Kaushambi**
Plot No.1, Kaushambi, Ghaziabad-201010
- 85. Theap Hotel**
62, Judge Enclave,
Ahinsha Khand-2, Indirapuram,
Ghaziabad-201014
- 86. Hotel Kohinoor Palace SK**
No.41-8, Site-IV, Link Road,
Sahibabad, Ghaziabad-201010
- 87. Oyo 8349 Hotel crown Palace**
Plot No. 1358-5, Vasundhara
Sector 5, Ghaziabad-201012
- 88. Banana Tree Hotel**
No 2, Plot Alpha, Sahibabad Industrial Area Site
4, Ghaziabad-201010

- 89. Hotel Quizz @ railway station (1 Min Walking distance)**
16 Railway Road, Bazaria,
(Near Ghaziabad Railway Station) Ghaziabad-201001
- 90. OYO 13602 Hotel The Town House**
B-21-22, RDC Rajnagar, Ghaziabad-201001
- 91. Citrus Hotel Ghaziabad**
C-2 Raj Nagar District Centre,
Adjacent to Mahalaxmi Mal, Ghaziabad-201001
- 92. OYO 12779 5 seas Hotel and Banquet**
1363, Sector 5, Vasundhara, Ghaziabad-201012
- 93. Swiss Hotel**
GT Road Near Opulent Mal Ghaziabad-201001
- 94. Hotel R K Residency**
Plot No 2159, Opp Awas Vikas Complex
Sector 16 A, Near Vaishali Metro Station,
Vasundhara, Ghaziabad-201012
- 95. WORLD SQUARE HOTEL**
Mohan Nagar T-Point (World Square Mall).
Ghaziabad-201007
- 96. Clarks Inn Suites**
37/1 Pacific Business Pak Site-iv, Sahibabad
Industrial Area Ghaziabad-201010
- 97. Golden Tulip Vasundhara, Delhi NCR, Hotel & Suites**
C-5, Sector-18, Vasundhara Ghaziabad-201012
- 98. Lemon Tree Hotel East Delhi Mall Kaushambi**
Plot No.1, Kaushambi Ghaziabad-201010
- 99. Ace Manor Hotel**
28/1/5-6, Sahibabad Industrial Area
Site 4, Ghaziabad-201010
- 100. Country Inn and Suites by Radisson, Sahibabad**
64/6, Site IV,
Sahibabad Industrial Area
Ghaziabad-201010
- 101. Anand Retreat@ Kaushambi Metro**
KA-74, Kaushambi,
(Opposite Kaushambi Metro Station)
Ghaziabad-201010
- 102. Hotel Elite**
Ghanta Ghar, Railway Road,
Plot No 343 Ghaziabad-201001
- 103. Hotel Sunshine Park**
D-1, Chander Nagar (Surya Nagar),

Near Anand Vihar ISBT, Ghaziabad-201011

- 104. Royal Park Hotels & Resorts**
Shakti Khand -1/209, Indirapuram,
Ghaziabad-201010
- 105. Yash Guest House Ghaziabad**
R-115, Vakil Colony, Pratap Vihar,
Ghaziabad-201001
- 106. Heritage inn Ghaziabad**
D-2, Rampuri, Near Surya Nagar,
(Near B Block Rampuri Park)
Ghaziabad-201011
- 107. Hotel A DR Ghaziabad**
C- 96/97, RDC, Raj Nagar
Ghaziabad-201002
- 108. Bhim Hotel**
R-11/40, Block 11, Raj Nagar,
Ghaziabad-201002
- 109. Comfortable Homestay**
House No. 81, Gyan Khand- 1,
Indirapuram, Ghaziabad-201014
- 110. OYO 13551 Kohinoor Hawelli**
22, Vasundhara Sec 3, Ghaziabad
Ghaziabad-201012
- 111. Hotel Krishna Sagar NH58**
Near Gang Nagar, Muradnagar,
Ghaziabad-201001
- 112. BLACK STONE HOTEL**
Plot No 378 Main Link Road,
Vasundhara Sector 16,
Opposite Reliance Euro Park
Ghaziabad-201012
- 113. OYO 12123 Hotel Sweet Dreams**
01, National Highway 24, Lal Kuan,
Near Radha Krishna Public School, Lal Kuan,
Ghaziabad-201009
- 114. Mannat Hotel@ Railway Station**
158, Bazaria Road,
Near Railway Station, Ghaziabad-201001
- 115. CITY HOTELS & BANQUETS**
II M-68, Nehru Nagar, Opp. Nehru Yuva Kendra,
Ambedkar Road,
Near Old Bus Stand, Ghaziabad-201001
- 116. Buddha Residency**
5/67 Sector2, Rajendra Nagar,

Near Buddha Park, Ghaziabad-201005

117. Arcade Inn

52, Judge Enclave, Indirapuram,
Near Shanti Gopal Hospital
Ghaziabad-201014

118. OYO 9750 Hotel Atithi

156/157, Ahasan Ali Compound,
Railway Road, Bazaria, Ghaziabad-200101

119. Aggarwal Lodge

Shop No-159 Ehsan Ali Compound
Railway Road, Bazaria Ghaziabad-201001

120. Hotel shiva

Khasra No.161, G.T. Road, Lal Kuan, Chipyana,
Ghaziabad-201001

121. The Tarang

23, SDC, Sector-23 Main ALT Road,
Ghaziabad-201002

122. Hotel Metro 4

A-1, Gaurav Enclave, Dasna,
Ghaziabad-201012

123. Hotel Metro 1

A40, Block A, Lohia Nagar,
Ghaziabad- 201001

124. GOOD LUCK RESORT

Good Luck Resorts Reliance Road,
Jindal Nagar NH-24, 201002

125. Hotel Metro 3

141 Loha Mandi, Ghaziabad-201012

126. The Rurban Village

36 K.M. From Akshardham, N.H. 58,
Delhi Meerut Road, Upper Ganga Canal Road,
Gangnahar, Village Badka Arifpur,
Muradnagar, Ghaziabad-201206

Respondent(s)

Counsel for Respondent(s):

Mr. A.K. Prasad, Advocate for CGWA

Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB

Mr. Balendu Shekhar, Advocate for DPCC

Mr. Raj Kumar, Advocate for CPCB

PRESENT:

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER

HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER

HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. This OA 438/2018 (hereinafter referred to as '**OA**') has been filed by one Arti (applicant) raising a complaint that the condition of ground water in District Ghaziabad is very precarious and all the 4 blocks of District Ghaziabad are under over-stressed category. Ground water is depleting very rapidly particularly, on account of illegal and unauthorized abstraction by various hotels, marriage halls, party lawns etc. located in District Ghaziabad. Some of such proponents, extracting ground water as per the allegation made by applicant, are impleaded as respondents 5 to 126.

2. The OA was considered on 13.07.2018 when Tribunal directed Central Ground Water Authority (hereinafter referred to as '**CGWA**') i.e., respondent 1 and Uttar Pradesh Jal Nigam (hereinafter referred to '**UPJN**') i.e., respondent 3 to furnish a report about factual aspects of the matter, within 2 weeks.

3. No such report was submitted but the learned Counsel appearing for CGWA stated before Tribunal on 31.07.2018 that except 1, no other hotel has permission for withdrawal of ground water. He also gave an undertaking that CGWA will go into factual aspects and take such action as may be necessary. Recording his statement, OA was disposed of with the further direction to submit report of action taken on or before 31.12.2018. The order dated 31.07.2018 reads as under:

“Grievances in this application is that in spite of representation dated 02nd July, 2018, addressed to the Central Ground Water Authority (CGWA), the allegation of illegal drawl of groundwater by various entities mentioned as Respondent No. 5 to 126 has not been looked into.

We had asked the Central Ground Water Authority and Jal Nigam to furnish a factual report. Learned Counsel for Central Ground Water Authority states that except one, no other hotel has permission for drawl of groundwater. He however, undertakes that Central Ground Water Authority will go into the factual aspects and take such action as may be necessary.

In view of the above undertaking, this petition is disposed of. Let the needful be done at the earliest and the report be filed before this Tribunal on or before 31st December, 2018. The application is disposed of.

Put up the said report for consideration in January, 2019.”

4. Status report dated 31.12.2018 was filed by UPJN accompanied by an affidavit sworn by Shri G.S. Srivastava, Chief Engineer (Ghaziabad zone) UPJN, stating that piped water supply to said area in Ghaziabad including Indirapuram, Vaishali, Vasundhara and Siddhartha Vihar area is made by Ghaziabad Development Authority (hereinafter referred to as '**GDA**'), Ghaziabad Municipal Corporation (hereinafter referred to as '**GMC**') and UP Avas Evam Vikas Parishad (hereinafter referred to as '**UPAEVP**') who grant water connections to residential and other units. However, 121 MLD out of 365 MLD (120 MLD & 245 MLD) drinking water produced after treatment of raw water at Pratap Vihar & Siddharth Vihar water treatment plant is being supplied to GDA (53.31 MLD), GMC (55.44MLD) for colonies handed over by GDA and UPAEVP) and UPAEVP (12.25 MLD) by UPJN for distribution through their water supply distribution network at Ghaziabad.

5. The entire project for carrying 365 MLD (120 MLD & 245 MLD) raw water from Dasna and its treatment respectively at 120 MLD water treatment plant at Pratap Vihar and 245 MLD water treatment plant at Siddharth Vihar is executed. UPJN is maintaining 120 MLD water treatment plant at Pratap Vihar on behalf of NOIDA, GDA and GMC who

are funding the maintenance of 120 MLD water treatment plant Project in ratio of 40:13.8:46.2.

6. UPJN is also maintaining 245 MLD water treatment plant at Siddharth Vihar on behalf of NOIDA, GDA and UPAEVP who are funding the maintenance of 245 MLD water treatment plant Project in ratio of 80:15:5.

7. 365 MLD (120 MLD and 245 MLD) drinking water, meeting notified drinking water standards is being supplied by UPJN respectively to NOIDA, GDA, UPAEVP and Ghaziabad Nagar Nigam (hereinafter referred to as '**GNN**') (for colonies handed over by GDA and UPAEVP) in ratio of their funding for the project for onward distribution in Ghaziabad and NOIDA.

8. As per the information made available by GNN, 43 out of 122 hotels listed in the OA are being supplied drinking water through piped water supply by GNN. A copy of information received from GNN is enclosed as Annexure-2. As per information collected from GDA through personal visit by the official of UPJN, only 6 nos. of hotels mentioned in the list of hotels in OA are being supplied piped water supply by GDA. GDA and Ghaziabad Nagar Nigam augment water supply through their own source also.

9. An action taken report was submitted by CGWA vide their e-mail dated 10.09.2021 stating that a joint Committee comprising Uttar Pradesh Pollution Control Board (hereinafter referred to as '**UPPCB**') and the officers of District administration, was constituted who submitted report against 15 hotels as under:

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Sl. No.	Respondent No (As per OA)	Respondent Name
1	Respondent No. 13	Anand Retreat, KA 74, Near Kaushambi Metro Station, Ghaziabad

2	Respondent No. 14	Rausha INN, D-81, Kaushambi, Near Metro Station, Kaushambi, Ghaziabad - 201010
3	Respondent No. 17	Hotel Krishna Sagar NH24, A-1/1, Udyog Kunj, Near Riyan International School, Ghaziabad
4	Respondent No. 18	Hotel Samrat Kaushambi, D24, Kaushambi, Ghaziabad-212207
5	Respondent No. 25	AT Residency, D-75, Kaushambi, Opp Pacific Mall, Near Anand Vihar Metro Station, Ghaziabad-201010
6	Respondent No. 27	OYO Townhouse 012, Kaushambi Metro Ghaziabad, Plot No. D-75, Kaushambi, Ghaziabad-201010
7	Respondent No. 39	OYO 11407 Hotel Royal Kind, 171, 14D, 132, Ehsan Ali, Bajariya, Ghaziabad
8	Respondent No. 64	Hotel Minar, 12/13, Choti Badariya, Railway Road, Ghaziabad-201001
9	Respondent No. 58	Hotel Sunshine Park, D-1, Chander Nagar, Opp Vivek Vihar, Sahibabad, Ghaziabad-201010
10	Respondent No. 74	Hotel Shubham, City 20, Railway Road, Bazaria, Ghaziabad-201001
11	Respondent No. 76	Hotel R.K. Residency, Plot No. 2159, Vasundhara Sector 16, Opp Awas Vikas Complex, Ghaziabad 201012
12	Respondent No. 90	OYO 13602, Hotel The Town House, B-21-22, RDC Rajnagar, Ghaziabad-201001
13	Respondent No. 94	Hotel R.K. Residency, Plot No. 2159, Opp Awas Vikas Complex, Sector 16A, Near Vaishali Metro Station, Ghaziabad 201012
14	Respondent No. 118	OYO 9750 Hotel Atithi, 156/157, Ehsan Ali Compound, Railway Road, Bajaria, Ghaziabad 200101
15	Respondent No. 125	Hotel Metro 3, 141, Loha Mandi, Ghaziabad-201012

10. The aforesaid report is signed by Mr. Anshul Sharma, J.E., UPPCB, Ghaziabad, Mr. N.K. Pandey, J.E., UPPCB, Ghaziabad, Mr. Ankit Singh, A.E.E., UPPCB, Ghaziabad, Mr. A.K. Tiwari, Regional Officer/CEO, UPPCB, Ghaziabad, Mr. Neeraj Kumar Diwedi, Nayab Tehsildar, Tehsil

Sadar, Mr. Prakash Singh, Tehsildar, Tehsil Sadar and Mr. Yashwardhan Shrivastav, City Magistrate, Tehsil Sadar.

11. The report was considered by Tribunal on 24.09.2021. Tribunal expressed its displeasure of submission of report dated 31.12.2018 only on 10.09.2021 and that too without any narrative. It was also deprecated that report merely annexes a letter of District Magistrate, Ghaziabad dated 31.12.2018 in respect of 15 hotels which were inspected and found extracting ground water illegally. No effective remedial action was taken against the said hotels except that bore wells were sealed and no reason was given as to why other hotels made party in the OA were not inspected/surveyed or examined. In the circumstances, Tribunal directed OA to be listed on 08.11.2021 by which time CGWA shall place complete information about the status of compliance by concerned parties. The operative part of the order contained in para 8 reads as under:

*“8. In view of the above, while directing listing of this application on 08.11.2021 to be considered alongwith other matters involving illegal extraction of ground water, **we direct the CGWA to place complete information on record about the status of compliance by the concerned parties.** The CGWA may interact with the District Magistrate and the State PCB about the remedial measures for compliance of law and take further action, following due process, in exercise of statutory regulatory powers of the CGWA and other Authorities, including District Magistrate and the State PCB.”*

12. In furtherance of the said order, CGWA submitted a report dated 03.12.2021 stating that joint Committee comprising CGWA, Minor Irrigation Department, UPPCB and UPJN was constituted who visited premises of 121 respondents' units and observations of the said Committee read as under:

“OBSERVATIONS OF THE COMMITTEE

8. That a Report has been prepared by the joint Inspection committee incorporating complete information about the current status about the use of tubewells for extraction of ground water (copy of the Report by Joint Inspection Committee is enclosed as annexure G).

9. That the observations / data collected by the Committee Members has been analyzed and categorized into seven heads:

- A. Respondent units which are being supplied water inadequately or completely by Nagar Nigam and still tubewell(s) exist in their premises.
- B. Respondent units which are using only such water supplied by Nagar Nigam and no tubewell(s) was found in the premises
- C. Respondents units which are not being supplied water by the Nagar Nigam and are only using tubewell(s)
- D. Respondent units whose tubewell(s) are sealed
- E. Respondent units which have been closed
- F. Respondent units which are not existing at the given address
- G. Respondent units using tubewell(s) after it was sealed by the Committee constituted by District Magistrate Ghaziabad on 31.12.2018

“A. Respondent units which are being supplied water inadequately or completely by Nagar Nigam and still tubewell(s) exist in their premises

Respondent No. (As per OA)	Name and address of Respondent unit	No. of tube-well(s)
Respondent No 18	Hotel Samrat Kaushambi D 24 Kaushambi, Ghaziabad- 212207	1
Respondent No 19	Hotel Rainbow Railway Road Near Clock Tower Ghaziabad-201001	1
Respondent No 24	OYO 9385 Indirapurara Building No. 662 Shakti Kand 3. Ghaziabad-201010	1
Respondent No 31	OYO 13576 Hold Residency 7171 Gupta colony GT road, Near Ramte Ram Road, Ghaziabad - 201001	1
Respondent No 32	OYO 13758 XS Residency E3Dr Bhabha Marg. HIG Flats, Chander Nagar, Surya Nagar, Ghaiaabad- 201011	1
Respondent No 36	OYO 1299 Hotel Mukut Regency CC.- 1. Sector 13, Vasundhara. Ghaziabad- 201012	1
Respondent No 40	OYO 11452 Golden Castle Lodge 11, KH No. 1/11, Indirapuram, Niti Khand I, Ghaziabad- 201014	1
Respondent No 41	OYO 12833 Century Grand 6. Wazirabad Road, Near Bhopura Chowk Petrol Pump, Sahibabad, Ghaziabad- 201005	1
Respondent No 42	OYO 1391 Hotel Pushpa Vilas Plot No. 584. Near Pushpanjali-Crosslay-hospital, Sector 1, Vaishali, Ghaziabad- 201010	1
Respondent No 44	OYO 9178 Hotel New Central Park,Plot No D-36, Kaushambi	1

	<i>Behind Kaushambi Metro Station, Ghaziabad- 201010</i>	
<i>Respondent No 45</i>	<i>OYO 11629 Hotel Sunshine, INN 43289, Sec-14, Near Yashoda Hospital, Kaushambi, Ghaziabad-201010</i>	<i>1</i>
<i>Respondent No 46</i>	<i>OYO 947 Hotel Palazzo Di Lara Plot No 11-12, Sector-3, Near gate No. 1 of Mahagun Metro Mall, Vaishali, Ghaziabad- 201010</i>	<i>1</i>
<i>Respondent No 51</i>	<i>Vaishali INN, 339A, Sector 4, Vaishali, Ghaziabad- 201010</i>	<i>2</i>
<i>Respondent No 55</i>	<i>Hotel Grand Tushar (New Name Kalpana Cottage) Chaudhary More, GT Road, Ghaziabad-201001</i>	<i>1</i>
<i>Respondent No 58 & 103 (same unit)</i>	<i>Hotel Sunshine Park D-1, Chander Nagar, Opp. Vivek Vihar, Sahibabad, Ghaziabad-201010</i>	<i>1</i>
<i>Respondent No 62</i>	<i>Rajpath Residency, D-31, Kaushambi EDM Mail road, Opp. Anand vihar rail Station. Ghaziabad-201001</i>	<i>1</i>
<i>Respondent No 63</i>	<i>Hotel Parth Paradise B-18, Surya Nagar, Opp. Vivek Vihar, Delhi NCR Ghaziabad- 201010</i>	<i>1</i>
<i>Respondent No 67</i>	<i>Hotel Blue Stone Plot No. 5, Sec-14, Near Seemant Vihar, Kaushambi, Ghaziabad- 201010</i>	<i>2</i>
<i>Respondent No 76 & 94 (same units)</i>	<i>Hotel R.K. Residency Plot No. 2159, Vastmdhara, Sector 16, Opp. Awastha Vikas Complex. Ghaziabad 201012</i>	<i>2</i>
<i>Respondent No 80</i>	<i>Bharat Guest House B-1, Surya Nagar, Near Raghunath Mandir, Ghaziabad-201001</i>	<i>1</i>
<i>Respondent No 83</i>	<i>City Lodge 198, Kallupura, Malliwara Chowk, Ghaziabad- 201001</i>	<i>1</i>
<i>Respondent No 104</i>	<i>Royal Park Hotels & Resorts Shakti Khand-11/209, Indirapuram Ghaziabad-201010</i>	<i>1</i>
<i>Respondent No 106</i>	<i>Heritage INN Ghaziabad B-52, Rampuri Near Surya Nagar, (Near S Rock Rampuri Park, Ghaziabad - 201011</i>	<i>1</i>
<i>Respondent No 109</i>	<i>Comfortable Homestay House No. 81, Gyan Khand -I, Indirapuram. Ghaziabad- 201014</i>	<i>1</i>
<i>Respondent No 112</i>	<i>BLACK STONE HOTEL Plot No 378 Main Link Road, Vasundhara Sector 18, Opposite Reliance Euro Park Ghaziabad-201012</i>	<i>1</i>

B. Respondent units which are using only such water supplied by Nagar Nigam and no tubewell(s) was found in the premises

<i>Respondent No. (As per OA)</i>	<i>Name and address of Respondent unit</i>
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Respondent No 5	Radisson Blu Kaushambi H-3, Sector-14. Kaushambi Near to Dabur India Office, Ghaziabad-201010
Respondent No 8 & 97 (same units)	Golden Tulip Vasundhara Hotel and Suites C-5, Sector-18, Vasundhara Near Vaishali Metro Station, Ghaziabad- 201012
Respondent No 13& 101 (same units)	Anand Retreat KA 74, Near Kaushambi Metro Station, Ghaziabad- 201010
Respondent No 15	Crystal Palace Hotel, Plot No.2163, Sector 16, Vasundhara, Ghaziabad- 201012
Respondent No 35	Clarks INN Kaushambi Plot No 41. Behind Wave Cinema Mall, Kaushambi Ghaziabad-201010
Respondent No 43	OYO 6772 Hotel Mukund Plot No. C-5, Kaushambi Metro Station, Ghaziabad-201010
Respondent No 47	Sri Sri Residency D-9, Kaushambi, Ghaziabad-201010
Respondent No 59 & 107 (same units)	Ann Da Rendezvous C-96, 97, RDC, Rajnagar, Ghaziabad-201002
Respondent No 65	S.R. Hotel 73, Railway Road, Bazaria, Ghaziabad- 201001
Respondent No 92	OYO 12779 5 seas Hotel and Banquet 1363, 1363, Sector 5, Vasundhara, Ghaziabad - 201012
Respondent No 110	OYO 13551 Kohinoor Havelli (New name hotel Hawdli Palace) 22 Vasundhara Sec 3, Ghaziabad Ghaziabad-201012

C. Respondents units which are not being supplied water by the Nagar Nigam and are only using tubewell(s)

Respondent No. (As per OA)	Name and address of Respondent unit	No. of tube-well(s)
Respondent No 7	Mahagun Sarovar Portico Suites-A Sarovar Hotel VC3, Sector 3, Mahagun Metro Mall, Vaishali, Ghazabad- 201010	One
Respondent No 10	Fortune INN Grazia Ghaziabad Plot No.1 Sanjay Nagar Distt. Centre, Sector 23, Ghaziabad- 201002	One ²
Respondent No 12	Hotel frank INN 13, Railway Road, Bazaria, Ghaziabad, 201001	One
Respondent No 16	Hotel Parth INN, C-1, Govindpuram, Hapur road. Ghaziabad. 201013	One
Respondent No 17	Hotel Krishna Sagar NII24 A-1/1 Udyog Kunj, Near Ryan International School, Ghaziabad-201009	One
Respondent No 20	OYO 12764 Grand INN 4/353, Behind Rawal Pindi Jewellers, Main Market Sector 4, Vaishali. Ghaziabad-201014	One

Respondent No 21	Hotel 12807 Amaira Hotel and Banquets 1, Plot No. 1 Village Praiadhgan, Vasundhra Ghaziabad-201012	One
Respondent No 22	OYO 8826 Hotel City Garden LIC Building, GT Road, Ghaziabad-201001	One
Respondent No 23 & 66 (same units)	OYO 9301 Hotel Redbury Kalika Garhi Chowk, Ghaziabad- 201001	One
Respondent No 30	OYO 421 One Hotel 653/1, Shakti Khand 3 rd , Nehar Road Ghaziabad-201010	One
Respondent No 33	OYO Flagship 061 Opulent Mall, 178, Chaudhary Mod. GT Road, Bagh Bhathyari, Naya Ganj, Ghaziabad- 201001	One
Respondent No 37	OYO 10591 Hotel Parktel 583, Vijay Laxmi Pandit Marg, Near Omaxe Plaza, Shakti khand 2, Ghaziabad 201010	One
Respondent No 38 & 64 (same units)	OYO 10887 Hotel West View 106, Model Town. GT Road (Near Navrang Cinema), Ghaziabad-201001	One
Respondent No 39	OYO 11407 Hotel Royal King, 171, 140, 132, Ehsaan AH, Bazaria, Ghaziabad- 201001	One
Respondent No 48	Hotel Tam INN, 306-307, Railway Road; Bazaria, Ghaziabad- 201001	One
Respondent No 49	Hotel Krishna Sager C48, RDC, Raj Nagar, Ghaziabad-201001	One
Respondent No 50	Maiden Residency 344/1 Pandav nagar, Near Hospital, Columbia Asia, Ghaziabad - 201002	One
Respondent No 52	Treebo Ashirwad, 601 Ambedkar Road Near Choudhary More, Ghaziabad-201002	One
Respondent No 53	Le Crescent, Plot no-14a, Mall road, Near DPS School, old building, Ahinsa khand-2, Indirapuram, OPPOSITE CLOUD 9, Ghaziabad	One
Respondent No 54	Hotel Minar 12/13 Chhoti Bazaria, Railway Road, Ghaziabad, 201001	One
Respondent No 56	Hotel Shri Drona 150, Main NH-24. Khora Colony, Adarsh Nagar, Opp. Indirapuram, Ghaziabad- 201014	One
Respondent No 57	Hotel Raghav 343-A, Railway Road, Bazaria, Ghaziabad- 201001	One
Respondent No 60	Hotel Prithvi Palace (New Name Kalpana Cottage) 2E 221, Nehru Nagar Ambedkar Road, Ghaziabad-201001	One
Respondent No 61	Hotel Imperial 171, Railway Road, Opp Police Chowk, Bazaria Ghaziabad- 201001	One

Respondent No 69	Hotel Royal Palace, 110, East Model Town Gandhi Nagar, Main Sher Singh Palace, Ghaziabad- 201001	One
Respondent No 70	Hotel Tushar Elegant K.M-35, Kavi Hager Ghaziabad-201002	One
Respondent No 72	Madhu Regency, 111-M-69, Nehru Nagar Society Ambedkar Road, Ghaziabad- 201001	One
Respondent No 73	Hotel Supreme, 126, 127 Railway Road, Bazaria, Ghaziabad- 201001	One
Respondent No 74	Hotel Shubham, City20, Railway Road, Bazaria, Ghaziabad- 201001	One
Respondent No 75	Hotel Sbarda Ghaziabad 21 Okl Munsfi Road. Navyug Market, Naya Ganj Ghaziabad-201001	One
Respondent No 77	Hotel Heaven, Near Truck Union, GT Road, Ghaziabad- 201001	One
Respondent No 78	Hotel Embassy, 166 Railway Road, Bazaria, Ghaziabad- 201001	One
Respondent No 79	Darshan Hotel, Plot No. 240, Adarsh Nagar, Khora Colony Opp Indirapuram Ghaziabad - 201014	One
Respondent No 81	Hotel Marina, 162, Railway Road, Bazaria Ghaziabad- 201.001	One
Respondent No 82	Hotel Aashiyana 160 Rahmed Ali, Compound Railway Road. Ghaziabad- 201001	One
Respondent No 84 & 98 (same units)	Lemon Tree Hotel, East Delhi Mall, Kaushambi Plot No. 1 Kaushambi Ghaziabad 201010	Two
Respondent No 85	Theap Hotel (Converted to PG) 62, Judge Enclave, Ahinsha khand-2, Indi rapuram Ghaziabad-201014	One
Respondent No 86	Hotel Kohinoor Palace SK Nod 1-8. Site-IV Link Road. Sahibabad. Ghaziabad-201010	One roof top rain harvesting is also being practice.
Respondent No 88	Banana Tree Hotel No 2, Plot Alpha, Sahibabad Industrial Area Site 4, Ghaziabad-201010	One
Respondent No 89	Hotel Quizz @ railway station (1 Min Walking distance) 16 Railway Road, Bazaria (Near Ghaziabad Railway Station) Ghaziabad-201001	One
Respondent No 90	OYO 13602 Hotel The Town House B-21-22, RDC Raj nagar, Ghaziabad-201001	One
Respondent No 93	SwissHotel, GT Road Near Opulent Mall Ghaziabad-201001	Two
Respondent No 95	WORLD SQUARE HOTEL Mohan Nagar T-Point (World Square Mall) Ghaziabad- 201007	One

Respondent No 99	Ace Manor Hotel 28/1/5-6, Sahibabad Industrial Area Site 4, Ghaziabad-201010	One
Respondent No 100	Country Inn and Suites by Radisson Sahibabad 64/6, Site IV, Sahibabad Industrial Area Ghaziabad- 201010	Two ³
Respondent No 102	Hotel Elite Ghanta Ghar, Railway Road, Plot NO 343 Ghaziabad-201001	One
Respondent No 105	Yash Guest House, Ghaziabad R-115, Vakil Colony Pratap Vihar, Ghaziabad -201001	One
Respondent No 111	Hotel Krishna Sagar NH58 Near Gang Nagar Muradnagar Ghaziabad- 201901	Two
Respondent No 113	OYO 12123 Hotel Sweet Dreams 01, National Highway 24, Lai Kuan, Near Radha Krishna Public School, Lai Kuan Ghaziabad- 201000	Two
Respondent No 114	Mannat Hotel @Railway Station, 158, Bazaria Road, Near Railway Station, Ghaziabad - 201001	One
Respondent No 115	CITY HOTELS & BANQUETS, III M-68, Nehru Nagar Opp. Nehru Yuva Kendra, Ambedkar Road, Near Old Bus Stand Ghaziabad -201001	One
Respondent No 117	Arcade INN, 52, Judge Enclave, Indirapuram Near Shanti Gopal Hospital, Ghaziabad- 201014	One
Respondent No 118	OYO 9750 Hotel Atithi 156/157 Ahasan Ali Compound Railway Road, Bazaria, Ghaziabad-200101	One
Respondent No 119	Aggarwal Lodge Shop No-159 Elisan Ali Compound Railway Road, Bazaria Ghaziabad-201001	One
Respondent No 120	Hotel Shiva Khasra No. 161 G T Road, Lai Kuan Chipyana, Ghaziabad-20 1001	One
Respondent No 121	The Tarang 23, SDC Sector-23 Malihabad ALT Road, Ghaziabad-201002	One
Respondent No 122	Hotel Metro 4 (New name Hotel Anant) A-1, Gaurav Enclave, Dasna, Ghaziabad -201012	One
Respondent No 123	Hotel Metro 1 A40 Block A, Lohia Nagar, Ghaziabad -201001	One
Respondent No 124	GOODLUCK RESORT Good Luck Resorts Reliance Road, Jindal Nagar NH-24- 201002	One
Respondent No 126	The Rurvan Village 36 kms from Akshardham, NH 58, Delhi - Meerut Road, Upper Gangna Canal Road, Gangahar, Village Badka, Arifpur, Muradnagar, Ghaziabad 201206	Seven ⁴

D. Respondent units whose tubewell(s) are sealed

Respondent No. (As per OA)	Name and address of Respondent unit
Respondent No 14	Rousha INN, D-81, Kaushambi, Near Metro station, Kaushambi, Ghaziabad- 201010
Respondent No 25 & 27 (same units)	AT Residency, D75, Kaushantbi, Opp Pacific Mall, Near Anand Vihar Metro Station Ghaziabad- 201010
Respondent No 87	OYO 8349 Hotel crown Palace, Plot No. 1358-5. Vasundhara Sector 5, Ghaziabad- 201012

E. Respondent units which have been closed

Respondent No. (As per OA)	Name and address of Respondent unit
Respondent No 9 & 96 (same units)	Clarks INN 371/ 1 Pacific Business Park Site IV, Sahibabad Industrial Area, Sahibabad. Ghaziabad-=201010
Respondent No 11 & 91 (same units)	CitrusHotel Ghaziabad C-2, RDC, Raj Nagar, Mahalakshmi Mall, Near New Railway Station, Ghaziabad- 201002
Respondent No 28	OYO Flagship 046 Vaishali Max Hospital Plot No. 13, 4, Vaishali. Sector 1 Ghaziabad, 201010
Respondent No 29	Hotel Abhay Palace Plot No 4, Sector 1 Vaishali, Near Pushpanjaini Crosslay Hosp. Ghaziabad- 201001
Respondent No 68	Finestays Homestay No 1/584, Sector 1, Ashok Marg, Ghaziabad- 110032
Respondent No 71	Hotel Skylark Shop No-65. Near Post Office, Old Munsfi Rd, Navyug Market, Nava Garj Ghaziabad- 201002
Respondent No 125	Hotel Metro 3141 Loha Mandi, Ghaziabad- 201012

F. Respondent units which are not existing at the given address

Respondent No. (As per OA)	Name and address of Respondent unit
Respondent No 26	OYO 058 Ghaziabad 153/157 Aliasan Ali Compound, Bazaria, Ghaziabad, 200101
Respondent No 34	OYO 8349 D' Sapphire Crown Plot No. 1358-5, Vasundhara Sector 5 Ghaziabad- 201012
Respondent No 108	Bhim Hotel R-11/40, Block 11, Raj NagarGhaziabad-201002
Respondent No 116	Buddha Residency 5/87 Sector 2, Rajendra Nagar. Near Buddha Park, Ghaziabad- 201005

G. Respondent units using tubewell(s) after it was sealed by the Committee constituted by District Magistrate Ghaziabad on 31.12.2018

Respondent No. (As per OA)	Name and address of Respondent unit
Respondent No 17	Hotel Krishna Sagar NII24 A-1/1 Udyog Kunj, Near Ryan International School, Ghaziabad-201009
Respondent No 18	Hotel Samrat Kaushambi D 24 Kaushambi, Ghaziabad- 212207
Respondent No 39	OYO 11407 Hotel Royal King, 171, 140,132, Ehsaan AH, Bazaria, Ghaziabad- 201001
Respondent No 54	Hotel Mlnar 12/ 13 Chhoti Bazaria, Railway Road, Ghaziabad, 201001
Respondent No 58 & 103 (same units)	Hotel Sunshine Park D-1, Chander Nagar, Opp. Vivek Vihar, Sahibabad, Ghaziabad-201010
Respondent No 74	Hotel Shubham, City20, Railway Road, Bazaria, Ghaziabad- 201001
Respondent No 76 & 94 (same units)	Hotel R.K. Residency Plot No. 2159, Vastmdhara, Sector 16, Opp. Awas Vikas Complex. Ghaziabad 201012
Respondent No 90	OYO 13602 Hotel The Town House B-21-22, RDC Raj nagar, Ghaziabad-201001
Respondent No 118	OYO 9750 Hotel Atithi 156/157 Ahasan Ali Compound Railway Road, Bazaria, Ghaziabad- 200101

10. That it was observed by the Committee that as on date the respondent units which are using tubewell(s) irrespective of whether water is being supplied by the Nagar Nigam, do not have permission of ground water withdrawal from the Authorized Officer / concerned department / answering respondent. Only two units have applied for NOC in Uttar Pradesh Ground Water Department.
11. That it is respectfully submitted that the answering Respondent had notified various areas for the purpose of regulation of ground water development, wherein exploitation of ground water for any use other than drinking & domestic purposes was not being permitted.
12. That the Municipal Corporation of Ghaziabad was notified on 04.04.1998 and according to the then prevailing guidelines of the Authority, the permission to abstract ground water for the purpose of drinking water in the Notified Areas was granted by the Authorised Officer in consultation with the advisory committee constituted for this purpose. The District Administrative Heads (Deputy Commissioner/District Magistrate/District Collector) in case of Administrative Block or Taluka, or the Head of the Municipality (in case of Municipal Area) of the notified areas in the country have been appointed as 'Authorized Officers' by Central Ground Water Authority under Section 4 of the Environmental (Protection) Act, 1986.
13. That the answering respondent had stopped processing applications for No Objection Certificate for ground water extraction, in OCS areas (non-notified areas) in compliance to the Hon'ble NGT order dated 03.01.2019 in O.A. No. 176/2015, wherein the Hon'ble NGT had directed that Central Ground Water Authority. Guidelines/Notification dated 12.12.2018 may not be

given effect to and an appropriate mechanism/regulatory regime may be introduced consistent with the needs of the environment.

14. *That it is respectfully submitted that Uttar Pradesh State Ground Water Management & Regulatory Authority has been constituted by the State Government of Uttar Pradesh for the regulation and management of ground water resources and issuing of NOCs for ground water abstraction in the State of U.P., and the said Department is completely functional since October, 2020. Issuing/Renewal of NOC to the project proponents in the State of Uttar Pradesh is no longer within the purview of Central Ground Water Authority. Thus, all the project proponents/ground water users in the state of Uttar Pradesh are now required to comply with the provisions of Uttar Pradesh Ground Water (Management & Regulation) Act, 2019.*

15. *That it is respectfully submitted that the said Report by Joint Inspection Committee regarding the present status of ground water withdrawal has been shared with the District Magistrate, Ghaziabad and Uttar Pradesh Ground Water Department with a direction under Section 5 of Environment (Protection) Act, 1986 to take further necessary action and ensure compliance of NGT Orders in this regard.”*

13. We are surprised that large number of hotels etc. were/are functioning in an illegal manner extracting ground water but the statutory regulators have turned blind eye to such illegalities and had not taken any effective remedial and punitive action against such violators. We are also surprised to read the comments of CGWA in para 14 of the report that UP Legislature had enacted Uttar Pradesh Ground Water (Management & Regulation) Act 2019 and now the entire matter with regard to abstraction of ground water and its permission has to be governed by the said Act. The stand is totally misconceived in as much as Environment (Protection) Act, 1986 is referable to Entry 13 list I Schedule VII and Article 253 of the Constitution. Entry 13 List 1 of Schedule 7 of the Constitution, says as under:

“13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.”

14. Issue relating to depletion of ground water, for the first time, caught attention of Supreme Court in ***M.C. Mehta vs. Union of India & Others***

(1997)11SCC312. On 20.03.1996, in daily newspaper “Indian Express”, published on 18.03.1996, a news item was published under the caption of “Falling Groundwater Level Threatens City”. Court took judicial notice on 20.03.1996 and required CGWB and Delhi Pollution Control Committee to respond. On 03.04.1996, Court issued notices to Municipal Corporation of Delhi and Delhi Waterworks and Sewerage Disposal Undertaking. One scientist Dr. P.C. Chaturvedi, (Director), CGWB filed affidavit stating that since 1962 and onwards, water levels in country are declining. During the years 1971 to 1983, fall in water level was 4 meters to 8 meters in National Capital Territory. There was a further fall of water level from 4 meters to more than 8 meters during 1983 to 1985. One of the reasons stated in the affidavit for decline of water level was, enhanced pumpage. Consequently, Supreme Court issued notice to Government of India through Secretary, Ministry of Water Resources and Government of National Capital Territory, Delhi. The factual position regarding fall of water levels in the country was admitted in the affidavits filed by various authorities before Supreme Court. Thereafter, vide order dated 04.09.1996, Supreme Court requested Director, NEERI to examine the matter at institute level, by experts in the field, and submit report. NEERI was also required to submit suggestions and recommendations for checking further decline of underground water level. Consequently, NEERI submitted report dated 23.09.1996 with the title “**Water Resources Management in India, Present Status and Solution Paradigm**”. An affidavit dated 24.10.1996 was filed on behalf of Ministry of Water Resources, by Additional Secretary, making comments on NEERI report, indicating an overall declining water level picture in the country, and also, schemes and activities undertaken by Government of India through various departments to monitor ground water. It was pointed out that in order to arrest depleting trend and to avoid indiscriminate withdrawal of ground water, Government of India had

circulated a Model Bill to States/Union Territories, in 1970, to help them to bring out suitable legislation on the lines of Model Bill to regulate and control development of ground water in the respective areas. It was stated in the affidavit that in more than 120 blocks i.e. 231 blocks, in 6 Mandals, and 12 Talukas, level of ground water is over exploited. Noticing all these facts, Supreme Court, accepted one of the suggestions of NEERI, regarding constitution of an Authority under Section 3(3) of EP Act 1986, and passed order on 05.12.1996, over ruling objection taken by Ministry of Water Recourses, Government of India that water being a State subject, it would not be possible to constitute an Authority under Section 3(3) of EP Act 1986, and held that **EP Act, 1986 is made by Parliament under Entry 13 List I Schedule 7 read with Article 253 of the Constitution of India and shall have an over-riding effect.** There was already an Organization namely CGWB having its Office across the country, hence Supreme Court directed that Central Government may consider to issue a Notification constituting the “Board” itself as an “Authority” under Section 3(3) of EP Act, 1986. It also observed that the said Authority would have all statutory powers under Section 3(3) of EP Act 1986 and would be in a position to have effective control all over India. **Supreme Court also said that any institution/department constituted by State Government can independently function in its own field with the cooperation and under the guidance of the organization set up by CGWB.**

15. As a result, thereof, we find Notification dated 14.01.1997 issued by Ministry of Environment and Forest (hereinafter referred to as ‘**MoEF**’), in exercise of power conferred by Section 3(3) of EP Act 1986 constituting CGWB as an Authority i.e. CGWA, for the purpose of regulation and control of ground water management and development, from the date of

publication of the said Notification in the official Gazette. It was published in the Gazette of India on the same date.

16. As per para 1 of Notification of 1997, CGWA would constitute of the following:

- (i) Chairman, CGWB-Chairperson
- (ii) Member (Exploratory Drilling and Materials Management), CGWB-Member
- (iii) Member (Sustainable Management and Liaison), CGWB-Member
- (iv) Member (Survey, Assessment and Monitoring), CGWB-Member
- (v) An officer not below the rank of the Joint Secretary to the Government of India to be appointed by the Central Government-Member

17. Para 2 of the said Notification dated 14.01.1997, provided powers and functions of CGWA, and said:

“2. The Authority shall exercise the following powers and perform the following functions, namely: -

- (i) exercise of powers under section 5 of the Environment (Protection) Act, 1986 for issuing directions and taking such measures in respect of all the matters referred to in sub-section (2) of section 3 of the said Act;*
- (ii) to resort to the penal provisions contained in sections 15 to 21 of the said Act;*
- (iii) **to regulate indiscriminate boring and withdrawal of ground water in the country and to issue necessary regulatory directions with a view to preserve and protect the ground water.**”*

18. The jurisdiction of the said Authority was declared to be whole of India, vide para 3.

19. Supreme Court in ***M.C. Mehta vs. Union of India & Others. (1997)*** (***supra***) also said that the Authority i.e., CGWA can resort to penal provisions contained in Section 15 to 21 of EP Act 1986. It also observed that main object for constitution of said Authority being the urgent need for regulating indiscriminate boring and withdrawal of underground water

in the country, the said Authority so constituted, shall apply its mind to this urgent aspect of the matter and issue necessary regulatory directions with a view to preserve and protect underground water.

20. Initially, constitution of CGWA was for one year as provided in para 1 of Notification dated 14.01.1997. It was amended by Notification dated 13.01.1998, published in the Gazette of India (Extraordinary) of the same date and in place of one year, it was made five years.

21. Another amendment was brought in Notification dated 14.01.1997 by Notification dated 05.01.1999, published in the Gazette of India (Extraordinary) dated 08.01.1999 and thereby, CGWA was made six persons Authority by adding Regional Director or an officer of equivalent rank, CGWB as Member Secretary.

22. The constitution of CGWA and its functions underwent a major amendment vide Notification dated 06.11.2000, published in Gazette of India (Extraordinary) dated 16.11.2000. Thereby, in para 1, period of CGWA was deleted, hence CGWA became an Authority without any limitation of period. Further, composition of CGWA was also changed by making it a ten members Committee including Chairman, with a further provision authorizing it to have some special invitees, as and when required. The new composition of CGWA was as follows:

- (i) Chairman, CGWB-Chairman
- (ii) Member (Survey, Assessment and Monitoring), CGWB-Member
- (iii) Member (Exploration Drilling and Materials Management), CGWB-Member
- (iv) Member (Sustainable Management and Liaison), CGWB-Member
- (v) Member (Training and Technology Transfer), CGWB-Member

- (vi) Joint Secretary (Administration), Ministry of Water Resources-Member
- (vii) Joint Secretary and Financial Adviser, Ministry of Water Resources-Member
- (viii) Joint Secretary, MoEF-Member
- (ix) Chief Engineer, Irrigation Management Organisation (Water, Planning and Projects), Central Water Commission-Member
- (x) Director/General Manager (Exploration), Oil and Natural Gas Corporation Ltd.-Member

23. The aforesaid Notification further authorized CGWA to invite, from time to time, following, as special invitees, as and when required:

- (i) Joint Secretary (Soil and Water Conservation), Department of Agriculture and Co-operation
- (ii) Joint Secretary (Water Supply), Ministry of Urban Development
- (iii) Joint Secretary (Department of Drinking Water Supply), Ministry of Rural Development
- (iv) Director, National Institute of Hydrology, Roorkee
- (v) Director, National Geo-physical Research Institute, Hyderabad.

24. The powers and functions of CGWA described by Notification dated 14.01.1997 were also amended and for clause (iii), the following clause (iii) and (iv) were substituted:

“(iii) to regulate and control, management and development of ground water in the country and to issue necessary regulatory directions for this purpose;

(iv) exercise of powers under Section 4 of the Environment (Protection) Act, 1986, for appointment of officers.”

25. CGWA was conferred with powers to issue directions under Section 5 and also to exercise powers on the matters referred to in Section 3(2) of

EP Act 1986. Thus, it would be appropriate to have a bird eye-view of Section 3(3), 3(2) and 5 of EP Act 1986. Section 3(2) and (3) read as under:

“3(2) *In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:*

(i) co-ordination of actions by the State Governments, officers and other authorities-

(a) under this Act, or the rules made thereunder, or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nationwide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

“3(3) *The Central Government may, if it considers it necessary or expedient so to do for the purpose of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of*

exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.”

26. Section 5 confers power to give directions which was also conferred upon CGWA by Central Government in its notification under Section 3(3).

Section 5 reads as under:

“5. POWER TO GIVE DIRECTIONS:

Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may¹, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation-*For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-*

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) stoppage or regulation of the supply of electricity or water or any other service.”*

27. Perusal of above, shows that Section 5 has been given an overriding effect over any other law but directions issued under Section 5 have to be within the compass of EP Act 1986 and cannot travel beyond. Further sub-section 2 of Section 3 has to be read with sub-section 1 which shows that power to take such measure as deemed necessary and expedient, was conferred with the clear objective that it should be for the purpose of protecting and improving quality of environment and preventing, controlling and abating environmental pollution. Further the aforesaid power is also subject to the provisions of EP Act 1986.

28. Section 24 of EP Act 1986 also made a declaration that subject to sub-section 2, provisions of EP Act 1986 and the rules or orders made

therein, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than EP Act, 1986.

29. Therefore, not only provisions of EP Act 1986 but even rules or orders issued under EP Act 1986 shall prevail over any other enactment except EP Act 1986. In other words, if, there is anything otherwise provided in EP Act 1986, then the rules/orders etc. will have to be read consistent therewith and as per legislative or statutory hierarchy, the one which is superior in hierarchy, shall prevail.

30. The steps, taken by Central Government or the Authority constituted under Section 3(3) with power to issue directions under Section 5 or to take such measures as are necessary under sub-section 2 of Section 3, are the orders in respect whereof, Section 24 sub-section 1 provides that the same shall prevail over any other enactment having any inconsistent provision. The only exception is with regard to the offences and punishment, subject to the provisions of sub-section 2 of Section 24, which provides, where any Act or omission constitutes any offence punishable under EP Act 1986 and also under any other Act, then the offender found guilty of such offence, shall be liable to be punished under the other Act and not EP Act 1986.

31. Section 25 of EP Act 1986 confers power upon Central Government to frame rules and Section 26 provides procedure which obviously would not include or cover the direction or orders or steps taken by virtue to Section 3(2) or Section 5 of EP Act 1986.

32. Hence directions issued under Section 5 or orders issued on the matters referable to Section 3(2), are statutory orders. We have already discussed that EP Act 1986 is referable, to Entry 13 List I Schedule VII of the Constitution read with Article 253, having been enacted pursuant to

the International Conference and resolutions and to give effect thereto, it shall prevail over Provincial legislation. All Provincial enactments, relating to ground water, therefore, would have to subserve the Guidelines issued by CGWA since these guidelines are referable, to Section 5 read with Section 3(2) of EP Act 1986. These guidelines are not mere executive orders but statutory orders and, in any case, having been issued in exercise of powers under EP Act 1986, as stated above, shall prevail over Provincial enactments/legislations. To the extent, subject is covered by EP Act 1986 and the orders issued by CGWA, Provincial legislature would lack power to make law, and if made, shall sub serve.

33. The limitation upon CGWA is that the guidelines, not only, are subject to the provisions of EP Act 1986 but should also conform the mandate that it should be for the purpose of protecting and improving quality of environmental and preventing, controlling and abating environmental pollution.

34. Supreme Court in its order dated 10.12.1996 in ***M.C. Mehta vs. Union of India & Others (1997) (supra)***, made it very clear, in para 12 of the judgment, that the main object for constitution of CGWB, as an Authority, is the urgent need for regulating indiscriminate boring and withdrawal of ground water in the country. Court further said that it has no doubt that the Authority, i.e., CGWA shall apply its mind to this urgent aspect of the matter and issue necessary regulatory directions with a view to preserve and protect ground water. Court reiterated its above directions by stating *“This aspect may be taken up by the Authority on an urgent basis”*.

35. Supreme Court also took notice of the fact that there are some legislations in the States to regulate water resources development but by

and large, ground water was being exploited all over the country, without any effective regulatory regime. It is in this regard, Court directed that an Authority under EP Act 1986 be constituted with powers necessary to deal with situation created by indiscreet abstraction of ground water causing depletion of ground water levels, dwindling surface water resources, deterioration of surface and ground water quality and haphazard land use.

36. In the same case, i.e., **M.C. Mehta vs. Union of India & Others. (1997) (supra)**, in earlier order dated 05.12.1996, Court had also rejected contention advanced on behalf of Government of India, Ministry of Water Resources that under the constitution, water is State subject and, therefore, Central Government or Parliament has no role. Court said that:

“We are prima facie of the view that the Act being an Act made by Parliament under Entry 13 List I read with Article 253 of the Constitution of India, it has an overriding effect.”

37. In **S. Jagannath vs. Union of India & Others., 1997 (2) SCC 87**, Supreme Court in its judgment dated 11.12.1996, was confronted with the situation where provincial legislations on coastal aquaculture regulating industries, set up in coastal areas, contained provisions which were not in consonance with Central enactment i.e., EP Act 1986 and notification issued by Government of India under Section 3(3) of the said Act, i.e. Coastal Regulation Zone (CRZ). Supreme Court held:

“...we are of the view that the Act being a Central legislation has the overriding effect. The Act, (the Environment Protection Act, 1986) has been enacted under Entry 13 of list I Schedule VII of the Constitution of India. The said entry is as under:

“Participation in international conferences, assessment and other bodies and implementing of decisions made thereat.”
*The preamble to the Act clearly states that it was enacted to implement the decisions taken at the United Nations’ Conference on the Human Environment held at Stockholm in June, 1972. Parliament has enacted the **Act under Entry 13 of List I Schedule VII read with Article 253 of the Constitution of India. The CRZ notification having been issued under the Act shall have overriding effect and shall prevail over the law made by the legislatures of the States.**”*

(Emphasis added)

38. In ***Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Others (2019)18SCC494***, it was reiterated when a similar question with respect to Provincial legislation vis-a-vis law on environment was raised. Supreme Court said:

“A Central legislation enacted under Entry 13 of Schedule VII List I of the Constitution of India will have the overriding effect over State Legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify ‘Buffer Zones around specific lakes and water bodies in contradiction with zoning regulations under these statutes or RMP”. (Para 47)

(Emphasis added)

39. Recently, in ***Civil Appeal No. 6932 of 2015, The Director General (Road Development) National Highways Authority of India vs. Aam Aadmi Lokmanch & Others.***, the above view taken in ***Mantri Technoze Pvt. Ltd. vs. Forward Foundation (Supra)*** has been referred and followed.

40. Therefore, it is now established that irrespective of the legislative list contained in Schedule 7, whenever matter relates to environment is to be seen, if governed by the laws enacted on environment by Parliament, referable to entry 13 List 1 of 7th Schedule, the same shall prevail. In other words, when a subject is covered by a legislation referable to list 1 of Seventh Schedule of the Constitution, to the extent matter is covered by such Central legislation, Provincial legislature would cease to have any legislative competence to that extent, irrespective of entry in list 2. Provincial legislature can make law only on the aspects not covered by Parliamentary enactment.

41. Thus, we are clearly of the view that on the subject of regulation of ground water, provisions of EP Act 1986, the orders issued by Central Government under Section 3(3), and by CGWA under section 5 and/or

section 3(2) of EP ACT 1986 shall hold field and on this subject Provincial legislation cannot be brought in to impede, obstruct or deny or deprive CGWA, in its function for protection, perseveration and sustenance of ground water in the country.

42. The Guidelines issued by CGWA on 24.09.2020 also states clearly that the provincial legislation inconsistent with the Guidelines of CGWA shall be over-redeem by the Guidelines. Still CGWA is shirking its liability and responsibility. These aspects have been dealt with by us in detail in our judgments of date in **OA 69/2020, Sushil Bhatt vs. Moon Beverages Ltd.** and **Appeal 45/2020, Devi Das Khatri vs. Union of India & Ors.**

43. However, before passing any order against the proponents/respondents who are illegally extracting ground water, we find it appropriate to issue notices to them to submit their response.

44. We therefore, direct that notice be issued to respondents no. 7, 10, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 61, 62, 63, 64, 66, 67, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93, 94, 95, 98, 99, 100, 102, 103, 104, 105, 106, 109, 111, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122, 123, 124 and 126. Notice be issued by State PCB by an appropriate mode. These respondents may file reply within one month.

45. In para 8(E), 7 respondents' numbers are given i.e., 9 & 96 (repeated), 11 & 91 (repeated), 28, 29, 68, 71 and 125 stating that those units have been closed and in respect to respondent 26, 34, 108 and 116, it is stated that their addresses are not correct. We find that the above information need be rechecked and verified. It must also come on record

as to when these units were closed and whether they had been extracted ground water illegally or not.

46. In regard to these respondents, respondent nos. 1 and 3 i.e. CGWA and UPJN shall submit further report which shall also mention as to what further remedial action has been taken on account of the violation of environmental laws in abstraction of ground water illegally by these proponents, within three months 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.

47. Considering magnitude of illegal abstraction of ground water and laxity of responsible Regulators if failing to check, similar illegalities in other cities cannot be ruled out. However, considering manpower constraints of such bodies, we are of the view to proceed first in respect of corporation cities of State of U.P. We, accordingly constitute joint Committees comprising UPPCB, CGWA and concerned District Magistrates and direct to find out hotels, marriage/banquet halls/resorts, guest houses etc. in Lucknow, Kanpur, Agra, Meerut, Gautam buddha Nagar, Bareilly, Varanasi, Jhansi, and Gorakhpur abstracting ground water without NOC from the competent authority, take remedial action and submit report within one month.

48. List on 04.04.2022.

49. A copy of this order be forwarded to CGWA, UPJN, UPPCB and concerned District Magistrates by e-mail for compliance.

Adarsh Kumar Goel,
Chairperson

Sudhir Agarwal,
Judicial Member

Brijesh Sethi,
Judicial Member

Prof. A. Senthil Vel,
Expert Member

Dr. Afroz Ahmad,
Expert Member

February 25, 2022
Original Application No. 438/2018
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