

Item No. 01

Court No. 1

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

M.A. No. 91/2022

In

Original Application No. 670/2018

Atul Singh Chauhan

Applicant

Versus

Ministry of Environment, Forests and
Climate Change & Ors.

Respondent(s)

State of UP through Additional Chief Secretary, ..
Environment

Applicant in MA

Date of hearing: 30.11.2022

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

ORDER

1. The application has been filed by the State of UP through Additional Chief Secretary, Environment seeking directions for discontinuing the Oversight Committee, constituted by this Tribunal vide order dated 21.10.2019, on suggestion of the State itself in its application dated 16.07.2019.

2. The issues to be considered by this Tribunal included pollution of river Ganga, rejuvenation of river Hindon, sand mining at Allahabad, pollution of Thermal Power Station in Singrauli, pollution of Ramgarh lake and river Ami in Gorakhpur, solid waste management norms and

associated issues. The Committee comprises a former Judge of the Allahabad High Court and a former Secretary to the Government of India (UP Cadre). The Committee replaced earlier constituted Committees as follows:-

Sr. No.	Particulars of the case	Constitution of the Committee
1.	<i>Monitoring of remedial action to control pollution of River Ganga vide order dated 06.08.2018 in O.A 200/2014</i>	<i>Headed by Justice Arun Tandon, former Judge of Allahabad High Court with a former IPS officer, nominee of CPCB and IIT Kanpur</i>
2.	<i>Monitoring of remedial actions on the subject of illegal sand mining at Allahabad in terms of order of this Tribunal dated 20.09.2018 in O.A. 670/2018.</i>	<i>Headed by a former Judge of Allahabad High Court (Justice Rajesh Kumar with representatives of the Central Pollution Control Board (CPCB), Ministry of Environment, Forest and Climate Change (MoEF&CC) and the District Magistrate, Allahabad.</i>
3.	<i>Monitoring of remedial action against pollution caused by Thermal power in Singrauli (UP) and Sonebhadra (MP) and associated matters in O.A 164/2018 in terms of order dated 28.08.2018.</i>	<i>Headed by a former Judge of Allahabad High Court (Justice Rajesh Kumar with other experts.</i>
4	<i>Monitoring of directions in order dated 23.08.2018 in O.A. 116/2014 Meera Shukla on the subject of pollution of Ramgarh lake and River Ami in Gorakhpur and associated issues.</i>	<i>Headed by Justice DP Singh former Judge of Allahabad High Court and other experts.</i>
5	<i>Monitoring of compliance of Solid Waste Management Rules and associated issues in terms of directions of this Tribunal in order dated 16.01.2019 in O.A. 606/2018.</i>	<i>Headed by Justice DP Singh former Judge of Allahabad High Court and other experts.</i>

6.	<i>Monitoring of directions regarding rejuvenation of Hindon and Associated issues in terms of order dated in O.A 231/2014.</i>	<i>Headed by Justice S.U. Khan, former Judge of Allahabad High Court with other experts.</i>
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3. The suggestions of the State was as follows:-

“(i) The State has developed dedicated UP Environment Compliance Portal www.upecp.in for monitoring of various issues in compliance of directions of Hon’ble NGT.

(ii) The access of portal is given to Chief Secretary, State Level Monitoring Committees and the District Level Committee.

(iii) Portal has been provided with dedicated Template for Online Filing of the Compliance Status to be reviewed at State Level by the State Level Committees. The issues requiring State Level intervention shall be flagged before the Chief Secretary, Uttar Pradesh.

D. Schedule of Monitoring:

Level of Monitoring	Schedule of Monitoring
<i>District Level Committee under District Magistrates</i>	<i>1st week of every month</i>
<i>District Level Committee under Commissioner</i>	<i>2nd week of every month</i>
<i>State Level Committees</i>	<i>3rd week of every month</i>
<i>Chief Secretary Level</i>	<i>4th week of every month</i>

16. That in compliance of the orders of Hon’ble Tribunal passed in the matters of O.A. No. 116/2014 in the matter of Meera Shukla Vs. Municipal Corporation, Gorakhpur & Ors. And O.A. No. 231/2014 & 66/2015 in the matter of Doaba Paryavaran Samiti Vs. State of UP & Ors., the State has envisaged an oversight mechanism for overall periodical review of the status of compliance of various environmental issues in compliance of the various directions of Hon’ble Tribunal, the functioning of State Level Monitoring Committees constituted by Government

of Uttar Pradesh and to suggest on the implementation matters related to control of pollution in the State.

That the State proposes to constitute 3 Member Oversight Committee comprising of (i) former Hon'ble Justice, Hon'ble High Court/Formal District Judge, (ii) Member Administration and (iii) Member Technical to discharge the functions of this Committee. The Constitution of Oversight Committee shall be as follows:-

i.	Former Hon'ble Justice, Hon'ble High Court/Formal District Judge	Member Judicial
ii.	Retired Chief Secretary/Additional Chief Secretary Level Officer with experience in the field of environmental management	Member Administration
iii.	Environmental Expert in the fields of industrial pollution, health impact due to water pollution, sewage pollution, ground water mapping and remediation, ETP, CETP, STP technology & design , efficient water management, air pollution, health impact due to air pollution, green house gas emissions, climate change, noise pollution, efficient use of energy, renewable energy, mining &reclamation, source appointment, air pollution forecast, greening & planation, waste management like hazardous waste, bio-medical waste, solid waste, plastic waste, e-waste, construction & demolition waste etc. and with a practical knowledge in the field of Reduce, Reuse, Recycle & EPR etc. from recognized institution of national/international universities of repute.	Member Technical

(a) Each Committee Member will be supported by 03 Professionals/Senior Research Fellows from the field of environment, economics, law with knowledge of information Technology etc., 01 Computer Operator/Personal Assistant and 01 Multi-Tasking Staff. The support professionals and staff will be hired through outsourcing mechanism.

(b) The Committee will be provided with a Secretariat in the premises of Directorate of Environment, Government of Uttar Pradesh along with conference room etc. The Secretarial staff will include Accountant and Administrative Officer on deputation basis and Office Staff on outsourcing basis.

- (c) *The Chairperson and Members of the Oversight Committee shall be given honorarium as decided by the Government along with the logistic support including vehicle with driver and TA/DA as per rules.*
- (d) *The Oversight Committee will ensure monitoring and periodical review of compliance status through the monitoring portal developed by the State for three tier monitoring at District as well as State Level. The Oversight Committee will be having interactive access to the dedicated monitoring portal for undertaking regular review as well as uploading its recommendations for incorporation in the interest of environment compliance.*
- (e) *The Oversight Committee shall send its reports and recommendations to the Chief Secretary and the Chief Secretary shall get the recommendations implemented and also file the compliances related to reports/recommendations of the Committee in his quarterly compliance report to be filed in Hon'ble Tribunal.*
- (f) *The above Oversight Committee shall oversee the progress of functioning of District Environment Committee, State Level Waste Management Monitoring Committee, Implementation Committee, Air Quality Monitoring Committee (AQMC), River Rejuvenation Committee (RRC). The functioning of the Oversight Committee shall focus on-*
- (i) Planning & methodology to address the gaps in compliance status and conduct workshops for sensitization on various issues e.g. District Environment Plan etc.*
 - (ii) Guiding regarding adoption of economically viable and efficient technologies in the State.*
- (g) *The functioning of the Oversight Committee shall be suggestive in nature and shall not interfere in the enforcement mechanism of the State. The Oversight Committee shall be reviewing periodically the status of compliance and functioning of the three tier monitoring mechanism in the State.”*

4. Tenure of the Committee was initially for six months but the same was extended from time to time and lastly vide order dated 18.03.2021, it was directed that the Committee may continue till further orders.

5. It is now stated by the State that the Committee has monitored compliance of environmental issues in the last three years but in the

changed situation, the State itself is in a position to effectively monitor compliance of all environmental issues by its own mechanism.

6. While stringent monitoring of compliance of environmental norms remains a challenge, Tribunal appointed Oversight Committee cannot be in perpetuity. Thus, while placing on record our appreciation for the work of the Oversight Committee, we can have no objection to the request of the State to evolve its own mechanism.

7. Accordingly, the Chief Secretary, UP may interact with the Committee for modalities to take over its work by a suitable mechanism, giving reasonable time to the Committee for the transition.

8. We may mention that the State must keep in mind the fact that stringent continuing monitoring at highest level by a credible mechanism is inevitable in view of serious non compliances of significant issues being monitored by this Tribunal, on directions of the Hon'ble Supreme Court or otherwise, particularly those relating to solid and liquid waste management, pollution of rivers Ganga and Yamuna and some of other issues mentioned earlier.

9. In O.A. No. 606/2018, the Tribunal has been dealing with issues relating to Solid and Sewage Management and has interacted with Chief Secretaries of all States and UTs and found rampant violations to which the State of UP is no exception. Huge gap in management of waste has to be addressed in the interest of public health and environment. This requires continuing monitoring at the highest level to take policy decisions and coordinating with different departments speedily to meet the timelines and avoiding irreversible harm to public health and environment by paradigm shift in existing working.

10. In view of failure to perform basic duties and protecting basic human and legal rights of citizens to clean environment even after expiry of statutory and Supreme Court laid down timelines, the Tribunal had to levy compensation for failure of the States/UTs on polluter pays principle except where substantial compliance has been achieved and the State has set apart requisite funds to achieve norms in acceptable time period. For ready reference, we may quote order dated 10.11.2022 passed in OA606/2018 in relation to Madhya Pradesh which may be relevant for UP also:-

*“1. The issues of solid as well as liquid waste management are being monitored by this Tribunal as per orders of the Hon’ble Supreme Court order dated 02.09.2014 in Writ Petition No. 888/1996, Almitra H. Patel vs. Union of India & Ors., with regard to solid waste management and order dated 22.02.2017 in W.P. No. 375/2012, reported in (2017) 5 SCC 326, Paryavaran Suraksha vs. Union of India, with regard to liquid waste management. Other related issues include pollution of 351 river stretches, 124 non-attainment cities in terms of air quality, 100 polluted industrial clusters, illegal sand mining etc. have also been dealt with separately. We propose to limit the proceedings in the present matter to **two issues of solid waste and sewage management.***

ORDERS OF THE HON’BLE SUPREME COURT TRANSFERRING THE ISSUE OF SOLID WASTE MANAGEMENT AND LIQUID WASTE MANAGEMENT TO THIS TRIBUNAL:

Solid Waste Management

*2. While transferring the issue of solid waste management vide Order dated 02.09.2014 in Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors., the Hon’ble Supreme Court observed **“handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010. The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions.”***

3to4.....xxx.....xxx.....xxx

5. Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*¹ required this Tribunal to monitor directions for proper treatment of sewage to prevent untreated sewage and other effluents being discharged in water bodies by directing "We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional "primary effluent treatment plants", and the setting up of functional "common effluent treatment plants" within the timelines, expressed above, shall be enforced by the Member Secretaries of the Pollution Control Boards concerned. The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. **The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters."**

6to51.....xxx.....xxx.....xxx

Further observations to explore implementation mechanism

52 In the light of observations in para 27 to 51 above, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a **centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level**. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. **It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments – Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries**. The mechanism should be working on fulltime basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste management and establishing, continuous interaction

¹ (2017) 5 SCC 326

with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed.”

11. There are several other serious issues of environmental degradation which require continuing monitoring at highest level. We hope the State will come out with an effective mechanism on the subject for protecting air, water, land and other natural resources, including forests, wildlife and eco sensitive areas.

The application stands disposed of accordingly.

A copy of this order be forwarded to Chief Secretary, UP by e-mail for compliance.

A copy of this order be also forwarded to Justice SVS Rathore, former Judge, Allahabad High Court by email for necessary ation.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

November 30, 2022
M.A. No. 91/2022
In Original Application No. 670/2018
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