

Item No. 02

(Court No. 1)

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

(By Video Conferencing)

Execution Application No. 14/2022
IN
Original Application No. 248/2021

Vipin Nayyar

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 18.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
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. Vipin Nayyar, Applicant in Person

ORDER

1. Grievance in this application is against construction of toilets in flood plain zone of river Ganga by the Municipal Corporation, Rishikesh and discharge of untreated waste therefrom in river Ganga. No STP has been constructed to treat such waste.

2. The matter was considered on 03.01.2022 and it was found that a public toilet had been constructed in the flood plain zone illegally. Accordingly, it was directed that the arrangement should not be permanent and it may be ensured that no untreated sewage is discharged into the river or in the open. Relevant extracts from the said order are as follows:-

“1&2...xxx.....xxx.....xxx

3. Accordingly, the District Magistrate, Dehradun has filed report dated 20.12.2021 to the effect that a public toilet is under construction at distance of 20.77 meters from Ganga. Due to absence of sewer line, a septic tank has been constructed to collect the waste, as per protocol for septage management. Septic tanks are evacuated from time to time. 80% work has been constructed but the same has been suspended in the light of order of this Tribunal. **This is being done for the visitors in 3 km of Astha Path where no other such facility is available, except at Triveni Ghat.** Similar report has been filed by the State PCB on 24.12.2021.

4. The applicant has filed objections to the report on the ground that the construction within Flood Plain Zone is illegal. The complex in question is over the Filter Trench Seepage Drain of the Dam, in the catchment area of the Dam. The same is filled with human waste, coming out of the toilet. The State PCB issued notice to the Municipal Commissioner, Rishikesh on 12.11.2021 to produce NOC from the Jal Nigam, in terms of the applicable bylaws dated 4.12.2016 but no such NOC has been produced nor obtained.

5. While we find merit in the objections of the applicant that the construction in Flood Plain Zone is illegal, having regard to the public inconvenience pointed out, **we direct that the arrangement in question should be interim and not treated as a precedent and shifted to appropriate location, where construction is legally allowed. Till alternative arrangement is made, septic tanks be regularly cleaned and maintained to ensure that no untreated sewage is discharged into the river or in the open, in violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974 and judgment of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.¹**

6. We further direct the State of Uttarakhand to comply with the directions of this Tribunal dated 22.02.2021 in OA 593/2017, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors., in terms of judgment of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti, supra, to **ensure that no untreated sewage/effluent is discharged into any drain or any other water body and adequate arrangements are made for setting up requisite sewage treatment plants. Similar direction has been reiterated in the context of river Ganga in OA 200/2014, M.C. Mehta vs. Union of India & Ors. vide order dated 08.02.2021. All the Ganga Bank towns and villages need to follow septage protocol as well as norms applicable to the flood protection zones. Evacuation from septic tanks must be linked to the pre-identified STPs. There has to be an awareness programme as well as a monitoring cell created at each municipal level to ensure that no wastage is discharged into the river Ganga or any tributary or any stream. Treated effluents need to maintain standards with respect to fecal coliform and fecal streptococcus. The Chief Secretary, Uttarakhand may look into this aspect and ensure compliance."**

¹ (2017) 5 SCC 326

3. The allegation in the execution application is as follows:-

*“That on 10.04.2022 the applicant was completely astonished to see that the Commissioner Municipal Corporation Rishikesh (respondent no. 02) has not only demonstrated the deliberate and wilful disregard for this Hon'ble Tribunal's order dated 03.01.2022 but has actually acted in complete violation of the said order by starting the toilet complex in question by installing a toilet sheet and a water tap outside the toilet complex. It is pertinent to bring to the notice of this Hon'ble Tribunal that **one part of this toilet complex has been encroached by the present Councilor and the agents of Municipal Corporation Rishikesh, who not only live inside this disputed toilet complex but also contribute to unabated pollution in the filter trench of the Dam connected to holy river Ganga. The applicant on 10.04.2022 clicked coloured photographs of the public toilet complex, the toilet sheet installed, filter trench filled with human toilet, encroachment of the public toilet complex and instances of the agents of the Municipal Corporation Rishikesh taking bath and washing vehicles on the tap installed outside the toilet complex on the bank of holy river Ganga. The Coloured copies of the photographs clicked by the applicant on 07.02.2022 and 10.04.2022 are annexed hereto as Annexure A-10(Colly).”***

4. In view of the above allegation, we direct the Chief Secretary, Uttarakhand to look into the matter and take remedial action in accordance with law.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Uttarakhand by email for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 18, 2022
E.A. No. 14/2022 in O.A. No. 248/2021
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