

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 329/2021
(I.A. No. 52/2022, I.A. No. 53/2022 & I.A. No. 54/2022)

(With report dated 22.02.2022)

Devanshu Bose

Applicant

Versus

Agra Development Authority & Ors.

Respondent(s)

Date of hearing: 24.03.2022

**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
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Devanshu Bose, Applicant in Person

Respondent(s): Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB.

ORDER

1. Grievance in this application is against discharge of sewage quantity of 1.45 Lakh Litres per day generated by 'Nalanda Town', a housing colony developed by a Builder at Shamshabad Road area of Agra, Police Station Tajganj Ekta Chowki, Agra, Uttar Pradesh, on open land. This is breach of statutory obligation of the Agra Development Authority (ADA) to manage the said sewage for which accountability needs to be fixed and remedial action taken.

2. Vide order dated 01.12.2021, the Tribunal sought a factual report in the matter from a joint Committee of ADA, District Magistrate, Agra and

UPPCB. It was also directed that if budget was not available, necessary funds be raised by collecting charges from inhabitants for protection of environment and public health as per mandate of law under the Constitution and the Water (Prevention and Control of Pollution) Act, 1974.

3. In pursuance of above, a report has been filed by the joint Committee on 22.02.2022, acknowledging that the sewage is not being disposed of, as per norms. The same is being disposed of on land which meets a drain. There is no sewer line. Though the developer of 'Nalanda Town' has deposited internal and external development charges amounting to Rs. 1.3 crores approximately, the ADA has failed to perform its duty. Vice Chairman, ADA has been asked to take necessary measures. Explanation of the ADA is that there is a code of conduct at present due to elections and work will commence after 10.03.2022. Relevant extract from the report is reproduced below:-

“Field Observation

At the time of inspection, applicant Shri Devanshu Bose and other residents of Nalanda Town were present on the site. Applicant told that approx. 300 families are residing in the said Nalanda Town area. The domestic sewage generated from the Nalanda Town is not being disposed as per the norms. During the visit joint committee found that the sewage generated from Nalanda Town is being collected in underground tank and through pumping set is being disposed on land near gate no-2 of the Nalanda Town. The sewage is collected on land which ultimately meets into a drain. It is also found that no sewer line has been laid in the surrounding area for the disposal of domestic sewage and the drain is not connected with any terminal Sewage treatment plant. During visit Chief Town Planner, ADA inform that the developer of Nalanda Town has deposited Rs.-52,80,800/- in the head of internal development charges and Rs.-77,68,683/- in the head of outer development charges. By which Sewage treatment plant can be installed in Nalanda Town. Installation of STP inside Nalanda Town and construction of drain out side the Nalanda Town has to be done by Chief Engineer, ADA, Agra.

The Joint inspection report has been sent to Vice Chairman; Agra Development Authority vide letter dated 28-12-2021 for establishing the sewage treatment plant in the Nalanda Town. (Annexure-3).*

Again, letter dated 07-01-2022 has been sent to Vice Chairman, Agra Development Authority to provide action taken report as per the direction of Hon'ble National Green Tribunal dated 01-12-2021. **(Annexure-4).**

In the continuation of the above letter, again letter dated 17-01-2022 has been sent to Vice Chairman, Agra Development Authority and requested to make temporary arrangement/provisional arrangement till the permanent arrangement of the domestic sewage generated from Nalanda Town colony and to get the domestic sewage collected by tankers which is accumulated on land near the colony so that the action taken report may be sent to be Hon'ble National Green Tribunal in a time bound manner. **(Annexure-5).**

Meeting has been organized by Chief Engineer, Agra Development Authority on dated 24.01.2022 regarding Nalanda Town matter. Chief Town Planner, ADA, Mr. Sudhanshu Sharma, Executive Engineer and Regional Officer, UPPCB, Agra were present in the meeting. As per the Hon'ble National Green Tribunal order dated 01.12.2021 it has been decided in the meeting that the proposed expenditure for the work to be done for establishment of STP, work to be done for irrigation/horticulture with treated waste water and the expenditure for the one-time complete removal of the sewage accumulated on land out side the colony will be done by the expenditure of internal development charges deposited in Agra Development Authority by the developer. If the estimate of the expenditure of the work mentioned above is exceeds Rs.- 52,80,800/- towards internal development charges, in that case the difference will be submitted by the residence of Nalanda Town colony. Till completion of the STP the sewage should be removed by the residence (RWA) of the colony at their own expenses. **(Annexure-6).**

In continuation of the decision taken in the meeting dated 24.01.2022, letter dated 02.02.2022 has been received by Executive Engineer, ADA informing that the estimate of sewage treatment plant for Nalanda Town is being prepared by Agra Development Authority, but in view of the model code of conduct is in force at present in Uttar Pradesh. The work will be executed after 10.03.2022. **(Annexure-7).** Which is forwarded to the complainant by the letter dated 08.02.2022 **(Annexure-8).**

It is pertinent to mention that in the Writ-C No. -58986 of 2016 (Property Buyer Interests Welfare Association and Another Vs State of U.P. And 2 Others). Hon'ble High Court, Allahabad passed an order dated 15-12-2016 which is annexed. (Annexure-9). The relevant part of the order is as follows: -

"Petitioners' claim to be in association of protecting the interest of property buyers and their submission before this Court is that for proceeding under Section 33 of the UP Urban Planning and Development Act, 1973 they have already approached the Agra Development Authority, Agra and cognizance has also been taken and orders have also been passed on the same but the said proceeding in question has not at all come to its logical end and in view this interest of builder and immediate attention is required.

Consequently, in the facts of the case, as we find from the record that the Agra Development Authority, Agra has already taken cognizance on the matter, accordingly, we proceed to pass an order asking the authority concerned to finalize the proceeding in question in accordance with law, preferably within next four months from the date of receipt of a certified copy of this order but certainly after hearing the point of view of the builder also."

Suggestion:-

Installation of Sewage Treatment Plant is utmost important for the proper disposal of domestic sewage generate from Nalanda Town Colony. Till completion of the STP sewage should be collected and dispose of in the nearest operational STP either by Agra Development Authority or by inhabitants of the colony."

4. The applicant has filed objections to the report to submit that failure to manage sewage is adversely affecting the environment and public health. One D.L. Yadav has filed I.A. No. 52 to 54/2022. IA 52/2022 is to support the case of the applicant. I.A. No. 53/2022 seeks directions that the builder be made responsible for the cost involved. I.A. No. 54/2022 seeks further direction to remedy the situation including action against the erring officers. The applicant has also filed written submissions pointing out failure of the Agra Development Authority and erroneous approach in its working.

5. We have heard applicant in person and learned Counsel for the State PCB and considered the matter in the light of record. Undisputed facts show that sewage is being discharged on open land meeting a drain in violation of the Water Act and Judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha Samiti Vs. Union of India, (2017) 5 SCC 326*, followed by orders of this Tribunal. The timeline fixed by the Hon'ble Supreme Court for installing appropriate pollution control devices is 31.03.2018 after which accountability of the erring officers is required to be fixed. In these circumstances, plea that there is a code of conduct due to elections of 2022 is irrelevant. The failure is continuing from earlier. The Water Act is of the year 1974. The stand of the ADA is not only against facts but also

irresponsible to the detriment of environment and public health for which its accountability needs to be fixed. Pending further action against the Vice Chairman, ADA for prosecution and personal accountability, we require ADA to deposit a sum of Rs. 25 lakhs towards interim compensation with the District Magistrate, Agra for being used for restoration of damage to the environment. ADA is free to recover the same from its erring officers, as per law.

6. In this regard we may refer to earlier orders of Hon'ble Supreme Court and this Tribunal on the subject:

Extracts from order of this Tribunal Order dated 16.09.2021 in OA 544/2019:

"1 to 8.....xxx.....xxx.....xxx"

9. Contamination of water sources is a punishable offence under the Water (Prevention and Control of Pollution) Act, 1974 for the last 47 years. Under Section 25 of the Act, untreated discharge of sewage in drain is prohibited and is in fact a criminal offence under Sections 42(2) and 44. Section 48 of the Act makes the Head of the Department liable for being punished for such offence. As per directions of the Hon'ble Supreme Court in Suraksha case¹ an outer limit of 31.03.2018 is fixed for completing the work of all STPs in the Country for laying down the sources of budget and direction is to initiate prosecution for continued failure. This Tribunal has been directed to monitor compliance. We may refer to the specific directions of the Hon'ble Supreme Court and this Tribunal on the subject:

Extracts from the judgement of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti Vs. Union of India, supra

"7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be

¹ (2017) 5 SCC 326

arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

X.....X.....X.....

10. **Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.**

11. *Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.***

12. *We are of the view that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously.** We, therefore, hereby direct that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.*

13. ***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 of 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.***

14. *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.***

X.....X.....X.....

16. *It however needs to be clarified, that the instant directions and time lines, shall not in any way dilute any time lines and directions issued by Courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones*

expressed through the directions recorded above. It is clarified, that the time lines, expressed hereinabove will be relevant, only in situations where there are no prevalent time line(s), and also, where a longer period, has been provided for.”

(emphasis supplied)

**Extracts from orders of this Tribunal in OA 593/2017 :
Order dated 21.05.2020**

26. Summary of directions:

- i. All States/UTs through their concerned departments such as Urban/Rural Development, Irrigation & Public Health, Local Bodies, Environment, etc. may ensure formulation and execution of plans for sewage treatment and utilization of treated sewage effluent with respect to each city, town and village, adhering to the timeline as directed by Hon'ble Supreme Court. STPs must meet the prescribed standards, including faecal coliform.

CPCB may further continue efforts on compilation of River Basin-wise data. Action plans be firmed up with Budgets/Financial tie up. Such plans be overseen by Chief Secretary and forwarded to CPCB before 30.6.2020. CPCB may consolidate all action plans and file a report accordingly.

Ministry of Jal Shakti and Ministry of Housing and Urban Affairs may facilitate States/UTs for ensuring that water quality of rivers, lakes, water bodies and ground water is maintained.

As observed in para 13 above, 100% treatment of sewage/effluent must be ensured and strict coercive action taken for any violation to enforce rule of law. Any party is free to move the Hon'ble Supreme Court for continued violation of its order after the deadline of 31.3.2018. This order is without prejudice to the said remedy as direction of the Hon'ble Supreme Court cannot be diluted or relaxed by this Tribunal in the course of execution. PCBs/PCCs are free to realise compensation for violations but from 1.7.2020, such compensation must be realised as per direction of this Tribunal failing which the erring State PCBs/PCCs will be accountable.”

Order dated 21.09.2020

“11. The Tribunal has already issued directions vide orders dated 28.08.2019 and 21.05.2020 for ensuring that no untreated sewage/effluent is discharged into any water body and for any violation compensation is to be assessed and recovered by the CPCB so that the same can be utilized for

restoration of the environment, complying with the principle of 'Polluter Pays' which has been held to be part of 'Sustainable Development' and part of right to life. Control of such pollution is crucial for environment, aquatic life, food safety and also human health. ..”

From OA 673/2018

Order dated 6.12.19:

6. The Hon'ble Supreme Court noticed the level of degradation of rivers in India and apathy of the authorities as follows:

“58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.²

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, sewage, garbage, waste and air pollution, including the water management. We club the ending case of water management with this matter.³

xxx.....xxx.....xxx

11. In spite of above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise has continued to be discharged in the water bodies including the rivers or the canals meeting the rivers. Violation of law is not only by private citizens but also statutory bodies

² State of Orissa v. Govt. of India, (2009) 5 SCC 492

³ M.C. Mehta Vs Union of India- W.P. (Civil) No. 13029/1985 dated 25.11.2019

including the local bodies and also failure of the regulatory authorities in taking adequate steps. There is no corresponding coercive action posing danger to rule of law when large scale violation of law is not being remedied. This leads to lawlessness.

12. It will be appropriate to note the crisis situation in the country on the subject of availability of potable water. The matter has been considered in the report of Niti Aayog on Composite Water Management Index (CWMI).⁴ Following further information also needs to be noted:

- (i) India is suffering from the worst water crisis in its history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water⁵. The crisis is only going to get worse. By 2030, the country's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual ~6% loss in the country's GDP⁶. As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137BCM. Thus, there is an imminent need to deepen our understanding of our water resources and usage and put in place interventions that make our water use efficient and sustainable.*
- (ii) India is undergoing the worst water crisis in its history. Already, more than 600 million people⁷ are facing acute water shortages. Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates.⁸*
- (iii) Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India's groundwater wells are declining, and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million people⁹.*
- (iv) With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.*

13. As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since

⁴ Niti Ayog on “Composite Water Management Index”, June 2018, https://niti.gov.in/writereaddata/files/document_publication/2018-05-18-Water-Index-Report_vS8-compressed.pdf.

⁵Source: WRI Aqueduct; WHO Global Health Observatory

⁶Source: McKinsey & WRG, ‘Charting our water future’, 2009; World Bank; Times of India

⁷ Source: World Resource Institute

⁸ Source: World Resource Institute

⁹ Source: UN Water, ‘Managing water under uncertainty and risk’, 2010; World Bank (Hindustan Times, The Hindu).

2017. Of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.¹⁰

14. As per 'National Health Profile' published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 Deaths due to Acute Diarrhoeal Diseases was reported during the year 2013.¹¹

Main Causes of Pollution of Rivers

15. As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters for various purposes affecting e-flow, encroachment of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not been achieved. As per CPCB's report 2016¹², it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in the rural areas.

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33. We may note the observations of the Hon'ble Supreme Court:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of

¹⁰ <https://www.indiaspend.com/diarrhoea-took-more-lives-than-any-other-water-borne-disease-in-india-58143/>

¹¹ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=106612>

¹² http://www.sulabhenvi.nic.in/Database/STST_wastewater_2090.aspx July 16, updated on December 6, 2016

activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.¹³

xxx.....xxx.....xxx

“61. If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. Such blatant misuse of properties at large-scale cannot take place without connivance of the officers concerned. It is also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.”¹⁴

xxx.....xxx.....xxx

35. Vide order dated 22.08.2019 in Original Application 200/2014, dealing with the pollution of river Ganga, the Tribunal issued directions and laid down coercive measures to be taken for discharge of untreated sewage in river Ganga:-

“16. xxx.....xxx.....xxx

17. **Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.**

¹³ INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION Vs. UNION OF INDIA AND OTHERS (1996) 5 SCC 281

¹⁴ M.C. Mehta v. Union of India, (2006) 3 SCC 399 – Public functionaries

36. *Vide order dated 28.08.2019, the Tribunal held:-*

“15. xxx.....xxx.....xxx

“16. xxx.....xxx.....xxx

17. As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is discharged in water bodies. Doing so is a criminal offence under the Water Act and is harmful to the environment and public health. ‘Precautionary’ principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on ‘Polluter Pays’ principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs, the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018.”

7. From the above, it is seen that township in question appears to have been developed without requisite infrastructure particularly sewerage system which should not have been permitted.

8. In view of above, further remedial action be now taken to ensure that proper sewerage system is in place connected to an appropriate STP. No untreated sewage is discharged in open. This may be ensured by the Vice

Chairman, ADA and overseen by the Additional Chief Secretary, Urban Development, UP and State PCB. This order is without prejudice to the coercive measures which may be taken by the State PCB, in accordance with law. The Additional Chief Secretary, Urban Development may sort out any unresolved issue with regard to financial liability or any other issue.

9. Let an action taken report be filed by the Additional Chief Secretary, Urban Development, Vice Chairman, ADA and UPPCB within two 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. They may also apprise the Tribunal about remedial action with regard to similar situations at other locations in Agra and other cities in the State of UP.

10. The Additional Chief Secretary, Urban Development, UP and Vice Chairman, ADA may remain present in person by way of Video Conferencing on the next date.

List for further consideration on 06.07.2022.

A copy of this order be forwarded to Additional Chief Secretary, Urban Development, Vice Chairman, ADA and UPPCB by e-mail for compliance.

All pending I.A.s will stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

Dr. Afroz Ahmad, EM

March 24, 2022

Original Application No. 329/2021

(I.A. No. 52/2022, I.A. No. 53/2022 & I.A. No. 54/2022)

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