

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 109/2021

Kapil Dev

Applicant

Versus

Ministry of Environment Forest &
Climate Change

Respondent

Date of hearing: 25.05.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Kapil Dev in person

ORDER

1. Grievance in this application is against proposed amendment to the Master Plan of Ludhiana for developing a Modern Industrial Park in the forest area and on the flood plains of river Sutlej, in violation of Forest (Conservation) Act, 1980 (FC Act) and the Environment (Protection) Act, 1986 (EP Act).

2. Averments in the application are that Modern Industrial Park (955.67 Acres) is going to be developed in land coming under Flood Plains and surrounded by deemed Forest and Sutlej River which are eco sensitive zones. The area is 'no manufacturing zone' as per existing Master Plan. Mattewara Reserve Forest area has been developed as Botanical & Butterfly Garden (BBG Mattewara) in 2014-15. Thus, there

is serious threat to rare species of flora by any development in the said area.

3. The applicants have filed certain documents to which reference may be made. The District Survey Report of Ludhiana mentions that the width of the flood plains is in the range of 7 to 8 km from the river. Heavy flood occurred in the year 1988. The heavy rainfall downstream of Bhakra dam resulted in locally generated floods. Releases from Bhakra with local floods resulted in acute flooding in the downstream areas. Like all Punjab rivers, the Sutlej constantly shifts its course. During the twenty years (1882 to 1903) it has moved by about 1.6 km. at several points in the Ludhiana and Samrala Tehsils and also towards the North in Jagraon Tehsil (WAPCOS, 1996). It is further stated that:

“(i) The Floodplain of the Sutlej - The Sutlej makes an extensive floodplain along its 96 kilometres course in the north of the district. This floodplain covers an area of about 300 square kilometres, which accounts for about 16 per cent of the total area of the district. It is locally known as the Bet. Most of this tract is between the Sutlej and its tributary, the Budha Nala, and runs parallel to that master stream for almost the whole of the length of the district. Of course, the Sutlej floodplain does have its extension even south of the Budha Nala.

The floodplain is a low-lying area, has swampy condition in parts and possesses somewhat undulating topography. It is the widest in its eastern half (about 11 kms) and gradually narrows down towards the west (about 5 kms). The breadth of the floodplain is primarily determined by the distance of the Budha Nala from the Sutlej and this distance is more in the east than in the west.”

4. It is further stated that the Applicant No. 1 filed objection to the proposed amendment of the Master Plan, as per public notice Annexure-P-3 dated 20.11.2020. In the said objection dated 19.12.2020, the applicant inter alia stated:

“1 to 7) xxx.....xxx.....xxx

8) *An industrial park is ill advised on a river flood plain. Encroachment on flood plain cuts off river from its eco system along the banks and it is unable to provide life-sustaining conditions to plant and animal habitats along the river margins and banks.*

9) *Damage to floodplains harms the riverine ecosystem, lessens groundwater recharge capacity and poses threats of flash floods.*

10) *Ludhiana is a critically polluted area as notified by CPCB. Industrial/Textile Park in the same district and will only add to the pollution of Ludhiana.”*

5. We have considered the matter and heard the applicant No.1 in person. There is no doubt about the need for protecting the flood plains of Sutlej River in Ludhiana as well as the forest areas, in accordance with provisions of the EP Act and the FC Act. This Tribunal has already issued directions for protection of flood plain zones which is necessary for protection of environment. In OA 673/2018, dealing with the rejuvenation of 351 polluted river stretches in the country, the Tribunal directed constitution of “River Rejuvenation Committees” (RRCs) in all the States/UTs to prepare and execute action plans, which includes protection of flood plain zones. Such actions plans have been duly prepared. Sutlej river is one of such 351 polluted river stretches. Remedial action for rejuvenation of Sutlej has been separately considered and directions issued for compliance of orders in OA 673/2018. Last order in the said matter is order dated 22.1.2021 in OA 916/2018, *Sobha Singh & Ors. v. State of Punjab & Ors.* The extracts from the order dated 22.1.2021 are:

“1. xxx.....xxx.....xxx

2. *River Sutlej also finds mention in 351 identified polluted river stretches based on data compiled by Central Pollution Control Board (“CPCB”) which issue has been dealt with vide order dated 21.9.2020 in O.A. No. 673/2018 to which reference will be made later.*

3 to 5. xxx.....xxx.....xxx

6. Further reports dated 21.01.2019 and 30.01.2019 were filed by the CPCB in respect of restoration of the rivers in question in the present case which were taken up for consideration on 28.02.2019. The reports considered the action plan of the State of Punjab which was furnished in pursuance of orders of this Tribunal dated 20.09.2018 and 19.12.2018 in Original Application No.673 of 2018, News item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are not critically polluted: CPCB"....

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

7 to 14. xxx.....xxx.....xxx

15. As already noted, that the general issue of restoration of 351 river stretches, including the rivers in question is being separately dealt with in OA 673/2018, (In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB").The said directions are:

"Going Forward

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

26. While dealing with the control of pollution of River Ganga, the Tribunal noted that following action points for monitoring:

- i. Setting up of STPs, Interception and Division (I&D) of drains and preventing untreated sewage and effluents
- ii. Use of treated water
- iii. Use of sludge manure
- iv. Status of septage management
- v. Compliance in relation to industries
- vi. Installation of STPs/treatment facilities in Hotels/Ashrams and Dharmshalas.
- vii. Water quality monitoring of river Ganga and its tributaries.
- viii. Maintenance of environmental flow in river Ganga.
- ix. Disposal of Bio-medical waste.
- x. Compliance of Solid Waste Management (SWM) Rules, 2016.
- xi. Preparation of maps and zoning of flood plains.**
- xii. Mining activity under supervision of the concerned authorities.
- xiii. Action against identified polluters, law violators and officers responsible for failure for vigorous monitoring.

16. xxx.....xxx.....xxx

17. Accordingly, as already directed earlier, the ownership of the issue may now be taken over by the Chief Secretary, Punjab who may, having regard to seriousness of the issue, affecting health and environment, personally monitor

progress of compliance atleast once in a month and also evolve an appropriate administrative mechanism to handle the grim situation. We may also note that the RRCs headed by Environment Secretaries in all the States/UTs have already been directed to monitor execution of action plans for the polluted river stretches on continuous basis. The RRC Punjab may also accordingly monitor execution of action plans for Sutlej and Beas rivers in continuation of 5th report of the Monitoring Committee, referred to above, subject to overall oversight of the Chief Secretary. The Chief Secretary while reviewing the status of various issues may focus on timely completion of the ongoing works. Quarterly reports be sent by the Chief Secretary to the CMC in terms of the order dated 21.09.2020 in OA 673/2018 which deals with the subject of restoration of 351 polluted river stretches, including the rivers in question.

6. Since the matter of protection of flood plains is covered by the above directions and is part of the action plan prepared by the RRC, we direct the Chief Secretary, Punjab, in coordination with the River Rejuvenation Committee already constituted pursuant to order of this Tribunal dated 20.09.2018 in OA No. 673/2018, *In re: News item published in "The Hindu" authored by Shri Jacob Koshy titled "More river stretches are now critically polluted: CPCB*, to take such remedial action as may be necessary for protection of the flood plains. Protection of forests is covered by the statutory mandate of the FC Act and no non forest activity is allowed in forest area without statutory clearances, there is no reason to presume that the said mandate will be ignored. Let the concerned authorities look into this aspect and take further action as per law.

The application is disposed of.

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

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

May 25, 2021
Original Application No. 109/2021
DV