

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

Original Application No.203/2023

Tushar Goswami

Applicant

Versus

Union of India &Ors.

Respondent(s)

Date of hearing: 15.12.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Saurabh Tiwari, Adv. for Applicant (Through VC)

Respondent: Mr. K.M. Nataraj, ASG with Mr. Amit Tiwari, Adv. for Varanasi
Development Authority (Through VC)
Mr. Bhanwar Pal Singh Jadon, Mr. Chetan Jadon, Mr. Harsh Vardhan
Rajawat,
Mr. Hardik Saxena, Mr. Rovin Solanki & Mr. Navin Singh, Advs. for the
State of UP
Mr. Gigi. C. George, Adv. for NMCG
Mr. Rahul Pratap, Adv. for MoEF& CC
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)
Mr. Saurabh Balwani, Adv. for CPCB (Through VC)
Ms. Anuradha Mishra, Adv. for R - 11
Mr. R. Chandrachud, Mr. Ashok Panigrahi & Mr. S. Vinay Ratnakar,
Advs. for R - 12

ORDER

1. On behalf of Respondent Nos. 11 and 12, it is stated that they have filed their responses.
2. Compliance report dated 17.11.2023 has been filed by Additional Chief Secretary, Environment, Government of Uttar Pradesh stating that UPPCB has imposed environmental compensation of Rs. 17,12,500/- each on Respondent Nos. 11 and 12 by order dated 23.11.2023 and 15 days' time has been allowed for payment of compensation. Time granted for payment has expired. Sh. Pradeep Misra, Learned Counsel appearing

for UPPCB stated that no amount has been paid by the project proponents or recovered by the UPPCB till date.

3. We have also found from the affidavit filed by the applicant that lot of construction material and structures are still lying on the river bank/bed side which include concrete structure, brick structure etc. but the same have not been removed. It is evident that no action for remediation of the damaged environment has been taken by the authorities till date. When questioned, Sh. Pradeep Misra, Learned Counsel appearing for UPPCB as to what remedial action has been taken for restoration of damaged site by the UPPCB, he could not reply satisfactorily.

4. In these circumstances, we find it necessary that Member Secretary, UPPCB must appear before Tribunal on the next date to explain as to why action for remediation of the damaged site has not been taken by UPPCB till date. He will also explain as to why for such flagrant violations of the environmental laws on the river bed/bank, where concrete structures have been raised which is totally prohibited, action for prosecution of the violators has not been taken till date.

5. Further, we enquired from Learned Counsel for MoEF&CC as to how a turtle sanctuary could be de-notified unless there is a finding that in fact, no turtles are residing at the site and if turtles were present, what has happened to the turtles available at earlier notified site, he could not render any assistance whatsoever and simply said that he needs time for instruction. This is very unfortunate that a Counsel appearing for a party, is totally ignorant of the facts and relevant information which he is supposed to place before Tribunal for assistance but same has not been provided.

6. In view of lack of assistance behalf of MoEFE&CC, we were inclined to direct for appearance for Secretary of the concerned department but on the request of the Learned Counsel for MoEF&CC, we permit him one more opportunity to file appropriate response on this aspect subject to payment of Rs. 25,000/- which shall be deposited within one week from today with the Registrar General.

7. Learned Counsel for Respondent Nos. 11 and 12 also submitted that they may be given short time to file response to the affidavit dated 13.12.2023, filed by applicant. They may do so within three weeks from today.

8. List the matter on 06.02.2024.

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

December 15, 2023
Original Application No. 203/2023
JG