

Item No. 09

Court No. 1

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

M.A. No. 07/2023
IN
Original Application No. 326/2021

Behari Lal Chaturvedi

Applicant

Versus

Ministry of Jal Shakti & Ors.

Respondent(s)

Date of hearing: 16.02.2023

**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. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

ORDER

1. Grievance in this application is against encroachment of Yamuna floodplain by respondent no. 2, Yamuna Mission, Mathura. It is stated that though ostensibly it is acting to preserve and clean river Yamuna and also undertaking plantation drive, in the garb of such activities, Yamuna floodplain is being encroached. The applicant has filed photographs showing construction on the *ghats* and copies of complaints made to the authorities.

2. On consideration of the matter, the Tribunal sought a factual and action taken report from a joint Committee of CPCB, State PCB, District Magistrate, Mathura and Executive Engineer, Upper Division, Agra Canal. Thereafter, on consideration of the matter in the light of report of joint

Committee dated 16.02.2022, the Tribunal, vide order dated 11.03.2022 found that unauthorized construction had taken place in the flood plain of the river which was required to be removed, apart from taking other remedial measures for protection of the flood plain zone. The Tribunal accordingly directed as follows:-

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3. Accordingly, report has been filed on 16.02.2022 on behalf of the joint Committee after visit to the site with following observations and suggestions: -

“Observations:

- The joint committee visited the Ghats viz. behind Kans Kila, Gao ghat, Swami ghat, Dhruv ghat, Sudarshan ghat and Mahadev ghat etc. on the Yamuna River bank, Mathura. (annexure-01)
- It was observed that Yamuna Mission, Mathura has constructed appx. 25 - 100 meter wide earthen corridor in the Yamuna River stretch about 6-8 kms. (annexure-02)
- In the corridor, huge plantation has been done by the Yamuna Mission, Mathura. (annexure-03)
- In the corridor, a lot of barbed wire fencing and small cemented brick wall construction also has been done. (annexure-04)
- These corridors have been developed as parks now. In these parks more than 100 small swings has been installed. In the gaur ghat, regular aarti is being performed by Yamuna Mission, Mathura. (annexure-05)
- Some sewage effluent drains have been diverted during this construction activity by Yamuna Mission, Mathura. (annexure-06)
- As informed by representative of Yamuna Mission, Mathura that this work is being carried out since February-2015 to till now.
- As informed by representative of Yamuna Mission, Mathura that no permission has been taken from any concerned departments in Mathura for these activities. There is no technical feasibility or impact study report available for these activities on the Yamuna river.
- It was not clear to the joint committee that Ghats areas and river bank land belongs to which departments. It seems that some parts belong to Mathura-Vrindavan Nagar Nigam, Mathura and some parts belong to Irrigation department. Due to this joint committee decided to take correct information from the concerned departments.
- Joint committee instructed to RO Mathura for issue letter to Mathura-Vrindavan Nagar Nigam and Irrigation department for providing information with details with reference to this Court order (annexure-07)
- RO, Mathura has issued letter to Mathura-Vrindavan Nagar Nigam and Irrigation department for providing information with details with reference to this court order (annexure-08)
- As per the information provided by Irrigation department, no permission has been granted to Yamuna Mission, Mathura for

these unauthorized activities in the bank of Yamuna River. (annexure-09)

- *Due to these unauthorized activities in the bank of Yamuna River, one FIR has been lodged by Upper Div. Agra Canal, Irrigation Dept. Mathura, in the Thana Govind Nagar on dated 03.11.2018 against Yamuna Mission, Mathura copy of the FIR is enclosed as annexure-10.*
- *As per the information provided by the Mathura-Vrindavan Nagar Nigam No permission has been granted to Yamuna Mission, Mathura for these unauthorized activities in the bank of Yamuna River.*
- *Notices issued dt. 25.01.2022 and 03.06.2021 by Mathura-Vrindavan Nagar Nigam to Yamuna Mission for stopping of all unauthorised encroachments work, (annexure-11).*

Suggestions:

- *Concerned departments (Mathura-Vrindavan Nagar Nigam and Upper Div. Agra Canal, Irrigation dept. Mathura) should demark their boundaries on the river bank and ensure no unauthorized activities should carried out on the river bank of Yamuna*
- *Concerned departments should do the maintenance and management of the 'ghats' cleanliness and preserve natural ecology of river Yamuna.*
- *On the River bank of Yamuna Ghats, the unauthorized constructed corridor should restore in their natural stage.*
- *As no permission has been taken by Yamuna Mission, Mathura for these unauthorized encroachments activities in the bank of Yamuna River by concern departments, so Honourable NGT Court may issue order to concerned departments to take appropriate action for these unauthorised activities.”*

4. *We have heard learned counsel for the parties. From the report of the joint Committee comprising of statutory regulators/authorities, submitted after undertaking visit to the site on 12.01.2022 and 13.01.2022, it is clear that **there are some unauthorised activities on the floodplain of the river. The Committee has suggested demarcation of boundaries of the River bank and identifying responsible authorities for protection of the flood plains. We do not find any reason not to accept the report. The report is also backed by photographs which are annexed. Accordingly, the report is accepted.***

5. *There can be no two views that plantation and developing Bio-diversity parks in flood plain zone are the permitted activities but even such activities can be done as per law, including the Notification of NMCG. FPZ should not be encroached. Filling up soil, laying earthen walkways/roads or installation of other facilities and structures have to be as per requisite sanctions. Diversion of sewage drains has also to be done properly and not in the manner found to have been done in the present case.*

6. Accordingly, the District Magistrate, Mathura is directed to take further action in terms of recommendations of the joint Committee along with the DFO, Mathura, by coordinating with the concerned Departments. Demarcation of FPZ be done and development of green belt and other river front development activities should be without any unauthorised and unregulated encroachments. Public participation should also be with due permissions.

7. Report of compliance status as on 30.06.2022 be filed by the District Magistrate, Mathura before the Registrar General of this Tribunal 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 by July 15, 2022. If any further direction appears to be necessary, the Registrar General, may place the matter before the Bench for further direction.”

3. In pursuance of above, report dated 08.07.2022 has been filed by the joint Committee mentioning the steps taken and giving compliance status as on 30.06.2022 as follows:-

“Compliance Status Report as on date 30.06.2022 as per order of Hon’ble NGT as per reports of the concerned departments is as follows:-

S.No.	Suggestions	Department	Compliance status as on 30.06.2022
1	Concerned departments (Mathura-Vrindavan Nagar Nigam and Upper Div. Agra Canal, Irrigation dept. Mathura) should demark their boundaries on the riverbank and ensure no unauthorised activities should carried out on the riverbank of Yamuna.	Irrigation deptt.	Apar Khand Agra Canal, Mathura vide letter dated 28.06.2022 (Annexure-2)has intimated that <ul style="list-style-type: none"> i. There is no obstruction in natural flow of river ii. F. P. Z. (Flood Plain Zone) has been marked on both banks of Yamuna river iii. There is no land registered in the name of irrigation department near kans kila area and on right bank of Yamuna in vilage Retiya Muhal. Photographs of H.F.L. marks and map pf Flood Plain Zone has been attached with the above letter.
		Nagar Nigam	Mathura-Vrindawan Nagar Nigam has vide their letter dated27.06.2022(Annexure-3) has intimated that: <ul style="list-style-type: none"> i) Nagar Nigam has identified its boundaries in the area. ii) Pucca constructions constructed by yamuna Mission on Kans Tila, Gau Ghat etc. have been removed. iii) Pucca constructions made by Yamuna Mission have been removed by conducting a

			<p>special drive and care will be taken in future</p> <p>iv) No tree/ sapling has been harmed during the drive and maintenance of plantations will be done in future in eco-friendly manner.</p> <p>Photographs of e have been attached with the letter. encroachment eviction drive</p>
2	Concern department should do – the maintenance and management of the ghats cleanliness and preserve natural ecology of river Yamuna	Nagar Nigam	<p>Mathura-Vrindawan Nagar Nigam has vide their letter dated 27.06.2022(Annexure-3) has intimated that</p> <p>i) Ghats falling in Nagar Nigam area viz Vishram Ghat, Bengali Ghat, Swami Ghat etc are being regularly cleaned and maintained.</p>
		DPRO	<p>District Panchayat Raj department vide its letter dated 29.06.2022 (Annexure-4) intimated Ghats falling in the rural areas are being cleaned by Gram Panchayats.</p>
		Pollution Control Board	<p>U P Pollution Control Board vide its letter dated 28.06.22 (Annexure-5) has intimated that</p> <p>i) Yamuna river water quality monitoring is performed monthly at 09 places of river at Mathura. As per observation, River water quality is more deteriorated as river enters district Mathura and it slightly improves as river passed through Mathura district.</p> <p>ii) In order to improve the natural ecology of river at Mathura it has suggested few measures.</p> <p>Relevant data has been attached with the letter.</p> <p>Further U.P. Jal Nigam (Gramin) vide letter dated 22.06.22 has intimated that 07 drains existing in Yamuna mission encroached area are already tapped, no overflow goes to Yamunariver. (Annexure 6)</p>
3	On the River bank of Yamuna Ghats, the unauthorized constructed corridor should restore in their natural stage	Nagar Nigam	<p>Mathura-Vrindawan Nagar Nigam has vide their letter dated 27.06.2022 (Annexure-3) has intimated that:</p> <p>i) Pucca – constructions constructed by yamuna Mission on Kans Tila, Gau Ghat etc. have been removed.</p> <p>ii) Pucca constructions made by Yamuna Mission have been remove by conducting a special drive and care will be taken in future</p>

			<p>iii) No tree/ sapling has been harmed during the drive and maintenance of plantations will be done in future in eco-friendly manner.</p>
		Revenue deptt.	Revenue department vide their letter dated 23.06.2022 (Annexure-7) has stated that the concerned area is not under their jurisdiction.
4	As no permission has been taken by Yamuna Mission, Mathura for these unauthorised encroachments activities in the bank of Yamuna river by concern departments, so Hon'ble NGT may issue order to concerned department to take appropriate action for these unauthorised activities.	Nagar Nigam	<p>As per annexures attached (Annexure 8) in report submitted in Hon'ble NGT in O.A. 326/2021, Mathura-Vrindawan Nagar Nigam has issued notices to Founder, Yamuna Mission dated 03.06.21 and 25.01.22 in order to remove unauthorised encroachment and construction. Further, Nagar Nigam has vide their letter dated 27.06.2022 (Annexure-3) has intimated that:</p> <p>i) Pucca constructions constructed by Yamuna Mission on Kans kila, Gau Ghat etc. have been removed.</p> <p>ii) Pucca constructions made by Yamuna Mission have been removed by conducting a special drive and care will be taken in future</p>
		Irrigation deptt.	As per annexures attached (Annexure 9) in report submitted in Hon'ble NGT in O.A. 326/2021, FIR has been lodged against Yamuna mission by Apar Khand Agra Canal, Mathura

4. In view of above, further measures may be continued by the joint Committee till the remedial measures for protection of flood plain zone are completed which may be completed preferably within six months.

The application is disposed of.

A copy of this order be forwarded to CPCB, State PCB, District Magistrate, Mathura and Executive Engineer, Upper Division, Agra Canal by email for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

February 16, 2023
M.A. No. 07/2023
IN Original Application No. 326/2021
AB