

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

ORIGINAL APPLICATION NO. 970/2019

IN THE MATTER OF:

Nand Kumar

Verses

Applicant(s)

Govt. of NCT of Delhi

Respondent(s)

Counsel for Respondent(s):

Mr. A.K. Prasad, Advocate for CGWA
Mr. Balendu Shekhar, Advocate for DPCC
Mr. Raj Kumar, Advocate for CPCB

PRESENT:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Reserved on: 19th January, 2022

Pronounced and uploaded on: 25th February, 2022

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. A letter petition was received by Tribunal and considering the grievance raised therein with regard to illegal and unauthorized abstraction of ground water, *suo-moto* action was initiated. Letter petition was registered as OA 970/2019 and placed before Tribunal for consideration.

2. Initially, it was considered on 01.11.2019. Tribunal constituted a Joint Committee comprising Deputy Commissioner, South and Delhi Jal Board (hereinafter referred to as '**DJB**') to look into the matter, take appropriate action in accordance with law and furnish a factual and action

taken report within one month. DJB was made nodal agency for co-ordination and compliance.

3. First report dated 24.02.2020 was submitted stating that a survey was conducted at Mayapuri to find out illegal extraction of ground water for commercial purposes. Committee found 141 illegal borewells out of which 4 were sealed and 141 are yet to be sealed. This report was considered by Tribunal on 06.05.2020 and DJB was directed to take expeditious remedial actions for closing all illegally running borewells and also to assess and recover compensation from the violators for operating such illegal bore wells in co-ordination with other concerned authorities following due process of law.

4. Second report dated 15.06.2020 was submitted by DJB stating that out of 141 illegal bore wells, by 13.03.2020, 91 were sealed and 50 were yet to be sealed. Report further stated that balanced illegal bore wells are expected to be sealed within next 15 days. This report dated 15.06.2020 was considered on 13.07.2020. Tribunal directed for further action in the matter and submission of status report as on 31.12.2020.

5. Pursuant thereto, a third report dated 16.08.2020 was submitted giving details of 141 bore wells, stating that 107 bore wells were sealed up to 25.07.2020, 5 bore wells were already closed or removed by the residents, 17 bore wells were not found visible during joint inspection and 12 nos. of bore wells were repeated in the list. Therefore, in fact, illegal bore wells were not 141 but 129. Report also stated that 2 more illegal bore wells were found. Thus, total illegal bore wells as per the above report were 131 out of which 109 were sealed. However, with regard to assessment of compensation and other legal action, nothing was stated in the said report though Tribunal had already directed.

6. Illegal abstraction of ground water is not only a violation of environmental laws but also an offence as it amounts to theft of the property of State and also an offence under prevention of Money Laundering Act, 2002 wherein Environmental (Protection) Act 1986, Water Act 1974 and Air Act 1981 are notified in part A Schedule I. Any proceeds of such violation of laws amounts to a dirty money constitute an offence under Section 3 of the said Act. Be that as it may, since we have already directed for assessment of compensation in this case and nothing has been done, it is the fault of statutory regulators in failure to do their statutory duties and obligations and has to be deprecated.

7. Statutory Regulator now shall proceed to determine environmental compensation against all the violators and for this purpose, they may collect detailed information from DJB and other authorities who shall co-operate and co-ordinate with the Statutory Regulators i.e., Delhi Pollution Control Committee (DPCC). The compensation shall be determined by giving due notice and opportunity of hearing to all concerned violators, in accordance with law.

8. With the above directions, OA No. 970/2019 is disposed of.

9. A copy of this order be forwarded to DJB, DPCC and Deputy Commissioner, South by e-mail for compliance.

Adarsh Kumar Goel,
Chairperson

Sudhir Agarwal,
Judicial Member

Brijesh Sethi,
Judicial Member

Prof. A. Senthil Vel,
Expert Member

Dr. Afroz Ahmad,
Expert Member

February 25, 2022
Original Application No. 970/2019
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