

Item No. 10

(Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL

(By Video Conferencing)

Original Application No. 294/2020

(With report dated 29.09.2021)

Dr. Chaitanya Bhandari & Anr.

Applicant(s)

Versus

Uttarakhand Environmnt Protection &
Pollution Control Board

Respondent

Date of hearing: 11.11.2021

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

Respondent(s): Mr. Mukesh Verma, Advocate for UEPPCB

ORDER

1. Grievance in this application is against failure to scientifically manage the dumping ground at Gairsain, District Chamoli, Uttarakhand, for disposal of waste, in violation of Solid Waste Management Rules, 2016 (SWM Rules, 2016).

2. According to the applicant, the dumping ground is at the height of a Gorge, 10 meters from the river Ram Ganga, as against the requirement of distance of 100 meter. The waste is falling into the river. Leachate is also seeping into the river. The waste is being burnt also. Unscientific management is inviting birds and animal menace. The smoke and smell is adversely affecting the inhabitants. Complaint was lodged with the SDM,

Gairsain on 23.03.2017, followed by complaints with the Nagar Panchayat and District Magistrate but no remedial action has been taken.

3. Vide order dated 21.12.2020, an action taken report was sought from District Magistrate, Chamoli, Uttarakhand State PCB and Nagar Panchayat Gairsain.

4. In pursuance of above, report has been filed by the State PCB on 29.09.2021 *inter-alia* stating as follows:-

***“4. The collected solid waste is being disposed unscientific manner at Chakta Village which is 48 meters away from Ramganga river. During inspection, Nagar panchayat has made boundary wall with seven feet GI Sheet around the premises to avoid direct disposal in river.*”**

7. It is informed by Executive Officer of Nagar Panchayat, that new site for solid waste processing and disposal facility has been transfer by State of Uttarakhand to Urban Development Department vide letter no 296/XVIII(II)/2021 Dated 19/03/2021 and the scientific disposal work will be initiated after land transfer to Nagar Panchayat Gairsain. (Annexure-2).”

5. We have heard learned Counsel for the State PCB who claims total lack of knowledge about the matter. We asked him as to why he is appearing if he does not know anything. No answer is available.

6. In view of acknowledged violation in compliance of the Solid Waste Management Rules, 2016 framed under the Environment (Protection) Act, 1986, least expected from the State PCB was to initiate prosecution under the EP Act, 1986 against the violators and assess and recover compensation on ‘Polluter Pays’ principle. There is thus clear failure on the part of the State PCB in performance of its statutory duties. There is also failure on the part of the Nagar Panchayat of constitutional obligation to maintain clean environment in accordance with the statutory rules Article 243 W read with Schedule 12 to the Constitution of India.

7. The issue of strict compliance of Solid Waste Management Rules, 2016 has come up before this Tribunal repeatedly and directions have been issued. Chief Secretaries of all the States/UTs were required to remain present in person and directions were issued for strict compliance of the Rules to be overseen by the District Magistrates at the District level and the Chief Secretaries at the State level. In a recent order dated 22.10.2021 in OA No. 909/2018, *Confederation of Trans Hindan RWA's Ghaziabad vs. U. P. State Pollution Control Board & Ors.*, dealing with issue of non-compliance at Ghaziabad, the Tribunal observed:

“1 to 5. xxxxxxxxx
6. Crossing of timeline is a criminal offence under the Solid Waste Management Rules, 2016 read with the Environment (Protection) Act, 1986. Section 268 to 270 of the Indian Penal Code, 1860 also makes any act or omission causing injury to public or any act likely to spread infection criminal offence. Thus, the Tribunal cannot be party to permitting continuation of such criminal offence. The criminal and civil liability for the failure is of the concerned authorities as laid down. Stringent conditions have to be laid down to ensure further remedial action. As noted above, the status shown by the report is of substantial non-compliance. Pratap Vihar Legacy Site where waste is being dumped for more than ten years remains un-remediated. The drain has been found to be covered with the floating solid waste with such heavy quantity that the water was not even visible and no work of clearing was going on. The compliance status shows that only 50 % of the waste is claimed to have been cleared. Though it is stated that the remaining will be cleared in 3-4 months, after more than two months of filing of the report, further progress has been claimed. It is reported that processing of legacy waste at Pratap Vihar is at very slow pace. It has potential for hazard of contamination of ground water by the leachate. There is no report about management of the current waste. Information in public domain, by way of media reports, shows the situation to be alarming.¹ Failure to manage drains

¹ <https://www.jagran.com/uttar-pradesh/ghaziabad-dirt-in-the-city-due-to-noncollection-of-garbage-increasing-pollution-due-to-burning-22101556.html>

<https://timesofindia.indiatimes.com/city/ghaziabad/why-indirapuram-needs-an-overhaul-of-its-drains/articleshow/85544580.cms>

https://www.hindustantimes.com/cities/noida-news/ghaziabad-stretches-of-national-highway-9-turning-into-dumping-sites-says-nhai-101634754144122-amp.html?utm_source=whatsapp&utm_medium=social&utm_campaign=ht AMP

<https://navbharattimes.indiatimes.com/state/uttar-pradesh/ghaziabad/garbage-dumping-from-khoda-and-noida-into-ghaziabad/articleshow/87130229.cms>

<https://timesofindia.indiatimes.com/city/gurgaon/notice-for-waste-near-hindon-river/articleshow/87145744.cms>

adds to pollution of river Ganga as the said drain first meet Hindan which meets Yamuna, which is tributary of Ganga.

7. It may be noted that the issue of scientific management of solid waste remains serious challenge to the protection of environment and public health. The matter was dealt with and monitored by the Hon'ble Supreme Court for 18 years in WP No. 888/1996, *Almitra H. Patel v. Union of India & Ors.* Vide order dated 02.09.2014, the same was transferred to this Tribunal².

8. The issue has been discussed at length in order dated 28.02.2020 in OA 606/2018 as follows:-

“.....

3. The matter was earlier considered by the Hon'ble Supreme Court inter-alia vide judgments reported in (2000) 2 SCC 679 and (2004) 13 SCC 538 directing scientific disposal of waste by setting up of compost plants/processing plants, preventing water percolation through heaps of garbage, creating focused **'solid waste management cells'** in all States and complying with the Municipal Solid Waste Management Rules, 2016 (SWM Rules, 2016) on urgent basis. **It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees.** Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums have multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of "slum clearance" there is "slum creation" in cities which is further aggravating the problem of domestic waste being strewn in the open.** Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

² Operative part of the order of the Hon'ble Supreme Court reads:

“Enforcement of the Rules and efforts to upgrade the technology relevant to the handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. **All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010.** The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions.”

4. Further observations in the judgment of the Hon'ble Supreme Court³ are:

“3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

- “1. As a result of the Hon'ble Supreme Court's orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.*
- 2. **All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.***
- 3. **Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.***
- 4. **States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution***

³ (2004) 13 SCC 538

each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.

5. Unless each State creates a focussed '**solid waste management cell**' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.
6. **The admitted position is that the MSW Rules have not been complied with even after four years.** None of the functionaries have bothered or discharged their duties to ensure compliance. **Even existing dumps have not been improved.** Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."

5. In this regard, reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand*⁴ and *B.L. Wadhwa v. Union of India and Ors.*⁵ laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.**
6. The Hon'ble Supreme Court also dealt with the issue of liquid waste management and after issuing requisite directions, required this Tribunal to monitor the compliance. Directions of the Hon'ble Supreme Court include steps for liquid waste management by setting up requisite treatment plants for which funds are to be generated by the local bodies and the States as per constitutional provisions.⁶

⁴ (1980) 4 SCC 162

⁵ (1996) 2 SCC 594

⁶ "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**

7. This Tribunal considered the matter of solid waste management after notifying all the concerned States/Regulatory Bodies and finally disposed of the same on 22.12.2016⁷ requiring all the States/UTs to follow the SWM Rules, 2016 after preparing requisite action plans in a time bound manner with further direction that **any State/UT which failed to comply with the Rules shall be liable to be proceeded against under Section 15 of the Environment (Protection) Act, 1986 (EP Act), apart from being required to pay environmental compensation and senior most officers of the States/Local Bodies being personally liable.** The directions also include requirement for segregation of waste, providing buffer zone around plants and landfill sites and due monitoring. The States/Local Bodies were also to create market for consumption of Refuse-Derived Fuel (RDF). Tipping fee was to include the efficient and regular monitoring of waste processing plant, segregation of inert and Construction and Demolition (C&D) material and its transportation. Landfill sites were required to be bio-stabilized preventing leachate and generation of Methane, enforcement of Extended Producer Responsibility, rights and liabilities under contracts being made consistent with the Rules, creating public awareness about the facilities available at regular intervals. **Copy of the judgment was circulated to all the Chief Secretaries/Advisors of States/UTs.”**

9. The matter was earlier considered vide order dated 20.08.2018. All the States/UTs were required to finalize their action plan latest by 31.10.2018 and execute latest by 31.12.2019, to 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.**

13. We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. 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.”

⁷ O.A. No. 199/2014 (2016) SCC Online NGT 2981

overseen by the Principal Secretaries of the States. Vide order dated 16.01.2019, the Tribunal directed that the statutory timelines under the 2016 Rules to be strictly followed and required the presence of the Chief Secretaries of all the States/UTs before this Tribunal with the progress reports. After interaction with the Chief Secretaries concerned, further directions were issued and finally vide order dated 20.08.2020 passed in the presence of Chief Secretary of some of the States but made applicable to all the States, the Tribunal observed that:

“.....

25. Accordingly, we have considered the matter further after interaction with the Chief Secretaries, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura and Meghalaya and Member Secretary, CPCB. Even though all the thematic areas of the environment are significant, interaction has been limited to few selected themes, other themes being left to be considered separately on different scheduled hearings.

26. As per available statistics, there is huge gap in generation and treatment of solid and liquid waste in the country. **As per CPCB report 2016 (06.12.2016), as against 61948 MLD sewage generated in urban areas in India, the treatment capacity is 23277 MLD. The deficit in capacity is 62%. There is no data of sewage generation in rural areas. As per CPCB estimate of solid waste⁸, about 65 million tonnes of waste is generated annually in the country out of which about 62 million tonnes is Municipal Solid Waste (MSW). Only about 75-80% of the municipal waste gets collected and out of this only 22- 28% is processed and treated and remaining is deposited indiscriminately at dump yards. It is projected that by the year 2031, the MSW generation shall increase to 165 million tonnes and to 436 million tonnes by 2050. There are more than 4000 dump sites as per CPCB data⁹ which need to be remediated to avoid harmful impact on environment and public health.**

27. All the States/UTs were directed by this Tribunal to commence remediation of legacy waste sites by 01.11.2019¹⁰. The Tribunal observed:

“28. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health¹¹.”

8

[http://164.100.47.193/lsscommittee/Urban%20Development/16 Urban Development 25.pdf](http://164.100.47.193/lsscommittee/Urban%20Development/16%20Urban%20Development%2025.pdf)

⁹ Order dated 18.10.2019 in O.A. No. 606/2018 para 6

¹⁰ Order dated 17.07.2019 O.A. No. 519/2019 Para 28

¹¹ (a) What a Waste 2.0, Global Snapshot of Solid Waste Management to 2050, World Bank Group, ISBN (paper): 978-1-4648-1329-0, 2018 International Bank for Reconstruction and Development / The World Bank, <http://datatopics.worldbank.org/what-a-waste/>. The report states- When waste is burned, the resulting toxins and particulate matter in the air can cause

“30. Needless to say that potential hazard of dumpsites on public health and environment is more or less on the same pattern and earliest such dumpsites are cleared, sooner it is better for public health. **Such dumpsites are undoubted source of air pollution resulting in respiratory and other diseases. Most vulnerable are the infants and the senior citizens.** The right to breathe fresh air being part of right to life, delay in remedying the situation is not desirable. The plea of capping is being put forward on the ground of need for urgent remedial action, ignoring that doing so will perpetuate the adverse consequences of retaining non-biodegradable and other polluting components in the garbage eventually causing continuous damage to the soil and the ground water. Biological solutions have to be preferred over engineering solutions on the subject. However action has to be taken fast. Delay which has taken place so far is on account of inaction of the concerned authorities for which there is no justification.

31. It will also be appropriate to note that the scheme of the SWM Rules is to prevent collection of waste and instead, to ensure its segregation, treatment and disposal at the earliest and as far as possible at the source itself. **If it is not done, the waste continues to be accumulated which becomes a challenge for the environment and public health. In this regard particular reference may be made to Rule 15 (zi). The authorities need to evolve a holistic strategy for integrated waste management in the municipal planning which may result in ‘zero waste’ going to the landfill in terms of the said rules¹².**

35. A copy of this order be sent to CPCB, all the Chief Secretaries, the MoEF&CC and MoHUA.”

28. The issue of solid and liquid waste needs to be taken seriously. We have already mentioned the available statistics on the subject. It is a matter of serious concern that legacy waste remediation has not even commenced at most

respiratory and neurological diseases, among others (Thompson 2014). Piles of waste produce toxic liquid runoff called leachate, which can drain into rivers, groundwater, and soil. Organic waste entering waterways reduces the amount of oxygen available and promotes the growth of harmful organisms (Bhada-Tata and Hoornweg 2016). Marine pollution is also increasing as a result of mismanaged solid waste on land, poor disposal practices by sea vessels, and runoff from sewage and polluted streams.

(b)<https://www.epw.in/engage/article/institutional-framework-implementing-solid-wastemanagement-india-macro-analysis> Several studies have been published that link asthma, heart attack, and emphysema to burning garbage. Human faecal matter is also frequently found in municipal waste—this, along with unmanaged decomposed garbage, attracts other rodents that further lead to a spread of diseases such as dengue and malaria. Leachate from rotten garbage contains heavy metals and toxic liquid; with such emissions ending up either absorbed into the soil or flowing into water bodies today (Awasthi 2013), the entire food chain can be affected when this contaminated water is utilised for agriculture, human consumption and animal consumption.

¹² Reference may also be made to- Suggestive /Indicative “The National Action Plan for Municipal Solid Waste Management”, Central Pollution Control Board, https://cpcb.nic.in/uploads/MSW/Action_plan.pdf.

of the sites even though statutory rules contemplate outer limit for completion of such remediation by 07.04.2021. Current processing of the waste generated and collected is also not taking place on regular basis. For any person travelling by train, hot spots of scattered garbage and overflowing sewage are common sights. Satisfactory sewage management also remains far cry. This unsatisfactory state of affairs must be remedied at the earliest and in a time bound manner by initiative at the highest level. Accountability needs to be fixed and consequences for failure clearly provided and enforced.

.....

41. *In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:*

a. *In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.*

b. *Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28¹³ even*

¹³ The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason

though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.

- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.*
- d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:*
- e. Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local*

why the same should not happen earlier, in view of serious implications on the environment and public health.

Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

- f. Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
- g. Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.*
- h. Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.*
- i. An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*
- j. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB.”*

10. *Vide order dated 14.12.2020 in OA No. 606/2018, the Tribunal inter alia directed:-*

“9. The compensation in terms of earlier order be recovered and credited to a separate amount with the Environment Department of the States/UTs to be used for restoration of environment in the concerned States/UTs. The deposit, instead of being made with the CPCB, may now be made to the said account.”

11. *Thus, the authorities have to be held accountable by way of compensation on polluter pays principle and departmental action for their failure in breach of constitutional obligation under the “Public Trust Doctrine”, apart from liability for prosecution under the Criminal Law. Remedial action by higher authorities may include review of posting of key officers dealing with the waste management, including Commissioner, Nagar Nigam and fixing liability under the Civil and Criminal Law.”*

8. In view of above, legacy waste accumulated at the present site needs to be remediated. Waste processing plant needs to be set up and operationalized for day to day management. Damage to rivers or streams in hilly locations and towns needs to be safeguarded. It is also necessary to ascertain waste management for towns having population less than one lakh in the State. Accordingly, we direct the State PCB to take further remedial action and show cause why their accountability be not fixed for its failure so far. We also direct Secretary, Urban Development, Uttarakhand to ensure remedial action and file an action taken report. The reports be furnished to the Tribunal before the next date 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. The Secretary, Urban Development, Uttarakhand and Member Secretary, State PCB, Uttarakhand may remain present in person on the next date by way of Video Conferencing along with the action taken reports.

List for further consideration on 12.01.2022.

A copy of this order be forwarded to Secretary, Urban Development, Uttarakhand, Nagar Panchayat Gairsain, District Magistrate, Chamoli, Uttarakhand, and Member Secretary, State PCB, Uttarakhand by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

November 11, 2021
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SN