

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

(By Video Conferencing)

Execution Application No. 03/2020

IN

M.A. No. 151/2019

IN

Original Application No. 412/2018

(With report dated 07.09.2020)

Mr. Om Tyagi

Applicant(s)

Versus

Ministry of Environment & Forest & Ors.

Respondent(s)

Date of hearing: 09.09.2020

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

Applicant(s): Mr. Chaudhary Nounihal Singh, Advocate

Respondent(s): Mr. Pradeep Misra, Advocate for UPPCB

ORDER

1. This application seeks execution of orders of this Tribunal on the subject of encroachment of water bodies in Village Ghukana, District Ghaziabad by illegal constructions in the form of farmhouses, parking, marriage halls etc. by private respondents.

2. The matter was earlier considered on 24.01.2019 in the light of report of the State PCB dated 18.08.2018 finding the constructions and operation of farmhouses, marriage halls, etc. to be in violation of law.

The Tribunal directed:

*“7. In view of the above, we find it necessary to constitute a Joint Committee comprising of nominees of Central Pollution Control Board, Uttar Pradesh PCB and Divisional Commissioner, Meerut **to look into the above aspects and then to take appropriate action, in accordance with law and furnish an action taken report** within one month by email at ngt.filing@gmail.com. UP PCB will be nodal agency for coordination and compliance.*

8. In Westend Green Farms Society Vs. UOI & Ors. (O.A. No. 400/2017) order dated 02.11.2018 this Tribunal held that environmental norms are required to be read into every activity adversely affecting environment while noting that marriage halls are not complying with requirement of rain-water harvesting, traffic regulation, drawl of ground water, regulating use of DG sets, management of municipal solid waste. Tribunal constituted an oversight Committee to look into following aspects:

- “i) Compilation of data of all such places where marriages and functions take place which should be published and appropriately regulated.*
- ii) Regulate noise level at above places or per laid down norms. This includes regulation of DJ sets, loudspeakers and crackers etc.*
- iii) Compliance of Solid Waste Management Rules, 2016, and sewage discharge including decentralized waste processing facilities, installation of CCTV camera, GPS system in garbage collection vans etc.*
- iv) Regulation of extraction of groundwater as per applicable guidelines, sealing of tubewells including those installed for swimming pools in violation of law, need for reuse of water for flushing, Plantation or gardening.*
- v) Rain Water Harvesting by installing roof top harvesting systems.*
- vi) Regulating size of gatherings on the concept of sustainable development in the light of carrying capacity of the area.*
- vii) Prohibiting such activities in overcrowded places not having adequate parking or other facilities.*
- viii) Action against unauthorized construction or unauthorized use without statutory clearances prohibiting and stopping any existing or future activities non-complying with above norms and also taking penal action where ever necessary.*
- ix) Environment restoration and compensating victims of violation of law in relation to Noise Pollution, Air Pollution, Water Pollution, Master Plan etc.”*

Accordingly, Joint Committee may also cover the aforementioned aspects while giving its report.

The application is disposed of.”

3. On receiving the report dated 16.05.2019 from the joint Committee, the Tribunal issued further directions on 17.05.2019 and the matter was finally disposed of on 18.10.2019.

4. The present application was filed alleging that illegal constructions and operation of the farmhouses and marriage halls were still continuing. On 09.01.2020, the Tribunal directed as follows:

“The Tribunal considered the matter earlier by way of orders dated 24.01.2019, 17.05.2019 and 18.10.2019 in Original Application No. 412/2018 and while disposing of the application on 18.10.2019, the Tribunal directed as follows:

“apart from the remedial action already taken, it is necessary to ensure that such violations are not repeated for continuous vigilance be maintained in the area. The authorities concerned must prepare a plan for the purpose.”

It is stated that in spite of the above, violations are still continuing.

*In view of the above, **let the factual status report be ascertained and furnished to this Tribunal by a joint Committee comprising Central Pollution Control Board and Uttar Pradesh State Pollution Control Board.** The UPPCB will be the nodal agency for coordination and compliance. The report may be furnished by email within one month at judicial-ngt@gov.in.”*

5. Accordingly, the State PCB has filed its report on 07.09.2020 inter-alia as follows:

“The inspection team in course of the present inspection made the following observations:

- *With the COVID-19 protocols in force and the restrictions imposed on any public gatherings like marriages, parties, etc. these units have been found to be practically out of business during this period of pandemic.*
- *The non-complying units were already ordered to remain shut by the UPPCB and to resume operations only after achieving compliance.*
- *All the establishments were found to have closed down their operations. The team entered the premises of the closed units and observed modification/up gradation/installation works like extension of DG set exhaust systems, rainwater harvesting provisions, etc. going on at few places.*
- *The units were totally closed down with the entrance gates locked as shown in the enclosed photographs.*
- *The team inspected the pumps/ground water extraction arrangements and found all such provisions sealed as shown in the enclosed photographs.*
- *Interactions with the locals and owners/managers of the closed units indicated that the establishments have not been used and recent NGT orders and UPPCBs directions have made them aware that they cannot operate violating the applicable standards/rules and operation shall be*

started only after obtaining clearances from all concerned departments.

- *Ghaziabad Nagar Nigam should carry out regular drives to ensure there is no encroachment on roads and drains in the area.*

Status with regards to encroachment of these units has already been stated in Joint report dated 25.2.2020. In the said report, encroachment of roads and drains has been observed but as per Survey report of Tehsil Sadar, no well or pond is identified on Khasra Numbers stated by the applicant, copy of said survey report is again annexed as Annexure I of this report.

*Further, with regards to preparation of plan for environmental compliance, **Central Pollution Control Board, in compliance of Hon'ble Tribunal's orders dated 19.09.2019 in O.A. 400/2017 Westend Green Farms Society Vs Union of India and Ors. has prepared and circulated the Mechanism/Guidelines for Control of Pollution and Enforcement Norms at Individual Establishments and the Area/Cluster of Restaurants/Hotels /Motels/Banquets etc.** Copy of these guidelines has also been uploaded on the official website of Uttar Pradesh Pollution Control Board. Compliance of same has to be ensured in present case as well."*

6. In view of above, the State PCB may enforce the CPCB guidelines on the subject and ensure that there is no violation of the environmental norms.

The application is disposed of.

A copy of this order be forwarded to the State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 09, 2020
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