

Item No. 03

Court No. 1

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

(By Video Conferencing)

Original Application No. 170/2021

Noorul Sehar Lari

Applicant

Versus

State of U. P. & Ors.

Respondent(s)

Date of hearing: 10.10.2022

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

Applicant: Ms. Mansi Chahal, Adv.

Respondents: Ms. Priyanka Swami, Advocate for the State of UP
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB

ORDER

1. Grievance in this application is against discharge of untreated sewage at Lar, District Deoria, UP on open land having Khasra No. 1712 with area of 0.1980 hectares. The Municipal Council has failed to perform its obligation of managing the sewage and public hygiene as required Article 243W read with 12th Schedule, to enforce fundamental right to clean environment and to prevent water pollution as required under the Water (Prevention and Control of Pollution) Act, 1974 and the judgment of the Hon'ble Supreme Court in Paryavaran Suraksha case¹ and orders of this

¹ (2017) 5 SCC 326

Tribunal inter-alia in O.A. No. 593/2017, *Paryavaran Suraksha Samiti & Anr. v. UOI & Ors.*

2. The matter has been considered earlier vide orders dated 20.07.2021, 29.10.2021 and 05.04.2022. The Tribunal found from the report dated 29.09.2021 filed by the joint Committee of Additional Chief Secretary, Urban Development Department, UP, State PCB, District Magistrate, Deoria and Nagar Panchayat Lar that though some steps had been taken, its effectiveness on the ground was yet to be ascertained. Accordingly, the Tribunal directed reconstitution of the Committee with addition of nominee of CPCB from Delhi, an officer of State PCB of the rank of Chief Engineer, an officer of the rank of Chief Engineer of the Public Health Department and a Chief Engineer of the Department of Rural Development nominated by Additional Chief Secretary, Rural Development, UP to ascertain the compliance status and to recommend a model which may be helpful to tackle such problems at small places. Report dated 11.03.2022 filed by the reconstituted Committee was then considered and it was found that bioremediation process which had been adopted was not effective on the ground as harmful components remained untreated. Result was that untreated sewage was going to the drains to the detriment of environment and public health in violation of judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha*, supra.

3. The Tribunal accordingly directed further remedial action for compliance of norms and allocation of atleast Rs. 1 crore for requisite remedial action. The Tribunal sought a further compliance report in the matter. Operative part of the order is reproduced below:

“xxxxxx.....xxx
5. From the above, particularly from the table mentioning the analysis of the water taken from the drain after the so called bioremediation, it is clear that the parameters of water quality are

not met and bioremediation has not achieved the desired result. Harmful components of sewage remain untreated and are being discharged in the drain to the detriment of environment and public health. Estimated sewage generation in Lar is around 3.6 MLD which travels through drains and ultimately is inundated in low lying areas/ plots. It is not only contaminating ground water but also damaging public health through vector borne diseases. The grey water (wash water and sullage water) and outlets of septic tanks into drains and suctioned material from septic tanks is recklessly being disposed at unidentified locations. Further, the treated sewage is not be utilised for secondary non - potable use. It is desirable to have demarcated command area to raise horticulture and non edible agro products having economic value. Similarly, waste stabilisation ponds can be used for pisciculture. All these activities can be source of nutrients, economic benefits and generating local employment. STP at Deoria needs to be made functional before consideration of transporting sewage from Lar. The report of the Committee clearly shows that the bioremediation of the drain has not shown significant reduction in BOD as well as in faecal coliform. The reduction shown is from 37 to 30 mg/l in terms of BOD. Simply dosing of culture without having proper mixing and ensuring retention time will not be enough. There appears to be no realisation that towns like Lar also requires proper municipal waste (sewage and solid) management under the Constitution. Further remedial action is required in the light of the report. An action plan needs to be prepared and executed after specifying the Executive Agency, timelines, funding arrangements and administrative as well as technical supervision. This is the mandate in the judgment of the Hon'ble Supreme Court in Paryavaran Suraksha, supra, and orders of this Tribunal, in the light of legislative mandate under the Water Act.

6. Accordingly, we direct the Additional Chief Secretary, Urban Development to ensure immediate and effective remedial measures by way of preparation of suitable action plan and its execution, to prevent untreated sewage being discharged in the drains and prudent utilisation of natural resources. It may be ensured that there is effective treatment of the sewage by use of appropriate technology and proper utilization of treated water for appropriate purposes, including agricultural and fish-culture. The Urban Development Department may allocate atleast a sum of Rs. 1 crore for the purpose in the light of judgment of the Hon'ble Supreme Court in Paryavaran Suraksha, supra. Compliance report of status as on August 31, 2022 may be filed by September 15, 2022 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.

7. To sum up, our directions are:

- (i) State Urban Development and Rural Department may release a sum of Rs One crore to Lar Municipality within 15 days which may be kept in a separate account for incurring expenditure on sewage management.
- (ii) Urban Development and Rural Department to assign sewage management work to an appropriate Agency to be monitored by the District Magistrate, Deoria on monthly basis and by ACS, Urban Development and Rural

Department on bimonthly basis. Report giving status as on 31.8.2022 with substantive progress be filed with this Tribunal by e-mail by 15.09.2022.

- (iii) The activities for execution need to include; (a) conveyance of sewage and sullage as well as Septic tanks waste to designed treatment system, (b) setting up of waste stabilisation ponds or any such System for treatment of sewage and Septage and to conform with applicable standards, (c) utilising treated sewage for horticulture/ agronomy and pisciculture, (d) lifting of inundated sewage in plots and their restoration, (e) effective and economic usage of disinfection system and (f) effluent management during monsoon / rains or when not required for horticulture/ agriculture. The water quality of **river Chhoti Gandak** which is perennial be maintained for atleast class "B". During execution of work, public awareness be created about essential sanitation services
- (iv) Since, the bioremediation activities according to the finding in the report are not giving significant improvement in reduction of BOD and other pollutants, this work may be undertaken only if found effective, fixing accountability for the waste of funds on futile process.”

4. Accordingly, further reports have been filed by Nagar Panchayat, Lar (on 15.09.2022) and by the Principal Secretary, Urban Development, UP (on 08.10.2022). The information in tabular form in the report dated 08.10.2022 is as follows:

Directions	Action Taken Report
(i) State Urban Development and Rural Department may release a sum of Rs. One crore to Lar Municipality within 15 days which may be kept in a separate account for incurring expenditure on sewage management.	It is humbly submit that to comply with the direction, comprehensive City Sanitation Action Plan (CSAP) of the Nagar Panchayat Lar amounting Rs. 7.40 Cr. to be funded under SBM2.0 has been prepared. City Sanitation Action Plan was proposed by Jal Nigam Uttar Pradesh for the first time on 16.06.2022 and was presented before SLTC on 23.06.2022. However, SLTC rejected it on technical grounds to be submitted with modification. With these modifications it was finally approved by SLTC on 05.09.2022 (Annexed herewith as Annexure-1) and by SHPC on 20.09.2022 (Annexed herewith as Annexure-2). Components of project approved under CSAP for Lar: (i) interception and Diversion of 3 drains (ii) 3MLD STP with Cotreatment Plant (5kld) (iii) 1 MPS

	<i>(iv) Trunk Sewer line</i>
<p><i>Urban Development and Rural Department to assign sewage management work to an appropriate Agency to be monitored by the District Magistrate, Deoria on monthly basis and by ACS, Urban Development and Rural Department on bimonthly basis. Report giving status as on 31.8.2022 with substantive progress be filed with this Tribunal by e-mail by 15.09.2022.</i></p>	<p><i>It is humbly submitted that in compliance of the order the meeting in the chairmanship of District Magistrate was held on 10.08.2022 with the presence of 1) ADM - Administration/ OC Local Bodies District Deoria, 2) Executive engg-Jal Nigam Uttar Pradesh, 3) Project Manager- C&DS, UP Jal Nigam Unit-14 Gorakhpur, 4) Executive officer- Nagar Panchayat Lar. The minutes of the meeting is attached herewith as Annexure-3. In addition to above, the progressive report from the Nagar Panchayat Lar has been submitted through email id nplar1181@gmail.com dated 15th September 2022 on 16:36PM. The screen shot of the said email is attached herewith as Annexure-4.</i></p>
<p><i>The activities for execution need to include; (a) conveyance of sewage and sullage as well as Septic tanks waste to designed treatment system, (6) setting up of waste stabilisation ponds or any such system for treatment of sewage and septage and to conform with applicable standards, (c) utilising treated sewage for horticulture/ agronomy and pisciculture, (d) lifting of inundated sewage in plots and their restoration, (e) effective and economic usage of disinfection system and (f) effluent management during monsoon rains or when not required for horticulture/ agriculture. The water quality of river Chhoti Gandak which is perennial be maintained for atleast class "B". During execution of work, public awareness be created about essential sanitation services.</i></p>	<p><i>The compliance is humbly submitted as under:</i></p> <p><i>a) The conveyance and transportation of the sewage shall be done through 2 Nos of sewer suction machines available with Nagar Panchayat Lar. Also the private operators shall be engaged for the more coverage.</i></p> <p><i>b) The collected sewage shall be sent to the waste stabilization ponds present within the boundary of Nagar Panchayat Lar or deep row entrenchment with liner to prevent soil pollution for the treatment of sewage shall also be prepared as an interim measure till the STP- Co treatment facility is not established.</i></p> <p><i>The use of phytoremediation plants and suitable enzymes shall be done for both the methods.</i></p> <p><i>c) The treated water shall be utilized for the uses in the Nagar Panchayat Lar such as Gardening/ Sprinkling.</i></p> <p><i>d) The Jal Nigam UP has already proposed the construction of RCC drain from Gajari mod to existing culvert for Gandak River Nala at Lar Town, District- Deoria. The estimate for the Phase-1 (Chaunki mod to Gandhi Mod) is prepared and is under the process of approval. The estimate is attached herewith as Annexure- 5 which covers the point no. e&f) as well.</i></p>

<p><i>Since, the bioremediation activities according to the finding in the report are not giving significant improvement in reduction of BOD and other pollutants, this work may be undertaken only if found effective, fixing accountability for the waste of funds on futile process.</i></p>	<p><i>In the pursuance of the direction it is submitted that the water samples from the said drains are regularly tested on the dates of 27th October 2021/ 30th December 2021/ 21st January 2022/ 28th March 2022/ 30th April 2022/ 01st July 2022/ 20th July 2022. The compiled report on all the testing done for the said dates are attached herewith as Annexure-6. The work for the Bioremediation amounting Rs. 10 Lakhs was awarded to M/s J. Sharp Technologies for the period of one year. The copy of office order is attached herewith as Annexure-7.</i></p>
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5. From the above, it is seen that though action plan involving funding of Rs. 7.40 crore has been prepared, the same has not been accepted. Violations are still continuing. Only action reported is at the stage of proposal to collect sewage and take it to stabilization ponds as interim measure till establishment of STP facility. UP Jal Nigam is to construct RCC drain as a conveyance system.

6. Thus, mere proposal does not help and violations are required to be remedied, fixing accountability for the failure of the State. Since no proper results are shown by bio-remediation, such process is serving no purpose. There is no information about the quantity and quality of treatment, quality of treated water from the outlet of waste stabilization pond and utilization of treated sewage.

7. Accordingly, on the pattern of orders of this Tribunal², compensation has to be levied @ Rs.2 crore per MLD of untreated sewage discharged which is equal of capital cost of treatment of sewage. We direct the State of

² (i) Orders dated 1.9.2022, 8.9.2022, 15.9.2022, 22.9.2022 and 29.09.2022 in OA No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues (in respect of States of West Bengal, Maharashtra, Rajasthan, Punjab and Telangana).
(ii) Order dated 03.08.2022 in OA No. 1002/2018, Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors.
(iii) Order dated 06.09.2022 in OA No. 909/2018, Confederation of Trans Hindan RWA's Ghaziabad vs. U. P. State Pollution Control Board & Ors.

UP to deposit a sum of Rs. 7.5 crores in a ring-fenced account within one month with the District Magistrate, Deoria (which will be the responsibility of the ACS, Urban Development, UP) for preventing discharge of untreated sewage into the drains. Instead, the sewage is treated suitably and used for secondary purposes such as irrigation, considering such models elsewhere (like Karnal Technology, Root Zone Treatment).³ The same is also mentioned in the guidelines of Central Public Health & Environmental Engineering Organization (CPHEEO), Ministry of Housing and Urban Affairs, GoI.⁴

8. The joint Committee headed by ACS/Principal Secretary, Urban Development, UP with nominees of CPCB, State PCB and District Magistrate, Deoria as members may oversee utilisation of the amount for the purpose. It may ensure that tangible results are brought about within six months and an interim report about actions taken about such steps is filed within three months 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.

9. The ACS/Principal Secretary, Urban Development, UP and District Magistrate, Deoria may remain present in person by video conference on the next date.

List for further consideration on 7.2.2023.

³ For example: (i) <https://www.tribuneindia.com/news/haryana/treated-water-from-new-karnal-stp-to-irrigate-over-6-300-acres-385849>
(ii) <http://watertreatmentindia.blogspot.com/2011/01/karnal-technology-of-sewage-treatment.html?m=1>

⁴ http://cpheeo.gov.in/upload/uploadfiles/files/engineering_chapter7.pdf

A copy of this order be forwarded to ACS/Principal Secretary, Urban Development, UP, CPCB, State PCB and District Magistrate, Deoria by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

October 10, 2022
Original Application No. 170/2021
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