

Item No. 03

Court No. 1

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

Execution Application No. 52/2018

IN

O. A. No. 454/2018

Subhash Gupta & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.02.2021

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

Applicant: Mr Sonal Anand, Adv. for Applicant in EA 52/2018

Respondent: Mr. Rahul Khurana, Adv. for MC, Gurugram & GMDA

ORDER

1. This execution application has been filed to enforce the order of this Tribunal dated 23.07.2018 for proper maintenance of storm water drains in Gurgaon.

2. The matter was considered earlier on 08.01.2019 in the light of report dated 04.01.2019 furnished by the Director, Town and Country Planning Department. The observations of this Tribunal are:

“5. The HSVP has constructed 19 KM RCC box drain/ covered storm water drain and approximately 7 KM is open kacha Nallah through which storm water of the town is dispose of into Najafgarh Drain. About 400 meter strip of land is yet to be acquired near tail connecting to Najafgarh drain and 75 meters piece of land strip in 10 meters width in downstream of village Khandsa. Other outfall drain Leg – I have already been constructed with box drain and transferred to Gurugram Metropolitan Development Authority (GMDA). Similarly, RCC box drain leg – II has also been completed except 600 meters length near Najafgarh drain in Sector 107. After completion of the work, this drain shall also be transferred to GMDA. Action plan with respect to desilting and repair of arterial drains falling within jurisdiction of MCG has been prepared. Further, action plan to prevent sewage from entering into master storm water drains leg – I, II and Badshahpur drain has

already been submitted in the form of affidavit in Original Application no. 6 of 2012 of Sh. Manoj Mishra and Writ Petition No. 375 of 2012 Paryavaran Suraksha Samiti Vs. UOI.

6. *Let the ongoing work be completed and orders of this Tribunal be complied with as per action plan before the next date.*
7. *A further status report be furnished before the next date by e-mail at ngt.filing@gmail.com.*

3. The matter was further considered on 06.03.2020 in light of reports dated 02.11.2019 and 05.03.2020 filed by the Gurugram Metropolitan Development Authority (GMDA) and reports dated 01.11.2019 and 05.03.2020 filed by the Commissioner, Municipal Corporation, Gurgaon (MCG). The Tribunal, after referring to the observations in O.A. No. 06/2012, *Manoj Misra v. UOI & Ors.* dealing with the remediation of river Yamuna and in O.A. No. 593/2017 dated 28.08.2019, dealing with preventing any untreated sewage or effluent from being discharged into any water body, directed the GMDA, the MCG and the HSIIDC to take further steps and furnish a compliance report through GMDA, which was to be the nodal agency.

4. The matter was last considered on 05.10.2020 in the light of the report of the GMDA dated 03.10.2020 to the effect that discharge of untreated sewage will be stopped by 30.06.2021 by bridging the gap in the generation and treatment of sewage. The Tribunal held that the timeline proposed was in conflict with the timeline mandated under the judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha case, (2017) 5 SCC 326* fixing the upper limit of 01.04.2018, for preventing water pollution by installing necessary equipments. The Tribunal accordingly directed further appropriate steps in the matter including interim arrangement to prevent pollution pending further action. Extract from the order dated 05.10.2020 is as follows:-

4. The GMDA has filed its report on 03.10.2020 to the effect that the discharging of untreated sewage will be stopped by 30.06.2021, which may be further delayed on account of the pandemic. Development of infrastructure is being done by the concerned Departments to ensure Zero Liquid Discharge (ZLD) in the main drains during dry weather, except treated waste water. Five STPs are in operation but still there is a gap which has to be bridged for which there is a plan to set up de-centralized STPs and additional STPs, as per details mentioned. With regard to natural wetland, there is a proposal from the Jamia Millia Islamia University which requires 250 acres of land and Rs. 40 crores of cost, in addition to the cost of land.

5. From the report, **we do not find any justification for constructing box drains/covered storm water drains which may obstruct natural flow. However, during hearing, it is explained that the construction of box drain was done in the past against which remedial action is a matter of consideration in O.A. No. 523/2019, Vaishali Rana Chandra & Ors. v. Union of India & Ors. The report does not show any arrangement to prevent untreated sewage being discharged into the drains till June, 2021 or even till December, 2021 till the proposed work of setting up capacity for treatment is completed. It is stated that the proposal submitted by the Jamia Millia Islamia University is not being considered. There is no other proposal for preventing untreated sewage from being discharged into the drains. Thus, the law will continue to be violated and untreated sewage continue to be discharged in water bodies, though it is criminal offence under the law of land and express violation of directions of the Hon'ble Supreme Court in Paryavaran Suraksha case, (2017) 5 SCC 326, directing initiating prosecution of concerned Secretaries of State concerned where such situation continues after 1.4.2018. This Tribunal, in compliance of directions of the Hon'ble Supreme Court, directed recovery of compensation for such violation which is to be overseen by the Chief Secretary. The Tribunal has also directed that pending setting up of STPs etc, interim measures be taken so that not a drop of pollution is discharged in water bodies. As noted in O.A. No. 06/2012, the CPCB has placed various proposals for the purpose on its website enabling interim measures to be adopted without much financial cost and without much technology but there is no explanation why such steps are not being taken.**

6. Further, the officers of the GMDA acknowledge that the STPs are not compliant with regard to the Faecal Coliform norms and thus to that extent the sewage remains untreated and continues to be discharged into the water bodies, in violation of law.

7. We also note that there are multiple agencies dealing with the STPs, as mentioned in the report viz. the MCG, the GMDA, the HSVP and the HSIIDC. In O.A. No. 06/2012, this Tribunal expressed the view that as far as possible there should be a single coordinating agency for treatment of sewage which will help curtailing delay and cost. In the context of Delhi, the Tribunal directed constitution of Integrated Drain Management Authority (IDMA) to be headed by the Chief Secretary. Other agencies such as the Delhi Jal Board (DJB), the Municipal Corporation, PWD, Irrigation Department being members of such authority. As reported in the said matter, IDMA has been constituted in Delhi. In Haryana also, on similar pattern, an appropriate agency needs to be considered by the Chief Secretary, Haryana so that decisions are taken jointly under the leadership of a Senior functionary of an appropriate rank at the level of State or some Districts. This course may be considered by way of an appropriate administrative direction so that the level of mismanagement which is clearly visible is remedied in the interest of rule of law, environment and public health.

8. Let appropriate further steps be taken in the matter. For this purpose, we direct the Chief Secretary, Haryana to monitor the situation. The GMDA may have interaction with the CPCB for interim arrangements to deal with the issue. The Chief Secretary, Haryana and GMDA may furnish a report 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.”

5. Accordingly, further report has been filed by the GMDA and other authorities of Haryana. The report of GMDA, filed on 08.02.2020 being the latest, it is not necessary to refer to other reports. The report gives the status of compliance as follows:-

“State of Leg – I, Leg-II and Leg-III

| Name of drain | Total discharge | Discharge diverted | Balance discharge | Balance discharge to be diverted | Date of completion of diversion | Balance discharge to be treated via construction of STPs | Date of completion of STPs | Status |
|----------------------|------------------------|---------------------------|--------------------------|---|--|---|-----------------------------------|--|
| Leg-I | 25.20 | 15.20 | 10 | 4.4 | 31.12.2021 | 5.6 | 31.12.2021 | Balance 10 MLD is yet to be diverted out of 25.20 MLD. Which is delayed due to ban on construction activity by Hon'ble Supreme |

| | | | | | | | | |
|----------------|---------------|--------------|--------------|--------------|------------|--------------|------------|--|
| | | | | | | | | <i>Court in NCR Region due to air pollution and lockdown due to Covid - 19</i> |
| <i>Leg-II</i> | 36.84 | 28.34 | 8.5 | 7 | 31.12.2021 | 1.5 | 31.12.2021 | <i>Balance 8.5 MLD is yet to be diverted out of 36.84 MLD. Which is delayed due to ban on construction activity by Hon'ble Supreme Court in NCR Region due air pollution and lockdown due to Covid -19</i> |
| <i>Leg-III</i> | 83.35 | 54.15 | 29.2 | 25.35 | 31.12.2021 | 3.85 | 31.12.2021 | <i>Balance 29.2 MLD is yet to be diverted out of 83.35 MLD which is delayed due to ban on construction activity by Hon'ble Supreme Court in NCR Region due to air pollution and lockdown due to Covid - 19</i> |
| Total | 145.39 | 97.69 | 47.70 | 36.75 | | 10.95 | | Balance 47.7 MLD (36.75 MLD + 10.95 MLD) is yet to be diverted / treated. |

6. From the above, it is seen that huge gap in generation and treatment of sewage is continuing in violation of law. The Water (Prevention and Control of Pollution) Act, 1974 was enacted 47 years

back under which pollution of water is a criminal offence. Unfortunately, the concerned Authorities in the State of Haryana continue to violate law without any accountability, in spite of categorical judgment of the Hon'ble Supreme Court. Needless to say that such failure is at the cost of health and lives citizens and cannot be condoned. The lackadaisical approach adopted in the matter is a matter of concern for the citizens.

7. Accordingly, we direct the Chief Secretary of Haryana to take further remedial action in mission mode to ensure that compliance of the constitutional mandate and for the safety of health of the citizens. CPCB may provide such technical assistance as may be necessary, subject to senior officers of the Haryana Government coordinating with the Member Secretary, CPCB forthwith.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Haryana, GMDA, State PCB and CPCB by email for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

February 10, 2021
Execution Application No. 52/2018
IN O. A. No. 454/2018
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