

Item No. 02

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 248/2021
(I.A. No. 190/2021, I.A. No. 248/2021)

Vipin Nayyar

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 03.01.2022

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

Applicant: Mr. Vipin Nayyar, Applicant in Person

Respondent: Mr. Mukesh Verma, Advocate for UEPPCB

ORDER

1. Grievance in this application is against construction activities in flood plain zone of river Ganga. Municipal Corporation, Rishikesh is constructing toilets in the said area illegally and discharging untreated waste therefrom in river Ganga. No STP has been constructed to treat the waste.

2. Vide order dated 28.10.2021, the Tribunal constituted a three-member Committee to undertake visit to the site and give a factual report in the matter about the status of compliance of environmental norms. The relevant part of the order is reproduced below:

“xxxxxx.....xxx.....

*6. We accordingly constitute a three Members Committee comprising of **SEIAA, Uttarakhand, State PCB and District Magistrate,***

Rishikesh, who shall, not only visit the sites which are pointed out in this application but if there are similarly placed other sites also wherein similar activities are going on, the same shall also be inspected and submit a factual report within two months by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF and also upload the same on website of State PCB simultaneously so that the concerned parties/Departments can access the same for further course of action. The State PCB will be the Nodal Agency for coordination and compliance. If Committee finds violation of environmental laws and directions of Supreme Court's in Paryavaran Suraksha Samiti (2017 5 SCC 326), copy of report shall be supplied to such person/body who has violated, so that such person/body may give its response to this Tribunal, by next date.

3. Accordingly, the District Magistrate, Dehradun has filed report dated 20.12.2021 to the effect that a public toilet is under construction at distance of 20.77 meters from Ganga. Due to absence of sewer line, a septic tank has been constructed to collect the waste, as per protocol for septage management. Septic tanks are evacuated from time to time. 80% work has been constructed but the same has been suspended in the light of order of this Tribunal. This is being done for the visitors in 3 km of Astha Path where no other such facility is available, except at Triveni Ghat. Similar report has been filed by the State PCB on 24.12.2021.

4. The applicant has filed objections to the report on the ground that the construction within Flood Plain Zone is illegal. The complex in question is over the Filter Trench Seepage Drain of the Dam, in the catchment area of the Dam. The same is filled with human waste, coming out of the toilet. The State PCB issued notice to the Municipal Commissioner, Rishikesh on 12.11.2021 to produce NOC from the Jal Nigam, in terms of the applicable bylaws dated 4.12.2016 but no such NOC has been produced nor obtained.

5. While we find merit in the objections of the applicant that the construction in Flood Plain Zone is illegal, having regard to the public

inconvenience pointed out, we direct that the arrangement in question should be interim and not treated as a precedent and shifted to appropriate location, where construction is legally allowed. Till alternative arrangement is made, septic tanks be regularly cleaned and maintained to ensure that no untreated sewage is discharged into the river or in the open, in violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974 and judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.*¹

6. We further direct the State of Uttarakhand to comply with the directions of this Tribunal dated 22.02.2021 in OA 593/2017, *Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.*, in terms of judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha Samiti*, supra, to ensure that no untreated sewage/effluent is discharged into any drain or any other water body and adequate arrangements are made for setting up requisite sewage treatment plants. Similar direction has been reiterated in the context of river Ganga in OA 200/2014, *M.C. Mehta vs. Union of India & Ors.* vide order dated 08.02.2021. All the Ganga Bank towns and villages need to follow septage protocol as well as norms applicable to the flood protection zones. Evacuation from septic tanks must be linked to the pre-identified STPs. There has to be an awareness programme as well as a monitoring cell created at each municipal level to ensure that no wastage is discharged into the river Ganga or any tributary or any stream. Treated effluents need to maintain standards with respect to fecal coliform and fecal streptococcus. The Chief Secretary, Uttarakhand may look into this aspect and ensure compliance.

¹ (2017) 5 SCC 326

The application is disposed of.

All pending I.A.s also stand disposed of.

A copy of this order be forwarded to Chief Secretary, Uttarakhand by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

January 03, 2022
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