

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

**Original Application No. 145 of 2015
(M.A. No. 1140 of 2015, M.A. No. 53 of 2016, M.A. No. 459 of 2016 &
M.A. No. 1259 of 2016)**

IN THE MATTER OF:

**Uma Shankar Patwa & Anr. Vs. Union of India & Ors.
(Earlier titled as D.K. Joshi Vs. Union of India & Ors.)**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:

Applicant : Ms. Meera Gopal, Advs.

Respondent No. 1 : Mr. Balendu Shekhar, Adv. with Mr. R.K. Maurya, Adv. for MoEF

Respondent No. 3 : Mr. Pradeep Misra and Mr. Daleep Kumar Dhayani, Advs.
Mr. I.K. Kapila, Adv. for U.P. Jal Nigam
Mr. Tarunvir Singh Khehar and Ms. Guneet Kehar, Advs. for Agra Development Authority
Mr. A.D.N. Rao and Mr. Nitesh Jain, Advs. for Mangam and Tanishka
Ms. Meenakshi Arora, Sr. Adv. with Mr. Aditya Parolia and Mr. Piyush Singh, Advs. for Ganpati and Kalyani
Mr. Arjun Pant and Mr. Vaibhav Batika, Adv.
Mr. Sanjay Upadhyay, Mr. Gautam Singh, Mr. Ardhendu Maheshwari, Mr. Sharad Sharma, Ms. Upma Bhattacharya, Advs.
Mr. Raj Kumar, Adv. with Mr. Bhupender, LA Central Pollution Control Board
Mr. B. V. Niren, Adv. and Mr. Vinayak Gupta, Adv.
Mr. Jitendra Mohan Sharma, Sr. Adv. with Mr. Sameer Singh, Advs. for Astha City
Dr. Sandeep Singh, Adv. and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
Mr. Rajendra Prasad Saxena, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 39 August 29, 2017 SS & PS	<p>According to the Learned Counsel appearing for State of Uttar Pradesh there are 13 builders whose projects do not fall within high flood line. Therefore, all these projects should be permitted to complete their construction or activity and they be permitted to operate in accordance with law.</p> <p>However, the Learned Counsel appearing for the applicant submits that all these 13 builders do not fall outside the demarcated high flood line, as the pillars has</p>

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been fixed on higher, level after dumping of C&D and other wastes.

On the orders of the Tribunal the Registrar General of National Green Tribunal was appointed as local commissioner to physically inspect these projects and submit a report. The report was submitted on 19th August, 2016 and 15th September, 2016.

In view of some conflict raised by the applicant, other public authorities and the State of Uttar Pradesh, the Tribunal vide order dated 17th August, 2017 had directed the Registrar General, National Green Tribunal to submit a detail comments in relation to these 13 projects which were stated by the State of Uttar Pradesh to be outside high flood line but were actually falling within the high flood line. The Registrar General, National Green Tribunal has submitted his report on 26th August, 2017 wherein he has further clarified that the projects relating to Radha Ballabh Public School falls partly inside the high flood plain line. Similarly, Raj Shree Garden was also touching pillar no. RU-32 and in the case of P.G. College (Jagdamba), the boundary wall of the project was built in the flood plain zone and has now been demolished by the Agra Development Authority and, therefore, as of present the project falls outside the high flood line. Besides the conditions that have been imposed, according to some of the Project Proponent they do not require Environmental Clearance while according to others they have already obtained the Environmental Clearance that was required. The building plans which have been approved also impose some conditions upon them. The projects of the builders have not obtained any consent to operate from Uttar

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Pradesh Pollution Control Board, however, some of them are stated to have obtained consent to operate from the Board. All these orders issued by the different authorities obviously impose certain conditions upon the builders, which they shall be obliged to carry out mutatis-mutandis to the conditions and directions that would be imposed by the Tribunal in this order. Every Project Proponent/builder shall be duty bound to comply with all the directions. In the event of default, the concerned authority shall take coercive action including disconnection of water and electricity supply to the Project Proponent by which the persons who have bought the flats would also be responsible and liable for action.

In light of the above and to avoid any subsisting controversy to continue any further, we consider it necessary to issue directions in relation to the 13 building projects which are named hereinafter:-

1. Aparna River View Apartment
2. Pushpanjali Seasons
3. Vibhav Vatika
4. Ram Mohan Vihar Colony
5. Hotel Taj Way Inn
6. Taj View Apartment
7. Manglam Shila
8. Manglam Estate
9. Indira Estate Mill Compound
10. Astha City Centre
11. P.G. College (Jagdamba)
12. Radha Ballabh Public School
13. Raj Shri Garden

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In view of the above, we pass the following directions:-

1. Radha Ballabh Public School and Raj Shree Garden shall demolish the structures that are falling within 100 meters of the high flood line already demarcated by the concerned authority under the orders of this Tribunal, the distance which have been measured from Pillar RU-32 and RU-33 respectively. The demolition should be effected within two weeks from today without default. If the builder does not carry out demolition themselves then Agra Development Authority and the Uttar Pradesh Pollution Control Board shall demolish the same at the cost of the builder which shall be recovered as arrears of land revenue by the concerned authority.

2. All the other 11 projects which are stated to be outside the high flood line, would be permitted to complete their constructions and all other allied activities are permitted to operate in all respect, but subject to compliance of the following conditions and directions as a condition precedent to the order dated 25th May, 2017:-

a. The project will not be granted completion certificate and clearance by the Department for occupancy till the time it constructs its own Sewage Treatment Plant (STP) of the required capacity. The STP shall be constructed in consultation with the UPPCB and the concerned Department i.e. Agra Development Authority.

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- b. The construction work of the STP shall be commenced, if not already commenced.
- c. The Project Proponent shall make proper size pits for Municipal Solid Waste. It shall make arrangements for segregation of waste at source and it shall be the responsibility of the Project Proponent to deposit the waste to the landfill site or treatment plant in consonance with the Solid Waste Management Rules, 2016.
- d. The Project Proponent shall provide a composting pit within its area and would ensure that the compostable waste is deposited there and converted into manure which is utilized by it in its green area or it is sold to public at large.
- e. It shall obtain consent of the UPPCB to operate the STP and for compliance with regard to municipal solid waste in accordance with the Solid Waste Management Rules, 2016.
- f. It will install its own rain water harvesting system.
- g. The project will not be permitted to expand in future unless it moves the Tribunal and takes permission for expansion and increases the capacity of STP and comply with all other requirements of law that would be needed, in the event any additional area is permitted. The construction should be strictly in adherence to the sanctioned plan, must not deviate from the plan and must maintain the green area

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appropriately.

- h. All the projects would maintain the green areas in their respective projects in terms of the sanction plan and under no circumstances would they be permitted to alter the status of the green area irrespective of any other benefit.
- i. All the Project Proponents/Builders are hereby prohibited for discharging any sewage (treated or untreated) into the water bodies. They are also prohibited from discharging any untreated sewage in the sewer connection line provided by the local authority. In other words they could discharge only sewage that has been treated in the STP installed by them. The STP will be installed irrespective of the extent of constructions of each project and this condition shall be complied with without default.

All the above conditions must be complied with prior to issuance of occupancy and completion certificate for the project. In the event the Project Proponent or any builder defaults to comply with the above conditions then the authority concerned shall take appropriate action in accordance with law, including disconnection of water and electricity to these premises.

Subject to compliance of the above, the orders of status-quo issued by the Tribunal shall stand vacated in relation to the above 11 projects.

List this matter on 12th September, 2017.

.....,CP
(Swatanter Kumar)

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