

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
M.A. NO. 203/2013**

IN

Original Application No. 59 of 2012

Vikrant Kumar Tongad Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U. D. SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S. N. HUSSAIN, JUDICIAL MEMBER
HON'BLE MR. P. S. RAO, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present: **Amicus Curiea:** Mr. Raj Panjwani, Sr. Advocate with Mr. Ritwick Dutta, Advocate and Mr. Rahul Choudahry, Advocate

Respondent No. 1: Ms. Neelam Rathore, Advocate

Respondent No. 2&8: Mr. Jitendera Kumar, Advocate for Mr. Dutta

Respondent No.3: Mr. Gaurav Bhatia, AAG-UP, Mr. Rajat Singh, Mr. Panjak Pandey and Mr. Abhikalp Singh, Advocates

Respondent No.5: Mr. Pradeep Mishra and Mr. Dalip, Advocates

Respondent No.9: Mr. Ramnesh Jerath, Advocate

For OMAXE: Mr. Sumeer Sodhi, Advocate with Mr. Ravi Sharma (Sr. Manager)

For UPSIDC: Mr. Avijit Bhushan, Advocate and Mr. Arjun Singhal, Advocate.

For NOTICEE No. 1,6,19,21&22: Anis Ahmed, Advocate

For Unit No. 30; Mr. S.K. Agarwal, Advocate for Nimbus Beverages Pvt. Ltd.

For Unit No. 32: Ms. Sandhya, Advocate
Mr. Ravinder Kumar, Advocate for NOIDA and Greater NOIDA Authorities.

Date and Remarks	Orders of the Tribunal
Item No. 9 August 22, 2013	<p>We have heard the Learned Counsel appearing for different parties. It is contended by the Learned Counsel appearing as Amicus Curie that there has been flagrant violation of our Order dated 11th January, 2013 as well as subsequent Orders passed from time to time.</p> <p>Learned Counsel appearing for the UPPCB states that wherever the Application was submitted to the Board and was found complete in all respect, either the permission has been granted or refused in accordance with law and wherever the Application was found to be incomplete it has been returned, and as of today only one Application is pending before the Court.</p> <p>We may notice that this matter was taken up by the Tribunal upon mentioning on 19th August, 2013 and we</p>

had passed the following Order:

“This matter has been taken at the mentioning on behalf of the Amicus Curiae.

It has been pointed out that indiscriminate extraction of underground water is going on in violation of the Orders of the National Green Tribunal. Furthermore, it has also been reported in news media that officers of concerned Department particularly NOIDA and Greater NOIDA Authority have expressed their inability to do anything in this regard and developers are not complying with the Orders passed by us to check the extraction of the underground water. This is a complete violation of the Tribunal’s Orders. Learned counsel appearing for the Applicant contended that if such indiscriminate and high scale water extraction from underground source will continue without permission and license from the Central Ground Water Authority, NOIDA Authority and Grater NOIDA Authority and in any case not for the quantity they are extracting, the water level in NOIDA are likely to be tremendously depleted and the Residents deprived of the source of the drinking water.

In these circumstances and before we take any action, we would appoint Learned counsel appearing now before the Tribunal in different cases as Local Commissioners, who have very kindly agreed to act *pro bono* as Local Commissioners, to visit any building site of NOIDA and Greater NOIDA including Gautam Budh Nagar and to find out if the underground water is being extracted and the pipe lines as reported had been laid for using the underground water. They would be at liberty to check source of water of each builder amongst the others at Sector 94.

We make it clear that Local Commissioners can go to any building i.e. under construction in these areas, we direct Superintendent of Police and other Station House Officers to provide due security to the Local Commissioners who shall visit the premises today and tomorrow.

We direct the NOIDA and Greater NOIDA Authorities to depute Officers to assist the Local Commissioners.

We make it clear that if any Station House Officer is

found to be erring in compliance of the Order of this Tribunal. We would be compelled to proceed against him in accordance with law.

The Deputy Commissioner and Commissioner of NOIDA, Greater NOIDA and Gautam Budh Nagar are also directed to provide full assistance to the Local Commissioners appointed by the Tribunal.

The Local Commissioners are:

1. Mr. Sridhar Potaraju, Advocate
2. Mr. Vikramjeet, Advocate
3. Mr. Anand Sharma, Advocate
4. Ms. Gurinderjit, Advocate
5. Mr. Sumit Kumar Ghosh, Advocate

Learned Local Commissioner would take the name of the owner of the building, person in-charge and would be at liberty to take photographs.

We make it clear that at first instance they will act as *pro bono*, but once the parties which are found to be flouting the orders of the Tribunal, besides having to suffer such other punishments or compensation that may be directed would also be made liable to bear fees of the Local Commissioners appointed by the Tribunal.”

Today the five Learned Local Commissioners have submitted their joint inspection Report before the Tribunal. In terms of this Report there is complete violation of the Order, indiscriminate extraction of underground water by fixing high power submersible pump in various parts of NOIDA, Greater NOIDA and Gautam Budh Nagar. The Learned Local Commissioners could only inspect 12 units between the intervening periods and have submitted their Report. It is also pointed out that during the inspection and after making enquiries from the workers at the site, it was brought to their notice that there is no independent source of water for construction of these huge buildings by builders in these places. It was mentioned by some of them that they are getting water through STPs but the source from where the tankers if at all were being received could not be identified and there were conflicting and incorrect statements made in that behalf.

We have perused the Report filed by the Learned Local Commissioners and the photographs annexed to the Report. These show huge multi-storied construction being raised in these areas and pipelines have been laid down to extract underground water and its distribution to various buildings in the same complex. There is no independent water source demonstrated by any of the units that were inspected. Even if we assume that some supply was received through tankers, the source from where the tankers were obtained is not clear and secondly such tankers would be incapable of providing water supply for such huge construction of various multi-storied building in the same complex inspected by the Learned Local Commissioners appointed by the Tribunal. No permission from any of the competent authorities was shown to use underground water.

We are greatly astonished at the conduct of NOIDA, Greater NOIDA, Gautam Budh Authority and even the Central Water Authority of India which were directed to ensure implementation of the different Orders of the Tribunal. In one day the Learned Local Commissioners could fine 12 units drawing indiscriminate underground water by illegal and unauthorized means and causing serious environmental issues polluting the ground water and reducing the level of the underground water, but the authorities have failed to bring out even a single case to our notice where they took appropriate actions in accordance with law either in furtherance to their statutory duty or even the Orders of the Tribunal.

Resultantly, we issue show cause notice to the CEOs of NOIDA, Greater NOIDA, Yamuna Express Way and District Magistrate of Gautam Budh Nagar to be present before the Tribunal on the next date of hearing and show:

- a) As to how and why not a single case of violation in relation to drawing underground water for construction purposes and otherwise was not brought to the notice of the tribunal.
- b) If they have registered any case of violating the law why no appropriate action was taken by all these organizations.

c) They should place on record and the Chairman and Member Secretary along with the Central Water Authority will be present before the Tribunal and will show the extent of water actually being consumed by such builders particularly in the 12 cases the Learned Local Commissioners have brought on record as referred in this Order. They shall also quantify and value in terms of money of the underground water consumed, cost for its restoration and the charges of compensation that would be required for the purposes of restoring the level of underground water. They shall also state as to how much water has been sold to the builders in these areas particularly these 12 builders from the STPs and the source from which such STPs tankers were taking water if any.

These officers shall also show cause why appropriate action in accordance with law be not taken against them.

Complete detailed reply on behalf of the said authorities should be filed within two weeks from today and without fail.

Since, prima facie and particularly with reference to the report made in the press that were brought to our notice while passing the Order dated 19th August, 2013 and the report of the Learned Local Commissioner we hereby issue notice to the following 12 companies/concerns/bodies which have been found to be violating the Orders of this Tribunal as referred above.

- i) Supertech Limited, B 28-29, Sector-58, NOIDA- 201307 through its Managing Director and General Manager, Mr. Prem Sharma.
- ii) BPTP Limited, M-11, Middle Circle, Connaught Circus, New Delhi through its Managing Director, Mr. Manu Chawla and Project Manager, Mr. Sunny Sapru.
- iii) 3 C Company, 211, Okhla Industrial Estate, Phase 3, New Delhi - 110020 through its Managing Director and Director Vidur

Bharadwaj and Project Incharge P.P. Aggarwal.

- iv) ET Intra Developers Pvt. Company, C -1, Sector - 16, NOIDA through its Managing Director and Project Manager Mr. Prammar.
- v) SDS Infratech Pvt. Ltd., 407 Krishna Apra Plaza, Sec - 18, NOIDA through its Managing Director.
- vi) DLF Ltd., DLF Shopping Mall, 3rd Floor, Arjun Marg, Gurgaon through its Director and Contractor, Mr. Amit Jain.
- vii) WAVE ONE Pvt. Ltd., C-1, Sec - 3, NOIDA through its Vice Chairman, Mr. Manpreet Singh Chadha and Project Director, Mr. Simon Lees.
- viii) Jaypee Greens, Sec- 128,NOIDA - 201304 through its Managing Director.
- ix) SDS Infratech Pvt. Ltd., 407 Krishna Apra Plaza, Sec- 18, NOIDA through its Managing Director, Mr. Deepak Bansal and General Manager, Mr. Karnal Pradeep Kumar.
- x) Capital Infra Project Ltd., 313-315 Vikas Deep Building, Laxmi Nagar, Delhi - 92 through its Managing Director and General Manager, Mr. Baljeet Singh Mathur.
- xi) Sunworld Residency Pvt. Ltd., A4 Ground Floor, Sec-4, NOIDA-201301, UP through its Managing Director, Mr. Manu Chawla and Project Manager, Mr. Saurabh Gupta.
- xii) Paras Season Haven Pvt. Ltd., Room No. 205, Welcome Plaza, S-551 School Block ii, Delhi - 92 through its Contractor Mr. Ahuja Builders.

All the above noticees shall appear before the Tribunal and show cause why they be not punished if found guilty in accordance with law and be also directed to pay such compensation as may be determined for illegal and unauthorized extraction of water as well as for causing damage to the environment, reducing ground water level and for restoration of the damage done.

The Registry shall maintain separate file for each of these notices in terms of the above Order and the notices will be issued without process fee.

The Authorities of NOIDA, Greater NOIDA, Yamuna Express Way and Deputy Commissioner of Gautam Budh Nagar shall ensure that all these 12 notices are also informed of the next date of hearing and of this Order.

List this matter on 9th September, 2013. All the directions passed by the Tribunal continue to be in force. The Deputy Commissioners, Superintendent of Police, NOIDA Authority, Greater NOIDA Authority, Yamuna Authority and all other Corporations/Municipal Authorities in these areas shall ensure due compliance of the Order of the Tribunal.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,JM
(S. N. Hussain)

.....,EM
(Ranjan Chatterjee)

.....,EM
(P.S. Rao)

