

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

Original Application No. 200/2014
(M.A. No. 254/2018 & M.A. No. 872/2018)
(C.W.P. No. 3727/1985)

WITH

Original Application No. 668/2017
(Earlier M.A.No.923/2017 IN O. A. No. 200/2014)

WITH

M.A. No. 141/2016 & M.A. No. 337/2018

IN

Original Application No. 10/2015

WITH

Original Application No. 390/2018
(Earlier O.A. No. 44/2017 (EZ))

WITH

Original Application No. 34/2018

M.C. Mehta

Applicant(s)

Versus

Union of India &Ors.

Respondent(s)

With

M.C. Mehta

Applicant(s)

Versus

Union of India &Ors.

Respondent(s)

With

Indian Council for Enviro-legal Action

Applicant(s)

Versus

National Ganga River Basin Authority &Ors.

Respondent(s)

With

Tribunal on its Own Motion (SuoMotu)

Applicant(s)

Versus

State of Bihar &Ors.

Respondent(s)

With

Vikrant Tongad

Applicant(s)

Versus

Union of India &Ors.

Respondent(s)

(M.A. No. 254/2018 & M.A. No. 872/2018 for impleadment
M.A. No. 141/2016 by SIDCUL for direction & M.A. No. 337/2018
by M/s JITF ESIPL CETP Ltd. for modification of order dated
15.12.2018)

Date of hearing: 29.05.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Amicus Curiae:

Ms. Katyayni, Amicus Curiae

Ms. Sharon Mathew, Advocate for applicant in
Item No.05

Mr. Ashutosh K. Sharma and Mr. Manish
Paliwal, Advocates in M.A. No. 872/2018

For Respondent(s):

Ms. Priyanka Swami, Advocate for Mela
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Mr. Pradeep Misra and Mr. Daleep Dhyani,
Advocates

Mr. Varun Thakur and Mr. Brajesh Pandey,
Advocates

Mr. Rahul Verma, Advocate for State of
Uttarakhand and SIDCUL

Mr. I.K. Kapila, Advocate for Jal Nigam

Mr. Mukesh Verma, Advocate UEPPCB

Mr. Purushaindra Kaurav, Senior Advocate, Ms.
Anuradha Mishra with Mr. Rajiv Ranjan
Mishra, DG, NMCG

Mr. Rajkumar, Advocate for CPCB

Dr. Sandeep Singh, Advocate for State of UP

Ms. Deep Shikha Bharti, Advocate for Irrigation
Department

ORDER

1. In furtherance of order dated 14.05.2019, the matter of execution of directions of this Tribunal dated 10.12.2015 and 13.07.2017 with regard to prevention and remedying of pollution of River Ganga has been taken up for consideration.
2. With regard to Phase-I, Segment-A, compliance report sent vide email dated 28.05.2019 by the State of Uttarakhand purports to give the status of compliance with reference to the observations and suggestions of the Monitoring Committee. Directions with regard to setting up of the STPs and preventing untreated sewage and effluents in the River Ganga have not yet been complied with in spite of the expiry of the timeline. Fifteen projects for additional STPs are said to be under construction. Construction needs to be completed expeditiously. The STPs not meeting the norms are to be appropriately remedied. Demarcation of flood plains and removing the encroachments from the river banks is to be ensured. E-flows is to be monitored. Similar monitoring is required in respect of illegal sand mining, setting up of bio-diversity parks and plantation, bio-medical and other waste management. The Uttarakhand State Pollution Control Board may ascertain whether the level of faecal coliform is beyond parameters from Gaumukh to Rishikesh. We record our dissatisfaction with the progress particularly after all prescribed timelines are over and no adequate action has been taken against identified polluters, law

violators and officers responsible for failure for vigorous monitoring, encroachments and pollution are undisputed. Orders of this Tribunal remain uncomplied. Failure of the authorities is posing a danger to the environmental rule of law. Continued failure is not only resulting in damage to the environment but also to public health. Unless prompt and stringent action to control pollution of River Ganga is stopped, the Tribunal may be left with no option but to recover cost of restoration from officers responsible for the failure and also require their prosecution. Accordingly, the Chief Secretary, Uttarakhand may monitor the matter, identify the persons responsible for failure, take credible action and file his own affidavit before the next date.

3. Shri. Rajiv Rangan Mishra, Director General, NMCG has appeared in person and assured that stringent action will be taken for the lapses in monitoring against identified persons within four weeks and compliance of directions of this Tribunal will be taken up seriously. In the monitoring mechanism, identified persons will be made accountable for the targets already fixed. We make it clear that the NMCG will be treated to be doing its duty only if there is decrease in pollution load and improvement in water quality in the River Ganga. The monitoring criteria must mainly focus on reduction of pollution load and improvement of water quality ensuring this must be

specific responsibility of identified officers. Ganga pollution control has to be model for remedying pollution of other 351 polluted river stretches. Since the said work is being looked after directly by Chief Secretaries of concerned States as per orders of this Tribunal dated 16.01.2019 in *O.A No. 606/2018, Compliance of Municipal Solid Waste Rules, 2016*, there is no reason why Ganga pollution should not be monitored directly by Chief Secretaries of the concerned States.

4. With regard to flood plains, we clarify that distance for no construction zone is to be measured from the Highest Flood Line (HFL) at least in the last 25 years. Such flood plains may be identified with longitude and latitude and no activity may be allowed therein except raising of plantations and setting up of bio-diversity parks. The concerned States in Ganga River Basin may examine whether the responsibility of plantations and administrative control of areas beyond HFL can be handed over to the Forest Department exclusively.

5. With regard to Phase-I, Segment-B from Haridwar to Unnao, the UPPCB has filed an action taken report vide email dated 26.05.2019 indicating action against polluting industries. We make it clear that in view of the statutory provisions of the Water (Prevention and Control of Pollution) Act, 1974, the State PCB must forthwith prohibit any industrial polluting activity instead of partially allowing such activity and partially

permitting the same. Since discharge of effluents is a criminal offence, atleast for commercial purposes, such offence cannot be permitted. The compensation regime should be suitably revised so as to recover the actual cost of restoration. As already directed, State of Uttar Pradesh may provide funds to the CPCB for remediation of Chromium dumps at Kanpur Dehat, Khanpur and Rakhi Mandi. Proper e-flows may be ensured from the Narora Barrage by the NMCG and the State of Uttar Pradesh and compliance status may be furnished. The State of Uttar Pradesh may also take expeditious action for removing encroachments, identifying and notifying flood plains on the pattern of State of Uttarakhand as directed above. Tapping of drain and other remedial steps for preventing pollution of River Ganga may be expeditiously taken and completed which may be monitored by the NMCG. The Chief Secretary, Uttar Pradesh may personally monitor and ensure zero tolerance approach to the pollution of River Ganga and take stern action against those responsible for failure. An affidavit be filed by the Chief Secretary before the next date. This direction will also apply with regard to Phase-II, III and Phase-IV which will also cover the States of Jharkhand, Bihar and West Bengal.

6. We note that as per the stand of the NMCG, out of 31 projects undertaken, only 5 have been completed and work in respect of 4 projects is still underway. For the remaining work the timeline is proposed extending up to December, 2021. Such progress

can hardly be held to be satisfactory in view of the mandate of orders of this Tribunal dated 13.07.2017. Status of sewage infrastructure projects in Ganga Basin has been given in a table at Annexure IV to the report of NMCG as follows:

“ Status of Sewerage Infrastructure projects in Ganga Basin (d/s of Unnao to Ganga Sagar) as on 30.04.2019


S. no.	State	Total	Completed	Ongoing	Under Tendering/Tender under Evaluation	Tender To be Floated
1.	UP	23	10	8	5	
2.	BH	28		15	12	1
3.	JH	2	1	1		
4.	WB	22	3	7	12	
	Total	75	14	31	29	1

”

7. Let DG, NMCG furnish his affidavit in the matter.
8. The above table shows that in respect of State of Bihar, there is practically no progress, as not a single project has been completed. Almost similar is the position with regard to State of West Bengal where out of 22, only 03 projects are said to have been completed. Even for Jharkhand progress is not adequate. Let the Chief Secretaries concerned monitor and file their respective affidavits. The mandate of NMCG is to act in a

mission mode. It cannot afford to act leisurely without rigid timelines. Consequence of such inaction for inadequate progress of NMCG is that pollution of the River Ganga continues having adverse effect on the public health which defeats the object for which NMCG has been set up. The timelines extending to long period of two to three years, even after more than two years of order of the NGT cannot be held in the spirit of the orders of this Tribunal and the mandate of law and need to be revised and preponed.

9. We note that before the orders of this Tribunal also, the matter has been monitored by the Hon'ble Supreme Court since 1985. Orders passed in the last 34 years remain uncomplied which is a matter of serious concern. We do hope that after the interaction with the Director General of NMCG, the matter will henceforth be taken up seriously. The States of West Bengal, Bihar and Jharkhand are not represented in spite of orders of this Tribunal dated 14.05.2019 by which we recorded strong disapproval to such attitude of the said States. Such insensitivity in a serious matter is a matter of concern. We note that O.A. No. 390/2018 is also listed along with these matters in which State of Bihar is a party. The order of this Tribunal dated 14.05.2019 was conveyed to the concerned Chief Secretaries.

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10. In view of above, we direct the States of Bihar, Jharkhand and West Bengal to deposit a sum of Rs. 25 Lakhs each by way of interim compensation for the continued damage to the River Ganga and inaction of the said States even in responding to this Tribunal with the CPCB within one month which may be spent on restoration of the environment.
 11. NMCG may file its action taken report in respect of progress on parameters of reduction of pollution load, improvement of water quality and further road map and also identifying the persons accountable and also stating the action taken for the past lapses within four weeks by e-mail at judicial-ngt@gmail.com.
 12. We also find that River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 has been issued by the Central Government which lays elaborate mechanism to deal with the matter and conferring wide regulatory powers. The authorities may proceed in accordance with the said statutory order. NMCG may compile information about the steps taken under the said order.
 13. The MoEF&CC may nominate its representative in terms of Para-21 of the order dated 14.05.2019 preferably within one week from today. The guidelines for bio-diversity parks for the whole country be finalized within four months.

List for further consideration on 07.08.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 29, 2019

Original Application No. 200/2014 and connected matters
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