

Item No. 1

Court No. 1

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

(By Video Conferencing)

Original Application No. 200/2014

M.C. Mehta

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing:13.08.2020

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

Applicant(s): Ms. Katyayni, Advocate

Respondent(s): Mr. Atmaram N.S. Nadkarni, Senior Advocate for NMCG and States of UP and Uttarakhand with Mr. Rahul Verma, AAG for State of Uttarakhand and Mr. Abhishek Yadav, Advocate for State of UP  
Mr. Raj Kumar, Advocate for CPCB

**ORDER**

1. This order may be read in continuation of order dated 18.12.2019 dealing with the review of progress of compliance of directions of this Tribunal dated 10.12.2015, 13.07.2017 and 6.8.2018 on the subject of preventing and remedying the pollution of river Ganga. The matter was earlier being considered by the Hon'ble Supreme Court since the year 1985, before being transferred to this Tribunal, in the year 2014 and 2017<sup>1</sup>.

2. The Tribunal dealt with the issue of pollution caused on account of illegal discharge of untreated sewage and industrial effluents either

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<sup>1</sup>M.C. Mehta vs. Union of India & Ors. Writ Petition (Civil) No. 3727/1985 orders dated 29.10.2014 (2015) 12 SCC 764 and 24.01.2017

directly into the River Ganga or its tributaries and connected drains, besides other associated issues including dumping of solid waste, bio-medical waste, hazardous waste, plastic waste, muck and other waste, illegal sand mining, illegal encroachment of the floodplains, absence of steps for conservation of ground water, reuse of treated water, restoration of water bodies and maintenance of e-flow.

3. The matter was dealt with by dividing the area covered by the River Ganga into different phases and segments. Order dated 10.12.2015 dealt with **Phase-I - Segment-A**: Gaumukh to Haridwar. Order dated 13.07.2017 dealt with **Phase-I - Segment B**: Haridwar to Kanpur. Further order dated 06.08.2018 deals with **Phase-II**: Kanpur to Uttar Pradesh Border, **Phase-III**: UP Border to Jharkhand Border (via Bihar), and **Phase-IV**: Jharkhand Border to Bay of Bengal (West Bengal).

4. As already noted, the proceedings have been pending since 1985. Various orders have been passed by the Hon'ble Supreme Court on the subject before transfer of proceedings to this Tribunal and thereafter by this Tribunal. The result of monitoring for 34 years has not been encouraging. Government of India took initiatives by way Ganga Action Plans I & II and thereafter by way of *Namami Gange*. The progress so far has not been adequate and found to be far from satisfactory in earlier orders.

5. We may give a brief resume of some of the earlier orders of the Tribunal. While considering the progress of compliance of orders of this Tribunal, vide order dated 19.07.2018 with regard to **Phase-I - Segment-A** and order dated 27.07.2018 with regard to **Phase-I - Segment-B**, Monitoring Committees were constituted to be headed by a former Judge of the Uttarakhand High Court for **Phase-I Segment-A** and a former

Judge of the Allahabad High Court for **Phase-I Segment-B** vide orders dated 29.11.2018 and 06.08.2018 respectively. The Committees were to take stock of the actions taken with clear measurable indicators of progress and success and to oversee the action plans. The actions were required to cover interception and diversion of drains carrying sewage to STPs, laying of sewerage network, utilization of treated sewage, compliance of norms by industries in the catchment areas, ground water regulation, flood plain regulation, rain water harvesting systems, good irrigation practices and filing list of industries which have the potential for pollution and creation of bio-diversity parks.

6. Vide order dated 29.11.2018, the Tribunal reviewed the progress in **Segments A and B of Phase-I** on STPs, CETPs and tapping of drains with reference to the laid down timelines and also compliance of MSW Rules, setting up of bio-digesters, sewerage network, improvement in water quality, unregulated ground water extraction, e-flow, public involvement, decentralized waste processing facility close to the source of generation of waste, protection of floodplains and illegal mining. The Tribunal also observed that there was need to prepare a model DPR and standard terms and conditions for tenders to save time and cost. Further directions for public awareness programmes in the light of observations of the Hon'ble Supreme Court were also issued. With regard to **Phase-II to IV**, NMCG, in co-ordination with State Governments of Uttarakhand, Bihar, Jharkhand, West Bengal and Uttar Pradesh, was to file Action Plans with firm timelines on the subjects of interception and diversion of drains, utilization of treated sewage, compliances by industries in the catchment area, ground water regulation, flood plain regulation, rain water harvesting and good irrigation practices for water conservation in the light of order of this Tribunal dated 13.07.2017. NMCG was to give

information about status of projects planned and executed between Kanpur to Ganga Sagar. Status of water quality in Uttarakhand, Bihar, Jharkhand, West Bengal and Uttar Pradesh was to be displayed on their respective websites. CPCB was also to indicate such status on its website. Flood plains were to be demarcated, encroachments removed, bio-diversity parks set up, afforestation works undertaken, guidelines for bio-diversity parks prepared by the CPCB and the MoEF&CC, flood plains were to be handed over to the State Forest Departments.

7. Vide order dated 29.05.2019, **it was directed that Ganga pollution be monitored directly by the Chief Secretaries** in view of such monitoring having already been directed in respect of 351 polluted river stretches in different States by the Chief Secretaries vide order dated 16.01.2019 in O.A. No. 606/2018<sup>2</sup> dealing with solid waste management and orders in O.A. No. 673/2018 dealing with polluted river stretches, which include Ganga in the States of Uttrakhand, U.P., Jharkhand, Bihar and W.B. No construction zone distance on flood plains was to be measured from the Highest Flood Line (HFL) in the last 25 years and flood plains were to be identified on longitude and latitude. **Responsibility for plantations and administrative control of areas beyond HFL were to be handed over to the Forest Departments.** UPSPCB was directed to prohibit industrial polluting activities and to revise compensation regime so as to recover the actual cost of restoration. State of UP was to provide funds for remediation of Chromium dumps. E-flow was to be maintained as earlier directed in order dated 29.11.2018. Encroachments were to be removed. Tapping of remaining drains and prevention of pollution was to be expeditiously ensured. After noting the status of progress on sewage infrastructure

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<sup>2</sup>Compliance of Municipal Solid Waste Management Rules, 2016

projects in the Ganga Basin, **the Chief Secretaries of Bihar, Jharkhand and West Bengal were directed to effectively monitor the progress.**

Timelines were directed to be reviewed and prepared. NMCG was to undertake progress on reduction of pollution load and improvement of water quality. Further road map, including identification of accountable persons and taking actions for the lapses was to be prepared.

8. Status of compliance was further considered vide order dated 22.08.2019 and it was observed:-

**“State of Uttarakhand (Phase-I, Segment-A)**

15. xxx.....xxx.....xxxx

16. *During the interaction, we have considered the remedial measures for expediting execution of the orders of this Tribunal having regard to long delay caused and importance of preventing and remedying the pollution of River Ganga. Since it has been stated that many industries were found operating without consent to operate under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, action in accordance with the provision of law may be undertaken within three months after identifying such units. **As already observed by this Tribunal including in the order dated 14.05.2019 that River Ganga being National River with distinct significance for the country, even a drop of pollution therein is a matter of concern.** All the authorities have to be stringent and depict zero tolerance to the pollution of River Ganga. Wherever STPs are not operating, immediate bioremediation and/or phyto-remediation may be undertaken if feasible. **To avoid procedural delay of tender processes, etc. specifications and norms for undertaking such activities may be specified in consultation with the CPCB as was earlier directed in our order dated 29.11.2018.** Performance guarantees may be required to be furnished for ensuring timely performance. It needs to be ensured that setting up of STPs and sewerage network to be completed and carried out so as to avoid any idle capacities being created. Performance guarantees may be taken for preventing such defaults.*

17. *Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. **Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB.** This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and*

assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. **For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network.** It will be open to the State to recover the said amount from the erring officers/contractors.

18. With regard to works under construction, **after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply.** Further with regard to the sectors where STP and sewerage network works have not yet started, the State has to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. **The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid.** Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.

19. to 26    xxx.....xxx.....xxxx

**State of Uttar Pradesh (Phase -II), State of Bihar, Jharkhand and West Bengal**

27. With regard to **Phase-II to IV**, it is pointed out that no specific timelines have been laid down in the order dated 13.07.2017. **Needless to say that if no specific timelines have been laid down, the compliance has to be ensured within reasonable time.** A period of two years has gone by which can be treated as a reasonable time. Even if further allowance is to be made with regard to works under construction, **after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply with regard to States of Uttar Pradesh, Jharkhand, Bihar and West Bengal falling in Phase II to IV.** Further with regard to the sectors where STP and sewerage network works have not yet started, the States of UP, Jharkhand, Bihar and West Bengal have to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. **The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid.** Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019. Directions for compensation for default in this regard will be on the same pattern as in the case of Uttarakhand and Uttar Pradesh as above.

28. As observed above, we do not consider it necessary to consider point-wise progress in the present order in view of pre-existing directions on each of the points. The States of Uttar Pradesh, Bihar,

Jharkhand and West Bengal may take action under each head for Phases-II, III and IV accordingly.

29. .xxx .....xxx.....xxx

30. The two Monitoring Committees for **Segment-A Phase-I** and **Segment-B Phase-I** may submit their final reports by 31.10.2019. Thereafter the Chief Secretaries of States of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal Director General, Namami Gange and Secretary, Water Resources, Jal Shakti, Government of India may personally monitor the progress and report compliance to the Tribunal in terms of progress at every quarter in a tabular form as follows:

Sr. No.	Targets to be achieved as per orders dated 10.12.2015, 13.07.2017 and the 22.08.2019 timelines	Targets achieved and the reasons for delay in compliance	Targets not achieved and the revised timelines proposed*	Action taken or suggested for violation of timelines or non-achieving of targets

*\*subject to payment of compensation as mentioned above"*

9. The matter was last considered on 18.12.2019 in light of earlier proceedings and report of the Monitoring Committee for the State of UP dated 23.10.2019 filed on 31.10.2019 for Segment 'B' and consolidated report filed by the NMCG on 11.12.2019 and it was observed:-

*"17. We may now refer to the consolidated report filed by the NMCG on 11.12.2019. On the most significant of sewerage infrastructure projects, the chart filed is as on 30.07.2019 which has already been quoted in order dated 22.08.2019. During the hearing, the representative of NMCG stated that there is marginal progress but the timeline will be adhered to. **On the subject of preventing pollution, installing Continuous Emission Monitoring System (CEMS), use of treated water, sludge, bio digesters and septage management, preventing dumping of waste and management thereof, flood plain identification, maintenance of e-flow and displaying water quality data, development of biodiversity parks, prohibiting river bed mining, recovery of compensation, involvement of civil society, status has not been clearly spelt out though a voluminous chart has been filed.***

18. The Executive Director, NMCG, when asked about the latest status with regard to Sewage Infrastructure Projects in Ganga Basin (Downstream of Unano to Gangasagar), stated that **out of the total 75 projects, 16 have been completed, 36 are ongoing and 2 are in the category "tender to be floated". This amply demonstrates that there is hardly any progress, in terms of**

**achievement of setting up of STPs, after 30.04.2019 which was stated in a tabulated form in our order dated 22.08.2019. The NMCG needs to take action against the erring officers and file a report before the next date."**

10. The Tribunal also noted the status of setting up of STPs, Interception and Division (I&D) of drains and preventing untreated sewage and effluents in the River Ganga and certain other issues such as status of e-flow, compliance of Solid Waste Management Rules, 2016, protection of flood plains, regulation of mining activities, setting up of bio-diversity parks in the States of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal. The Tribunal observed and concluded:

**"21. It is seen that except the State of Uttarakhand, no other report has been given in a tabular form as directed in terms of para 30 in the order dated 22.08.2019. With regard to State of Uttarakhand, progress has been indicated on the following subjects:**

- i. *Setting up of STPs, Interception and Division (I&D) of drains and preventing untreated sewage and effluents in the River Ganga*
- ii. *Use of treated water*
- iii. *Use of sludge manure*
- iv. *Status of septage management*
- v. *Compliance in relation to industries*
- vi. *Installation of STPs/treatment facilities in Hotels/Ashrams and Dharmshalas.*
- vii. *Water quality monitoring of river Ganga and its tributaries.*
- viii. *Maintenance of environmental flow in river Ganga.*
- ix. *Disposal of Bio-medical waste.*
- x. *Compliance of Solid Waste Management (SWM) Rules, 2016.*
- xi. *Preparation of maps and zoning of flood plains.*
- xii. *Mining activity under supervision of the concerned authorities.*
- xiii. *Action against identified polluters, law violators and officers responsible for failure for vigorous monitoring.*

22. xxx.....xxx.....xxx

**23. The States of Uttarakhand, UP, Bihar, Jharkhand and West Bengal need to take further action in terms of orders of this Tribunal for preventing pollution and rejuvenation of Ganga and its tributaries as per timelines already given. The report filed by UPPCB shows that as of now lot of untreated sewage**



is entering into the River Ganga and its tributaries. Similar is the position in the States of Jharkhand, Bihar and West Bengal. Despite directions of this Tribunal, in-situ Sewage Treatment is not shown to have commenced for any of the drains except in the State of Uttarakhand. There is no information on water quality of river Ganga in the stretch falling in UP, Jharkhand, Bihar and West Bengal and information of regulation of Flood Plain Zone. The reports from the States other than Uttarakhand do not describe the number of drains and a plan for their interception and diversion to the Sewage Treatment Plants.

As regards solid waste management, including legacy waste sites, this Tribunal has already issued directions in O.A. No. 606/2018 as noted in para 10 of the order dated 22.08.2019 and in O.A. No. 519/2019 as already observed in para 19 in the order dated 22.08.2019 to the effect that tender process can be avoided if other successful models and rates involved therein such as Indore model are to be followed. Directions have also been issued for installing CCTV cameras and undertaking surveillance in para 25 of the said order. Further directions are for ensuring that not even a drop of raw sewage should be discharged in river Ganga and where STPs are not operative, immediate bio-remediation and/or phytoremediation need to be undertaken and to avoid procedural delay of tender process etc., specifications and norms should be adopted in consultation with the CPCB. We may also note that vide order dated 18.10.2019 this Tribunal in O.A. No. 606/2018 directed that rates for all such services and particulars of service providers should be standardized and specified on GeM portal. NMCG is a part of the Committee constituted by this Tribunal. Further, for setting up of STPs standard cost involved is said to be around Rs. 2 crore per MLD as per works allotted by NMCG. Cost of establishing sewerage networks, including setting up of pumping stations is said to be around Rs. 5 crores per MLD. Further direction on the subject may be issued by the NMCG/CPCB pending report of the Committee constituted by this Tribunal. **All that this Tribunal can observe is that clearance of legacy waste and sewage treatment being high priority areas, the authority should find ways and means to shorten the delays by avoiding DPRs/tender process which can be done if specifications and rates are standardized which may be explored by the concerned authorities.**

24. The Tribunal has also directed that **atleast interim measures of treatment of sewage by way of bio-remediation and/or phytoremediation or any other measures may start positively from 01.11.2019**, failing which the defaulting States may be liable to pay compensation of Rs. 5 lakhs per month per drain and for such violations, adverse entries must be made in the ACRs of the identified officers.

We reiterate the said direction and since 01.11.2019 has already gone, wherever interim treatment of untreated sewage has not started in the manner earlier directed, the compensation be deposited with the CPCB which will be personal responsibility of the Chief Secretaries of the concerned States. **The Chief Secretaries of concerned States are put to notice that in case of any default**

**in compliance their salaries may be liable to be stopped and for enforcing the directions, further coercive measures including order of civil imprisonment may be liable to be passed personally against the Chief Secretaries.**

25. We may also refer to the order of this Tribunal dated 03.12.2019 in O.A. No. 425/2019, Vijay Kumar Vs. State of Himachal Pradesh, to the effect that Hydropower projects in hill States including Uttarakhand must ensure minimum specified e-flow.

We may also add that replenishment study of mining areas needs to be carried out, if not already done. This may be mentioned in the next report of the States.

26. As already mentioned, **with regard to States of Uttar Pradesh, Bihar and Jharkhand, the status report is not in a tabular form as required. It is not clear whether the STPs are functional and meet the norms. Bio-remediation, phytoremediation or any other measures for treatment of sewage have not started where STPs are not functional**, except that in respect of 14 drains in Kanpur interception and diversion works are said to have been undertaken/completed. Directions in para 23 above will also apply to the Chief Secretaries of the all concerned States. CPCB may monitor and give its report to this Tribunal.

27. As noted earlier in para 5 above, this Tribunal constituted Monitoring Committees headed by former High Court Judges in the States of Uttarakhand and UP. The Committees were meant to monitor the progress till further orders and vide order dated 22.08.2019, the said Committees were to furnish final reports which have since been furnished. **There is thus need for further directions for effective monitoring mechanism. While the Chief Secretaries of the States are expected to monitor rejuvenation of Ganga on the pattern of monitoring of rejuvenation of 351 polluted river stretches, which include Ganga and its tributaries, in terms of orders of this Tribunal in O.A. No. 673/2018 and O.A. No. 606/2018, on suggestion of State of UP, this Tribunal set up a Monitoring Committee for environmental issues in the State of UP vide order dated 21.10.2019 in O.A. No. 670/2018. The said Committee may henceforth monitor steps for prevention and control of pollution of Ganga also in the same manner as other issues are being monitored. In State of Uttarakhand Justice U.C. Dhyani is heading Monitoring Committee for solid waste management and certain other issues. Such Committee may also monitor prevention and control of pollution of Ganga in the State of Uttarkhand. It is not necessary to continue other members in terms of earlier orders in the present matter, unless the State so directs. It is open to the States of Jharkhand, Bihar and West Bengal to evolve or suggest any additional monitoring mechanism on the pattern of State of UP or otherwise.** These directions will not affect in any manner working of any Committees or authorities under the provisions of NMCG or otherwise.

28. We may now sum up our directions as follows:

- i. As already directed vide order dated 22.08.2019, timely completion of all projects relating to sewage treatment be ensured i.e. by 31.06.2020 in respect of ongoing projects and by 31.12.2020 in respect of others failing which compensation has to be paid in terms of the said order, apart from action against the erring officers. Till then, to avoid untreated sewage being discharged directly into Ganga, interim remedial measures have to be adopted and for the default after 01.11.2019 compensation has to be deposited in terms of order dated 22.08.2019. CPCB may make necessary calculation within one month from today and raise demands with the Chief Secretaries of the concerned States which may be complied within one month from the date of such demand failing which accountability will be of the Chief Secretaries personally.**
- ii. NMCG and concerned States – Uttarakhand, UP, Jharkhand, Bihar and West Bengal may take further steps as per directions already issued for

  - a) Preventing discharge of industrial effluents in Ganga and its tributaries/drains by ensuring installation of proper functioning of ETPs/CETPs.
  - b) Utilization of treated sewage, use of sludge as a manure and septage management.
  - c) Demarcation of flood plain zones and preventing encroachments thereof.
  - d) Maintenance of e-flow.
  - e) Preventing dumping of solid and other waste in and around Ganga.
  - f) Clearing old legacy waste dump sites.
  - g) Preventing and regulating illegal sand mining.
  - h) Steps for conservation of groundwater particularly with reference to critical, semi-critical or over-exploited areas.
  - i) Restoration of water bodies.
  - j) Monitoring and displaying of water quality.
  - k) Taking action against polluters by way of recovering compensation for restoration of the damage to the environment.
  - l) Closing, till compliance, all establishments near river banks being run without necessary STPs and compliance of environmental norms.
  - m) Public awareness and involvement for prevention and control of pollution of Ganga.
  - n) Regulating activities on and around river Ganga including ghats and other establishments.
  - o) Afforestation and setting up of biodiversity parks.
  - p) CPCB and SPCBs may periodically undertake biological assessment of Ganga. NMCG and States concerned may depict biological diversity of Ganga in public domain.

- q) *Any other directions covered by earlier orders of this Tribunal.*
- iii. *The State of UP may take steps for remediating Chromium dump at Rania and Khanchanpur Village near Kanpur, as directed earlier vide orders dated 22.08.2019 and 15.11.2019.*
- iv. *CPCB may take further action to finalise and circulate Guidelines for Biodiversity parks expeditiously which may be complied with by the concerned States and status of compliance included in the reports to be filed before this Tribunal.*
- v. *Apart from the Chief Secretaries, the progress may be monitored by the Monitoring Committee constituted in the State of UP vide order dated 21.10.2019 in O.A. No. 670/2018, by Justice U.C. Dhyani in the State of Uttarakhand and in such manner as may be laid down by the Chief Secretaries in the States of Jharkhand, Bihar and West Bengal in the light of discussion in para 27 above.*

29. *Let further quarterly progress report be filed by 31.03.2020 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in)."*

29. Accordingly, reports have been filed by the CPCB (dated 24.06.2020 and 13.08.2020), NMCG (dated 26.06.2020 and 11.08.2020), State of Uttarakhand (dated 16.06.2020), State of Uttar Pradesh (dated 11.06.2020), Oversight Committee headed by Justice S.V.S Rathore, (dated 21.07.2020), State of Jharkhand (dated 29.06.2020), State of Bihar (dated 26.06.2020) and State of West Bengal (dated 30.06.2020). We have perused the reports with the assistance of learned Counsel for the Applicant, Shri N.S. Nadkarni, Senior Advocate, appearing for the NMCG, States of Uttarakhand and Uttar Pradesh and learned counsel for the CPCB. **There is no appearance on behalf of the States of Jharkhand, Bihar and West Bengal.**

30. Learned Counsel for the Applicant has also filed a written note of submissions. Before proceeding to consider the reports, we may note that **the reports filed do not cover all the aspects on which action was to be taken in terms of para 28 (ii) of the last order dated 18.12.2019.**

We note that in pursuance of order of the Hon'ble Supreme Court in the case of *Paryavaran Suraksha (2017) 5 SCC 326*, requiring prevention of discharge of any untreated effluent in any water body after 31.03.2018 and in default liability of the local bodies and the States to prosecution, the Tribunal has passed several orders in O.A. 593/2017, *Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors.* The last order was passed on 21.05.2020. Reference may only be made to the summary of directions in Para 26 as follows:

***"26. Summary of directions:***

- i. All States/UTs through their concerned departments such as Urban/Rural Development, Irrigation & Public Health, Local Bodies, Environment, etc. may ensure formulation and execution of plans for sewage treatment and utilization of treated sewage effluent with respect to each city, town and village, adhering to the timeline as directed by Hon'ble Supreme Court. STPs must meet the prescribed standards, including faecal coliform.***

***CPCB may further continue efforts on compilation of River Basin-wise data. Action plans be firmed up with Budgets/Financial tie up. Such plans be overseen by Chief Secretary and forwarded to CPCB before 30.6.2020. CPCB may consolidate all action plans and file a report accordingly.***

***Ministry of Jal Shakti and Ministry of Housing and Urban Affairs may facilitate States/UTs for ensuring that water quality of rivers, lakes, water bodies and ground water is maintained.***

***As observed in para 13 above, 100% treatment of sewage/effluent must be ensured and strict coercive action taken for any violation to enforce rule of law. Any party is free to move the Hon'ble Supreme Court for continued violation of its order after the deadline of 31.3.2018. This order is without prejudice to the said remedy as direction of the Hon'ble Supreme Court cannot be diluted or relaxed by this Tribunal in the course of execution. PCBs/PCCs are free to realise compensation for violations but from 1.7.2020, such compensation must be realised as per direction of this Tribunal failing which the erring State PCBs/PCCs will be accountable.***

- ii. The CPCB may study and analyse the extent of reduction of industrial and sewage pollution load on the environment, including industrial areas and rivers and other water bodies and submit its detailed report to the Tribunal.**
- iii. During the lockdown period there are reports that the water quality of river has improved, the reasons for the same may be got studied and analysed by the CPCB and report submitted to this Tribunal. If the activities reopen, the compliance to standards must be maintained by ensuring full compliance of law by authorities statutorily responsible for the same.**
- iv. Accordingly, we direct that States which have not addressed all the action points with regard to the utilisation of sewage treated water may do so promptly latest before 30.06.2020, reducing the time lines in the action plans. The timelines must coincide with the timelines for setting up of STPs since both the issues are interconnected. The CPCB may compile further information on the subject accordingly.**
- v. Needless to say that since the issue of sources of funding has already been dealt with in the orders of the Hon'ble Supreme Court, the States may not put up any excuse on this pretext in violation of the judgment of the Hon'ble Supreme Court."**

31. The other matter which overlaps with the present matter is *O.A. 673/2018, News item published in "The Hindu" authored by Shri Jacob Koshy titled "More river stretches are now critically polluted: CPCB"* dealing with the remedial action for control of pollution in 351 polluted river stretches in the Country. In the said matter, direction was issued for constitution of River Rejuvenation Committees (RRCs) in all the States. Rivers are polluted mainly on account of failure to enforce provisions of the Water (Prevention and Control of Pollution) Act, 1974 and allowing untreated sewage/effluent to be discharged into the rivers. The Tribunal required preparation of action plans to control the discharge of untreated effluents and to take other measures including preventing dumping of waste, maintaining flood plain zones, maintaining

e-flow and restoring water quality to bathing standards. The direction issued in the said order has been monitored periodically and the last order was passed on 29.06.2020. Reference may only be made to the directions in the said order in Para 45 as follows:-

*“45. We reiterate our directions in order dated 6.12.2019 in the present matter, reproduced in Para **Error! Reference source not found.** above, read with those in order dated 21.5.2020 in OA 873/2017 and direct CPCB and Secretary, Jal Shakti to further monitor steps for enforcement of law meaningfully in accordance with the directions of the Hon’ble Supreme Court and this Tribunal. **The monitoring is expected with reference to ensuring that no pollution is discharged in water bodies and any violation by local bodies or private persons are dealt with as per mandate of law as laid down in orders of the Hon’ble Supreme Court and this Tribunal without any deviation from timelines. The higher authorities must record failures in ACRs as already directed and recover compensation as per laid down scale. Every State/UT in the first instance must ensure that at least one polluted river stretch in each category is restored so as to meet all water quality standards upto bathing level. This may serve as a model for restoring the remaining stretches.***

*Further reports be filed by the CPCB and Secretary Jal Shakti by 15.9.2020 by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) (preferably in the form of searchable/OCR PDF and not image PDF).*

***As already noted, the constant difficulty faced by this Tribunal in monitoring abatement of pollution in river Ganga (as well other polluted rivers) remains failure of States and PCBs/PCCs to enforce its orders, despite repeated directions and close monitoring, even in physical presence of Chief Secretaries who have appeared before this Tribunal.***

*A copy of this order be sent to the Chief Secretaries of all States/UTs, Secretaries of MoHUA and Ministry of Jal Shakti, Govt. of India, CPCB and all the State PCBs/PCCs by e-mail.”*

32. While dealing with the issue of compliance of rules for Solid Waste Management and other environmental issues, in O.A. No. 606/2018, the Tribunal had interaction with the Chief Secretaries of all the States/UTs with reference to significant environmental issues, including the issue of preventing discharge of untreated effluents in water bodies and rejuvenation of polluted river stretches. All the States/UTs, NMCG and

the CPCB are conversant with the above orders as copies thereof have been sent to them and Chief Secretaries of all States have appeared in person before this Tribunal and interacted with the Tribunal. It is not necessary to repeat the above directions except to say that such directions are required to be followed in the context of river Ganga in the States of Uttarakhand, Uttar Pradesh, Jharkhand, Bihar and West Bengal and status of compliance included in the progress report on the subject of preventing and remedying the pollution of river Ganga. **It is a pity that even after constant monitoring by the Hon'ble Supreme Court for 34 years (1985-2014) and by this Tribunal for the last six years and, 46 years after enactment of Water Act making discharge of pollutants in water bodies a criminal offence, pollutants continue to be discharged in the most holy river. The States are still held up in the process of giving tenders or preparing DPRs for setting up STPs. Pollution free environment is the constitutional right of every citizen and constitutional obligation of the States. To this extent the States are certainly failing in discharging their constitutional obligation.**

33. We may now take up the reports filed by the CPCB, NMCG, States of Uttarakhand, Uttar Pradesh, Jharkhand, Bihar and West Bengal serially.

**Report of the CPCB dated 23.06.2020 (filed on 24.06.2020)**

34. The report deals with the guidelines for setting up of bio-diversity parks and calculation of Environmental Compensation in terms of earlier orders of this Tribunal. It is stated that the draft guidelines were prepared and uploaded on the website of CPCB on 15.05.2020. The same were sent to various Experts and after considering their comments and



suggestions, final guidelines were approved on 08.06.2020. The said guidelines lay down the details of planning, designing, development and schematic layout of a typical biodiversity park in riverscapes showing different structural components with schematic layout of a typical constructed wetland system for *in-situ* remediation of sewage/ industrial effluent of the drain passing through upland Elevated Floodplain of the riverscape. Other aspect dealt with in the report of the CPCB is the calculation of compensation per drain for failure of the States to prevent discharge of untreated pollutants by providing treatment plants or taking interim treatment measures. In this regard, further verification of status of failure may be necessary. On account of lockdown, some more time may be required to be given. Thus, this aspect is deferred till the next date. Second report filed by CPCB dated 13.08.2020 does not give any additional information except that EC has been deposited by the State of West Bengal.

#### **Report of NMCG dated 26.06.2020**

35. The report annexes a tabular statement with regard to status of compliance in respect of different thematic areas. The information is not in summarized form. While we take on record the information furnished, we expected the same to be filed in a summarized form so that it can be comprehended at a glance. Anyway, from the information furnished, we find that while some progress has been made, **there is continued failure of the States in preventing discharge of untreated effluents by permanent or interim arrangement in violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974, judgments of the Hon'ble Supreme Court and this Tribunal.** This unsatisfactory state of affairs calls for rigorous planning action at the

highest level monitoring for meaningful enforcement of the Rule of Law for protection of environment and public health and also for the rejuvenation of river Ganga.

36. Apart from the issues already highlighted, the State of Bihar has stated that there cannot be demarcation of flood plains of river Ganga in the Bihar as the State is over populated. Learned Senior Counsel for the NMCG submits that Bihar is not exempt from the statutory mandate requiring maintenance of minimum flow for which identification and protection of flood plains cannot be wished away. We find it difficult to accept the stand of State of Bihar. Demarcation of flood plains is absolutely necessary to maintain e-flow to which Bihar can be no exception. Moreover, the State of Bihar is frequently faced with floods, affecting lives and safety of the citizens. One of the remedies for handling floods is identification of the flood plains and their protection. Protection of flood plains may require control of unregulated construction activities, encroachments and unregulated mining.

**Report of State of Uttarakhand filed on 16.06.2020**

37. According to the report, out of 19 projects under *Namami Gange* Programme, 13 have been completed and the remaining six (06) are under execution. It is also mentioned that steps are being taken for use of treated water, use of sludge manure and septage management. Steps are also being taken to control industrial pollution and requiring treatment facilities in Hotels/Ashrams and *Dharamshalas*. Water quality is being monitored, steps have been taken for joining of the flood plains, for plantation and setting up biodiversity parks. Action has been taken against the violators of environmental norms and for illegal mining.

### Report of the State of U.P. dated 11.06.2020

38. We have perused the report of State of UP dated 11.06.2020 and the report of the Oversight Committee dated 21.07.2020. It will be suffice to refer to the later. The report mentions the earlier proceedings before the Tribunal, meetings held by the Monitoring Committee, steps so far taken for preventing and remedying the pollution and connected issues. The recommendations of the Committee for further action include taking of steps by better coordination amongst various Departments. Recommendations highlight that **regular monthly meetings at the level of Chief Secretaries were essential** but were not happening.

### Report of State of Jharkhand dated 29.06.2020

39. From the report dated 29.6.2020, we find it difficult to decipher the exact status of compliance under different heads in terms of the order of this Tribunal.

### Reports of the State of Bihar dated 22.05.2020 & 26.06.2020

40. Report of the State of Bihar is that there are 30 sewerage infrastructure projects. One (01) has been completed. 19 are under implementation. Seven (07) are under tendering process. For three (03) more projects, tender is yet to be floated. We have already noted the stand of the State with regard to protection and management of flood plain zones. It is stated that buffer zones of 100 meters, 200 meters and 500 meters have been demarcated. The report gives the status of STPs at various locations and other pollution abatement work.

## Observations and Directions

41. In view of the above, further steps in the light of earlier orders of the Tribunal, including the order dated 18.12.2019 need to be taken and monitored at the level of Chief Secretaries of the States. In terms of order of this Tribunal in OA 673/2018, River Rejuvenation Committees (RRCs) have been constituted in all States having polluted river stretches. Their working is to be monitored by the Chief Secretaries periodically. There is also monitoring by the Ministry of Jal Shakti. As reported by the Oversight Committee constituted by this Tribunal for U.P., **such monitoring is essential but is not taking place.** The position is not clear for the States of Jharkhand, Bihar and W.B. **It is difficult to say that the monitoring at level of Chief Secretaries is taking place in the said States.** This needs to be ensured. There is no appearance before this Tribunal for the said States which obstructs this Tribunal from verifying important information. **We wish the States had taken the matter with more seriousness instead of neglecting it in this manner.** We also feel that there should be periodic joint meetings of the Chief Secretaries of the concerned States to consider vital issues like pooling of human resources and sharing best practices for rejuvenation of Ganga, particularly preventing discharge of sewage and other pollutants therein directly or in its tributaries or drains connected thereto. There is need to take a holistic approach of treating river Ganga as a single entity and eco-system which requires pooling of fiscal resources by different stakeholders. Project of making Ganga pollution free needs serious attention of all States at highest levels. Joint meetings of concerned Chief Secretaries can be convened by the NMCG and Secretary Jal Shakti. Already, this Tribunal has directed interaction by

the Ministry of Jal Shakti (MoJS) and CPCB with all States on the subject of pollution of rivers and ensuring that no pollutants are discharged in river bodies. NMCG also can join such monitoring. There are operative action plans prepared by RRCs. The action plans supposedly aim at **achieving norms of water quality upto bathing standards by suitably reducing the levels of BOD and Faecal Coliform and taking other steps**. The RRCs may consider availing of CSR schemes by involving the willing corporate entities and entrusting particular stretches to particular entities to the extent viable. As already directed, the specified flood plain zones need to be handed over to the Forest Department for plantations for which CAMPA funds can also be utilised. The Forest Department may also explore community involvement in restoration and development projects, including raising of plantations, developing bio-diversity parks and artificial wetlands. Utilisation of MGNREGA funds also need to be considered, apart from other sources of funding. We direct the NMCG and Secretary Jal Shakti to convene a meeting of concerned Chief Secretaries after clearly identifying action points needing focus under relevant heads and notifying to the Chief Secretaries within two weeks. NMCG can be the nodal agency and CPCB may also join. The Chief Secretaries may compile their respective feedback and have an effective interaction and joint discussion. **First meeting may be held within one month preferably by 25.09.2020 on such date as MoJS, NMCG and CPCB may fix. Thereafter such meetings may be held atleast once in three months with specific targets.** This Tribunal has involved four former Chief Secretaries in monitoring of river cleaning projects in Delhi, Punjab, Haryana and U.P. DDA has adopted certain measures in Yamuna cleaning which may be found worth consideration in dealing

with Ganga cleaning. It will be open to the NMCG/Secretary Jal Shakti/CPCB to invite the said four retired Chief Secretaries and the Vice Chairman DDA as special invitees for inputs which may be of relevance for Ganga cleaning. Meetings can be virtual so long as physical meetings are not viable or necessary. A Joint Committee of NMCG, MoJS and CPCB may look into the issue of flood plains demarcation and protection in the State of Bihar and interact with the State of Bihar.

42. The States of Uttarakhand, UP, Jharkhand, Bihar and West Bengal may give their respective reports to the NMCG and also before the Tribunal by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF (and not in the form of Image PDF). Consolidated report of the status as on 31.12.2020 may be filed covering all the issues as directed in the earlier order dated 18.12.2019 before the next date in a summarized form by the NMCG at same e-mail before the next date. As the work in Jharkhand, Bihar and West Bengal till now has not picked up so far, the Chief Secretaries of the said States may remain personally present by way of video conference so that the Tribunal may be able to interact with them.

List for further consideration on 08.02.2021.

A copy of this order be sent to the Chief Secretaries of Uttarakhand, U.P., Jharkhand, Bihar and West Bengal, CPCB, NMCG, MoJS and Monitoring Committees constituted by this Tribunal for the States of Uttarakhand and UP and State PCBs of Uttarakhand, U.P., Jharkhand, Bihar and West Bengal by e-mail.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

August 13, 2020  
Original Application No. 200/2014  
A & DV