

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

Original Application No. 06 of 2012

And

M.A. No.138 of 2015

In

Original Application No.300 of 2013

(M.A. No.199 of 2015)

And

M.A. No. 191 of 2015

In

Original Application No. 06 of 2012

And

M.A. No. 868 of 2014

In

Original Application No. 06 of 2012

IN THE MATTER OF:

Manoj Mishra Vs. Union of India &Ors.

And

Manoj Kumar Misra & Anr. Vs. Union of India & Ors.

And

Manoj Mishra Vs. Union of India &Ors.

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**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

Original Application No. 06 of 2012

M.A. No. 191 of 2015

Present: Applicant

Respondent No. 1:

Respondent No. 2 & 5:

Respondent No. 3 :

Respondent No. 4 :

Respondent No. 6 :

Respondent No. 7 :

Appearance not marked

Mr. Vivek Chib and Mr. Asif Ahmed, Advs.

Mr. V.K. Tandon, Advs.

Mr. Rajiv Bansal, with Mr. Kush Sharma, Advs.

For DDA

Mr. Narender Pal Singh, Adv. with Mr. Dinesh

Jindal, L.O. DPCC

Mr. Balendu Shekhar, Adv.

Ms. Savitri Pandey, Adv. for State of U.P.

Original Application No.300 of 2013

(M.A. No.199 of 2015)

Present: Applicant

Respondent No. 1:

Respondent No. 2 & 5:

Respondent No. 3 :

Respondent No. 10 & 11 :

Ms. Neha Kurian, Adv. in main Application

Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.

Mr. V.K. Tandon, Advs.

Mr. Rajiv Bansal, with Mr. Kush Sharma, Advs.

For DDA

Mr. Narender Pal Singh, Adv. with Mr. Dinesh

Jindal, L.O., DPCC

Mr. Suresh Tripathy, Adv. Delhi Jal Board.

Ms. Maninder Acharya, Sr. Adv. with Ms. Puja

Kalra, Adv. for SDMC

Original Application No. 06 of 2012

M.A. No. 868 of 2015

Present: Applicant

Respondent No. 1:

Respondent No. 2 & 5:

Ms. Neha Kurian, Adv. in main Application

Mr. Vivek Chib and Mr. Asif Ahmed, Advs.

Mr. V.K. Tandon, Advs.

Respondent No. 3 :

**Mr. Rajiv Bansal, with Mr. Kush Sharma, Advs.
For DDA
Mr. Anil Grover, AAG of Haryana with Mr. Rahul
Khurana, Adv.**

	Date and Remarks	Orders of the Tribunal
	Item No. 01, 02, 03 & 14 March 02, 2015	<p>Vide our order dated 13th January, 2015 the day on which the main judgement in the case was pronounced, we had directed the Secretary, MoEF to call for the meetings of the Principal Committee within two weeks and to take necessary steps for compliance of the directions contained in the judgement. Though, we were informed that two meeting had been called, however, we regretfully note that none of the Agencies have taken any effective steps in furtherance to the judgement of the Tribunal at the ground level. This is in order to examine the impediments objectively, if any, in implementation of the directions of Tribunal, the Tribunal had called meeting of the Principal Committee as well as senior most officers from the State of Haryana and Delhi. The meeting was held on 25th February, 2015 in the conference room of National Green Tribunal where following were present:-</p> <ol style="list-style-type: none">1. Mr. Depider Singh Dhesi, Chief Secretary, Haryana2. Dr. S.K. Sharma, Director, Health Service, GNCT of Delhi3. Mr. K.C. Goel, S.E., DDA4. Mr. Sanjiv Kumar, Chairperson, DPCC5. Mr. Vijay Kumar, CEO, Delhi Jal Board6. Dr. A.B. Akolkar, Member Secretary, CPCB7. Prof. A.K. Gosain, IIT8. Mr. Dilip Ramuni, SDMC9. Mr. Umesh Sachdeva, CB, SDMC10. Dr. Amita Prasad, JS, MoWR11. Mr. Balvinder Kumar, VC, DDA

12. Mr. Ishwer Singh, Advisor for MoWR
13. Mr. B.M. Dhaul, Mem. (Drain), DJB
14. Mr. V.K. Babbar, Advisor, DJB
15. Mr. R.S. Tyagi, Member (WS), DJB
16. Mr. Ajay Kadian, Member Secretary, HSPCB
17. Mr. M.K. Misra, Petitioner
18. Dr. Puneet Kumar Goel, Commissioner, SDMC
19. Mr. R.K. Singh, EE, EDMC
20. Mr. A.K. Mittal, SE, EDMC
21. Mr. Dinesh Jindal, LO, DPCC
22. Mr. R.M. Bhardwaj, Scientist `D`, CPCB
23. Mr. B.L. Chawla, SEE, DPCC
24. Mr. Feroz Ahmed, CE, SDMC
25. Mr. Brijesh Sikka, Advisor (NRCD), MoEF & CC
26. Mr. Mukesh Kumar, EE, I&FC Deptt
27. Dr. S.D. Singh, CEODPGS Deptt of Envt. Delhi Govt.
28. Dr. T.K. Joshi, COEH, MAMC

During the deliberation at the meeting, which formed part of the consultative adjudicating process of the stake holders, various issues were discussed and apparently, it appeared that it is lack of co-ordination and co-operation between the Departments and Authorities that was posing difficulties in execution of the directions in accordance with law.

In view of the prolonged deliberations that took place in the meeting and the submissions made today by the learned counsel appearing for different Authorities, Corporation, Govt. of India and other bodies, it is necessary to issue further directions to ensure compliance of the order of the Tribunal. This Tribunal has all the trappings of the Civil Court and is to evolve its own procedure in consonance with the principle of

natural justice. The decisions or the directions of the Tribunal are to be executed as a decree of the Civil Court. Consequently for execution and implementation of the directions issued by the Tribunal, by the provisions of the Code of Civil Procedure including attachment of property and arrest, could be taken recourse to. This is in adhesion to and not in derogation to the powers of the Tribunal to have its orders to be executed in accordance with law if necessary including consequences of disobedience of the Order of the Court. We have mentioned this aspect to dispel the impression that the orders of the Tribunal can be avoided by any Authority or the Government without any justifiable reason. Thus, we reiterate that directions of the Tribunal should be complied with by all the concerned without any default and delay, now at least. This project of cleaning of Yamuna under the project "Maile Se Nirmal Yamuna" revitalisation project 2017 is required to be completed by 2017 positively.

In the above background, we may issue following clarificatory directions for effective and expeditious implementation of the judgement of the Tribunal dated 13th January, 2015.

- (1) The Tribunal has already prohibited in absolute terms throwing of any material or waste including Municipal Solid Waste into river Yamuna as well as dumping any construction or other debris on the bank of river Yamuna. It was further directed that dumping of the debris on the flood plain of River Yamuna would invite a fine of Rs. 50,000/- for each incident of such dumping and Rs. 5,000/- for dumping any other material into the river Yamuna. We reiterate these directions for strict compliance. This direction is being issued on the basis

of "Polluter Pays Principle" in terms of Section 15 read with Section 20 of the NGT Act. This direction has the force of law besides being decree of the Court. Let these be executed without default. The amount of compensation aforementioned shall be imposed by a person not less than the rank of the Assistant Commissioner of Police, Assistant Director or Assistant Engineer or any officer of that rank of DDA and Municipal Corporation. The amount so collected shall be deposited with the DDA which shall maintain a separate account. Amount so collected and deposited with DDA shall only be utilised for execution of the project under the judgement and not anywhere else at all.

(2) (a) Despite clear directions, the concerned Department of NCT Delhi has not demarcated flood plain of river Yamuna. It is stated that one Committee or the other agency including CWC has to consider this matter. This agency has desired to appoint National Institute of Hydrology, Roorkee to do this study. We really fail to understand this approach of the Department where more than 100 years of flood data is available with the Department. We also find that the demarcation of flood plain for one in 25 years flood directed by this Tribunal, is available in the reports submitted to us. Let, Secretary and the Chief Engineer of the Department be personally responsible for execution of this work of physical demarcation of the flood plain which should be done within three weeks from today and matter reported to the Tribunal directly.

(b) This direction is necessary because large number of

compliance to the directions including restoration of bio-diversity and wetland conservation, construction of Ghats, identification of points where STPs should be permitted to be established on drains before they join the River Yamuna, are all dependent upon this. Therefore, we do not find any reason for this department to delay to comply with this direction.

(c) We further direct that it is not only the river Yamuna that needs to be clean, simpliciter. A fine distinction was sought to be raised before us during the course of the meeting between "Cleaning of Yamuna" and "cleaning of Delhi". The earlier would mean only treating the sewage at the end point of the drain before joining river Yamuna, while other would mean cleaning of drains in Delhi. The compliance of the judgement clearly intends cleaning of Delhi and River Yamuna as well. The citizens of Delhi are certainly entitled to breathe air free from foul smell and are entitled to cleaner environment for their health safety. You cannot have drains flowing through all the colonies of Delhi which are full of sewage, industrial effluents, municipal waste and even being used for human evacuation. Therefore, all drains, in terms of judgement, as referred to in technical report of the Expert Committee should be cleaned forthwith. However, we clarify that Special Secretary, Ministry of Environment & Forests shall take up the meeting immediately along with Vice-Chairman, DDA, CEO, Delhi Jal Board and concerned Secretary of NCT Delhi, while inviting all the three members of the expert team and take a final view as to the work that has already been done by Delhi Jal Board in regard to trapping of all

three major drains for treatment in the STP.

In the considered opinion of the Tribunal, these works are already part thereof of the total proposal. In the meanwhile, Delhi Jal Board shall not execute any further work except completion of the work which is in hand without taking concurrence of the Principal Committee appointed under the Judgement.

(d) In order to control throwing of material into the river Yamuna and dumping waste in the flood plain of river Yamuna, it has been suggested that CCTV should be installed at different locations and there would be equal responsibility of the team (Task Force) constituted by the DDA for implementing the direction of the Tribunal effectively. We approve of such action and further direct Commissioner of Delhi Police to depute special force to help and cooperate with the DDA team to ensure no dumping of any material in the flood plain of river Yamuna.

(e) The Committee referred under this judgement shall also ensure that the drains which have already been trapped by DJB and the sewage is being sent to STP, does not contain industrial/trade effluent which is injurious to human health. If it be so, appropriate CETPs should be installed to clear the sewage of the industrial effluents as this obviously adversely affects the functioning of the STP plant.

(f) We also direct that not only bio-diversity parks and wetland be created in terms of the judgement but the concerned authority would ensure the conservation of the existing bio-diversity parks and wetlands.

(g) The NCT has brought to the notice of the Tribunal today that there are 28 industrial clusters in NCT, Delhi beside industries being located in the residential areas. There are 13 CETPs taking care of 17 industrial pockets only.

(i) Firstly, we do not understand why the department has not taken care to bring all these matters before the Tribunal during the course of hearing.

(ii) Secondly, why it was not brought to the notice of the Principal Committee and direction sought.

(iii) Be that as it may. Now we direct the Special Committee constituted under these directions to inspect or cause these CETPs to be inspected by the senior and responsible officer and report their present status and performance. It should be categorically reported upon proper study whether these CETPs are capable and have capacity to treat the quantum and quality of trade effluent that is being discharged by the industries located in that residential/industrial clusters. The samples shall be collected from each CETP and analysis report be submitted before the Tribunal.

(iv) How many and what is the time frame for installation of CETPs for remaining eleven industrial clusters which are presently not subject to any treatment by the administration.

(v) The establishment of these CETPs (feeding eleven industrial clusters) should be taken only with due regard and in consonance with the report of the Expert Committees which are the part of judgement of the Tribunal dated 13th January, 2015.

(vi) The Government would take a clear stand as to what

it proposes to do in regard to the industries located in the residential area, and unauthorised colonies as their discharge is not connected to any CETP. We are informed that the Government has taken a decision to close all industries in the residential area and unauthorised colonies. This decision has been taken by the Secretary, Environment as part of the State Level Committee in connection with the Ganga plan. Let the Learned Counsel appearing for the state take clear instructions and state before us on the next date of hearing as it is suggested that no CETP would be required to be installed in view of this policy decision of NCT, Delhi.

(vii) The report shall particularly provide details where the pickling and dyeing industries in Delhi are located in any of the industrial cluster.

(3) We reiterate the direction that the Agriculture activities on the flood plain of river Yamuna shall be prohibited forthwith.

(4) We direct Delhi Jal Board, Secretary, Environment and Secretary, Department of Irrigation and Flood control NCT, Delhi to provide all requisite assistance to the Principal Committee constituted in the Judgement as well as the Sub-Committees constituted under this direction.

(5) We make it clear that for the purpose of continuity, effective implementation and participation of the Central Government, as the project is not restricted simplicitor to NCT Delhi. We direct Special Secretary, MoEF&CC appointed under our judgement dated 13th January, 2015, Mr. Shashi Shekar, IAS would be the Chairman

of the Principal Committee and would ensure compliance of the directions, unless otherwise specifically directed by the Tribunal.

- (6) One of the directions issued under our judgement is in regard to the maintaining minimum environmental flow in river Yamuna. This is largely dependent upon water released by the State of Haryana from Tajewala. We were informed that there is an agreement between five states on 12th May, 1994 as per which 10 Cumecs of water is released. Surely from the year 1994 to till date, there has been drastic growth. It is also informed that this flow is dependent upon the construction of the reservoir or the storage dams in the upstream reaches which would help in implementation of this agreement fully. Be that as it may, since 1994, huge development has been carried out, the density of population has increased many folds, the industrial activity and construction has gone up considerably. Thus agreement of 1994, may not be very effective and may not satisfy the need of minimum environmental flow of river Yamuna.

Thus we direct Chief Secretary, Haryana, Chief Secretary, Uttar Pradesh, Chief Secretary, Himachal Pradesh, Chief Secretary, Uttarakhand and Chief Secretary, Delhi to meet the Principal Committee and relook the desired need of maintaining minimum environmental flow of river Yamuna particularly from Hathnikund to Agra at a higher level.

- (7) Certain directions are required to be passed in relation to the State of Haryana as it is causing

upstream pollution of river Yamuna. There are industrial estates abutting flood plain of river Yamuna. They are particularly located in Panipat, Yamuna Nagar, Kundli, Barhi and Sonipat. These all are industrial pockets which are discharging their trade effluent. The CETP have been installed at Panipat while STP has been installed at Yamuna Nagar but they are not proving effective and do not have the capacity to treat all ingredients of the polluting trade effluents. Thus, we direct that the CETP at Panipat shall be subjected to an inspection by the joint inspection team of Central Pollution Control Board, Delhi Pollution Control Committee and Haryana Pollution Control Board. The effluents shall be analysed from inlet and outlet of the CETP and report shall be submitted to the Tribunal. At Yamuna Nagar, immediate steps be taken to install CETP. CETP shall also be installed at industrial clusters of Kundli and Berhi. Establishment of CETP at the point where effluents discharged by the industrial cluster in the state of Haryana into Najafgarh drain shall also be considered. A comprehensive report with regard to establishment of CETP at Yamuna Nagar, Karnal, Panipat, Berhi, Kundli and point of Najafgarh drain, shall be submitted by the State of Haryana before the Tribunal within three weeks from today.

M.A. No. 191 of 2015

This is an application filed by MoEF. This application does not survive for consideration in view of the directions already issued above. Consequently M.A. No. 191 of 2015 is disposed of.

M.A. No. 138 of 2015

This is an application filed by Delhi Jal Board for extension of time to comply with the directions contained in the judgement. In view of the order passed today, this application does not survive for consideration and is accordingly disposed of.

M.A. No. 199 of 2015

This application is filed by the South Delhi Municipal Corporation for the purpose of permission to carry out remaining work of covering drain. It is stated that total length of Chirag Drain is 4466 meters and work on 1577 meters is proposed to be completed in the year. Let the Principal Committee within a reasonable period examine the proposal. However, we make it clear that no work will be carried out without permission of the Tribunal.

Original Application No. 06 of 2012

List this matter on 27th March, 2015.

.....,CP
(Swatanter Kumar)

.....,EM
(M.S. Nambiar)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A. R. Yousuf)