

Justice D.P. Singh
Former Judge Allahabad High Court
Chairman,
"Eastern U.P. Rivers and Water
Reservoirs Monitoring Committee"
(Constituted by National Green Tribunal
Principal Bench, New Delhi Dtd. 23.8.18
in OA No. 116/2014)



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Ref No. 309/EUPRWRC/2018 Dtd.

REPORT
In Re: Pollution in Ami River in U.P.

Eastern U.P. River and Water Reservoirs Monitoring Committee has been constituted by the orders of Hon'ble NGT dated 23.08.2018 passed in OA No. 116 of 2014 in re: *Meera Shukla versus Municipal Corporation, Gorakhpur* with a view to check pollution in certain rivers in eastern Uttar Pradesh.

1. Geography:

The Ami is a plain fed river. It is a tributary of Rapti river and flows through the Gangetic plains to find its way into Rapti river on its right bank. It receives industrial effluents at several locations in a major stretch starting from Rudhauri to its confluence point at Sohgauna. Its coordinates are as follows -

Latitude in degrees, minutes, and seconds: 26° 33' 02" N

Longitude in degrees, minutes, and seconds: 83° 26' 45" E

The river has a serpentine length of 147kms¹ which originates from village Sikahara located in Dumariyaganj Tehsil of Siddharth Nagar District and serves as a lifeline for the people of Siddharth Nagar, SantKabir Nagar, Basti and Gorakhpur district in Eastern Uttar Pradesh.

2. Traditional Significance:

Ami is a sacred river like Ganga of North East Uttar Pradesh which begins from village Sikahara of Siddharth Nagar and meets Rapti river at Sohgauna. It has a similar standing like Ganga because Siddhartha enlightened as Lord Buddha cut his hair and adopted an ascetic life at the banks of this river. Sant Kabir attained 'mahaparinirvan' and took his last breath at Maghar on the banks of Ami where his samadhi is situated. Guru Nanak visited Maghar and met Sant Kabir and it is also said that Guru Goraksh Nath also came to visit Maghar. As a mark of respect to make the meeting of the three great saints memorable, a gurudwarahas been constructed. River Ami finds mention in Hindu and Buddhist religious texts. A 5,000-year-old civilisation was excavated by archaeologists at Sohgauna village located on the banks of Ami. The

¹As per length of river calculated in Arc View GIS 3.2a software

remains of Neolithic site have been excavated in Lahuradeva village located in Ami river basin area. Traces of ancient rice cultivation were also found during excavation. Under these circumstances, Ami is held to be sacred in U.P. Followers of Kabir took the water of Ami on a boat to their respective residences to consume it as holy water.

To begin with, the importance of rivers (Ami), the Rig Veda says –

Mabdala 7/Sukta 49²

Apah Devatah, Vasishtha Maritravaruni Rshi

1. समुन्द्रज्येष्ठाः सलिलस्य मध्यात्पुनाना यन्त्यनिविशमानाः ।
इन्द्रो यावज्जीवमोरादुताआर्षोदेवीरिहमाम्वन्तु ॥ १ ॥

The divine waters, chief of which is the ocean, arise from the heart of cosmic energy as a surge of liquidity and ceaselessly flow, purifying, sanctifying everything they suffuse. Indra, the sun and electric energy of the firmament, power of thunder and generosity, creates the channels for their flow. May those streams of waters inspire and impel me too with the initiative and drive of life for initiative and action here in the world and protect me against evil and sloth.

2. याआर्षोदिव्याउतवा स्त्रवन्तिस्त्रनिर्निमाउतवा या
स्वयंजाः समुद्रार्षा या शुचयः पावकास्ताआर्षोदेवीरिह
माम्वन्तु ॥ २ ॥

May those divine streams of water and cosmic energy which flow in channels made by man and those which flow their own way and rush to join the sea, all of which are pure and sacred, purifying and sanctifying, may all those streams protect and promote me onward here in the world of dynamic activity.



3. History:

The river has more than 200 villages and a few towns located on its east and west bank. Some say that the name Ami stems from the word amrit (nectar). Others who fondly recall drinking the river water say that its name is simply drawn from the fact that its waters were once considered as sweet as an aam or mangoes. With Ami as the enabler, more than three lakh people, mostly fishers and farmers living in Ami's 522 sq km catchment were once a blessed lot with bountiful agricultural produce and fish catch, if one is to go by anecdotes of village elders. Freshwater fish like boi and rohu, which once used to be abundant, are no longer found. The negligence on the part of the authorities has affected the residents. Several thousand fishermen are now either doing wage labour in urban areas or selling liquor. Some have even resorted to crime.

But the Ami is no longer an asset; a lot has changed since the Guru's nap and the time when Kabir wrote his couplets. Today the river is a receptacle for all the filth, untreated sewage, and worst of all, the noxious effluents from isolated large industries and GIDA, an industrial township in Gorakhpur district. Built on the lines of NOIDA in the late 1980s, GIDA was set up by the then chief minister Veer Bahadur Singh. It comprises of 266 industrial units, including paper mills, textile manufacturers, food processing units etc. which discharge millions of litres of untreated or partially treated effluent into the drain every day. GIDA till date does not have a Common Effluent Treatment Plant (CETP), something it promised in 1989 when it was set up.

In the early 1990s, the quality of river water, downstream of the Sariya drain, began to affect more than 100 habitations. People's health in the region worsened and the time-line suggested industry was the culprit. Slowly people's immunity weakened and according to pradhan (village chief) of Adilaparas mentioned in an interview, the business of neem-hakims (quacks) grew by leaps and bounds. They roam from village to village carrying relief medication. They are a despised lot, often making more than Rs. 2,000 each day. Villagers have little choice but to seek some comfort from these mobile pharmacies as they suffer from colds, coughs, fever, nausea and frequent bouts of high blood pressure.

Studies done on the water quality of Ami River by Department of Civil Engineering, Madan Mohan Malviya University of Technology, Gorakhpur published in the International Journal of Engineering Research and Technology (IJERT) over a period of years have concluded that the parameters of pH, Turbidity, Electrical Conductivity, Colour, Odour, Total Solids, Total Suspended Solids, Total Dissolved Solids, Chloride, Alkalinity, Oil and Grease conform to a severe deterioration in river water quality facing a high load of organic pollution beyond its dilution and self-purification capacity. The biological examination of river water in respect of total coliform/100ml at various sampling locations has confirmed that the river water is unfit for direct consumption, bath or any other domestic use. The Total Kjeldahl Nitrogen determination in river water has confirmed that there is enough nitrogen in river water, which renders problems of eutrophication. It is excruciating to mention

that the river Ami gets victimized by industrial pollution and beyond Adilapur, where the GiDA drain meets the river, it is converted into a river, which is below Class – E.³

- It is realised that urgent steps are needed to restore water quality and regenerate aquatic systems in the river. This necessitates, on one hand, adequate treatment and disposal of industrial effluents and regular monitoring of the river water to ensure that the 'River remains a River'.

4. U.P. Pollution Control Board Status Report, 2017- 2018

Sewage pollution management in Ami river

Total number of drains - 06

S.No.	Name of Drain	Type of effluent	Discharge (MLD)	Catchment
1.	N.H. 28 SamratDhabadrain	Domestic	2.0	GIDA
2.	Sariya drain	Mixed	3.1	GIDA

Water Quality of Ami River, Year at Gorakhpur Region (2016-2018) – UPBCB data

S.No	Year	2016			2017			2018			Remarks
	Parameter	DO	BOD	COD	DO	BOD	COD	DO	BOD	COD	
	Location	Mg/l	Mg/l	Mg/l	Mg/l	Mg/l	Mg/l	Mg/l	Mg/l	Mg/l	
1.	Ami river before confluence with sariyanala, near village bharsar, sahjanwa, Gorakhpur	3.60	14.50	56.33	4.10	23.50	120.58	6.37	10.84	34.62	2018 report till July 2018
2.	Ami river d/s,a/c GIDA effluent through sariyanala near Chhatai road bridge, Khajani, Gorakhpur	2.50	19.40	81.83	3.90	36.70	148.25	5.43	14.17	38	

³A Study on Water Quality of Ami River in Uttar Pradesh, Pramod Kumar Vishwakarma, Dr. Govind Pandey; International Journal of Engineering Research & Technology (IJERT) ISSN: 2278-0181 Vol.2 Issue 12, December -2013

3.	Ami river d/s near Gkp-Vns road bridge Kauriram, • Gorakhpur	2.90	16.50	66.25	4.60	30.00	152.33	5.44	12.63	39.33	
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- Sariya drain domestic sewage catchment area receives 3.0 MLD sewage per day from
 - Veer Bahadur Singh Transport Nagar Area Sector -22
 - Sector – 13, GIDA near Village – Judliyan Town Area
 - Sector – 13, GIDA near Village – Kharaila
 - Tenuhari Village
 - Nagar Panchayat Sahjanwa Partial
 - Bokta Village
- Sewage from Urban Local Bodies, generated in Gorakhpur, Sahjanwa, Unwal, Kauriram and Khajni in Gorakhpur will also flow into Ami river due to development of drainage system.
- GIDA does not have a sewerage network and the treated effluent gets mixed with untreated sewage.
- GIDA does not have a separate storm water drain and thus all the storm water goes into the industrial drain.
- GIDA issued orders to UP Jal Nigam for preparation of Detailed Project Report (DPR) for 25 MLD CETP in 2011.
- GIDA in 2017 released Rs. 35.75 lakhs to UP Jal Nigam for preparation of DPR for CETP.
- UP Jal Nigam prepared a DPR of 35 MLD CETP of cost Rs. 115.25 crores.
- Chairman GIDA constituted a committee having representatives of GIDA, UP Jal Nigam, UPPCB and Expert from Madan Mohan Malviya University of Technology, Gorakhpur, for assessment of discharge. The committee has recommended for CETP to treat 15 MLD mixed discharge. Pending since 2009, this proposal has been sent to the Government now.

Action taken against GIDA as per Status Report

- Direction issued on 12. 04. 2018 to GIDA, Gorakhpur u/s 33A of Water (Prevention and Control of Pollution) Act, 1974 for installation of CETP/STP.

- Prosecution has been initiated against GIDA, Gorakhpur. The proposal for permission to prosecute the responsible officers' u/s 197 CrPC has been sent to the Government.

5. Monitoring Committee Status Report

Eastern U.P. River and Water Reservoirs Monitoring Committee constituted by the orders of Hon'ble NGT dated 23.08.2018 passed in OA No. 116 of 2014 in re Meera Shukla versus Municipal Corporation, Gorakhpur with a view to check pollution in certain rivers in Eastern Uttar Pradesh on September 17, 2018 visited the source of Ami river and damage caused to it. The first interim report on Ami river prepared by the Committee, as recorded in the Minutes of the Meeting of the Committee dated 24.09.2018 and submitted to NGT, is reproduced as under:

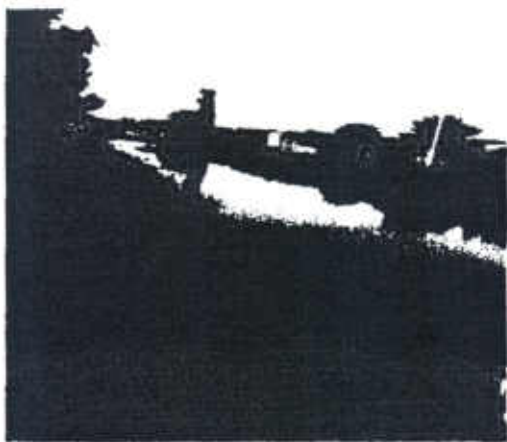
First Interim Report On Ami River

On September 17, 2018, the Monitoring Committee visited the source of the Ami river situated in village Sikahara in Tahsil Dumariaganj, District Siddharth Nagar. It appears that originally there was a big lake with dense forestry as source of Ami river and now it has been converted into a small pond without forest cover. Still there is some area of unoccupied land under the possession of Gram Sabha. At one side of this land, a Junior High School, has been constructed. We have instructed the Sub Divisional Magistrate, Dumariaganj Shri Rajendra Prasad to shift this school to some other place and prepare a plan for rejuvenation of the pond to revive the main source of Ami river.

Ami river flows, adjoining to Basti-Dumariaganj road as a canal; hence the Committee further instructed the Sub Divisional Magistrate to prepare a plan for rejuvenation of Ami river adjoining the road, increasing its carrying capacity (width and depth), that may easily be done under the different schemes meant of development of the villages. We also travelled up to village Amona Pandey, from where carrying capacity (width and depth) of Ami river has been increased. There is a small reservoir adjoining the bridge at village Amona Pandey. It requires to be developed as a big reservoir, which is quite possible on surrounding Gram Sabha land. It is necessary and immediate action is required to be taken for survival of Ami river to replenish the ground water as well the river water to make it perennial. Adjoining to this reservoir, on the huge Gram Sabha land, indigenous plant species should be grown. It is also necessary to grow indigenous plant species on the bank of Ami river, right from Ikauna to Amona Pandey village where the other reservoir is recommended for enhancement of carrying capacity of the river.

The Sub Divisional Magistrate, on instruction, tried to contact the District Magistrate, Siddharth Nagar Shri Kunal Silkoo, who, it was informed, was busy in some meeting. We instructed the Sub Divisional Magistrate to inform the District Magistrate to contact us, but we are sorry the District Magistrate has not taken pain to contact of us including the Chairman. We have instructed the District Authorities in the presence of Sub Divisional Magistrate not to raise any construction around 1 km of the pond situate in Sikahara, Tahsil Dumariaganj, District Siddharth Nagar henceforth, which is source of Ami river.

Whole tour during visit of Ami and Gorakhpur, as far as possible, has been recorded and photographed/video-graphed on I-Pad of Justice D.P.Singh, Hon'ble Chairman of the Monitoring Committee and mobile phones of the officers. CD& Pen-drive has been prepared and kept on record, which is submitted herewith.



6. Discussions and Decisions Taken in the Meeting of Eastern UP Rivers and Water Reservoirs Monitoring Committee, Lucknow

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(I) Relevant Minutes of the Meeting of the Committee held on 29.10.2018 with respect of River Ami are reproduced below:

- *"(v) Satellite mapping of Ami river be also done so that appropriate measures for its rejuvenation be taken.*
(vi) The Chief Medical Officer, Sant Kabir Nagar shall submit a report about water borne diseases, if any, suffered by the persons living within the area of 5 kms either side of river Ami."

(Complete Discussions and Decisions Taken in the Meeting of Eastern UP Rivers and Water Reservoirs Monitoring Committee, Lucknow held on 29.10.2018 and e-mailed to NGT on 23.11.2018)

(II) Relevant Minutes of the Meeting of the Committee held on 31.10.2018 with respect of River Ami are reproduced below:

"11. On 29.10.2018, a meeting was held with District Magistrate, Siddharth Nagar and other officers of the district in PWD Inspection House, Siddharth Nagar. It was decided that on both sides area of Ami river to the extent of 5 kms, all water bodies shall be restored, preserved and protected and necessary steps shall be taken for plantation of indigenous plants in that area. The decision taken in the meeting is reproduced as under:

Shri Rajendra Prasad, Sub Divisional Magistrate, Dumariyaganj, submitted a copy of letter No. 765/S.T./2018-19 dated 22.10.2018 addressed to the District Magistrate, Siddharth Nagar. This letter bears a brief note on Ami river, stating the place of its origin, its status in revenue records, the places and channel of river from where it flows along with its status in revenue record and the availability of land for construction of dam near the river of Amona Pandey. This report be placed before consideration before the meeting of Monitoring Committee which is scheduled to be held on 31.10.2018 in Circuit House at Gorakhpur.....It was told that at village Amona Pandey, there is about 9.1-hectare posture land and this land can be used for plantation of indigenous plants by the Forest Department. Plantation of indigenous plants can also be done in village SikaharaKohra, from where river Ami originates.

The Sub Divisional Magistrates, Basti, Dumariyaganj and Siddharth Nagar shall find out the catchment area of Ami river for plantation of indigenous plants and inform the District Forest Officer, Siddharth Nagar for follow up action."

12. On 30.10.2018, another meeting was convened in PWD Inspection House, Sant Kabir Nagar with district authorities including the District Magistrate and DFO. Similar decision was taken to protect Ami river by plantation of indigenous plants

over the area of the river to the extent of 5 kms both sides so that water bodies in that area may be restored, preserved and protected.

13. Kabir Samadhi Sthal: During visit to Sant Kabir Nagar at Magahar, Mahant Vichar Das of Kabir Samadhi Sthal Kabhi Chaura submitted a complaint that pollutants of municipality through drain comes to Ami, adjoining Kabir Samadhi Sthal, on account of which the water of the river is not consumableOn inspection, we found the allegation correct. The canal bringing the waste water of municipality is also required to be diverted to downstream of the river. STP is required to be installed for this waste water at Magahar and Khalilabad.

We hope and trust that necessary steps shall be taken by the district authorities for shifting of the crematorium towards downstream of Ami river and also for diverting the canal draining out the waste water of municipality to Ami river near the Kabir Stall to downstream of the river. Let all concerned be informed.

14. Shri V.P. Singh, Executive engineer, Jal Nigam, Sant Kabir Nagar is present in the Meeting. He undertakes to prepare a Project Report with regard to the installation of STP at Magahar and Khalilabad and also for shifting of draining system to downstream of Ami within two weeks."

(Complete Discussions and Decisions Taken in the Meeting of Eastern UP Rivers and Water Reservoirs Monitoring Committee, Lucknow held on 31.10.2018 and e-mailed to NGT on 23.11.2018)

(III) Relevant Minutes of the Meeting of the Committee held on 17.11.2018 with respect of River Ami are reproduced below:

"Item No. 13

While at Basti on 29.10.2018, The Sub Divisional Magistrate, Dumariyaganj had informed that between villages Jamauti and Marhali, there is about 9.1 hectare posture land adjoining the Ami river and this land can be used for plantation of indigenous plants by the Forest Department.

The Sub Divisional Magistrate, Dumariyaganj has also informed that a good chunk of land about 4 kms in length situate between village Jamauti and Marhali is Bhumidhari land of cultivators and this land breaks the link with Ami river towards downstream. The District Magistrate, Siddharth Nagar shall prepare a plan with regard to acquisition of the said land so that water bodies within 4 kms (appr.) area of the Ami river may be connected with the river.

In view of above, we further direct that the Forest Department and the district authorities shall ensure to restore the water bodies by plantation of indigenous plants within the area of 5 kms both sides of Ami river as well as Tamsa river so that these two dying rivers may be saved and they may get their natural source of water.

The Forest Department shall make necessary survey with the help of CPCB and UPPCB to find out the drainages, required to be tapped with STPs at appropriate places of Tamsa (Toms) & Ami River. At the same time, the Forest Department and the UPPCB are also required to make a plan for survival of Saryu river right from Indo-Nepal border to district Gonda by plantation of indigenous plants and stoppage of pollutants to the river, de-silting etc with the help of Revenue authorities.

Let satellite mapping of all the three rivers i.e. Saryu, Ami and Tamsa be done with the help of the Forest Department and the UPPCB so that necessary steps for rejuvenation of these rivers may be taken. The work should not be stopped on account of non-payment and whatever amount is payable in this regard, the same shall be paid by the UPPCB from the funds generated in terms of the order passed by the Hon'ble NGT."

(Complete Discussions and Decisions Taken in the Meeting of Eastern UP Rivers and Water Reservoirs Monitoring Committee, Lucknow held on 17.11.2018 and e-mailed to NGT on 24.11.2018)

7. At the moment, keeping in view the expert's opinion received, U.P. Forest Department and the revenue authorities have been advised to earmark 5 kms area on both sides of the river and restore all available water bodies found therein including ponds, and wherever necessary, desilting may be done. Ami river has its origin from village Sikahara, Dumariyaganj, district Siddharth Nagar. There appears to be encroachment on both sides of the source of water reservoirs including the construction of a Junior High School. The revenue authorities have been advised to shift this school to some other suitable place. After expanding the available area of pond/Water reservoirs at village Sikahara and its desilting from all sides, indigenous plants may be planted. Similar advice has been given with respect to a big chunk of land of village Amona Pandeypur and all other places where big natural water bodies exist and from where Ami River passes through. After receipt of satellite imaging, further appropriate directions may be issued pin pointing the area where plantation of indigenous plants is required. Otherwise also, the U.P. Forest Department shall make endeavour for plantation of indigenous plants right from Sikahara confluence to Rapti up to the distance of 5 kms on both sides of the river.

It has been noticed that on account of commission and omission on the part of the revenue authorities, the area of water bodies situating up to the distance of 5 kms from Ami has shrunk. Further, in the absence of indigenous plants on both sides, the Ami river has suffered another setback. On visit of its origin at village Sikahara, it appears that long back in the past, there had been a dense forestry in thousands of hectares of land on both sides of the source (Lake), which has, due to influx of population, shrunk. It has affected adversely the water body (Lake),

natural source of the river. In case plantation of indigenous plants on both sides of the Source of river on available land, de-silting and expansion of water body area and stoppage of industrial pollutants & municipal waste into the river are done, there appears to be no reason that Ami will not survive.

A river enriched with thoughts of Lord Buddha, Sant Kabir, Guru Nanak and Baba Goraksh Nath deserves to be protected by all means. In case the Government co-operates, Ami will again be contented with sweet water.

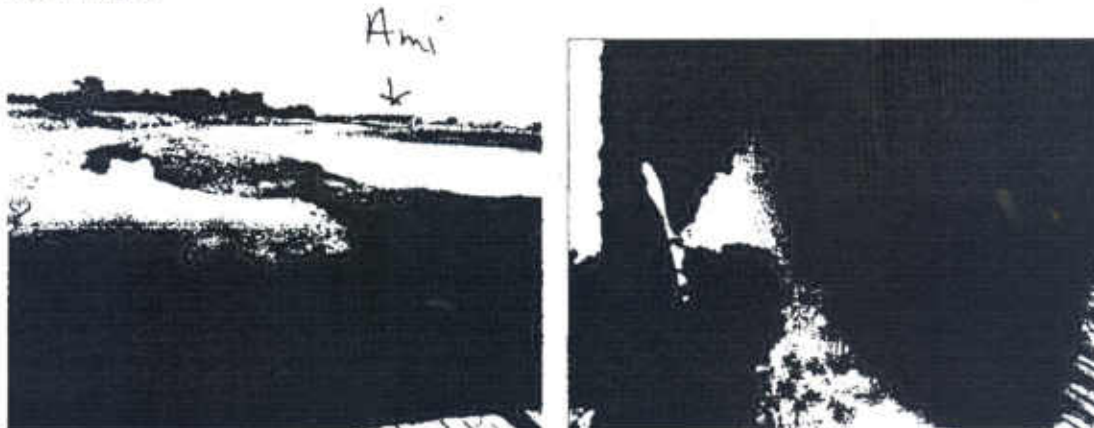
8. There is a crematorium at Magahar adjoining the Kabir Samadhi Sthal. Whenever the crematorium is used to burn a corpse, its ashes with blowing of winds comes over the place of Kabir Samadhi Sthal where sages and devotees of Kabir take their lunch and dinner. Sometimes the ashes covers the whole Kabir Samadhi Sthal. While inspecting the site, it was suggested that this crematorium be shifted to downstream of Ami river so that the residents of the locality or sages staying at Kabir Samadhi Sthal do not suffer. Otherwise also, every year a big congregation of millions of people takes place relating to Saint Kabir. There is sufficient place at Magahar downstream of Ami river, hence shifting of the said crematorium to downstream of Ami river is necessary.

9. Major Pollutants

The **first major pollutant** as per the inspections carried about by the Monitoring Committee is Gorakhpur Industrial Development Authority (GIDA) comprising of 266 industrial units, including paper mills, textile manufacturers, food processing units etc. which discharge millions of litres of untreated or partially treated effluent into the drain every day.

The **second pollutant** is M/s Bajaj Hindustan Ltd (Distillery Unit) situated in village Athadama, Tehsil Rudhauli, District Basti, UP.

Third major pollutant of Ami river is the drainage system at Magahar and Sant Kabir Nagar.



Fourth major pollutant is Raina Paper Board at Sant Kabir Nagar.

Report of the following 4 pollution causing industries has been sent to NGT so far:

- M/s Bajaj Hindustan Ltd (Distillery Unit) situate in village Athadama, Tehsil Rudhauri, District Basti, U.P. emailed on 20.11.2018.
- M/s Rungta Industries Pvt. Ltd. GIDA, Gorakhpur, UP emailed on- 19.11.2018.
- M/s Crazy Snacks Ltd. GIDA, Gorakhpur, U.P. emailed on 19.11.2018.
- M/s Gallant Ispat Ltd. GIDA, Gorakhpur, U.P. emailed on 20.11.2018.

10. While concluding I again switch over to three hymns of Rig Veda, which is reproduced as under -

Mandala 7/ Sukta 50⁴

1. यांसां राजा वरुणो याति मध्ये सत्यानृते सवपश्यज
नानाम्। मधुश्चुतः याः पावकास्ता आपो देवीरिह
मामवन्तु ॥ 3 ॥

Those liquid streams of waters and divine energy in the currents of which the cosmic ruler of universal law, Varuna, vibrate with universal judgement and omnipotence, watching the truth and untruth of the people's actions within the rules of divine law, the streams which are the honey sweets of life's joys, pure and purifying, may all the these streamns of divinity protect, inspire and promote ame here in this world of action.

2. यासु राजा वरुणो यासु सोमो विश्वे देवा यासूर्ज मदन्ति।
वैश्वानरो सास्वधिः प्रविष्टस्ता आपो देवीरिह माम वन्तु ॥ 4 ॥

Those streams of water and cosmic energy in which Varuna, self-effulgent ruler, pervades, in which Soma, peace and life's vitality and joy, resides, in which all divinities of nature and brilliance of humanity find their breath of life and rejoice, in which Vaishvanara, vital heat of life, resides and inspires her children, may those divine streams of the waters of existence inspire, protect and promote me here in this world.

3. आ मां मित्रावरुणेहश्मत् कुलाययद्विश्वयन्मा न आ गन्।
अजकावं दुर्दृशीक तिरो दधे मा मां पद्येन रपसा विद-
त्वरुः ॥ 1 ॥

May the sun and water, curative and preventive health care, protect me here. Let no bodily infirmity, no insidious no infectious disease come to me. Let me keep off all diseases that spread through animals and insects all those that spread through germs and verses difficult to see with naked eye. Let all those ailments be off which arise from external contact or from internal weakness such as lack of resistance, depression or self-guilt.

Sukta 50 of Mandala 7 of Rig Veda at the face of it shows that during Vedic period, water was used as curative and preventive health care. A prayer has been made that no bodily infirmity or insidious or infectious disease may come to the person. The sum and substance of the said Vedic prayer is that river helps in saving a person from diseases. Therefore, all external pollutants must not reach the river so that pure water of the river may cure the diseases of the persons and no disease or ailment is caused from external contact or from internal weaknesses such as lack of resistance, depression or self-guilt. This was a great Vedic thought of Hinduism, which persuaded the generations in the past to come forward to save the rivers from pollutants. However, after arrival of migrants and invaders to our country, this Vedic duty lost its dignity.

11. During the inspection of Ami and adjoining industries, we appreciate the help extended by RO of UPPCB Shri S.B.Singh and the President of Ami Bachao Manch Shri Vishwavijay, resident of village and P.O. Hariharpur, Khajni, Gorakhpur, UP. Since we are submitting final report with regard to Ami and follow up action has to take place, which may take some time subject to the directions issued by NGT, it shall be appropriate that Shri S.B.Singh, RO of UPPCB and Shri Vishwavijay, President of Ami Bachao Manch may constitute a committee to monitor Ami river from beginning to end with regard to compliance of orders and stoppage of pollution and to improve the quality of water of Ami river keeping in view of the observations made in the present report, subject to directions/orders issued by Hon'ble NGT with due communication to the present Monitory Committee with regard to the status.

12. Cause of pollution

The root cause of pollution in Ami river appears to be the commission and omission on the part of the State and the Central Pollution Boards. In the State of U.P. the governing body has been made defunct by delegating its power to the Secretary. As noticed in the case of Bajaj Hindustan Pvt Ltd vide report sent on 20.11.2018 to the NGT, the closure report sent by the RO against the polluter industry took too much time for the Board to take a decision (supra). It has been seen that whenever on the report of RO a closure order by the Board is sent, the industrialists at Delhi

manage the things in their favour and CPCB uses to send the release orders conditionally without compliance of pollution norms provided by law and sometimes vice versa. Such instances indicate that on season, industries are opened conditionally without fulfilling the requirements under law and then again for off season the closure orders are passed, like in the case of Bajaj Hindustan (supra). This is going on since 2015. Similar is the case in majority of industries in the State of U.P, causing pollution of rivers. This is a sinister move on the part of politicians and bureaucrats to keep the rivers polluted with their influence for some extraneous reasons and considerations in collusion with the industrialists. Hence, it is necessary that once an industry is issued a closure order on account of non-compliance of the industrial norms and requirement under Environmental law, it should be closed for all times to come till the time it meets out the requirements hundred percent in accordance to law.

Apart from these stray sugar mills and a paper mill (supra), one other major cause of pollution is the industries situated at Gorakhpur Industrial Development Authority (GIDA). As we have observed in our report with regard to three industries (supra), apart from the fact that no CETP has been installed and the matter is hanging since 2009, with great efforts we have succeeded in sending the Project Report to the Government. Majority of industries causing pollution in contravention of rules have more than one outlet/canal through which the spent wash and other chemical mixed polluted water goes to drain, then to Sariya drain and then to Ami. This has been continuing since the very inception of GIDA, causing havoc for the villages situated adjoining to Ami river.

13. Implementation of law

India inherited its legal framework based on Anglo-Indian jurisprudence. Though the West has followed its jurisprudence in letter and spirit, but the Indian mind still possesses the element of slavarism and feels proud in disobeying or circumventing the law unless there is a fear of punishment, as said by Manu. Aristotle said-

*"A government is good when it aims at the good of the whole community, bad when it cares only for itself. There are three kinds of government that are good: monarchy, aristocracy and constitutional government (or polity). There are three that are bad: tyranny, oligarchy and democracy. There are also many mixed intermediate forms. It will be observed that the good and bad governments are defined by the ethical qualities of the holders of power, not by the form of constitution."*⁵

While defining the lawlessness and unjustness, Aristotle rightly said-

⁵ History of Western Philosophy- by Bertrand Russell

*"Since the lawless man was seen to be unjust and the law-abiding man just, evidently all lawful acts are in a sense just acts; for the acts laid down by the legislative art are lawful, and each of these, we say is just."*⁶

• One of the arguments raised by the owners and agents of the industries during our visit to GIDA is that they have provided employment to thousands of persons. Giving employment to a few thousands and causing damage to lives of lakhs of people is not an excuse and does not give a licence to cause pollution. Maximum good to maximum people is the essence of law and not minimum good to minimum people causing maximum harm to maximum people. That is what Kelsen has said-

*"The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily or mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves than by compelling each to live as seems good to the rest."*⁷

Hart was right while advocating to enforce law by force, in-case it is not followed by society. To quote-

*"Hence a society with law contains those who look upon its rules from the internal point of view as accepted standards of behaviour, and not merely as reliable predictions of what will befall them, at the hands of officials, if they disobey. But it also comprises those upon whom, either because they are malefactors or mere helpless victims of the system, These legal standards have to be imposed by force or threat of force; they are concerned with the rules merely as a source of possible punishment. The balance between these two components will be determined by many different factors. If the system is fair and caters genuinely for the vital interests of all those from whom it demands obedience, it may gain and regain the allegiance of most for most of the time, and will accordingly be stable. On the other hand, it may be a narrow and exclusive system run in the interests of the dominant group, and it may be made continually more repressive and unstable with the latent threat of upheaval. Between these two extremes various combinations of these attitudes to law are to be found, often in the same individual."*⁸

⁶ The Nicomachean Ethics – by Aristotle

⁷ Jurisprudence- by J.G.Riddall

⁸ The Concept of Law, Second Edition- by H.L.A. Hart

The industries are polluting the rivers not because they are not interested to keep them clean, but it seems to be because of corrupt mindset and appeasement of politicians and bureaucrats and also because of adopting the principle of maximum profit by minimum investment. Emphasizing on the life of health, Aristotle quotes an inscription on the porch of temple of Leto in the shrine of Delos that runs as under:

"Noblest of all is perfect justice, best of all is a life of health;
Most pleasant of all is to win one's heart's desire."⁹

Undoubtedly a good health is sine qua non to a good life and the worst part is that our industrialists do not understand their rights and duties to make a man happy for variety of reasons (supra).

RECOMMENDATIONS

Subject to above, it is recommended that-

1. A STP be installed at Maghar and Sant Kabir Nagar within 3 months. A Detailed Project Report has been sent to the Government. Funds under the Namami Gange project are available.
2. A CETP of 15 MLD be installed within 3 months, as per the Detailed Project Report of Chairman GIDA that has been sent to the Government.
3. Once the closure order is issued to any industry then unless the industry fulfils the requirements and compliances, the industry should not be permitted to be re-opened.
4. As advised by experts including Forest Department, plantation of indigenous trees to be done on both sides of Ami river upto a distance of 5 kms and water reservoirs to be restored by district authorities.
5. Ami originated from village Sikahara and because of conversion to cultivatory land, the area of water reservoirs has shrunk which may be desilted and increased upto the possible limit with due plantation of indigenous plants. Schools and other constructions should be shifted immediately by increasing the surrounding water reservoirs.
6. As informed by DM Siddharth Nagar, almost 4 kms of Ami riverbed converted to agriculture land with bhoomidhari rights. DM proposed to acquire the land

⁹ The Eudemian Ethics- by Aristotle

to make the flow of Ami uninterrupted from the beginning to the end. Let this be done.

7. After every 5 km or more interval, Ami river has got rounded reservoirs like that at village Amona Pandey. Let all such places be desilted and indigenous plantation be done by Forest Department. DM to ensure removal of encroachments if any and proceed with acquisition.
8. A crematorium situated just near the Kabir Samadhi Sthal is causing pollution with the ashes of corpses being burnt there. This crematorium be, therefore, shifted to a place at reasonable distance downstream the Ami river.
9. Principal Secretary, Forest shall ensure that from beginning to the end of Ami, as advised around 5 km on both side of the river, plantation of indigenous trees/plants be done including plantation around reservoirs on available revenue land.
10. Since this is a final report for Ami, it shall be appropriate that a committee comprising Shri S.B.Singh, RO of UPPCB and Shri Vishwavijay, President of Ami Bachao Manch be constituted for a period of one year from the date the Hon'ble NGT passes an order, to monitor Ami river from beginning to end with regard to compliance of orders and stoppage of pollution and to improve the quality of water of Ami river keeping in view the observations made in the present report, subject to directions/orders issued by Hon'ble NGT with due communication to the present Monitoring Committee with regard to status. The Committee may submit its report to the Monitoring Committee on regular intervals of two weeks or four weeks as the case may be and may also communicate to Hon'ble NGT. The Hon'ble NGT may decide some minimum complimentary honorarium for payment to Shri Vishwavijay every month as token in lieu of public service rendered by him and for future monitoring for the period of one year i.e from January, 2019 to December, 2019, may be Rs. 5000/- or more per month.

Let the matter be placed before Hon'ble NGT for appropriate orders.


(Justice D.P. Singh)

Chairman,

Eastern UP Rivers and Water
Reservoirs Monitoring Committee

Date: 11.12.2018