

Item No.01

Court No. 1

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

Original Application No.503/2018

R.K. Gupta

Applicant(s)

Versus

Delhi Development Authority & Ors.

Respondent(s)

Date of hearing: 29.03.2019

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

For Applicant(s): Mr. R.K Gupta, applicant in person

For Respondent (s): Mr. Rajiv Bansal, Sr. Advocate with Mr. Kush
Sharma and Ms. Vaishali Rawat, Advocates

ORDER

1. The issue for consideration is restoration of Tikri Khurd Lake, Delhi by removing encroachments around the said lake.
2. Vide order dated 08.08.2018, after noticing the stand of the applicant that NCR is losing its water bodies which may have serious implications on ground water recharge, a direction was issued to the Ministry of Environment, Forest and Climate Change (MoEF & CC) to have the matter examined and identify the authority to take appropriate steps to preserve the existing water bodies, including the Tikri Khurd Lake. The Delhi Development Authority (DDA) was also required to take steps to remove the encroachments after demarcating the water bodies and also consider lake front beautification at the location in question.

3. We have perused the report received from the MoEF & CC vide email dated 29.12.2018 stating that as per Wetlands (Conservation & Management) Rules, 2017, States/UTs Wetlands Authorities have been constituted. The said Authorities have to notify the wetlands. The Authority has to meet atleast thrice in a year and take appropriate actions in terms of the said Rules. The MoEF & CC asked the Department of Environment, NCT of Delhi to ensure due functioning of the Wetlands Authority and to prepare a detailed consolidated time bound action plan for conservation and management of water bodies, including the Tikri Khurd lake. The report further mentions that as per information received from the Delhi Parks and Gardens Society (DPGS), the High Court appointed Court Commissioners to inspect the water bodies which information has been uploaded on the website of DPGS. The DDA has been asked to make efforts to remove encroachments, put up fencing/boundary wall and undertake its beautification. The Delhi Jal Board (DJB) is to rejuvenate the 155 water bodies for which budget has been approved.

4. Report has also been received from the DDA stating that from the perusal of “aks shijara” of village Tikri Khurd, it was found that the so called Tikri Lake did not exist in the said records. The triangular area in question is in Khasra No. 50 which is within the *firni* of the village *abadi* area. The *abadi* area is to be dealt with by the NCT of Delhi. The CEO, DPGS is the nodal officer for the water bodies and as per the minutes of the meeting held on 17.9.2014, wetlands were found at Khasra No. 15/9(4-16) and 30/1(4-16), 30/3(4-15), 30/4(0-

9). The National Wetland Atlas of Delhi was based on mapping done through remote sensing and was not based on an on-site inspection. The stagnated water deposit in low lying land at Tikri Khurd, whereupon alleged encroachment has taken place, has not yet been recognised as a wetland in the revenue records. We may only comment that stand of the DDA does not show commitment for conserving water body and merely focusses on technicalities and shifting responsibility which attitude is not consistent with Articles 48A and 51-A (g) of the Constitution, expected from a public body. Learned Senior Counsel for the DDA travelled extra mile during arguments to emphasise that responsibility is not of DDA but of NCT, Delhi or the Wetland Authority. Certainly, DDA is not irrelevant and is expected to make positive contribution on such issues without standing on technicalities.

5. Letter dated 21.12.2018 by the DPGS to the MoEF & CC which has been enclosed with the report of the MoEF&CC *inter-alia* states as follows:

“So far as matter regarding Tikri Khurd is concerned, as already informed, DDA has intimated that they have undertaken to remove encroachments, demarcate the water bodies, put up fencing/boundary walls and undertake its beautifications.”

6. We are of the view that the Wetland Authority constituted under Rule 5(2) of the Wetlands (Conservation & Management) Rules, 2017 for the NCT Delhi must look into the matter. If any steps are required to be taken for making Wetland Authority fully

functional, such steps may be taken by the Chief Secretary, Delhi. Even if it is found that the area in question is not technically a wetland, the lake is required to be preserved as a water body. The Delhi Wetlands Authority may co-opt DDA as a member of the Wetland Authority under Rule 5(3) of the Rules so that the effective joint decision can be taken to resolve the dispute whether the area falls within the jurisdiction of DDA or of Delhi Government.

7. We also note that vide order dated 30.8.2018, this Tribunal constituted a Monitoring Committee headed by Justice S.P Garg, former Judge, Delhi High Court in *O.A No. 496/2016 in Tribunal on its own motion v. Government of NCT of Delhi & Ors.* for considering the issue of ground water protection and recharge and incidental issues.

8. In the circumstances of the present matter, we consider it appropriate to direct that the NCT Delhi Wetland Authority may hold its meeting within one month and among other issues consider the present matter. A copy of the decision taken may be furnished to the Committee headed by Justice S.P Garg, former Judge, Delhi High Court who may consider the matter in the course of deliberations of the Committee with the assistance of the DPGS and incorporate recommendations in this regard in the report to be furnished to this Tribunal, apart from any other action which may be taken as found necessary.

9. A copy of this order be sent to the Chief Secretary, Delhi and the Committee headed by Justice S.P Garg, former Judge, Delhi

High Court by email. The applicant may furnish a set of papers to the said authorities within a week.

10. We also direct the CPCB to ascertain whether National Wetland Authority is functioning at Central level and Wetland Authorities in all the States/UTs are functioning. If not, their functioning be required to be operational within one month. Such authorities may identify wetland and water bodies and take further steps for their protection. A status report in the matter be furnished before the next date in O.A No. 496/2016 i.e 12.07.2019 by email at ngt.filing@gmail.com. The report be included in the file of O.A No. 496/2016.

11. A copy of this order be sent to the CPCB by email.

12. A copy of this order be also placed in the file of O.A No. 496/2016 in *Tribunal on its own motion v. Government of NCT of Delhi & Ors* for consideration along with the consideration of the larger issue therein.

The application is disposed of.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 29, 2019
Original Application No.503/2018
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