

Item No. 03

Court No. 1

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

(By Video Conferencing)

Original Application No. 231/2014

(With report dated 30.07.2020)

Doaba Paryavaran Samiti

Applicant(s)

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 07.08.2020

**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**

Respondent(s): Mr. A.N.S. Nadkarni, Senior Advocate with Mr. I.K. Kapila,  
Advocate for UP Jali Nigam  
Mr. Abhishek Yadav, Advocate for State of U.P.  
Mr. Raj Kumar, Advocate for CPCB  
Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB  
Ms. Deep Shikhar Bharti, Advocate for Irrigation Department

**ORDER**

1. This order is being passed in continuation of order dated 28.02.2020 on the issue of remedial measures for the industrial or other pollution in Kali Nadi, Krishni and Hindon Rivers resulting in diseases and deaths of inhabitants of the area. The Tribunal considered the matter earlier in the light of site inspection by a team of experts.

2. Vide order dated 08.8.2018, with reference to certain studies, it was noted that more than 71 persons died from cancer and more than 47 persons are bed ridden in the Gagnoli village in Baghpat District in Uttar

Pradesh. More than 1000 people are affected by diseases in the area. Inhabitants of 154 villages were affected. The polluting industries in question are sugar mills, distilleries, paper mills, electroplating, slaughter houses, wet blue hides, etc. Reference was made to the fact that the issue had been highlighted in several newspapers and that this Tribunal found that there was contamination of ground water. On 16.01.2018, a Committee comprising representatives of the Central Pollution Control Board (CPCB), Uttar Pradesh Pollution Control Board (UPPCB), Uttar Pradesh Jal Nigam and Dr. A.B. Akolkar, former member of CPCB carried out a survey by testing the samples. The Committee found that 124 industries were not meeting the standards. The Tribunal observed that the State of Uttar Pradesh and UPPCB must perform their statutory duties and the District Magistrate should also take cognizance of the matter at the District level. The Tribunal constituted a Committee headed by Justice S.U. Khan, former Judge, Allahabad High Court with representatives of the CPCB and the Ministry of Environment, Forest and Climate Change as members to prepare time bound action plan to deal with the problem. The Chief Secretary, Uttar Pradesh was to provide logistics to enable the functioning of Committee.

3. The matter was thereafter considered on 21.10.2019 as follows:

*“On merits, this Tribunal noted, on 20.09.2019, that water supply was made available in 41 villages out of 148, DPRs for several projects were pending approval. The Tribunal found that the information with regard to the health surveys and water supply to all the affected areas was not adequate. The estimated dates for completion of the actions for treatment of sewage gap in the river was too long. There were need for immediate interim arrangement by way of phyto-remediation or bio-remediation. The Tribunal also noted that the information with regard to recovery of compensation was not adequate. Accordingly, the Tribunal directed:*

*“14. Let the Chief Secretary, Uttar Pradesh look into the matter within three weeks from today, take action against erring officers and ensure further remedial action is taken in terms of augmenting water supply to such villages rather than whole issue getting stuck up in cumbersome bureaucratic procedures. The Chief Secretary may also*

*examine the possibility of sending such high powered committee which approves the DPRs to the area in question for expediting approvals so that work is not delayed inordinately. Compliance report may be filed by the Chief Secretary before the next date by email at [judicialngt@gov.in](mailto:judicialngt@gov.in). In the event the Chief Secretary is unable to ensure the above, we may have no choice but to summon the Chief Secretary to remain present in person.”*

5. Accordingly, report dated 20.10.2019 has been filed by the Chief Secretary, UP stating that:

i. Further steps have been taken on the subject of water supply to all the affected areas and till then safe drinking water will be supplied through tankers. ii. With regard to health camps, directions have been issued for treating all the patients in higher referral specialised hospitals.

iii. With regard to STPs, steps are in progress and by way of interim arrangement, bio-remediation work will commence from 4 November 2019. It is mentioned that one of the reasons for the delay is non-availability of land.

iv. Action has been initiated against the defaulting officers.

v. Performance guarantee has been directed to be furnished.

vi. Compensation of Rs. 2.75 crores has been recovered and till the defaulting units pay the assessed compensation, their consent to operate will not be renewed.

6. The State may continue the necessary steps in the matter which may be overseen by the Committee set up for the purpose by separate order passed today in O.A. No. 670/2018, Atul Singh Chauhan Vs. Ministry of Environment, Forests and Climate Change & Ors.

7. With regard to tender process/DPR, the procedures may be curtailed by using the GeM portal to the extent possible. More goods and services required for the purpose may be got incorporated on the GeM portal or any other similar portal as the State Government may decide.

8. With regard to land, use of land covered by the legacy waste may be explored for STPs/waste processing plants/green belts/bio-diversity parks if the use is otherwise permissible under the relevant environmental law. A part of the cost of the project may be used for clearing the waste from the land. As far as possible, procedure for clearing the legacy waste referred to in our order dated 17.07.2019 in O.A. No. 519/2019 News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes" may be followed. 5 The matter may now be listed on 10.02.2020 to consider the report of the Committee.”

4. The matter was last considered on 28.02.2020 in the light of the earlier proceedings and the report of the Oversight Committee headed by a former Judge of Allahabad High Court appointed by this Tribunal dated 19.12.2019 to the effect that adequate progress had not been made in the matter and suggesting that expeditious remedial action may be taken. The Tribunal observed and directed:-

“5. The above report shows that the progress is hardly sufficient in terms of piped water supply, health facilities and steps for sewage treatment. The suggestions of the committee need to be implemented expeditiously in right earnest and need to be overseen by the Committee. The Committee may also identify accountability of individual authorities and put them to notice of coercive action. We regret to note that in spite of the directions in the order dated 20.09.2019, requiring the high powered Committee to approve the DPRs, DPR is not yet approved. The committee has suggested that the same be now ensured within three weeks. We direct accordingly. If DPR process is delayed beyond 31<sup>st</sup> March, 2020, coercive measures against the Secretary Revenue, the Secretary Urban Development, the CEO and the Managing Director, U.P Jal Nigam may have to be taken. The Chief Secretary, Uttar Pradesh may put them to notice in writing and ensure compliance of these directions.

6. A report has been handed over during the hearing on the status of water supply stating as follows:-

S.N	District	No. of villages	covered with PWS	Ongoing PWS	Tender Approved and LOI issued	Retendering/tendering process	Remark
1	Saharanpur	1	0	1	0	..	
2	Meerut	10	4	5	0	-	Estimate for Harra Nagar Panchayat Meerut amounting Rs. 888.94 lacs sent to Nagar Vikas Vibhag vide letter no. c470/1009/072-001/PPBRD/19 dt. 13.09.2019.
3	Ghaziabad	1	0	1	0	-	
4	Shamli	29	7	22	0	-	
5	Muzaffarnaga	56	10	26	19	1	
6	Baghpat	51	22	27	0	2	Land of village Biral not available expected in Dec 2009

“Status of Piped Water Supply in 148 Villages

	<b>Total</b>	<b>148</b>	<b>43</b>	<b>82</b>	<b>19</b>	<b>3</b>	
--	--------------	------------	-----------	-----------	-----------	----------	--

7. Compared to the status noted vide order dated 20.09.2019, progress can hardly be held to be adequate. The process needs to be expedited and timelines proponed so as to complete the whole exercise by October 31, 2020.

8. A copy of this order be sent to the Secretary Revenue, Secretary Urban Development, CEO and the Managing Director, U.P Jal Nigam the Chief Secretary, Uttar Pradesh and the Committee headed by Justice S.K Singh by email for compliance.”

5. Accordingly, further report has been filed by the Oversight Committee on 30.07.2020, apart from the report of the Chief Secretary filed on 05.08.2020. We may only refer to summary of the status of compliance in the said the report:-

<b>S.No.</b>	<b>Directions by Hon’ble NGT</b>	<b>Compliance Status (Yes/No)</b>	<b>Reasons for Non Compliance</b>
1	Complete work of piped water supply in 148 villages by 31.3.2020. Rural Development Department directed to supply safe drinking water through tankers as intermediate arrangement	Partially Complied (Only 45 villages covered as of 23.07.2020 and in rest 102 villages safe potable water provided through deep India Mark II handpumps)	The tenders were pending for approval since last 1 year in which the approval process started from October,2020 and continued till Feb,2020. The water is being provided through handpumps as they do not give contaminated water. The water samples were collected from U.P.Jal Nigam and no contamination was observed. Thus, decision to provided water through them was taken.
2	Complete work of STP by 31.3.2020 The State directed to identify erring officers for suitable action in this matter.	No	Approval pending from NMCG. Basic engineering design submitted to NMCG in case of Muzaffarnagar and Budhana. DPR submitted to NMCG in case of STP Saharanpur.
3	Vide order dated 28.2.2020 it was directed to:	Partially Complied (Drains have been	

	Identify untapped drains and should prepare a plan with timelines and completely tap these drains at earliest. In the meantime, they should carry out in-situ treatment in drains to reduce the pollution load. All those who fail to control inflow of untreated sewage into the river should be penalized on basis of 'Polluter Pays' principle and prosecutions may be initiated against officials in districts where timelines are not adhered to.	identified and penalty imposed in Muzaffarnagar, Shamli and Saharanpur. (Refer Annexure III and V)	
3	Bioremediation of drains at Saharanpur and Muzaffarnagar. UPPCB to carry out monitoring to ascertain effectiveness of bioremediation within 30 days.	Partially Complied	In Saharanpur, phytoremediation done on 18 km stretch only. In Muzaffarnagar no progress in this regard. Penalty imposed in both areas by UPPCB
4.	Directions issued for organizing health camps in the affected area at regular intervals and treatment of all patients in the high referral specialized hospitals	Yes	Health Camp organised in December, 2019 however, due to Covid-19 pandemic and lockdown health camps could not be organised in last 3 months.
5	Micro plan to be prepared to cover the entire stretch and identify cause of ailments like skin diseases, jaundice, cancer etc in the population in concerned region	No	Due to Covid 19 pandemic, a micro plan specifically has not being prepared. However, under the Covid-19 health survey the officials have been directed to identify patients of cancer along with people having comorbidities.
6	The State directed to ensure deposition of Rs. 9.40 Crore of Environment Compensation imposed upon 230 defaulting	Yes (Rs.3.7 crore recovered. Consent to operate not	

	<i>water polluting industries and in case of default, to initiate recovery of Environment Compensation as arrears of land revenue by way of attachment of properties</i>	<i>provided if EC is not deposited)</i>	
7	<i>In order to stop effluent discharged from illegal industries, it is suggested that a joint committee of District Administration, Land owning agency, Pollution Control Board, Electricity Department and Police be setup</i>	<i>Information awaited from UPPCB</i>	
8	<i>Estimate for Harra Town Area Committee and DPR for PWS in village-Biral, District-Baghpat be prepared within a specified time-line/ or within three months</i>	<i>Partially Complied</i>	<i>Delay in approval from State Government. File of Harra Town sanctioned and GO is expected to be out by July,2020. DPR of Biral, Baghpat sanctioned and tenders have been awarded. The work is expected to be complete by March, 2021.</i>
9	<i>Electricity Department should not give any industrial/commercial connection in residential areas</i>		

## **VII. RECOMMENDATIONS OF OVERSIGHT COMMITTEE**

1. *Despite repeated directions by Hon'ble NGT and this Committee, U.P Jal Nigam has not ensured piped water supply in 148 affected villages. Till date, piped water supply has been ensured only in 45 villages. In July 2019, this figure was 41 villages. Thus only 4 villages have been provided piped water in one year's time. **There has been no physical progress in installation of any of three STPs proposed in the last one year. No action has been taken against any negligent officer despite directions of Hon'ble NGT. Performance Guarantee of Rs 5 Crore directed by Hon'ble NGT on 15.3.19 has yet to be deposited. Not a single village has been provided water through tankers till now despite written assurance to NGT by Chief Secretary on 20.10.19. In fact now ACS Panchayati Raj has informed that in view of hand-pumps working in these villages there is no need of water supply through tankers. Such gross negligence in fulfilling the basic needs of***

*the citizens is not acceptable and punishable. The Committee recommends that Chief Secretary shall ensure that:*

- a) Work on pipe water supply project in balance 103 villages is expedited so that it is complete by 31st December 2020*
- b) Till then ensure clean drinking water in these localities where contaminated water was reported by tankers or such means as he deems fit. The quality of water of all such sources may be tested through independent laboratories.*
- c) Ensure furnishing of performance Guarantee of Rs 5 Crore as directed earlier by NGT within 15 days. This PG would be forfeited in case of default of timelines.*
- d) Ensure commencement of the installation of the 2 STPs in the next one month by expediting the processes and the third STP by increased follow up with NMCG in next 2 months*
- e) Jal Nigam has been extending timelines regularly without achieving any physical progress. Delay in DPRs, delay in tendering and other procedural delays are adduced in every meeting. NGT had already directed that action be taken against erring officials. Chief Secretary should take action against erring officers within a month and inform NGT about it.*

**2. Chief Secretary had assured NGT on 20.10.19 in his written report that till pipe water supply is provided, water will be provided by tankers. Bio Remediation work will start from November, 2019. Performance Guarantee of Rs 5 Crore has been directed to be furnished. Action against defaulting officers is being taken. **Unfortunately, none of these averments have been implemented. These are issues which could easily have been monitored in the monthly monitoring meeting of the Chief Secretary as envisaged in the monitoring framework submitted by the State to the NGT. Chief Secretary should hold the monthly monitoring meeting regularly so that such issues get sorted out regularly.****

**3. No bioremediation/ phytoremediation of drains has taken place in Muzaffarnagar and Saharanpur as well as in other districts of the region. NGT had directed that an EC of 5 Lakh per drain per month has to be imposed if the work does not commence till 31.3.2020. CPCB may calculate the EC and issue notices to the concerned ULBs in the next 15 days.**

**4. UPPCB shall ensure recovery of remaining amount (Rs.5.7cr.) imposed as Environmental Compensation on 230 defaulting units within a month. In case of nonpayment, UPPCB shall initiate recovery of these dues as arrears of land revenue.”**

6. On due consideration, we accept the recommendations of the Oversight Committee and direct the Chief Secretary, U.P. to ensure



compliance of thereof. It will be appropriate that the Chief Secretary ensures filing of a consolidated reply instead of separate representation and separate replies by different Departments of the State. A unified approach in matters of this nature is necessary so that shifting of blame from one Department to the other can be avoided. The Oversight Committee may also file its further report before the next date. River Hindon is one of 351 polluted river stretches and steps have to be taken for restoration of water quality in terms of orders of this Tribunal in OA 673/18 by executing the action plan already prepared on the subject in a time-bound manner. EC has to be recovered if deadlines are not adhered to. The action plans *inter alia* require interception of drains to destined STPs, adoption of *insitu* remedial measures in intermediary phase, utilisation of treated sewage, demarcation and regulation of flood plain zone. River Hindon joins Yamuna which then joins Ganga. Still, no meaningful actions are being taken for years together. The river is practically dead and needs to be restored in the interest of the environment and public health. Meaningful progress must be achieved by the concerned departments including the Urban Development, Irrigation, the Jal Nigam, and the Environment. All drains joining Kali, Krishni and Hindon should have *in situ* remediation and plan for connectivity with the identified STP. The Chief Secretary may ensure that there is coordination among all the concerned Departments in accordance with the action plan.

The reports may be filed 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.

List again on 02.02.2021.

A copy of this order be sent to the Chief Secretary U.P. and Justice SVS Rathore, former Judge, Allahabad High Court, heading the Committee constituted by this Tribunal by email.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

August 07, 2020  
Original Application No. 231/2014  
A