

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

Original Application No. 116/2014

Meera Shukla

Applicant(s)

Versus

Municipal Corporation, Gorakhpur & Ors.

Respondent(s)

Date of hearing: 24.09.2019

Date of uploading the order: 27.09.2019

CORAM:

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

ORDER

1. The issue for consideration is the remedial action for contamination of water bodies and ground water, specially Ramgarh Lake, Ami River, Rapti River and Rohani River in and around District Gorakhpur, Uttar Pradesh.
2. The matter was considered vide the order dated 23.08.2018. The Tribunal noted the allegation that Ramgarh Lake, Ami River, Rapti River and Rohani River in and around District Gorakhpur were severely polluted on account of discharge of untreated sewage and industrial effluents. Steps required to prevent contamination of water bodies and groundwater were not being taken. This was affecting the farmers and inhabitants, flora, fauna and ecology of area and causing degradation of the environment. 103 water bodies are under

threat. There was no proper management of solid waste and no designated scientific sanitary landfill. There was encroachment of the Ramgarh Taal. CETP had not been set up. Industries were not complying with the environmental norms. There was high organic load in River Ami and Rapti and Sugar industries and Distillery units were causing pollution. 557 persons died in the year 2012. About 50,000 persons died in the last 30 years. It was also noted that Ami, Rapti and Rohani River are the tributaries of Ghaghara which ultimately terminated into River Ganga. For public health at Gorakhpur, clean water supply was necessary, apart from cleaning of water bodies and other steps for protection of environment.

3. The Tribunal issued directions for the purpose and a Monitoring Committee was constituted headed by former Judge of Allahabad High Court with representatives of the CPCB, UPPCB and State Jal Nigam to oversee compliance of directions of this Tribunal already issued on the subject of closing the sources of contaminated water (like handpumps) and taking steps for supply of potable water, to ensure proper waste management and deal with other issues mentioned above.
4. The Committee was to carry out inspection of the industries causing pollution of water bodies, drains and rivers in the area and ETPs, STPs, CETP and SWM sites. Action plan was required to be prepared for solid waste processing plant, proper functioning of ETPs and CETP and also for making available potable water to the inhabitants apart from undertaking rehabilitation program for compensating the victims who had suffered. The Committee was to furnish reports to this Tribunal for further action.

5. The matter has been dealt with on several dates since then in the light of reports received from the Committee. The Tribunal has passed directions with regard to installation of STPs and CETP by GIDA, closure of industries operating illegally, adding to the pollution of the Rivers or their tributaries, shifting of construction activities from the floodplain zones/catchment area, unscientific disposal of municipal and other wastes. Reports have been dealt with from time to time earlier vide orders dated 25.10.2018, 17.12.2018, 07.03.2019, 29.04.2019 and 19.07.2019 to which a brief reference may be made.
6. Order dated 25.10.2018 dealt with the pollution caused by M/s. Yash Paper Mills, Faizabad by discharge in Tihura Drain affecting the agricultural lands as result of demolishing the clay barrier as per directions from the Sub Divisional Magistrate. Allegation of alleged collusion of SDM of the area was directed to be looked into by the Chief Secretary, UP. The stand of the SDM is that the barrier was removed to ensure flow of the drain, though the rain has to be kept clean and free from discharge of effluents.
7. Order dated 17.12.2018 dealt with the damage to the forest land by Bajaj Sugar Mill, Golagokaran Nath, District Lakhimpur, pollution by M/s Gallant Ispat Limited, Gorakhpur by discharging effluent into a drain joining Ami River, pollution by M/s Rungta Industries Pvt. Ltd. and M/s Crazy Snacks Ltd. discharging effluent in GIDA drain, pollution by M/s Yash Paper Mills, and pollution of Ami River by sewage generated in Gorakhpur, Sahjanwa, Unwal, Kauriram and Khajni, pollution by M/s Bajaj Hindustan Limited (Distillery Unit), illegal construction around Ramgarh lake and absence of sanitation,

violation of environmental norms by Baba Raghav Das Medical College, Gorakhpur. The Tribunal directed the State PCB to take necessary action for enforcement of law by closing the polluting activity and recover compensation on “polluter pays principle” and report to this Tribunal. With regard to encroachment action was required to be taken by Principal Secretary, Urban Development and report was to be given to this Tribunal. With regard to violation of medical norms, report was to be given by Health Department. Jal Nigam was to take action for STPs and GIDA for CETPs. Other actions were to be taken by Environments and Irrigation departments, Nagar Nigam and District Magistrate, Siddharth Nagar and compliance reports furnished. Against this said order, appeal of the State of UP has been dismissed on 01.07.2019 by the Hon’ble Supreme Court, being *Civil Appeal No. 5414/2019*. Compliance reports have not been received from all the concerned authorities except from UPPCB to which reference will be made later.

8. Order dated 07.03.2019 dealt with reports dated 08.02.2019 from the Committee with regard to the pollution caused by M/s Bharati Research and Breeding Farm, FL-27, Sector -13, GIDA, Gorakhpur, UP, M/s Mother Shree Dairy, D-1/3D, Sector 13, GIDA, Gorakhpur, UP, M/s Alkane Construction Equipment Pvt. Ltd., FL-24, Sector 13, GIDA, Gorakhpur, UP, M/s Burnet Pharmaceutical Pvt. Ltd., AL-1, Sector -13, GIDA, Gorakhpur, UP, M/s Gorakhnath Agro Industries Pvt. Ltd., FL-20/27, Sector-13, GIDA, Gorakhpur, UP, M/s Royal Savera Foods Pvt. Ltd., FL-28, Sector -13, GIDA, Gorakhpur, UP and M/s Dr. Sandhu Hatchery, FL-28, Sector -13, GIDA, Gorakhpur, UP. The same were referred to CPCB for comments with further directions to the state PCB to take action in the light of the said

reports in accordance with law. UPPCB has filed an action taken report which will be dealt with in the later part of this Order.

9. CPCB filed a report about the scale of compensation to be recovered which was considered vide order dated 29.04.2019. The report was directed to be acted upon by the State PCB. CPCB was to also deal with the remedial action against illegal drawal of groundwater. The compensation was to be revised based on actual period of violation. The Tribunal also dealt with report dated 18.04.2019 dealing with the transfer of forest land by the GIDA.
10. Finally, vide order dated 19.07.2019, reports with regard to pollution by K.M Sugar Mills, and Malvika Cement Private Limited and also pollution of River Gomti and Ramgarh Lake were considered. The reports were directed to be furnished to the CPCB and UPPCB for further action. Report on the issue of illegal construction in catchment area of Ramgarh Lake was directed to be dealt with by Urban Development Department of UP. The pollution of River Gomti, reported by the Committee, in pursuance of a separate order of the Tribunal in O.A 24/2018, was to be dealt with by the Chief Secretary, UP. The Chief Secretary was directed to file an action taken report for consideration in the matter of pollution of river stretches, i.e O.A. No. 673/2018. This aspect has to be considered in the said matter. The Urban Development Department was to file action taken report with regard to construction by GDA in catchment area of Ramgarh Lake which is still awaited. Review petition has been filed by GDA seeking liberty to place its view point before the Urban Development Department.

11. It may be mentioned that apart from the reports relating to the pollution of the waterbodies in question directly or indirectly and other connected issues referred to above, the same learned Judge was also overseeing the subject of compliance of municipal solid waste in terms of order of this Tribunal dated 16.01.2019 in O.A. No. 606/2018 (which also covers compliance of Bio Medical Waste Management Rules, 2016 (BMW Rules)). In this regard, reports have been filed which have to be dealt with. In the same matter, Chief Secretaries of all the States were required to remain present before this Tribunal with the status of compliance on several important aspects of environment. After their appearance, directions have been issued requiring them to monitor such compliances at their level at least once in a month and at the level of the Districts Magistrates, twice in a month. Reports of such monitoring are to be furnished by the Chief Secretaries periodically to this Tribunal.

12. We may now note the reports which have been put up for consideration:

I. Reports have also been filed by the Central Pollution Control Board (CPCB) and the State Pollution Control Board (SPCB) in pursuance of earlier orders, as follows:

A. Action taken report filed by the CPCB on 17.09.2019 (Pp 2503-2517) in respect of M/s Malvika Cement Pvt. Ltd., Raebareli, Uttar Pradesh.

B. Report filed by UPPCB dated 13.09.2019 (Pp 2535-2567) in respect of M/s K.M. Sugar Mills (Distillery & Sugar Units), Masaudha, Ayodhya.

- C. Action taken report filed by the UPPCB dated 23.09.2019 (Pp 2568-2590) in respect of M/s Yash Paper Ltd. and the conduct of the SDM, Ayodhya in dealing with the matter.
- D. Report of the UPPCB (Pp 2467-2471) on the subject of environmental compensation payable by M/s B.R.D. Medical College & Hospital (Nehru Chikitsalay), Gorakhpur.
- E. Report dated 17.07.2019 (Pp 2087-2092) on the subject of environmental compensation furnished by the UPPCB in respect of:
- i. M/s Bharti Research and Breeding Firm, FL-27, Sector-13, GIDA, Gorakhpur, UP
 - ii. M/s Mother Shree Dairy, D-1/3D, Sector-13, GIDA, Gorakhpur, UP
 - iii. M/s Alkane Construction Pvt. Ltd., FL-24, Sector-13, GIDA, Gorakhpur, UP
 - iv. M/s Burnet Pharmaceutical Pvt. Ltd., FL-1, Sector-13, GIDA, Gorakhpur, UP
 - v. M/s Gorakhnath Agro Industries Pvt. Ltd., FL-20/27, Sector-13, GIDA, Gorakhpur, UP
 - vi. M/s Royale Savera Foods Pvt. Ltd., FL-28, Sector-13, GIDA, Gorakhpur, UP
 - vii. M/s Dr. Sandhu Hatchery, FL-28, Sector-13, GIDA, Gorakhpur, UP Report dated 29.07.2019 (Pp 2115-2132) on the subject of sand mining in District Jalaun and Hamirpur, Uttar Pradesh based on complaint of one Anchal Dwivedi to the effect that such sand mining was resulting in crisis of underground water and contamination of

groundwater, e-flow of the river was adversely affected and damage was being caused to the river banks and river ecosystem.

II. Additional Report of the Committee dated 03.08.2019 (page no. 2446) in respect of M/s Yash Paper Mills Ltd. & Rajepur Villaage Darshan Nagar, Ayodhya, Faizabad, Uttar Pradesh on the subject of industrial pollution alongwith report of the CPCB with regard to Tihura Drain near Yash Paper Mills Ltd. (Pp 2440-2445)

III. Summary of discussions and decisions of the Committee on the subject of wetlands dated 18.07.2019 (Pp 2093-2113)

IV. Summary of discussions and decisions of the Committee on the subject of compliance of Solid Waste Management Rules by M/s Amko, Bulandshahr Road, Ghaziabad, Radisson Blue Hotel, Kaushambi, Ghaziabad, Uttar Pradesh, Cantonment, Ayodhya, Sand Mining in Jalaun and Hamirpur, discharge of effluents in Gomti, recovery of compensation from hotels and industries in terms of order of this Tribunal dated 17.01.2019, in O.A No. 24/2018 and storage of 10 crore liters of effluent by Sardar Nagar Distillery and river pollution at Pilibhit, Lakhimpur Kheri, Hardoi, Sitapur, Lucknow, Raebareli, Pratapgarh, Jaunpur, Ghazipur, River Sai, River Sai Tributary of River Gomti dated 29.07.2019 (Pp 2245-2256).

V. Reports of the Committee regarding solid waste management (including Bio-medical waste):

- a) dated 31.07.2019 (Pp 2135-2174) in respect of Agra;
- b) dated 31.07.2019 (Pp 2177-2244) in respect of Mathura;
- c) dated 31.07.2019 regarding Common Bio Medical Waste Treatment Facility (CBWTF) in respect of M/s JRR Waste

Management, Khasara No. 670, Mauja Dherera, Etmadpur,
District Agra, U.P. (Pp 2258-2273)

d) dated 31.07.2019 on the subject of Bio Medical Waste
Management at Sahara Hospital, Gomti Nagar, Uttar
Pradesh (Pp 2275-2310)

e) dated 31.07.2019 on the subject of Bio Medical Waste
Management at Dr. Ram Manohar Lohia Combined
Hospital, Vibhuti Khand Gomti Nagar, Lucknow, Mayo
Medical Centre, Vikas Khand-II, Gomti Nagar, Lucknow, St.
Joseph's Hospital, Vishal Khand-5, Gomti Nagar, Lucknow,
Nova (FORD) Hospital, Vikash Khand-1, Patrakarpuram,
Gomti Nagar, Lucknow, Uttar Pradesh. (Pp 2312-2363)

f) dated 01.08.2019 on the subject of Bio Medical Waste
Management at S.N. Medical College & Hospital District
Agra, Uttar Pradesh. (Pp 2305-2391)

g) dated 05.08.2019 on the subject of Bio Medical Waste
Management at (i) Super Specialty Pediatric Hospital & PG
Teaching Institute, Sector-30, Noida and (ii) Jaypee Hospital
(A Unit of Jaypee Healthcare Ltd.), Sector-128, Noida Uttar
Pradesh. (Pp 2394-2438)

13. We have heard learned Counsel representing applicant, learned
Counsel for CPCB, UPPCB, UP Jal Nigam and learned Counsel for
the Yash Paper Mill. We have also heard learned Counsel appearing
on behalf of the Gorakhpur Development Authority (GDA) in *Review
Application No. 47/2019* seeking review of order dated 19.07.2019.

14. While we propose to deal with the reports directly connected to the
pollution of water bodies and other connected issues at Gorakhpur,
or otherwise connected thereto, which have been dealt with in earlier

orders, other issues such as Solid Waste Management at places other than Gorakhpur, sand mining and pollution of River Gomti may have to be dealt with in the first instance by concerned administrative authorities and report furnished to this Tribunal for further consideration.

15. The reports relating to Solid/Bio-medical Waste Management indicate violations. Such violations need to be remedied and action taken as per law for compliance of statutory Rules, including recovery of compensation on Polluter Pays principle. In order to do so, we direct that reports relating to Solid Waste Management (including Bio-medical wastes) be forwarded to Chief Secretary, UP for appropriate further action and monitoring and a compliance report being filed in *O.A No. 606/2018 (Compliance of Municipal Solid Waste Rules by Uttar Pradesh)* within one month by e-mail. Further consideration of the matter by this Tribunal will be in the said case. As regards reports relating to sand mining are concerned, the same may also be forwarded to the Chief Secretary U.P for appropriate further action with a direction that action taken report be furnished in *O.A No. 360/2015 (dealing with the subject of Sand Mining)* within one month via e-mail. The reports mentioned above at items IV and V stand dealt with accordingly, as far as this order is concerned, pending further separate consideration as above.

16. We may now deal with reports at items I, II and III mentioned above.

I. Reports filed by the CPCB and the SPCB

- A. Action taken report filed by the CPCB on 17.09.2019 (Pp 2503-2517) in respect of M/s Malvika Cement Pvt. Ltd., Raebareli, Uttar Pradesh.

17. In view of report of the CPCB that the unit is functioning without consent to operate and it has also installed tubewells without NOC, SPCB may take appropriate further action by way of stopping illegal activity, recovering compensation and initiating prosecution in accordance with law.

18. The Chief Secretary, Uttar Pradesh may have it examined as to how electricity connections are given without consent to operate merely on consent to establish and why tubewells are being allowed to be dug without permission of the CGWA. An appropriate mechanism be evolved to remedy such illegalities in future anywhere in the State.

B. Report filed by UPPCB dated 13.09.2019 (Pp 2535-2567) in respect of M/s K.M. Sugar Mills (Distillery & Sugar Unit), Masaudha, Ayodhya.

19. The Distillery and Sugar units of the industry have been found to be non-compliant. In view of the facts found, the units need to be immediately closed by the SPCB under Section 31(1)(c) of the Water (Prevention and Control of Pollution) Act, 1974 in accordance with law in view of the recommendations of the joint Committee.

C. Action taken report filed by the UPPCB dated 23.09.2019 (Pp 2568-2590) in respect of M/s Yash Paper Ltd. and the conduct of the SDM, Ayodhya in dealing with the matter.

20. Effluents have been found to be discharged in the drain connecting the river for which the State Pollution Control Board (SPCB) has proposed environmental compensation of Rs. 40 lakhs. It is stated that earlier defaults by the unit were considered by this Tribunal in the year 2016 and now notice under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 has been issued by the SPCB proposing closure for the violations.

21. According to the farmers, bandh was erected to prevent polluting discharge damaging the agricultural fields. However, according to the SDM, the bandh was removed to check stoppage of flow of the drain. The drain needs to be kept clean and its flow need not be obstructed. An updated joint inspection report is required to be obtained from a joint Committee of CPCB and the SPCB which issue will henceforth be dealt with in *O.A. No. 399/2019, Mrs. Saraswati vs M/s Yash Paper Limited & Ors.*

D. Report of the UPPCB (Pp 2467-2471) on the subject of environmental compensation payable by M/s B.R.D. Medical College & Hospital (Nehru Chikitsalay), Gorakhpur.

22. The SPCB may proceed further in accordance with law in the light of its report.

E. Report of UPPCB dated 17.07.2019 (Pp 2087-2092) on the subject of environmental compensation to be recovered from said 7 industries in Gorakhpur.

23. The SPCB may proceed further in accordance with law.

II. Additional Report of the Committee in respect of M/s Yash Paper Mills Ltd. & Rajepur Villaage Darshan Nagar, Ayodhya, Faizabad, Uttar Pradesh pollution alongwith report of the CPCB with regard to Tihura Drain near Yash Paper Mills Ltd.

24. A joint Committee of CPCB and State PCB may take remedial action to ensure that the Tihura Drain is cleaned and freed from any industrial effluent or other pollutants. A status report in this regard may be filed as already directed above.

III. Discussions of the Committee relating to wetlands

25. A Joint Committee comprising the Secretaries, Urban Development, Environment and Forest and Irrigation, Flood Control Department, Uttar Pradesh, UPPCB and the CPCB may take further action in accordance with law, in the light of the report and furnish an action taken report before the next date. The Nodal Agency will be Secretary, Irrigation for coordination, compliance and furnishing report to this Tribunal. The GDA is at liberty to furnish its view point to the said Joint Committee. *Review Application No. 47/2019* stands disposed of.

List the matter for further consideration 09.12.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 27, 2019
Original Application No. 116/2014

