

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

**Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)**

Vikrant Kumar Tongad Vs. Union of India & Ors.

**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**

Present: Applicant	Mr. Raj Panjwani, Sr. Adv, Mr. Rahul Choudhary, and Ms. Meera Gopal, Advs. Mr. Anuj Bhandari, Adv.
Respondent no. 6,7 & 9:	Mr. Ravindra Kumar, Adv.
CPCB	Mr. Rajkumar, Adv with Ms. Niti Choudhary LA
CPWD & CGWA	Mr. B.V. Niren and Mr. Kshitij Mudgal Advs.
State of Haryana & HSPCB:	Mr. Anil Grover AAG Haryana along with Mr. Rahul Khurana, Adv. and Mr. Mishal Vij, Adv.
State of UP	Mr. Amit Tiwari, Adv.
NDMC	Ms. Puja Kalra, Mr. Bhuvan Mishra, Mr. Vinay Kumar Yadav and Ms. Sunita Yadav, Advs.
Noticee no. 12:	Mr. Apoorva Misra and Mr. Kunal Singh Advs.
Noticee no. 9:	Mr. Himanshu Tyagi Adv.
Noticee No.10	Mr. Sujoy Sur, Adv.
Noticee No.3	Mr. Rahul Chaprana, Adv.
Noticee No. 6:	Mr. Siddharth Sharma and Mr. Arjun Nanda, Advs. Ms. Sakshi Popli, Adv. for DJB
UPSIDC	Mr. A. S. Kulshrestha, Adv.
UPPCB :	Mr. Pradeep Mishra and Mr. Daleep Kr. Dhyani,
For Supertech Ltd.	Mr. R. Chandrachud, Mr. Mr. Nitin Thukral, Mr. Karan Sharma, and Mr. Rajnish Singh, Advs.
Noticee no. 21:	Mr. Parminder Singh and Mr. Anirudh Bhut, Advs.
Noticee no. 11:	Mr. M. Salim and Mr. Sadaak Salim, Advs.
Noticee no. 15 &17	Mr. Sudeep Kumar Shrotriya, Mr. Varun Kalia and Mr. Rahul Yadaav, Advs.
Noticee No.20	Mr. Manish Kumar, Adv.
Noticee no. 2:	Mr. Manish Sharma and Ms. Jigyasa Sharma ,Advs.
DLF (Noticee no. 6)	Mr. Pinaki Misra Sr. Adv, Mr. Utsav Trivedi and Mr. Navdeep Singh Hatta and Mr. Siddhant Gupta, Advs. Mr. Raj Kumar and Mr. Abhishek Paruthi, Adv. for Central Pollution Control Board Mr. Manish Sharma, MS. Jigyasa Sharma, Ms. Deepti Rajpal and Ms. Ratna Priya, Advs. Ms. Janmati Manikale, Adv. Mr. Alok Sangwan, Mr. Sunny Kadiyan and Mr. Utkarsh Srivastava, advs. Mr. Sumeer Sodhi, Adv. for Noticee no. 6 Mr. Janmali Manikale, Adv. for Noticee no. 12 Ms. Anshumn Ray, Mr. Debesh Panda, for Noticee no. 10 Ms. Amrita Panda, Adv. for Noticee no. 9 Mr. Mehul Parti and Mr. Niranjana Behra, Advs. For Noticee no. 23 Mr. Himanshu Tyagi, Adv. for Noticee no. 9 Mr. Anirudh Bhat, Adv. for Noticee no. 21 Ms. Sharmila Upadhyay, Mr. Sarvjit Pratap Singh and Mr. Krishna Kanodia, Advs. Ms. Antima Bazaz, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 14 July 26, 2018 A	1. The issue for consideration in these proceedings is

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regulation of drawing of underground water as also the steps for recharge of the ground water.

2. The Applicant alleges unauthorized exploitation of underground water for construction purposes by the developers or drawing of such water for commercial purposes such as sale of packaged drinking water by certain entities. It was stated that for sustainable ground water recharge equal to the pumping of the water is necessary so that there is no imbalance.

3. The Central Government has constituted the Central Ground Water Authority under Section 3 (2) of the Environment (Protection) Act, 1986 vide Notification dated 14.01.1997.

4. The National Water Policy 2002 provides for assessment of regulation of water and its recharge.

5. The Central Ground Water Authority has issued guidelines from time to time to regulate the extraction of ground water for drinking and domestic purposes and also for industries. The guidelines are based on the study of availability of the water in particular areas and need for maintain the balance. It lays down criteria for evaluation of proposal of request for ground water extraction w.e.f. 15.11.2012.

6. There are categories of area over exploited, critical, semi-critical and safe which enables the Authority to decide where to permit extraction of ground water and to what extent.

7. On 11.01.2013 this Tribunal granted them injunction against extraction of underground water by the builders in NOIDA and Greater NOIDA. Thereafter there

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were allegations of violation of the order of injunction. Individual Notices were issued to the alleged violators in pursuance of the order dated 28.02.2013.

8. The Central Ground Water Authority and Central Pollution Control Board were required to grant hearing to the Noticees in representative capacity vide the order 23.04.2013.

9. On 19.08.2013, Local Commissioners were also appointed to ascertain the factual aspects in view of the allegation that the orders of the Tribunal were not being complied with.

10. In the report of the local Commissioner, Notices to 12 entities were issued on 22.08.2013. On several dates issue of violation has been considered in the last five years.

11. On 23.04.2013 this Tribunal noted the report of the Central Ground Water Authority that there is depletion of ground water to the extent of 1 meter per liter and if the same goes on there may be great scarcity of drinking water. A direction was issued that while granting Environmental clearance for sanction of construction it must be ensured that CETP/ STP is installed so that water used in the project can be recycled and used for the horticulture and flushing in the same project and that there is dual pumping system.

12. On 13.10.2015 the Central Ground Water Authority, Central Pollution Control Board, DPCC, Uttar Pradesh Pollution Control Board, HPPCB, NOIDA Authorities, HUDA and Yamuna Expressway Industrial Development Authority were directed to constitute teams to carry out

<p>Item No. 14 July 26, 2018 A</p>	<p>inspection of construction sites.</p> <p>13. On 30.11.2015 further directions were issued to give effect to the order dated 08.09.2015 by clarifying that the team should be headed by the representative of Central Ground Water Authority. Inspection reports were directed to be placed before the tribunal vide the order dated 05.01.2016. Some of the reports have been filed are available. The same were taken up for consideration.</p> <p>14. On 06.09.2017, a suggestion to decide the norms to determine the environmental compensation for extraction of ground water was recorded. Vide order dated 25.10.2017, the Central Ground Water Authority was required to furnish information about the factual aspects of quantity of ground water already extracted and extent to which the same was permitted to be extracted. Accordingly, report was filed by the Central Ground Water Authority which was taken for consideration on 31.01.2018. A direction was issued to the Authorities in Delhi and NOIDA to assess the extent of construction which could be the basis of determine the ground water used in absence of clear use.</p> <p>15. Certain Affidavits have been filed with regard to the inference about the extent of extraction of ground water. In its compliance report dated 31.05.2018 the Senior Town Planners, Department of Country Town and Planning, State of Haryana has suggested a formula for tentative calculation of water consumption for constructions which broadly is 0.75 kilo litre per sqm to 1 kilo litre per sqm. Actual requirement was found to be 2 kilo litre per sqm. for the building upto 20 stories if the</p>
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number of storeys is more, the use of water per sqm. Was more. On that basis it is suggested as follows:

Sr. No	Building / Tower	Factors for Water consumption (In Litres per sqm. of build up area)
1.	Buildings upto 5 stories	750 litres per sqm.
2.	Buildings 5 to 10 stories	1000 litres per sqm.
3.	Buildings 10 to 20 stories	1500 litres per sqm.
4.	Buildings above 20 stories	2000 litres per sqm.

16. When the matter taken up for hearing today, learned counsel for the parties submitted that the concern for ground water depletion is not limited to Delhi or NCR. This Tribunal may, instead of going into the issue limited to NCR region, consider various aspects of the said issue comprehensively including the existing mechanism for regulation of ground water extraction as well as recharge of ground water.

17. On the one hand there is the need for the water which is the basic necessity, on the other compulsion of restricting its use in view of the fact that the availability of water is inadequate and level of water is depleting atleast in certain areas as per the study of Central Ground Water Authority. The Policy has to be rational, meeting the basic need of everyone and at the same time preserving the water for the future generation by preventing wastage or preventable use based on the principle of Sustainable Development. Incidental to such policy is the issue of punitive measures and recovery of damages for those who have extracted ground water in the past who go on doing unauthorised/illegal extraction, leading to alarming depletion in the ground water. Further question will be

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steps to be taken to tap all relevant sources specially the rain water harvesting, persevering the water bodies etc.

18. Our attention has been drawn in this regard to the guidelines for the criteria for evaluation of proposal for extraction of ground water w.e.f. 16.11.2015. These guidelines provide for notified and non-notified areas depending upon the availability of water and criteria adopted for permitting extraction and the area where there is water scarcity. Learned counsel for the Applicant submits that further guidelines have been prepared though the same may be at the draft stage.

For this purpose, we may direct an Expert from Ministry of Water of Resources to remain present on the next date with the latest updates.

19. We also direct that copy of this order be placed on the website of the NGT to enable all stake holders to give their views.

List for further consideration on 29th August, 2018.

....., CP
(Adarsh Kumar Goel)

.....,JM
(S.P. Wangdi)

.....,EM
(Dr. Nagin Nanda)

26.07.2018