

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH NEW DELHI

IA 867& 868

IN

EA 36/2023

IN

OA 329/21

IN THE MATTER OF

DEBANSHU BOSE

APPLICANT

VERSUS

AGRA DEVELOPMENT AUTHORITY & ORS

RESPONDENT

AND IN THE MATTER OF

---

- 1- MAHENDRA KUMAR SARASWAT
- 2- DORI LAL YADAV

**ADDITIONAL DOCUMENTS FILED ON BEHALF OF AFOREMENTIONED INTERVENERS IN IA 867& 868.**

That the above titled **OA** was filed against failure of state authorities to prevent discharge of sewage on open land from Nalanda Town Colony, a housing project developed by **Nalanda Builders and Developers India Limited Agra**.

Hon'ble Tribunal held **ADA** primarily responsible for this failure, directed to take remedial measures in addition to imposition of repeated penalties.

Details of Non compliance of orders of Hon'ble Tribunal dated **18/01/23** since already submitted in **EA 36/2023 and IA 867& 868**, hence not repeated those for the sake of brevity.

The applicants crave liberty to raise additional submissions for proper adjudication in the case if need arises during the course of argument.

**PENDENCY OF INTERNAL DEVELOPMENT WORKS BY PROJECT PROPONENT, NALANDA BUILDERS AND DEVELOPERS INDIA LIMITED AGRA IN NALANDA TOWN COLONY SHAMSABAD ROAD AGRA AND FAILURE OF COMPETENT AUTHORITY ADA FOR NON-COMPLETION THEREOF.**

That completion of internal development works including **STP** is primary and legal responsibility of **builder/ project proponent** and to get all these internal development works completed legal liability of competent authority/ Development Authority, **ADA** in this case.

**Nalanda Builders and Developers India Limited** established said colony and didn't complete many internal development works, most of these works were directly related to protection of environment such as **STP, WATER HARVESTING, WATER TREATMENT PLANT, SOLID WASTE MANAGEMENT, SOLAR PENALS, FIRE HYDRANTS, DALABGHAR ETC.**

More than **500** complaints on these issues were sent to **ADA** and other higher officers of **HOUSING AND URBAN DEVELOPMENT and ENVIRONMENT** but of no avail.

One **WRIT 58986/2016** was filed on these issues in **HON'BLE HIGH COURT ALLAHABAD** and on **15/12/2016 HON'BLE HIGH COURT** directed to get all these works completed in accordance with provisions of **section 33 of URBAN PLANNING AND DEVELOPMENT ACT 1973.**

Despite complaints in hundreds on these sensitive issues and orders of **HON'BLE HIGH COURT** neither **BUILDERS** nor **ADA** bothered for completion thereof.

When sewer problem became intolerable in colony, **OA 329/21** was filed in **HON'BLE TRIBUNAL**, orders of **HON'BLE TRIBUNAL** dated **24/03/22 & 18/01/23** have not yet been complied with by **builders/ ADA**, even after imposition of repeated penalties by **HON'BLE TRIBUNAL** on **ADA** and by **UPPCB** on builders.

**STP** is undersized, its fitness has not yet been certified by expert agency and it's not being operated by builder whereas maintenance of common facilities including **STP** in project till issuance of completion certificate by **DEVELOPMENT** Authority is responsibility of **Builder**.

**ADA** has been issuing only **Formal** notices to builders for maintenance of common facilities without any **coercive** action thereon.

Copy of latest notice issued to builder by **ADA** dated **17/10/23** is annexed herewith as **ANNEXURE NO 1.**

## **CASUAL ATTITUDE OF OFFICIALS OF ADA / HOUSING AND URBAN DEVELOPMENT AND UPPCB**

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That due to non compliance of orders of Hon'ble **NGT** and Hon'ble **APEX COURT** by **Builder** and **ADA**, Intervener no 2 sent extensive letter to various officers of **ADA/ Housing and**

**Urban development and UPPCB on 30/05/24**, requesting them to ensure compliance of orders of Hon'ble courts, existing provisions and right to life.

Despite long elapse, no progress has been made into the matter and ground position is more or less same.

Copy of aforementioned letter dated **30/05/24** is annexed herewith as **ANNEXURE NO 2**.

It is therefore humbly and most respectfully requested to please allow to annex these additional documents and keep them on record in the interest of justice.

**DEPONENT**



1- MAHENDRA KUMAR SARASWAT

**DEPONENT**



2- DORI LAL YADAV

## आगरा विकास प्राधिकरण, आगरा

पत्रांक:- 57/डी/मवन/2023

दिनांक:- 17/10/2023

प्रेषक,

प्रमुख नगर नियोजक,  
आगरा विकास प्राधिकरण,  
आगरा।

सेवा में,

1. श्री राधेश्याम शर्मा,  
105, फ्रेण्ड्स विहार पैराडाइज, खन्दारी,  
आगरा।
2. श्री अंकुर दुबे  
निदेशक नालन्दा बिल्डर्स एण्ड डवलपर्स (आई) लि०,  
03, गनेश नगर, लॉयर्स कालोनी,  
आगरा।

**विषय:- नालन्दा टाउन कॉलोनी, शमशाबाद रोड, आगरा के सम्बन्ध में।**

महोदय,

कृपया उपरोक्त सम्बन्ध में अवगत कराना है कि आपके द्वारा नालन्दा टाउन कॉलोनी, शमशाबाद रोड, आगरा का ले-आउट सं०-45/बीएफटी/04/04-05 दिनांक 27.10.2009 को स्वीकृत कराया गया था। निष्पादित अनुबंध के अनुसार कॉलोनी के सभी आन्तरिक विकास कार्य पूर्ण कर कॉलोनी अनुसंधान हेतु आर०डब्लू०ए० गठित कराकर हस्तान्तरित करनी थी, किन्तु आपके द्वारा कॉलोनी के विकास कार्य पूर्ण न किये जाने के कारण प्रोपर्टी बायर इन्ड्रेस्ट्स वेलफेयर एसोसिएशन द्वारा मा० उच्च न्यायालय में रिट याचिका सं०-58986/2016 प्रोपर्टी बायर इन्ड्रेस्ट्स वेलफेयर एसोसिएशन बनाम उ०प्र०राज्य व अन्य दायर की गई थी। मा० उच्च न्यायालय द्वारा पारित आदेश दिनांक 15.12.2016 के अनुपालन में उपाध्यक्ष, आगरा विकास प्राधिकरण द्वारा पत्रांक-45/बीएफटी/04/04-05 दिनांक 30.03.2017 द्वारा आदेश जारी किये थे, जिसमें आपको अपूर्ण आन्तरिक विकास कार्यों का उल्लेख करते हुए पूर्ण कराने का निर्देश दिया गया था, किन्तु आपके द्वारा कॉलोनी के अवशेष विकास कार्यों को पूर्ण कराने में कोई रुचि नहीं ली गई थी। जिसके कारण आपके विरुद्ध बंधक भूखण्डों के मूल्य के बराबर आर०सी० निर्गत की गई थी। इसके बाद भी आपके द्वारा कॉलोनी के आन्तरिक विकास कार्य पूर्ण कराकर कॉलोनी रेजीडेन्ट वेलफेयर एसोसिएशन को हस्तान्तरित नहीं की गई।

श्री देवांशु बोस द्वारा मा०राष्ट्रीय हरित अधिकरण में मूल एप्लीकेशन सं०-329/2021 श्री देवांशु बोस बनाम आगरा विकास प्राधिकरण गठित की गई, जिसमें मा०राष्ट्रीय हरित अधिकरण द्वारा पारित आदेश दिनांक 24.03.2022 को रू० 25.00 लाख तथा दिनांक 18.01.2023 को रू० 2.00 करोड़ का आर्थिक दण्ड आगरा विकास प्राधिकरण पर आरोपित किया गया था। उक्त दण्ड आपके द्वारा अनुबंध के अनुसार कार्य पूर्ण न करने के कारण ही आरोपित किया गया था, जिसके लिए आप पूर्णतया उत्तरदायी हैं। आपके द्वारा कॉलोनी में स्थापित एस०टी०पी० को नियमित रूप से संचालित न करने की शिकायतें निरन्तर प्राप्त हो रही हैं। आपके द्वारा अभी तक कॉलोनी की रेजीडेन्ट वेलफेयर एसोसिएशन का भी गठन नहीं किया गया है, जो कि आपका उत्तरदायित्व है। कॉलोनी के विकास कार्य पूर्ण किये बिना तथा पूर्णता प्रमाण पत्र प्राप्त किये बिना आपके द्वारा कॉलोनी में अध्यासन करा दिया गया है जो नियम संगत नहीं है। आपके द्वारा बरती गयी शिथिलता के कारण न केवल प्राधिकरण की छवि धूमिल हुई है बल्कि कॉलोनीवासियों को भी असुविधा का सामना करना पड़ा है।

प्रमाणित

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आपको पुनः निर्देशित किया जाता है कि अनुबंध एवं मा0 उच्च न्यायालय द्वारा पारित आदेशों के क्रम में उपाध्यक्ष आगरा विकास प्राधिकरण द्वारा पारित आदेश दिनांक 30.03.2017 तथा मा0राष्ट्रीय हरित अधिकरण द्वारा मूल एप्लीकेशन सं0-329/2021 श्री देवांशु बोस बनाम आगरा विकास प्राधिकरण में पारित आदेशों का अनुपालन सुनिश्चित करते हुए अवशेष आन्तरिक विकास कार्य पूर्ण कराकर रेजीडेन्ट वैलफेयर एसोसिएशन का गठन करते हुए उन्हें हस्तान्तरित करना सुनिश्चित करें, जब तक कॉलोनी हस्तान्तरित नहीं की जाती है तब तक कॉलोनी के समस्त अनुरक्षण के कार्य करने तथा एस0टी0पी0 के संचालन का उत्तरदायित्व आपका है।

कृपया उपरोक्त का अनुपालन शीघ्र सुनिश्चित करें।

भवदीय

प्र0मुख्य नगर नियोजक *de*

प्रतिलिपि-

2  
17/10/23  
7/10/23  
18/10/23

1. उपाध्यक्ष महोदय को सादर अवलोकनार्थ।
2. सचिव महोदय को सादर अवलोकनार्थ।
3. मुख्य अभियन्ता, आ0वि0प्रा0, आगरा को इस आशय से कि मा0राष्ट्रीय हरित अधिकरण द्वारा पारित आदेशों के क्रम में प्रश्नगत कॉलोनी के मद में कितनी धनराशि व्यय की गई है, अवगत कराने का कष्ट करें।
4. प्रमारी विधि को इस आशय से कि प्रकरण के सम्बन्ध में विधिक कार्यवाही पर अब तक हुए प्राधिकरण व्यय से अवगत कराने का कष्ट करें।

प्र0मुख्य नगर नियोजक *de*

2  
17-10-23

प्रमाणित

9  
आगरा विकास प्राधिकरण  
आगरा

5:52

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ensure compliance of orders  
of Hon'ble NGT New Delhi and  
Hon'ble Apex court New Delhi in  
OA 329/21( IA, 52,53,54,312&313) /  
EA 36/2023(IA 867&868) & CIVIL  
APPEAL 3546/23( IA 51387&51390)  
respectively. ➤ Inbox

**Dori Lal Yadav** 21 May

to RO, ceo4, ms, ms, psf... ^

**From** Dori Lal Yadav · dlyadavconcor@gmail.com**To** RO Agra · roagra@uppcb.com

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**Cc** judicial-ngt@gov.in**Bcc** cmup@nic.in

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**Date** 21 May 2024, 5:07 pm

**Subject: Humble request to ensure compliance of orders of Hon'ble NGT New Delhi and Hon'ble Apex court New Delhi in OA 329/21(IA, 52,53,54,312&313) / EA 36/2023(IA 867&868) & CIVIL APPEAL 3546/23(IA 51387&51390)**

Dated 30.05.2024

Respected/ Hon'ble Sirs,

Hon'ble NGT New Delhi vide its order dated 24/03/22 in OA 329/21 directed ADA to construct STP in Nalanda Town Colony Shamshabad Road Agra, extract of Para 7 and 8 of order dated 24/03/22 on page no 13 are reproduced here for kind reference.

**PARA-7- " From the above. it is seen that township in question appears to have been developed without requisite infrastructure particularly sewerage system which should not have been permitted. "**

**PARA 8- " In view of the above further remedial action be now taken to ensure that proper sewerage system is in place connected to an appropriate STP"**

From Para 7 of above order, it is evident that Hon'ble NGT accepted failure on the part of ADA, Further in Para 8 of cited order Hon'ble NGT directed to take remedial action and ensure that proper sewerage system is in place connected to an appropriate STP.

In this regard it is to emphasize here that there is no proper sewerage system connected to STP in the colony and even after above order nothing has been done by builder/ ADA to improve it or to establish proper sewerage system.

**In same Para 8 on page no 13 Hon'ble NGT further noted on line no 2 to 4 as under**

**" This order is without prejudice to the coercive measures which may be taken by the state PCB, in accordance with law"**

Provisions of environment acts and water prevention and control of pollution act empowers state PCB to take coercive measures against erring individuals/ institutions/ departments, it is highly surprising that proper attention on directions of Hon'ble NGT to initiate coercive action against erring has not been paid.

Kind attention is also invited to Para 9 of said order on page no 14 on, line no 9 to 11 which is as under

**"They may also apprise the Tribunal about remedial action with regard to similar situations at other locations in Agra and other cities in the state of UP"**

In this connection it seems fit to emphasize here that there may be more or less same situation of sewerage system in almost all colonies of Agra and in other cities, what remedial action has been taken to ensure proper sewerage system there may only be clear after submission of report thereon by UPPCB in Hon'ble courts???

As per cited directions of Hon'ble NGT, ADA/ Other development authorities/ Industrial development authorities have to ensure establishment of proper sewerage system which is connected to appropriate STP, it is to be checked by UPPCB and overseen by higher authorities???

In compliance of order dated 24/03/22 of Hon'ble NGT, ADA issued tender in May 2023 for construction of STP in Nalanda Town Colony which couldn't be materialized, reasons thereof are best known to ADA, finally STP got constructed by Nalanda Builders through their work order with consent of ADA.

STP in Nalanda Town Colony Shamshabad Road Agra has been constructed by Riyasa company New Delhi. Neither Parameters of project report, submitted by builder in ADA, and vital part of project approval, have been complied with by Riyasa company/ builder/ ADA nor terms and conditions of tender issued by ADA for construction of STP in 05/2023 included in work order, given to Riyasa company by builder, resulting into substandard and undersized construction of STP in said colony.

Repeated verbal and written complaints were made to ADA to ensure quality of material and machinery, being used in construction of STP which couldn't attract any attention of ADA officials who appear used to avoid their statutory obligations.

STP is non-functional and untreated sewerage and waste water is being discharged continuously in open which is token of continuance of **violation of provisions of water prevention and control of pollution act 1974** and warrants imposition of proper penalties as per provisions of continuance of pollution.

In this regard kind attention is also invited to order of **Hon'ble NGT New Delhi dated 18/01/23 on page no 3 to 5** Wherein Hon'ble NGT New Delhi has noted **draft notification of MOEF&CC dated 25/02/22** in context with sewage and solid waste management.

It is crystal clear from **clause 3** of cited draft notification that STP has to be installed with capacity to treat 100% waste water whereas STP, constructed in Nalanda Town Colony Shamshabad Road Agra is undersized. It's capacity is **200 KLD** Whereas as per project report, capacity of STP to be constructed in said colony must be **351 KLD**, it's not understood as to how undersized and substandard STP will treat 100 % waste water and sewage of colony???

It's humbly requested to please refer **item no 15, line no 11 to 13 on page no 5 of order of Hon'ble NGT New Delhi order date 18/01/23 in OA 329/21** Wherein it has been clearly mentioned that adequacy of STP shall be certified by an independent expert and report in this regard shall be submitted to the authorized agency.

Hon'ble Apex Court has also directed in its **order dated 04/12/23 in Civil Appeal no 3546/23** to ensure that established STP satisfies requirements as per law.

It's highly surprising that neither orders/ directions of Hon'ble NGT nor Orders/ directions of Hon'ble APEX COURT New Delhi have been complied with by builder/ ADA.

Adequacy and fitness of STP constructed in colony has not yet been ensured by builder/ ADA which is not only **violation of provisions of MOEF&CC, water prevention and control of pollution act 1974 but token of violation of orders/ directions of Hon'ble NGT and Hon'ble APEX COURT.**

Violation of parameters of project report, existing provisions and orders/ directions of Hon'ble courts is token of fearlessness of builder and ADA, lack of proper action by Pollution Control Board on sensitive issues also seems surprising??

It seems germane to mention here that ADA and builders have been repeatedly penalized by Hon'ble courts for violation of statutory obligations, but there seems no change in their attitude.

In this regard kind attention is drawn to **Para 15 of order of Honourable NGT dated 18/01/23 on line no 10 to 12** which is reproduced hereunder:

**"ADA will be well advised to change its attitude and perform its statutory duties for protection of environment and enforcement of rule of law"**

Is there compliance of orders and directions of Hon'ble courts?

It's also worth mentioning here that builder and ADA have not only violated provisions of environment acts, water prevention and control of pollution act but continuously violating **provisions of Agreement, signed between builder and ADA which are legally binding on them, provisions of UP APARTMENT ACT 2010, and UP URBAN PLANNING AND DEVELOPMENT ACT 1973.**

It wouldn't be out of place to mention here also that builder has not yet deposited penalty of Rs 21398438/ imposed on him by UPPCB in compliance with orders of Hon'ble NGT New dated 24/03/22 for which RC has allegedly been issued against builder though at belated stage??

Again, for continuance of pollution, UPPCB has imposed fresh penalty on builder for Rs 1054687.50 which seems inappropriate and for shorter period because pollution has been in continuance since filing of said cases and still continuing.

Mention of this fact also seems relevant here that builder and ADA both have not complied with orders/ directions of Hon'ble NGT and Hon'ble APEX COURT only but also have not complied with directions of Hon'ble High Court Allahabad in **Writ C 58986/2016** Wherein Hon'ble High Court Allahabad directed VC ADA to fulfil its legal liabilities as per **section 33 of UP URBAN PLANNING AND DEVELOPMENT ACT 1973** and get all internal development works of colony completed, these works despite directions of Hon'ble High court Allahabad are still pending.

It' also seems relevant to mention here that non completion of STP and other internal development works (**water harvesting, water treatment plants, solid waste management, , dalab ghar, solar panels, fire hydrants etc**) might be more or less same not only in 64 colonies which are subject to cited cases but also in other colonies of Agra, may be in almost all colonies/ most of the colonies of province as stated earlier in foregoing paras. it warrants proper scrutiny and investigation by UPPCB for the sake of proper protection of environment and effective check on pollution.

Hon'ble NGT and Hon'ble APEX COURT in their various orders have repeatedly directed to ensure compliance of provisions of protection of environment and initiate suitable action against erring officials of concerned department which now seems inevitable to ensure compliance. In this regard it is requested to please refer **line no 6 & 7 of order dated 24/03/22 on page no 5** which is as under:

**"ADA is free to recover the same from its erring officers as per law"**

Hon'ble NGT vide these directions gave liberty to ADA to recover penalty amount of Rs 2500000/ from erring officers, had these directions been complied with honestly, and cited compensation amount had been recovered from concerned officers, recurrence of continuance of avoidance of statutory obligations could have been avoided and probably there would have been no further penalty on ADA.

In this context extract of another **order of Hon'ble NGT in OA 200/2024 dated 22/08/2019** also seems relevant to quote here which is on **page 12 of Hon'ble NGT order dated 24/03/22** as under

**" Where ever there are violations, adverse entries in the ACR's must be made in respect of such identified officers."**

Repeated directions are being issued by Hon'ble courts to fix up responsibility of erring officials, identify such erring officials and take punitive and penal actions against such officers, are these being complied with on ground???

Non-compliance of these directions is also one of the main causes of non-compliance of orders of Hon'ble courts /provisions, and violation of rule, regulations and laws.

It seems indispensable to quote observations of Hon'ble Supreme Court on line no 25& 26, page no. 11 of order of Hon'ble NGT order date 24/03/22 which is as under:

"Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all"

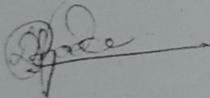
Further observation on page no. 12 on line no 12 to 20 of same order as under

" ..... If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. Such blatant misuse of properties at large scale cannot take place without connivance of the officers concerned. It is also a source of corruption, nepotism and total apathy towards the rights of the citizens. "14

The aforementioned observations of Hon'ble Supreme Court are very serious in nature and casual attitude towards these observations is more serious.

In view it is humbly requested to please do needful to ensure compliance of orders of Hon'ble courts and existing provisions so that damage to environment may not continue and adversely affect right to life.

Regards.



Dori Lal Yadav  
277 A, Nalanda Town colony,  
Shamshabad Road, Agra 282001.