

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

EXECUTION APPLICATION NO. : 16 OF 2019

IN

ORIGINAL APPLICATION NO.: 153 OF 2014

IN THE MATTER OF:Indian National Trust for Art and
Cultural Heritage

...Applicant

Versus

Government of NCT of Delhi & Ors.

...Respondents

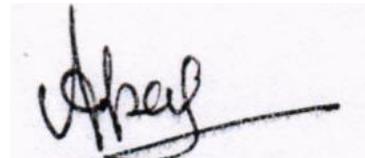
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Through

Place: 19.01.2022

Dated: DELHI


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BRIEF SUBMISSIONS ON BEHALF OF THE APPLICANT

1. That this Hon'ble Tribunal, vide Order dated: 17.06.2021, in the above-titled Execution Application had observed,

"8. Needless to say, the water quality of the lake is the index of pollution level. There is need for field survey to find out ground status of the water quality. Information available on the flora fauna of water body including a study of CPCB carried out in 2003 can also be utilised. Peri-urban areas of Delhi, Haryana towns and settlements around are the possible cause of endangering the lake. In above circumstances, we consider it necessary to direct Chief Secretaries of Haryana and Delhi to coordinate with the concerned departments to ensure further remedial action expeditiously which will include ascertaining

status of existing water quality, preventing entry of untreated sewage into the lake, preventing and removing encroachments and other remedial actions. They may also take a report from the concerned Police whether action is taken and can be taken by the police against the violators under Section 277 IPC, which is a 6 cognizable offence. They may remain present in person by Video Conference on the next date with the status of compliance for interaction with the Tribunal. They may also inform the concerned senior officer of the police to remain present in person before this Tribunal on the next date for interaction on the subject.

List for further consideration on 04.10.2021.

A copy of this order be forwarded to the Chief Secretaries of Haryana and Delhi by e-mail for compliance."

2. That as per the Action Taken Report, dated: 13.12.2021, submitted by the CPCB before this Hon'ble Tribunal, it was decided in the meeting held on 8.10.2021 with the Ministry of Environment, Forests and Climate Change (MOEF & CC) that Haryana and Delhi would submit their Brief Documents to the MOEF & CC by 31.10.2021 subsequent to which the Wetland Division of the MOEF & CC shall finalise a draft Notification of Najafgarh Wetland, which is a transboundary wetland, by 15.11.2021. The Report further proposes to implement the Framework for Integrated Environment Management Plan for

Najafgarh Jheel, as approved by the CPCB and MOEF & CC, in a time bound manner by Delhi and Haryana.

The relevant portions of the Report, dated: 13.12.2021, submitted by the CPCB before this Hon'ble Tribunal, are reproduced as under:

"2. Action taken by Ministry of Environment, Forest & Climate Change (MoEF&CC) and Central Pollution Control Board (CPCB) For ensuring compliance to Hon'ble NGT order dated 17.9.2020, Wetland Authority of Delhi constituted an Expert Committee vide order no F.1(15)/DPGS/CC/2018-19/828-836 dated 29.10.2020. Wetland Authority of Delhi communicated Environmental Management Plan (EMP) prepared by the Expert Committee to CPCB vide letter dated 22.12.2020. Subsequently, in compliance to Hon'ble NGT order dated 17.9.2020, CPCB filed its report before Hon'ble NGT after taking concurrence of MoEF&CC on 11th March 2021 with remarks on the Environment Management Plan (EMP) submitted by the Delhi State Government.

In compliance to Hon'ble NGT order dated 17.9.2020, Directorate, Environment & Climate Change, Government of Haryana prepared and submitted a draft Environment Management Plan (EMP) of Najafgarh Jheel for Haryana side vide email dated 27.9.2021 to CPCB & MoEF&CC. On receipt of Environment 2 Management Plan (EMP) from Haryana State

Government, CPCB requested MoEF&CC to convene a review meeting in order to review the Environment Management Plans (EMPs) for restoration of Najafgarh Jheel submitted by Delhi and Haryana States vide letter dated 29.09.2021. Subsequently, a meeting was held under the Chairmanship of Joint Secretary, MoEF & CC on 08.10.2021 with the States of Haryana and Delhi. Upon deliberations, following decisions were taken:

1. Brief Documents of the respective parts of the wetlands to be communicated to MoEF & CC by both Haryana and Delhi States by 31st October, 2021.

2. On receipt of the same, Wetland Division, MoEF&CC proposed to finalise a draft notification of Najafgarh Wetland being Transboundary Wetland, in 15 days i.e., by 15th November, 2021.

3. A three-member committee comprising of Sh. Manu Bhatnagar, INTACH, Shri. Rajasekhar Ratti, MoEF&CC and Shri. J. Chandra Babu, CPCB to review and prepare integrated EMP based on the EMPs submitted by both States by 31st Oct, 2021 so that the same could be apprised to Hon'ble NGT before the next date of Hearing i.e. 24th Nov, 2021 after taking views from both the States. Thereafter, along similar lines, scope and Terms of Reference for preparation of Integrated Management Plan of

Najafgarh Jheel for restoration and rejuvenation based on the recommendations of hydrological study, brief document, urban watershed, masterplans of both Gurgaon and Delhi, EMP, De-siltation to enhance water holding capacity, wetland design for in-situ treatment of treated sewage water, seasonal agriculture at higher contours, rehabilitate the natural ecological characteristics of the wetland with specific goals and management objectives, needs to be taken up.

...

3. Proposed action by MoEF&CC and CPCB

(i) Wetland Division, MoEF&CC proposed to notify "Najafgarh Jheel" as Najafgarh Wetland being transboundary wetland, based on the brief documents submitted by both Delhi & Haryana States to MoEF&CC.

(ii) A Framework for Integrated Environment Management Plan for Najafgarh Jheel as approved by MoEF & CC to be implemented in a time bound manner by Delhi and Haryana States within the jurisdiction of the respective States.

..."

3. That the draft Environment Management Plan for the Najafgarh Jheel, appended as Annexure R-1 to the Report, dated: 27.09.2021 submitted by the Special Secretary, Environment and Climate Change Department, Government of Haryana, has stated that the Najafgarh Jheel is a critical natural infrastructure for the region, buffering floods, treating wastewater, recharging groundwater and providing habitat to numerous plant and animal species. The report further admits that decimation of the Jheel has exposed the neighbouring settlements in Haryana and NCT of Delhi to high risks of pluvial flooding and reduced groundwater levels. The report further warns that recent constructions within the Jheel area, while impeding natural wetland functions, are precarious owing to high seismicity and liquefaction within the region. Realizing the need to notify the Najafgarh Jheel, under the Wetlands (Conservation and Management) Rules, 2017, the report notes that the Notification, thereof, is an imperative under several judicial directions and shall act as a safeguard against the high development threats from urbanization in the region. The report specifically points out that development activities within the 210 m amsl (metres above mean sea level) and 211 m amsl are most likely to adversely influence the wetland functioning and to be considered as 'no construction buffer zone or zone of influence', as per the

provisions of the Wetlands (Conservation and Management) Rules, 2017.

The relevant parts of the Report are reproduced as under:

"Executive Summary

...

2. Najafgarh Jheel, a trans-boundary water body shared between Haryana and NCT of Delhi, is a critical natural infrastructure for the region, buffering floods, treating wastewater, recharging groundwater and providing habitat to numerous plant and animal species. The high ornithological value of the Jheel is indicated by the presence of nearly three hundred bird species, including several threatened ones while nearly one hundred are winter visitors which visit this lake during winter and come from as far as Eurasian region-the rest are resident Indian or local migratory bird species. The jheel supports a good population of pisces, mollusks and gastropods and that is why the jheel supports a good population of avifauna.

3. Despite being the source of several benefits and sustaining habitats of diverse species, Najafgarh Jheel has been highly fragmented and transformed, used as a waste receptacle, and infested with invasive species. The Sahibi River, to which

Najafgarh Jheel was the natural floodplain, has been converted virtually into a drain. The decimation of, Jheel has exposed the neighboring settlements in Haryana and NCT of Delhi to high risks of pluvial flooding and reduced groundwater levels. Recent constructions within the Jheel area, while impeding natural wetland functions, are precarious owing to high seismicity and liquefaction within the region.

4. *Conservation and wise use of Najafgarh Jheel is an imperative for sustainable urbanization of the NCT of Delhi and Haryana region, while also securing the role of wetlands as a part of critical ecological networks, key being, a part of the migration corridor in the Central Asian Flyway.'the Government of India, through its numerous policies and programmes, is desirous of mainstreaming full range of ecosystem services and biodiversity values of wetlands within developmental planning at various levels."*

(Emphasis supplied)

5. That the said report submitted by the Special Secretary, Environment and Climate Change Department, Government of Haryana, has expressly recommended Notification of the Najafgarh Jheel under the Wetlands (Conservation and Management) Rules, 2017 and the boundary demarcation

thereof, using geo-tagged pillars, along with the constitution of Najafgarh Wetlands Committee.

The relevant parts of the said Report read as under:

" Implementing Wetlands (Conservation and Management) Rules, 2017

5. Notifying Jheel under the Wetlands [Conservation and Management) Rules, 2017 is an imperative under the several judicial directions, especially Supreme Court order of February 8, 2017. The notification will also act as a safeguard against the high development threats from urbanization in the region. The flood cushioning, groundwater recharge and waste treatment functions of the Najafgarh Jheel acquire high significance in the face of increasing water stress, and intensity and frequency of extreme events due to climate change and other stressors.

...

6. Development activities within the contours level 210 m and 211 m are most likely to adversely influence wetland functioning and to be considered as 'no construction buffer zone or zone of influence' as per provisions of the Wetlands (Conservation and Management) Rules, 2017. The area is also a hazard zone for construction due to high seismicity and soil liquefaction risks. [Refer map I for extent of wetland and zone of influence]."

...

Recommended Management Actions:

9. Management of Najafgarh Jheel should be based on the principle of 'wetland wise use' - maintenance of ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development. Wise use of Najafgarh Jheel will be realized when the capability of the wetland to provide its full range of ecosystem services and sustain rich biota is maintained now as in future, on pathways that are aligned with ecosystem principle and guided by sustainable development. Management measures directed at preventing further degradation of Najafgarh Jheel, however, may not be sufficient, and thereby should in the long run culminate into ecological restoration to assist recovery of biodiversity and ecosystem functioning.

Immediate Measures (within First Year)

. Notification under Wetlands (conservation and Management Rules, 2017

. Boundary demarcation using geo-tagged pillars

. Constitution of Najafgarh Wetlands Committee to:

- I. Oversee compliance with extant regulation;*
- II. Coordinating formulation of integrated management plan and implementation strategy;*
- III Establishing and maintaining an integrated wetland inventory, assessment and monitoring system;*
- IV, Reviewing development plans concerning the wetlands and its zone of influence, and making recommendation for preventing adverse ecological change;*
- V. Communication and outreach on wetland values and functions;*
- VI Promoting long term management-oriented multidisciplinary research to support wetland conservation and wise use, and*
- VII. Habitat restoration for enhanced ecological function*
- ...”*

(Emphasis supplied)

7. That whereas the Government of NCT of Delhi has submitted its Brief Document to the MOEF & CC, the State of Haryana has failed to submit its Brief Document.

(Copy of the email received by the Applicant, through its Principal Director, Natural Heritage Division, Sh. Manu Bhatnagar, from the MOEF & CC, is annexed herewith and marked as **ANNEXURE A-1**).

8. That the Najafgarh Jheel area is a natural hazard zone where no building activity must be allowed by any authority. Thus, while the Jheel and its surroundings are in Seismic Zone IV [potential of Earthquake up to intensity 8 on Richter Scale], this is further compounded by the fact that it is the highest Zone of Soil Liquefaction as per the Report of National Centre for Seismology, 2016 thereby rendering buildings and human lives highly vulnerable under earthquake conditions.

(Copies of the relevant Seismic Zone Map and Liquefaction Zone Map are annexed herewith and marked as **ANNEXURE A-2**)

9. That in view of the foregoing, it is, most respectfully, prayed that this Hon'ble Tribunal be pleased to:

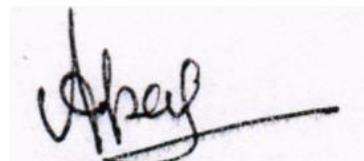
A. Direct the State of Haryana to submit its Brief Document for Najafgarh Jheel to the MOEF & CC, holding areas between within the contours level 210 m and 211 m as no-construction zone, in accordance with the Report, dated: 27.09.2021, submitted by the Special Secretary, Environment and Climate Change Department, Government of Haryana before this Hon'ble Tribunal, in a time-bound manner.

B. Direct the MOEF & CC to finalise the draft Notification of Najafgarh Jheel, within 15 days from the receipt of such Brief

Document from the State of Haryana and undertake all ancillary and incidental activities towards the Notification thereof.

- C. Direct the State of Haryana to cease all further Change of Land Use (CLU) grants as well as halt all building activity wherever building activity is incomplete and buildings unoccupied within 212.5 m amsl, on account of being in hazard zone (falling under Seismic Zone-IV as well as the Zone of Soil Liquefaction).
- D. Direct the State of Haryana not to construct any embankment on Najafgarh Drain in view of the increased flooding hazard to Gurugram.
- E. Constitute an Oversight Committee to monitor the process of Notification of the Najafgarh Jheel and its conservation and management, thereafter, with quarterly reports to be submitted before this Hon'ble Tribunal, in respect thereof.

FILED BY:



AKASH VASHISHTHA
(Advocate for the Applicant)



Annexure A-1

Principal Director NHD <pdnhdintach@gmail.com>

Brief Document _Najafgarh Jheel-reg.

3 messages

Rajasekhar Ratti <rs.ratti@gov.in>

Wed, Nov 3, 2021 at 11:32 AM

To: Environment Govt of Haryana <environment@hry.nic.in>

Cc: MANJU PANDEY <manju.pandey@nic.in>, RAGHU KUMAR KODALI <kodali.rk@gov.in>, intach <intach@intach.org>, pdnhdintach <pdnhdintach@gmail.com>

Sir,

With reference to meeting held on 08.10.2021 through Video Conferencing regarding conservation of Najafgarh Jheel (a copy of MoM is enclosed), it is decided that Brief Documents of the respective parts of the wetlands to be communicated to MoEF & CC by both Haryana by Delhi State by 31st October, 2021. Accordingly, this Ministry has received brief document for the part of Delhi (a copy is enclosed). Till date, we have not received brief document for the part of Haryana.

Draft Notification of the Najhafgarh Jheel is to be finalised before 15th November 2021 and it is to be appraised to Hon'ble NGT on the next date of hearing, i.e., 25.11.2021. Therefore, it is requested to expedite the preparation of brief document at the earliest.

regards

(Rajasekhar Ratti)

Scientist D

Wetlands Division



2 attachments

 **MoM_08 10 2021.pdf**
566K

 **Brief document_NCT Delhi_Najafgarh Jheel.pdf**
3346K

Principal Director NHD <pdnhdintach@gmail.com>
To: MANJU PANDEY <manju.pandey@nic.in>
Cc: RAGHU KUMAR KODALI <kodali.rk@gov.in>, Rajasekhar Ratti <rs.ratti@gov.in>

Sat, Dec 11, 2021 at 10:04 PM

Dear Ms. Pandey

This is regarding submission of Brief Document by Haryana for Najafgarh Jheel.

It was noted in 15 Oct/2020 virtual meeting that Haryana should submit their Brief Document as they had already collected the necessary data.

Again, after almost 1 year, in virtual meeting on 8 Oct/2021 under your Chairmanship, Haryana was directed to submit its Brief Document by 31 Oct/2021.

The same has not happened delaying notification.

It is requested that MoEF may press Haryana to do the needful at the earliest.

Warm Regards



INTACH

Manu Bhatnagar
Principal Director
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Principal Director NHD <pdnhdintach@gmail.com>
Draft To: **AKASH VASHISHTHA** <vashishtha.akash6@gmail.com>

Sat, Jan 15, 2022 at 3:04 PM

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[Quoted text hidden]

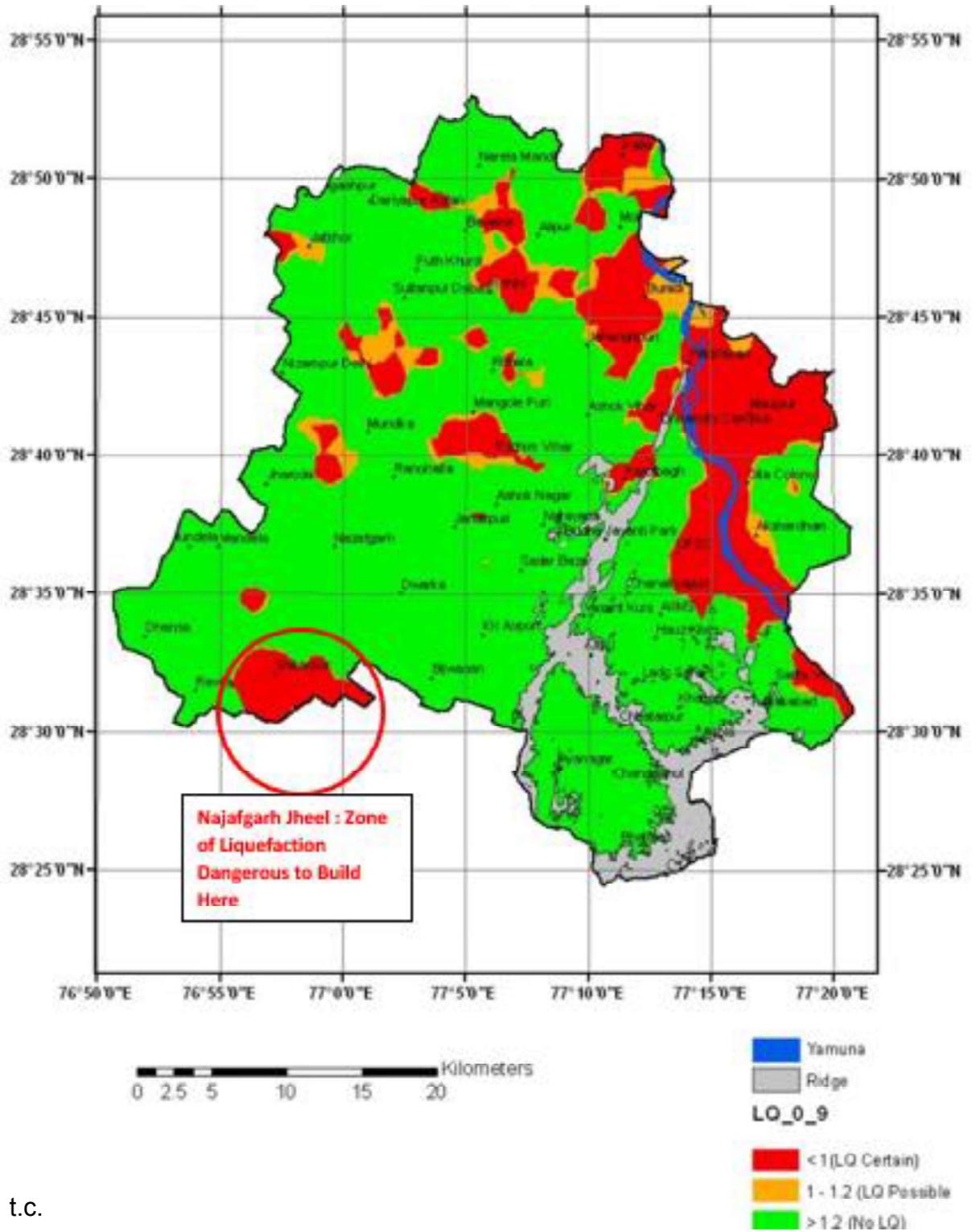
2 attachments

 **MoM_08 10 2021.pdf**
566K

 **Brief document_NCT Delhi_Najafgarh Jheel.pdf**
3346K

t.c.





t.c.

Soil Liquefaction Map