

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 28 of 2021

In

Original Application No. 144 of 2017

K. P. Singh & Ors.

...Applicants

Versus

U. P. Pollution Control Board & Ors.

...Respondents

INDEX

S. No.	Particulars	Page No.
1.	Compliance Report in compliance to the order dated 14.07.2022 passed by Hon'ble NGT-PB in E.A. No. 28 of 2021 in O.A. No. 144 of 2017 titled K. P. Singh & Ors. Vs U. P. Pollution Control Board & Ors.	
2.	Annexure-I: A copy of order dated 14.07.2022 in E.A. No. 28 of 2021 in O.A. No. 144/2017	



(P.K. Mishra)

Scientist-E

Central Pollution Control Board

Parivesh Bhawan, East Arjun Nagar

Delhi- 110032

Date: 25.01.2023

Place: Delhi

**COMPLIANCE REPORT IN THE MATTER OF OA NO. 144/2017
TITLED K. P. SINGH & ORS. Vs U. P. POLLUTION CONTROL BOARD
& ORS.**

1. BACKGROUND

Hon'ble NGT in the matter of OA no. 144/2017 titled K. P. Singh & Ors. Vs U. P. Pollution Control Board & Ors. vide order dated 14.07.2022 directed CPCB as follows:

"We also direct CPCB with the assistance of UPPCB to give an independent factual report about status of compliance about discharge of sewage in the storm water drain in question as per observations given in para 8 above within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

"The para 8 relates to directions of NGT (OA No. 329/2021, Devanshu Bose vs Agra Development Authority & Ors., Extracts from OA 593/2017 order dated 21.05.2020, OA 673/2018) related to prohibition of discharge of untreated effluent into storm water drains and 100 % treatment of Sewage. "

2. OBSERVATIONS

In compliance to the directions of Hon'ble NGT, a Joint team comprising of officials from CPCB, UPPCB and Ghaziabad Nagar Nigam inspected the drainage system of Prahlad Garhi village and its adjoining area on 03.11.2022 in order to verify the status of compliance made by Ghaziabad Nagar Nigam in respect of *Para 8 of NGT's direction and submission made by applicant*. Accordingly, following officials has visited the site:

1. Sh. Vishal Gandhi, Scientist - 'D', CPCB
2. Sh. Utsav Sharma, Regional Officer, Ghaziabad, UPPCB
3. Sh. Yogendra Kumar Sharma, Executive Engineer, Ghaziabad Nagar Nigam
4. Sh. Deshraj Singh, Executive Engineer, Ghaziabad Nagar Nigam
5. Ms. Deepa Kumari, Senior Research Fellow, CPCB



Major observations made are listed below:

1. Earlier, the wastewater generated from residential and commercial establishment of Prahlad Garhi was discharged through a single drain from node 94 to 02. Due to this, inundation of wastewater being observed during monsoon period around Sector-15, 17 of Vasundhra. The erstwhile drainage pattern is presented in schematic diagram at Figure 1.

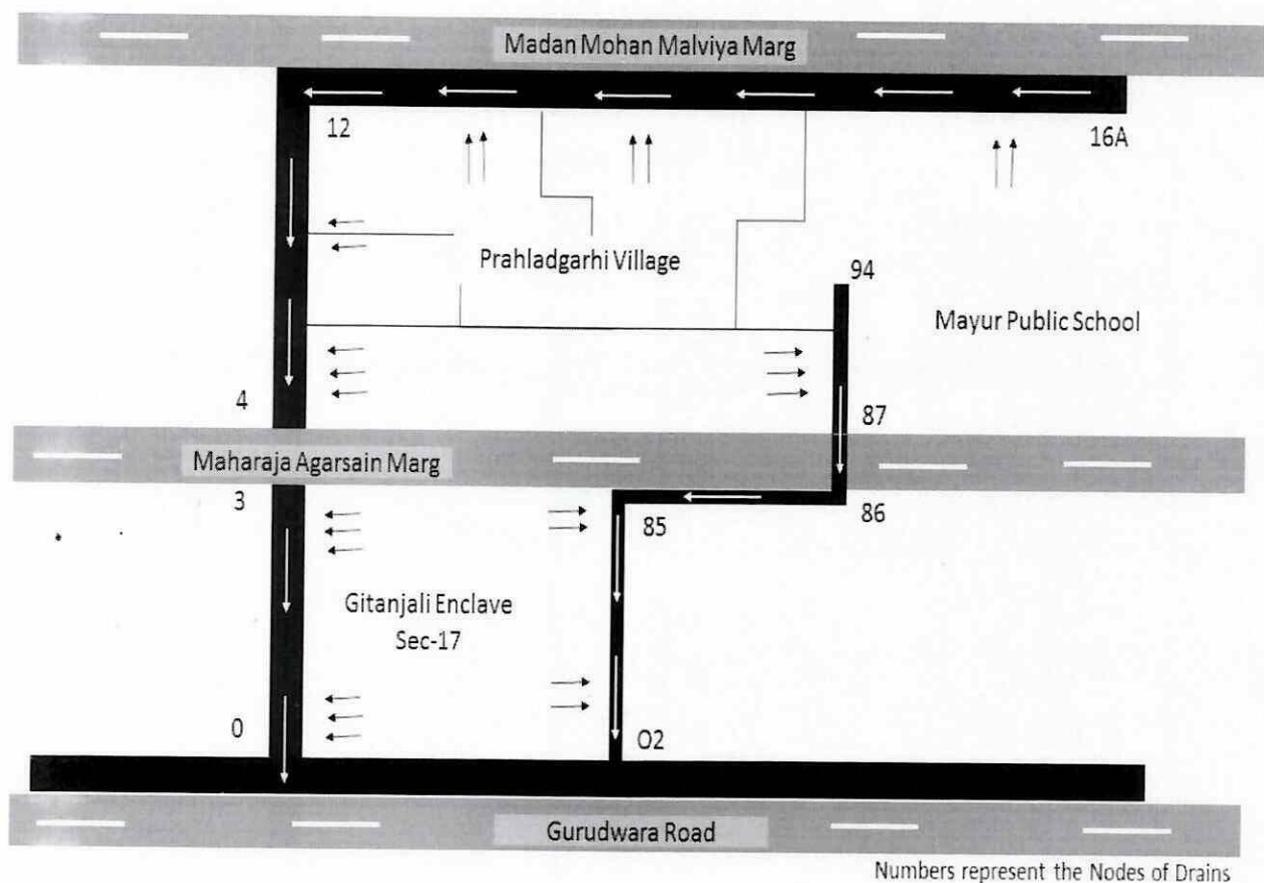


Figure 1: Drainage Pattern of Prahlad Garhi village

2. Ghaziabad Nagar Nigam (GNN) informed that storm water drainage system was improvised to avoid the problem of inundation/ overflow of wastewater in Sector 15 and 17. The drains channelized from various nodes i.e 16A to Nord No. 12, from 03 to Nord No. 0 and from Nord No. 94 to 86 and Nord No. 59 A to 77 for

[Handwritten signature]

free flow of storm water and other wastewater (Sullage) into the drainage system. The existing drainage pattern is presented in schematic diagram at Figure 2.

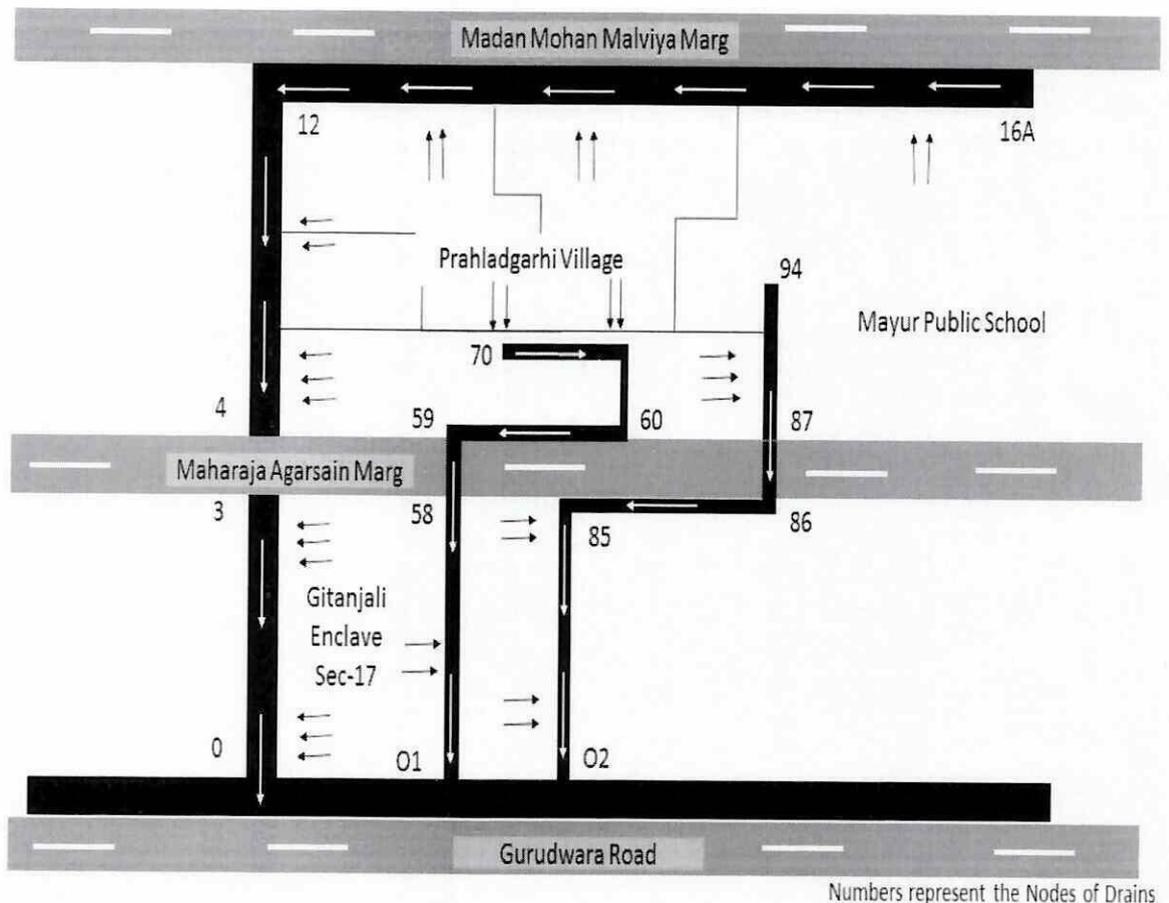


Figure 2: Existing drainage pattern

Accordingly, Team inspected the storm water drainage system at various locations to verify the compliance made by Ghaziabad Nagar Nigam and also collected the samples to ascertain the nature of wastewater flowing in the said drains.

3. The drains are designed to carry the storm water whereas during inspection, waste water was flowing in the storm water drainage system. It indicates that drain carries illegal discharges in terms of Grey Water. In order to ascertain the quality of wastewater, sampling was carry out at 04 locations on the storm water drain. Analytical results are depicted in **Table 1**.

Table 1: Analytical Results of Drain

S.No	Name of sampling point	Color	pH	BOD (mg/L)	COD (mg/L)	TSS (mg/L)
1.	Prahladgarhi Tiraha	Turbid	6.92	55.80	167.6	128.0
2.	Maharaja Agrasen Chauraha	Greyish	6.74	49.0	146.0	586
3.	33/11KV/S/S Sec-19 Vasundhara	Turbid	6.86	62.06	183.2	310
4.	Hanuman Mandir Sec-16 Vasundhara	Turbid	6.84	87.66	269.2	218.0

As mentioned above, storm water drainage system of Prahladgarhi village carries wastewater generated from residential and commercial establishment during dry weather period. Water of quality of drains in terms of BOD (49 - 87.66 mg/l) and COD (146-269.2 mg/l) also supports the fact that drains carries weak sewage / sullage.

- *4. Team also observed that residential and commercial activities discharges wastewater into storm water drain. Further, team also observed followings activities in and around Prahladgarhi village:
- discharge of wastewater through illegal settlements / hutments;
 - encroachment along the Madan Mohan Marg road and drains;
 - disposal of waste from dairy farms;
 - wastewater discharges from service stations.

5. The wastewater flowing in the existing storm water drains finally merges with Sahibabad Drain. Sahibabad drain is intercepted before entering Delhi which finally diverted to 74 MLD STP at Indirapuram for treatment and disposal. In addition, underground sewerage system also laid by GNN for collection of sewage from households of Prahlad Garhi village. The households connected to sewerage system conveyed the sewage to 56 MLD STP at Indirapuram for treatment.

3. FINDINGS AND RECOMMENDATIONS

Based on the inspection made, it can be concluded that storm water drainage system carries domestic wastewater / trade effluents generated from residential and commercial activities (illegal hutments, disposal of waste from dairy farms and wastewater discharges from service stations) in and around of Prahladgarhi village. The analytical results also support the fact that it carries wastewater other than storm water.

However, the wastewater generated in Prahladgarhi village flowing through the storm water drains finally merges with Sahibabad Drain. The Sahibabad drain diverted to 74 MLD Indirapuram STP for treatment. The sewage generated from households of Prahladgarhi village conveyed to 56 MLD STP at Indirapuram.

It means untreated wastewater discharges from Prahladgarhi village through storm water drains intercepted and treated.

In view of above, it is recommended that *Ghaziabad Nagar Nigam shall take necessary action to remove such encroachments from the roads and drains, illegal settlements and discharges from dairy farms and service stations so that discharge of wastewater into the storm water drain can be stopped.*



Photographs of the Joint Inspection conducted on 03.11.2022.

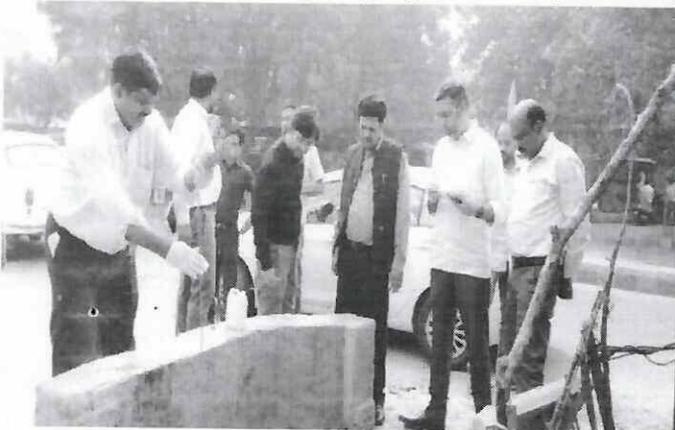


Fig:1 Joint Inspection being carried out by officials of CPCB,UPPCB and GNN



Fig:2 Sample collection



Fig:3 Presence of wastewater in the storm water drain

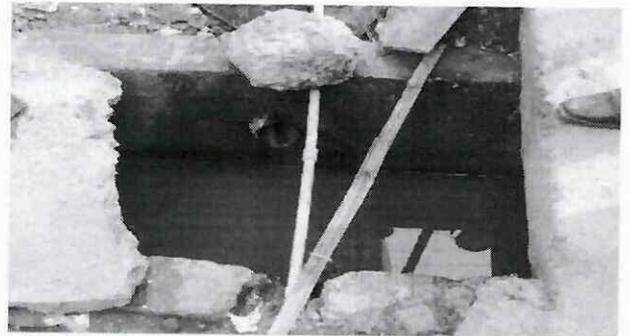


Fig:4 Illegal connections made into the storm water drain



Fig:5 Encroachment of road and drain



Fig:6 Diversion of storm water drain

[Handwritten signature]

Item No.05

(Court No. 1)

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

(By Video Conferencing)

Execution Application No. 28/2021

In

Original Application No. 144/2017

(With reports dated 15.05.2022 and 13.07.2022)

K. P. Singh & Ors.

Applicant(s)

Versus

U. P. Pollution Control Board & Ors.

Respondent(s)

Amit Kishore & Ors.

Vasundhara Ghaziabad, Uttar Pradesh:

Applicants in EA

Date of hearing: 14.07.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Prem Prakash, Advocate for Applicant in E.A 28/2021

Respondent: Mr. Mahendra Singh Tanwar, Municipal Commissioner, Ghaziabad with
Mr. Raman Yadav, Advocate for Ghaziabad Nagar Nigam

ORDER

1. Grievance in this application is against non-compliance of order of this Tribunal dated 03.08.2018 in the above OA on the subject of preventing discharge of untreated sewer water from Prahlad Garhi village into storm water drain of Ghaziabad Nagar Nigam and also preventing

dumping of MSW and other waste into said storm water drain in Sector 16, 17, 18 & 19 at Vasundra, Ghaziabad.

2. Case of the applicant is that failure to prevent discharge of polluted sewage in violation of the Water (Prevention and Control of Pollution) Act, 1974 is continuing which is also prohibited under the orders of the Hon'ble Supreme Court in *Paryavaran Suraksha v. UOI & Ors.*¹ and of this Tribunal in O.A. No. 593/2017, *Paryavaran Suraksha Samiti & Anr.v. UOI & Ors.* and other orders whereby regime of compensation for failure to scientifically manage the sewage has also laid down, to ensure clean environment.

3. Vide order dated 18.10.2021, in the light of earlier orders on the subject, the Tribunal directed Commissioner, Ghaziabad Nagar Nigam (GNN) to ensure further action for preventing discharge of untreated sewage and dumping of waste in water bodies in violation of law and also for action against the erring officers by way of entries in ACRs, initiating prosecution and payment of compensation. Status of connectivity of household/community latrines to the sewer lines, instead of storm water drain in question at Prahaladpuri and other similar locations and remedial measures was also sought. Interdepartmental issue for preventing cross contamination of storm water drain and sewer lines were directed to be resolved in coordination with the District Magistrate. Catchment of storm water drain was directed to be demarcated and monitoring mechanism for ensuring that septic tanks or digested material of pits attached with latrines being connected to the sewer lines was to be reviewed. Manual scavenging, if any, was to be discontinued.

¹ (2017) 5 SCC 326

4. The matter was last considered on 17.02.2022 in light of report dated 11.02.2022 filed by the GNN proposing remedial action for removing the obstruction in the flow of the drain. The Commissioner, GNN was present in person and assured the Tribunal that further action will be taken addressing the issue of connectivity of households to sewer lines, preventing cross contamination of storm water and sewer, demarcation of catchment area of the storm water drain and connecting septic tanks to the sewer lines and discontinuing manual scavenging. The Tribunal accordingly directed taking of further action and filing of action taken report.

5. The GNN has filed two reports on 15.05.2022 and 13.07.2022. In the report filed on 15.05.2022, it is stated that there is no overflow in the area. Construction of 600 mtrs drain was in progress. Sewerage is discharged into the pumping station of Sector 7 in 56 MLD STP set up at Indirapuram. However, the applicant submitted that there is no restoration of the rain water drain which has been converted to sewage drain. Stand of the applicant filed on 18.05.2022 is reproduced below:-

- “6. *That the claim of Ghaziabad Nagar Nigam that the rain water drain has been restored from nord no. 94 to 86 and nord no. 59A to 77 and nord no. 85 to 02. Thus, it is very much evident that direction is yet to be complied, however it is worth mentioning here that the Hon'ble Tribunal has directed the respondent to restore the rain drain, meaning thereby there should not be any water except the rain water in the rainy season, so what' is done by the respondent is that they converted the rain water drain into the sewage drain. The photographs of drain full of sewage with dirty and stinking water is annexed as Annexure P-8.*
7. *That what is done by the Ghaziabad Nagar Nigam is the conversion of rain water drain into the sewage drain which is not in the compliance of the direction passed by this Hon'ble Tribunal and in clear violation of the order dtd: 03.08.2018.*

8. *That the rain drain was starting from house no. 16/8, Vasundhara at the time of handing over the to Ghaziabad Nagar Nigam for the purpose of maintenance by Awas Vikas Parshad, however the Ghaziabad Nagar Nigam has connected Sewage drain coming from the Prahladgarhi village to sewage drain going along main road (Anand Vihar to Mohan Nagar) and then, the said sewage is unauthorizedly connected to the rain water drain at the point where from the rain drain was starting in Vasundhara i.e; house no. 16/8 and the same is still not disconnected which cause perineal flow of sewage in the rain water drain. Map and photographs of rain drain is annexed as Annexure P-9”*

6. The GNN has filed further affidavit with the only addition that the construction of 600 mtrs drain has been completed and handed over by the Jal Nigam to the GNN on 04.07.2022. However, the stand of the applicant has not been adverted.

7. Thus, the basic issue of preventing discharge of untreated sewage into the drain remain unaddressed. Merely completing construction of a drain cannot be accepted as a solution to the water pollution being caused by discharge of sewage into the storm water drain which is meant to carry uncontaminated rain water for drinking and other purposes. Discharge of any pollutant therein is a criminal offence under the Water (Prevention and Control of Pollution) Act, 1974. The State Authorities are bound under the Public Trust Doctrine to enforce the mandate of law and to efficiently manage the sewage generated without discharging untreated sewage into any water body or drain, which appears to be happening.

8. In recent order dated 06.07.2022 in OA No. 329/2021, *Devanshu Bose v. Agra Development Authority & Ors.* dealing with the grievance of discharge of untreated sewage, the Tribunal observed:-

“11. Water (Prevention and Control of Pollution) Act, 1974 was enacted 48 years back but state of implementation is so poor that water pollution is rampant inspite of earlier orders of Hon’ble Supreme Court and this Tribunal on the subject. Extracts from some earlier orders are as follows:

Extracts from order of this Tribunal Order dated 16.09.2021 in OA 544/2019:

“1 to 8.....xxx.....xxx.....xxx

9. Contamination of water sources is a punishable offence under the Water (Prevention and Control of Pollution) Act, 1974 for the last 47 years. Under Section 25 of the Act, untreated discharge of sewage in drain is prohibited and is in fact a criminal offence under Sections 42(2) and 44. Section 48 of the Act makes the Head of the Department liable for being punished for such offence. As per directions of the Hon’ble Supreme Court in Suraksha case² an outer limit of 31.03.2018 is fixed for completing the work of all STPs in the Country for laying down the sources of budget and direction is to initiate prosecution for continued failure. This Tribunal has been directed to monitor compliance. We may refer to the specific directions of the Hon’ble Supreme Court and this Tribunal on the subject:

Extracts from the judgement of the Hon’ble Supreme Court in Paryavaran Suraksha Samiti Vs. Union of India, supra

“7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

X.....X.....X.....

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common effluent treatment

² (2017) 5 SCC 326

plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

11. *Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.***
12. *We are of the view that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously.** We, therefore, hereby direct that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.*
13. ***We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down.** We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment*

plants” within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. **The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions.** They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional **National Green Tribunal.**

14. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. **The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.**

X.....X.....X.....

16. It however needs to be clarified, that the instant directions and time lines, shall not in any way dilute any time lines and directions issued by Courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones expressed through the directions recorded above. **It is clarified, that the time lines, expressed hereinabove will be relevant, only in situations where there are no prevalent time line(s), and also, where a longer period, has been provided for.”**

(emphasis supplied)

**Extracts from orders of this Tribunal in OA 593/2017 :
Order dated 21.05.2020**

26. Summary of directions:
 - i. All States/UTs through their concerned departments such as Urban/Rural Development, Irrigation & Public Health, Local Bodies, Environment, etc. may ensure formulation and execution of plans for sewage treatment and utilization of treated sewage effluent with respect to each city, town and village, adhering to the timeline as directed by Hon'ble Supreme Court. STPs must meet the prescribed standards, including faecal coliform.

CPCB may further continue efforts on compilation of River Basin-wise data. Action plans be firmed up with Budgets/Financial tie up. Such plans be overseen by Chief Secretary and forwarded to CPCB before 30.6.2020. CPCB may consolidate all action plans and file a report accordingly.

Ministry of Jal Shakti and Ministry of Housing and Urban Affairs may facilitate States/UTs for ensuring that water quality of rivers, lakes, water bodies and ground water is maintained.

As observed in para 13 above, 100% treatment of sewage/effluent must be ensured and strict coercive action taken for any violation to enforce rule of law. Any party is free to move the Hon'ble Supreme Court for continued violation of its order after the deadline of 31.3.2018. This order is without prejudice to the said remedy as direction of the Hon'ble Supreme Court cannot be diluted or relaxed by this Tribunal in the course of execution. PCBs/PCCs are free to realise compensation for violations but from 1.7.2020, such compensation must be realised as per direction of this Tribunal failing which the erring State PCBs/PCCs will be accountable."

Order dated 21.09.2020

"11. The Tribunal has already issued directions vide orders dated 28.08.2019 and 21.05.2020 for ensuring that no untreated sewage/effluent is discharged into any water body and for any violation compensation is to be assessed and recovered by the CPCB so that the same can be utilized for restoration of the environment, complying with the principle of 'Polluter Pays' which has been held to be part of 'Sustainable Development' and part of right to life. Control of such pollution is crucial for environment, aquatic life, food safety and also human health. ..."

From OA 673/2018

Order dated 6.12.19:

6. *The Hon'ble Supreme Court noticed the level of degradation of rivers in India and apathy of the authorities as follows:*

"58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are

pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.³

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, sewage, garbage, waste and air pollution, including the water management. We club the ending case of water management with this matter.⁴

XXX.....XXX.....XXX

11. In spite of above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise has continued to be discharged in the water bodies including the rivers or the canals meeting the rivers. Violation of law is not only by private citizens but also statutory bodies including the local bodies and also failure of the regulatory authorities in taking adequate steps. There is no corresponding coercive action posing danger to rule of law when large scale violation of law is not being remedied. This leads to lawlessness.

12. It will be appropriate to note the crisis situation in the country on the subject of availability of potable water. The matter has been considered in the report of Niti Aayog on Composite Water Management Index (CWMI).⁵ Following further information also needs to be noted:

- (i) India is suffering from the worst water crisis in its history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water⁶. The crisis is only going to get worse. By 2030, the country’s water demand is projected to be twice the

³ State of Orissa v. Govt. of India, (2009) 5 SCC 492

⁴ M.C. Mehta Vs Union of India- W.P. (Civil) No. 13029/1985 dated 25.11.2019

⁵ Niti Ayog on “Composite Water Management Index”, June 2018, https://niti.gov.in/writereaddata/files/document_publication/2018-05-18-Water-Index-Report_vS8-compressed.pdf.

⁶Source: WRI Aqueduct; WHO Global Health Observatory

available supply, implying severe water scarcity for hundreds of millions of people and an eventual ~6% loss in the country's GDP⁷. As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695 BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137 BCM. Thus, there is an imminent need to deepen our understanding of our water resources and usage and put in place interventions that make our water use efficient and sustainable.

- (ii) India is undergoing the worst water crisis in its history. Already, more than 600 million people⁸ are facing acute water shortages. Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates.⁹
- (iii) Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India's groundwater wells are declining, and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million people¹⁰.
- (iv) With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.

13. As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since 2013. Of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.¹¹

14. As per 'National Health Profile' published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 Deaths due to Acute Diarrhoeal Diseases was reported during the year 2013.¹²

Main Causes of Pollution of Rivers

15. As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters for various purposes affecting e-flow, encroachment of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not

⁷Source: McKinsey & WRG, 'Charting our water future', 2009; World Bank; Times of India

⁸ Source: World Resource Institute

⁹ Source: World Resource Institute

¹⁰ Source: UN Water, 'Managing water under uncertainty and risk', 2010; World Bank (Hindustan Times, The Hindu).

¹¹ <https://www.indiaspend.com/diarrhoea-took-more-lives-than-any-other-water-borne-disease-in-india-58143/>

¹² <http://pib.nic.in/newsite/PrintRelease.aspx?relid=106612>

been achieved. As per CPCB's report 2016¹³, it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in the rural areas.

xxx.....xxx.....xxx

33. We may note the observations of the Hon'ble Supreme Court:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.¹⁴

xxx.....xxx.....xxx

“61. 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

¹³ http://www.sulabhenviis.nic.in/Database/STST_wastewater_2090.aspx July 16, updated on December 6, 2016

¹⁴ INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION Vs. UNION OF INDIA AND OTHERS (1996) 5 SCC 281

corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.”¹⁵

xxx.....xxx.....xxx

35. Vide order dated 22.08.2019 in Original Application 200/2014, dealing with the pollution of river Ganga, the Tribunal issued directions and laid down coercive measures to be taken for discharge of untreated sewage in river Ganga:-

“16. xxx.....xxx.....xxx

17. **Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.**

36. Vide order dated 28.08.2019, the Tribunal held:-

“15. xxx.....xxx.....xxx

“16. xxx.....xxx.....xxx

17. As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is discharged in water bodies. Doing so is a criminal offence under the Water Act and is harmful to the environment and public health. ‘Precautionary’ principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason

¹⁵ M.C. Mehta v. Union of India, (2006) 3 SCC 399 – Public functionaries

why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on 'Polluter Pays' principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs, the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018."

12. It is thus appropriate that remedial measures are speedily taken by the Agra Development Authority overseen by the ACS, Urban Development and ACS, Housing and Development, UP in a mission mode. Such steps should cover the present area as well as urban area of Agra. ACS, Urban Development will be the nodal agency for coordination and compliance. The Committee may hold its meeting within two weeks and after taking stock of the situation and earlier orders of this Tribunal, take further remedial action. The Committee will be at liberty to coordinate with any other Department/Agency. In view of chronic and long pending problem, the Committee may explore steps on the pattern of available best practices to the extent found relevant such as arrangement with relevant establishments to supply sewage treated water for which pipelines are laid by such establishments and part of the sewage treatment cost is also shared by such establishments.¹⁶ This may help better use of treated sewage to save

-
- ¹⁶ 1. Chennai industries to now use treated sewage water - The New Indian Express: <https://www.newindianexpress.com/cities/chennai/2019/jul/31/chennai-industries-to-now-use-treated-sewage-water-2011837.html>
2. Surat sewage reuse model goes global - Surat News - Times of India: <https://timesofindia.indiatimes.com/city/surat/surat-water-reuse-model-goes-global/articleshow/85668103.cms>
3. Surat generating massive revenue by selling treated water to industries: <https://www.aninews.in/news/national/general-news/surat-generating-massive-revenue-by-selling-treated-water-to-industries20201217051127/>
4. Surat Generating Massive Revenue By Selling Treated Water of River Tapi To Industries - News: <https://swachhindia.ndtv.com/surat-generating-massive-revenue-by-selling-treated-water-of-river-tapi-to-industries-54411/>
5. Industries in Ahmedabad to get treated wastewater - Ahmedabad News - Times of India: https://m.timesofindia.com/city/ahmedabad/amc-offers-rs43/kl-treated-wastewater-for-industries/amp_articleshow/87169850.cms
6. Gujarat: Now treated wastewater to be piped to two industrial clusters - Cities News, The Indian Express: <https://indianexpress.com/article/cities/ahmedabad/gujarat-now-treated-wastewater-to-be-piped-to-two-industrial-clusters-5713792/>

potable water. We may refer to observations in a recent order dated 19.04.2022 in OA No. 887/2019, *Sukhwanti v. State of Haryana & Ors.* on the subject:-

“10.....Further, for maximising use of treated sewage, PCB may identify potential industrial clusters, major industrial sectors and other bulk users to tie-up each STP with the User group. In this regard, provisions of ‘The Haryana Water Resources (Conservation, Regulation and Management) Authority (Amendment) Act, 2022’ may be strictly followed. CPCB may also assist HSPCB in this regard. The Tribunal vide order dated 09.03.2022 in OA No. 29/2020(WZ), Suraj Pradip Ajmera vs. Aurangabad Municipal Corporation directed as follows:

“10. During the hearing, suggestion has emerged that an interaction be held at the level of Chief Secretary, Maharashtra with inclusion of Secretary, Urban Development, Maharashtra and Technical Experts as may be decided by them including from IIT, Bombay, Regional Officer, CPCB and Member Secretary, State PCB to consider possibility of laying pipeline upto the industrial area for transporting treated sewage to the industrial areas so that the same can be utilized for industrial purpose. Industries Association may be associated in the project of sewage treatment and can bear a part of the cost out of Corporate Social/Environmental Responsibility, depending upon the financial capacity of the member industries. This may result in a permanent and long-lasting cheaper solution. If successful, this experiment may be tried appropriately at such other locations in the State as found appropriate and also customized different locations. The Committee may also study such models elsewhere in the country which reportedly have been successful. The Committee may also consider any other viable strategies for sewage treatment and interception and diversion of sewage, use of appropriate effective and economical technology, making group housing societies Zero Liquid Discharge (ZLD) by recycling treating sewage, after treatment in decentralized manner and utilizing the treated sewage for horticulture, flushing, cleaning or other non-drinking purposes. This strategy may help in augmenting availability of potable water particularly in drought affected areas of Aurangabad Region in Maharashtra where potable water had to be transported by trains in the past. The

-
7. Nagpur to become the first Indian city to treat and reuse 90% of its sewage: <https://theprint.in/india/governance/nagpur-to-become-the-first-indian-city-to-treat-and-reuse-90-of-its-sewage/180493/>
 8. India's 1st and largest PPP on waste water reuse completed in record time during pandemic; bags FICCI Water Award 2020: https://www.business-standard.com/content/press-releases-ani/india-s-1st-and-largest-ppp-on-waste-water-reuse-completed-in-record-time-during-pandemic-bags-ficci-water-award-2020-121022500841_1.html
 9. MPCB Note on domestic waste water reuse project at Nagpur: https://mpcb.gov.in/sites/default/files/focus-area-reports-documents/NMC_%26_KTPS_success_story_28052019.pdf
 10. STP at Village Kewara, Bhilwara (Rajasthan)– CPCB Bhopal: <https://cpb.nic.in/success-stories/upload/1501156301.pdf>
 11. CHAPTER 7: RECYCLING AND REUSE OF SEWAGE: http://cpheeo.gov.in/upload/uploadfiles/files/engineering_chapter7.pdf

Secretary, Urban Development may act as nodal agency who may call for a meeting within one month.”

11.....xxx.....xxx.....xxx

12. *The Tribunal has considered the issue of utilization of treated sewage to save potable water for drinking purposes inter-alia vide order dated 21.09.2020 in O.A. No. 148/2016 Mahesh Chandra Saxena vs. South Delhi Municipal Corporation & Ors. By the said order, the data of utilization of treated water as given in the CPCB report dated 15.05.2020 and further report dated 16.09.2020 was noted showing huge gap in reuse of treated water, which resulted in potable water being used even for purposes for which treated water could be used. The Tribunal directed all States/UTs to ensure 100% utilization of treated water for secondary purposes, which may be monitored by Central Monitoring Committee headed by Secretary, Ministry of Jal Shakti and assisted by CPCB, NMCG and Ministry of Urban Development.”*

13. *In light of above, let further action taken report be filed by ACS, Urban Development within three months from today by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The report may also cover the observations in para 9 above. ACS, Urban Development may remain present on the next date by Video Conferencing along with Vice Chairman, ADA and Commissioner, Municipal Corporation, Agra.”*

9. Accordingly, further remedial action has to be taken by Ghaziabad Nagar Nigam which may be overseen by the ACS (UD), UP. An action taken report be filed within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The Commissioner Nagar Nigam Ghaziabad and ACS (UD) may remain present in person by Video Conferencing on the next date.

10. We also direct CPCB with the assistance of UPPCB to give an independent factual report about status of compliance about discharge of sewage in the storm water drain in question as per observations given in para 8 above within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 11.11.2022.

A copy of the report be also furnished to Ghaziabad Nagar Nigam, ACSUD, UP, CPCB and State PCB for their response on the next date.

A copy of this order be forwarded to Ghaziabad Nagar Nigam, ACSUD, UP, CPCB and State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

July 14, 2022
Execution Application No. 28/2021
In Original Application No. 144/2017
SN