

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPLE BENCH, NEW  
DLEHI

ORIGINAL APPLICATION NO.494/2022

SHOBAN SINGH RANA

...APPLICANT

VERSUS

ROSHAN LAL UNIYAL & ORS.

...RESPONDENTS

## INDEX

SL.NO.	PARTICULARS	PAGE NO.
1.	FURTHER ACTION TAKEN REPORT BY NMCG	1
2.	LETTER DT.16.08.24 SEND TO CHARIMAN DISTRICT GANGA COMMITTEE	2 TO 3
3.	ORDER DT.11.07.24 OF THIS HON'BLE TRIBUNAL	4 TO 14

Filed by

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ADVOCATE  
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NATIONAL GREEN TRIBUNAL  
M-9810625315

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(PRINCIPAL BENCH)

In the matter of:

OA No 494/2022

Soban Singh Rana Versus Roshan Lal Uniyal & Ors

Report on the further action taken by the NMCG in the above matter.

Most Respectfully,

1. It is submitted that in the aforesaid matter the National Mission for Clean Ganga (NMCG), in compliance of the Hon'ble NGT order dated 18.12.2023 had been submitted its report, before the Hon'ble NGT, based on the Site inspection conducted of the area in question, along with other officials of the State Government of Uttrakhand on the issues involving dumping of the construction material/debris in the close vicinity of the Bhagirathi River.
2. Meanwhile it is submitted before the Hon'ble NGT that the NMCG vide letter dated 16.08.2024 has issued directions to the District Magistrate, Uttarakashi (Uttrakhand) to initiate and take necessary steps /remedial measures at the site to address the concern of the damage to the river. A copy of the letter dated 16.08.2024 is enclosed as **Annexure**.

*Binod Kumar*  
23.08.2024  
Binod Kumar  
Director(Coordination)  
बिनोद कुमार/BINOD KUMAR  
निदेशक/Director  
जल शक्ति मंत्रालय/Ministry of Jal Shakti  
जल संचालन, नदी विकास एवं गंगा संरक्षण विभाग  
Deptt. of Water Resources, RD and GR  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi-110001

## MOST URGENT /COURT MATTER

F.No. **L-25012(11)/3/2024-LME NMCG-**

Ministry of Jal Shakti  
Department of WR, RD & GR  
National Mission for Clean Ganga

Major Dhyanchand National Stadium,  
Near India Gate, New Delhi-110002

Dated: 16.08.2024

Subject: **OA No 494/2022- Soban Singh Rana Vs Roshan Lal Uniyal & Ors –Regarding**  
Ref: **Hon'ble NGT, PB, New Delhi Order dated 11.07.2024 (copy enclosed)**

Reference is invited to the above referred Order of the Hon'ble NGT in the aforesaid matter highlighting the need for effective steps for protection and rejuvenation of River Ganga having considered various reports submitted before it;

In the light of this Order, NMCG has gone through the various submissions filed before the Hon'ble Tribunal in this case, particularly by the Joint Committee headed by Principal Secretary, PWD, Govt of Uttarakhand which says that- '*1. The dumping zone in question is located at a distance of 63 meters from the Bhagirathi river. The area of 63 meters situated in the middle of the river in the dumping zone is a flat land. Hence, the debris deposited in the dumping area, whose total vertical height is estimated to be 17meters.....&, 2. No prior permission has been obtained before dumping at the site in question which is a private land.*'

From above, it is obvious that the site in question is in close vicinity of the river bank and at a significantly higher elevation. Accordingly, there is greater degree of possibility that dumped debris, if not tackled properly, move upto river channel during downpour and affect river flow in an unpredictable manner;

Para 55 of the Authorities Order, 2016, defines the functions and powers of DGCs. As per Para 2 (a) of it, each DGC is *to identify activities which may be threats in the areas of specified District abutting the River Ganga for protection of river Ganga and its tributaries or its river bed and making a plan for remedial action and take remedial action in respect thereof;*

Accordingly, DGC is directed to initiate and take necessary steps at the site to address the concern towards damage to the river. Steps/remedial measures initiated needs to be informed to the NMCG so that the same could be submitted before the Hon'ble Court in compliance of its Order dated 11.07.2024.

This issues with the approval of the competent authority.

  
16.08.2024

Anup Kr Srivastava  
Executive Director(Tech)

To,

District Magistrate & Chairperson of DGC, Uttarakashi (Uttarakhand)

**Copy for information to:**

- (i) The Project Director, SMCG Uttarakhand (Dehradun)
- (ii) PS to the DG, NMCG

Item No. 06

Court No. 2

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

Original Application No. 494/2022

Soban Singh Rana

Applicant

Versus

Roshan Lal Uniyal

Respondent

Date of hearing: 11.07.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondent: Mr. Deepak Bora, Advocate for Respondent No. 1 & 3.  
Mr. Mukesh Verma, Advocate for Respondent No. 2.  
Mr. Nitin Singh Advocate for Respondent No. 4 (through VC)  
Mr. G. I. C. George and Mr. Ishwer Singh, Advocates for  
Respondent No. 6.**ORDER**

1. This original application was registered taking cognizance of a complaint made vide letter dated 01.05.2022 by Soban Singh Rana that near Kachdu Devta Temple part of Gangotri Road there is dumping of debris on land measuring about 2000 square meters, just at the distance of about 50 meters from river Ganga, causing environmental pollution by obstructing the river course in future.

2. Tribunal took cognizance of matter on 18.07.2022. In order to collect factual information it constituted a Joint Committee comprising Principal Secretary, Public Works Department, Government of Uttarakhand, State PCB and District Magistrate, Uttarkashi.

3. The Joint Committee submitted report, filed vide email dated 31.10.2024, which confirms the complaint. It is stated that debris has been dumped just at a distance of 63 mtrs from the river which is a threat to smooth flow of river. Detailed observations of Joint Committee constituted by Tribunal, read as under:-

1. डम्पिंग स्थल जनपद उत्तरकाशी मुख्यालय से 15 कि०मी० तहसील दुण्डा से 1.5 कि०मी० निकट कचड़ देवता मन्दिर, महार्षि आश्रम के निकट डाउनहित में अवस्थित है। राजस्व उपनिरीक्षक द्वारा अवगत कराया गया कि प्रश्रगत स्थल निजी नाप भूमि है, डम्पिंग स्थल तहसील दुण्डा क्षेत्रान्तर्गत खसरा संख्या-718 कुल रकवा 0.160 है० निजी नाप भूमि श्री रोशन लाल उनियाल पुत्र श्री काशीराम के नाम राजस्व अभिलेखों में दर्ज है। प्रश्रगत स्थल पर निर्माण कार्य के तहत कटान से उत्सर्जित मलवा एकत्रित कर डम्प किया गया है।
2. डम्पिंग स्थल के मध्य भाग की भौगोलिक अवस्थिति 30°43'14.68"N 78°21'36.90%E व लगभग MSL (Mean Sea Level) से लगभग 950 मीटर की ऊँचाई पर अवस्थित है। संयुक्त दल के द्वारा मौके पर मलवा डम्पिंग स्थल पर नपाई करने पर परिक्षेत्र की लम्बाई 48.0 मीटर, चौड़ाई 41.0 मीटर एवं ढलान के अनुरूप ऊँचाई 26.0 मीटर मापी गयी है। इस प्रकार उर्ध्वाधर ऊँचाई लगभग 17 मीटर आगणित होती है। नदी तल एवं डम्पिंग क्षेत्र के मध्य स्थित 63 मीटर दूरी का स्थल एक समतल भूमि का भाग है। जिसका सामान्य ढाल 10° से न्यून है। नदी के किनारे डम्पिंग क्षेत्र के आधे भाग के मध्य महार्षि आश्रम के विभिन्न भवन भी बने हैं, जो डम्पिंग क्षेत्र के मलवे के प्रवाहित होने के अवरोधक का कार्य करेंगे। डम्पिंग स्थल पर डम्प किये गये मलवे से नदी के समीपस्थ किनारे से दूरी 63.0 मीटर मापी गयी है। प्रश्रगत स्थल पर मलवा, जिसमें मुख्यतः कटान से उत्सर्जित मिट्टी में छोटे आकार के बोल्टर्स 30 प्रतिशत व मिट्टी 70 प्रतिशत मिश्रित अवस्था में विद्यमान है। डम्पिंग स्थल के नीचे डाउनहित में समीप स्थित भवनों एवं तदोपरान्त नदी के सुरक्षा के दृष्टिगत वायर ब्रेट दीवार का कार्य निर्माणाधीन है। डम्पिंग स्थल के पूरब दिशा में महार्षि आश्रम के विभिन्न भवन आदि व तदोपरान्त भागीरथी नदी, पश्चिम दिशा में गंगोत्री राष्ट्रीय राजमार्ग 34. उत्तर दिशा में बंजर भूमि एवं दक्षिण दिशा में नाप खेत अवस्थित है। प्रश्रगत स्थल पर वायब्रेट एवं उपरी सतह पर बोल्टर्स जमा किये पाये गये, जिनका मापन करने के उपरान्त कुल 1650 टन आगणित हुआ है।
3. नदी में किसी भी प्रकार का मलवा/मिट्टी प्रवाहित नहीं किया जा रहा है।
4. उक्त प्रकरण गंगोत्री राष्ट्रीय राजमार्ग के किनारे मलवे / मिट्टी डम्पिंग से सम्बन्धित है। डम्पिंग किये गये स्थान की निकटतम आरक्षित वन की सीमा (दुण्डा कक्ष सं०-1) से दूरी लगभग 250 मीटर है, जिस कारण उक्त डम्पिंग क्षेत्र आरक्षित वन के अन्तर्गत नहीं आता है। समिति के सदस्यों के द्वारा

स्थलीय निरीक्षण के उपरान्त सामूहिक रूप से निम्नलिखित निष्कर्ष प्राप्त हुए हैं।

1. प्रश्नगत डम्पिंग जोन भागीरथी नदी से 63 मीटर की दूरी पर अवस्थित है, डम्पिंग जोन नदी के मध्य अवस्थित 63 मीटर का क्षेत्र एक समतल भू-भाग है। अतः डम्पिंग क्षेत्र में जमा किये गये मलवे, जिसकी कुल ऊर्ध्वाधर ऊँचाई लगभग 17 मीटर आगणित है। डम्पिंग मलवा निरीक्षण के दौरान नदी में निस्तारित होता नहीं पाया गया।
2. प्रश्नगत स्थल पर जो एक निजी भूमि का भू-भाग है, में डम्पिंग किये जाने से पूर्व कोई पूर्वानुमति प्राप्त नहीं की गयी है।
3. डम्पिंग जोन नारंगी श्रेणी के अन्तर्गत आच्छादित है, जिस हेतु पृथक से जल/वायु अधिनियम के अन्तर्गत सहमति प्राप्त नहीं की गयी है। अप्रत्तर क्षेत्रीय कार्यालय, देहरादून द्वारा अपने पत्र-यूकेपीसीबी / आर. ओ. डी. / एन. जी. टी. / 58/2022-23/3022 दिनांक 21.10. 2022 द्वारा स्पष्ट किया गया कि राज्य प्रदूषण नियंत्रण बोर्ड द्वारा गैर औद्योगिक श्रेणी में चिह्नित प्रक्रियाओं के वर्गीकरण में Construction & Demolition (C&D) Waste Processing Plant को नारंगी श्रेणी में वर्गीकृत किया गया है, एवं डम्पिंग जोन किसी भी श्रेणी में वर्गीकृत नहीं है।

**English translation by Tribunal:**

“

1. The dumping site is located in downhill near Kachdu Devta Temple, Maharshi Ashram, 15 km from District Uttarkashi Headquarter, 1.5 km from Tehsil Dunda. The Revenue Sub-Inspector informed that the site in question is private measured land, the dumping site is under Tehsil Dunda area, Khasra number-718, total area 0.160 hectares, the private measured land is registered in the revenue records in the name of Shri Roshan Lal Uniyal s/o Shri Kashiram. The debris emitted in the excavation under construction work has been collected and dumped at the site in question.

2. The geographical location of the central part of the dumping site is 30°43'14.68"N 78°21'36.90"E and is approximately 950 meters above the MSL (Mean Sea Level). On the spot measurement of the debris dumping site by the joint team, the length of the area was measured to be 48.0 meters, width 41.0 meters and height 26.0 meters as per the slope. Thus, the vertical height is estimated to be approximately 17 meters. The 63 meter long site situated between the river bed and the dumping area is a part of a flat land. Its general slope is less than 10°. Various buildings of Maharishi Ashram have also been built in the middle of half of the dumping area on the river bank, which will act as a barrier to the flow of debris from the dumping area. The debris dumped at the dumping site has a

distance of 63.0 meters from the nearest bank of the river. The debris at the site in question, which mainly consists of 30% small sized boulders and 70% soil mixed with soil generated from erosion, is present. In order to protect the buildings located downstream of the dumping site and safety of the river, wire-brick wall work is under construction. Various buildings of Maharishi Ashram etc. are located to the east of the dumping site and then Bhagirathi river, Gangotri National Highway 34 to the west, barren land to the north and measured fields to the south are located. Boulders were found deposited on the vibrator and upper surface at the site in question, which after measuring were estimated to be 1650 tonnes.

3. No debris/soil of any kind is being released into the river.

4. The above case is related to the dumping of debris/soil along the Gangotri National Highway. The distance of the dumped place from the nearest reserved forest boundary (Dunda compartment no. 1) is about 250 meters, due to which the said dumping area does not fall under the reserved forest. The following conclusions have been collectively received after the field inspection by the members of the committee:

1. The dumping zone in question is located at a distance of 63 meters from the Bhagirathi river. The area of 63 meters situated in the middle of the river in the dumping zone is a flat land. Hence, the debris deposited in the dumping area, whose total vertical height is estimated to be about 17 meters. The dumped debris was not found to be discharging into the river during inspection.

2. No prior permission has been obtained before dumping at the site in question which is a private land.

3. The dumping zone is covered under the orange category, for which separate consent has not been obtained under the Water/Air Act. Further, the Regional Office, Dehradun clarified in its letter-UKPCB/ROD/NGT/58/2022-23/3022 dated 21.10.2022 that in the classification of processes identified in the non-industrial category by the State Pollution Control Board, Construction & Demolition (C&D) Waste Processing Plant has been classified in the orange category, and the dumping zone is not classified under any category."

4. The Joint Committee report also included certain observations of the another joint committee constituted by District Magistrate, Uttarkashi which are as under:-

“प्रश्रगत डम्पिंग स्थल जनपद उत्तरकाशी मुख्यालय से 15 कि०मी० तहसील डुण्डा से 1.5 कि०मी० निकट कच्चड़ देवता मन्दिर, महर्षि आश्रम के निकट डाउनहिल में अवस्थित है, राजस्व उपनिरीक्षक द्वारा अवगत कराया गया है कि प्रश्रगत स्थल निजी नाप भूमि है डम्पिंग स्थल तहसील डुण्डा क्षेत्रान्तर्गत खसरा सं० 718 कुल रकबा 0.160 है० निजी नाप भूमि श्री रोशन लाल उनियाल पुत्र श्री काशीराम के नाम राजस्व अभिलेखों में दर्ज है प्रश्रगत स्थल पर निर्माण कार्य के तहत पहाड कटान से उत्सर्जित मलवा एकत्रित कर डम्प किया गया है।

**खनन विभाग स्थल का सामान्य विवरण :-**

प्रश्रगत डम्पिंग स्थल के मध्य भाग की भौगोलिक अवस्थिति 30°43'14.68"N 78°21'36.90"E व लगभग elevation msl (mean sea level) से 950m की ऊँचाई पर अवस्थित है संयुक्त दल के द्वारा मौके पर मलवा डम्पिंग स्थल पर नपाई करने पर परिक्षेत्र की लम्बाई 48.0 मीटर, चौड़ाई 41.0 मीटर एवं ढलान के अनुरूप ऊँचाई 26.0 मीटर मापी गई है इस प्रकार उर्ध्वाधर ऊँचाई लगभग 17 मीटर आगणित होती है। नदी तल एवं डम्पिंग क्षेत्र के मध्य स्थित 63 मीटर दूरी का स्थल एक समतल भूमि का भाग है। जिसका सामान्य ढाल 10° से न्यून है। नदी के किनारे डम्पिंग क्षेत्र के आधे भाग के मध्य महर्षि आश्रम के विभिन्न भवन भी बने है जो डम्पिंग क्षेत्र के मलवे के प्रवाहित होने के अवरोधक का कार्य करेंगे। डम्पिंग स्थल पर डम्प किये गये मलवे से नदी के समीपस्थ किनारे के दूरी 63.0 मीटर मापी गयी है प्रश्रगत स्थल पर मलवा जिसमें मुख्यतः कटान से उत्सर्जित मिट्टी में छोटे आकार के बोल्टर्स 30 प्रतिशत व मिट्टी 70 प्रतिशत मिश्रित अवस्था में विद्यमान है। डम्पिंग स्थल के नीचे डाउनहिल में समीप स्थित भवनों एवं तदोपरान्त नदी के सुरक्षा के दृष्टिगत वायर ब्रेट दिवार का कार्य निर्माणाधीन दृष्टिगोचरित हुआ है डम्पिंग स्थल के पूरव दिशा में महर्षि आश्रम के विभिन्न भवन आदि व तदोपरान्त भागीरथी नदी, पश्चिम दिशा में गंगोत्री राष्ट्रीय राजमार्ग 34, उत्तर दिशा में बंजर भूमि एवं दक्षिण दिशा में नाप खेत अवस्थित है। प्रश्रगत स्थल पर वायरग्रेट एवं उपरी सतह पर बोल्टर्स जमा किये पाये जिनका मापन करने के उपरान्त कुल 1650 टन आगणित हुआ है। जिस के सम्बन्ध में संगत प्राविधानों के अन्तर्गत कार्यवाही की जा रही है।

**पर्यावरण विशेषज्ञ :-**

सैणी नामक लोक निकट कच्चड़ देवता मंदिर (गंगोत्री राष्ट्रीय राजमार्ग) के किनारे श्री रोशन लाल उनियाल पुत्र श्री काशीराम उनियाल ग्राम सैणी विकासखण्ड डुण्डा जनपद उत्तरकाशी द्वारा 2000 वर्ग मीटर पर जो डम्पिंग किया जा रहा है वह गंगा नदी के लगभग 63 मीटर दूर है तथा उनके द्वारा नदी में किसी भी प्रकार का मलवा/मिट्टी प्रवाहित नहीं किया जा रहा है तथा ना ही नदी के पर्यावरण को कोई क्षति पहुंच रही है। श्री उनियाल द्वारा उक्त डम्पिंग क्षेत्र में नदी की तरफ से सुरक्षा दीवार का कार्य भी निर्माणाधीन है। अतः शिकायतकर्ता द्वारा नदी में पर्यावरण प्रदूषण व नदी को रोके जाने की जो शिकायत की गई है वह जांच में सही नहीं पाई गई है।

**सिंचाई विभाग:-**

सिंचाई विभाग के सहायक अभियन्ता एवं अवर अभियन्ता के द्वारा मौके पर डम्पिंग जोन का मलवा नदी के बहाव से 63 मीटर की दूरी पर पाई गई साथ में यह भी पाया गया है

कि डम्पिंग जोन नाप भूमि में बना हुआ है जो श्री रोशन लाल उनियाल पुत्र श्री काशीराम उनियाल की पाई गई

वन विभाग:-

5 उपरोक्त विषयक संदर्भित पत्र के क्रम में प्रश्रगत स्थल गंगोत्री मार्ग में सैणी नाम स्थल का निरीक्षण उप प्रभागीय वनाधिकारी, धरासू, वन क्षेत्राधिकारी, डुण्डा रेंज से कराया गया उक्त प्रकरण गंगोत्री राष्ट्रीय राजमार्ग के किनारे मलवे / मिट्टी डम्पिंग से सम्बन्धित है। डम्पिंग किये गये स्थान की निकटतम आरक्षित वन की सीमा (डुण्डा कक्ष सं०-1) से दूरी लगभग 250 मी० है जिस कारण उक्त डम्पिंग क्षेत्र आरक्षित वन के अन्तर्गत नहीं आता है। समिति के सदस्यों के द्वारा स्थलीय निरीक्षण के उपरान्त सामूहिक रूप से निम्नलिखित निष्कर्ष प्राप्त हुये हैं।

1. प्रश्रगत डम्पिंग भागीरथी नदी से 63 मी० दूरी पर अवस्थित है, डम्पिंग जोन एवं नदी के मध्य अवस्थित 63 मी० का क्षेत्र एक समतल भू भाग है अतः डम्पिंग क्षेत्र में जमा किये गये मलवे जिसकी कुल उर्ध्वधर ऊँचाई लगभग 17 मीटर आगणित है। डम्पिंग मलवे के नदी में जाकर नदी जल को प्रदूषित करने की सम्भावना नहीं है।
2. प्रश्रगत स्थल पर जो एक निजी भूमि का भूभाग है, में डम्पिंग किये जाने से पूर्व कोई पूर्वानुमति प्राप्त नहीं की गई है। बिना पूर्वानुमति के भूमि के स्वरूप में परिवर्तन किये जाने के उद्देश्य से मलवा डम्पिंग कराये जाने एवं अवैध रूप में एकत्र किये गये बोटल्स के सम्बन्ध में नियमानुसार कार्यवाही पृथक से की जा रही है।

#### English Translation by Tribunal:

"The dumping site in question is located in downhill near Kachdu Devta Temple, Maharshi Ashram, 15 km from District Uttarkashi Headquarter, 1.5 km from Tehsil Dunda. The Revenue Sub-Inspector informed that the site in question is private measured land, the dumping site is under Tehsil Dunda area, Khasra number-718, total area 0.160 hectares, the private measured land is registered in the revenue records in the name of Shri Roshan Lal Uniyal s/o Shri Kashiram. The debris emitted in the excavation under construction work has been collected and dumped at the site in question.

General description of the mining department site:-

The geographical location of the central part of the dumping site is 30°43'14.68"N 78°21'36.90"E and is approximately 950 meters above the MSL (Mean Sea Level). On the spot measurement of the debris dumping site by the joint team, the length of the area was measured to be 48.0 meters, width 41.0 meters and height 26.0 meters as per the slope. Thus, the vertical height is estimated to be approximately 17 meters. The 63 meter long site situated between the river bed and the dumping area is a part of a flat land. Its general slope is less than 10°. Various buildings of Maharishi Ashram have also been built in the middle of half of the dumping

area on the river bank, which will act as a barrier to the flow of debris from the dumping area. The debris dumped at the dumping site has a distance of 63.0 meters from the nearest bank of the river. The debris at the site in question mainly consists of 30% small size boulders and 70% soil mixed with soil excavated from erosion. In order to protect the buildings located downstream of the dumping site and safety of the river, wire-brick wall work is under construction. Various buildings of Maharshi Ashram etc. are located to the east of the dumping site and then Bhagirathi river, Gangotri National Highway 34 to the west, barren land to the north and measured fields to the south are located. Boulders were found deposited on the wire-grate and upper surface at the site in question, which after measuring were estimated to be 1650 tonnes. Action is being taken in respect of the relevant provisions.

*Environmental Expert:-*

The dumping being done by Shri Roshan Lal Uniyal S/o Shri Kashiram Uniyal, village Saini, Vikaskhand, Hunda, District Uttarkashi, on 2000 square meters near Kachdu Devta Mandir (Gangotri National Highway) on the banks of a place called Saini is approximately 63 meters away from the Ganga river and they are not releasing any kind of debris/soil into the river and no damage being caused to the environment of the river. The construction of a protective wall on the river side is also underway in the said dumping area by Shri Uniyal. Hence, the complaint made by the complainant regarding environmental pollution in the river and blocking of the river has not been found to be correct in the investigation.

*Irrigation Department:-*

The debris of dumping zone at a distance of 63 meters from the river flow has been spotted by the Assistant Engineer and Junior Engineer of Irrigation Department on the spot. It was also found that the dumping zone is built on measured land which belongs to Shri Roshan Lal Uniyal S/o Shri Kashiram Uniyal.

*Forest Department:-*

5 In continuation of the letter referred above, the place in question, a place named Saini on Gangotri Marg, was inspected by the Sub Divisional Forest Officer, Dharasu, Forest Range Officer, Dunda Range. The said case is related to the dumping of debris/soil on the side of Gangotri National Highway. The distance of the dumped place from the boundary of the nearest reserved forest (Dunda compartment no. 1) is about 250 m, due to which the said dumping area does not fall under the reserved forest.

The following conclusions have been collectively received after the field inspection by the members of the committee:

1. The dumping zone in question is located at a distance of 63 meters from the Bhagirathi river. The area of 63 meters situated in the middle of the river in the dumping zone is a flat land. Hence, the debris deposited in the dumping area, whose total vertical height is estimated to be about 17 meters. There is no possibility of dumping debris into the river and polluting the river water.
  2. No prior permission has been obtained before dumping at the site in question which is a private land. Separate action is being taken as per rules in respect of dumping of debris and boulders collected illegally with the objective of changing the nature of the land without prior permission."
5. The conclusions of Joint Committee are as under:-

- “ 1. प्रश्नगत डम्पिंग भागीरथी नदी से 63 मी० दूरी पर अवस्थित है, डम्पिंग जोन एवं नदी के मध्य अवस्थित 63 मी० का क्षेत्र एक समतल भू भाग है अतः डम्पिंग क्षेत्र में जमा किये गये मलवे जिसकी कुल उर्ध्वाधर ऊँचाई लगभग 17 मीटर आगणित है। डम्पिंग मलवे के नदी में जाकर नदी जल को प्रदूषित करने की सम्भावना नहीं है।
2. प्रश्नगत स्थल पर जो एक निजी भूमि का भूभाग है, में डम्पिंग किये जाने से पूर्व कोई पूर्वानुमति प्राप्त नहीं की गई है। बिना पूर्वानुमति के भूमि के स्वरूप में परिवर्तन किये जाने के उद्देश्य से मलवा डम्पिंग कराये जाने एवं अवैध रूप में एकत्र किये गये बोल्डर्स के सम्बन्ध में नियमानुसार कार्यवाही पृथक से की जा रही है।”

**English Translation by Tribunal:**

“The conclusions of Joint Committee are as under:-

1. The dumping zone in question is located at a distance of 63 meters from the Bhagirathi river. The area of 63 meters situated in the middle of the river in the dumping zone is a flat land. Hence, the debris deposited in the dumping area, whose total vertical height is estimated to be about 17 meters. There is no possibility of dumping debris into the river and polluting the river water.
2. No prior permission has been obtained before dumping at the site in question which is a private land. Separate action is being taken as per rules in respect of dumping of debris and boulders collected illegally with the objective of changing the nature of the land without prior permission.”

6. The report was considered by Tribunal on 04.01.2023 and after noticing various violations reported in Joint Committee report, Tribunal impleaded following as respondents:-

- (1) the State of Uttarakhand, through Chief Secretary, Government of Uttarakhand;
- (2) Uttarakhand Pollution Control Board;
- (3) District Magistrate, Uttarkashi and
- (4) Roshan Lal Uniyal, Village Saini, Block Dunda, District Uttarkashi, Uttarakhand.

7. Notices were issued to the said respondents giving time to file their responses.

8. Respondent 4 submitted a reply dated 23.02.2024 vide email dated 24.02.2024 stating that he is the owner of Khasra No. 718, area 0.160 hectare, Saunthi, near Kachadu Devata Mandir, Tehsil Dunda, District Uttarkashi, U.K and the property is located on Gangotri National Highway No. 34, recorded as *banjar*, having big boulders erecting out of land. National Highway Authority of India (hereinafter referred to as 'NHAI') wanted to broaden NH No. 34. Respondent 4 issued No Objection Certificate for dumping of material on the property to facilitate completion of road widening project and secure pre-existing boulders. It is also said that for illegal dumping of debris on the land near river Additional District Magistrate imposed a penalty of Rs. 3,38,897/- upon respondent 4 vide order dated 15.09.2022. Copy of the order is on page 103 which shows that for extraction of boulders which constitutes mining, and that too, conducted illegally, Additional District Magistrate demanded royalty, penalty, etc. The total amount was computed as Rs. 3,38,897/-. It was also stated by respondent 4 that for construction of resort, it has been granted permission by Zila Paanchayat Uttarkashi on 27.07.2022.

However, the said activities of development of resort within flood plain zone of River Ganga is clearly prohibited under River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 (hereinafter referred to as '**Ganga Rejuvenation Order, 2016**') wherein para 6 (3 and 4) duly provides as under:-

***"6. Prevention, control and abatement of environmental pollution in River Ganga and its tributaries.-***

*(1) .....*

*(2) .....*

*(3) No person shall construct any structure, whether permanent or temporary for residential or commercial or industrial or any other purposes in the River Ganga, Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries:*

*Provided that in exceptional circumstances like natural calamities or religious events at traditional locations, temporary structures can be raised after prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee: Provided further that in case any such construction has been completed, before the commencement of this Order, in the River Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga or its tributaries, and if that be so, it shall cause for removing them.*

*(4) No person shall do any act or carry on any project or process or activity which, notwithstanding whether such act has been mentioned in this Order or not, has the effect of causing pollution in the River Ganga."*

9. In these facts and circumstances, Tribunal found impleadment of NHAI and National Mission for Clean Ganga (hereinafter referred to as '**NMCG**') being necessary parties pertinent and impleaded them as respondents 5 and 6. Notices were issued to newly impleaded respondents 5 and 6 vide order 18.12.2023. However, no response was

filed by respondents 5 and 6 and they further sought adjournment on 02.04.2024 which was viewed seriously by Tribunal and after recording its reasons in para 5, 6 and 7, demonstrating conduct of respondents 5 and 6 in seeking unnecessary adjournment causing delay and inconvenience to Court proceedings, Tribunal granted one more opportunity to file replies to respondents 5 and 6 subject to payment of Rs. 10,000/-.

10. Pursuant to above order dated 02.04.2024, NMCG, respondent 6, has filed its response dated 10.05.2024 stating that a site inspection was conducted by a team constituted by NMCG on 25.04.2024 and the observations recorded in inspection report submitted by the said team are mentioned in para 10 of the reply of the report, as under:-

*"10. The observations in the Inspection Report are as under:*

- a) *During inspection, measurements were done from the bottom of the resort and it has been found that the resort (M/s Hill River View Resort) is 60- meter distance from the edge of the river;*
- b) *During inspection, prima facie of the land on which M/s Hill River View Resort has been constructed, it has been observed that the resort has been developed by dumping of debris. As informed by the BRO and PWD representatives that no dumping of material/debris has been done by them. No NHAI representative was present during the inspection of the site;*
- c) *As informed by the Irrigation Division, Uttarkashi the resort is constructed beyond Red line (25 years flood frequency zone) and yellow line (100 years flood frequency Zone);-*
- d) *As per record made available by the Revenue Officials the resort land is private land registered in the name of Shri Roshan Lal Uniyal, S/o Shri Kashiram and others as nonagricultural land;*
- e) *As informed by the Forest Department representative, the resort land does not come under Forest protection area and the resort is approximately 250 meter away from the forest area; &*

- f) *As informed by DRL Zila Panchayat Utrarkashi representative, the resort map was only approved by the Zila Panchayat*

*The Site Inspection Report is annexed as Annexure-II."*

11. Further, respondent 6 has stated in its reply, in para 11, 12 and 13, as under:-

*"11. That as regards the permissibility of construction and operation of resort within 63 meters from river Ganga, it is submitted that para 3 (1) of River Ganga (Rejuvenation, Protection & Management) Authorities Order 2016, says that **"flood plain" means such area of River Ganga or its tributaries which comes under water on either side of it due to floods corresponding to its greatest flow or with a flood of frequency once in hundred years.***

*12. It is also mentionable that the Ministry of Environment, Forest and Climate Change has notified vide Notification No. G.S.R 445(E) dated 29.03.2016 the "Construction and Demolition Waste Management Rules, 2016. The Municipal Corporation of Uttarkashi (Uttarakhand) and the other State Government authorities including the Uttarakhand, SPCB of the State Government of Uttarakhand are mandated to ensure the compliance of the said rules.*

*13. That further, it is submitted that as per paragraph 55 of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, the District Ganga Committee is empowered to identify activities which may be threats in the area of specified District abutting the River Ganga for protection of River Ganga and its tributaries or its River bed and making a plan for remedial action and take remedial action in respect thereof. The District Ganga Committee is also vested with the powers for taking remedial action at its own end for protection of River Ganga and its tributaries or its River bed abutting in the specified District (excluding enforcement of the provisions of this Order)."*

12. It is thus evident that though there is clear violation of provisions of Ganga Rejuvenation Order, 2016 but no effective steps have been

taken by respondent 6 for removal of such unauthorized and illegal development near River Ganga.

13. Learned counsel appearing for respondent 6 states that action should have been taken by District Ganga Counsel or State Ganga Counsel but could not dispute that at the apex level it is the respondent 6 who is ultimate repository of power and has responsibility of taking all steps for rejuvenation, protection and management of River Ganga and its tributaries as clearly mentioned para 41 of Ganga Rejuvenation Order, 2016. The functions of respondent 6 are also described in detail in para 39 of Ganga Rejuvenation Order, 2016. Unfortunately, no such power has been exercised by respondent 6 till date and it is a mere silent spectator watching damage to River Ganga and its banks without taking any effective action for its protection. It is really unfortunate state of affairs on the part of respondent 6.

14. Further, respondent 6 has also not complied with order dated 02.04.2024 in as much as cost of Rs. 10,000/- has not been deposited. Instead I.A No. 302/2024 has been filed seeking waiver of said cost.

15. I.A No. 302/2024 is for waiver of cost but having gone through the same, we do not find any satisfactory explanation for showing any leniency towards submitting response to Tribunal. There is no justification for cost to be waived. I.A No. 302/2024 is hereby rejected.

16. Let the cost be deposited within 2 days.

17. Now coming to respondent 5, neither it has filed its response nor deposited cost and even today there is complete defiance on its part.

18. In these facts and circumstances, we have no option but to direct Chairman, NHAI to appear in person before Tribunal on the next date to explain as to why for violation of order of this Tribunal criminal prosecution may not be initiated since violation of the order of this Tribunal is an offence under Section 26 of National Green Tribunal Act, 2010.

19. Since respondent 5 has also not take any effective steps for protection and rejuvenation of River Ganga and its bank, we have no option but to direct appearance of Director General, NMCG to appear on next date to explain as to why it is simply sitting idle and not taking effective steps and discharging its responsibilities, duties and obligations detailed in Ganga Rejuvenation Order, 2016 for rejuvenation, protection and management of river Ganga and its tributaries.

20. List the matter on 12.08.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 11, 2024  
Original Application No. 494/2022  
AB