

**Joint Committee Report in the matter of O.A No. 316 of 2022 Dr. Sharad
Gupta Vs State of UP**

1. **General:** In the aforesaid matter, grievance made by Dr. Sharad Gupta resident of 24, Heera Bagh Colony, Dayal Bagh, Agra are that as per news article published in *Times of India* dated 06.03.2022 the ravines are being destroyed by large scale mining in the vicinity of Taj Mahal and has restricted flood plain zone of river Yamuna. Destruction of the forest ravines, which are natural habitat for over 1000 species of animals and plants, will lead to devastation of the ecological chain as well as harm the Taj Mahal. It would also affect original landscape and contours in the vicinity of Taj Mahal and restrict flood plain zone of river Yamuna in Agra, Uttar Pradesh.

Hon'ble National Green Tribunal heard the matter on dated 09.05.2022 and passed an order in the O.A no. 316/2022 Dr. Sharad Gupta Vs State of Uttar Pradesh. The operating para of the order is quoted as below:

"Accordingly, we constitute Joint Committee of representative of Ministry of Jal Shakti, Government of India; Regional Office of MoEF&CC, Lucknow; TTZ Authority; State PCB and District Magistrate, Agra and direct the same to verify the factual position particularly with regard to notification and demarcation of Flood Plain Zone (FPZ) where the alleged large scale mining is being done, look into the grievances of the applicants and take remedial action in accordance with law by following due process within one month from the date of receipt of a copy of this order. State PCB will be the nodal agency for co-ordination and compliance. Factual and action taken report may be furnished 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."

2. **Constitution of Joint Committee:** As per the Hon'ble NGT order, Joint Committee was constituted having following members from Ministry of Jal Shakti, Government of India; Regional Office of MoEF&CC, Lucknow; TTZ Authority; District Administration and State PCB as a Nodal Agency for coordination and compliance.

- i. Dr. Vishwanath Sharma, Regional, Officer, Agra is nominated as a member on behalf of State PCB.
- ii. Mr. Dheeraj Joshi, Deputy Secretary, NMCG as representative along with Mr. Peeyush Gupta (Real Time Information Specialist) & Mr. Sandeep Behra (Consultant Biodiversity) as experts from National Mission Clean Ganga, Ministry of Jal Shakti, New Delhi.

- iii. Dr. Mrs. Satya, Additional Director/Scientist-E is nominated as representative of Ministry of Environment, Forest & Climate Change, Government of India.
- iv. Mr. R.K Singh, Chief Town Planner, Agra Development Authority/Nodal Officer, TTZA is nominated as representative of Taj Trapezium Authority, Agra.
- v. Mr. A.K Singh, Additional District Magistrate (City) is nominated by District Magistrate, Agra.

3. **Field Visit and Observations of Joint Committee:** The Joint Committee along with the applicant Dr. Sharad Gupta visited the said area on dated 26-07-2022. Divisional Forest Officer, Agra and Executive Engineer, Lower Khand, Agra Canal, Department of irrigation, U.P. were also present at the time of inspection. The observations of the Committee regarding the above mentioned site inspection are as follows:

A. Observations on aspect of large scale mining in the ravines in the vicinity of Taj Mahal and restriction of the flood zone of river Yamuna:

On the day of site visit, Committee observed that Taj Forest Block is a rugged forest area which comes under Agra Forest division **ANNEXURE-1**. On the day of site visit, construction of some check dams were found by the Committee members which are shown in **FIGURES 1, 2, 3, 4 and 5**.



Figure 1: Check dams-build in ravine gullies to reduce runoff.



Figure 2: Adjacent earthen digs to build earthen check dams.



Figure 3: Growth of vegetation barrier on an earlier built earthen check dam.

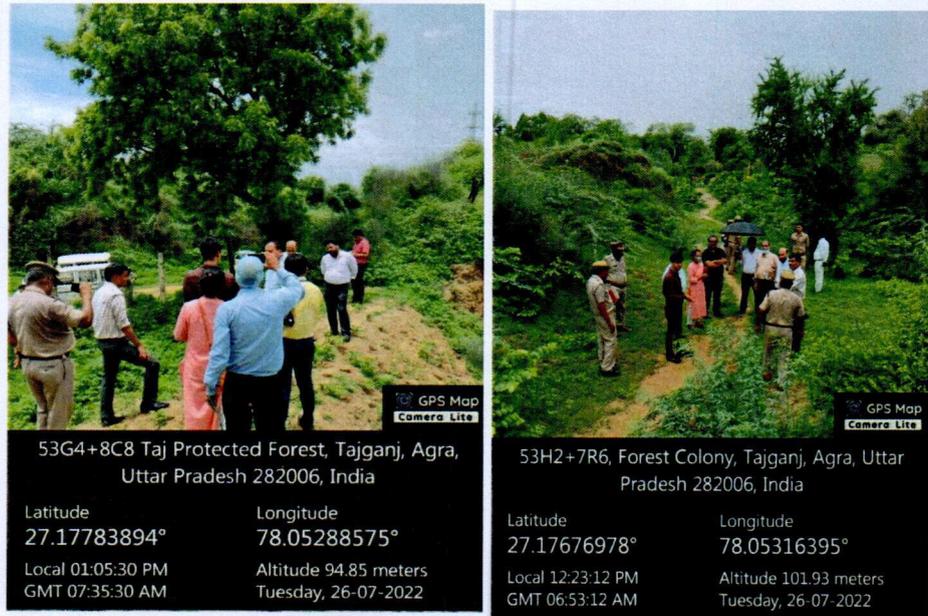


Figure-4: Joint Visit of Taj Forest Block where check dams were constructed.



Figure-5: Joint Visit of Taj Forest Block where check dams were constructed.

During inspection of the said area and according to the discussion with Divisional Forest Officer, Agra, it was informed that no large-scale mining has been done in the Taj Forest block in the vicinity of Taj Mahal and ravines have not been destroyed.

DFO, Agra vide letter no-560/22-20 dated 02.08.2022 informed that Taj Forest block is a rugged forest area under Agra Forest division in which forest department have constructed only check dams to prevent soil erosion to maintain soil moisture at locations where gully-drains have formed due to soil erosion by heavy flow of water during rains ANNEXURE-2. The construction of check-dams has been carried out by using local soil for which as per work plan of Social Forestry Division, Agra. DFO, Agra informed that work plan has also been approved by Ministry of Environment Forest & Climate Change, Government of India ANNEXURE-2/1.

As per the information submitted above work rate has been approved by Conservator Forest, Agra circle, Agra vide letter no. 274/5-9-2 dated 15.07.2020 for regarding forest work ANNEXURE-2/2.

In Taj Forest block 43 check dams have been constructed, in which 8439 cubic meter soil have been scraped from the up-stream site. Attested photocopy of measurement book is annexed as ANNEXURE-2/3.

B. Observations on aspect of restriction of the flood zone of river Yamuna:

At the time of visit Executive Engineer, Lower Khand, Agra Canal, Department of Irrigation informed that demarcation of flood plain zone behind Taj Mahal has not been carried out yet. Information has been sought from Executive Engineer, Lower Khand, Agra Canal, Department of Irrigation, U.P vide letter no.487/OG-679/2022 dated 26.07.2022 to provide flood-plain zone demarcation behind Taj Mahal ANNEXURE-3. Executive Engineer, Lower Khand has informed vide letter no. 2230/ लोअर/एन०जी०टी० dated 27.07.2022 that no document regarding demarcation of flood plain zone behind Taj Mahal is available in official documents. Hence no information can be provided in this respect (ANNEXURE-4).

Letter has been sent on dt.08.08.2022 to Forest Department-Agra, District Mine Officer-Agra and Executive Engineer, Lower Khand Agra Canal, Department of irrigation, U.P to provide the information as below (placed at ANNEXURE-5): -

I. Department of Forests

- (i) GIS Boundary of the Forest Area where the digging activity is being undertaken.

- (ii) Annual plan of operation for such activity and guidelines, if any, for carrying out such activity including permission taken.
- (iii) Geo-coordinate of trenches at the site with measurements.
- (iv) Biodiversity data loss to ascertain the scenario-base line & current scenario.

II. Department of Irrigation

Demarcation of the Flood Plain Zone in GIS format including the geo-coordinates or locations of marking pillars.

III. Other concerned departments of the State Government (District Administration, Mines Departments)

Details of any other activities outside forest land, as complainant; such as earth cutting resulting in soil erosion/changing land use pattern.

C. Observations on aspect of Mining in the flood zone of river Yamuna:

Senior Mine officer informed vide letter no. 524/खनिज सहायक/2022-23 dated 10.08.2022 that as per the provisions of Uttar Pradesh Minor Minerals (Concession) Rules, 2021 or as per the instruction of the Government, mining operation permission outside forest area is given by District Magistrate as per Rules (placed at ANNEXURE-6).

D. Observations on the aspect of destruction of the forest ravines, which are natural habitat for over 1000 species of animals and plants, will lead to devastation of the ecological chain as well as harm the Taj Mahal:

Past & present record of biodiversity status is not available including aspects of natural habitats of wildlife in the ravines with the Forest Department. Field observation report of Biodiversity expert, NMCG related to impact on biodiversity is enclosed at ANNEXURE-7 and key excerpts are as under:

Background

Ravines are the most degraded form of land formed due to natural erosion, the main type of erosion that occurs in these lands is sheet and gully erosion. These lands are majorly converted to agricultural lands using heavy machinery. However, attempt to restore these lands for biodiversity conservation have been practiced rarely in the past.

Ravines can be restored through methods to retain soil moisture and augmentation of vegetation cover that holds and binds soil particles to reduce the runoff during

rain. The most commonly practiced methods are earthen check dams, gully plugs, bench terracing, trenching, and other measures such as controlled grazing, breaking the length of slopes into smaller units and plantations.

In a similar attempt to restore ravines for biodiversity conservation in the TTZ area, earthen check dams were built to reduce the runoff in the area. Hence, a sign survey was conducted to assess the loss of biodiversity, if any, due to the use of machinery and digging of soil nearby to build the earthen check dams.

Survey findings:

During the survey, undisturbed burrows likely to be used by small mammals and reptiles were observed in the area. No destruction of burrows has been observed due to construction of earthen check dams as shown below.



The presence of Nilgai (*Boselaphus tragocamelus*), and Jackal (*Canis aureus*) were confirmed through direct sighting, while indirect signs of Indian hare (*Lepus nigricollis*), wild boar (*Sus scrofa*) were recorded in the area as shown below.



Bird species such as Egyptian vulture (*Neophron percnopterus*), rose-ringed parakeet (*Psittacula krameri*), babbler (*Argya striata*), baya weaver (*Ploceus philippinus*), Asian koel (*Eudynamis scolopaceus*) and red-vented bulbul (*Pycnonotus cafer*) were sighted during the survey.

It has been suggested in the report that the TTZ's ravine restoration is among the best examples of ravine restoration for biodiversity protection. This restored land is being used by various mammals, birds, and butterfly species. Although no reptile species were observed during the survey, except burrows which may potentially indicate the presence of reptiles. These species are cryptic and elusive hence specialized surveys are required to detect these species in any area. In a similar attempt to restore ravines for biodiversity conservation in the TTZ area, earthen check dams were built to reduce the runoff in the area and the construction of earthen check-dams has created a negligible disturbance to the wildlife of the area.

Further, owing to non-submission of data by various agencies (ANNEXURE-5) required to prepare the Joint Committee report, a meeting was organized at NMCG under Chairmanship of Executive Director (Technical), NMCG, Ministry of Jal Shakti on dated 17.08.2022 to review the status in the aforesaid O.A No. 316/2022. Minutes of the meeting is being enclosed as ANNEXURE-8. In the meeting Forest Department official, Shri Kunj Mohan Verma, SDO, Forest Department, Agra Forest Division informed that check dams being constructed are not for mining activity but for water restoration which was also confirmed by Senior Mines Officer, Agra present in the meeting. SDO, Forest informed that these are small structure with limited storage capacity temporarily meant to arrest the flow of water and are part of

annual programme of Forest Department. Approx. 300 to 400 such structures have been constructed in Agra district.

Further, Executive Engineer, State Irrigation informed that Irrigation Department has not identified flood plain zone of River Yamuna behind the Taj Mahal which is downstream end of Yamuna River in the city of Agra. The site in question is located approx. 500 meters from Yamuna River bank.

SDO-Forest; Executive Engineer-Sate Irrigation; Senior Mines Officer and Nodal Officer were requested to provide the following details: -

- A. **Forest Department will provide details of APO activity to all members. (Information Required from DFO office)**
- B. In absence of demarcated floodplains by Irrigation Department, no development/regulation zone as per NGT orders may be followed as an interim measure till identification of flood plain zones. Accordingly, State Irrigation Department will verify whether the site in question is located in flood plain zone or not and provide the data to the members.
- C. Nodal Officer and **Forest Department to verify the activities carried out by Forest Department through TTZ authority also. (Information Required from DFO office)**
- D. Other pending details as communicated vide letter from NMCG to Hon'ble NGT (PB) dated 02.08.2022 and letter from Nodal Officer, RO (SPCB) Agra to all concerned dated 08.08.2022 (**ANNEXURE-5**).

In continuation of the meeting, Executive Engineer, Lower Khand, Agra Canal communicated vide letter dated 27.08.2022 **ANNEXURE-9** informed that in the O.A no. 200/2014 (M.C Mehta V/s Union of India and others) Hon'ble National Green Tribunal was pleased to passed an order dated 13.07.2017, the relevant part of the order is as below: -

"Till the demarcation of the flood plains and identification of permissible and non-permissible activities by the state government of this judgement, we direct that 100 meters from the edge of the river would be treated as no development/construction zone in segment-B of Phase-I"

State Irrigation Department conveyed that till the demarcation of flood plain zone of the said area, 100 meters from the edge of the river would be treated as no

development/ construction zone. It was also informed that the estimate is being prepared for survey and after fund allocation, the demarcation work of flood plain zone is proposed by State Irrigation Department.

Thematic Maps have been generated by NMCG using geospatial technology for the part of Agra District, from the available data sources (National Remote Sensing Center, Survey of India, & ESRI) of NMCG, field data (Ground Control Points), and check dam data of Forest Department Agra. As per the information available from the thematic maps, check-dam's locations are far from 100 meters from the edge of the river (**ANNEXURE-10**). This was also accepted by all Committee members.

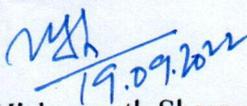
Further, Senior Mine Officer informed vide letter dt.08.09.2022 that no ordinary sand mining lease has been approved in Yamuna River area in the vicinity of Taj Mahal (**ANNEXURE-11**).

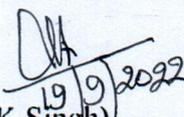
DFO, Agra informed vide letter dt.12.09.2022 that as per his knowledge there is no restriction for forestry work (Water and Soil Conservation) in Taj Trapezium Zone (**ANNEXURE-12**).

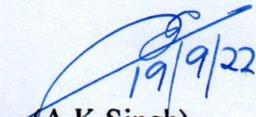
4. Observations/ Recommendations

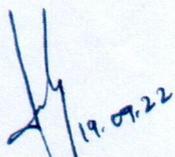
- i. The site was visited by the members of Joint Committee in the presence of the applicant Dr. Sharad Gupta in the OA No. 316/2022 on 26-7-2022.
- ii. Flood plain zone has not been demarcated by State Irrigation Department and has also not been notified by State Irrigation Department behind the Taj Mahal which is downstream end of Yamuna River in the city of Agra. Accordingly, Irrigation department has been requested to complete it immediately. However, as an interim measure, NGT directions relating to extent of flood-plain demarcation (both through identification of geo-coordinates and fixing of pillars) may be completed which mandates that 100 meters from the edge of the river would be treated as no development/construction zone as an interim measure.
- iii. State Irrigation Department was required to verify whether the site in question is located in flood plain zone or not and provide the data to the members. Accordingly, Executive Engineer, Lower Khand, Agra Canal informed citing Hon'ble National Green Tribunal order in the O.A no. 200/2014 (M.C Mehta V/s Union of India and others) (vide letter dated 27.08.2022 at **ANNEXURE-9**) that *100 meters from the edge of the river would be treated as no development/construction zone.*

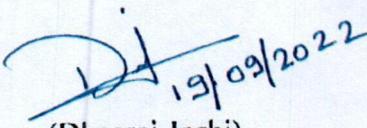
- iv. Thematic maps (ANNEXURE-10) have been generated using geospatial technology by NMCG for the concerned site of Agra District, from the available data sources. As per the observation based on prepared thematic maps, check dam's locations are far from 100 meters from the edge of the river. As per assessment of Irrigation Department official, the site in question is located approx. 500 meters from Yamuna River bank.
- v. No mining activity is being carried out in the site as confirmed by Mining department. Further, no ordinary sand mining lease has been approved in Yamuna River area in the vicinity of Taj Mahal (ANNEXURE-11).
- vi. Check dams that are being constructed in Forest area are not for mining activity but for retaining soil moisture (which was also confirmed in the report of Biodiversity expert at ANNEXURE-7).
- vii. Past & present record of biodiversity status is not available with Forest Department including aspects of natural habitats of wildlife in the ravines. Thereby field observation using sign survey was conducted by Biodiversity expert, NMCG and vide his report at ANNEXURE-7, it was suggested that the TTZ's ravine restoration is among the best examples of ravine restoration for biodiversity protection. This restored land is being used by various mammals, birds, and butterfly species. Although any reptile species were not observed during the survey, except burrows which may potentially indicate the presence of reptiles. These species are cryptic and elusive hence specialized surveys are required to detect these species in any area. In a similar attempt to restore ravines for biodiversity conservation in the TTZ area, earthen check dams were built to reduce the runoff in the area and the construction of earthen check dams it seems has created a negligible disturbance to the wildlife of the area.


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