

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No. 329/2021**

Devanshu Bose

Applicant

Versus

Agra Development Authority & Ors.

Respondent(s)

OBJECTION TO FACTUAL AND ACTION TAKEN REPORT

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The Applicant submits as follows:

1. Summary

Agra Development Authority has granted excessive special privileges to polluters to operate sewage pumping operations in a public park opposite house number 227 of the concerned colony and use an underground pipeline to directly discharge crores of liters of latrine and toxic effluents exactly in the backyard of the applicant's residence. Frivolous reasons are being cited by the Agra Development Authority to block directions of hon'ble NGT that is depriving the fundamental right to dignified human life to the applicant and his neighbors. Agra Development Authority has failed to remove a highly powerful sewage pumping machine and pipeline that is capable of flooding toxic effluents within hours.

There is no scientific approach to measure the magnitude of the pollution.

Agra Development Authority is functioning as a self serving private club focussed on entertainment and recreation at the time their residents are deprived of fundamental rights facing biohazardous disaster. (Annexure-P1).

Failure in performing constitutional duties by Agra Development Authority has a high risk of genocidal consequences.

2. Resources with Agra Development Authority

S.no.	Subject	Description
1.	<p>Money in possession of Agra Development Authority specifically for the colony Nalanda Town at Shamshabad Road Agra</p> <p>₹</p>	<p>Internal development: ₹ 52,80,800, External development: ₹. 77,68,683</p> <p>Total: ₹ 1,30,49,483 (One crore thirty lakhs, forty nine thousand, four hundred eighty three)</p> <p><u>Annual interest accrued at rate of 8% : 10,43,958 (assumption)</u></p>
2.	Source of money	Deposited by the builder of the colony. (Builder entity is presumably defunct)
3.	Purpose of the money	To undertake pending development related activities of the colony specifically.
4.	Since when money has been in possession of Agra Development Authority	Post High Court of Allahabad judgment dated 15th December 2016 (Writ no.58986 of 2016)
5.	<p>Time- Time period given to ADA to undertake remedial action by hon'ble NGT</p> <p>Period between two hearings of hon'ble NGT in OA 329 of 2021:</p> <p>Time period Agra Development Authority had with sufficient funds:</p>	<p>Two months (Month of December 2021 and January 2022) *****</p> <p>Ninety Two Days (01.12.2021 to 03.03.2022) *****</p> <p>Four years (2017-2021)</p>

3. Frivolous action taken by joint committee

<u>S.no</u>	<u>Directions by Hon'ble NGT</u>	<u>Actual action taken</u>
1.	Agra Development Authority is required to manage the said sewage.	Invoked Model Code of Conduct of Election Commission Of India without following due process. Shifting liabilities to a non-existent entity (RWA) who has no funds and no ownership of any land to provide consent for the sewage treatment plant.
2.	Ensure that no sewage is discharged in open	Observer to illegal sewage pumping activity by the polluters who are operating from a public park discharging crores of liters of latrine monthly.
3.	A factual and action taken report may be furnished to this tribunal	Critical facts have been concealed. No action has been taken.
5	Follow due process of the law	Special privileges granted to polluters. Assuming and interpreting laws to suit self serving narratives.

4. Objection on invocation of Model Code Of Conduct

<u>S.no</u>	<u>Claim made by Agra Development Authority</u>	<u>Objection by the applicant</u>
1	<p>“दिनांक 24.01.2022 की बैठक के निर्णय के परिप्रेक्ष्य में आगरा विकास प्राधिकरण द्वारा नालंदा टाउन कालोनी के एस.टी.पी. (सीवेज ट्रीटमेंट प्लान्ट) का आंगणन प्राधिकरण द्वारा तैयार किया जा रहा है। चूंकि वर्तमान में आदर्श आचार संहिता लागू है. अतः उपरोक्त की निविदा दिनांक 10.03.2022 के उपरान्त कराते हुए कार्य को कराया जाएगा।”</p> <p>(Page 15, para 2)</p>	<ol style="list-style-type: none"> 1. Model code of conduct does not impose a complete ban on new activities of public authorities. 2. There are provisions where permission may be sought from the screening committee of Election Commission of India 3. Other public authorities in the state of Uttar Pradesh have published tenders. (etender.up.nic.in) 4. Agra Development Authority did not make sincere efforts to seek approval of Election Commission considering life at risk of biohazardous disaster.

Link to below cited quote at frequently asked questions related to model code of conduct of Election Commission of India -

<https://eci.gov.in/faqs/mcc/model-code-of-conduct-r15/>

“Q29. How the Govt. may meet the emergency situation or unforeseen calamities, when there are restrictions for announcing welfare measures?”

Ans. For tackling emergencies or unforeseen calamities like providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc., Govt. may do so after obtaining prior approval of the Commission and all ostentatious functions shall be strictly avoided and no impression shall be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office with any ulterior motive.”

5. Objection related to Resident Welfare Association (RWA)

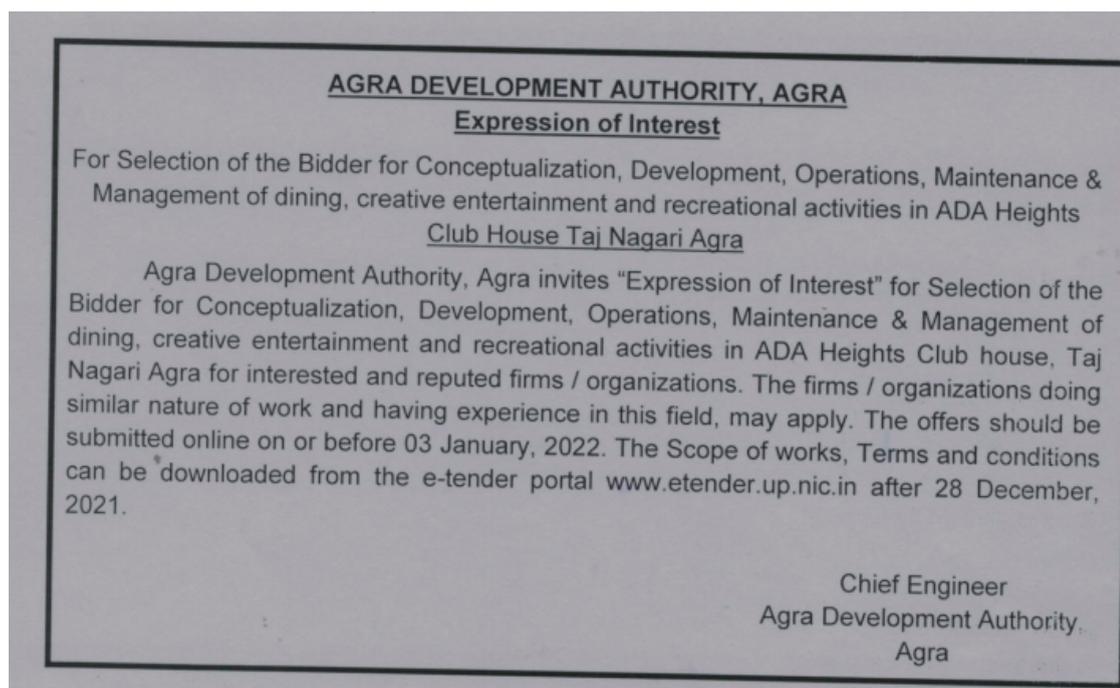
<u>S.no</u>	<u>Claims made by Agra Development Authority</u>	<u>Objections by the Applicant</u>
1.	<p>“साथ ही एस.टी.पी. निर्माण के स्थान को भी आरडब्ल्यूए० द्वारा अपनी जनरल बॉडी मीटिंग में पारित कराना होगा, जिससे तदनुसार सीवर के ट्रीटेड पानी की निकासी का आंगणन गठित कर कार्यवाही कराई जा सकेगी।”</p> <p>Also the place of construction of STP will also have to be passed by the RWA in its general body meeting, so that action can be taken accordingly by setting up a yard for the treatment of sewer water. (Page 16, para 1)</p>	<p>There is no registered resident welfare association of the colony. Agra Development Authority has no communication with RWA. No RWA owns any piece of land or has any jurisdiction to provide consent for land to Agra Development Authority.</p>
2.	<p>प्राधिकरण द्वारा गेट के बाहर के सीवेज भराव को टैंकरों के द्वारा एक बार स्थल से पूर्ण रूप से हटाने का कार्य आन्तरिक विकास शुल्क की धनराशि से कराया जाएगा। इसके उपरान्त एस.टी.पी. का कार्य पूर्ण होने तक सीवेज को कालोनी के निवासियों (आरडब्ल्यूए०) द्वारा स्वयं के व्यय से हटवाया जाएगा। यदि भविष्य में सीवेज का पुनः जल भराव होता है तो टैंकर द्वारा उसके निस्तारण का उत्तरदायित्व नालंदा टाउन कालोनी की (आरडब्ल्यूए०) का होगा।”</p> <p>The work of removing the sewage filling outside the gate will be done once completely from the site by tankers the authority with the amount of internal development fee. After this, till the completion of the work STP, the sewage will be removed by the residents of the colony (RWA) at their own expense. If the sewage gets re-watered in future, then the responsibility of its disposal by tanker will be of Nalanda Town Colony (RWA)." (Page 15, para 3)</p>	<p>No RWA has agreed to manage sewage during the period of construction of the sewage treatment plant.</p>

6. Facts concealed by the joint committee

<u>S.no</u>	<u>Subject</u>
1.	Laboratory report of sewage content and microbial analysis
2.	Hydrogen sulfide (and other sulfurous compounds) in parts per million in the open land and environment
3.	Ammonia and oxides of ammonia content in parts per million in the open land and environment
4.	Heavy metals in the environment
5.	Toxic chemicals found in the discharge
6.	Impact of sewage discharge on the structural strength of the houses in the affected area
7.	Whether the groundwater is illegally extracted and polluted
8.	Volume of sewage discharge
9.	Size of area affected with the forceful discharge of sewage
10.	Whether the nature of pollution can be classified as a biohazard
11.	Magnitude of the pollution
12.	Whether the sewage drainage to open land naturally flowing or a result of forceful illegal activity

7. Annexure

P1: Tender: Expression of Interest related to dining, creative entertainment and recreational activities by Agra Development Authority dated 28th of December 2021.



Significance of this tender:

Agra Development Authority is actively undertaking recreational and entertainment work that is primarily a domain of a resident welfare association while abandoning to manage sewage in its territory. Such actions indicate double standards on part of Agra Development Authority.

VERIFICATION BY THE DEPONENT

I, Devanshu Bose, the applicant herein, do hereby verify that the contents of the above paragraphs are true to the best of my knowledge and I have not suppressed any material fact.

Date: 28th of February of 2022

Place: Agra, Uttar Pradesh

देवानशु बोस