

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

IN

ORIGINAL APPLICATION No. 641 of 2023

**Reply of petitioners to the letter of District Magistrate of
Gautam Budh Nagar dated 05.01.2024**

IN THE MATTER OF

SUMAN CHAUHAN & 49 OTHERS VS GOVERNMENT OF UTTAR
PRADESH & OTHERS

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Manoj Singh

Sumit

Megha Abhay Gupta
: Megha Abhay Gupta

Air

Commodore Manoj Singh Sumit Mehta Megha Abhay Gupta
Abhay Gupta

Name and Signatures of party in person/Authorized representatives

Dated: 28.01.2024 Place: Delhi

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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
IN
ORIGINAL APPLICATION No. 641 of 2023**

**Reply of letter of District Magistrate of Gautam Budh
Nagar dated 05.01.2024**

**IN THE MATTER OF
SUMAN CHAUHAN & 49 OTHERS VS GOVERNMENT OF
UTTAR PRADESH & OTHERS**

To,

The Hon'ble Chairman of National Green Tribunal and his companion judges.

Respectively showeth as under:

1. That the original applicants have gone through the contents of the said letter of District Magistrate of Gautam Budh Nagar dated 05.01.2024 along with annexures appended thereto and as such are well acquainted with the facts and circumstances of the case deposed to below.
2. That the contents of the said letter are hereby replied to parawise in the subsequent paras.
3. The comments on para no.1 are that the "Executive Engineer Head Works Khand Agra Nahar" has not supported his submission by furnishing the manual of Barrage gate operations. He has also not furnished the activity register/documents/log book records of actual operations of the gates of the Okhla Barrage executed during the said flood. He has also submitted that the flood water reached up to the toe(base) of the left bund of the river on the downstream. He has not provided any proof of the

W/M-

same. It is to be stated by the petitioners that the bund has been built arbitrarily, without carrying any study of the rainfall, discharge, cross sectional area of the river channel size, contour levels of the floodplain, frequency of desilting operation planned and without following any law if available for construction of the said bund. Additionally the said bund is broken at many places. The flood water during the said floods reached up to sector 168, 135, 137, 125, advent underpass etc. News reports of the same are enclosed as **ANNEXURE-1**.

4. The comments on para no. 2 are that:
 - a. The petitioners deny the statement of SDM Sadar stating that the villages of the petitioners are uninhabited (*GairAbad*); the villages are located in flood plains and the polluted water mixed with silt, sewage, sludge did not enter in petitioners houses and properties. It is pertinent to bring to the record of the court that approx. 15 to 20K people are residing in these villages. Approx. 5000 cows and other domestic animals are in these villages. Noida Authority is itself maintaining a big Gaushala and a cremation building in these villages. The Indian Air Force has a big Office campus with a big land parcel fenced by them. The demarcation for determining the extent of the river floodplain has not been conducted by any authority in these villages of the petitioners so the said villages can't be categorized arbitrarily falling in flood plains.
 - b. The petitioners have already enclosed the photographs of the floods in petitioners houses and properties in the original application. More images are hereby enclosed as **ANNEXURE-2**. All the 50 petitioners have hundreds of photographs and videos of flooding in their properties, the same are not being enclosed herewith to avoid the voluminous reply.

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- c. It has to be noted that the irrigation department has not conducted any desilting activity of the river stretch near petitioners villages. Due to this the river channel has shrunk; the river has become shallow and has lost the capacity of holding large volumes of water in its channel. At many places the river can be crossed on foot during the dry seasons.
- d. A desilting activity was done 10 kilometers away from petitioners villages on the upstream at Okhla Barrage reservoir in 2012. The activity was carried out after the instructions of the Irrigation Minister Sh. Shivpal Singh Yadav. The activity was carried out to increase the water holding capacity of the Okhla Reservoir and to feed more water for irrigation in Agra canal. An amount of approx. 11.96 CR were spent on dredging of the silt from the reservoir of Okhla Barrage. The silt which was a cocktail of sewage, silt, sludge and other effluents was dredged from the river and was stacked in piles in the middle part/islands of the river and was not taken away. The dumped silt had washed back in the downstream river towards the petitioners villages in subsequent monsoon seasons. The said silt in the downstream caused the flood water to spill into the petitioners villages during the said floods. A statement of the officials of the irrigation department published by Times of India on 28.06.2012 proves that the silt was not taken away and was left in the river itself. Few excerpts of the said report are:

Uttar Pradesh irrigation department officials say the original plan was to leave the silt along the banks since transporting it would have increased the cost of the project. "The project cost, which is about Rs 12 crore right now, would have gone up to about Rs 17 crore if it was decided to move the silt. Also, it would have been impractical as there is a lot of traffic on the Noida road from where the trucks would have moved.

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A technical committee comprising chief engineers took this call based on financial and technical aspects," said an official. He added, "In any case, where else could we have left the silt if not in the river? We could have disposed it of downstream but to cut costs left it from where it was taken out."

A copy of the newspaper reports and a letter written by Mr Manoj Misra of Yamuna Jiye Abhiyaan to different ministries proving the same have been enclosed as **ANNEXURE 3**.

- e. That a kutchha bund is available between the river and the petitioner's villages but it is broken at many places and no maintenance of the said kutchha bund is done by any Authority.
- f. It is also stated by SDM Sadar that the properties of the petitioners are illegal and action is being taken by the Noida Authority/irrigation department against the properties of petitioners. It is pertinent to mention here that the properties of the petitioners are legal and petitioner's houses, gaushalas, nurseries, agri farms, vegetable farms etc are on their own lands and status quo is maintained after the order of Allahabad High Court. The area does not come under any master plan of Noida Authority as Noida Authority has not taken any approval from NCR Planning board for any of its master plans. All the master plans have been declared unapproved in the audit done by the office of Comptroller and Auditor General (CAG) in its 2019 report. Few excerpts of that report are:

"The policy framework of land acquisition and allotment functions executed by NOIDA are regulated by its Master Plans. The Master Plan was to be prepared by NOIDA as per the Regional Plan and approved by National Capital Region Planning Board (NCRPB). Master Plan-2021 of NOIDA was approved by the GoUP on 31 August 2006 with the condition that the approval of NCRPB should be ensured before the plan

was made applicable. However, upon NCRPB raising observations on the draft Master Plan, NOIDA decided (April 2008) to revise the plan for the perspective year 2031. The Master Plan-2031 was prepared in March 2011 and submitted to NCRPB and Chief Town and Country Planner (CTCP), GoUP, who communicated their observations thereon. The Master Plan-2031 was prepared even though there was no Regional Plan for 2031. The Master Plan-2021 was replaced with Master Plan-2031 to overcome various deficiencies but the latter also failed to address the issues raised by CTCP and NCRPB. The State Government accorded 'No Objection' to the Master Plan-2031 with the condition that the suggestions given by NCRPB and the CTCP be acted upon by NOIDA and based on the same, implementation of the Master Plan-2031 has been initiated. Thus, NOIDA prepared the Master Plan-2031 without a corresponding Regional Plan in place without addressing the concerns and observations raised by CTCP/ NCRPB and proceeded with implementation of the unapproved Master Plan despite observations of NCRPB." A copy of the relevant extract of CAG report showing that the master plan of 2031 is still at draft stage and is still unapproved by the competent authority is enclosed as ANNEXURE 4.

- g. The Honorable supreme court and Honorable High court of Uttar Pradesh has mandated the authorities to take approval of NCR Planning Board according to NCRPB ACT-1985 before implementing its master plans.

In a judgement dated 21st October, 2011, in WRIT - C No - 37443 of 2011, Petitioners : Gajraj And Others, Respondent : State Of UP And Others, Allahabad High court quashed the Greater Noida Master Plan 2021 on the grounds that it was not

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approved by NCR Planning Board.

The Hon'ble Supreme Court in its Judgement dated 31.03.1994, AIR 2263, 1994 SCC (4) 42. observed that the overriding effect of the NCR Planning Board Act 1985 by virtue of Section 27 and total prohibition of any activity of development in violation of the finally published Regional Plan (RP) by NCRPB provided in Section 29 of the Act is sufficient to indicate that any claim inconsistent with the finally published RP in the area cannot be sustained on any ground.

The Hon'ble Allahabad High Court in its judgement of 01 October 1996 in Civil Misc. Petition No. 26737 of 1993 of GDA vs Delhi Auto and General Finance PvtLtd. ordered that one stipulation is inescapable that unless the NCRPB gives the green signal nothing can go ahead. The obvious implication of this is that at every stage in reference to the plans, aforesaid, each constituent State, as part of the NCR Plan, has to keep close consultation with the federal agency which is the Board (NCRPB).

The Hon'ble Allahabad High Court, in its judgement dated 18.12.1998 in the Civil Misc. Petition No.13899 of 1998 elaborated that land uses cannot be changed except with the tacit permission and close scrutiny of the NCRPB. Whatever development is permissible must be strictly monitored under the NCR Plan Act, 1985 by the authorities named and constituted under it. That the action of Authorities is illegal and Status quo in this matter are operational by various courts and Hon'ble Allahabad High Court.

h. The SDM Sadar has stated that the flood is a natural disaster

and was not man made. Petitioners deny the statement and press that the flood mixed with hazardous materials entered into the properties of petitioners was due to negligence of authorities, absence of desilting of rivers, shrinkage of river channel, careless desilting exercise at reservoir at Okhla Barrage, faulty flood regulation at barrages, faulty and jammed gates of barrages, careless functioning of Sewage treatment plants, discharge of effluents, sewage directly into the river without passing it through treatment plants, construction of narrow bridges, Damaged kutchha embankment bund between the river and petitioner's villages etc. The contents of the Hon'ble Apex Court in the Judgment in Divisional Controller KSRTC's Case (2003) 7 SCC 197 Divisional Controller, KSRTC vs. Mahadeva Shetty and ors. case defines act of God as hereunder:

.....

9. *The expression "Act of God" signifies the operation of natural forces free from human intervention, such as lightning, storm etc. It may include such unexpected occurrences of nature as severe gale, snowstorms, hurricanes, cyclones, tidal waves and the like. But every unexpected wind and storm does not operate as an excuse from liability, if there is a reasonable possibility of anticipating their happening. An act of God provides no excuse unless it is so unexpected that no reasonable human foresight could be presumed to anticipate the occurrence, having regard to the conditions of time and place known to be prevailing. For instance, where by experience of a number of years, preventive action can be taken*
5. The comments on para no. 3 are that the villages mentioned by SDM Dadri are different from the petitioner's villages so can't comment on that.
6. The comments on para no. 4 are that no activity of anti larva and

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fogging was done by Project Engineer (Public health) of Noida Authority in the petitioners villages.

7. The comments on para no. 5 are that petitioners have no knowledge of such activities done by the District malaria Adhikari hence can't comment



Air Commodore Abhay Gupta



Manoj Singh



SUMIT MEHTA


: Megha Abhay Gupta

Megha Abhay Gupta

Name and Signatures of party in person/Authorized representatives

Dated: 28.01.2024

Place: Delhi



NCR flood update: After Delhi, Yamuna water enters Noida; 2 feet water submerges sectors, streets

The flooding of the Yamuna River in the Khadar area, ranging from Sector 125 to Sector 135, has resulted in the submersion of millet and paddy crops worth lakhs of rupees for the local farmers.



Updated: Jul 13, 2023, 06:25 PM IST

The continuous rainfall in the hilly areas has caused flood-like conditions in Noida, leading to water overflowing from the rivers. As a result, the Yamuna River has submerged houses and fields in the Khadar area of Sectors 124, 125, and 135 in Noida. Similarly, Sector 137 is also affected, with roads filled with approximately one and a half feet of water. The local residents are facing significant difficulties due to the flood, and the administration is actively involved in rescuing people trapped in the water and providing them with food and water.

The residents of Sector 125, in particular, are expressing their frustration with the district administration. The Khadar area is home to people who come from other states to work hard. They are greatly distressed by the waterlogging in their fields and homes. Additionally, due to the rain and humidity, they are compelled to stay out in the sun without proper shelter. They claim that the administration is failing to provide them with food and water, and the lack of water is particularly affecting innocent children.

The flooding of the Yamuna River in the Khadar area, ranging from Sector 125 to Sector 135, has resulted in the submersion of millet and paddy crops worth lakhs of rupees for the local farmers. In a previous incident on Wednesday, a significant amount of Yamuna river water had reached the Gaushala (cow shelter) located in Sector 168 of Noida. Over 100 cows and other animals were successfully rescued by the fire department.

Noida Battles Rising Yamuna Waters, Areas Submerged in Flooding

By SparshGoel



Noida News: Authorities claim that the Advent underpass on the Noida-Greater [Noida](#) Motorway, which is 10.3 kilometres from the Mahamaya flyover, was flooded. Water began to enter through drains as a result of [Yamuna](#) water flowing in reverse. Other locations, such as Sector-16A Film City and Sector-168, experienced waterlogging. Due to a hole in the drain's wall, Sector-137's societies and surrounding areas were flooded. Noida's Sectors 167, 92, 150, 151, 168, 93, 151A, 137, and 135 are under water as a result of flooding.

Sections



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Newsletters



Monday, Jul 24, 2023

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The Indian EXPRESS

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News / Cities / Delhi / In Noida, rural areas as well as upscale societies face brunt of overflowing river

In Noida, rural areas as well as upscale societies face brunt of overflowing river

While Delhi may see some relief starting Friday, Noida will have to wait a little longer.

Written by **Dheeraj Mishra**

Noida | Updated: July 14, 2023 10:45 IST



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Outside Paras Tierea housing society in Noida. Gajendra Yadav

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The **unprecedented rise in Yamuna water level** has now brought the urban and rural areas of Noida to a standstill. As the river at the Okhla Barrage crossed the danger level of 200.60 m, thousands of people had to take shelter on the road — their homes, farms and belongings submerged in the water.

“It feels like we will never have a permanent home in the city. We are the first victims of the flood, but the last beneficiary of the river,” said Dharmendra Singh (45), who works in a nursery and whose family members were trapped on Pushta road, Nangla-Nangli village in Noida Sector-134.



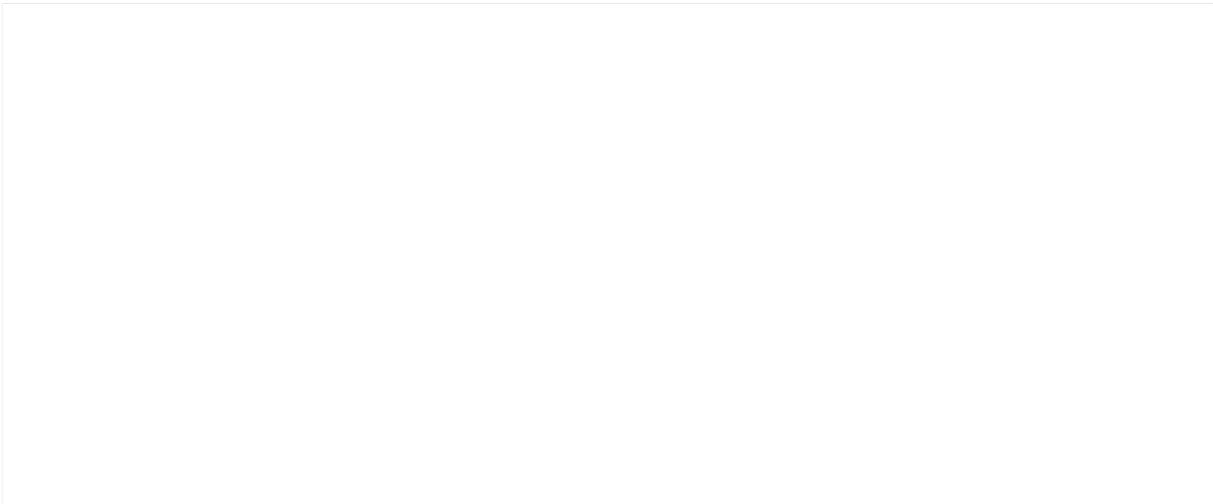
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According to an official from the Uttar Pradesh Irrigation department, the downstream level of the Yamuna at the Okhla Barrage was 200.75 meters. (Express photo by Gajendra Yadav)

“ I remember in 2013, the administration had taken us out safely by making announcements through loudspeakers three days in advance. But this time it did not happen. Many of our valuables were washed away,” he added.



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Delhi Floods: How The Iconic Lal Qila And Surrounding Area Looks Li...

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Till late Thursday evening, around 40 people were trapped in the water and rescue operations were underway. But it is not just the shanties that were affected. Water entered the gated colonies in Sector-137, sector-141 and sector-142. The road near the Paras Tiera Society and Advant building on the Greater Noida Expressway was waterlogged.

District Magistrate Manish Kumar Verma appointed nodal officers to provide relief material to affected families living in permanent shelters.

Don't miss | Yamuna rising: Experts call for better urban planning, governance

“Four shelters were built in Noida Sector 134, 135, 136 to shift the affected families to permanent accommodation due to the increased water level of Yamuna river. Around 1,500 people, including 150 who were rescued, are staying here,” said Nodal officer and Additional District Magistrate (Finance and Revenue) Atul Kumar.

“People can also get help in case of general flood disaster by contacting the control room number 01202974274,” said the nodal officer.

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While [Delhi](#) may see some relief starting Friday, Noida will have to wait a little longer.

According to an official from the Uttar Pradesh Irrigation department, the downstream level of the Yamuna at the Okhla Barrage was 200.75 meters.

“Around 3.72 lakhs cusec water is being discharged downstream of the barrage. In 2013, 3.65 lakh cusec water was being discharged,” said Binod Kumar Singh, executive engineer, head works division Agra Canal, Okhla Barrage.

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“It is predicted that the water level will keep rising in the coming days and there will be flood like situation till July 18. Even if the water level in Hathnikund barrage decreases, it will take 48 to 52 hours for the water level to decrease here,” added Singh.

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TAGS: Noida

ANNEXURE-2



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THE TIMES OF INDIA

Dredged silt drips back into Yamuna

[Neha Lalchandani](#) / TNN / Jun 28, 2012, 05:16 IST

NEW DELHI: The recent dredging exercise at the Okhla barrage to deepen the Okhla pond was welcomed by environmentalists till they figured out that all the silt pulled out was being dumped along the banks and allowed to flow downstream with the river. "For one thing, it is a complete waste of money and time to desilt the river and then allow the silt to flow back into it.

For another, the silt would have contained high levels of toxins considering how polluted the river is, so it was the government's responsibility to ensure that it was dumped at a safe location," said Manoj Mishra of Yamuna Jiye Abhiyaan.

Uttar Pradesh irrigation department officials say the original plan was to leave the silt along the banks since transporting it would have increased the cost of the project. "The project cost, which is about Rs 12 crore right now, would have gone up to about Rs 17 crore if it was decided to move the silt. Also, it would have been impractical as there is a lot of traffic on the Noida road from where the trucks would have moved. A technical committee comprising chief engineers took this call based on financial and technical aspects," said an official. He added, "In any case, where else could we have left the silt if not in the river? We could have disposed it of downstream but to cut costs left it from where it was taken out."

The argument failed to convince environmentalists who are now asking for an environment impact assessment of such activities. "This is no way to carry out desilting. Allowing silt to flow downstream would make sense only in case of rivers that have a good flow. Yamuna is a completely sluggish river and the reason these silt islands formed in the first place is because the water flow is not sufficient to carry the silt further down. Heavy monsoon

flows in the river are still a few months away and either the silt will get deposited downstream or dissolve right here again," said Ravi Agarwal, director, Toxics Link.

Mishra, who visited the site last week, added: "If the silt is clean, then it can be used like ordinary mud. If not, then it has to be disposed of safely or used for construction. In order to know how toxic it is and what possible impact it can have, it is imperative to carry out an EIA. By allowing the silt to flow downstream, the UP government has put several people in potential danger. The most likely scenario is that it will get deposited downstream where farming takes place, the toxins will find their way into vegetables and subsequently into the food chain. And all through this neither the government nor the farmers will even realize what is happening. How can the government free so much toxic material and let it loose?"



Centre urged to look into 'careless' de-silting of Okhla barrage

Hindustan Times | By Darpan Singh, Noida

Jun 27, 2012 02:15 AM IST

The first-ever de-silting of Okhla Barrage, which was carried out from June 1-15, may prove to be a futile exercise. Environmentalists claim the silt removed has been piled within the reservoir and the first monsoon showers will undo the de-silting exercise.

The first-ever de-silting of Okhla Barrage, which was carried out from June 1-15, may prove to be a futile exercise. Environmentalists claim the silt removed has been piled within the reservoir and the first monsoon showers will undo the de-silting exercise.

Manoj Misra, convener of Yamuna Jiye Abhiyaan, a civil society consortium, has submitted pictorial evidence to union minister of environment and forests Jayanthi Natrajan and said the de-silting was a hurriedly planned and executed operation. He has also shot off copies of his letter to UP and Delhi governments, besides central pollution board, Yamuna standing committee and central water commission.

The Uttar Pradesh government spent Rs 11.96 crore to de-silt the Okhla Barrage. The barrage has been set up on Noida-Delhi border to store and supply Yamuna water.

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Because of heavy silt, the water storage capacity of the barrage had become almost nil. It could store water which could be supplied barely for 4-5 hours for irrigation purposes against the ideal situation of 6-7 days. The water stored in the barrage is supplied through Agra Canal to Delhi, Noida, Agra and Mathura.

"Within a few days of the de-silting, the barrage, the river downstream as well as Agra Canal are back to their old conditions. The de-silting exercise should have been carried out in a more systematic way," said Ravi Agrawal, director, Toxics Link, an NGO working for environment protection.

The barrage had not been de-silted in the last 25 years. The work began after UP irrigation minister Shivpal Singh Yadav visited Noida recently and ordered officials to de-silt the barrage.

Both Misra and Agrawal have taken up the issue together. "The Yamuna is one of the most polluted rivers. The silt removed from it is likely to be full of toxins. Careful storage and proper disposal was the need of the hour.

The ministry of environment and forests and bodies like the central pollution control board must have a role," they said.

In their letter to Natrajan, they have asked, "Was any environment impact assessment carried out for the de-silting? Was any assessment of the site/sites where the removed silt would be deposited carried out and

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informed to relevant stakeholders/affected people? Was the de-silting operation carried out as a proper project and its report made public?"

Even the irrigation department which oversaw the de-silting work in tandem with the Noida authority sounds ignorant about the importance of proper disposal of the removed waste and admits little care was taken in dealing with the matter. "There is no threat of spread of toxins during rains. We flew the silt downstream. We achieved desired level of cleaning," said Rajeshwar Yadav, executive engineer.

"The allegations are baseless. The entire process has been photographed. Even top officials of Lucknow have appreciated our effort," he said.

The district administration is ready for a probe. "I will look into the matter. If any irregularity is found, I will speak to the department principal secretary in Lucknow ," said Gautam Budh Nagar district magistrate MKS Sundaram.

INDIA TODAY

UP officials clean Okhla Barrage after 25 years

Officials of the UP irrigation department say the de-silting will help increase the reservoir's storage capacity.



[Mail Today Bureau](#)

Noida,UPDATED: Jun 9, 2012 15:54 IST

The Okhla Barrage, which came into existence 25 years ago, is being cleaned for the first time.

Officials of the UP irrigation department said the de-silting had begun on the directions of irrigation minister Shivpal Yadav and that it will help increase the reservoir's storage capacity.

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Silting had reduced the storage capacity of the reservoir to almost nil. According to the standard storage capacity, the barrage can store water adequate for a week's supply.

"But due to choking, it can supply water for only two hours. Once fully cleaned, it will be able to store a week's water," said an irrigation department official.

Printed from

THE TIMES OF INDIA

Desilting of Okhla barrage: Admin submits report

TNN | Apr 24, 2012, 03.46 AM IST

NOIDA: Acting on the recent directives of PWD and irrigation minister Shivpal Yadav to de-silt the Okhla barrage at Kalindi Kunj, the district magistrate of Gautam Budh Nagar has submitted a report to the government proposing a plan to clean up the reservoir. The administration has urged the government that the action plan to clean the 3km catchment area be put into operation at the earliest.

During his visit to Noida last week, Yadav had issued directions to clean up the Yamuna and its choked canals. Yadav had pointed out that the deposition of silt and garbage at the barrage - which has not been de-silted in 25 years - had seriously affected its water storage capacity. "At present, the water at the barrage can meet only two hours' supply against the standard storage capacity of seven days," Yadav had said, promising to change this situation, soon. The water stored at Okhla barrage is supplied to Delhi, Noida, Agra and Mathura.

Inspections by the district administration and irrigation department have revealed that self-developed settlements, unplanned industrial establishments, irregular sewage discharge and improper solid waste dumping have led to an ecological disturbance at the barrage. "The barrage is choked with water hyacinth and several small islands of filth," said MKS

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Sundaram, district magistrate of GBN. "Also, because of the silt, which is almost 3 feet in height, water levels have reduced from 4 feet to one foot and at some places less than zero," Sundaram said. "Effluents discharged into the water from 16 drains coming from the Wazirabad barrage upstream have worsened the situation," Sundaram added.

Stressing on the urgent need to clean the catchment area of the barrage, the DM said, "The reservoir has to be shut down for almost 15 days and its water has to be drained for the cleaning operation to take place," Sundaram said. "In our report we have proposed that at least three (sewage treatment plants) STPs need to be set up along the course of the river to treat the effluents," the DM said.

The reports also talks of a plan to clean smaller canals that dispense water into the barrage. "These canals should be cleaned twice a year in May/June and again in October. This will provide water to the fields and will also increase the water levels," Sundaram said.

The district administration is awaiting instructions from the state government to take the next step.

25 June 2012
YJA/CORRES/6/12

Smt Jayanthi Natrajan
Hon'ble MoS (Independent Charge)
Ministry of Environment and Forests,
CGO Complex
Lodi Road
New Delhi

Sub: Desiltation operation at the Okhla Barrage - Some ponderables

Respected Ma'm,

Greetings.

Recently the Irrigation Department of Uttar Pradesh has carried out an extended desiltation operation at the Okhla Barrage in NOIDA. The said work was reportedly carried out over a fortnight period in the month of June 12 and was perhaps the first such exercise carried out since the barrage proper came up in the nineteen eighties. Please find enclosed a pictorial report of a field visit made by teams from YJA and Toxics Link, to the site on 22.6.12 (**Report enclosed**).

Madam, there a number of points emerging from this operation that we feel deserve your kind attention and action by the MOEF.

It is well known that the river Yamuna in its urban stretch in the NCT of Delhi and in NOIDA upstream of the Okhla barrage is one of the most polluted stretches of any river in the country. And this polluted state is a cocktail of sewage, solid waste of all kinds and includes industrial waste and effluents too. Thus any silt resulting and removed from such a polluted water body is likely to be full of toxins of various kinds requiring its proper and careful storage / disposal / utilisation.

Thus while we welcome the operation to desilt the barrage we have concerns on the following:

- a) Was any EIA (Environment Impact Assessment) carried out of the planned operation?
- b) Was any suitability assessment of the site/sites where the removed silt would be deposited carried out in advance and informed to the relevant stakeholders/affected people?
- c) Was the desilting operation carried out as a proper project and its DPR made public or was it just an ad hoc departmental exercise?
- d) Since such desilting, although desirable, is not carried out often, have any lessons therefrom for future learnt and disseminated?
- e) If the silt was carrying any hazardous material then how and where has it been stored / disposed?



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Madam, while the above points are some quick thoughts we believe that a proper EIA would have taken care of many more points as well. **Thus it is urgent that all such actions (Desilting of dams and barrages) are brought under the purview of the central EIA Notification.**

Now based on the observations made from our field visit (unfortunately post facto) to the site, we have elicited following information from informal local interaction/s that point to an extremely ad hoc manner of the conduct of the said work:

1. It was quite a hurriedly planned and executed operation
2. The silt from the operation has been piled here and there within the reservoir, and which in the very first flush of the monsoon flows might nullify the positive impacts if any, of the said operation
3. Within few days of the operation, both the barrage as well as the river downstream of the barrage as well as the Agra Canal (presumed) to be the main beneficiary of the works are it seems back to square one as the pictures in the report certify.

Clearly any such operation we believe needs to be carried out in a much more systematic and planned (with due approvals) manner, and in which the Ministry of Environment and Forests and its subsidiary bodies like the CPCB must have a designated role.

We hope that our suggestions are given due consideration by your goodself and at the ministry's level.

Warm regards,

Manoj Misra
Convener, Yamuna Jiye Abhiyaan

Ravi Agrawal,
Director, Toxics Link

CC:

Sri T. Chatterjee, Secretary, Ministry of Environment & Forests – For your kind information and necessary action please.

Sri Tejendra Khanna, Hon'ble Lt. Governor of Delhi – For your kind information and necessary action please.

Smt Shiela Dixit, Hon'ble Chief Minister of Delhi - For your kind information and necessary action please.

Sri Akhilesh Yadav, Hon'ble Chief Minister (designate) of Uttar Pradesh - For your kind information and necessary action please.

Sri J.S. Kamyotra, Member Secretary, CPCB - For your kind information and necessary action please.

Chairman, Yamuna Standing Committee, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi – For your kind information please.

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DESILTATION (?) OF THE OKHLA BARRAGE, JUNE 2012



Remains of desilting operation at the Okhla Barrage. 22.6.12



Deepened channel of the river. 22.6.12



Silt apparently deposited mid stream of the barrage reservoir.

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State of the river d/s of Okhla barrage.



State of Agra canal originating from the Okhla Barrage

From the stipulations laid down in the RP- 2021 and the instructions issued by NCRPB (August 2003), it was evident that NCRPB was to be consulted at all stages of preparation of the MP and the approval of the MP was to be accorded by NCRPB.

NOIDA (Preparation and Finalisation of Plan) Regulations

2.3.1 For the preparation of MP-2021, NOIDA was guided by NOIDA (Preparation and Finalisation of Plan) Regulations, 1991⁵ (Plan Regulations, 1991) which were approved by GoUP. The objective of these Regulations was proper planning and development of NOIDA.

Thus, macro planning in NOIDA involves its conceptualisation in conformity with the RP with the dominant objective of development of the industrial development area.

Scope of Audit

2.4 During the audit period 2005-2018, two MPs viz. MP-2021 and MP-2031 were prepared by NOIDA. Audit analysed both the MPs for their consistency with the RP- 2021 along with status of their approval by GoUP and NCRPB. In this context the amendments to Plan Regulations were also analysed. The micro planning aspects are discussed in the respective allotment chapters (Chapter V) and macro planning aspects are discussed in the succeeding **Paragraphs 2.6, 2.7 and 2.8.**

Audit Findings

2.5 The audit findings, as a result of analysis of the RP and MPs have been classified as under:

- Preparation and implementation of MPs without approval (discussed in Paragraphs 2.6 to 2.6.2).
- Greater discretion with changes in Plan Regulations; (discussed in Paragraphs 2.7 to 2.7.3).
- Substantial revision/changes in land use over time (discussed in Paragraphs 2.8 to 2.8.5).

Preparation and implementation of MPs without approval

2.6 RP indicates the broad planning policies and proposals in relation to land use and the allocation of land for different uses in NCR. The MP is subservient to the RP and thereafter, in order of hierarchy, to the SRP of the State. These serve as a guidance for formulation of the MP. Accordingly, the MPs prepared by NOIDA were required to be in accordance with the RP-2021, notified by NCRPB on 03 October 2005.

The preparation of MPs by NOIDA during the audit period 2005-2018 was evaluated in light of stipulations laid down by NCRPB in RP 2021, the provisions of the NCRPB Act in respect of RP and SRP and the position laid down by the Hon'ble Supreme Court and High Court through their judgements in the matter as detailed below:

⁵ Gazette Notification No. Bha. U./18-11-44-(N)-85, dated 12th April, 1991.

Master Plan

Paragraph 17.4.1 of RP-2021 provides that no development in the controlled/development/regulated zones can be undertaken except in accordance with the Master/Development Plans for the respective controlled areas approved by the Board and duly notified by the State Government under their respective Acts.

Judicial pronouncements

The Hon'ble Supreme Court in its judgment⁶ (31 March 1994) observed that *the overriding effect of the Act by virtue of Section 27 and total prohibition of any activity of development in violation of the finally published RP provided in Section 29 of the Act is sufficient to indicate that any claim inconsistent with the finally published RP in the area cannot be sustained on any ground.*

The Hon'ble Allahabad High Court in its judgement⁷ of 01 October 1996 stated that *one stipulation is inescapable that unless the NCRPB gives the green signal nothing can go ahead. The necessary implication of this is also that at every stage in reference to the plans, aforesaid, each constituent State, a part of the NCR Plan, has to keep a close consultation with the federal agency which is the Board (NCRPB).*

The Hon'ble High Court, Allahabad in its judgement 1998 elaborated that *'... land uses cannot be changed except with the tacit permission and close scrutiny of the NCRPB.*

*Whatever development is permissible must be strictly monitored under the National Capital Region Plan Act, 1985 by the authorities named and constituted under it*⁸.

Section-27 of NCRPB Act provides for the overriding effect of the provisions of this Act over the inconsistency in any law, instrument or any decree or order of any court, tribunal or other authority with regard to any development work being undertaken by any State Government in NCR. Section 29 of the Act clearly states that once the NCRPB publishes its RP for NCR, no development shall be made in the Region which is inconsistent with RP. It also empowers the NCRPB to direct the concerned participating State to stop such violation of RP by giving a notice in writing. Further, the Hon'ble Supreme Court in its judgment (31 March 1994) also reaffirmed the overriding effect of Sections- 27 and 29.

As per the provisions of Section-27 read with Section-29 of NCRPB Act and Para-17.4.1 of the RP-2021⁹, it was mandatory for NOIDA to prepare the MP(s) in conformity with RP-2021.

On analysis of the MP 2021 and 2031 prepared by NOIDA, Audit observed the following shortcomings in preparation of the same.

⁶ Judgement dated 31.03.1994, AIR 2263, 1994 SCC (4) 42.

⁷ Civil Misc. Petition No. 26737 of 1993 of GDA vs Delhi Auto and General Finance Pvt Ltd.

⁸ Judgement dated 18.12.1998 in the Civil Misc. Petition No.13899 of 1998.

⁹ No development in the controlled/development/regulated zones can be undertaken except in accordance with the Master/Development Plans for the respective controlled areas approved by the Board and duly notified by the State Governments under their respective Acts.

NCRPB did not approve NOIDA's MP 2021 and raised objections on it.

MP-2021 not approved by NCRPB

2.6.1 The MP of NOIDA for the period 2006-2021 (MP-2021) was prepared in accordance with NOIDA (Preparation and Finalisation of Plan) Regulations, 1991 and approved by the Board of NOIDA on 09 September 2005. MP 2021 envisaged a population of 12 lakh of NOIDA for which land development of 14,964 hectare was proposed. Considering the position of March 2005 of population of 5.50 lakh of NOIDA and already developed area of 7,191 hectares, development targets were fixed for three phases. In the first phase, development of 9,714 hectare for population of eight lakh up to 2011, in the second phase, development of 12,237 hectare for population of 10 lakh up to 2016 and in the third phase, development of 14,964 hectare for population of 12 lakh up to 2021 was targeted.

MP 2021 was approved by the State Government on 31 August 2006 with the condition that the approval of NCRPB should be ensured before the plan was made applicable.

Audit observed that the MP was sent (31 August 2006) to NCRPB which communicated (08 January 2007) 37 objections¹⁰ on which the responses of NOIDA were communicated (19 February 2007) to NCRPB along with a revised draft. NCRPB conveyed (08 January 2008) five observations on the revised draft to NOIDA. The major issues pointed out by NCRPB were preparation of Disaster Management Plan, undertaking planning according to higher population density, creation of a green buffer between NOIDA and GNIDA, increasing the allocation to commercial and recreational land uses and creating a green buffer between industrial and residential areas. In view of the above observations of NCRPB, NOIDA decided (in the 169th meeting of its Board held on 28 April 2010) to revise the plan for the Perspective Year 2031, despite provision of the NCRPB Act and RP for preparation of the MP within the overall framework of the RP.

In its reply, NOIDA stated (August 2020) that after making amendments, a revised MP 2021 was submitted to NCRPB on which five suggestions were made. One of the suggestions was to increase the population density from 80 persons per hectare to 150-200 persons per hectare for population of 25 lakh upto 2021 and preparing a MP for the same was a difficult task. Moreover, infrastructure facilities for such a population could not have been fully utilised as of 2021. Accordingly, it was considered suitable to revise the MP 2021 to the MP 2031.

From the reply of NOIDA, it is evident that the MP 2031 was initiated in absence of approval of MP 2021 by NCRPB. Hence the fact remains that MP 2021 was not approved and MP 2031 was initiated, whereas the overarching RP and SRP were prepared only upto 2021.

Implementation of Master Plan 2031 without considering objections of Chief Town and Country Planner/NCRPB

2.6.2 The Master Plan of NOIDA for the period upto 2031 (MP-2031) was prepared in accordance with NOIDA (Preparation and Finalisation of Plan)

¹⁰ On demography and settlement pattern (4), economic activities (1), transport (12), physical infrastructure (1), water supply (1), drainage & sewerage (1), solid waste disposal (1), sewage treatment (1), social infrastructure (4) and land use (11).

In absence of approval of MP 2021, NOIDA initiated MP 2031 without the corresponding RP or SRP. Approval of NCRPB has not been obtained for MP 2031.

Regulations, 2010 (Plan Regulations 2010)¹¹ and approved by the Board of NOIDA on 29 March 2011. MP-2031 envisaged a population of 25 lakh by 2031 for which land development of 15,280 hectare was proposed. It was envisaged to reduce the number of sub-zones¹² from 33 to 15 by removing the sub-zones which were not required. Accordingly zoning regulations considering different activities under prescribed land use were prepared. MP 2031 *inter alia* proposed land uses under Mixed Land Use, Recreational Land Use, Support Facilities under main activities and development of embankment areas.

MP-2031 was sent (18 May 2011) to NCRPB, which in turn, communicated (8 August 2011) 20 observations¹³ on MP-2031, of which only three observations¹⁴ were addressed in the revised draft and assurances/replies were furnished for the rest. The Chief Town and Country Planner (CTCP) under the Housing and Urban Planning Department (HUPD) of GoUP, on a reference made by the State Government (June 2011), also made (September 2011) four recommendations which were to be incorporated in MP-2031.

Audit observed that the State Government accorded (29 September 2011) its 'No Objection' to MP-2031 with the condition that the suggestions given by NCRPB and the CTCP will be acted upon and accordingly communicated to them. Even though RP (paragraph 17.4.1) stipulated prior approval of MP by NCRPB, conditional approval was accorded by the State Government.

Thus, it may be concluded that even though MP-2021 was replaced with MP 2031 to overcome various deficiencies but the latter also failed to address the issues raised by CTCP and NCRPB.

In its reply, NOIDA stated (August 2020) that amendments to MP-2031 were made as per NCRPB's observations and a revised draft was submitted (01 September 2011) to NCRPB, which has not communicated any further deficiencies. NOIDA further stated that a meeting was held (08 September 2011) wherein representatives of GoUP, NOIDA, CTCP and NCRPB were given a presentation of MP-2031 and important issues related to it were discussed. In the said meeting, no observations were raised by NCRPB from which their approval is assumed. Based on this, the no-objection was given by the Government. Further proceedings to execute the suggestions of NCRPB and CTCP are underway.

From the reply of NOIDA, it is evident that the requisite formal approval of the MP-2031 has not been received as yet from NCRPB as envisaged in paragraph 17.4.1 of the RP. Rather, in absence of further observations from NCRPB, approval has been assumed by NOIDA. Conditional No Objection has been received from GoUP pending compliance with NCRPB's and CTCP's observations and based on the same, implementation of MP-2031 has been initiated.

Thus, it may be concluded that NOIDA implemented MP-2031 without corresponding RP in spite of directions of Hon'ble Supreme Court and

¹¹ Notification No. 1422/77-4-10-44-(N)-85, dated 30 July, 2010, published in the U.P. Gazette, dated 31 July, 2010.

¹² Sub-zone denotes sub-category of activities under major land use zones.

¹³ Land Use related (6), Demography related (4), Water Supply (2), Transport (7), Disaster Management Plan (1).

¹⁴ On land use map, population density and population projection.

Hon'ble High Court, Allahabad that unless NCRPB gives the green signal nothing can go ahead. In this regard it is pertinent to mention that MP-2021 of GNIDA was expressly approved (August 2012) by NCRPB. The steps taken by NOIDA for implementation of MP-2031 in absence of a RP- 2031, could have unintended implications at a later date for the coordinated development of NCR.

Greater discretion with changes in Plan Regulations

2.7 Plan Regulations, 1991 served as the guiding principle for proper planning and development of the area in NOIDA. NOIDA had prepared MP-2021 in accordance with these Regulations. These Regulations were amended in February 2010 (First Amendment¹⁵). The only amendment made was of Section 5 whereby the time period for sending objections and suggestions to NOIDA on the draft plan was reduced from not earlier than 30 days to 15 days.

Thereafter, in July 2010 the Regulations were again revised¹⁶ and NOIDA (Preparation and Finalisation of Plan) (Second Amendment) Regulations, 2010 (Plan Regulations, 2010) were approved and notified¹⁷ by GoUP wherein major amendments were made in Sections 2, 4 and 11 of the Plan Regulations, 1991. The stated reason (in 169th Board meeting of NOIDA) for amendments was to carry out changes to MPs in view of changing circumstances and requirements. These amendments are discussed in the following paragraphs:

Exclusion of defined activities under different categories

2.7.1 The changes made in Section 2 relating to definitions of various categories viz. Agriculture use, Commercial use, Industrial use, Institutional use, Plan are detailed in **Table 2.1**.

Table 2.1: Changes made in Section 2 relating to definitions of various categories

Plan Regulations, 1991	Plan Regulations, 2010
<p>Section 2. Definitions:</p> <p>'Agriculture use' means the use of land or any part thereof for farming, horticulture, piggery, fishery, poultry farming, sericulture and all legitimate uses incidental thereto;</p> <p>'Commercial use' means the use of any land or building of part thereof for carrying on any trade, business or profession, sale of goods of any type, whatsoever and includes private hospitals, nursing homes, hostels, hotels, restaurants, boarding house not attached to any educational institution, consultant offices in any field, cottage and service industries.</p> <p>'Industrial use' means the use of any land or building or part thereof mainly for location of industries and other incidental use such as offices, eatable, establishment etc. carrying out any activities.</p>	<p>Definitions:</p> <p>'Agriculture use' means the use as defined in the Plan as may be approved in accordance with the Act¹⁸ and these Regulations;</p> <p>'Commercial use' means the use as defined in the Plan as may be approved in accordance with the Act and these Regulations.</p> <p>'Industrial use' means the use as defined in the Plan as may be approved in accordance with the Act and these Regulations;</p>

¹⁵ Notified vide GoUP notification no. 49/77-4-10-44 N/85 dated 18.02.2010.

¹⁶ Revisions to Sections 2, 3, 4, 5, 6, 8, 9, 10 and 11.

¹⁷ Notified vide GoUP notification no. 1422/77-4-10-44 N/85 dated 30.07.2010.

¹⁸ UP Industrial Area Development Act, 1976.

Specific definitions for respective land use categories as given in the Plan Regulations, 1991 were substituted with very general definitions/clauses in the Plan Regulations, 2010.

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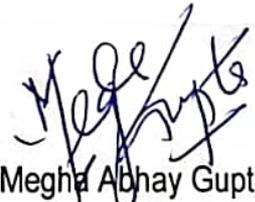
BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
IN
ORIGINAL APPLICATION No 641 of 2023

IN THE MATTER OF
SUMAN CHAUHAN & 49 OTHERS Vs GOVERNMENT OF UTTAR PRADESH &
OTHERS

AFFADAVIT

I, Megha Abhay Gupta, daughter of Air Commodore Abhay Gupta, address Plot 56 A, Dostpur Mangrauli, District Gautam Budh Nagar, NOIDA - 203301, Indian by nationality, presently at Delhi, do hereby solemnly affirm and state as follows :

1. That I am the original applicant and am competent to depose.
2. That all the information supplied by me in the reply to the letter of the District Magistrate Gautam Budh Nagar, dated 05 Jan 2024, is correct and true.


Megha Abhay Gupta
Deponent

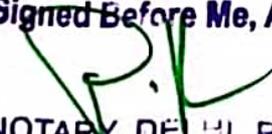
VERIFICATION

It is hereby certified that the above contents of the Affidavit are correct and true and that nothing has been concealed. Verified on 05 Feb 2024.


Megha Abhay Gupta
Deponent



Signed Before Me, Attested


NOTARY, DELHI, R-16988
GOVT. OF INDIA

05 FEB 2024

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rahul kumar <rahulsgkumar@gmail.com>

Service of reply of DM letter dated 05.01.2024 in Hon'ble NGT in OA 641 of 2023

1 message

manoj@synergyinfracon.com <manoj@synergyinfracon.com>

Mon, Feb 5, 2024 at 5:01 PM

To: csup@nic.in, ceodelhi.djb@nic.in, ceifcd@gmail.com, csdelhi@nic.in, fciwrd@gmail.com,
ceo@noidaauthorityonline.com, eincididuplu-up@nic.in, contactdfccil@dfcc.co.in, dmgbn@nic.in
Cc: rahul kumar <rahulsgkumar@gmail.com>, abhay gupta <tony51aoc@rediffmail.com>

Dear Sirs,

> Please find enclosed Service of reply of DM letter dated 05.01.2024 to be filed in Hon'ble NGT in the matter 641 of 2034 as a service for your reference.

>

>

>

> Regards

> Manoj Singh

> 8076083151

**Filed Reply.pdf**

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