

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

INDEX

IN

(Reply Cum Statement of Objections)

IN

ORIGINAL APPLICATION NO. 107 OF 2022

IN THE MATTTER OF:

AWADHESH DIKSHIT Applicant.

VERSUS

UNION OF INDIA & Ors. Respondent(s).

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VARANASI

DATE- 13.02.2023

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IN THE MATTER OF:

AWADHESH DIKSHIT Applicant.

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REPLY CUM STATEMENT OF OBJECTIONS FILED BY THE APPLICANT TO THE FINAL REPORT dated 27.04.2022 SUBMITTED BY THE JOINT COMMITTEE CONSTITUTED (NMCG, State PCB, SEIAA U.P., District Magistrate, Varanasi) BY THIS HON'BLE TRIBUNAL DATED ON 17.02.2022.

MOST RESPECTFULLY SHEWETH AS UNDER:-

1. That, this reply cum statement of objections is being filed by the present applicant to the final report submitted by the joint committee consisting of National Mission for Clean Ganga, State PCB, SEIAA U.P., District Magistrate, Varanasi constituted by Hon'ble this Tribunal vide order dated 17.02.2022.

Signature

Signature

2. That , this present reply cum statement of objections is being filed by the present applicant because joint committee report dated 27.04.2022 is completely misrepresentation of fact and cover-up exercise. **As Director , National Mission for Clean Ganga (hereinafter referred as 'NMCG') , Department of WR, RD&GR , Ministry of Jal Shakti report dated 05.01.2023 with I.A. No. 03/2023 makes clear that exercise of removal of sand in the name of 'dredging' has been undertaken by Irrigation Department of U.P.**
3. That , Joint Committee constituted by Hon'ble NGT vide its order dated 17.02.2022 in the final report concluded that no mining has been carried out and only dredging has been done under the project of Ministry of Jal Shakti from Assi Ghat to Raj Ghat. The final report of the joint committee is completely misrepresentation of fact and cover-up exercise.
4. That, **in reality under the grab of dredging illegal mining activity is**

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undertaken under the nose & consent of the district administration. Joint committee report stated that government has also received revenue approx 2.52 Crore, thus the said project is a work done in public interest and revenue interest but in opposite Rupees 1195.76 Lakh (about 12 Crore) were spent for channelization & dredging work in the river bed/stream of the river Ganga this means about 9.43 Crore public money is wasted.

5. That ,the channelization in the river stream bed of river Ganga at right bank, opposite to Assi Ghat to Raj Ghat in the length of 5.3 Km. and 45 meter width and 7 meter in depth were undertaken in the name of avoiding impact on the left bank of Varanasi Ghats under Department of Irrigation, Government of Uttar Pradesh. The project is of worth Rupees 1195.76 Lakh , **significantly this project of channelization in the Ganga river is completed just the rainy season in the year 2021 refer to paragraph 5 & 6 of the present Original application.**



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6. That, interestingly, just before the rainy season an advertisement was issued by the District Magistrate Office , Varanasi dated on 01.06.2021 ,for lifting of dredged material for the period of 6(six) months, from Ganga channel which was published in Hindustan Hindi Newspaper dated on 01.06.2021 on page no. 15 of the Varanasi edition , refer to paragraph nos. 7 & Annexure no. 3 of the present Original application.
7. That , in the flood of river Ganga between August to September year 2021 , all the dredged material including soil & sand is washed away and dredged water channel has also become flat means after the river Ganga flood crossed the danger mark in August-September,2021 neither the extracted/dredged sand & soil nor the dredged water channel was in existence refer to Annexure 5 of an Amar Ujala Newspaper report dated 25.01.2022 "बालू उठान के नाम पर ठेकेदारों ने खोद दी गंगा की तलहटी" & Paragraph 11 Annx. 4 and annx. 1A,1B,1C of the Original Application.
8. That , when dredging & channelization in the river bed/stream of the river Ganga is completed just before rainy season of the year 2021 and advertisement for lifting of the dredged material was published in the newspapers dated on 01.06.2021 just before the rainy season is quite remarkable because after the flood in the river Ganga in Varanasi neither the dredged channel nor the

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dredged material was in existence after the Ganga flood in the year 2021.

9. That , after the Ganga flood neither dredged material nor the dredged channel was in existence but in the name of advertisement/tender (published in the newspapers dated on 01.06.2021) for lifting of the dredged material , illegal mining were done because dredged material was not in existence after the Ganga flood.

10. That, illegal mining were done till March, 2022. In the name of the lifting of the dredged sand & soil which was not in existence after the Ganga flood in the year 2021 , a pokeland and JCBs machines were used to carry out the illegal mining and daily basis thousands of tractor of sand & soil were lifted illegally.

11. That , all the mining process were carried out in clear violation of **Hon'ble Supreme Court Judgment in Deepak Kumar V. State Of Haryana & Ors., (2012) 4 SCC 629 & Hon'ble National Green Tribunal order in O.A. NO. 173 OF 2018** in the case of **Sudarshan Das Vs. State of West Bengal & Others** passed on 26.02.2021.

12. That , As Director , National Mission for Clean Ganga (hereinafter referred as 'NMCG'), Department of WR, RD&GR , Ministry of Jal Shakti has filed the report dated 05.01.2023 with I.A. No. 03/2023 makes clear

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that exercise of removal of sand in the name of 'dredging' has been undertaken by Irrigation Department of U.P.

13. That , as **Director 'NMCG' report** dated 05.01.2023 filed with I.A. No. 03/2023 in concluding propositions (refer to Annexure-II, Internal PAGE NO.4 , Paragraph no. 15 of the said report), **makes immensely clear that the project in question, of the State Government of U.P. should have been sent for consideration/seeking approval to the NMCG in accordance to the provisions contained in Paragraph 42 of the Notification no S.O 3187 (E) dated 07.10.2016 i.e River Ganga (Rejuvenation, Protection and Management) Authorities Order , 2016.**

14. That , **Director 'NMCG' report** dated 05.01.2023 filed with I.A. No. 03/2023 contains (refer to Annexure-II, Internal PAGE NO.4 , Paragraph no. 14) that **Central Water Commission (CWC) representative stated that if the dredging is undertaken for commercial purposes , the following aspects are to be duly considered/addressed**

:-

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- (i) Feasibility report of the project must be prepared and duly examined to assess the impact ;
- (ii) Detailed Project Report (DPR) must be prepared by an expert agency ;

15. That, in the project in question neither Environment Impact Assessment (EIA)/ Feasibility report nor Detailed Project Report (DPR) is prepared to carry out such exercise by the Department of Irrigation, Government of Uttar Pradesh.

16. That, provisions contained in paragraph 42 of the Notification no. S.O.3187(E) dated 07.10.2016 i.e River Ganga (Rejuvenation, Protection and Management) Authorities Order , 2016 stipulates obtaining prior approval of the National Mission for Clean Ganga (NMCG) for diversion or control of waters or channelization of River Ganga or its tributaries. But in the project in question of dredging and channelization in the river Ganga in Varanasi no prior permission were taken from the "NMCG".

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17. That , according to the report **Director 'NMCG' report** dated 05.01.2023 filed with I.A. No. 03/2023 with this Hon'ble Tribunal contains that under the Chairmanship of the Secretary, Department of Water Resources , River Development & Ganga Rejuvenation, Ministry of Jal Shakti a meeting was convened on dated 08.08.2022 to discuss this issue in pursuant to the Hon'ble NGT order. In the said meeting representative of the Department of Irrigation, Government of U.P. & U.P. Project Corporation said that there was pressure from District administration to carry out dredging to avoid any adverse impact from excess flow of water in the river Ganga in Varanasi.

18. **That , from the above mentioned averment it is clear that -**

- (i) In the right bank of Varanasi in river Ganga , opposite to the Varanasi Ghats a channelization work (Length-5.3 Km , Width-45 Meter, Depth-7 meter) by way of dredging was done by the Department of Irrigation , Government of U.P. & U.P. Project Corporation.

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- (ii) In the project in question, Rupees 11.95 Crore were spent on channelization & dredging work & revenue earned was just 2.52 Crore apprx. Means Approx. 9.43 Crore public money were wasted.
- (iii) Just before the rainy season dated on 01.06.2021 an advertisement was issued by the District Magistrate , Varanasi office through Hindustan Hindi daily newspaper for lifting of dredged material.
- (iv) A flood in the river Ganga between August-September, in the year 2021, washed away the dredged water channel in the river Ganga & dredged material including sand and soil was also washed away.
- (v) In the name of lifting of the dredged material, illegal mining were undertaken because after river Ganga crossed the danger level neither dredged channel nor dredged material was available (Newspaper report , Photographs & other relevant document is annexed with the original application.).

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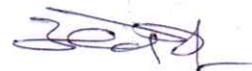


(vi) **Director 'NMCG' report** dated 05.01.2023 filed with I.A. No. 03/2023 with this Hon'ble Tribunal clearly stated that required approval from 'NMCG' were not taken for channelization and dredging work in the river Ganga in accordance with the paragraph 42 of the Notification no. S.O.3187(E) dated 07.10.2016 i.e River Ganga (Rejuvenation, Protection and Management) Authorities Order , 2016.

(vii) **Director 'NMCG' report** dated 05.01.2023 filed with I.A. No. 03/2023 with this Hon'ble Tribunal also contains the submission of the Central Water Commission (CWC) that if the dredging is undertaken for commercial purposes then feasibility report of the Project and the District Survey Report (DSR) must be prepared. In project in question neither DSR nor EIA were being carried out.

19. That , therefore it is most respectfully prayed that, for all the reasons stated above the Hon'ble this Tribunal may kindly

S. P. Singh



be pleased to take cognizance of all these facts and to pass appropriate orders to meet the ends of justice and equity.

VARANASI



Date-13/02/2023

(SAURABH TIWARI)

Adv. Roll. No. D/966/2017

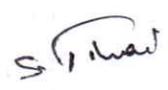
Advocate for the Applicant

VERIFICATION:

I, AWADHESH DIKSHIT AGED ABOUT 40 YEARS SON OF BALKISHUN DIKSHIT , R/O 4/1462 , Janakpur Colony, Ram Nagar, Bhatti , Varanasi, PIN CODE-221008 , the Applicant/Deponent herein, do hereby verify and solemnly affirm and swear that the contents of paragraph nos. 1 Of this reply cum objection are true personal knowledge and those of paragraph nos. 3,5,6,7,12,13,14,15,17,18 of this reply cum objection are based on perusal of records and those of paragraph nos. - 8,9,10 Of the accompanying reply cum objection are based on information and those contents of paragraph nos. 2, 4, 11, 16, 19 Of the accompanying reply cum objection are based on legal advice, which all I believe to be true and that no part of it is false and nothing material has been concealed in it.



DEPONENT/APPLICANT





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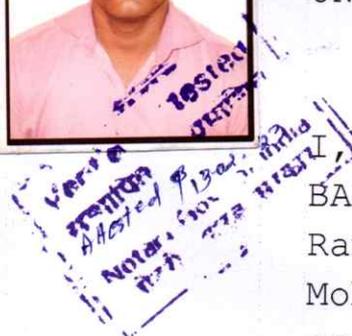
VERSUS

UNION OF INDIA & Ors. Respondent(s).

I AWADHESH DIKSHIT AGED ABOUT 40 YEARS SON OF BALKISHUN DIKSHIT , R/O 4/1462 , Janakpur Colony, Ram Nagar, Bhatti , Varanasi, PIN CODE-221008, Mob. No. 9807606000 , do hereby solemnly affirm and state on oath as under :-

1. That , the deponent as an Applicant is being well conversant with the facts and circumstances of the case and also competent to swear the present affidavit.
2. That, the accompanying reply cum statement of objection has been drafted by my counsel under my instructions and I say that averments made therein are true on the basis of record.

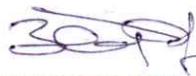
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3. That, the contents of the present reply cum statement of objection are drafted by my counsel are true to the best of my knowledge and derived from the records maintained by me. That the contents of the affidavit have been drafted under my instruction and have been read over to me in my vernacular language.
4. That, the contents of paragraph nos. 1 Of this reply cum objection are true personal knowledge and those of paragraph nos. 3,5,6,7,12,13,14,15,17,18 of this reply cum objection are based on perusal of records and those of paragraph nos. - 8,9,10 Of the accompanying reply cum objection are based on information and those contents of paragraph nos. 2, 4, 11, 16, 19 Of the accompanying reply cum objection are based on legal advice, which all I believe to be true and that no part of it is false and nothing material has been concealed in it.

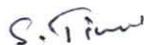


SO HELP ME GOD.


(DEPONENT)

VERIFICATION

Verified at Varanasi on this 13th Day of February , 2023 that the contents of the above affidavit are true and correct to my





knowledge and no part of it is false and nothing material has been concealed therefrom.

(DEPONENT)



OATH COMMISSIONER



11/2 Affidavit
Sir 1837
at 13-02-23
elay Krishna Charurvedi
Notary Govt of India
Civil Court, VARANASI

S. P. Singh



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