

REPORT OF THE OVERSIGHT COMMITTEE, NGT, U.P, LUCKNOW

IN THE MATTER OF:-

ORIGINAL APPLICATION NO. 41/2020

PUSHPENDRA KUMAR

Versus

NAGARPANCHAYAT, KADAURA & ORS.

INDEX

Sl. No.	Particulars	Page No.
1.	REPORT OF OVERSIGHT COMMITTEE	1-4
2.	Annexure – I	5-31

**REPORT OF THE OVERSIGHT COMMITTEE, NGT ON THE EXECUTION
APPLICATION NO. 43/2022 IN O.A 41/2020 IN RE: PUSHPENDRA KUMAR VS
NAGAR PANCHAYAT KADAURA**

I. Background

The main issue in this matter was restoration of main pond (Sadar pond) of Kadaura Town, District Jalaun, UP. Besides, direction was also sought to stop continuous burning of solid municipal waste and e-waste inside the residential area of the town as it emits poisonous gases and creates severe air pollution.

II. Orders by the Hon'ble NGT

1. Vide order dated 17.02.2020, a factual and an action taken report was sought from the District Magistrate (DM), Jalaun, U.P and the UPPCB. The UPPCB submitted its report dated 18.06.2020 which was considered by Hon'ble NGT on 23.06.2020 and the following order was passed:

“In view of the pitiable condition of the water body as depicted in the report, remedial action has to be taken promptly. The State PCB in exercise of its functions and duties may prepare appropriate guidelines for restorations of such water bodies, particularly, in the light of directions of this Tribunal dated 02.06.2020 in O.A No. 325/2015, Lt. Col. Sarvadaman Singh Oberoi vs. Union of India & Ors. Concerned State authorities may also perform their duties. It will also be appropriate to involve the village community for the purpose. The UPPCB may provide hand holding to the local body. The restoration of water bodies is significant for protection of environment, for availability of drinking water, recharge of ground water, harvesting of rain water and microclimate. Let the State PCB file a further action taken report in the matter before the next date”

2. Accordingly, a report was filed by the UPPCB on 08.01.2021 stating that some encroachments have been removed and an action plan has been prepared by the District Magistrate for restoration of the pond which is to be executed through a Joint Committee.
3. The applicant filed objections to the above report of the UPPCB on 11.01.2021. In view of the disputed versions obtained from the applicant and the UPPCB, the Hon'ble NGT vide order dated 13.01.2021 disposed of the application and directed that the factual position be verified and further remedial steps to be taken by the District Magistrate, Jalaun, UP. It also directed the Oversight Committee (OC) at Lucknow to oversee the compliance.

III. Compliance Status

As per the Hon'ble NGT directions, the Oversight Committee has been reviewing this matter from time to time on the basis of reports received from the District Magistrate (DM), Jalaun on 03.12.2021, 17.01.2022, 8.02.2022, 09.07.2022, 06.09.2022 and 26.09.2022. Meanwhile, the applicant kept on complaining about the non-compliance of the orders of the Hon'ble NGT. The Oversight Committee felt it expedient to inspect the site to ascertain the correct situation. Justice Surendra Vikram Singh Rathore, Chairman, Oversight Committee, NGT,

UP inspected the Nagar Panchayat, Kadaura on 21.04.2022. His inspection report is attached as Annexure I.

The latest compliance status is as under:

1. **Area of the Sadar pond:** The complainant had alleged that the area of the pond is not complete as per the revenue records. According to him, as per non-Z.A Settlement Record of 1961 and map, this pond is spread in two Plots i.e. Plot No. 586 (area 6.62 acres) and Plot No. 585/2 (area 0.58 acres). His assertion was that the total area of the pond is actually 7.2 acres (obtained by adding the area of Plot no.585/2). As per the onsite inspection of the Oversight Committee and reports of the DM, Kadaura it is revealed that Plot no.585/2 is a separate plot (pond) away from the sadar pond and its boundaries are no-where touching the Sadar pond. Therefore, there is no reason to include the area of plot No. 585/2 in plot No. 586. On measurement, the entire area (6.62 acres) of the Sadar pond (plot no.586) has been found to be secure after removal of the encroachment as mentioned in subsequent para.

In the *Khatauni* of the year 1961, the area of the Sadar pond (plot No. 586) is mentioned as 6.62 acres whereas the '*Shajra*' (map) shows the area to be 7.13 acres. *Khatauni* is the original record of the title. Any discrepancy in map has to be corrected in accordance with the *Khatauni* and not the reverse. Therefore, the Executive Officer, Nagar Panchayat, Kadaura has filed an Application No. 1028/2021 in the competent Revenue Court for the correction of map.

2. **Encroachments on/near Sadar pond:** A total of 59 encroachments were found, including 18 encroachments of permanent nature and 41 encroachments of temporary nature. All the identified temporary encroachments were immediately removed from the spot and permanent encroachments were removed after the finalisation of proceedings under Section 4 of the Public Premises Act. Thus, all illegal encroachments have been removed and the entire area (6.62 acres) of the pond has been secured.

The complainant had mentioned that as per non-ZA map, there is no land between the pond and the road on the eastern and northern side. Moreover, each house built on the north bank has encroached more than 80 feet land of pond. As per the DM's report and in the inspection carried out by the OC it was found that both north and east side of pond is recorded as '*Abadi*' and the pathway used by 07 houses situated on the north-eastern side of the pond do not fall in the pond area.

The complainant had also alleged that the construction of government/common road on the northern bank of the Sadar Pond is illegal. But, this is also not borne out from record because the plot in the north of Sadar pond is recorded as *Abadi*.

3. **Construction of shops on the pond area:** These shops have been found to be constructed on Plot no. 576 which has been recorded as '*Abadi*' in the revenue record of the year 1961 and not on Plot No. 586 i.e., the pond.

4. **Action for Solid waste management:** A Material Recovery Facility (MRF) centre has been established. In order to procure machines through GeM portal, bids were invited and the same were opened on 25.09.2022. Once the bid process is complete, work order would be issued for the supply of machines. Thereafter, the centre would be made operational. The expected completion date of this work is 20.10.2022.

5. **Cotton factories near the pond:** The complainant submitted vide email that illegal cotton factories using old indigenous diesel engines are releasing poisonous smoke in the open at Ramlila Maidan in the heart of the town, which is creating health issues for people living in the nearby areas. District Magistrate informed during the inspection dated 21.04.2022 that all the persons, who were involved in beating cotton (i.e. Ruee Dhunkas) have been removed from the nearby area of the pond. There is no other cotton factory in the area. The complainant admitted during the visit of the OC that he has no grievance in this regard now.

6. **Steps for restoration/beautification of pond:** Water hyacinth and polytene removal has been done by Nagar Panchayat Kadaura but complete cleaning of the pond could not be done as the pond was too marshy. Houses which were draining their wastewater into the pond have been connected with the help of pipes to the peripheral drain. Now, no domestic wastewater is being discharged into the pond. Further pollution of the pond is being controlled by constructing a protective mesh fencing along the roadside area. According to the joint on-site inspection by the Executive Engineer, Micro Irrigation Dept. and Executive Officer, Nagar Panchayat, Kadaura dated 16.09.2022, out of the total 450 meters long boundary with protective mesh to be constructed, pillars have been built in 260 meters length and beaming has been done in 160 meters. The timeline for completing this work is 31.12.2022.

The District Magistrate has submitted a project of Rs.2.95 crores for the rejuvenation and beautification of the Sadar Pond to the State government on 17.06.2022. Approval of the Government is awaited.

7. **Water quality of Sadar pond:** As per the water analysis report dated 18.06.2020 submitted by the Regional officer, Jhansi, UPPCB, the characteristic parameters are beyond the permissible limits. In spite of completely stopping flow of domestic wastewater into the pond, the water quality analysis report of Sadar pond dated 12.07.2022 and 19.09.2022 presented in the Table 1 below reveals that the water quality of the pond has not improved. In fact, it has deteriorated in the past 03 months and currently the water quality of the pond with reference to BOD and DO falls in Class 'E' i.e., the water is only suitable for irrigation, industrial cooling and controlled waste disposal purposes.

Table 1: Water Quality Report of the Sadar Pond, Kadaura

Sampl ing locati on	Sampli ng date	pH	Conducti vity	Turbi dity (NTU)	DO (mg /l)	BO D (mg /l)	CO D (mg /l)	TSS (mg /l)	TDS (mg /l)	Total Hardn ess	Ca (mg /l)	Mg (mg /l)	Chlori de (mg/l)	TS (mg /l)
Sadar Pond	25.06.2 022	7. 80	987	35	3.90	12	32	57	567	340	220	120	30	-
	14.09.2 022	7. 60	993	45	3.90	16	38	69	572	641	230	110	40	340

8. Environmental compensation: A letter has been sent by the DM, Jalaun to the UPPCB on 27.07.2021 for waiving off the EC imposed on 18.06.2020 for discharging untreated wastewater into the Sadar pond in view of the inability of the Nagar Panchayat, Kadaura to meet even its routine daily expenditure.

IV. Observations of the Oversight Committee

1. There is no encroachment over the Sadar pond and the total area of the pond is same as recorded in the *Khatauni*.
2. In order to prevent pollution of and encroachments on the Sadar pond, a peripheral drain has been constructed and the work of constructing boundary wall with protective mesh around the pond is going on which is expected to be complete by Dec,2022.
3. Although efforts have been made to prevent pollution but still the water quality of the pond has not improved, rather it has deteriorated in the last three months which raises doubt on the preventive actions taken by the Nagar Panchayat. The Regional Officer, UPPCB may be directed to inspect the site and provide technical solution for improving the water quality to the District Administration and send his report to the Oversight Committee. He may also be directed to send quarterly water quality analysis report to the EO, Nagar Panchayat, Kadaura for necessary action and the Oversight Committee for monitoring.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the Hon'ble Tribunal with a copy to the Chief Secretary, Government of Uttar Pradesh for necessary action. The report also be uploaded on the website of the Committee.

03-Oct-22

03-Oct-22

X Anant Kumar Singh

Anant Kumar Singh
Member, Oversight Committee
Signed by: ANANT KUMAR SINGH

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

October 03, 2022

Annexures: As above

Please visit our website: oscngt.upsdc.gov.in for more information.

Inspection report of Sadar Pond, Kadaura, District Jalaun, UP

Pursuant to the repeated complaints made by Shri Pushpendra Kumar, applicant in OA No. 41 of 2020, to the effect that the orders of Hon'ble NGT are not being complied with in letter and spirit, the Oversight Committee felt it expedient and in the interest of justice to make a visit of the spot and inspect the site of Sadar Pond, Kadaura, district Jalaun. Accordingly, I, Justice Surendra Vikram Singh Rathore, Chairman, Oversight Committee, NGT, UP inspected the Sadar Pond, Kadaura on 21st day of April, 2022 to verify the present status of the compliance of the orders of Hon'ble NGT.

At the time of inspection, the following officers of the district administration were present:

1. Ms Priyanka Niranjana, District Magistrate, Jalaun
2. Ms Poonam Nigam, Additional District Magistrate (F & R), Jalaun
3. Shri K.K.Singh, Sub Divisional Magistrate, Kalpi
4. Shri Balram Gupta, Tahsildar, Kalpi
5. Shri Suneel Kumar Singh, Executive Officer, Nagar Panchayat, Kadaura
6. Shri Niranjana Sharma, RO, UPPCB, Jalaun

Besides the above, complainant Shri Pushpendra Kumar was also present alongwith two of his companions.

The periphery of Sadar Pond was inspected. I, alongwith the officers of district administration, the complainant as well as the inhabitants of nearby area assembled there at the time of inspection, took a round from the north west corner to the east side of the pond. There is a pucca road opposite the residential houses and thereafter the area of pond starts. There was continuous heap of earth along its bank. It was informed by the District Magistrate that this has been done by the person to whom the work of construction of a pavement around the pond has been assigned. Right from the north east side towards the south side of the pond, remnants of broken buildings showed that demolition of illegal construction was carried out at large scale. At the time of inspection,

some construction was in progress, regarding which the complainant remarked that still fresh encroachment is being done illegally. But this allegation of the complainant was not correct. By its very appearance it was clear that the broken houses were being repaired by raising some construction, but it was away from the area which was made free from encroachment.

The District Magistrate pointed out the places from where illegal encroachments were removed from the site. It was informed that there were 18 permanent and 41 temporary constructions, which were demolished and removed completely after giving due notice to the encroachers.

None of the persons, whose construction was removed, came forward to allege that the district administration has committed any illegality while removing encroachment or his rightful construction has been demolished.

On the eastern side of Sadar Pond, there were some old houses and on the southern side there were shops, constructed by the Nagar Panchayat Kadaura. The District Magistrate informed that these old houses are in existence since decades. There is no public way to move in between these houses and the pond apart from it in none of these houses have any door towards the pond. It was informed that road is on the eastern side of these old constructions, and these houses have its opening towards that road.

During inspection, the complainant asserted that these shops have been constructed within the area of pond, but this fact was vehemently denied by the District Magistrate. According to her, the area of Sadar Pond was measured manually and through GPS too. As per revenue records and map, Sadar Pond situates in Gata No. 586 having an area of 6.62 acres, which is now absolutely free from encroachments. The complainant was harping on the same string that the area of the pond is not complete as per revenue records. According to him, this pond is spread in two Gatas as per NZA Settlement 1961 i.e. Gata No. 586 (area 6.62 acres) and Gata No. 585/2 (area 0.58 acres), as also shown in the map of Town Area. His assertion was that if the area of gata no 585/2 is added, then

the total area of the pond shall increase and such increased total area is not free from encroachments. Thus there is still an area of pond under illegal occupation of encroachers whereupon the District Magistrate asked the complainant to come to the Block Office and show the record in support of his assertion.

In the Block House, a meeting with the officers of district administration was held to discuss the issues relating to the area of Sadar Pond. Complainant Pushpendra Kumar alongwith his companions was also present. He repeatedly said that Gata No. 585/2, area 0.58 is also the pond and when this area is added to the area of Gata No. 586, area 6.62 acres, the total area of pond becomes 7.20 acres. But the revenue map which was available with the District Magistrate, there was no plot bearing No. 585/2, though there was a plot bearing No. 585 but that was away from the pond and its boundaries were nowhere touching the present pond area. Since the complainant was repeatedly insisting on his assertion that the area of Sadar Pond has not been properly measured and Gata No. 585/2 has not been included in the area of pond, I asked the complainant that even if his assertion is correct, revenue records cannot be corrected in the manner he desires during such inspection and for correction of revenue records, there is a prescribed procedure under law. The District Magistrate asked the complainant to file his written objections in her court and then the discrepancy as pointed out by the complainant would be considered and the revenue records, if required, would be corrected in accordance with the law.

The District Magistrate has submitted a project/plan for stone-pinching and beautification of Sadar Pond, the estimated cost of which is rupees 29.97 lacs. This amount has been sanctioned and the work will start as soon as the financial bid in favour of a bidder is finalised. That apart, an amount of rupees 30 lacs has also been sanctioned by the Government for beautification of Sadar Pond, but its formal order is yet to be received. According to the District Magistrate, the total amount, thus, available for the purpose would be about rupees 60 lacs and this will help to make the Sadar Pond a picturesque place.

The complainant raised several grievances as regards compliance of the orders of Hon'ble NGT. Such grievances relate mainly to the procedure adopted by the revenue officers/officials while measuring the area of Sadar Pond and the area is still under encroachments. He gave me a complainant containing the said grievances in writing with a prayer to redress them.

Because of summer, the pond water has started drying up to some extent. There was no solid waste material seen floating in the pond; rather lot of birds were present in the pond, which reflects that the pond water was fit for aquatic life. I directed the Regional Officer, UPPCB, Jalaun to take a sample of water from the pond, get it analysed on all counts including faecal coliform and total coliform and submit report to the Oversight Committee.

Some of the photographs of the site taken during the course of inspection are attached herewith.

In the last, the complainant was asked whether he has any other grievance, then he said that disposal of solid waste is not being done properly and the MRF is under construction for the last six months, to which ADM replied that the MRF shall be complete and functional within next 30 days. She was asked to send its completion report to the Committee.

The Regional Officer, UPPCB, Jalaun was also directed to take samples of water from other ponds situated within the area of Kadaura town, get them analysed on all counts and send report to the Oversight Committee.

During the meeting in the Block House, the Chairman, Nagar Panchayat, Kadaura Mr Mohd Zameer Alam also appeared before me. He raised certain allegations against the complainant and stated that frivolous complaints are being made repeatedly against him. He further stated that in order to harass him, more than 1500 applications under RTI Act have been made against him by the complainant. I asked him to give in writing, whatever he has to say, so that reply of the complainant may also be sought on these points.

The Chairman, Nagar Panchayat, Kadaura also submitted a statement showing the amount of Rs.18736845.00 and Rs. 21972424.00, utilised by the Nagar Panchayat out of the amount obtained respectively from Rajya Vitt during the Financial Year 2020-21 and 2021-22. He was asked to share the details of expenditure with the committee.

I was also informed that all the persons, who were involved in beating cotton (i.e. Ruee Dhunkas) have already been removed from the nearby area of pond. The complainant too did not have any grievance now in this regard.

The Additional District Magistrate (F & R) was directed to send a list of all other ponds situated within the area of Nagar Panchayat, Kadaura as per revenue records mentioning their areas and the fact whether all such ponds are still in existence or not.

At present, the drain water is being discharged in open. In summers it is drying up but it will create a problem in near future. So the District Magistrate was asked to take immediate steps for construction of STP.

I asked the Additional District Magistrate to ensure thick plantation all around the pond area as it will not only purify the air but also prevent encroachment in future. She was also asked to put some floating beds in the pond as it will help in further cleaning the water.

Over all, I was satisfied with the compliance of Hon'ble NGT's orders. The dispute regarding the area of the pond has to be settled by the revenue authorities in accordance with law. Further action may be taken only thereafter.

21-Apr-22

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

April 21, 2022









































