

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

IN THE MATTER OF:-
ORIGINAL APPLICATION NO. 59/2020

DR. AJAY KUMAR
VERSUS
UNION OF INDIA AND OTHERS

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LATEST STATUS REPORT DATED 07.09.2022 OF THE OVERSIGHT COMMITTEE IN COMPLIANCE OF DISPOSED OF OA NO. 59 OF 2020 IN RE: DR. AJAY KUMAR VERSUS UNION OF INDIA AND OTHERS VIDE ORDER DATED 11.09.2020

I. INTRODUCTION

The main issue, in this case, is regarding the illegal construction and encroachment on land reserved for public utilities such as parks and open space as per the Master Plan, 2021 at Khaduli, Baghpat Road over Bridge, proposed Bus Stand at National Highway-58, Meerut, by-pass Modipuram to Khirwa Road and at Bhola Road, Village Sudpur alias Pathanpura etc.

II. ORDERS PASSED BY THE HON'BLE NGT

Vide order dated 05.03.2020, the Hon'ble NGT sought an action taken report from the Joint Committee comprising of the District Magistrate, Meerut; Meerut Development Authority (MDA); Municipal Commissioner, Meerut and the UPPCB. The action taken report dated 04.09.2020 filed by this Committee, inter alia, mentioned that land reserved for the open spaces in the Master Plan is being encroached. *MDA has taken action against the unauthorized construction in different areas along with the areas proposed for Parks, Open Spaces and Green Belt in Meerut Master Plan- 2021, in accordance with the relevant provisions under U.P. Urban Planning and Development Act, 1973 by issuing 255 notices. In accordance with the aforesaid provisions of the proceeding for sealing and demolition of unauthorized constructions have been sealed and 50 unauthorized constructions demolition orders have been passed in which demolition will be effected after the expiry of the period prescribed under law.*

After considering this report, the Hon'ble NGT directed the MDA vide its order dated 11.09.2020 for the removal of unauthorized constructions from open spaces/parks at Meerut and to take further action preferably within three months and furnish its action taken report to the Oversight Committee by 31.12.2020.

In the meanwhile, execution applications were moved by the complaint before the Hon'ble NGT with the allegation that the MDA has not taken any action and that illegal construction work is still being carried out. Taking cognizance of the same, the Hon'ble NGT ordered that the scope of execution must be in accordance with the main order, which requires the MDA to take further steps to enforce the law and submit a report to the Oversight Committee.

III. COMPLIANCE STATUS

Letters were sent by the applicant Dr. Ajay Kumar through e-mail and registered post repeatedly to the Oversight Committee on 21.09.2020, 05.03.2021, 08.07.2021 & 13.08.2021. In view of the allegations of the complainant, the Oversight Committee called for compliance report from the MDA; Urban Development Department and Principal Secretary, AWAS Vibhag, U.P.

The Secretary, MDA informed the Oversight Committee that there is a general stay order by the Hon'ble High Court regarding the demolition of unauthorized structures in violation of the Master Plan due to the inability of the affected persons to seek appropriate legal remedy due to the pandemic. However, with a view to prevent sale-purchase of land earmarked for public utilities and construction thereon in the future in compliance of the Hon'ble NGT's order, the MDA has informed that by its letter dated 27.11.2020 the IG registration U.P. has directed all the DIGs, AIGs and Deputy Registrars to mention the proposed land use including earmarking for public utility essentially while executing the sale deed of any land falling under the regulated area/ development authority.

It was informed during the meeting dated 04.08.2021 held by the Oversight Committee that the Government approved the Meerut Master Plan-2021 on 13.10.2006, which was published on 23.10.2006 and is in effect until the year 2021. Therefore, a New Master Plan is under preparation and is proposed to be in vogue until the year 2031. The Oversight Committee enquired about the reason for the delay in implementing the Master Plan from the year 2006 to 2021. The Secretary, MDA informed that all the lands earmarked for different public utilities on which encroachments are alleged are the lands of private owners and the MDA was supposed to acquire the entire area for development purposes as per the Master Plan. But the MDA did not have sufficient funds for this purpose. She also informed that the steps to put up notice boards in the locality and various precautionary measures while registering the sale deed of such lands are being taken only during the last about two years.

It was further informed in the meeting that notices have been issued against 310 constructions under Section-26 & 27 of the Uttar Pradesh Town Planning and Development Act, 1973, and demolition orders have been passed against 243 of them. Remaining 67 cases are currently in the process of hearing in the MDA. According to the MDA, while doing local marking work on the main roads, 20 buildings have been sealed and 38 shops, one dhaba,

one residential building, one car washing center, two illegal colonies and two offices have been demolished with the help of the Police Force and Magistrate.

Earlier, the progress reports for 2nd, 3rd and 4th Quarter of the Financial Year 2021-22 (Refer Appendix- I, II & III) were submitted by the MDA to the Oversight Committee. According to the latest quarterly report dated 16.08.2022 (Refer Appendix- IV) pertaining to the first quarter of the Financial Year 2022-23 submitted by the MDA, a total of 722 encroachments have been identified on 07 earmarked public utility lands so far. 691 notices have been issued to the violators of law. Demolition orders have been passed in respect of 434 constructions for failure to show valid permission for construction, 134 appeals have been filed against the Authority's seal/demolition orders and 117 appeals have been decided till June 2022. Appeals are being contested by the authority effectively. Out of 20 writs that were filed challenging the orders of the MDA and the Commissioner, 14 have been decided in favour of the MDA by the Hon'ble High Court. In 63 cases MDA's orders have been executed.

IV. OBSERVATIONS OF THE OVERSIGHT COMMITTEE

1. Cases in which the demolition orders have attained finality, should be taken to logical conclusion in terms of demolition by the MDA at once. Other cases should be taken to their logical conclusion as per law expeditiously.
2. The lands earmarked for public utilities in the Meerut Master Plan, 2021 belong to private owners and the MDA could not acquire them during the entire plan period of 15 years due to paucity of funds. The need for public utility land is very much recognized and is well appreciated by all but it would be impractical on the part of the Development Authorities (DAs) to expect the private owners to use their parcels of valuable urban land only for agricultural purposes till eternity while others in the neighborhood are making fortunes by using their parcels of land for urbanization related activities. With a view to establish balance between the need of public utility lands and equal treatment to all land owners, a policy rethinking at the Government level is urgently required.
3. This Committee feels that the requirement of public utility lands in a city may be divided into two parts and dealt with separately. Public Utility lands required for the entire city may be earmarked in the Master Plan and be acquired by the respective authorities within three years of the notification of the Master Plan. For this, adequate budgetary provision should be made by the acquiring agencies and the notification for acquisition

must be issued within one year. Public Utility lands required for individual colonies/areas need not be earmarked in the Master Plan. Instead, it should be mentioned in the Rules/Byelaws that the Developers of those colonies/areas will have to provide for these public utilities addressing the environmental concern as enshrined in various Laws and also reflected in the District Environment Plan (DEP) before their layout plan is approved by the Development Authorities. This will ensure environment-friendly development of areas without any hardship to any land owner.

4. It is well understood that issuing notices to those who have violated the laws relating to construction in urban areas, passing appropriate orders after following the legal procedure and executing the same are part of a continuous process. Substantial action seems to have been taken by the MDA in this regard, yet there are complaints of pick and choose in initiating action. This Committee feels that lack of transparency in the system may be one of the main causes of this. If the MDA puts up all the information pertaining to illegal construction and encroachments on public land as well as the steps taken to tackle them on their website on real-time basis, invite people to point out omissions in this regard and take prompt action on such information, it will certainly help restore people's faith and confidence in the MDA.
5. Similar situation may be prevailing in other Development Authorities also. Therefore, the Oversight Committee has shared its observations in para 2, 3 & 4 above with the Principal Secretary, Housing Department, Govt. of U. P. with a view to effect necessary changes in the existing policy/ rules so that they are equitable, transparent and easy to implement.

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.

07-Sep-22

07-Sep-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

Sep 07, 2022

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

APPENDICES:

Appendix-I: Progress Report for 2nd Quarter (FY 2021-22) received from Meerut Development Authority (MDA)

Appendix- II: Progress Report for 3rd Quarter (FY 2021-22) received from MDA

Appendix- III: Progress Report for 4th Quarter (FY 2021-22) received from MDA

Appendix-IV: Progress report for 1st Quarter (FY 2022-23) received from MDA

Appendix- I

PROFORMA FOR THE PROGRESS REPORT

REGARDING COMPLIANCE OF ORDER OF THE HON'BLE NGT DATED 11.09.2020 ON O.A. NO. 59 OF 2020 IN RE:
DR. AJAY KUMAR VERSUS UNION OF INDIA AND OTHERS

Encroachment on Public Utility lands as per Master Plan of Meerut City at Khadoli-Baghat Road over Bridge and proposed Bus Stand at National Highway-58, Meerut, by-pass Modipuram by-pass to Khirwa Road and at Bhola Road, Village Sudpur alias Pathanpura.

Report for the.....Quarter, Financial Year.....

Table:-I: Encroachment on Public Utility Land

S. No.	Name of the Public utility Land	Address including Plot No.	Area m ²	No. of Encroachment (s)	Total Encroached Area	Remark(s)
1	Park and Open Space	Sudpur Pathanpura alias	713004.00	112	13878.00 m ²	
2	Park and Open Space	Bypass road and Bagpat road	100887.00	168	43667.00 m ²	
3	Bus Stand	Bypass Bagpat road	358550.00	05	280.00 m ²	
4	Green Verge	Bagpat road	781700	115	17379.79 m ²	
5	Green Verge	Bhola road	740700	-	-	
6	Green Verge	NH-58 Modipuram Bypass to Khirwa Road	382200.00	109	37650.00 m ²	
7	Green Verge	Khadoli-Baghat Road over Bridge	244900.00	37	24065.00 m ²	

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4	Green Verge	Bagpat road	781700	115	17379.79 m ²	
5	Green Verge	Bhola road	740700	-	-	
6	Green Verge	NH-58 Modipuram Bypass to Khirwa Road	382200.00	109	37650.00 m ²	
7	Green Verge	Khadoli-Baghat Road over Bridge	244900.00	37	24065.00 m ²	

Table:-II: Quarterly Progress Report
(for Quarter IIIrd (19th August onward), Financial Year2021-22)

S.No.	Issues/items	Status at the End of the Previous Quarter (18th august)	Progress During IIIrd Quarter(from 19th August onward)	Cummulative Status at the End of the Current Quarter
1.	Number of Encroachment (s) Identified	546	124	670
2.	Number of Notice (s) Issued	501	152	653
3.	Number of Order (s) passed:			
a)	Number of Demolition Order (s)	290	57	347
b)	Number of Notice (s) Withdrawn	Nil	Nil	Nil
4.	Status of Appeal:			
a)	Number of Appeal (s) filed:	121	1	122
b)	Number of stay granted:	Nil	Nil	Nil
c)	No. of Appeal (s) decided:			
	(i) No. of Appeal (s) in which MDA's order (s) upheld	65	48	113
	(ii) No. of Appeal (s) in which MDA's order (s) Reversed	Nil	Nil	Nil
	(iii) No. of appeals where the case is remanded	Nil	Nil	Nil
5.	Status of Writ:			
a)	Number of Writ(S) field:	12	1	13
b)	Number of Stay granted:	Nil	Nil	Nil
c)	Number of Writ(S) decided	12 (Writ)	Nil	12
	(i) No. of Appeal (s) in which MDA's order (s) upheld	12	Nil	Nil
	(ii) No. of Appeal (s) in which MDA's order (s) Reversed	Nil	Nil	Nil
6.	No. of case (s) in which MDA's order (s) were executed	43	15	58

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मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक : 126 / प्रवर्तन खण्ड जोन-सी/22

दिनांक : 12/05/2022

सेवा मे,

श्री ए0एन0 वाजपेई
पी0पी0एस0 माननीय चेयरमैन
ओवर साइट कमेटी
एन0जी0टी0 यू0पी0
लखनऊ

विषय— माननीय एन0जी0टी0 में योजित ओ0ए0 सं0 0059/2020 डा0 अजय कुमार
बनाम यूनियन आफ इण्डिया व अन्य के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक दिनांक 12.05.2022 के पत्र का संदर्भ ग्रहण करने
का कष्ट करें। उपरोक्त विषय पर ओवर साइट कमेटी द्वारा प्रेषित प्रारूप के साथ
आख्या संलग्न कर प्रेषित की जा रही है।

कृपया उपरोक्तानुसार अवगत होने का कष्ट करें।


12/05/22
सचिव

for मेरठ विकास प्राधिकरण
मेरठ।

Table:-II: Quarterly Progress Report

(for Quarter Istrd (January, 2022 to March, 2022), Financial Year 2021-22)

S.No.	Issues/items	Status at the End of the Previous Quarter (31 st December)	Progress During I st rd Quarter (from January, 2022 to March, 2022)	Cummulative Status at the End of the Current Quarter
1.	Number of Encroachment (s) Identified	670	40	710
2.	Number of Notice (s) Issued	653	30	683
3.	Number of Order (s) passed:			
a)	Number of Demolition Order (s)	347	20	367
b)	Number of Notice (s) Withdrawn	Nil	Nil	Nil
4.	Status of Appeal:			
a)	Number of Appeal (s) filed:	122	1	123
b)	Number of stay granted:	Nil	Nil	Nil
c)	No. of Appeal (s) decided:			
	(i) No. of Appeal (s) in which MDA's order (s) upheld	113	2	115
	(ii) No. of Appeal (s) in which MDA's order (s) Reversed	Nil	Nil	Nil
	(iii) No. of appeals where the case is remanded	Nil	Nil	Nil
5.	Status of Writ:			
a)	Number of Writ(S) filed:	13	3	16
b)	Number of Stay granted:	Nil	Nil	Nil
c)	Number of Writ(S) decided	12 (writ)	1	13
	(i) No. of Appeal (s) in which MDA's order (s) upheld	Nil	Nil	Nil
	(ii) No. of Appeal (s) in which MDA's order (s) Reversed	Nil	Nil	Nil
6.	No. of case (s) in which MDA's order (s) were executed	58	1	59

[Signature] [Signature] [Signature] [Signature]

PROFORMA FOR THE PROGRESS REPORT

REGARDING COMPLIANCE OF ORDER OF THE HON'BLE NGT DATED 11.09.2020 ON O.A. NO. 59 OF 2020 IN RE:

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मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक : 165 / प्रवर्तन खण्ड जोन-सी / 22

दिनांक : 16/08/22

सेवा मे,

श्री एल0एन0 सोनी
पी0पी0एस0 माननीय चेयरमैन
ओवर साइट कमेटी
एन0जी0टी0, यू0पी0
लखनऊ

विषय:- माननीय एन0जी0टी0 में योजित ओ0ए0 सं0 0059 / 2020 डा0 अजय कुमार बनाम यूनियन आफ इण्डिया व अन्य के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक दिनांक 10.08.2022 के पत्र का संदर्भ ग्रहण करने का कष्ट करें। उपरोक्त विषय पर ओवर साइट कमेटी द्वारा प्रेषित प्रारूप के साथ आख्या संलग्न कर प्रेषित की जा रही है।

कृपया उपरोक्तानुसार अवगत होने का कष्ट करें।

सचिव

मेरठ विकास प्राधिकरण
मेरठ।

