

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 1139/2024

In the matter of:

Jagvir Singh

...Applicant

Versus

State of U.P.

...Respondent

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**Filed by: Adv. Rajkumar
On behalf of Central Pollution Control Board**

Place: Delhi

Date: 14.02.2025

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 1139/2024

In the matter of:

Jagvir Singh

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**RESPONSE BY WAY OF AFFIDAVIT FOR AND ON BEHALF OF
RESPONDENT NO. 04, CENTRAL POLLUTION CONTROL BOARD**

1. That Hon'ble NGT vide Order dated 20.12.2024 (**Annexure-I**) impleaded the Central Pollution Control Board (hereinafter referred as CPCB) as Respondent no. 04 in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the very outset, the answering Respondent denies all claims, contentions, allegations and averments against answering respondent CPCB in the above Original Application (OA) contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is constituted under Section 3 of The Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and Control of Pollution) Act, 1974, The Air



(Prevention and Control of Pollution) Act, 1981, and The Environment (Protection) Act, 1986.

4. That, Hon'ble NGT in its order dated 19.11.2024 constituted a Joint Committee comprising of Uttar Pradesh Pollution Control Board (hereinafter will be referred as 'UPPCB'), Central Pollution Control Board (hereinafter will be referred as 'CPCB') & District Magistrate, Bulandshahr and directed the Committee to submit the factual report within one month to Hon'ble NGT with respect to the complaint raised against petrol pump being established at Khasra No. 923, Pahasu town in violation of siting criteria laid down by CPCB.
5. That, in compliance of Hon'ble NGT's order dated 19.11.2024, the aforesaid joint Committee visited petrol pump namely Hamara Pump Shree Sai Filling Station), Khasra No. 923, Village-Pahasu (Pahasu-Shikarpur Road), Khurja, Bulandshahr, UP on 06.12.2024. The visit report of the joint committee was filed by CPCB on 19.12.2024 before this Hon'ble NGT.
6. That the findings of joint committee are as under:-
 - A. The Project Proponent (PP) was issued selection letter and Letter of Intent (LOI) by Hindustan Petroleum Corporation Limited on 26.02.2019 and 30.03.2019 respectively for the said location and District Magistrate, Bulandshahr has issued No Objection Certificate (NOC) to HPCL on 01.04.2023 for storage of petroleum products at Khasra No. 923, Village-Pahasu (Pahasu-Shikarpur Road), Khurja, Bulandshahr, UP, under the Petroleum Rules, 2002, considering reports from all concerned departments.



- B.** UPPCB has issued Consent to Establish (CTE) to the project on 23.10.2019. PESO certificate was issued to HPCL on 06.04.2023, which is valid upto 31.12.2026.
- C.** It was informed by the PP, that construction work of the retail outlet was started in April, 2023 and operation of retail outlet has started in February, 2024.
- D.** During visit, distance of Hospitals, residential area, River, cremation ground etc. from fill point/dispensing units/vent pipe of retail outlet was measured by the revenue department (Lekhpal). As per Lekhpal report, cremation ground is 57.80 m, River Kali East is 115.20m (from bank of river), Hospitals {two hospitals in the name of Nav Durga Hospital (06 bedded) and Global Eye Care Centre (non-bedded)} are 62.50 m and 93 m respectively. Residential houses (under construction) were observed 51.5 m away from the project. It is informed by the Executive Officer, Nagar Palika Parishad, Bulandshahar that no local bylaws are available to define residential area of Village-Pahasu.
- E.** It is also informed by the PP that Public Interest Litigation (PIL) No. 2368 of 2023; Punit Sharma Vs State of UP and Ors. is also filed for siting criteria of the petrol pump on 04.10.2023 and it is pending before the Hon'ble High Court, Allahabad.
7. That, with regard to the aforesaid matter, following is humbly submitted:-
- A.** Hon'ble NGT vide its order dated 18.01.2019 in the matter of Gyanprakash @ Pappu Singh Vs GOI & Ors. (OA No. 86 /2019) directed Central Pollution Control Board and Ministry of Petroleum and Natural Gas (MoPNG) to look into issue of setting up of large



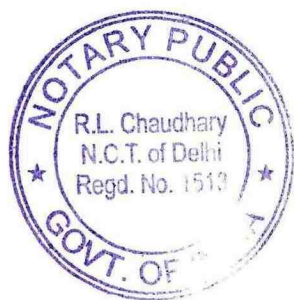
number of petrol pump in the country and directed that appropriate guidelines be issued by CPCB in exercise of statutory power.

- B.** CPCB vide office memorandum No. B-13000/1/2019-20/AQM/10802-10847, dated 07.01.2020 issued guidelines for setting up of New Petrol Pump. These guidelines also prescribed the location criteria for development of a retail outlet. Relevant excerpt from the guidelines is reproduced below:

As per the siting criteria for setting up of new retail outlets, New Retail Outlet shall not be located within a radial distance of 50 m (from fill point/dispensing units/vent pipe whichever is nearer) from schools, hospitals (10 beds and above) and residential areas designated as per local law. In case of constraints in providing 50 m distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from school, hospital (10 beds and above) and residential area designated as per laws shall be less than 30 meters. No high tension line shall pass over the retail outlet.

- C.** Hon'ble NGT vide its order dated 23.07.2020 and 09.10.2020, in the matter of Suresh Mandaloi Vs State of MP & Ors. (OA No. 61 of 2019(CZ)), directed MoEF& CC and CPCB to submit a report with regard to the minimum distance from water bodies to the petrol pump. CPCB vide letter no. B-13011/1/2019-20/AQM/4969-5020, dated 16.08.2021 issued addendum to the guideline for setting up of New Petrol Pumps issued on 07.01. 2020. Relevant excerpt from the guidelines is reproduced below:

All the surface water bodies irrespective of utility shall be protected from any possible contamination. These include lakes,



ponds, streams, rivers, wetlands, canals and creeks, as per revenue records. Retail Outlets shall not be located within a distance of 50m from the nearest point of water bodies. In case of streams and rivers, the distance shall be considered from floodway. In case floodway is not defined, the distance shall be considered from firm banks/edge of river. The sitting criterion is to be implemented for all new petrol pumps where construction by OMCs starts post the issuance of these guidelines.

8. It is further submitted that The River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 dated 7th October, 2016 notified by the Ministry of Water Resources, River Development, and Ganga Rejuvenation contains the clauses 3(l) defining flood plain, 3(c) defining buffer area, clause 4 (ix) providing for restriction relating to construction in floodplain are applicable in the instant matter. The aforesaid clauses are described here under for ready reference;

Clause 3(c): "Buffer area" means an area which extends beyond the flood plain of a stream.

Clause 3 (l): "flood plain" means such area of River Ganga or its tributaries which comes under water on either side of it due to floods corresponding to its greatest flow or with a flood of frequency once in hundred years;

Clause 4 (ix): the bank of River Ganga and its flood plain shall be construction free Zone to reduce pollution sources, pressures and to maintain its natural ground water recharge functions;



That it is also submitted that the notification also provides clear guidelines on prevention, control and environmental pollution in River

Ganga and its tributaries and under Para 6 (3) of the said notification states that: “No person shall construct any structure, whether permanent or temporary for residential or commercial or industrial or any other purposes in the River Ganga, Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries.”

9. That it is humbly submitted that Irrigation and Water Resource Department, Govt. of Uttar Pradesh is nodal agency in Uttar Pradesh for demarcation of flood plain zone. The said department has awarded the study of Delineation of flood plain zone of Kali River (E) in the district of Meerut, Hapur and Bulandshahar to National Institute of Hydrology, Roorkee (copy of letter dated 23.1.2025 issued by Irrigation Department to District Magistrate, Bulandshahar is annexed as **Annexure-II**)
10. That it also submitted that CPCB guidelines are supplementary to all existing relevant rules, guidelines, orders, notifications such as Wetland (Conservation and Management) Rules, 2017, Coastal Regulation Zone (CRZ) Notification 2011 etc.
11. That, the answering respondent no. 4 craves leave of the Hon’ble Tribunal to file additional reply, if required, in future.
12. That, in the light of the above submissions, it is respectfully submitted that this Answering Respondent, i.e., CPCB, shall abide by any order(s) or direction(s) passed by this Hon’ble Court in the instant OA.



Pankaj Agarwal
(Pankaj Agarwal)
Scientist ‘F’

Central Pollution Control Board

पंकज अग्रवाल / Pankaj Agarwal
वैज्ञानिक ‘एफ’ / Scientist ‘F’
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(Ministry of Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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...Respondent

AFFIDAVIT

I, **Pankaj Agarwal** working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. 4 in the above matter, do hereby solemnly affirm, declare on oath and state as under: -

1. That I, the deponent herein is authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same



are read over and explained to me and are not repeated herein for the sake of brevity.



Pankaj Agarwal

DEPONENT

पंकज अग्रवाल / Pankaj Agarwal
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
 (M/o Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION

Verified at New Delhi on this day of 14 FEB 2025 2025 that the contents of the above reply are correct and true on the basis of the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or mis- stated.

ATTESTED
[Signature]
NOTARY PUBLIC
GOVT. OF INDIA
14 FEB 2025

Pankaj Agarwal

DEPONENT

पंकज अग्रवाल / Pankaj Agarwal
वैज्ञानिक 'एफ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
 (M/o Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item No.09

Court No. 3

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

Original Application No. 1139/2024

Jagvir Singh

Applicant

Versus

State of U.P & Ors.

Respondents

Date of hearing: 20.12.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None for the Applicant.

Respondents: Mr. Pradeep Misra, Advocate for UPPCB.
Mr. Raj Kumar, Advocate for CPCB.

ORDER

1. In compliance of order dated 19.11.2024, report dated 19.12.2024 has been filed by CPCB.

2. The applicant has appeared in person and submitted that the petrol pump in question is situated within 200 meter prohibited Flood Plain Zone of River Kali and the applicant has relied on the newspaper clipping dated 14.06.2024 in support of his submissions in which reference has been made to Government orders prohibiting constructions within 200 meters Flood Plain Zone of River Kali (East).

3. As per CPCB report, the petrol pump in question is situated at the distance of 115.20 mtr from the bank of River Kali (East).

4. In view of directions given by this Tribunal for demarcation of Flood Plain Zone of Rivers which are tributaries of River Ganga, question as to permissibility of construction of petrol pump within Flood Plain Zone of River Kali (East) arises in the present case.

5. In view thereof, we consider presence of District Magistrate, Muzaffarnagar, Uttar Pradesh Pollution Control Board (UPPCB), Project Proponent - Hindustan Petroleum Corporation Limited (HPCL) and Central Pollution Control Board (CPCB) to be essential for just and proper adjudication of the questions involved in the case who are accordingly impleaded as Respondents No. 1 to 4.

6. The Registry is directed to prepare memo of parties and attach the same with the application.

7. Respondents no. 2 -UPPCB and respondent no. 4-CPCB are already represented before this Tribunal by their Counsel who accept notices on their behalf.

8. The Registry is directed to issue notices to Respondents No. 1-State of Uttar Pradesh and respondent no. 3-Hindustan Petroleum Corporation Ltd. requiring them to file their responses at least one week before the next date of hearing fixed and also to appear before this Tribunal through their Counsel/duly authorized officers on the next date of hearing fixed.

9. List on 27.01.2025 for further consideration.

10. A copy of this order be sent to District Magistrate, Muzaffarnagar, Member Secretary, UPPCB, HPCL and Member Secretary, CPCB by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 20th, 2024
Original Application No. 1139/2024
AB

प्रेषक,

अधिशाली अभियन्ता
ड्रेनेज खण्ड-प्रथम, मेरठ।

प्रेषित,

जिलाधिकारी महोदया,
बुलन्दशहर

पत्रांक: 122/डी0डी0एम0/काली नदी

दिनांक : 23/01/2025

विषय: मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा श्री जगवीर बनाम स्टेट ऑफ यू०पी० एण्ड अन्य
ओ०ए० सं०-1139/2024 में दिनांक 20.12.2024 को पारित आदेश के सम्बन्ध में।

सन्दर्भ: आपका पत्रांक-1370/OG-264/25 दिनांक 21.01.2025

महोदया,

कृपया उपर्युक्त विषयक सन्दर्भित पत्र का अवलोकन करने की कृपा करें, जिसके अनुपालन में सिंचाई विभाग से सम्बन्धित आख्या निम्नवत् है -

काली नदी (पूर्वी) के Flood Plain Zone के निर्धारण के कार्य हेतु नेशनल इंस्टिट्यूट ऑफ हाईड्रोलॉजी (N.I.H.) रुडकी, (उत्तराखण्ड) को consultancy के रूप में नामित किया गया है। इस कार्य को किये जाने हेतु N.I.H. रुडकी द्वारा विभिन्न एजेन्सियों से डाटा उपलब्ध कराये जाने की वॉछना की गयी है (छायाप्रति संलग्न)। इसी क्रम में जनपद मुजफ्फरनगर, मेरठ, हापुड़ एवं बुलन्दशहर तक काली नदी (पूर्वी) के Flood Plain Zone निर्धारण हेतु नदी के कॉस-सैक्शन के सर्वेक्षण का कार्य पूर्ण करा लिया गया है। जो N.I.H. रुडकी को उपलब्ध करा दिये गये है। अन्य सभी एजेन्सियों से डाटा प्राप्त करने की कार्यवाही प्रक्रिया में है। इन एजेन्सियों से डाटा प्राप्त होते ही N.I.H. रुडकी को डाटा उपलब्ध करा दिया जायेगा।

N.I.H. रुडकी को डाटा प्राप्त होने के एवं डाटा अध्ययन के उपरान्त उनके द्वारा 06 माह उपरान्त Finalization of delineation if flood plain डाटा उपलब्ध कराये जायेंगे। N.I.H. रुडकी, से Finalization of delineation if flood plain डाटा प्राप्त होने के उपरान्त काली नदी (पूर्वी) के demarcation का कार्य कराया जाना प्रस्तावित है।

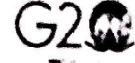
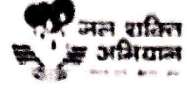
आख्या सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

संलग्नक-यथोक्त।


अधिशाली अभियन्ता
ड्रेनेज खण्ड-प्रथम, मेरठ



राष्ट्रीय जलविज्ञान संस्थान
 (जल शक्ति परामर्श, जल प्रशासन, नदी विकास एवं जल संरक्षण विभाग,
 के अधीन भारत सरकार की संस्था)
 जलविज्ञान भवन, रूड़की-247 667 (उत्तराखण्ड) भारत
National Institute of Hydrology
 (A Government of India Society under Ministry of Jal Shakti,
 Department of Water Resources, R D & G R
 Jalvignyan Bhawan, Roorkee - 247 667, (Uttarakhand) INDIA
 (An ISO 9001:2015 Certified Organization)



Phone: +91 1332 272108, 272106
 Web: www.nihroorkee.gov.in

No. SWHD/NIH/2024-25
 Date October 24, 2024

Executive Engineer,
 Meerut Division Ganga Canal
 Irrigation and Water Resources Department, Govt. of UP

Sub.: Flood plain zone delineation of Kali River (E) in the district of Meerut, Hapur and Bulandshahr.

Ref.: Your Letter No. 5435/ मेखगंनमे/एन0जी0टी0/ Dated 05-10-2024

Sir,

With reference to your above cited letter, proposal for "Flood plain zone delineation of Kali River (E) in the district of Meerut, Hapur and Bulandshahr" is enclosed herewith.

With Regards,

Head, Surface Water Hydrology Division
 National Institute of Hydrology, Roorkee

Proposal by National Institute of Hydrology, Roorkee

Title of Study: Flood plain zone delineation of Kali River (E) in the district of Meerut, Hapur and Bulandshahr.

The Executive Engineer, Meerut Division Ganga Canal, Irrigation and Water Resources Department, Govt. of UP has approached Director, National Institute of Hydrology Roorkee to carryout the study for "Flood plain zone delineation of Kali River (E) in the district of Meerut, Hapur and Bulandshahr" as per direction given by Hon'ble NGT. Director, NIH has assigned Surface Water Hydrology Division to take up this study.

From the initial discussion with the Meerut Division Ganga Canal, it has been found that the Kali River (E) is a tributary of the Ganga River and the flood plain zone delineation is to be carried out for the river stretches of about 150 km in district of Meerut, Hapur and Bulandshahr. It is also reported that no observation of flood/discharge or water level is available at this tributary. Under these condition following methodologies will be applied for delineation of flood plain corresponding to frequency of once in hundred year flood.

Brief Methodology:

Catchment Delineation

The catchment area of the Kali River (E) will be delineated from the CartoSat DEM and Survey of India Topo Sheets in GIS platform.

Flood Frequency Analysis

Flood frequency analysis will be carriedout for the available gauging sites to estimate flood of 100 year return period. In case of unavailability of observed historical annual maximum discharge data, the flood value can be estimated from rainfall of corresponding return period (100 year) and convolution with the synthetic unit hydrograph (SUH). The SUH can be derived using flood estimation report of CWC and relevant catchment characteristics. Moreover, the regional flood frequency relationships developed for ungauged basin can also be used to estimate design flood for 100 year return period.

Hydraulic Modelling

Once the flood corresponding to 100 year return period is estimated, the hydraulic model (HEC RAS) will be used to simulate the flow pattern on the existing topography (represented through cross-section, Bathymetry i.e. Digital Elevation Model) for estimating flood inundation extent. The river cross-section and Digital Elevation Model is to be provided to NIH by the Irrigation and Water Resources Department, Govt. of UP. However, considering the importance and urgency of the study NIH will initiate the study with readily available DEM.

Flood Plain Zone Demarcation

The hydraulic model will provide the flood inundation extent for 100 year return period flood.

NIH will process the output and the line corresponding to outer extent of flood plain will be provided as a KML file and Shape file to the Irrigation and Water Resources Department, Govt. of UP. The coordinates (Lat, Log) at suitable interval (or bend to bend) will also be provided for further use. The Irrigation and Water Resources Department, Govt. of UP after verification/validation of the line may take up the work for physical demarcation and notification as per necessity and directive of Hon'ble NGT.

Data Requirement:

SN	Data	Source	Responsibility
1	Discharge, Water level	CWC, Govt. UP	Sponsoring agency
2	River Cross-section	Survey (as per requirement based on quality of DEM)	Sponsoring agency
3	High resolution DEM	SOI, Drone Survey	Sponsoring agency
4	CartoSat DEM	NRSC	NIH
5	Structures (bridge, barrage, embankment etc.)	Govt. UP	Sponsoring agency
6	Previous Flood inundation extent from satellite data	NRSC, RSAC-UP	Sponsoring agency

Duration of Study:

The study will be completed in Six months from the date of supply of all data and approval of Director, NIH Roorkee. The proposed timeline is given below:

SN	Activity	Month					
		1	2	3	4	5	6
1	Catchment delineation and selection of river reaches	■					
2	Data collection and Processing	■	■				
3	Flood frequency analysis: Estimation of flood for 100 year return period		■	■			
6	Hydraulic model setup using HEC RAS		■	■			
7	Finalization of hydraulic model results with structures, embankments etc. with sponsoring agency			■	■		
8	Submission of interim findings for discussion, result verification with sponsoring agency.					■	
9	Finalization of delineation of flood plain						■
10	Submission of draft Report						■
11	Submission of final Report						(one month after receiving comments)

Note: Timely availability of data is very important for maintaining the proposed activity schedule. Scientist of NIH and officers of sponsoring agency will interact regularly for monitoring progress of the study.

Cost and Payment Schedule:

The Total cost of the study will be Rs 25,00,000 plus GST charges (18% or as applicable)

- 60 % payment is to be made along with the award of work.
- 40% payment is to be made on submission of the final report of the study.

Note:

All the payments are to be made by A/C payee bank draft or by e-transfer in the name of "NATIONAL INSTITUTE OF HYDROLOGY" payable at Roorkee. For online transfer, the account details are as below:

A/C Name: NIH Consultancy Project; Bank A/C SBI- IIT, ROORKEE;

A/C No. 31125916862; IFSC CODE: SBIN001069; MICR CODE: 247002094;
SWIFT NO. SBININBB559.

GST No. of NIH: 05AAATN1385M1ZD

The National Institute of Hydrology, Roorkee (PAN: AAATN1385M) is exempted from income tax vide Govt. of India Notification No. 38/2017 (F. No. 203/24/2016 ITA-II) dated May 15, 2017 (copy attached). Hence, Tax Deduction at Source (TDS) is not applicable on any payment to NIH.