

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

**Response of petitioners with additional submissions to the "Report of
Joint committee" filed through reply affidavit dated 18.11.2024 by "DM
Gautam Budh Nagar"**

IN

ORIGINAL APPLICATION No. 641 of 2023

IN THE MATTER OF

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

INDEX

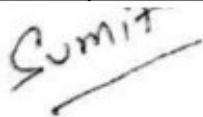
S. No.	Particulars	Page No.
1	Response of Petitioners with additional submissions to the "Report of Joint Committee" filed through reply affidavit dated 18.11.2024 by DM Gautam Budh Nagar	1-21
2	Annexure 1: Copy of the Uttar Pradesh Industrial Development Act, 1976	22-37
3	Annexure 2: Copy of the Hon'ble Allahabad High Court Order dated 16.02.2018 in WRIT-C No. 43275 of 2015 – Ajeet Singh Chauhan vs. State of U.P. & Others, ordering that Noida Authority can't control/regulate construction activities in an area which is shown urbanisable in its master plan.	38-50
4	Annexure 3: Relevant extract from the IIT report defining "Active Flood Plain"	51-58
5	Annexure 4: Google Earth Image (2016) showing distance from river's edge to petitioners' properties	59-60
6	Annexure 5: Order of the Hon'ble NGT dated 21.09.2022 in OA No. 68/2020/EZ – Pradip Kumar Pattnaik vs. Union of India & Ors., ordering the State Govt. to take measures to prevent floods in villages located in 1 in 25 years return period of flood.	61-78

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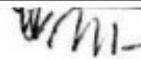
7	Annexure 6: Hon'ble Supreme Court Order dated 10.02.2025 in CIVIL APPEAL NO. 1440 OF 2025 – State of Uttarakhand vs. Niranjana Bagchi, validating section 6.3 of Ganga order-2016.	79-83
8	Annexure 7: Hon'ble NGT Order dated 10.01.2025 in OA No. 102/2023 – Neeraj Chhachhar & Anr. vs. State of Uttarakhand & Ors., recognizing that construction is prohibited in “Active Flood plains”	84-86
9	Annexure 8: Reply of NMCG dated 11.09.2024 in OA No. 515 of 2023 – Ganga Pollution vs. State of UP providing information on flood plain demarcation & zoning of river Ganga & activities permitted in each zone.	87-127
10	Annexure 9: Hon'ble NGT Order dated 19.09.2024 regarding Flood Plain Demarcation in OA No. 515 of 2023 – Ganga Pollution vs. State of UP	128-138
11	Annexure 10: RTI Query on Definition of "Active Flood Plain"	139-140
12	Annexure 11: NMCG Reply to RTI Query dated 04.01.2022 on definition of “Active flood plain”.	141-146
13	Annexure 12: Hon'ble Supreme Court Order in CIVIL APPEAL NO. 4522 & 4524 OF 2022 – State of Andhra Pradesh vs. Raghu Ramakrishna Raju Kanumuru, ordering that parallel proceedings can't run in Hon'ble NGT if matter is pending in Hon'ble High Court	147-158
14	Annexure 13: True copy of order of Hon'ble High court granting Status quo	159-160
15	Proof of service	161-161



Sumit Mehta


Megha Abhay Gupta

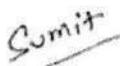
Megha Abhay Gupta



Manoj Singh

Name and Signatures of party in person/Authorized representatives

Dated: 18.02.2025 Place: Delhi




Megha Abhay Gupta



BEFORE THE NATIONAL GREEN TRIBUNAL
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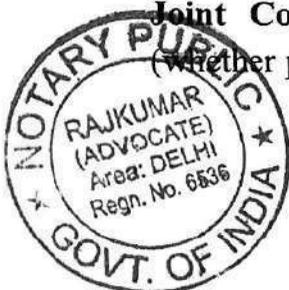
To,

The Hon'ble Chairman of the National Green Tribunal and His Companion
Judges.

MOST RESPECTFULLY SHOWETH:

I, Sumit Mehta, S/o Sh. H.C. Mehta, residing at 22, Chak Magraula, Plot
50, 51, Phase 19, Chak Mangraula, Noida, Gautam Budh Nagar, Uttar
Pradesh – 201301, and son of petitioner Rekha Mehta, am well-acquainted
with the facts and circumstances of the present case and, therefore, competent
to submit this application.

1. This response is being filed on behalf of the petitioners concerning the
"Report of the Joint Committee", which has been submitted through a
reply affidavit dated 18.11.2024 by the District Magistrate, Gautam Budh
Nagar. Additional submissions in the matter are also being filed in this
response.
2. I have carefully reviewed the contents of the application and hereby affirm
that all statements made herein are true to the best of my knowledge, belief,
and understanding.
3. The Hon'ble Tribunal, through its order dated 21.05.2024, constituted a
Joint Committee to ascertain the nature and extent of constructions
(whether permanent or temporary), along with complete details regarding the



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area of construction for each applicant, and to verify whether due permission was obtained from the competent authority for carrying out such construction.

4. The **Joint Committee Report** has now been submitted before this Hon'ble Tribunal via a reply affidavit dated **18.11.2024** by the **District Magistrate, Gautam Budh Nagar**.

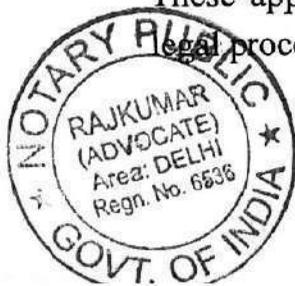
5. **OBJECTION OF PETITIONERS TO JOINT COMMITTEE REPORT:** The petitioners object to the findings of the joint committee's report, particularly the assertion that the necessary permissions for the constructions were not obtained.

GROUND IN SUPPORT OF OBJECTION:

6. **SDM Report of May 2008, specifying the constructions of petitioners & other people in the area not in violation of law:** It is important to highlight that, as per the inspection report of the SDM-Sadar dated May 2008 (enclosed at pages 352-353 in the previously submitted documents to this Tribunal), the petitioners' constructions & similar constructions in the area were not found to be in violation of any legal provisions. The inspection report confirms that the constructions were undertaken with due approvals from the relevant authorities, including:

- A. The Irrigation Department, as per Letter No. 35/Ha.Va.Kh./Badh Chetr, dated 19.09.2005.
- B. The Head Works Khand, Agra Nahar, Canal Colony, Okhla, as per Letter No. A.Sha. Patrank 4086/Ha.Va.Kh., dated 05.11.2005, issued by the Executive Engineer, Head Works Khand, Agra Nahar, Canal Colony, Okhla, New Delhi.
- C. The Head Works Khand, Agra Nahar, Canal Colony, Okhla, as per Letter No. 253/Ha.Va.Kh.-Okhla/A.K., dated 03.02.2005, issued by the Executive Engineer, Head Works Khand, Agra Nahar, Canal Colony, Okhla, New Delhi.
- D. The Jila Panchayat, as per Letter No. 769/Ji. Pan./03, dated 06.05.2005, issued by the Additional Chief Officer, Jila Panchayat, Gautam Budh Nagar.

These approvals substantiate the petitioners' compliance with the required legal procedures for the said constructions.



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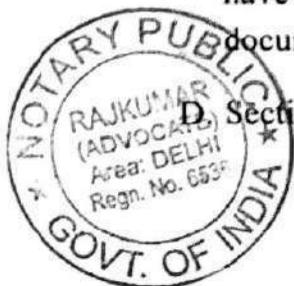
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7. **Applicability of "Uttar Pradesh Industrial Development Act, 1976", "The New Okhla Industrial Development Area Building Regulation, 2006 & 2010", "The Master Plans of NOIDA" and the NCR Planning Board Act, 1985 in petitioners villages:**

It is important to highlight that no specific permission was or is required for construction activities in the petitioners' villages. The applicable legal provisions governing construction in Noida include the Uttar Pradesh Industrial Development Act, 1976, The New Okhla Industrial Development Area Building Regulation, 2006 & 2010, Master Plans of NOIDA and the NCR Planning Board Act, 1985. The applicability of these provisions concerning the petitioners' constructions is elaborated below:

- A. The Noida Authority was constituted under Section 3(1) of the Uttar Pradesh Industrial Area Development Act, 1976 (hereinafter referred to as Act-1976), as enclosed in **Annexure-1**. The Noida Authority implements its master plans only after obtaining approval from the State Government, in accordance with Section 6(2)(b) of Act-1976 and the NCR Planning Board Act, 1985 (hereinafter referred to as Act-1985).
- B. The villages in which the petitioners' properties are located were not included in the Draft Master Plan 2021 (which remains unapproved under Act-1985). Consequently, any discussion on its applicability is irrelevant. Furthermore, in the Draft Master Plan 2031 (also unapproved under Act-1985), these villages were designated under the "Riverfront Development" category. It is crucial to note that neither the Master Plan 2021 nor the Master Plan 2031 has been approved by the NCR Planning Board, as confirmed in the CAG Report (already submitted in previous documents on **pages 174-178**).
- C. It is a well-established legal principle, upheld by the Hon'ble Supreme Court and various High Courts, that master plans of cities within the National Capital Region (NCR) require mandatory approval under the NCR Planning Board Act, 1985. Judicial precedents on this matter have already been submitted to this Hon'ble Tribunal in previous documents (pages 144-146 & 174-177).

D. Section 9(2) of Act-1976 empowers the Noida Authority to regulate



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building construction through the issuance of regulations, subject to prior approval from the State Government. Pursuant to this provision, the Noida Authority notified The New Okhla Industrial Development Area Building Regulation, 2006 & 2010.

- E. According to Section 1 of the said Building Regulations, Chapters I to IV apply exclusively to building activities within the **urbanisable area** specified in the Development Plan/ Master Plan. As the petitioners' properties do not fall within an urbanisable area, the Noida Authority does not have jurisdiction to regulate construction activities in these villages. Moreover, since the Master Plan 2031 has not been approved, the provisions outlined in Chapters I to IV of the Building Regulations 2006 & 2010 are not applicable to the petitioners' properties. The Hon'ble High Court of Allahabad has, in several rulings, affirmed that the Noida Authority **cannot** regulate or control construction activities in areas notified under Act-1976 if such areas are **not** designated as urbanisable in the relevant Master Plan. In a similar case concerning building construction without prior permission from the Noida Authority, the Hon'ble High Court of Allahabad, in its order dated **16.02.2018**, in WRIT-C No. 43275 of 2015 – Ajeet Singh Chauhan vs. State of U.P. & Others, held that **no permission is required** from the Noida Authority for construction in any area notified or non-notified under the Uttar Pradesh Industrial Development Act, 1976, **if the area does not fall within the definition of an urbanisable area as per the Noida Building Regulations, 2006 & 2010**. Relevant excerpts from the order are as follows:

4. Petitioner has challenged notice issued by New Okhla Industrial Development Authority (hereinafter referred to as the "NOIDA") dated 29.07.2015 requiring petitioner to immediately stop raising construction over land in question, remove constructions from land in question or show cause, if any, within three days, failing which entire construction shall be demolished and charges incurred in such exercise by NOIDA will be recovered.



.....
 *1. Besides the above, even if an area is notified,

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development activities can be regulated and controlled in such area by Development Authority concerned, provided they are within the definition of "urbanisable area", otherwise Development Authority is in clear error of law in creating obstruction in any such construction of building which is not in violation of regulations framed by them as being not applicable to area in question. Neither Regulations, 2006 nor Regulations, 2010 govern the development activities of village in question and, therefore, we have no hesitation in holding that order -cum- notice dated 29.07.2015 is per se illegal and liable to be quashed.

32. In view of above and the admission made by NOIDA in counter affidavit, impugned order -cum -notice dated 29.07.2015 is per se illegal and is hereby quashed. Writ petitions are allowed with no order as to costs.

A true copy of said order of Hon'ble Allahabad High court is enclosed herewith as **Annexure-2**.

- F. That the "Noida building regulations 2006 & 2010" are applicable on permanent constructions only. As the structures of the petitioners are temporary in nature so the said regulations don't apply to these.
- G. That the properties of the petitioners were constructed on the lands duly purchased through registered sales deed/mutations done as "developed farm lands" by paying additional stamp duty for such kinds of lands duly fixed by District magistrate/competent authority as per the existing law & rules of state.
- H. Although the issue of whether the Noida Authority can impose restrictions on the construction of the petitioners structures and similar structures in the area under the said ACT, the said issue has already been adjudicated by the District Court & Hon'ble High Court at Allahabad & there operates a res judicata. Both the said orders have already been submitted to this Hon'ble Tribunal in earlier documents annexed at pages 354-374.

8. Applicability of "Active Flood Plain area" as per Ganga order-2016 & Flood Plain zoning guidelines-2023 issued by NMCG on the petitioners



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properties:

- A. That the Ganga order 2016 is applicable on river Ganga & its tributaries like Yamuna.
- B. Properties of the petitioners have not been declared located either in the floodplain area or "**Active Flood Plain area**" of Yamuna as per Ganga order-2016. Further Para 6(3) of the said Ganga order only prohibits construction in "Active flood plain zone" & not in the whole floodplain of the river. Para 6.3 is reproduced below :

Para 6. Prevention, control and abatement of environmental pollution in River Ganga and its tributaries:-

xxxxxx xxx

(3) 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:

Provided that in exceptional circumstances like natural calamities or religious events at traditional locations, temporary structures can be raised after prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee:

Provided further that in case any such construction has been completed, before the commencement of this Order, in the River Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga or its tributaries, and if that be so, it shall cause for removing them."

On plain reading of the para 6(3) of 2016 order, it is apparent that construction is prohibited only in the "Active flood plain" area which



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is distinctly different from flood plain area. That it is also relevant to mention that para 6(3) of 2016 order, itself in its second proviso carves out an exception to the constructions standing on the "Active flood plain" area prior to the date of publication of the said notification.

C. It is respectfully submitted that the term "Active FloodPlain" was statutorily defined in the year 2013 as the 2.33-year return flood. In exercise of the powers conferred under Section 3(1) and Section 3(3) of the Environment Protection Act, 1986, the Central Government constituted the National Ganga River Basin Authority (NGRBA) to formulate and implement the Ganga River Basin Environment Management Plan. Furthermore, the Central Government, through a Memorandum of Agreement (MOA) dated 06.07.2010, delegated the responsibility of preparing this plan to a consortium of seven Indian Institutes of Technology (IITs) under the aegis of the Ministry of Environment and Forests (MoEF). The said authority, in its interim report dated September 2013, formally defined the term "Active Flood Plain" as follows:

(a) "Active Flood Plain" is the area on the two sides of a river that gets inundated by a flood having a mean recurrence interval of 2.33 years.

A true copy of the relevant extract from the IIT report, containing the preface and the definition of "Active Flood Plain," is enclosed herewith as Annexure 3.

Since the term "Active Flood Plain" was already defined in 2013, it was not redefined under the River Ganga (Rejuvenation, Protection, and Management) Authorities Order, 2016, issued on 07.10.2016.

In light of the above legal position, it is respectfully submitted that the terms "Flood Plain Area" and "Active Flood Plain Area" are



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Mand. Appr. Clerk

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distinct from each other. While it is undeniable that the **flood plain area** also requires protection, what has been **explicitly prohibited** and declared as a "**No Construction Zone**" is only the "**Active Flood Plain Area**" and not the entire **flood plain area**.

- D. The petitioners constructed their properties many years ago. The **nearest property** of the petitioners is located approximately **1.0 km** from the edge of the river, while the **farthest property** is situated about **4.5 km** from the river's edge. It is submitted that the properties and villages of the petitioners have not experienced any flooding, except for the flood that occurred in **July 2023**. According to the **oldest resident** of the petitioner's villages, who has lived there for the past **45 years**, no flood event was observed during this period, except for the one in **July 2023**. A **Google Earth image** from **2016**, clearly indicating the distance from the river's edge to both the nearest and farthest properties of the petitioners, is enclosed herewith as **Annexure-4**.
- E. This Hon'ble Tribunal has also expressed the view that the **flood plain zone** needs to be categorized into different zones, namely, "**No Development Zone**," "**Regulated Zone**," and "**Free Zone for Development**." In this regard, the Tribunal passed a **Judgment dated 13.07.2017** in **OA No. 200/2014, M.C. Mehta vs. Union of India & Ors**, reported in **2017 NGTR (3) PB 1**. In **paragraph 142** of the Judgment, it is observed as follows:

142. There are numerous dimensions involved while identifying the flood plains. It is required to categorize it into different zones, namely "No development zone", "Regulated zone", and "free zone for development". and till the said identification and demarcation of the flood plain is completed, 100 meters from the edge of the river was designated as no development / construction zone.

- F. The Hon'ble Tribunal has also acknowledged that the existing constructions within the **1 in 25 years flood plain zone** need to be protected from future floods. This was noted in the **order dated**



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21.09.2022 in Original Application No. 68/2020/EZ, Pradip Kumar Pattnaik Versus Union of India & Ors. In this case, the Hon'ble Tribunal had directed the demarcation of the floodplains of the River Mahanadi in Cuttack. Relevant excerpts from the order are as follows:

.....
10. The State may adopt necessary safeguards for protection of 38 villages likely to be affected by floods in the periphery of Cuttack, identified in para 7 of the report of Prof. K.C. Patra of September, 2020, Annexure II to the report of the seven-member Committee. List of 38 villages find mention in quoted part of earlier order in para 2 above (Table 2).

A copy of the said order of the Tribunal is enclosed as Annexure-5

G. The Hon'ble Supreme Court has also upheld the validity of para 6.3 on "Active Flood Plain" of the Ganga Order-2016 in its order dated 10.02.2025 in CIVIL APPEAL NO. 1440 OF 2025, STATE OF UTTARAKHAND & ORS. VERSUS NIRANJAN BAGCHI & ORS. This appeal was filed by the State of Uttarakhand against the interim order dated 16.12.2024 of this Hon'ble Tribunal in OA No. 417/2022, Niranjn Bagchi Versus State of Uttarakhand & Ors., where the Tribunal had passed orders concerning encroachments in the active floodplain/bed of the River Rispana in Dehradun. The Hon'ble Supreme Court has directed the Hon'ble NGT to consider this section and pass an appropriate order. A true copy of the said order from the Hon'ble Supreme Court is enclosed herewith as Annexure-

6.

H. That this Hon'ble Tribunal has recognised that construction is prohibited in "Active flood plains" & is seeking the definition of



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“Active flood plains” in various matters. Few orders of this Hon’ble Tribunal are:

1. In an order dated 15.12.2020, in “Dilip Kumar Samantaray Vs State of Odisha Board & othrs, OA no. 22 / 2020, wherein in para 8 thereof, it is observed that:

8. There does not appear to be any central legislation to regulate the flood plains, except a notification dated 07.10.2016 issued by the Ministry of Water Resources, River Development, and Ganga Rejuvenation, with respect to Ganga river, under the Environment (Protection) Act, 1986, prohibiting any construction in the active flood plain area of river Ganga or its tributaries.

2. This Hon'ble Tribunal is seeking the definition of "Active Flood Plains", as mentioned in **para 6.3 of the Ganga Order-2016**, where construction is prohibited. This matter was addressed in **Original Application No. 102/2023, Neeraj Chhachhar & Anr. Versus State of Uttarakhand & Ors.**, and through its order dated **10.01.2025**, the Tribunal called upon the **Director General of NMCG** to assist the court in determining the definition of "**Active Flood Plain.**" Few excerpts of said order are as below:

5. Prohibition, therefore, is in respect of “active flood plain area” of river Ganga or its tributaries, but the said Order does not define the “active flood plain area” and instead it defines only “flood plain” as under:

.....

7. Since we are not able to get proper assistance on this



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aspect, we find no option but to direct Director General, NMCG to appear on the next date of hearing and explain as to what does the phrase "active flood plain area" of river Ganga or its tributaries as mentioned in Para 6(3) of River Ganga Order, 2016 mean?

A copy of the order dated **10.01.2025** is enclosed herewith as **Annexure-7**.

Further in the same matter on dated 14.02.2024 the director general of NMCG informed this Hon'ble Tribunal that technical guidelines on floodplain zoning to demarcate 1. "No development zone- 1 in 5 years return period of flood", 2. "Regulated zone- 1 in 25 years return period of flood," 3. Warning zone-1 in 100 years return period of flood" have been prepared by NMCG. Further NMCG has asked the states to provide feedback on the guidelines. The Hon'ble NGT has asked the NMCG to provide a detailed status report on it.

I. The petitioners submit that in a matter OA no. 515 of 2023, Ganga Pollution vs State of UP & others, the State of UP had informed this Hon'ble Tribunal that the state of UP has adopted the criteria of interval of five years, twenty-five years and hundred years for the three zones while dividing the floodplains in three parts as under: -

1. *Prohibited Zone: recurrence interval of 5 years*
2. *Regulatory Zone: 25-year return period flood*
3. *Warning Zone: 100-year return period flood*

In the said matter the committee (consisting of Representation from Ministry of Jal Shakti, National institute of Hydrology, CWC, NMCG, Ganga flood control commission, Ministry of water resources & ganga rejuvenation, Revenue department-UP, Government of Uttar Pradesh,



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Irrigation & Water Resources Department-UP) recommended the activities which can be carried out in different zones of river Ganga:

ACTIVITIES IN FLOOD PLAIN ZONE

The Following literatures were considered for defining activities that can be/can not be carried out in the No development / Restricted zones of the floodplain

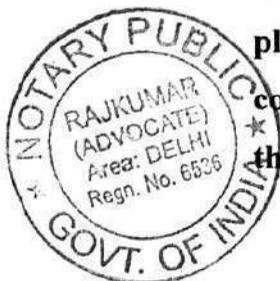
1. Concept paper on river Conservation Zone prepared by the expert group of the Ministry of Environment and Forest & Climate Change
2. National Disaster Management Authority guidelines for flood management
3. Flood Plain Zoning notification of Uttarakhand
4. NMCG guidelines for Ganga Basin.

NO DEVELOPMENT ZONE

Prohibited activities in No Development Zone: All activities except mentioned under the regulated activities in no-development zone.

Regulated Activities in No Development Zone:

1. Temporary constructions, if absolutely necessary, in exceptional circumstances like natural calamities or religious events at traditional locations, with prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee.
2. Regulated Sand/ Stone/ sediment/ river borne material mining may be allowed as per MoEF&CC guidelines
3. Repair/renovation of protected monuments, temples, boating jetties, parks, ghats and crematorium
4. **Existing structure, whether permanent or temporary for residential or commercial or industrial or any other purposes in the River Ganga, Bank of River Ganga or in active flood plain area of River Ganga or its tributaries provided that such construction has already been completed, shall be reviewed by the National Mission for Clean Ganga so as to examine as to**



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[Signature]
Notary Public

[Signature]

whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga as per provisions under para 6(3) of Ministry of Water Resources, River Development and Ganga Rejuvenation notification no. S.O. 3187(E), dated the 7th October 2016 (as amended from time to time)

5. Organic farming by owners/lease holders
6. Plantation of native trees / shrubs (for commercial use)
7. Measures for control of erosion and floods, maintenance or desilting of river ways, waterways and channels
8. Repair of breaches in embankments
9. Laying of unpaved paths for access to the river for cultural, religious or any other purposes
10. Various activities like diversion and storage of water in River Ganga construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its floodplain area. construction of ghats or extension of any existing ghat, construction of jetties, construction of permanent hydraulic structures for storage or diversion or control of waters or channelization of River Ganga. etc. as per Ganga order-2016 (as amended from time to time)
11. Navigation, Water Sports, Water Transport related activities

REGULATED ZONE

Prohibited Activities in Regulatory Zone: Red category of industries as mentioned in CPCB guidelines.

Regulated Activities in Regulatory Zone:

1. Construction of residential/ Institutional/commercial buildings, schools, dispensaries, recreational facilities with certain stipulations as mentioned in NDMA guidelines such as



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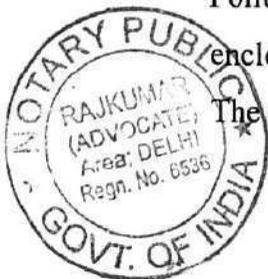
prohibition of basement in buildings, construction on stilts (columns), plinth level above the flood lines, provision of stairway in single storey building, roof level of single storey or first floor level above 100 years flood level/HFL, preferably utilizing ground floor for non-residential purposes.

2. Various activities such as engineered diversion and storage of water in River Ganga, construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its floodplain area, construction of ghats or extension of any existing ghat, construction of jetties, construction of permanent hydraulic structures for storage or diversion or control of water or channelization of River Ganga, etc. shall be governed as mentioned under para (42) of Ministry of Water Resources River Development and Ganga Rejuvenation notification no, S.O. 3187(E), dated the 7th October 2016.
3. Setting up of non-polluting cottage industries.
4. Construction / expansion/ modernization of bridges, roads and similar facilities that may affect ND Zone
5. Creation of navigational facilities involving dredging, mechanised Ferries, jetties etc.
6. Green and Orange category of industries as mentioned in CPCB guidelines
7. Water Sports, Water Transport related activities
8. Stone crushing plants etc

The above submission of UP state reflects in the reply dated 11.09.2024 of NMCG in a matter OA no. 515 of 2023, Ganga Pollution vs State of UP & others. A copy of the said reply of NMCG is

enclosed herewith as **Annexure-8**.

The above submission of UP state & NMCG also reflects in the order



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Medha Singh
Magd. Appl. No. 10/24

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dated 19.09.2024 of this Hon'ble Tribunal in the said matter. Relevant paras of the said order dated 19.09.2024 are:

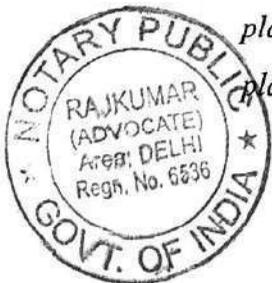
2. *The main issue involved in these petitions relates to defining/demarcating the Flood Plain Zone of River Ganga especially in reference to the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.*

3. *The State of U.P has filed the Report dated 13.09.2024 taking the following Stand relating to the demarcation of Flood Plain:*

"10. It is important to submit that the demarcation of the floodplain zone has been conducted with consideration of a 100-year spread, using the Hybrid Methodology. This approach utilizes a 100-year return period flood, which is estimated through flood frequency analysis of the annual maximum flood discharge data from available G&D (Gauge and Discharge) sites over the relevant periods....."

4. *The above stand reflects that the exercise has been undertaken for demarcation of flood plain having due regard to Clause 3 (f) of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.*

5. *NMCG has also filed the response dated 11.09.2024. The response of the NMCG states that the Ministry of Jal Shakti has constituted a Committee by O.M dated 28.11.2022 and that the Committee has proposed the division of flood plain into three zones for urban settlement and two zones for rural settlement and that the NMCG has advised all the concerned States in Ganga Basin for demarcation, delineation and notification of flood plains and removal of encroachments from the river bed/flood plain in accordance with the River Ganga (Rejuvenation,*



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Protection and Management) Authorities Order, 2016. The stand of NMCG in this regard is as under:

“10. In order to enable States to undertake scientific assessment of flood plains and its zoning, need of technical guidelines on the subject has been felt. Accordingly, DoWR, RD&GR, Ministry of Jal Shakti constituted a Committee, vide O.M. Z-5/03/2106-FMMOWR/2569-79 dated 28,11,2022, under Member (RM). CWC for formulation of 'Technical Guidelines on Flood Plain Zone. (Annexure.3). The Committee took into consideration practices which are being followed in other countries wherever regulation of flood plain has been enacted and enforced. The Committee has submitted its report to the DoWR, , RD&CR which is under consideration of Government.

11. That as per the report, a river's floodplain is the low-lying land adjacent to a river and is prone to flooding and generally conforms to a flood of frequency of one in a hundred years. To minimize the damages due to floods and to protect the pristine nature of the river. there is a need to regulate the activities ill the flood plain of the river. The report proposes flood-plain zoning conforming to flood of frequency of one in a hundred years. However, considering areas conforming to one in hundred year flood will be huge, especially in plain and flat areas. The Committee proposed that the entire flood plain area further needs to be divided in different zones depending upon its proximity to the river banks, type of developmental activities that can be permitted and the nature of settlement in

The area i.e. rural. or urban. 12. That the Committee has proposed division of flood plain into 3- zones for urban



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settlement and into 2-zones for rural settlement: Prohibited Zone: with limits conforming to 5-year return period flood Regulatory Zone: with extent up to 25-year return period flood beyond extent of prohibited zone. Warning Zone: with extent up to 100-year return period flood beyond extent of Regulatory Zone (for urban areas only).

A copy of the said order of the tribunal is enclosed herewith as **Annexure-9**

J. That a RTI Query on definition of "Active Flood Plain" area according to section 6.3 of the notification of 2016 was raised to NMCG by one Mr. Ankur Tiwari. *A true copy of the said RTI application is enclosed herewith and marked as Annexure No. 10.*

K. To the aforementioned RTI Query the Under Secretary, NMCG, Department of Water Resources, R&D and GR, Ministry of Jal Shakti replied vide letter dated 04.01.2022. It was stated that the identification of flood plain area wherein any construction, temporary or permanent is prohibited, was up to 100 metres from the edge of the river. Further information with regards to survey or review of the active flood plain area was not available. *A copy of the letter dated 04.01.2022 issued by the Under Secretary, NMCG, Department of Water Resources, R&D and GR, Ministry of Jal Shakti is enclosed herewith and marked as Annexure No. 11.*

9. ADDITIONAL SUBMISSIONS:

A. The Petitioners have previously submitted in the Tribunal, on pages 452-453, that multiple legal proceedings concerning the legality of the petitioners' constructions, as well as other properties in the area, are currently sub judice before the Hon'ble High Court at Allahabad.

Furthermore, these properties are under status quo as directed by the Hon'ble High Court. The High Court is presently examining various aspects to adjudicate these matters, including the following:



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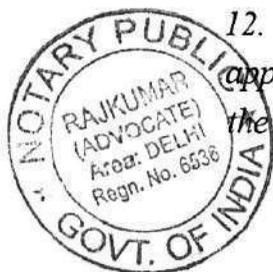
1. Applicability of UP Industrial Area Development Act-1976
2. Applicability of Noida building regulations-2006 & 2010
3. Applicability of NCRB ACT-1985
4. Applicability of Ganga Order-2016 & NMCG guidelines on flood plain zone
5. Res judicata/Constructive res judicata

B. Since the **matter is already being adjudicated by the Hon'ble High Court**, with the State of Uttar Pradesh, Noida Authority, DM-Gautam Budh Nagar, and NMCG as parties, **it would not be lawful for the respondents to raise the same issues before this Hon'ble Tribunal**, as it would result in parallel proceedings. This is particularly relevant in light of the present petition filed by the petitioners concerning compensation due to floods. Consequently, the petitioners have filed a withdrawal application in this matter before this Hon'ble Tribunal.

The **Hon'ble Supreme Court** has previously ruled that **proceedings before the High Court cannot be conducted in parallel before a Tribunal**. In *CIVIL APPEAL NO(S). 4522 & 4524 OF 2022, THE STATE OF ANDHRA PRADESH VERSUS RAGHU RAMAKRISHNA RAJU KANUMURU (M.P.)*, the appellant challenged the order dated 6th May 2022 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi, in O.A. No. 361 of 2021. The **Hon'ble Supreme Court quashed the NGT proceedings**, holding that matters pending before the High Court cannot be simultaneously pursued before the Tribunal. Relevant excerpts from the said order are as follows:

11. In any case, no law is necessary to state that insofar as the Tribunals are concerned, they would be subordinate to the High Court insofar as the territorial jurisdiction of the High Court is concerned. A reference in this respect was also made to the judgment of the Constitution Bench of this Court in the case of L. Chandra Kumar v. Union of India and Others.

12. We are, therefore, of the considered view that it was not appropriate on the part of the learned NGT to have continued with the proceedings before it, specifically, when it was pointed



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that the High Court was also in seisin of the matter and had passed an interim order permitting the construction. The conflicting orders passed by the learned NGT and the High Court would lead to an anomalous situation, where the authorities would be faced with a difficulty as to which order they are required to follow. There can be no manner of doubt that in such a situation, it is the orders passed by the constitutional courts, which would be prevailing over the orders passed by the statutory tribunals.

13. In that view of the matter, we are of the considered view that the continuation of the proceedings before the learned NGT for the same cause of action, which is seized with the High Court, would not be in the interest of justice.

14. We, therefore, quash and set aside the proceedings pending before the learned NGT in O.A. No.361 of 2021.

A true copy of the said order of Hon'ble Supreme Court is annexed as **Annexure-12**. Copy of the few of status quo orders are at Annexure-13.

10. In view of the above submissions, It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to take the above submission on the records & permit the applicant to withdraw this matter.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

DEPONENT

VERIFICATION

Verified at Delhi, on this the day of 2025

that the contents of the above Affidavit are true and correct to my knowledge.

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

Place : New Delhi



ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA

19 FEB 2025

DEPONENT

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THE UTTAR PRADESH INDUSTRIAL AREA DEVELOPMENT
ACT, 1976¹

(U. P. ACT No. 6 OF 1976)

Amended by

U. P. Act No. 18 of 1995

U. P. Act No. 02 of 1999

U. P. Act No. 04 of 2001

U. P. Act No. 20 of 2008

U. P. Act No. 10 of 2016

U. P. Act No. 06 of 2018

U.P. Act No. 25 of 2020

U.P. Act No. 05 of 2022

[Passed in Hindi by the Uttar Pradesh Legislative Assembly on April 1, 1976 and by the Uttar Pradesh Legislative Council on April 6, 1976.

Received the assent of the Governor on April 16, 1976 under Article 200 of the Constitution of India and was published in the Uttar Pradesh Gazette Extraordinary, dated April 16, 1976.]

AN

ACT

to provide for the constitution of an Authority for the development of certain areas in the State into industrial and urban township and for matters connected therewith.

IT IS HEREBY enacted in the Twenty-seventh Year of the Republic of India, as follows :—

**Short title
and extent**

1. (1) This Act may be called the Uttar Pradesh Industrial Area Development Act, 1976.

(2) It extends to the whole of Uttar Pradesh.

Definitions

2. In this Act, —

(a) “amenities” includes ²[roads, bridges, flyovers, underpasses] water supply, street lighting, power supply, sewerage, drainage, collection, treatment and disposal of industrial waste and town refuse ³[facilities relating to health, education, transport, disaster management, fuel, power public transport, broad band connectivity and gas pipe-lines] and such other community facilities, services or conveniences as the State Government may, by notification, specify to be an amenity for the purposes of this Act ;

(b) “Authority” means the Authority constituted under section 3 of the Act ;

1. For Statement of Objects and Reasons see *Uttar Pradesh Gazette Extraordinary*, dated April 16, 1976.

2. [Subs. by sec. 2 \(a\) \(i\) of U. P. Act 10 of 2016.](#)

3. [Add. by sec. 2 \(a\) \(iii\) of U. P. Act 10 of 2016.](#)

[The Uttar Pradesh Industrial Area Development Act, 1976]

¹[(b-1) “building” includes any structure or erection or part thereof which is used or is capable of being used for any residential commercial, institutional, industrial or for any other like purpose, and the same is occupied or is capable of occupation ;]

(c) “Chief Executive Officer” means the officer appointed as such under section 4 ;

²[(c-1) “company” for the purpose of this Act, means any company incorporated under the Companies Act, 2013, or its statutory modification in which the entire paid up share capital is held, directly or indirectly, by the State Government or partly by the State Government and partly by the Central Government ;

²[(c-2) “development” with its grammatical variations means, carrying on any organized activity over any land or building, including any changes which occur on account of spending of finances and may result in increase of its rateable value and also includes re-development;

²[(c-3) “economic activities” shall include industrial, manufacturing, commercial, financial, processing, packing, logistic, transport, tourism, hospitality, health, housing, entertainment, research and development, education and training, information and communication, management and consultancy, activities and service connected with development and maintenance of amenities and, such other economic activities as may be specified by notification by the State Government ;]

(d) “Industrial development area” means an area declared as such by the State Government by notification ;

³[(d-1) “industrial township” means an industrial township specified as such by notification by the Governor under the proviso to clause (1) of Article 243Q of the Constitution of India ;

³[(d-2) “infrastructure project” means any project undertaken or to be undertaken for the development of infrastructure, amenities, facilities, or service which are required for the smooth and efficient functioning of Special Investments Region or the Industrial Development Area ;]

(e) “Occupier” means a person (including a firm or body of individuals whether incorporated or not) who occupies a site or building within the industrial development area and includes his successors and assigns ;

⁴[(e-1) “Site” means any demarcated portion of land or building or both ;

[1. Ins. by sec. 2 \(b\) of U. P. Act 10 of 2016.](#)

[2. Ins. by sec. 2 \(c\) of U. P. Act 10 of 2016.](#)

[3. Ins. by sec. 2 \(d\) of U. P. Act 10 of 2016.](#)

[4. Ins. by sec. 2 \(e\) of U. P. Act 10 of 2016.](#)

[The Uttar Pradesh Industrial Area Development Act, 1976]

(e-2) "Special Investment Region" means an area declared as such by the State Government by notification under sub-section (1-A) of section 3 ;] ¹

(f) "transferee" means a person (including a firm or other body of individuals, whether incorporated or not) to whom any land or building is transferred in any manner whatsoever, under this Act and includes his successors and assigns ;

²[(f-1) "Unit" means a unit or undertaking set up by a person for the purpose of carrying on any economic activity in the Industrial Development Area/Special Investment region ;

²(f-2) "User Charge(s)" means the charges levied by the Authority or any other entity authorized by it ;]

(g) the words and expressions "building", "development", "to erect a building" and "land" shall have the same meaning as assigned to them in the Uttar Pradesh Urban Planning and Development Act, 1973.

**Constitution
of the
Authority**

3. ³[(1) the State Government may, by notification, declare an area to be the industrial development area and constitute an authority to be called "(name of the area) industrial development authority" for such industrial development area.

³(1-A) The State Government, may by notification, declare any area, determining its geographical boundaries falling within or outside the industrial development area or partly within and partly outside as Special Investment Region and empower the Authority constituted under sub-section (1) for carrying out the purpose of this Act in respect of such area. The Special Investment Region shall be called by such name as may be specified by the State Government.]

(2) The Authority shall be a body corporate.

(3) The Authority shall consist of the following :—

(a) ⁴[the Principal Secretary to the Government] Uttar Pradesh, Public Works Department or his nominee not below the rank of ³[Special Secretary] — *ex-officio*

*Member—
Chairman*

⁵ [Provided that the Chairman of the Uttar Pradesh State Industrial Development Corporation shall be *ex-officio* Chairman of the Uttar Pradesh State Industrial Development Authority.]

(b) ⁴[the Principal Secretary to the Government] Uttar Pradesh, Public Works Department or his nominee not below the rank of ⁴[Special Secretary] — *ex-officio*

Member

1. Ins. by sec. 2 (e) of U. P. Act No. 10 of 2016.

2. Ins. by sec. 2 (f) of U.P. Act No. 10 of 2016.

3. Subs. by sec. 3 (a) of U. P. Act No. 10 of 2016.

4. Subs. by sec. 3 (b) of U. P. Act No. 10 of 2016.

5. Ins. by sec. 2 of U. P. Act No. 20 of 2008.

[The Uttar Pradesh Industrial Area Development Act, 1976]

(c) ¹[the Principal Secretary to the Govern- *Member*
ment] Uttar Pradesh, Public Works Department or
his nominee not below the rank of ¹[Special
Secretary] — *ex-officio*

(d) ¹[the Principal Secretary to the Govern- *Member*
ment] Uttar Pradesh, Public Works Department or
his nominee not below the rank of ¹[Special
Secretary] — *ex-officio*

(e) The Managing Director, U. P. State *Member*
Industrial Development Corporation — *ex-officio*

(f) Five member shall be nominated by the *Member*
State Government by notification

(g) Chief Executive Officer *Member-Secretary*

(4) The headquarters of the Authority shall be at such place as
may be notified by the State Government.

(5) The procedure for the conduct of the meetings for the
Authority shall be such as may be prescribed.

(6) No act or proceedings of the Authority shall be invalid by
reason of the existence of any vacancy in or defect in the constitution of
the Authority.

**Chief
Executive
Officer**

4. (1) The Chief Executive Officer of the Authority shall be
appointed by the State Government and he shall be a whole-time officer
of the Authority.

(2) The Chief Executive Officer shall be entitled to receive from
the funds of the Authority such salaries and allowances and be
governed by such conditions of service as may be determined by general
or special order of the State Government in this behalf.

(3) The Chief Executive Officer shall exercise such powers and
perform such duties as may be specified in the regulations or delegated
to him by the Authority.

**Staff of the
Authority**

5. (1) Subject to such control and restrictions as may be
determined by general or special orders of the State Government, the
Authority may appoint such number of officers and employees as may
be necessary for the performance of its functions, and may determine
their grades and designations.

(2) Subject as aforesaid the officers and employees of the
Authority shall be entitled to receive from the funds of the Authority
such salaries and allowances and shall be governed by such other
conditions of service as may be agreed upon with the Authority.

1. Subs. by sec. 3 (b) of U. P. Act no. 10 of 2016.

[The Uttar Pradesh Industrial Area Development Act, 1976]

**Creation of
Centralized
Services**

1[5-A. (1) Notwithstanding anything to the contrary contained in section 5 or in any other law for the time being in force, the State Government may at any time, by notification, create one or more "Industrial Development Authorities Centralized Services" for such posts, as the State Government may deem fit, common to all the Industrial Development Authorities, and may prescribe the manner and conditions of recruitment to and the terms and conditions of service of persons appointed to such service.

(2) Upon creation of an Industrial Development Authorities Centralized Service, officer or employee serving on the posts included in such service immediately before such creation, not being a person governed by the Uttar Pradesh Palika (Centralized) Services Rules, 1966 or serving on deputation, shall, unless he opts otherwise, be absorbed in such service, —

(a) finally, if he was already confirmed in his post; and

(b) provisionally, if he was holding temporary or officiating appointment.

(3) An officer or employee referred to in sub-section (2) may, within three months from the creation of such Industrial Development Authorities Centralized Service communicate to the Government in the Industrial Development Department, his option not to be absorbed in such Centralized Service, failing which he shall be deemed to have opted for final or provisional, as the case may be, absorption in such centralized Service.

(4) Suitability of officer or employee absorbed provisionally, for final absorption in an Industrial Development Authorities Centralized Service, shall be examined in the manner prescribed and if found suitable he shall be absorbed finally.

(5) The services of officer or employee who opts against absorption, or who is not found suitable for final absorption, shall stand determined and he shall, without prejudice to his claim to any leave, pension, provident fund or gratuity which he would have been entitled to, be entitled to receive as compensation from the Industrial Development Authority concerned, an amount equal to —

(a) three month's salary, if he was a permanent employee ;

(b) one month's salary, if he was a temporary employee.

Explanation— For the purposes of this sub-section the term 'salary' includes dearness allowance, personal pay and special pay, if any.

(6) It shall be lawful for the State Government or any officer authorized by it in this behalf, to transfer any person holding any post in an Industrial Development Authorities Centralized Service from one Industrial Development Authority to another.]

[The Uttar Pradesh Industrial Area Development Act, 1976]

**Functions of
the Authority**

6. (1) The object of the Authority shall be to secure the planned development of the industrial development areas.

(2) Without prejudice to the generality of the objects of the Authority, the Authority shall perform the following functions :—

(a) to acquire land in the industrial development area, by agreement or through proceedings under the Land Acquisition Act, 1894 for the purpose of this Act ;

(b) to prepare a plan for the development of the industrial development area ;

(c) to demarcate and develop sites for industrial, commercial and residential purposes according to the plan ;

(d) to provide infra-structure for industrial, commercial and residential purposes ;

¹[(e) to provide amenities and municipal services ;]

¹[(f) to allocate and transfer either by way of sale or lease or otherwise plots of land for industrial commercial or residential purposes and such other land uses as per master plan ;]

¹[(g) to regulate the erection of buildings and setting up of industries and land uses as per master plan ; and]

¹[(h) to lay down the purpose for which a particular site or plot of land shall be used, namely for industrial or commercial or residential purpose or any other specified purpose in such area as per Master Plan.]¹

²[(3) For carrying out or achieving the planned development within the industrial development area, the Authority may incorporate a company or more than one company owned by the Authority either wholly or partly by the State Government and partly by the Central Government, under the provisions of the Companies Act, 2013.

²(4) The share capital, the Memorandum of Association and the Articles of Association of the company referred to in sub-section (3) shall be such as may be approved by the Authority from time to time :

Provided that, in cases where the share capital is partly held by the State Government, the share capital, the Memorandum of the Association and the Articles of Association under this sub-section shall be approved by the State Government.

(5) The company formed under sub-section (3) shall carry out such functions as may be entrusted to it by the Memorandum of Association.

(6) Where in the opinion of the Authority, as a consequence of any development scheme having been executed by the Authority in the

1. Subs. by sec. 4(a) of U. P. Act no. 10 of 2016.

2. Ins. by sec. 4 (b) of U. P. Act no. 10 of 2016.

[The Uttar Pradesh Industrial Area Development Act, 1976]

special investment region or the industrial development area, the value of any property in that area which has been benefited by the development, has increased or is likely to increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development :

Provided that, no betterment charge shall be levied in respect of land owned by the Government :

Provided further that, where any land belonging to the Government has been granted by way of lease or license by the Government to a person, whether any building situate thereon or not, shall be subject to a betterment charge under this sub-section.]¹

Power to authorize a person to provide infrastructure or amenities and collect tax or fee

Power to the Authority in respect of transfer of land

²[**6-A.** Notwithstanding anything to the contrary contained in any other provisions of this Act and subject to such terms and conditions as may be specified in the regulations, the Authority may, by Agreement, authorize any person to provide or maintain or continue to provide or maintain any infrastructure or amenities under this Act and to collect taxes or fees as the case may be, levied therefor.]

7. The Authority may sell, lease or otherwise transfer whether by auction, allotment or otherwise, any land or building belonging to the Authority in the industrial development area on such terms and conditions as it may, subject to any rules that may be made under this Act, think fit to impose:

³[Provided that,-

(a) where any land has been allotted on lease before 28.07.2020 for setting up of an industrial unit and/or Information Technology/ Information Technology Enabled Services unit(IT/ITES); and

(b) the land has not been utilized (functional/minimum completion) by 28.07.2020 as per the norms laid down by the Authority; and

(c) a period of eight years from the date of execution of lease deed of the period fixed for such utilization as per the terms and conditions of allotment, whichever is longer has lapsed by 28.07.2020; and .

(d) a notice has been given by the Authority to such allottee atleast three months prior to 31.12.2022 to utilize the said land by 31.12.2022 for the purpose for which it was allotted and apprising him of the consequences as mentioned hereafter of the failure to do so; and

(e) the allottee does not utilize the land by 31.12.2022

then the allotment and lease deed will stand automatically cancelled and allotted land will vest with the Authority on 31.12.2022

Provided further that the State Government may, by a general or special order, extend the date of such cancellation and vesting as mentioned in the above proviso, in the interest of promotion of investment and employment generation.

Explanation-1:-The aforesaid amendment does not entitle any allottee/unit to claim a minimum completion period of eight years. The period fixed for such utilization shall continue to be governed by the terms and conditions of allotment and the policy of the concerned Authority, including the applicability of extension of time and other interests and charges.

1. Ins. by sec. 4(b) of U.P. Act No. 10 of 2016.

2. Ins. by sec. 2 of U. P. Act No. 2 of 1999.

3. Subs. by sec. 2 of U.P. Act No. 05 of 2022.

[The Uttar Pradesh Industrial Area Development Act, 1976]

Explanntion-2:- The refund of money deposited by the allottee on such cancellation of allotment and lease deed, and vesting of land in Authority shall be as per the policy of the concerned Authority.]

8. (1) For the purposes of proper planning and development of the industrial development area, the Authority may issue such direction as it may consider necessary, regarding —

Power to issue directions in respect of erection of building

(a) architectural features of the elevation or frontage of any building ;

(b) the alignment of buildings on any site ;

(c) the restrictions and conditions in regard to open spaces to be maintained in and around building and height and character of buildings ;

(d) the number of residential buildings that may be erected on any site ;

(e) regulation of erection of shops, workshops, warehouses factories or buildings ;

(f) maintenance of height and position of walls, fences, hedges or any other structure or architecture constructions ;

(g) maintenance of amenities ;

(h) restriction of use of any site for a purpose other than that for which it has been allocated ;

(i) the means to be provided for proper

(ii) drainage of waste water ;

(iii) disposal of industrial waste, and disposal of town refuse.

(2) Every transferee shall comply with the directions issued under sub-section (1) and shall as expeditiously as possible erect any building or take such other steps as may be necessary to comply with such directions.

9. (1) No person shall erect or occupy any building in the industrial development area in contravention of any building regulation made under sub-section (2).

Ban on erection of buildings in contravention of regulation

(2) The Authority may, by notification and with the prior approval of the State Government make regulations to regulate the erection of buildings and such regulations may provide for all or any of the following matters, namely :—

(a) the materials to be used for external and partition walls, roofs, floors and other parts of a building and their position or location or the method or construction ;

(b) lay-out plan of the building whether industrial, commercial or residential ;

(c) the height and slope of the roofs and floors or any building which is intended to be used for residential or cooking purposes ;

(d) the ventilation in, or the space to be left about any building or part thereof to secure circulation of air and for the prevention of fire;

[The Uttar Pradesh Industrial Area Development Act, 1976]

- (e) the number and height of the story's of any building ;
- (f) the means to be provided for the ingress and egress to and from any building ;
- (g) the minimum dimension of rooms intended for use as living rooms and sleeping rooms and the provision of ventilation ;
- (h) any other matter in furtherance of the proper regulation of erection, completion and occupation of buildings ; and
- (i) the certificates necessary and incidental to the submission of plans amended plans and completion reports;
- ¹(j) the time limit within which any building shall be required to be erected or repairs, additions, modifications is to be made in an existing building, shall be carried out and after completion thereof a notice of completion of construction of building or repairs, additions or modifications as the case may be, shall be lodged with the Authority and completion certificate obtained therefrom.]

Power to require proper maintenance of site or building

10. If it appears to the Authority that the conditions or use of any site or building is prejudicially affecting or is likely to affect the proper planning of or the amenities in any part of the industrial development area or the interests of the general public there, it may serve on the transferee or occupier of that site or building a notice requiring him to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such manner as may be specified therein and in case such transferee or occupier fails to take such steps or to maintain it thereafter the Authority may itself take such steps or maintain it, and realize the cost incurred on it from such transferee or occupier.

Levy of tax

11. ² [(1) For the purposes of providing, maintaining or continuing any amenities in the industrial development area, the Authority may, with the previous approval of the State Government, levy such taxes as it may consider necessary in respect of any site or building on the transferee or occupier thereof, provided that the total incidence of such tax shall not exceed one per cent of the market value of such site, including the site of the building.

Explanation :— For the purposes of this sub-section, the expression 'market value' means, the amount of :—

- (a) consideration, in the case of sale ; or
- (b) premium, in the case of lease ; or
- (c) the minimum value determined in accordance with the rules made under the Indian Stamp Act, 1899, whichever is more.]

1. Ins. by sec. 5 of U. P. Act no. 10 of 2016.

2. Subs. by sec. 2 of U. P. Act 18 of 1995.

[The Uttar Pradesh Industrial Area Development Act, 1976]

(2) If the State Government considers it necessary or expedient in the public interest, it may, by a general or special order, exempt wholly or partly—any such transferee or occupier or any class thereof from the taxes levied under sub-section (1).

Power to levy toll etc.

11-A. The Authority shall have power to levy and collect toll, for the use of approach roads and other Amenities at such rate and in such manner as may be notified by the State Government, from visitors, to such places of popular resort (including any ancient and historical monuments) within the industrial development area ;

Provided that State Government may by notification, exempt any classes of visitors from the payment of the toll and fix any day in which no toll shall be charged.]

Levy of Additional Stamp Duty

11-B. (1) The duty imposed by the Indian Stamp Act, 1899 on any deed of transfer of immovable property situated within the Industrial Development Area or Special Investment Region, or any part thereof, as the State Government may, by notification, declare, shall be increased by two percent on the amount or value of the consideration with reference to which the duty is calculated under the said Act.

(2) All collections resulting from the said increase, after the deduction of incidental expenses, if any, and as may be determined from time to time by the State Government, shall be transferred to and appropriated towards suitable head or Fund as notified by the State Government.]²

Applications of certain provisions of President's Act XI of 1973

12. The provisions of Chapter VII and sections 30, 32, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 53 and 58 of the Uttar Pradesh Urban Planning and Development Act, 1973, as re-enacted and modified by the Uttar Pradesh President's (Re-enactment with Modifications) Act, 1974, shall *mutatis mutandis* apply to the Authority with adaptation that,—

(a) any reference to the aforesaid Act shall be deemed to be a reference to this Act ;

(b) any reference to the Authority constituted under the aforesaid Act shall be deemed to be a reference to the Authority constituted under this Act ; and

(c) any reference to the Vice-Chairman of the Authority shall be deemed to be a reference to the Chief Executive Officer of the Authority.

[1. Ins. by sec. 6 of U. P. Act 10 of 2016.](#)

[2. Ins. by sec. 6 of U.P. Act No. 10 of 2016.](#)

[The Uttar Pradesh Industrial Area Development Act, 1976]

**No Panchayat
for industrial
township**

1[12-A. Notwithstanding anything contained to the contrary in any Uttar Pradesh Act, where an industrial development area or any part thereof is specified to be an industrial township under the proviso to clause (1) of Article 243-Q of the Constitution, such industrial development area or part thereof, if included in a Panchayat area, shall, with effect from the date of notification made under the said proviso, stand excluded from such Panchayat area and no Panchayat shall be constituted for such industrial development area or part thereof under the United Provinces Panchayat Raj Act, 1947 or the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961, as the case may be, and any Panchayat constituted for such industrial development area or part thereof before the date of such notification shall cease to exist.

Explanation :— The expression “Panchayat and Panchayat area” shall have the meanings respectively assigned to them in part IX of the Constitution.]

2[12-B. (1) The Governor may, by notification, specify under Article 243Q of the Constitution of India, the whole of Special Investment Region or the Industrial Development Area or any part thereof to be an Industrial Township.

(2) Notwithstanding anything to the contrary contained in any Uttar Pradesh Act, where an special investment region or industrial development area or any part thereof is specified to be an Industrial Township under the proviso to clause (1) of Article 243Q of the Constitution of India, such industrial development area or part thereof, falling in a Municipality shall from the date of notification stand excluded from that Municipality area and all powers and functions performed with respect to such area shall be exercised or performed by the Authority.

Explanation :— The expression “Municipality” shall have the meaning assigned to it in Part IX or Part IX-A of the Constitution of India.]

1. Ins. by sec. 2 of U. P. Act No. 4 of 2001.

2. Ins. by sec. 7 of U. P. Act No. 10 of 2016.

[The Uttar Pradesh Industrial Area Development Act, 1976]

**Imposition of
penalty and
mode of
recovery of
arrears**

13. Where any transferee makes any default in the payment of any consideration money or installment thereof or any other amount due on account of the transfer of any site or building by the Authority or any rent due to the Authority in respect of any lease, or where any transferee or ¹[Occupier makes any default in payment of any amount of] in the payment of any fee or tax levied under this Act, the Chief Executive Officer may direct that in addition to the amount of arrears, a further sum not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

²**13-A.** Any amount payable to the Authority under section 13 shall constitute a charge over the property and may be recovered as arrears of land revenue or by attachment and sale of property in the manner provided under sections 503, 504, 505, 506, 507, 508, 509, 510, 512, 513 and 514 of the Uttar Pradesh Municipal Corporations Act, 1959 (Act no. 2 of 1959) and such provisions of the said Act shall *mutatis mutandis* apply to the recovery of dues of an authority as they apply to the recovery of a tax due to a Municipal Corporation, so however, that references in the aforesaid sections of the said Act to 'Municipal Commissioner', 'Corporation Officer' and 'Corporation' shall be construed as references to 'Chief Executive Officer' and 'Authority' respectively :

Provided that more than one modes of recovery shall not be commenced or continued simultaneously.]

**For feature
for breach of
conditions of
transfer**

14. (1) In the case of non-payment of consideration money or any installment thereof on account of the transfer by the Authority of any site or building or in case of breach of any condition of such transfer or breach of any rules or regulations made under this Act, the Chief Executive Officer may resume the site or building so transferred and may further forfeit the whole or nay part of the money, if any, paid in respect thereof.

1. Subs. by sec. 8 of U. P. Act No. 10 of 2016.

2. Ins. by sec. 9 of U. P. Act No. 10 of 2016.

[The Uttar Pradesh Industrial Area Development Act, 1976]

(2) Where the Chief Executive Officer orders resumption of any site or building under sub-section (1) the Collector may, on his requisition, cause possession thereof to be delivered to him and may for that purpose use or cause to be used such force as may be necessary.

Penalty

15. Any person who contravenes any provisions of this Act, or rules or regulations made thereunder or any directions issued under section 8, shall on conviction be punishable with fine which may extend to ¹[fifty thousand rupees] and in the case of a continuing offence with further fine which may extend to one hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

Powers of entry etc.

16. The Chief Executive Officer may authorize any person to enter into or open any land or building with or without assistance, for the purposes of,—

(a) making any inquiry, inspection, measurement or survey or taking levels of such land or building ;

(b) examining works under construction or of ascertaining the course of sewers or drains ;

(c) ascertaining whether any building is being or has been erected or re-erected without sanction or in contravention of any sanction given under this Act or the rules and regulations made thereunder and to take such measurements and do any such other acts as may be necessary for such purpose ;

²[(C-1) digging or boring into the sub soil ;

(C-2) setting out boundaries or intended lines of work ;

(C-3) making such level, boundaries and lines by placing marks and cutting trenches ;

(C-4) ascertaining whether any land is being or has been developed in accordance with the Plan and in accordance with the terms and conditions stated in the permission.]²

(d) doing any other thing necessary for the efficient administration of this Act :

Provided that —

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building ;

(ii) sufficient opportunity shall in every instance, be given to enable women, if any, to withdraw from such land or building ;

1. Subs. by sec. 10 of U. P. Act no. 10 of 2016.

2. Ins. by sec. 11 of U. P. Act no. 10 of 2016.

[The Uttar Pradesh Industrial Area Development Act, 1976]

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purposes for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

Punishment for obstruction, imposition of penalty, sealing etc.

¹ **16-A.** Any person who obstructs the entry of a person authorized under section 16 upon any land or building shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Power to levy, assess, recover user charges

16-B. (1) When it appears to the Chief Executive Officer or the officer authorized by him that any particular development scheme is sufficiently advanced to enable the amount of the user charge to be determined, the Chief Executive Officer or the officer authorized by him may by an order made in that behalf, declare that for the purpose of determining the User Charges the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or person having an interest therein that it is proposed to assess the amount of the User charge in respect of the property mentioned in the notice.

(2) The Chief Executive Officer or the officer authorized by him shall assess the amount of User Charges payable by the person concerned after giving such person an opportunity of being heard.

(3) Any person aggrieved by the order of assessment passed under sub-section (2), may, within ninety days from the date of the notice in writing of such assessment inform the Chief Executive Officer or the officer authorized by him in that behalf by a declaration in writing that he accepts the assessment or objects to it.

(4) Where the order of assessment passed under sub-section (2) is accepted by the person concerned within the period specified in such assessment shall become final and the person concerned shall make payment of the User Charges within the time specified in the assessment order.

(5) If the person concerned objects to the Assessment order passed under sub-section (2), then the person concerned may file an appeal before the Appellate Authority within a period of ninety days from the date of receipt of the assessment order passed under sub-section (2) and the Appellate Authority may dispose of the appeal within a period of six months from the date of receipt of the appeal. The order passed by the Appellate Authority in appeal shall be final.

(6) The State Government may nominate an officer not below the rank of the Principal Secretary to the State Government as the Appellate Authority.

[1. Ins. by sec. 12 of U. P. Act no. 10 of 2016.](#)

[The Uttar Pradesh Industrial Area Development Act, 1976]

(7) The User Charges levied under this Act shall be payable in such number of installments, as may be fixed by regulations made in that behalf.

(8) The arrears of User Charges shall be recoverable as the arrears of land revenue, and shall constitute a charge over such property.]¹

Overriding effect of the Act

17. Upon any area being declared an industrial development area under the provisions of this Act, such area, if included in the master plan or the zonal development plan under the Uttar Pradesh Urban Planning and Development Act, 1973, or any other development plan under any other Uttar Pradesh Act, shall, with effect from the date of such declaration be deemed to be excluded from any such plan.

Power to make rules

18. The State Government may by notification, make rules for carrying out the purposes for this Act.

Power to make regulations

19. (1) The Authority may with the previous approval of the State Government, make regulation not inconsistent with the provisions of this Act or the rules made thereunder for the administration of the affairs of the Authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulation may provide for all or any of the following matters, namely :—

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings, and the number of members necessary to form a quorum thereat ;

(b) the powers and duties of the Chief Executive Officer ;

(c) the form of register of application for permission to erect a building ;

(d) the management of properties of the Authority ;

(e) fees to be levied in the discharge of its functions ;

(f) such other matters as are to be provided for in regulation.

—

[1. Ins. by sec. 12 of U.P. Act No. 10 of 2016.](#)

UP INDUSTRIAL AREA DEVELOPMENT ACT-1976
ENDS HERE

AFRReserved on 22.11.2017Delivered on 16.02.2018Court No. - 34

1. Case :- WRIT - C No. - 43275 of 2015

Petitioner :- Ajeet Singh Chauhan

Respondent :- State Of U.P. & 3 Others

Counsel for Petitioner :- K.M. Garg

Counsel for Respondent :- C.S.C., Shivam Yadav

2. Case :- WRIT - C No. - 43195 of 2015

Petitioner :- M/S Bright Infracon Pvt. Ltd. And Another

Respondent :- State Of U.P. And 3 Ors.

Counsel for Petitioner :- K.M. Garg

Counsel for Respondent :- C.S.C., Shivam Yadav

Hon'ble Sudhir Agarwal, J.

Hon'ble Ajit Kumar, J.

(Delivered by Hon'ble Ajit Kumar, J.)

1. Heard Sri K.M. Garg, learned counsel for petitioners and learned Standing Counsel as well as Sri Shivam Yadav, Advocate for respondents.

2. Both these writ petitions involve common questions of fact and law, therefore, as agreed by learned counsel for parties the same are heard together and being decided by this common judgment.

3. Since basic question is common in both writ petitions, therefore, for the purpose of brief factual matrix, this Court is referring to pleadings of Writ Petition No. 43275 of 2015 which has been filed by petitioner-Ajeet Singh Chauhan.

4. Petitioner has challenged notice issued by New Okhla Industrial Development Authority (*hereinafter referred to as the "NOIDA"*) dated 29.07.2015 requiring petitioner to immediately stop raising construction over land in question, remove constructions from land in question or show cause, if any, within three days, failing which entire construction shall be demolished and charges incurred in such exercise by NOIDA will be recovered.

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[Signature]

[Signature]

5. Assailing aforesaid order-cum-notice issued by Respondent-3, petitioner submits that land in question falls in Village Abadi of Village Baraula, Pargana and Tehsil Dadri, District Gautambudh Nagar, which is not acquired by NOIDA. Petitioner submits that land in question, i.e. Plots No. 1226 and 1227, situate in Village Baraula was in fact land of one Nauraj Singh and others, being original land holders, who executed sale deed in favour of Vikas Sahkari Awas Samiti Limited on 13.09.2004 and this is how Vikas Sahkari Awas Samiti Limited came to be recorded in Revenue record on 20.11.2004. Later on this land alongwith other land was sold by Vikas Sahkari Awas Samiti Limited to M/s Noida Internet Services Private Limited, a Company registered under Indian Companies Act, 1956, vide registered sale deed dated 21.10.2010. Thus M/s Noida Internet Services Private Limited came to be recorded in Revenue record over land in question on 28.01.2011. Subsequently, M/s Noida Internet Services Private Limited sold this land to petitioner vide registered sale deed dated 13.07.2012. This is how petitioner came to be recorded over land in question in revenue records on 19.12.2012.

6. According to petitioner since constructions over land in question were in dilapidated condition, he proceeded to demolish the same so as to erect new construction over the said plots. Relevant Khasra and Khatauni in this regard is brought on record. It is the case of petitioner that land is still within territorial limits of Village Panchayat and Pradhan is duly elected in last election held in 2010. It is submitted that while constructions were going on, suddenly on 28.07.2015 Respondents-3 and 4, alongwith some other officials with police force came on spot and threatened petitioner to seal entire property and also to demolish construction which was existing on spot. Petitioner could hardly understand anything about legal niceties involved in action being taken by NOIDA. On 29.07.2015 a demolition notice was pasted on petitioner's premises which is impugned in writ petition.

7. The contention advanced by learned counsel for petitioner

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Writ

assailing impugned demolition notices is that NOIDA has no authority to exercise such power in respect of a Village Abadi land in a village which is not vested in NOIDA. Submission has been advanced on the scope of Act No. 6 of 1976, namely, U.P. Industrial Area Development Act, 1976 (*hereinafter referred to as the "Act, 1976"*) and Regulations and Directions framed thereunder.

8. Contention of petitioner is that New Okhla Industrial Development Area Building Regulations, 2010 (*hereinafter referred to as "Regulation, 2010"*) are applicable only in respect of development and building activities in an area which is within the definition of "urbanisable area". According to petitioner unless and until land falls in an "unbanisable area", defined under Regulation, 2010 framed under Act, 1976, on any development activity with regard to construction of building, NOIDA has no role to play.

9. In this regard it is necessary to examine relevant provisions of Act, 1976 and Directions and Regulations issued thereunder in order to appreciate whether land in question will come within the meaning of development activity to be regulated by NOIDA.

10. From very object of Act, 1976 it is clear that this enactment was brought into force to carry out development activities in respect of such area that may be notified by State Government as industrial development area. Section 2(d) defines "industrial development area" means an area declared as such by the State Government by notification. Section 3 of act, 1976 provides for constitution of Authority by State Government by notification and Section 6 provides for functions of Authority. Section 6 of Act, 1976 reads as under:

"6. Functions of the Authority. - (1) *The object of the Authority shall be to secure the planned development of the industrial development areas.*

(2) *Without prejudice to the generality of the objects of the*

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Authority, the Authority shall perform the following functions-

(a) to acquire land in the industrial development area, by agreement or through proceedings under the Land Acquisition Act, 1894 for the purposes of this Act;

(b) to prepare a plan for the development of the industrial development area;

(c) to demarcate and develop sites for industrial, commercial and residential purposes according to the plan;

(d) to provide infrastructure for industrial, commercial and residential purposes;

(e) to provide amenities;

(f) to allocate and transfer either by way of sale or lease or otherwise plots of land for industrial, commercial or residential purposes;

(g) to regulate the erection of buildings and setting up of industries; and

(h) to lay down the purpose for which a particular site or plot of land shall be used, namely, for industrial or commercial or residential purpose or any other specified purpose in such area.”

11. From a bare perusal of aforesaid provision it is explicit that the very object of Authority constituted under the Act is to secure planned development of industrial area, obviously notified by State Government in this regard. Clause (a) of sub-section (2) provides for compulsory acquisition of land by the Authority for the purposes of this Act. Clause (b) of sub-section (2) provides for planned development of industrial area and Clause (g) provides for regulation with regard to erection of buildings and setting up of an industry.

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12. Section 8 of Act, 1976 empowers the Authority to issue directions in respect of erection of buildings to be carried out in development area and Section 9 prohibits erection of any building in contravention of regulations framed under Act, 1976 by Authority. Sub-section (2) of Section 9 provides that Authority may by notification and with prior approval of State Government make regulations to regulate erection of building. Section 9 of Act, 1976 reads as under:

“9. Ban on erection of buildings in contravention of regulations. - (1) *No person shall erect or occupy any building in the industrial development area in contravention of any building regulation made under sub-section (2).*

(2) *The Authority may by notification and with the prior approval of the State Government, make regulations to regulate the erection of buildings and such regulations may provide for all or any of the following matters, namely,-*

(a) *the materials to be used for external and partition walls, roofs, floors and other parts of a building and their position or location or the method of construction;*

(b) *lay out plan of the building whether industrial, commercial or residential;*

(c) *the height and slope of the roofs and floors of any building which is intended to be used for residential or cooking purposes;*

(d) *the ventilation in, or the space to be left about any building or part thereof to secure circulation of air or for the prevention of fire;*

(e) *the number and height of the storeys of any building;*

(f) *the means to be provided for the ingress and egress to and from any buildings;*

(g) the minimum dimensions of rooms intended for use as living rooms or sleeping rooms and the provision of ventilation;

(h) any other matter in furtherance of the proper regulation of erection, completion and occupation of buildings; and

(i) the certificates necessary and incidental to the submission of plans, amended plans and completion reports.”

13. Section 12 of Act, 1976 makes provision for application of certain provisions of Chapter VII of U.P. Urban Planning and Development Act, 1973 (*hereinafter referred to as the “Act, 1973”*) in its modified form as per U.P. President's Act (Re-enactment with Modifications) Act, 1974 by way of adaptation. Section 17 provides for an overriding effect of Act, 1976 upon such area which has fallen to be within the notified area under this Act, shall stand excluded from operation of Act, 1973. Section 18 provides for State Government to frame rules by notification for carrying out the purposes of Act, 1976. Section 19 provides power to make regulations with prior approval of State Government. It further provides for making of regulations by Authority constituted under the Act with prior approval of State Government. However, regulations have to be in consonance with the provisions of this Act or rules made thereunder for the administration of affairs of Authority. Sections 18 and 19 of Act, 1976 read as under:

“18. Power to make rules. - *The State Government may, by notification, make rules for carrying out the purposes of this Act.*

19. Power to make regulations. - *(1) The Authority may, with the previous approval of the State Government, make regulation not inconsistent with the provisions of this Act or the rules made thereunder for the administration of the affairs of the Authority.*

(2) In particular, and without prejudice to the generality of the

foregoing power, such regulation may provide for all or any of the following matters, namely,-

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings, and the number of members necessary to form a quorum thereat;

(b) the powers and duties of the Chief Executive Officer;

(c) the form of register of application for permission to erect a building;

(d) the management of properties of the Authority ;

(e) fees to be levied in the discharge of its functions;

(f) such other matters as are to be provided for in regulation.”

14. From the provisions as quoted above, it is clear that as far as the object of Act, 1976 is concerned, State Government shall make rules and so far as functioning of Authority and its affairs are concerned, the Authority can itself make regulations with prior approval of State Government.

15. By virtue of amendment by U.P. Act No. 4 of 2001 new Section 12-A was inserted under Act, 1976 which starts with a *non-obstante* clause taking away powers of Panchayat in respect of such industrial area which may fall within the territorial area of Panchayat if notified by State Government. Section 12-A of Act, 1976 reads as under:

“12A. No Panchayat for Industrial Township. - *Notwithstanding anything contained to the contrary in any Uttar Pradesh Act, where an industrial development area or any part thereof is specified to be an industrial township under the proviso to clause (1) of Article 243-Q of the Constitution, such industrial development area or part*

thereof, if included in a Panchayat area, shall, with effect from the date of notification made under the said proviso, stand excluded from such Panchayat area and no Panchayat shall be constituted for such industrial development area or part thereof under the United Provinces Panchayat Raj Act, 1947 or the Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961, as the case may be, and any Panchayat constituted for such industrial development area or part thereof before the date of such notification, shall cease to exist.

Explanation. - *The expression "Panchayat and Panchayat area" shall have the meanings respectively assigned to them in Part IX of the Constitution."*

16. From above provision it is very much clear that first the State Government has to notify an area to be an industrial area so as to the exclusion of powers of Panchayat as envisaged under Article 243-Q of the Constitution as a local authority and if such area is notified then the operation of Panchayat whether constituted under U.P. Panchayat Raj Act, 1947 or U.P. Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961 will cease to have any territorial authority over such area. By virtue of Section 17 of Act, 1976 the Authority exercising powers under Act, 1973 shall cease to have any operational effect over such area.

17. Conjoint reading of Sections 6, 8, 9, 18 and 19 of Act, 1976 leads us to draw only one conclusion that not only the area has to be notified by State Government as industrial area but the authority has to frame regulations and lay out plan to govern development activities in respect of industrial, commercial and residential buildings in such area and this is how planned development of industrial development area is to be secured as an object under the Act.

18. Thus after an area is notified as an industrial area it is the Authority constituted under Act, 1976 that shall have all the

administrative powers in respect of developmental activities to be carried out in such area but in order to regulate such development activities, the Authority shall have to make necessary regulations and frame a lay out plan under Section 19 read with Section 9 of Act, 1976 and in absence of any such regulations and lay out plan being framed with prior approval of State Government even in respect of notified area, NOIDA does not have any power to regulate development activities.

19. Now we proceed to examine as to what areas are there in the context of NOIDA which are notified as development area and if an area is notified as a development area, whether any Regulations or Directions have been framed or issued with prior approval of State Government to carry out and regulate development activities in such area.

20. Exercising aforesaid powers under sub-section (1)(d) of sub-section (2) of Section 19, Regulations have been framed with approval of State Government called "New Okhla Industrial Development Authority Rural Abadi Site (Management and Regularization for Residential Purposes) Regulations, 2006" (*hereinafter referred to as the "Regulations, 2006"*). These regulations provide management and regularization of residential purposes of Abadi sites in respect of land acquired by Authority under the provisions of Land Acquisition Act, 1894 (*hereinafter referred to as the "Act, 1894"*) or such land which has been resumed from Gaon Sabha. The relevant Regulation 1 sub-clause (4) of Regulations, 2006 reads as under:

"(4) It shall extend to all such rural land which has been used as Abadi on the date of commencement of these regulation and at the same the land has been actually used as Abadi land as on the date of notification under Section 4 and Section 17 of Land Acquisition Act and has been acquired under provision of the Land Acquisition Act or land has been resumed from the Gram Sabha."

21. Thus power to regulate residential Abadi site in rural area is preceded by condition that such land which has been either acquired by Act, 1894 or resumed from Gaon Sabha concerned in whose territorial jurisdiction land falls, will come within the authority of respondents to regulate development activity in Abadi Village.

22. Now it is to be seen, whether area of Village Baraula, where land which is claimed to be Abadi land by petitioner, is the land covered under these Regulations or not.

23. Specific averment has been made in para 9 of writ petition that land of Khasra No. 1226 and 1227 of Village Abadi of Villlage Baraula has not been acquired by NOIDA. Vide para 21 of counter affidavit filed on behalf of respondents no. 2, 3 and 4 it has been categorically stated that land in question has not been acquired. Meaning thereby, land does not stand vested with NOIDA as far as Regulations, 2006 (supra), regarding rural abadi site, are concerned.

24. Now we come to the provisions contained under Section 9 of Act, 1976 which gives authority to NOIDA to put a ban on such development activities in respect of construction or erection of building which are in violation of Regulations. In this regard, New Okhla Industrial Development Area Building Regulations and Directions, 2006 (*hereinafter referred to as the "Directions, 2006"*) have been framed which provide for building regulations and directions to be carried out by NOIDA in relation to developmental activities within the territorial limits of NOIDA. It provides for building lay out site plan for all types of buildings including multistoried buildings. These Regulations, however, are applicable in respect of an "area" defined under Act, 1976 and does not cover Village Abadi area. Regulations, 2006 are chiefly concerned about development activities being carried out with regard to planned development as prescribed by NOIDA. These Regulations, 2006 came to be superseded by Regulations, 2010 framed in exercise of power under Section 19 of Act, 1976. Regulations, 2010 clearly provide vide Clause

Sumit

NOIDA

Writ

1.3 of Chapter-I that it shall apply to building activities within “urbanisable area”. Chapter V of Regulations, 2010 deal with area designated for agricultural use by the Authority. Clause 1.3 of Chapter-I, reads as under:

“1.3 Chapter I to IV shall apply to building activities within the urbanisable area and Chapter V, shall apply to the area designated for agricultural use by the Authority.”

25. The urbanisable area has been defined in Clause 2.65 of Regulations, 2010 which reads as under:

“2.65 'Urbanisable Area' means the area earmarked for any of the following uses in the Development Plan/Master Plan.

- (i) Residential;*
- (ii) Commercial;*
- (iii) Industrial;*
- (iv) Institutional;*
- (v) Green area*
- (vi) Transportation, and*
- (vii) Any other Special uses as specified in the Development Plan/ Master Plan/ Scheme duly approved by the Authority.”*

26. The argument advanced is that area in question are not “urbanisable area” and, therefore, development plan and master plan meant for “urbanisable area” are not applicable in the instant case.

27. It is true that residential activities covered in respect of urbanisable area are to be regulated by NOIDA but the area which is to be called as “Village Abadi” is not an “urbanisable area”. Chapter-V of Regulations, 2010 are also not attracted in respect of residential area in Village Abadi. Chapter-V of Regulations, 2010 lay down construction plan only for farm house buildings in agricultural use zone and this is not the case in hand.

28. Having gone through relevant provisions of Act, 1976 and Regulations, 2006 and 2010, we find that in respect of Village Abadi

unless an area is acquired and vested with NOIDA, under Act, 1894 or by way of resumption of land from Gaon Sabha, NOIDA cannot regulate residential-cum-building activities in such areas and, therefore, question of sanction of map or prior sanction of NOIDA for carrying out construction activities in "Village Abadi" does not arise. It has come admittedly on record that no building plan and Regulations and Directions have been framed with regard to building activities in respect of "Village Abadi".

29. Learned counsel for respondents-NOIDA has placed heavy reliance upon para 14 of counter affidavit which reads as under:

"14. That the contents of paragraph no. 9 of the writ petition is not admitted as stated hence denied. However, it is submitted that the sale deed which was obtained by the petitioner clearly mentions that the petitioner has purchased the vacant piece of land and therefore, it cannot be called as Abadi alongwith that Khasra Nos. 1226 and 1227 although are not acquired but they falls within the notified area of the Noida as well as Villabe Barona is a notified village of the Noida under Section 2(D) of the Act, 1976."

30. It is interesting to notice that this paragraph has been sworn on the basis of record but no documents have been appended alongwith counter affidavit to demonstrate that this Village Abadi site was notified area within the meaning of Section 2(d) read with Section 6 of Act, 1976. The paragraph was also silent, whether any industrial development plan has been prepared by NOIDA with regard to Village in question and whether this village is within the industrial township as far as Regulation, 2010 are concerned. There is no doubt that after insertion of Section 12-A of Act, 1976 by Act No. 4 of 2001 powers of Panchayat in respect of area falling within the development area notified by State Government has been taken away but respondents authorities have to demonstrate that a particular area which is claimed

Sumit

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to be not covered within Regulation, 2010 have really been notified or not. No notification has been brought to our notice by NOIDA to demonstrate that area in question has stood notified.

31. Besides the above, even if an area is notified, development activities can be regulated and controlled in such area by Development Authority concerned, provided they are within the definition of “urbanisable area”, otherwise Development Authority is in clear error of law in creating obstruction in any such construction of building which is not in violation of regulations framed by them as being not applicable to area in question. Neither Regulations, 2006 nor Regulations, 2010 govern the development activities of village in question and, therefore, we have no hesitation in holding that order-cum-notice dated 29.07.2015 is *per se* illegal and liable to be quashed.

32. In view of above and the admission made by NOIDA in counter affidavit, impugned order-cum-notice dated 29.07.2015 is *per se* illegal and is hereby quashed. Writ petitions are allowed with no order as to costs.

Order Date :-16.02.2018

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Ganga River Basin Management Plan Interim Report

September 2013

by

Consortium of 7 "Indian Institute of Technology"s (IITs)



IIT
Bombay



IIT
Delhi



IIT
Guwahati



IIT
Kanpur



IIT
Kharagpur



IIT
Madras



IIT
Roorkee

In Collaboration with



IIT
BHU



NIH



CIFRI



NEERI



JNU



PU



NIT-K



DU



ISI
Kolkata



Allahabad
University



WWF
India



Rumit

16/09/13

16/09/13

16/09/13

Preface

In exercise of the powers conferred by sub-sections (1) and (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government constituted the National Ganga River Basin Authority (NGRBA) as a planning, financing, monitoring and coordinating authority for strengthening the collective efforts of the Central and State Governments for effective abatement of pollution and conservation of the Ganga river. One of the important functions of the NGRBA is to prepare and implement a Ganga River Basin Management Plan (GRBMP). A Consortium of 7 "Indian Institute of Technology"s (IITs) was given the responsibility of preparing the GRBMP by the Ministry of Environment and Forests (MoEF), GOI, New Delhi. A Memorandum of Agreement (MoA) was signed between 7 IITs (Bombay, Delhi, Guwahati, Kanpur, Kharagpur, Madras and Roorkee) and MoEF for this purpose on July 6, 2010.

This is the Interim "Ganga River Basin Management Plan". The thrust of this Plan is to relate the diverse environmental degradations occurring in the basin with their causal factors, and thereby frame a roadmap for redeeming National River Ganga Basin's Environment. The task involved different thematic groups of experts from 7 IITs and other premier organizations identifying different causal factors and assessing their impacts on the basin to synthesize the findings and recommendations in fulfillment of the important missions identified in the Plan. This report covers the main issues of concern and recommends corrective measures. While major changes in the final Plan are not foreseen, our studies have not achieved closure on all aspects; hence there could be additional actionable recommendations in the final Plan.

The progress in preparing this Plan was affected by several factors. On the one hand, co-ordination between experts working in different institutions was not always speedy. On the other hand, the progress depended on obtaining relevant primary data from nodal government agencies, which was often tardy and circuitous. This also affected the timely co-ordination between related thematic groups. It is hoped that data availability in future will become simpler and faster.

Many people contributed directly or indirectly to the preparation of this Plan. A wide range of stakeholders were consulted through various workshops, seminars and informal discussions, and many people freely gave their suggestions and comments on many substantive issues. This document is therefore truly a collective effort that reflects the cooperation of many people, particularly members of the IIT Team and keenly interested members of the general population.

Dr Vinod Tare
Professor and Coordinator
Preparation of GRBMP
IIT Kanpur



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Glossary of Technical Terms

The following technical terms have been used in this document. They may be defined as follows (in a simplified manner where possible for ease of understanding):

- (a) **“Active Flood Plain”** is the area on the two sides of a river that gets inundated by a flood having a mean recurrence interval of 2.33 years.
- (b) **“Afforestation”** is the planting of trees to restore or re-establish forest cover.
- (c) **“Aviral Dhara”** or **“Continuous Flow”** (in a river or stream) means continuity of flow in both time and space, including connectivity of flow throughout the river.
- (d) **“Basin”** means the entire catchment (of a water body or water course) including the soil, water, vegetation and other natural resources in the area.
- (e) **“Catchment”** (or **“Drainage Basin”**) is the entire land area whose runoff from rain, snow or ice drains into a water body or a water course (before the water course joins another river or discharges into a water body.)
- (f) **“Connectivity”** (of a river) means continuity of flow in the three directions, viz. longitudinal connectivity (along the length of the river), lateral connectivity (across the width of river), and vertical connectivity (below the water surface in vertical direction).
- (g) **“Deforestation”** means removal or reduction of forest cover, especially when caused by anthropogenic activities.
- (h) **“Degraded Forest”** means a forest having loss or reduction of native forest cover and/or vegetation density.
- (i) **“Direct Injection”** (of water) means injection or introduction (of water) directly into subsurface waters through natural or artificial crevices, faults, channels or conduits without the natural passage through porous soil strata.
- (j) **“Ecological Park”** is a protected area for conservation of native, endangered species.
- (k) **“Ecology”** is the totality of relations between organisms and their environment. It includes the composition, distribution, amount, number and changing states of organisms within and among ecosystems.
- (l) **“Ecosystem”** is a community of organisms and their physical environment, considered to function together as a unit, and characterized by a flow of energy that leads to trophic (or nutritional) structure and material cycling.
- (m) **“E-Flows”** means Environmental Flows (defined later);
- (n) **“Embankment”** is a raised wall of earth, stone or other material to hold back water within a water body or water course; it includes levees constructed on either side of a river as a flood protection measure.
- (o) **“Engineered Diversion”** means a structure or device constructed or installed to transfer (part of) the river water into a canal or other engineering structure.
- (p) **“Environmental Flows”** are the regime of flows required to maintain the ecological integrity of a river and the goods and services provided by it, computed by Building Block Method (or other standard holistic methods).



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- (q) **"Flood"** means the overflowing of water from a water course or water body that inundates normally dry land.
- (r) **"Flood Plain"** is the land area susceptible to inundation by flood waters.
- (s) **"Flood Routing Channel"** is a channel designed to carry the excess water of a water course during high flows.
- (t) **"Geologic Entity"** is an entity formed by ancient earth processes over geologic ages (hence over long periods of time, usually millions of years).
- (u) **"Ground Water Recharge"** is replenishment (in part or wholly) of water depleted from ground water reservoirs.
- (v) **"Hydrologic Cycle"** is the natural cyclic movement of water on earth (from oceans to the atmosphere by evaporation, then onto land by rain and snow, and back to the oceans by flow through rivers).
- (w) **"Irrigation Return Flow"** means the returning of unused water from irrigation applications to the water source from which they were taken. The source is usually a natural water course, water body or groundwater.
- (x) **"National River Ganga"** is the entire length of six head-streams in the state of Uttarakhand namely, Rivers Alaknanda, Dhuli Ganga, Nandakini, Pinder, Mandakani and Bhagirathi (starting from their originating glaciers up to their respective confluences at Vishnu Prayag, NandPrayag, KarnPrayag, Rudrprayag and Dev Prayag) as also the main stem of the river thereafter up to Ganga Sagar.
- (y) **"Nirmal Dhara" or "Un-polluted Flow"** means flow in a river or stream that is not (significantly) polluted by anthropogenic activities.
- (z) **"Paleo-Channel"** is the remnant of an extinct river or stream that got filled with sediments deposited in later periods.
- (aa) **"Water Body" (or "Surface Water Body")** is a depression on land or a lowland area that usually holds water or remains saturated through most of the year, such as a lake, tank, pond, marsh or swamp.
- (bb) **"Water Course" (or "Surface Water Course")** is an overland channel (natural or manmade) through which water flows such as a river, stream, rivulet ("nala") or canal.
- (cc) **"Watershed"** is same as Drainage Basin. [Note: The term **"watershed"** is also used to mean a "drainage divide" as per British usage, i.e. it is a ridge of high land dividing two areas that are drained by different rivers or water bodies]



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Appendix II

Summaries of IIT_GRBMP Thematic Reports

001_GBP_IIT_GEN_DAT_01_Ver 1_Dec 2010**River Ganga at a Glance: Identification of Issues and Priority Actions for Restoration**

River Ganga's origin and subsequent course in the plains are described. The Ganga River System is reviewed in three distinct fluvial segments. The Upper Ganga Segment from Gaumukh to Haridwar is described and essential environmental actions needed are defined, especially with regard to the effect of hydropower projects and tourism on the river ecosystem. In the Middle Ganga Segment up to Varanasi, the chief environmental measures needed are found to be complete stoppage of discharge of industrial and domestic wastewaters (and hence their recycling), and the creation of a dolphin protection zone below Garmukhteswar. The Lower Ganga Segment up to Ganga Sagar needs similar pollution control measures as in Middle Ganga, besides detailed hydrological and geomorphological studies to deal with the high silt loads.

002_GBP_IIT_EQP_S&R_01_Ver 1_Dec 2010**Guidelines for the Preparation of Urban River Management Plan (URMP) for Class I Towns in Ganga River Basin**

Most Class I Towns of Ganga River Basin (GRB) are located near River Ganga or its tributaries, and their sewage, solid wastes, riverbank encroachments, etc. harm the rivers. Hence URMPs (Urban Renewal Management Plans) are needed for all Class I Towns of GRB over a 25-year planning horizon for wastewater management and riverbank protection. The URMPs, to be prepared immediately by individual towns, should include actionable items such as removal of encroachments and beautification of riverbanks, banning/ restriction of undesirable activities, sewage collection and diversion, pumping and treatment, and storage, transport and reuse of treated sewage and sludge. The URMPs should be implemented after approval by an expert committee of NGRBA, and funding for various work packages should be made available through NGRBA by different ministries. Unlike other city development plans the URMPs will be river-centric and not city-centric, thereby preventing adverse urban impacts on rivers.

003_GBP_IIT_EQP_S&R_02_Ver 1_Dec 2010**Sewage Treatment in Class I Towns: Recommendation and Guidelines**

Urban sewage is a major point source of pollution and also a source of recycled water. Adequate sewage treatment for reuse – either in centralized STPs (Sewage Treatment Plants) or small decentralized STPs – will minimize fresh water withdrawals. The costs, process quality, reliability, environmental factors, land requirements, etc. of different sewage treatment processes are compared. The treatment chain is considered in three stages – Preliminary Treatment, Primary and Secondary Treatment, and Tertiary Treatment.



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Technological options for the second stage treatment are considered, and for eight different treatment processes the unit treatment costs and footprint area of treatment plant are derived. A decision matrix table of costs and different treatment parameters is presented. Technological options for sludge management, flow measurement, and bio-assay tests (of treated effluent) are explained. The importance of reusing the treated water, and thereby enabling zero liquid discharge from treatment plants into the environment, is emphasized.

004_GBP_IIT_EQP_S&R_03_Ver 1_Dec 2010

Guidelines for Implementation of Sewage Collection, Diversion, Pumping, Treatment, and Reuse (Sewage CDPTR) Infrastructure in Class I Towns

Currently, sewer networks and pumping facilities are absent or partial, treatment plants malfunctioning or inadequate, and sludge disposal improper. ULBs (Urban Local Bodies) responsible for operating these facilities have different concerns besides financial and other constraints. The Sewage CDPTR Infrastructure for all Class I Towns of Ganga River Basin (GRB) needed are: (i) complete stoppage of sewage discharge into rivers, (ii) sewage treatment up to tertiary level, and (iii) reuse of treated sewage water for non-contact/ non-potable purposes. Thus, all new Sewage Treatment Plants must treat up to tertiary level and existing plants upgraded to this level. All Sewage CDPTR Infrastructure should be funded by central and state governments and executed through private-public partnership adopting a DBFO (Design-Build-Finance-Operate) Model, wherein a ULB may contract a service provider for 5–15 years with annual payments against service rendered. Public monitoring of such facilities through independent NGOs, CSOs, etc. is required.

005_GBP_IIT_FGM_DAT_01_Ver 1_Dec 2010

Active Floodplain Mapping: Defining the River Space

The “valley” and “active floodplain” of a river defines the space that it occupies for performing its natural functions. “Floodplain” is an area that is inundated during flood. “Valley” is a wider topographic low occupied by the river and its floodplain over a longer time. Standard hydrological criteria of defining “active floodplain” is the 2.33 year return flood. Floodplain is ecologically most sensitive and supports a wide variety of vegetation and life forms; its complete preservation is one of the prime indicators of good river health.

Landsat 4-5 TM (30 m resolution), *IRS P6 AWIFS* (56 m), *SRTM* data were processed in Arc GIS to generate critical parameters for identifying floodplain and valley; and were validated by cross consultation of *MODIS* and *Google Earth* flood times images.

In a basin scale, active floodplain of Ganga River can be divided into four stretches:

- a. Hardiwar-Narora: As the river leaves its mountainous reaches it creates a wider (~ 28 km) floodplain that narrows (~10 km) downstream; reduces to ~5 km near the Narora barrage;
- b. Narora-Kanpur: Widens (~28 km) again after its confluence with Ramganga, reduces to ~15 km upstream of Kanpur and narrowest (~1 km) downstream of Kanpur.



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Appendix III

THE NATIONAL RIVER GANGA BASIN MANAGEMENT BILL, 2013

(An ACT to provide for Regulation, Conservation and Development of the National River Ganga Basin, and for the establishment of National River Ganga Basin Management Commission and National River Ganga Basin Tribunal for effective and expeditious disposal of matters affecting the River Basin with a view to restore and conserve the river basin and for matters connected therewith or incidental thereto)

WHEREAS, the river Ganga is declared as the National River of India on November 5, 2008 by the Government of India considering its unique position in Indian society and world's natural heritage.

AND WHEREAS, it shall be desirable to adopt an integrated river basin management approach that focuses on maintenance and restoration of wholesomeness of rivers of the Ganga Basin in public interest.

AND WHEREAS 'Wholesomeness' in this context shall mean sanctity of the river system as imbibed in the following points:

- a. Continuous Flow ("Aviral Dhara") in time and space including maintenance of connectivity of flow in the river systems.
- b. Un-polluted Flow ("Nirmal Dhara") meaning that quality of river waters is not significantly affected by human activities.
- c. Rivers as Geologic Entities that is, rivers as the earth's creations of ancient times (over geological ages), which may not be recoverable if damaged.
- d. Rivers as Ecological Entities that is, rivers as delicately structured ecological balance between various living species and the physical environment achieved over thousands of years and vulnerable to irreversible change.

AND WHEREAS 'Public Interest' in this context shall mean welfare or wellbeing of all beings including the future generations.

AND WHEREAS, to attain the wholesomeness, it is mandated to adopt preventive and corrective approach, the Act shall prohibit, restrict and promote activities that directly or indirectly affect the wholesomeness of all rivers in the National River Ganga Basin.

AND WHEREAS, the Act shall establish appropriate authorities to achieve the objectives of the Act and matters related thereto.

AND WHEREAS the Act shall be enacted to realize fundamental right guaranteed under Article 21 and to give effect to provisions of the Directive Principles of State Policy under



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Articles 39(b), 48 A, 49 and the Fundamental Duties enshrine under Article 51A (f) and (g) of the Constitution of India.

AND WHEREAS, the Act shall be enacted by Parliament by invoking legislative power under Article 246 read with Entry 56 of the Union List of the Constitution of India.

CHAPTER I PRELIMINARY

1. Short Title, Extent and Commencement

- 1) The Act may be called The National River Ganga Basin Management Act, 2012.
- 2) It shall extend to the whole National River Ganga Basin.
- 3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. Definitions

In this Act, unless the context otherwise requires –

- 1) "Active Flood Plain" is the area on the two sides of a river that gets inundated by a flood having a mean recurrence interval of 2.33 years;
- 2) Afforestation means plantation of trees to restore or reestablish the forest cover;
- 3) Authority means any authority, board, corporation, council, department, institute, university or any other body corporate, established by or under any Central, State or Provincial Act in force in the territory of India and includes,
 - a. The Central Government,
 - b. The State Governments,
 - c. A Department of the Government,
 - d. Local authorities;
- 4) "Aviral Dhara" (in a river or stream) means continuity of flow in both time and space, including connectivity of flow throughout the river;
- 5) Basin includes land, water, vegetation and other natural resources on a catchment basis;
- 6) "Basin" means the entire catchment (of a water body or water course) including the soil, water, vegetation and other natural resources in the area;
- 7) "Catchment" (or "Catchment Area", or "Watershed", or "Drainage Basin") is the entire land area whose runoff from rain, snow or ice drains into a water body or a water course (before the water course joins another river or discharges into a water body);
- 8) Class I town means a town whose population is greater than 100,000;



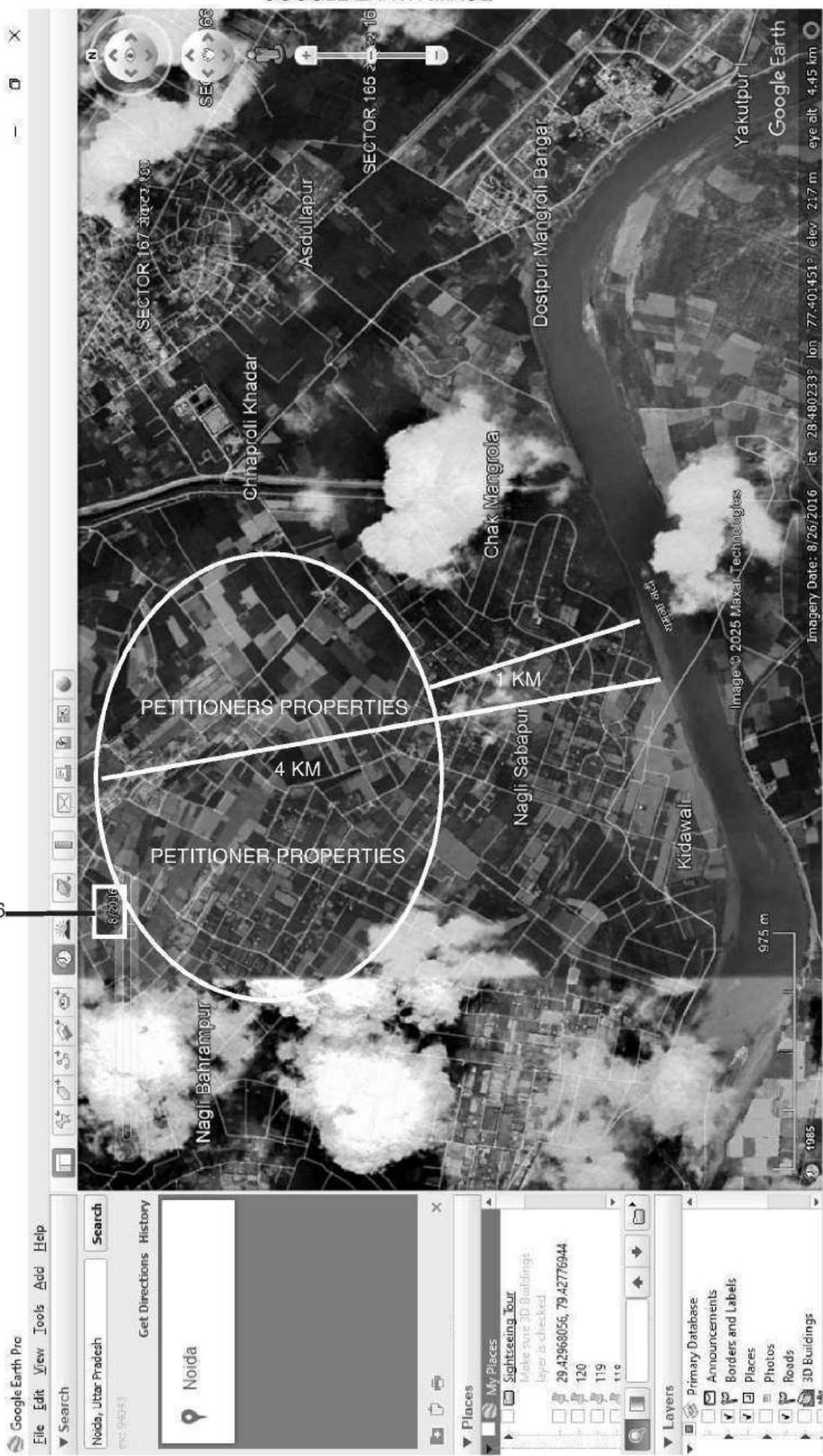
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ZOOM IMAGE OF PETITIONERS PROPERTIES IN GOOGLE EARTH



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Item Nos. 02 & 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 68/2020/EZ

Pradip Kumar Pattnaik

Applicant

Versus

Union of India & Ors.

Respondent(s)

WITH

M. A No. 08/2020/EZ

In

Original Application No. 47/2016/EZ

Biswajit Mohanty

Applicant

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 21.09.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Sisir Das, Sr. Advocate a/w Mr. Prabhu Prasanna Behera, Advocate (in item 2), Mr. Sankar Prasad Pani, Advocate (Item No. 03)

Respondent(s): Mr. Ashok K. Parija, Advocate General a/w Mr. Amar Pattnaik, Advocate
Mr. Ashok Panigrahi, Advocate, Mr. Janmejaya Katikia, AGA, & Mr. Venugopal Mahapatra, Advocate for R-1, 2 and 3
Mr. Gora Chand Roy Choudhury, Advocate for R-10 (in Virtual Mode),
Ms. Papiya Banerjee Bihani, Advocate for Odisha SPCB
Mr. Surendra Kumar, Advocate for CPCB
(In Item No. 03)
Mr. Ashok K. Parija, Advocate General a/w Mr. Amar Pattnaik, Advocate, Mr. Ashok Panigrahi, Advocate, Mr. Janmejaya Katikia, AGA, & Mr. Venugopal Mahapatra, Advocate for R-1, 2 and 3, Mr. Sailazanandan Das, Advocate for R-6 in O.A. (in Virtual Mode)
Mr. Surendra Kumar, Advocate for CPCB

ORDER

1. Grievance in this application is against the illegal sand filling in the Mahanadi river bed within the water area of Jobra Barrage at Cuttack.

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According to the applicant, the illegal action being undertaken is causing damage to the environment and the riverine ecosystem. The project called Balijatra River Front Improvement (BARFI) is an attempt to monetize the river bed for commercial purposes which will reduce the water retaining capacity of the river at Jobra Barrage at Cuttack. Free flow of water of the river bed will be affected in violation of judgment of the Odisha High Court dated 27.02.2012 in W.P.(C) No. 20283/2011, *The National Lawyers Forum vs. State of Orissa and Ors.* This will affect supply of drinking water and obstruct dredging which is necessary. This will also add to the floods in the city.

2. The proceedings in the matter were reviewed on 07.02.2022 in the light of earlier order dated 15.12.2020 in a connected matter (OA 22/2020(EZ) and affidavit filed by CPCB dated 04.10.2021 with a report of Joint Committee earlier constituted by the Tribunal for identification of flood plain zone. In the light of suggestion that ecological and hydrological aspects had not been covered by the report, which was mainly based on engineering aspects only, the Tribunal modified the constitution of the Committee to include ecological and hydrological experts. Relevant extracts from the order dated 07.02.2020 are:-

“2. During the hearing, learned Counsel for the applicant has also referred to the order of this Tribunal dated 15.12.2020 in O.A. No. 22/2020(EZ), Dilip Kumar Samantaray vs. State of Odisha Board & Ors., wherein the Tribunal constituted a joint Committee as follows:

*“16. Accordingly, we constitute a joint Committee comprising representatives of Central Water Commission (CWC), nominees of MoEF&CC, CPCB, National Institute of Hydrology, Roorkee and the State PCB to **consider the issue and lay down norms so as to ensure that the proposal of the State for construction of the medical college and river front development takes place in accordance with law, without damage to the flood plains of the Rivers. Flood plain zones need to be identified and demarcated in the light of such norms. The Committee may identify the extent of floodplain zone/active floodplain zone from the***

edge of the river. CPCB will be nodal agency for compliance. The Committee is free to associate any other individual or institution. The Committee may complete its exercise within four months. The members of the Committee are free to interact by video conferencing or otherwise. If any grievance with regard to violation of environmental norms survives, the applicant will be free to take any further remedies as per law.”

3. The matter was considered on 21.01.2021. The applicant was permitted to represent grievance in this application to the Committee already constituted so that the Committee could file a consolidated report about all the issues and the statutory authorities could take remedial action to enforce the law.

4. At this stage, we may also note the observations in order dated 15.12.2020 in O.A. No. 22/2020(EZ), Dilip Kumar Samantaray vs. State of Odisha Board & Ors. about the legal framework and need for protection of flood plains in the interest of riverine ecology and the life and property of people. Reference was made to the judgment of the Hon'ble Supreme Court dated 30.07.2009 in D.D.A. vs. Rajendra Singh, 2009 (8) SCC 582 mentioning the significance of protecting river beds and flood plains. Reference was also made to earlier order of this Tribunal dated 13.01.2015 in OA No. 6/2012 and OA No. 300/2013, Manoj Misra vs. Union of India & Ors. reported in 2015 ALL (I) NGT REPORTER (1) (DELHI) 139, judgment of this Tribunal dated 13.07.2017 in OA No. 200/2014, M.C. Mehta vs. Union of India & Ors. reported in 2017 NGTR (3) PB 1 in the context of river Ganga. The Tribunal referred to the Notification dated 07.10.2016 issued by the Ministry of Water Resources with regard to Ganga River on the subject of protecting active flood plain areas of the river and its tributaries. Reference was also made to laws enacted on the subject in certain States including Manipur Flood Zoning Act, 1978 and the Uttarakhand Flood Plain Zoning Act, 2012. Apart from Rules/Guidelines, reference was made also to Wetland Rules and action plans prepared by River Rejuvenation Committees in all the States/UTs in pursuance of order of this Tribunal dated 21.09.2020 in OA No. 673/2018, In Re: News item published in “The Hindu” authored by Shir Jacob Koshy, titled “More river stretches are now critically polluted: CPCB to the extent of steps for protecting flood plains. The Tribunal finally observed that no project could be developed in a flood plain of the river even in absence of any statutory provision on the subject as doing so affects the riverine ecology adversely. Accordingly, the Tribunal constituted a joint Committee mentioned earlier to identify the extent of flood plain zones and to lay down norms to ensure that no project was developed on the flood plains in violation of laws, resulting in damage to flood plains.

5. Accordingly, CPCB has filed its affidavit dated 04.10.2021 annexing the report of the joint Committee. The affidavit of CPCB shows that CPCB sanctioned a project called “Floodplain Zoning Study for the Identified Stretches of Mahanadi River Basin” for mapping of the river using satellite imageries, digital elevation maps, land use and land cover map showing habitation, flood frequency analysis and demarcation of flood plain zones from the edge of the river under supervision of Prof. K.C. Patra, Civil Engineering Department, NIT

Rourkela, who submitted his initial study report on 03.08.2021 on flood plain zoning of the area based on discharge data provided by (i) Central Water Commission (hereinafter referred as "CWC") as well as Odisha Water Resources Department (hereinafter referred as "WRD"), (ii) DEM provided by National Remote Sensing Centre (hereinafter referred as "NRSC"), (iii) Reduced levels of Baliyatra and other points by Odisha Water Resources Department (hereinafter referred as "WRD") and (iv) Modelling through HEC-RAS 6.0. The annexed report has following conclusions and recommendations:-

"5.4 Conclusion and Recommendation as indicated in the study:

The floodplain zoning study for the identified stretches of Mahanadi river basin was carried out based on the discharge data provided by the (i) Central Water Commission (CWC) as well as Odisha Water Resources Department (WRD), (ii) DEM Provided by National Remote Sensing Centre (NRSC), (iii) Reduced levels of Baliyatra and other points by Odisha Water Resources Department (WRD), and (iv) Modelling through HEC-RAS 6.0. For details results and discussion of the study, **page no. 35-37** may kindly be referred. As per the report following key conclusion and recommendations have been made;

- 1 From the derived statistical parameters of the CWC as well as Odisha WRD data, the value of 25 years return period flood (Q25) of magnitude 40,063 m³/s (from CWC data) is considered for floodplain mapping of the study area. During the passage of floods of Q25 and Q100, the difference in flood depths over the study areas are not found to be significant. This may be due to the river at this stretch is quite wide and thus, it is in a position to pass the flood of various return periods without appreciable change in the floodplain submergence geometry.
- 2 While routing this Q25 flood, it can be seen that the depth of water over the Baliyatra ground during the propagation of this flood just exceeds its average formation level of 24.5 m, but below the Reduced Level (RL) of ring road. Records from Odisha WRD indicate that water level during the passage of the flood of 44,768 m³/s was less than the RL of ring road, which further strengthens the present finding on the safety of passage of the flood. Therefore, any development activities in this area can be suitably planned keeping in mind the possible submergence of this Baliyatra rehabilitated area can be expected at least once in 25 years.
- 3 **The flood of 25 year return period is most likely to affect about 38 villages in and around the Cuttack city between Munduli and up to the lower reach, while another 66 villages may be partially affected. These villages are on the outer periphery of both Kathjodi and Main Mahanadi branches.**

- 4 The mean and maximum velocity of flow at cross-section 5 (having sand dune) areas are 0.493 m/s and 1.051 m/s, while at cross-section 1 (having no sand dune) the corresponding values are 0.62 m/s and 1.155 m/s. The same values at cross-section 3 which is very close to the Jobra barrage are 0.527 m/s and 1.02 m/s. From this, it can be observed that the removal of sand dunes has increased the velocity of flow at the section.
- 5 **National Disaster Management Authorities (NDMA) Guidelines, 2008 and all other design codes need to be followed while implementing any concepts for the utilization of Baliyatra Ground at Cuttack.**

5.5 Limitations of the study:

The study has the following limitations:

- The flood inundation area has been computed from the CARTOSAT DEM which is not verified from the ground survey and DGPS.
- Some water resources projects (both storage projects and diversion schemes) are expected to come up in future in the upstream catchment areas that is expected to store more water and moderate floods leading to reduce its peak at the Baliyatra site.
- The study has the limitations inherent to the modelling through the software, quality and accuracy of the data, accuracy of the DEM, and all other associated parameters.

6.0 Recommendation of the joint committee

To comply with the directions committee carried out the study by the expert institutes and agreed with the findings of the study. The point wise compliance status of the directions are as follows;

6.1 Identification and demarcation of Floodplain

Flood plain zoning study (**Annexure: 3**) was conducted by NIT Rourkela and was agreed upon by the committee members. In this study, Flood Zone Mapping and Inundation Map was done using the latest version of HEC-RAS V-6.0 (1-D Modelling). As per the study, it was found that flood of 25 year return period (Q_{25}) can be considered for modelling and identifying the floodplain inundation maps in the concerned stretch as the difference in flood depths between Q_{25} and Q_{100} is not found to be significant. It was further found that the flood of 25 year return period is expected to affect about 38 villages in and around the Cuttack city from the Munduli barrage to the downstream of Jobra barrage as depicted in Figure 6-1. A list of these villages is also provided in Table 2. Based on

the analysis it was observed that the depth of water over the Baliyatra ground during the propagation of Q_{25} flood exceeds its average formation level of 24.5 m, but is below the RL of ring road.

Table 2: List of villages expected to be affected during the passage of 25 year return period flood in periphery outer zones

Most Likely to be Affected Village List					
1.	Balipur	2.	Pahilabar	3.	Talagar
4.	Baula	5.	Lalitabisakhapur	6.	Chhagan
7.	Madhyakachha	8.	Agrahat	9.	Nuapatana
10.	Sankarpur	11.	Jhatia	12.	Shrirangapur
13.	Bhabadeipur	14.	Katkiasahi	15.	Jagannatarapur
16.	Nuwasas	17.	Mangalpur	18.	Ramshyampur
19.	Badasantarapur	20.	Jemadeipur	21.	Arilo
22.	Suniamunha	23.	Bhuinbarei	24.	Kotar
25.	Bandhahata	26.	Sarakuan	27.	Paikerapur
28.	Sardarkharida	29.	Brahmanbasta	30.	Nuagada
31.	Kalankipur	32.	Anantapur	33.	Prabatia
34.	Jagmohanpur	35.	Baghua	36.	Similihanda
37.	Badapadagaon	38.	Sanakakhadi		

6.2 Construction of the medical college and river front development as per norms

Based on the meeting taken by the committee with all the concerned agencies on 7th April, 2021 at Cuttack, the concept note on Mahanadi Waterfront Development describing the proposed construction activity was provided by Cuttack Development Authority (CDA). The same has been considered by the committee.

Based on the study, Baliyatra Ground comes under floodplain zone, therefore construction of structures of permanent type, as in column 2 of this Table 3 (priority-2) may be prohibited and only non-permanent structures may be allowed subject to strict adherences to the NDMA guidelines, Building Codes and others. These structures should be planned as far as away from the river water lines and active only during non-monsoon days so that there is no loss to the life and property.

Although most of the activities proposed in the CDA concept note fall under priority 3 and may be allowed following the guidelines, • however, a few construction activities like art galleries, museums etc. fall under priority 2 and therefore may not be permitted. The construction or extension of the Medical college has neither been proposed in the CDA note nor is it permissible as per NDMA Guidelines, as this kind of structure falls under Priority 1 activities.

Categorization of the construction activities proposed by the Cuttack Development Authority (CDA) under the Mahanadi Waterfront Development is provided in Table 3.

Table 3; Categorization of the construction activities proposed by the Cuttack Development Authority (CDA) under the Mahanadi Waterfront Development

Proposed Construction Activities	Priority 1	Priority 2	Priority 3
Public infrastructure such as parks, gardens, sports facilities			✓
Public infrastructure art galleries and museums		✓	
Roads with uniform travel lanes, shaded footpaths, designated cycle tracks, safe intersections and landscape and public			✓
Open air market, craft bazar, food stalls like Dilli Haat (New Delhi) & Ekamra Haat (Bhubaneswar) to promote local art &			✓
An open-air auditorium			✓
Bali Jatra grounds			✓

6. Appendix-2 annexed to the report about the scope of allowed and not allowed facilities is as follows:-

“Scope of the allowed and non-allowed facilities under Priority-1, 2 and 3

Categorization	Type of structures permitted as per NDMA Guidelines	Basis of Prioritization and guidelines	Study Recommendations (Joint Committee may decide on the Activities following NDMA guidelines)
Priority -1	<ul style="list-style-type: none"> • Defence installations • Industries • Public utilities like hospitals, electricity installations, water supply, telephone exchanges, aerodromes, railway stations, commercial centres, etc. 	Buildings should be located in such a fashion that they are above the levels corresponding to a 100- year frequency or the maximum observed flood levels. Similarly they should also be above the levels corresponding to a 50-year rainfall and the likely submersion due to drainage congestion.	Structures under Priority-1 of the NDMA Guidelines is not permitted in the Baliyatra Ground.

Priority -2	<ul style="list-style-type: none"> • Public institutions • Government offices • Universities • Public libraries • Residential areas 	<p>Buildings should be above a level corresponding to a 25-year flood or a 10-year rainfall.</p> <p>Stipulation that all buildings in vulnerable zones should be constructed on columns or stilts.</p> <p>(a) Plinth levels of all buildings should be 0.6 m above the drainage/flood submersion lines.</p> <p>(b) In the areas liable to floods, all the buildings should preferably be double and multiple storeys.</p> <p>(c) In urban areas ground floor to be utilised for non-residential purposes</p>	<p>Baliyatra Ground comes under floodplain zone, therefore construction of structures of permanent type, as in column 2 of this table (priority-2) may be prohibited.</p> <p>Baliyatra Ground is within floodplain area and therefore non-permanent structures may be allowed subject to strict adherences to the NDMA guidelines, Building Codes and others. These structures should be planned as far as away from the river water lines and active only during non-monsoon days so that there is no loss to the life and property.</p>
Priority -3	<ul style="list-style-type: none"> • Parks and playgrounds 	<p>Certain areas on either side of the existing and proposed drains (including rural drains) should be declared as green belts where no building or other activity should be allowed.</p> <p>This will not only facilitate improvement of these drains in future for taking discharges on account of growing urbanisation, but will also help in minimising the damage due to drainage congestion whenever rainfall of higher frequency than designed is experienced.</p> <p>These green belts, at suitable locations, can also be developed as parks and gardens.</p>	<p>Priority-3 activities such as developments of Parks, Playgrounds and creation of other facilities (such as Recreational Space, Urban Forests, Pedestrian Paths, Cycle Tracks, Solar Lighting, Rain Water Harvesting, Gardens, Footpaths, Cycle Tracks, Open Air Market, temporary Craft Bazar, Food Stalls, Open Air Auditorium) may be permitted following NDMA Guidelines in the Baliyatra Ground. These facilities should be active during non-monsoon periods so that there is no loss to the life and property.</p>

7. We have heard learned Counsels for the parties. Learned Counsel for the applicant submitted that **while the report considers**

engineering aspects in light of guidelines issued by National Disaster Management Authority, it does not consider ecological and hydrological aspects in terms of order of this Tribunal dated 15.12.2020 in O.A. No. 22/2020(EZ), Dilip Kumar Samantaray (Supra). Such consideration is essential for protection of flood plain zone and associated issues relating to the ecology, environment and biodiversity. Ecological vulnerability and combined hazard vulnerability are required to be studied in light of observation of this Tribunal in order dated 15.12.2020 and safeguards need to be identified for protection of the flood plains. It requires constitution of joint Committee comprising Experts in the field of Hydrology, remote sensing and Ecology.

8. We do not see any reason not to accept the suggestion for such further study to consider appropriate directions in the interest of environment. Accordingly, **we direct a joint Committee of seven Experts, with five members in the earlier Committee and two other Experts viz. Prof. C.R. Babu, eminent ecologist and environmentalist and Prof. P.C. Mishra, former Expert Member of NGT to undertake the study in light of above observations so as to include ecological and hydrological aspects and vulnerability, adding these components in the report and to make detailed recommendations identifying the steps required for protecting the flood plain zone and the environment within three months.** It will be open to the applicant as well as State of Odisha to place their respective view point before the Committee. CPCB will be the nodal agency to carry out the entire exercise. Report may be filed before the Tribunal on or before 30.04.2022 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF on or before 30.04.2022. Report may also be placed on the website of CPCB for response by any stakeholder before the next date of hearing.”

3. In pursuance of above, report dated 01.09.2022 has been filed by the Joint Committee constituted as per order dated 07.02.2022. The report mentions field visit undertaken on 17.04.2022, consideration of order of the Odisha High Court in WP(C) No. 20283/2011, order of this Tribunal in OA No. 47/2016/EZ, report of the Flood Pain Zoning by Prof. K.C. Patra, vision document of Cuttack Municipal Corporation and minutes of further meetings. The Committee also considered the submission of the advocates for the applicants and officials of Odisha Government. Relevant extracts from the concluding part of the report are as follows:-

“3.3 Conclusion

Based on the above mentioned field observations, the following conclusions are drawn:

1. **The 426 acre area is a dump of anthropogenic origin within the pondage area along the ring road (bund road) and is filled with solid waste and sand dredged from the exposed floodplain (shoals/ islands) of the pond.**
2. *The size of pond is vast and perhaps 3 to 5 km² and the dump is about 5 km length wise and <0.5-1.2 km widthwise.*
3. *There are evidences that **the area has been used for dumping for a long period and was encroached as evident by old trees and some of trees might have come up on their own from seeds brought by water. Heavy dumping of dredged sand took place resulting in the death of some trees and iron sheets of 8.5 mm thick and 12 m high were piled at two levels on the shoreline to prevent erosion of dumped material.** Recent dumping was also done on water bearing portion of the pond. The 1000 mm pipeline was standing short columns at one time but now seems standing on sand (Figure 15).*
4. **Time series of maps starting from 2007 to 2022 Google Earth also show water channels passing through the area and flooding of the area but photographs of 2021/ 2022 showed only sand.**
5. **In simple way, the 426 acre dump is on the floodplain of river Mahanadi in the upstream of Mahanadi barrage which resulted in the submergence of the area under water due to barrage.**

3.4 Consequences anticipated

What are the consequences of such dumps in the mouth of barrage?

- (i) *The impact of habitat vulnerability during once in 25 years flood and once 100 years flood events have been worked out by the Joint Committee based on the studies carried out by Prof. K. C. Patra and the Report was submitted to Hon'ble NGT: The objections to the studies carried by Prof K. C. Patra have been filed by the Odisha State Government at Hon'ble NGT and a copy of which was submitted to the Members of the Joint Committee for responses. The responses of K. C. Patra to the objection have been accepted by the Committee and included in the Report (**Annexure 6**).*
- (ii) *The hydrological impact and vulnerability of the dump are:*
 - (A) *possible reduction in the water quantity retained in the pond of the tune of $426 \times 4046 \times 6.50 \text{ m} = 11203374 \text{ m}^3 \times 1000 \text{ L} / \text{m}^3 = 11203374000 \text{ L} = 2463 \text{ MG}$,*
 - (B) *enhanced resistance to floodway of waters which result in the following hydrological and ecological vulnerability;*

- (a) *The floodwaters may breach embankments leading to flooding of the city and human habitations located along the embankments, particularly during the extreme events of flooding due to climate change, as it has happened in in the past not only in India but also outside India.*
- (b) *The floodwaters may result in washing away of the barrage leading to flashfloods in the downstream that not only submerge crop fields and washing away of villages but also drastically alter the downstream of river ecosystems, particularly floodplain ecosystems.*

3.5 Alternative options to protect the flood pain

1. *The Committee further deliberated on the following options to address the issues arising out of the dump area within the pondage of Jobra barrage.*

Option 1: *Remove 426 acre dump from the pondage and utilize the sand for construction purpose.*

Option 2: *Bring the entire mound to the level of lower iron sheet pile so that the area receives flood water, like other islands in the river and mitigate the impacts of flood water and also retain more water during monsoon and greater recharging of ground water. The Channels that used to exist can be easily revived.*

Option 3: *The extended Baliyatra ground (34 acres) may be retained without further expanding it and rising its height and use it as per the Hon'ble High Court Order (Honourable Odisha High Court, Cuttack in W.P(C) NO. 20283 of 2011 in the matter of The Nationalist Lawyers Forum Vrs State of Odisha and Ors.). The remaining part of the dump may be removed and no concretization nor compacting with gravel is permitted at Baliyatra ground.*

Option 4: *The whole area may be developed into greens with revival of channels buried under sand.*

Option 5: *Develop the area into a Biodiversity Park that includes revival of old channels, development of Recreational Parks and Bamboo huts that contain Natural History of the River Mahanadi and its people.*

Option 6: *Integration of Option 2 with Option 4.*

Option 7: *Integration of Option 2 with Option 5.*

4.0 Recommendations

Considering the above mentioned facts and figures, the Committee makes the following recommendations:

1. *The Hon'ble NGT may consider to immediately issue direction to Govt. of Odisha*
- i. *not to dump any solid material (sand and/or solid wastes etc.) nor undertake any activity in 426 acre area, including dredging of remaining islands in the pondage area.*
 - ii. *To remove all encroachments including unauthorized religious structure on the floodplain.*

2. **Although the members are of the view that the flood plain has been illegally reclaimed in the river bed and there has been violation of Hon'ble High Court Order, any attempt to restore it to original situation may create further problem and may not be economically feasible.** Therefore, Committee unanimously recommends that
- i. *the extended Baliyatra ground (34 acres) may be retained without further expanding it or raising its height and shall be used as per the Hon'ble High Court/ NGT Order as stated above.*
 - ii. *Neither concretization nor compacting with gravel be permitted at extended Baliyatra ground.*
 - iii. *The whole reclaimed land (426-34 = 392 acres) except the 34 acre of Baliyatra ground may be used for plantation with appropriate Local species and the area may be developed into a Biological park reviving the old channel buried under sand.*
 - iv. *The reclaimed land must not be used for any commercial use.*
3. *The Government of Odisha may also be directed to take necessary steps for floodplain zoning of major rivers in the State and secure them to prevent floods, particularly flash floods that cause community losses, loses of human lives and irreparable damage to river ecosystems."*

4. On behalf of the applicant an additional affidavit has been filed on 20.09.2022 *inter alia* stating as follows:-

- “8. *That 426 acres of land reclaimed from Mahanadi River is of Nadi Kisam land and it use to receive the water flow during monsoon and there used to be a channel adjoining the river embankment which has been buried under sand dump.*
9. *That the applicant humbly submits that the original status of the reclaimed area of 426 acres may be restored and the sand dumped be removed and used for construction purpose.*
10. *That the attempt of District Administration to reclaim the Mahanadi Riverbed and use of same for Baliyatra and other purposes may be restrained and the dumped sand be immediately removed so as to restore the original status of the land.”*

5. On behalf of the State of Odisha, objections have been filed by Collector, Cuttack on 20.09.2022. It is stated that in view of Odisha High Court order dated 27.02.2012 in WP(C) No. 20283/2011, bathymetric survey was to be done by IIT Madras and dredging and strengthening of protective embankment were to be undertaken. IIT Madras conducted

survey and submitted its report in June, 2015 regarding removal of shoal formation and deposition of sand locations. It recommended dredging and disposal of dredged material for reclaiming area of erosion. In the light thereof, steps were taken resulting in reclamation of low lying land on the bank of the river adjoining the ring road, using the dredged material under the supervision of the IIT Madras. In the process, 426 acres of land adjacent to City Protective Embankment around Cuttack (between new Baliyatra ground to Viewing Gallery near Maritime Museum) being the low-lying area has been filled upto 24.5m in terms of the directions issued by the Orissa High Court in WP(C) No. 20283/2021. The State has referred to CPCB report filed on 06.10.2021 and report of Technical Committee of Odisha about flood data dated 25.04.2022 and its objections dated 20.05.2022 to the report filed by CPCB on 04.10.2022. According to the State, seven member Committee report wrongly held the dredging to be illegal, overlooking Prof. K.C. Patra report that the dredging and embankments were in pursuance of order of High Court and studies. Thus, the 426 acres of reclaimed land cannot be restored back, as sought by the applicants. The State's proposal is to prepare a master plan for development of the reclaimed land as per its vision document as follows:-

“Vision: *To transform the quality of life for all in the Cuttack region by creating an Iconic Waterfront development on the 426 acres of reclaimed land that provides opportunities for live work-play supported by robust infrastructure, a resilient and responsive water edge and sustainable financial models.*

*The vision for the masterplan is guided by a **3 E principle: Environment, Economy and Equity** to attract and develop economic energies, provide for social and civic infrastructure for all and create a sustainable development which transforms Cuttack to a pull city from a push city.*

Based on the guiding principles, the masterplan development is divided into three parts:

Environment

- (i) *A buffer along the river edge is to be developed as a green eco sensitive recreational space for the city inclusive of floodable wetlands, bio diversity parks, urban forests etc.*
- (ii) *A hierarchy of green spaces connected to a large central open space is planned for along with a robust network of pedestrian paths and cycle tracks.*
- (iii) *Several zones in the masterplan will be demarcated as no-vehicular zones.*
- (iv) *Solar lighting, rain water harvesting and other smart technologies will be mandatory in the development*

Equity

- (i) *The masterplan will provide the residents of Cuttack and regional, national and international tourists equal access to world class public infrastructure such as parks, gardens, sports facilities, art galleries and museums*
- (ii) ***The entire area will be serviced by a hierarchy of roads with uniform travel lanes, shaded footpaths, designated cycle tracks, safe intersections and landscape and public space inclusion.***
- (iii) ***The masterplan will be serviced by robust networked infrastructure in terms of underground sewage, 24/7 water supply, uninterrupted access to power, telecom, and a sustainable solid waste management system.***

Economy

- (i) ***Portions of the masterplan will be developed as open air market, craft bazar, food stalls like Dilli Haat (New Delhi) & Ekamra Haat (Bhubaneswar) to promote local art & crafts as well as traditional works i.e. applique work, filigree work, Maniabandha Saree. Sambalpuri Sarees etc. to improve livelihood and create employment in the region.***
- (ii) ***100 acres will be reserved for the Bali Jatra grounds to hold the 9 day festival in November, and it will be used as a multifunctional events ground for the rest of the year.***
- (iii) ***An open air auditorium also shall be planned for performance of Odissi dance and other Indian dance forms to promote culture & tourism in the State. Some Stadia will be constructed for promoting sports.***
- (iv) ***As suggested by the Expert committee of Govt. of Odisha about 66 Acres of road side reclaimed land out***

of 426 Acres would be utilized for permanent construction.

An underlying principle and perhaps the most important of all is to build a strong link between the city and river, visually and physically with a nature responsive approach.

- (i) **The development will be volumetrically zoned to have terraced buildings, viewpoints and vistas to capitalise the proximity to the river.**
- (ii) *The river edge will be designed as a green edge with various edge engineering solutions to revive the riparian ecology and promote bio diversity.*
- (iii) *There shall be a green buffer zone i.e. no development zone which will protect the river and create a flood safe zone for the development*

The impact of the proposed development of the reclaimed land is to incrementally improve the economy, tourism and environment of Cuttack and create a space with improved access to all services and infrastructure as well as opportunity for a better quality of life of people staying in this millennium city.”

6. It is further submitted that:-

“43. Therefore, to implement the vision plan of the CDA for the development of the riverfront and enhance the life and livelihood of the people of the historic city of Cuttack, permanent construction activities as permissible under the NDMA Guidelines may be permitted on at least 1/3rd of the total area of such reclaimed land.

44. The balance 2/3rd of the total area of reclaimed land would be used for plantation of appropriate local species, development of a Bio-Diversity Park and other temporary constructions, as and when necessary.

45. *In this context, it may also be pertinent to note that the State Government has removed four unauthorised slums and a large number of unauthorised religious structures from the Hadiapatha and Bali Yatra area following its reclamation. Keeping this land vacant would also pose a perennial threat to its encroachment in future as this land is close to the city of Cuttack. in fact, the Objection Affidavit dated 20.05.2022 filed by the Superintendent Engineer, Mahanadi River Barrage states as follows:*

“10. ...It is apt to mention here that earlier the said area was under the occupation of slum dwellers. If the same portion would not be used for the purpose of public

utilities, the said area, in all probability, is likely to be occupied again by slum dweller.

46. Therefore, it would be in public interest to allow the State Government to make permanent constructions on, at least, 1/3rd land of the reclaimed area.

HOLDING OF BALI YATRA

47. In this regard, it is pertinent to note that an Original Application being OA No. 47 of 2016 was filed before the Hon'ble NGT, Eastern Bench, Kolkata. challenging inter alia organization of Bali Yatra.

48. In the said matter, the Hon'ble NGT, Eastern Bench, Kolkata in its judgment dated 16.10.2017 directed as follows:

"... There may be a probability of monsoon water of the river reaching the site. But the festival is held after onset of winter when the river flows beyond the designated site. Therefore, we are of the view that the age old tradition of organization such historic festival should continue provided the District Administration takes all preventive measures to ensure that the festival in no way affects the river ecology and contaminate the water body."

49. It is pertinent to note that the Bali Yatra festival is organized for a short duration of 9-10 days only during the month of November every year.

50. It is stated that all structures to be constructed for the purposes of Bali Yatra festival in this period would be temporary in nature.

51. The District Administration, in terms of the earlier order of the NGT, Eastern Bench in Q.A. 47 of 2016, undertakes to take all preventive measures to ensure that the festival in no way affects the river ecology and contaminate the water body including carrying out an extensive cleaning exercise to restore the area used for Bali Yatra festival to its pre-Yatra stage."

7. We have heard the learned Counsel for the applicants and learned Advocate General for the State of Odisha.

8. While, we are in agreement with learned Advocate General, supported by the view of the seven-member Committee Report that even restoration of reclaimed land is not viable. However, we find it difficult to

accept the proposal of the State by way of vision document/master plan for constructions in the reclaimed land which is established to be part of floodplain zone. There is clear anticipated danger of flooding. We are guided by 'precautionary principle' under section 20 of the NGT Act. We further agree with the recommendations of the Committee that while Baliyatra ground (34 acres) may be retained, though in floodplain zone, there should be no further expansion and no concretization or compacting of the said ground. Remaining 392 acres of land be used for plantation of local species and the area be developed into a Biological Park and no commercial use be allowed. State of Odisha may take steps for floodplain zoning of other major rivers.

9. Only modification/clarification to the recommendations which we make in the light of suggestion of the Advocate General is that reclaimed land that while 2/3rd of reclaimed land be developed as a dense forest, the remaining 1/3rd land may be developed as parks/playgrounds without any permanent or temporary constructions but without allowing any commercial activities. Parks may be maintained in accordance with the judgments of the Hon'ble Supreme Court in *Bangalore Medical Trust v. B.S. Muddappa*, (1991) 4 SCC 54 and *Lal Bahadur vs. UP*, (2018) 15 SCC 407. It is made clear that no concretization of any sort will be allowed in the entire 426 acres of land. While allowing Baliyatra in 34 acres of land, all due precautions for maintaining sanitation and hygiene shall be observed.

10. The State may adopt necessary safeguards for protection of 38 villages likely to be affected by floods in the periphery of Cuttack, identified in para 7 of the report of Prof. K.C. Patra of September, 2020, Annexure II to the report of the seven-member Committee. List of 38 villages find mention in quoted part of earlier order in para 2 above (Table 2).

11. Area where forest is to be developed may be handed over to the forest department, after demarcation. Rest of the area be maintained by concerned local body/Flood and Irrigation Department, as may be decided by the Orissa Government.

The applications stand disposed of accordingly.

If any grievance survives, aggrieved party will be free to take further remedies as per law.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Saibal Dasgupta, EM

Prof. A. Senthil Vel, EM

September 21, 2022
OA No. 68/2020/EZ with
MA No. 08/2020/EZ in
OA No. 47/2016/EZ
AVT

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO. 1440 OF 2025

STATE OF UTTARAKHAND & ORS.

APPELLANT(S)

VERSUS

NIRANJAN BAGCHI & ORS.

RESPONDENT(S)

O R D E R

1. We have heard Mr. Tushar Mehta, learned Solicitor General and Mr. Atmaram N S Nadkarni, learned senior counsel for the appellant - State of Uttarakhand.

2. The State of Uttarakhand is principally aggrieved by Paragraph Nos. 21 and 23 of the impugned order which are set out hereinbelow:

"21. The Chief Secretary, Government of Uttarakhand is directed to place the matter before the Government of Uttarakhand for initiating appropriate legislative and executive measures within one month for removal of the encroachments from the river bed/Flood Plain Zone of river Rispana for requisite compliance with the provisions of the Environment Protection Act, 1986, Rules made and Notifications issued under the same and directions given by Hon'ble Supreme Court and this Tribunal qua prohibition of construction within Flood Plain Zone.

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23. We also consider personal appearance of the Principal Secretary, Urban Development, Principal Secretary, Irrigation, Commissioner of Municipal Corporation, Dehradun, District Magistrate, Dehradun and Vice Chairman, Mussoorie Dehradun Development Authority to be essential for assisting this Tribunal in just and proper adjudication of the questions involved and they are accordingly directed to remain present before the Tribunal on the next date of hearing hereby fixed."

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NITIN TALWAR
Date: 2025.02.11
17:48:48 IST
Reason: 

Sumit

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3. The question before the National Green Tribunal (for short, the "Tribunal") was whether the 20 encroachments (which the State claims, came into being before 11.03.2016) are protected by the State Acts called Uttarakhand Reforms, Regularization, Rehabilitation and Resettlement and Prevention of Encroachment of the Slums located in the Urban Local Bodies of the State Act, 2016 and clause 5 thereof as well as the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018. The Tribunal has taken the view in the order that the notification dated 07.10.2016 of the Ministry of Water Resources, River Development and Ganga Rejuvenation issued under Sections 3, 4, 5, 9, 10, 11, 19, 20 and 23 of the Environment Protection Act, 1986 would prevail and in view of the Clause 6(3) thereof, the 20 admitted encroachments will also have no protection notwithstanding the acts of the State Legislature. In the light of the finding, necessary directions have been given to carry out legislative amendments and to issue executive directions thereof.

4. The contention of the State before us is that Clause 6(3) of the notification dated 07.10.2016 has a second proviso, which mandates that, for completed constructions, before removal, a review is to be done by National Mission for Clean Ganga. For the sake of convenience, Clause 6(3) is extracted in entirety hereinbelow:

"6. Prevention, control and abatement of environmental pollution in River Ganga and its tributaries.

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562

(3) 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:

Provided that in exceptional circumstances like natural calamities or religious events at traditional locations, temporary structures can be raised after prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee:

Provided further that in case any such construction has been completed, before the commencement of this Order, in the River Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga or its tributaries, and if that be so, it shall cause for removing them."

5. According to the learned Solicitor General and Mr. Atmaram N S Nadkarni, the Tribunal has not directed its attention towards the second proviso to Clause 6(3).

6. In view of the stand taken by the State, we permit the State to go back to the Tribunal and move a necessary application before the Tribunal, bringing to its kind attention the second proviso to Clause 6(3) and for seeking appropriate directions thereof. Let the needful be done within two weeks from today.

7. In the event of any adverse orders are made, we grant liberty to the State to come back to this Court against the said order and the impugned order as well.

563

8. The senior counsel undertakes that the application will be filed within two weeks. The impugned order is kept in abeyance for a period of three weeks.

9. The matter is disposed of in the above terms.

10. Pending application(s), if any, shall stand disposed of.

.....J.
(K.V. VISWANATHAN)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
FEBRUARY 10, 2025.

Sumit

[Signature]

[Signature]

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1440/2025

STATE OF UTTARAKHAND & ORS.

Appellant(s)

VERSUS

NIRANJAN BAGCHI & ORS.

Respondent(s)

(IA No. 31568/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 31569/2025 - STAY APPLICATION)

Date : 10-02-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) :

Mr. Tushar Mehta Sr. Adv., Solicitor General
Mr. Atmaram N S Nadkarni, Sr. Adv.
Dr. Abhishek Atrey, Adv.
Ms. Ambika Atrey, Adv.
Ms. Jyoti Verma, Adv.
Mr. Abhishek Atrey, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following

O R D E R

The matter is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

Item No. 10

Court No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**Original Application No. 102/2023
(I.A. No. 432/2024)

Neeraj Chhachhar & Anr.

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 10.01.2025

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

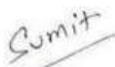
Respondent: Ms. Anjali Rajput, Adv. for the State of Uttarakhand
Ms. Ayushi Mishra, Adv. for R - 4 to 8.
Mr. Ankur Khandelwal & Ms. Sanya Panjwani, Adv. for R - 10.
Mr. Gigi. C. George, Adv. for NMCG
Mr. Mukesh Verma & Ms. Vatsala Tripathi, Adv. for UKPCB (Through VC).

ORDER

1. This Original Application (hereinafter referred to as "**OA**") was registered on a letter petition complaining that constructions of residential apartments have been made in violation of environmental norms and polluting material is being discharged directly in River Ganga.

2. Various orders have passed from time to time which included directions to the authorities concerned for demarcation of flood plain area/flood plain zone to ascertain whether construction in question has been raised in prohibited area or not.

3. District Magistrate, Haridwar has submitted its reply stating that flood plain area has been demarcated and concerned construction in question is beyond demarcated flood plain area. No copy of such demarcation order has been placed on record.



4. However, we find that in Para 6(3) of River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 (hereinafter referred to as "**River Ganga Order, 2016**"), the prohibition is as under:

"6. Prevention, control and abatement of environmental pollution in River Ganga and its tributaries:-

xxxxxx.....xxx
 (3) 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:

Provided that in exceptional circumstances like natural calamities or religious events at traditional locations, temporary structures can be raised after prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee:

Provided further that in case any such construction has been completed, before the commencement of this Order, in the River Bank of River Ganga or its tributaries or active flood plain area of River Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga or its tributaries, and if that be so, it shall cause for removing them."

5. Prohibition, therefore, is in respect of "active flood plain area" of river Ganga or its tributaries, but the said Order does not define the "active flood plain area" and instead it defines only "flood plain" as under:

*"(1) "**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;"*

6. Learned Counsel appearing for National Mission for Clean Ganga (hereinafter referred to as "**NMCG**") stated that the phrase "active flood plain" has not been defined, but could not explain as to how and to what extent and in what respect, the prohibition contained in Para 6(3) of

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River Ganga Order, 2016 shall apply and what shall be construed as “active flood plain area” of river Ganga or its tributaries.

7. Since we are not able to get proper assistance on this aspect, we find no option but to direct Director General, NMCG to appear on the next date of hearing and explain as to what does the phrase "active flood plain area" of river Ganga or its tributaries as mentioned in Para 6(3) of River Ganga Order, 2016 mean?

8. The District Magistrate, Haridwar shall also place on record the copy of the demarcation of “Flood Plain” in the area in question.

9. List on 14.02.2025.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

January 10, 2025
Original Application No.102/2023
(I.A. No.432/2024)
dv

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Medo
Mand. Appl. No. 102/2023

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(PRINCIPAL BENCH)**

IN THE MATTER OF:

OA NO 515 of 2024

GANGA POLLUTION VS STATE OF U.P & OTHERS.

INDEX

Sl No	Particulars	Page No
1	Response on behalf of the NMCG & CWC	1-6
2	Reference OM No.T-12/2017-18/268/NMCG dated 01.08.2017 (Annexure-1),	7-8
3	Study Report to identify and demarcate the flood plains of river Ganga. (Annexure-2)	9-30
4	Committee constituted vide O.M. Z-5/03/2106-FM-MoWR/2569-79 dated 28.11.2022(Annexure-3)	31
5	Reference letter dated 24.07.2024 from DoWR, RD&GR, Ministry of Jal Shakti seeking comments/observations from the States/UTs(Annexure-4)	32
6	Letter written by NMCG to Ganga basin States on 06.08.2024 (Annexure-5)	33-40

Place: New Delhi

Through

Dated: 11.09.2024

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DELHI HIGH COURT, NEW DELHI
Gigigeorge.adv42@yahoo.in
M- 9810625315
(NMCG & CWC)

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH

IN THE MATTER OF:

OA NO. 515/2024

GANGA POLLUTION VS STATE OF UP & OTHERS

Response on behalf of the National Mission for Clean Ganga (NMCG) and Central Water Commission in the matter of OA no 515/2023- Ganga Pollution Vs State of U.P & Others.

MOST RESPECTFULLY, IT IS SUBMITTED:

1. That in the aforesaid matter the Hon'ble NGT, amongst other, is considering the issue of demarcation of floodplain zone of river Ganga and its tributaries in the State of Uttar Pradesh (UP) and action to be taken by the concerned authorities to protect the floodplain zone.
2. That this Hon'ble Tribunal, while considering the matter, has invited attention to the provisions of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, especially Clause 3(l) defining floodplain, 3(c) buffer area, Clause 4(ix) restriction relating to construction in floodplain that responsibility to determine the floodplain zone primarily lies at the first instance with the authorities and thereafter action to be taken for protection of the floodplain zone.
3. That the State Government of UP had informed this Hon'ble Tribunal that the State of UP has adopted the criteria of interval of five years, twenty-five years and hundred years for the three zones while dividing the flood plains in three parts as under: -

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- Prohibited Zone: recurrence interval of 5 years.
 - Regulatory Zone: 25-year return period flood.
 - Warning Zone: 100-year return period flood.
4. That the Hon'ble Tribunal vide order dated 27.05.2024 has implead the following as respondents in the matter: -
- (i) Central Water Commission (CWC) through its Chairman;
 - (ii) National Mission for Clean Ganga (NMCG) through its Chairman.
5. NMCG sought opinion of CWC and Flood Management Wing of the DoWR, RD & GR in the matter to frame consolidated reply.
6. Hon'ble NGT vide its judgement dated 13th July, 2017 in the matter of M.C. Mehta vs Union of India, 200/2014 has, inter-alia, directed as follows:
- Being an integral part of the river, floodplain of the river requires protection. Floodplains play significant role in maintaining the bio-diversity and aquatic life of the river. It's significance cannot be overlooked, in terms of environment and ecology. There are numerous dimensions involved while identifying the floodplains.
 - It is required to categorize it into different zones, namely, No Development Zone, Regulated Zone and a Free Zone for development. The principle of Sustainable Development itself justifies the classification of floodplains into such zones for protecting the river. This Tribunal in the case of Manoj Misra (supra) had the occasion to deal with the concept of floodplain, its zoning and management. The Tribunal held as under:
 - a) Development and regulation of floodplain of Rivers falls within the purview of the State.

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- b) It is not possible to provide uniformity in the extent of floodplains with respect to different Rivers as well as its various reaches.
- c) Floodplain zoning has been accepted as an important non-structural strategy for flood management. The basic concept of floodplain zoning is to regulate land use of floodplains to restrict damage caused due to floods.
- d) The floodplain zoning, therefore, aims at determination of locations so that flood damages are reduced to minimum. A very restrictive activity can be allowed in that area. It is not only to protect the areas from damage resulting from floods and failure of water protective measures, but is also useful in reducing the damage caused due to drainage congestion, particularly in urban areas.

7. That in pursuance of the Hon'ble NGT order dated 13th July 2017 in respect of Phase-I, Segment 'B' of River Ganga from Haridwar to Unnao in the matter of OA No200/2014 (M.C. Mehta vs (UOI and Ors), the identification and demarcation of the flood plains was completed by a Special Committee constituted vide OM No.T-12/2017-18/268/NMCG dated 01.08.2017 (**Annexure-1**), for the purpose by the then Ministry of Water Resources, River Development and Ganga Rejuvenation under Chairmanship of Member (WP&P), CWC. The scope of work of the Special Committee was as follows:

- i. To identify and demarcate the flood plains of river Ganga in segment B of phase I on one in Twenty-Five Years cycle or appropriately; &
- ii. Identify no development/construction zone and regulatory zone and the activities that can/cannot be carried out in the regulatory zone of the floodplain.

That the Committee finalized its report and submitted to DoWR, RD&GR with identification of "No development zone and the regulatory zone" based on the flood recurrence interval of 5-year return period and 25-year return period floods respectively. (**Annexure-2**)

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8. That as far as flood management is concerned, flood plain zoning is considered as one of the major non-structural measures meant to regulate use of floodplains and thereby minimizing the flood risk and losses. Flood plain zoning regulates land-use or zoning policies which in turn regulates construction in these areas. Regulation of land-use in flood plains in turn also lead to reduction in pollution sources on river banks and maintain natural ground water recharge functions of the plains, Ministry of Jal Shakti has continuously impressed upon the States the need to adopt flood plain zoning approach.
9. That a model draft bill for flood-plain zoning legislation was also circulated by Central Water Commission (CWC) in 1975 to all the States. The bill envisages establishing flood plain zones and delineates the areas which are subject to flooding including classification of land with reference to relative risk of flood plain use intended to safeguard the health, safety and property of the general public. For this purpose, it provides for surveys of flood plains of the rivers to determine the nature and the extent of flood plains. To-date, the States of Manipur, Rajasthan, Uttarakhand, and erstwhile State of Jammu & Kashmir had enacted the legislation. Following the enactment of the Disaster Management Act, 2005, the Government of India (GOI) constituted the National Disaster Management Authority (NDMA) as the apex body for Disaster Management (DM) in India with the mandate, inter alia, for laying down policies and guidelines on disaster management. National Disaster Management Guidelines for Management of Floods, January'2008 also advocates adoption of Flood Plain Zoning as an important measure to manage the flood and its risks.
10. In order to enable States to undertake scientific assessment of flood plains and its zoning, need of technical guidelines on the subject has been felt. Accordingly, DoWR, RD&GR, Ministry of Jal Shakti constituted a committee, vide O.M. Z-5/03/2106-FM-MoWR/2569-79 dated 28.11.2022, under Member (RM), CWC for formulation of 'Technical Guidelines on Flood Plain Zone.' (**Annexure-3**). The Committee took into consideration practices which are being followed in other countries wherever regulation of flood plain has been enacted



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and enforced. The Committee has submitted its report to the DoWR, RD&GR which is under consideration of Government.

11. That as per the report, a river's floodplain is the low-lying land adjacent to a river and is prone to flooding and generally conforms to a flood of frequency of one in a hundred years. To minimize the damages due to floods and to protect the pristine nature of the river, there is a need to regulate the activities in the flood plain of the river. The report proposes flood-plain zoning conforming to flood of frequency of one in a hundred years. However, considering areas conforming to one in hundred year flood will be huge, especially in plain and flat areas, the Committee proposed that the entire flood plain area further needs to be divided in different zones depending upon its proximity to the river banks, type of developmental activities that can be permitted and the nature of settlement in the area i.e. rural, or urban.
12. That the Committee has proposed division of flood plain into 3-zones for urban settlement and into 2-zones for rural settlement:
 - Prohibited Zone: with limits conforming to 5-year return period flood
 - Regulatory Zone: with extent up to 25-year return period flood beyond extent of prohibited zone.
 - Warning Zone: with extent up to 100-year return period flood beyond extent of Regulatory Zone (for urban areas only).
13. That the DoWR, RD & GR, Ministry of Jal Shakti has sought comments/observations from State Govts on the report, as cited at Para12 above. Thus, it is submitted that the matter is under deliberations of the Ministry. *(Annexure-4)*;
14. That the NMCG, from time to time, has been advising all the states governments in Ganga basin for demarcation, delineation and notification of river flood plains and removal of encroachment from the riverbed/floodplain of



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the river Ganga and its tributaries in accordance to the provisions of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016. In this context, a letter written to Ganga basin states on 06.08.2024 is placed at Annexure-5.



11.09.2024

Anup Kumar Srivastava
Executive Director (Tech)

अनूप कुमार श्रीवास्तव/Anup Kumar Srivastava
कार्यकारी निदेशक (तकनीकी)/Executive Director (Technical)
राष्ट्रीय स्वच्छ गंगा मिशन/National Mission for Clean Ganga
सफाई संसाधन, नदी विकास और गंगा संरक्षण विभाग
Dept of Water Resources, River Development and Ganga Rejuvenation
जल शक्ति मंत्रालय /Ministry of Jal Shakti
सर्वोच्च सरकार, नई दिल्ली /Govt. of India, New Delhi

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T-12/2017-18/268/NMCG
National Mission for Clean Ganga
Ministry of Water Resources, River Development &
Ganga Rejuvenation

1st Floor,
Major Dhyan Chand National Stadium
India Gate, New Delhi-110002
Dated: 1st August, 2017

OFFICE MEMORANDUM

Subject: Constitution of Special Committee in the matter of O.A. No. 200 of 2014 – M.C. Mehta Vs Union of India & Ors before the Hon'ble NGT, New Delhi.

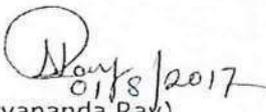
In pursuance to the directions contained in the judgment passed by Hon'ble NGT on 13th July 2017 in respect of Phase-I, Segment 'B' of River Ganga (Haridwar to Unnao), a Special Committee is hereby constituted as below:

- | | |
|---|------------------|
| (i) Sh. S Masood Husain, Member (WP&P), Central Water Commission | Chairman |
| (ii) Commissioner (FM), Ministry of Water Resources, River Development & Ganga Rejuvenation | Member |
| (iii) Chairman, Ganga Flood Control Commission | Member |
| (iv) Additional Chief Secretary, Revenue Department, Uttar Pradesh | Member |
| (v) Principal Secretary, Irrigation & Water Resources Department, Government of Uttar Pradesh | Member |
| (vi) Executive Director (Technical), National Mission for Clean Ganga | Member |
| (vii) Director, National Institute of Hydrology | Member |
| (viii) Sr. Joint Commissioner (PP), Ministry of Water Resources, River Development & Ganga Rejuvenation | Member Secretary |

The scope of the Special Committee shall be as follows:

- a. Identify and demarcate the flood plains of river Ganga in Segment B of Phase I on one in twenty five years cycle or appropriately.
- b. Identify no development/construction zone, regulatory zone and the activities that can be/cannot be carried on in the regulatory zone of the floodplain.

This issues with the approval of Competent Authority.


 (Nityananda Ray)
 Deputy Secretary

Sumit



W.P.L.

To:

1. Sh. S Masood Husain, M (WP&P), Central Water Commission, Sewa Bhawan (S), R.K. Puram, New Delhi- 110066
2. Commissioner (FM), Ministry of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhavan, Rafi Marg, Sansad Marg Area, New Delhi- 110001
3. Chairman, Ganga Flood Control Commission, Ministry of Water Resources, Govt. of India. 3rd Floor, Sinchai Bhawan, Patna, Bihar - 800 015
4. Additional Chief Secretary, Revenue Department, Lucknow, Uttar Pradesh-226001
5. Principal Secretary, Irrigation & Water Resources Department, Government of Uttar Pradesh, Cantt Road, Udaiganj, Lucknow, Uttar Pradesh - 226001
6. Executive Director (Technical), National Mission for Clean Ganga, 1st Floor, Major Dhyan Chand National Stadium, India Gate, New Delhi- 110002
7. Director, National Institute of Hydrology, Roorkee- 247667, Uttarakhand, India.
8. Sr. Joint Commissioner (PP), Ministry of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhavan, Rafi Marg, Sansad Marg Area, New Delhi- 110001

Copy for kind information to:

1. PPS to Secretary, Ministry of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhavan, Rafi Marg, Sansad Marg Area, New Delhi -110001
2. PS to Joint Secretary (PP), Ministry of Water Resources, River Development & Ganga Rejuvenation, Shram Shakti Bhavan, Rafi Marg, Sansad Marg Area, New Delhi -110001
3. PS to Director General, NMCG
4. PS to Deputy Director General, NMCG
5. PS to ED (Project/Finance/Admin), NMCG

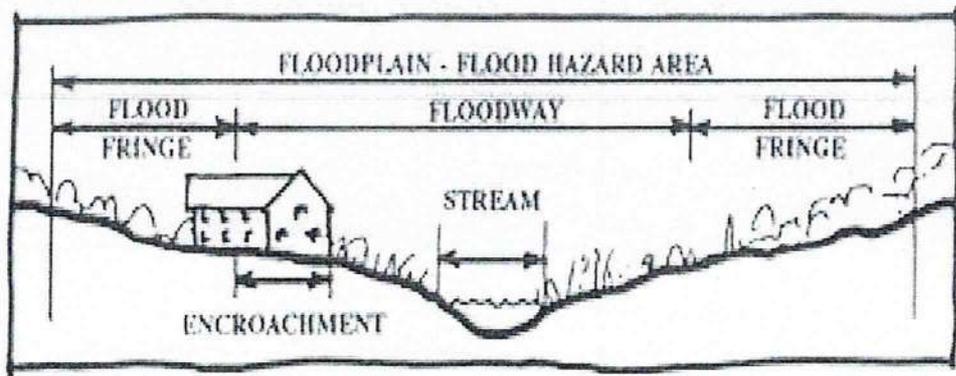
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**STUDY TO IDENTIFY AND DEMARCATÉ
THE FLOOD PLAINS OF RIVER GANGA
IN SEGMENT B OF PHASE I
(HARIDWAR TO UNNAO)**



**Ministry of Jal Shakti
Department of Water resources, River development & Ganga Rejuvenation**

CONTENTS

1 INTRODUCTION.....4

1.1 BACKGROUND.....4

2 DATA USED.....5

3 SOFTWARE USED6

3.1 MIKE FLOOD6

3.2 ARCGIS6

4 METHODOLOGY.....6

4.1 FLOOD FREQUENCY ANALYSIS.....6

4.2 SATELLITE DATA SELECTION.....7

4.3 DIGITAL ELEVATION MODEL SELECTION7

4.4 DEM REFINEMENT.....8

4.5 MODELLING METHODOLOGY9

5 APPROACHES ANALYZED FOR FLOOD PLAIN DEMARCATION.....10

5.1 FLOOD PLAIN DEMARCATION BASED ON SATELLITE DATA/IMAGES.....10

 5.1.1 NO DEVELOPMENT10

 5.1.2 REGULATORY ZONE11

5.2 MODEL BASED FLOOD PLAIN DEMARCATION.....12

5.3 HYBRID APPROACH FOR FLOOD PLAIN DEMARCATION.....132

6 FINAL FLOOD PLAIN DEMARCATION.....15

7 ASSUMPTIONS AND LIMITATIONS.....17

8. ACTIVITIES IN FLOOD PLAIN ZONE.....19

8.1 NO DEVELOPMENT ZONE.....20

8.2 REGULATORY ZONE.....21

9 CONCLUDING REMARKS.....22

Sumit

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List of Tables

Table 1: Flood Frequency Analysis..... 7
Table 2: Spot Height Analysis..... 8

List of Figures

Figure 1: DEM refinement –River Bathymetry 8
Figure 2: Model Setup 9
Figure 3: No Development zone based on Satellite datasets..... 10
Figure 4: Satellite derived Floodplain- Outer extent of Regulatory Zone 11
Figure 5: Floodplain Demarcation based on Model Result..... 12
Figure 6: Model Based Flood Plain Demarcation with Gap filling..... 13
Figure 7: Flood plain Demarcation based on Hybrid Approach..... 14
Figure 8: Final Flood Plain based on Ground Truth Verification..... 16
Figure 9: Land Use Land Cover Map for No Development Zone..... 17
Figure 10: Land Use Land Cover Map for Regulatory Map..... 18

Sumit

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**Report on identification and demarcation of the flood plains of river Ganga
in segment B of Phase- I (Haridwar to Unnao)**

1. INTRODUCTION

Floods constitute one of the major national calamities faced by India almost every year resulting in substantial loss of life, large scale damage to property, disruption of community lifelines besides entailing untold misery to the millions. Concerted efforts have been made over the years to reduce the damage due to floods and mitigate the sufferings of the people. Various structural flood control measures were taken up in the past including construction of reservoirs, embankments, drainage channels, etc. It is, however, now realised that absolute and permanent protection to all flood prone areas and for all magnitudes of floods by structural measures alone is not only impossible but also not economically viable. The emphasis has therefore been rightly shifted to non-structural measures like Flood Plain Zoning and Regulation, Flood Forecasting, etc., to effectively supplement the structural measures for providing sustainable protection to flood affected areas.

The broad concept in flood plain zoning is to regulate the land use in order to mitigate the damage potential. The role of flood plains and need for flood plain zoning was recognised by the Central Water Commission (CWC) as early as 1975. CWC had prepared a Model Floodplain Zoning Bill for adaptation by states but it did not receive due attention of states.

1.1 BACKGROUND

In pursuance to the directions contained in the judgment passed by Hon'ble NGT on 13th July 2017, in respect of Phase-I, Segment 'B' of River Ganga (Haridwar to Unnao), Ministry of Water resources, River development & Ganga Rejuvenation constituted a special committee vide OM T-12/2017-18/268/NMCG dated 01.07.2017 (copy enclosed as Annexure-1) with following scope:

- a) Identify and demarcate the flood plains of river Ganga in segment B of Phase- I on one in twenty five year's cycle or appropriately.
- b) Identify no development /construction zone, regulatory zone and the activities that can be /cannot be carried on in the regulatory zone of the floodplain.

The first meeting of the committee was held under the chairmanship of Member (WP&P), CWC on 05.12.2017 (Annexure-2), wherein it was decided to constitute a core group to carry out following task:

- Data collection and compilation of available information

- Identification of flood event dates corresponding to 2, 5, 10, 25, 50, 100 return period and supplying the same to NRSC for further analysis
- Processing of collected information

Using the available datasets and latest modelling techniques, a presentation on flood plain demarcation for the reach from Haridwar to Unnao was made to the committee during the second meeting held at CWC HQ on 30th January 2018 (Annexure-3). The committee decided to prepare an interim report based on the analysis done so far mentioning the assumption made and/or limitations of the study.

Further on the basis of the discussion held during the third meeting held on 23rd April, 2018 (Annexure-4), it was decided to re-examine the flood frequency analysis and validate the study by incorporating details of embankments, cross-section of river at every 5 Km interval upto 1 m above HFL, to be provided by Irrigation department, Govt. of U.P.

During the 4th meeting held on 22nd April, 2019 (Annexure-5), the core group presented 3 types of flood demarcation analysis viz. Fully based on Satellite, Fully based on Model with DEM reconditioning and Hybrid approach. It was decided to carry out the ground truth verification by Irrigation department, Govt. of U.P. in consultation with core group/ officers in field offices of CWC/ GFCC

In compliance to the decision taken in the 4th meeting, the ground truth verification was done in 3 phases i.e. (from 07.05.2019 to 08.05.2019, 15.05.2019 to 17.05.2019, 11.06.2019). The report of the same is enclosed as Annexure-6.

Subsequent to completion of exercise of ground truth verification, the report was revised on the basis of the recommendations of the joint team constituted for ground truth verification. The report, including the activities that can be/cannot be carried out in the No development / Regulatory zones of the floodplain, was presented during the 5th meeting of the Special Committee held on 29th August 2019.

Taking into consideration the findings of ground truth report, embankment data provided by U.P. Govt., other datasets/information and comments of the participants received during the 5th meeting, the report on demarcation of floodplains along with the activities to be carried out in such demarcation zones has been finalized.

2. DATA USED

Following data/information was used:

- 90m Digital elevation model (DEM) from Shuttle Radar Topography Mission (SRTM) of United States.
- Analyzed Satellite datasets of Joint Research Commission- European Commission for the period from (1984-2015)

- Cartosat 30 m DEM from Indian Space Research Organization (ISRO)
- Historical Annual Peak discharge data of CWC sites.
- Satellite images of flood events from National Remote Sensing Centre.
- Embankment data provided by Irrigation Department, Govt. of U.P.

3. SOFTWARE USED

3.1 MIKE FLOOD

It includes a wide selection of specialized 1D and 2D flood simulation engines, enabling to model any flood problem - whether it involves rivers, floodplains, flooding in streets, drainage networks, coastal areas, dams, levee and dike breaches, or any combination of these. MIKE FLOOD is capable to generate dynamic flood depth maps and velocity distribution (spatially) maps of flood water propagation.

There are several advantages of applying models like MIKE FLOOD. It provides more reliable and accurate flood maps and flood hazard maps, than simpler methods like superimposing static water level maps on topographic maps. It simulates water levels accurately taking into account backwater effects from e.g. obstructions on the flood plain, and simulates correctly pathways, which may not necessarily be the shortest and direct distance between e.g. the river and the point of concern.

This technique requires a fine resolution land terrain model. The land terrain model, HD model are dynamically linked in MIKE FLOOD, and generate flood depth map and flood velocity map in every time step of its computation process.

3.2 ARCGIS

It is a geographic information system (GIS) for working with maps and geographic information. It is used for creating and using maps, compiling geographic data, analyzing mapped information, sharing and discovering geographic information, using maps and geographic information in a range of applications, and managing geographic information in a database.

4. METHODOLOGY

All the relevant information were collected from various agencies and then analyzed in the following manner:

4.1 FLOOD FREQUENCY ANALYSIS

The flood frequency analysis was carried out by Hydrology North, CWC. Various distribution viz. 2-Parameter log Normal, 3-Parameter log Normal, 2-Parameters Gamma, Log Pearson Type-III and Gumble have been used to derive return period flood and details of which are mentioned in Annexure-9. The average historical data availability was around 40 years. The results are shown in Table 1.

Table 1: Flood Frequency Analysis

S.No	Station	Distribution	Magnitudes (m ³ /s) for different return period flood					
			2 yr	3 yr	10 yr	25 yr	50 yr	100 yr
1	Rishikesh	Gumbel	5240	6286	8914	10763	12135	13497
2	Garhmukteshwar	2-Parameter log Normal	4631	5535	7870	9555	10832	12125
3	Kachla Bridge	Gumbel	6140	7168	9751	11569	12917	14255
4	Fatehgarh	Gumbel	4594	5737	8608	10628	12126	13614
5	Ankinghat	Log Pearson III	7117	8597	11687	13377	14426	15326
6	Kanpur	2-Parameter Gamma	7984	9506	13057	15348	16962	18507

4.2 SATELLITE DATA SELECTION

1. Based on the CWC records, dates for some high flood events in the recent past were identified for collecting satellite imagery data from NRSC.

NRSC provided satellite images for two flood events dated on 18-19 June 2013 and 23rd & 25th September 2010 through their web messaging service (WMS). Using GIS software, outer envelope of flood extent was digitized manually.

2. Joint Research Centre- European Commission have analyzed Landsat multispectral Satellite images of past 31 years (1984-2015) for deriving frequency with which water returns from year to year i.e. recurrence interval. The same has been used in the study through Google Earth Engine platform.

4.3 DIGITAL ELEVATION MODEL SELECTION

SRTM 90 m and Cartosat 30 m DEM available in public domain were considered for the study area. The Cartosat data downloaded from the NRSC website was vertically referenced to some other vertical datum which was further corrected to the desired projection as informed by NRSC in the third meeting. It was noticed that SRTM 90 m DEM was relatively better representing elevation value and was therefore selected for use in the model. Given the hardware and software available with the core group and size of the study area, the 90m resolution was found to be more optimal for simulation. The comparison of elevation values of few selected stations in the study area is shown in Table 2:

FTable 2: Spot Height Analysis

Station	Spot Heights(m)		
	SRTM	Cartosat	Difference
Ankinghat	127	121.6	5.4
Garhmuketshwar	201	199	2
Fatehgarh	138	135.8	2.2
Kachhalabridge	161	164.5	-3.5
Kanpur	115	111.5	3.5
Haridwar	294	293.7	0.3

Further, core group also referred few research papers and it was found that SRTM is widely used in the scientific community as its spot height accuracy seems to be good for all kind of terrains as mentioned in the paper (Annexure-10).

4.4 DEM REFINEMENT:

SRTM DEM 90 m was further processed to improve the river profile below the water surface, since SRTM does not capture the same. To achieve this, lean season satellite imageries for last 30 years, representing the river portion only was adjusted according to the average mean depth based on the cross section data of CWC at six gauging locations.

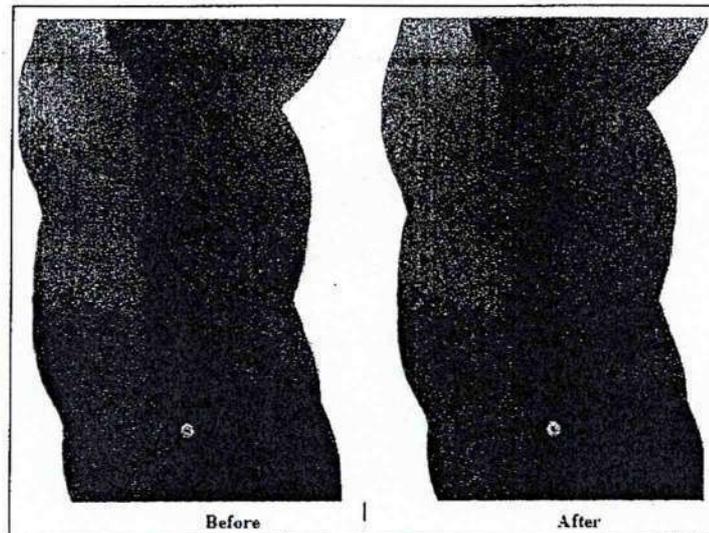


Figure 1: DEM refinement -River Bathymetry

4.5 MODELLING METHODOLOGY

Using the SRTM 90m DEM and the outputs of flood frequency analysis, a coupled hydrodynamic model - one dimensional (1D) and two dimensional (2D) was setup (Figure 1).

The details of setup are as under :

- Upstream branch to provide constant flood magnitude equal to the given return period at rishikesh using a 1D model.
- Downstream branch for draining the flow from dalmu using a 1D model.
- Flood plain bathymetry for routing the flows between rishikesh and dalmu using a 2D Hydrodynamic modeling.
- Five flow locations (Garhmukteshwar, Kachla Bridge, Fatehgarh, Ankinghat and Kanpur) in 2D model for maintating constant river flows equal to the given return period flood magnitude.
- 2D domain was represented by finite difference rectangular grid (MIKE 21 "classic")

Steady state analysis was performed to workout the extent of floodplain for various return period flood.

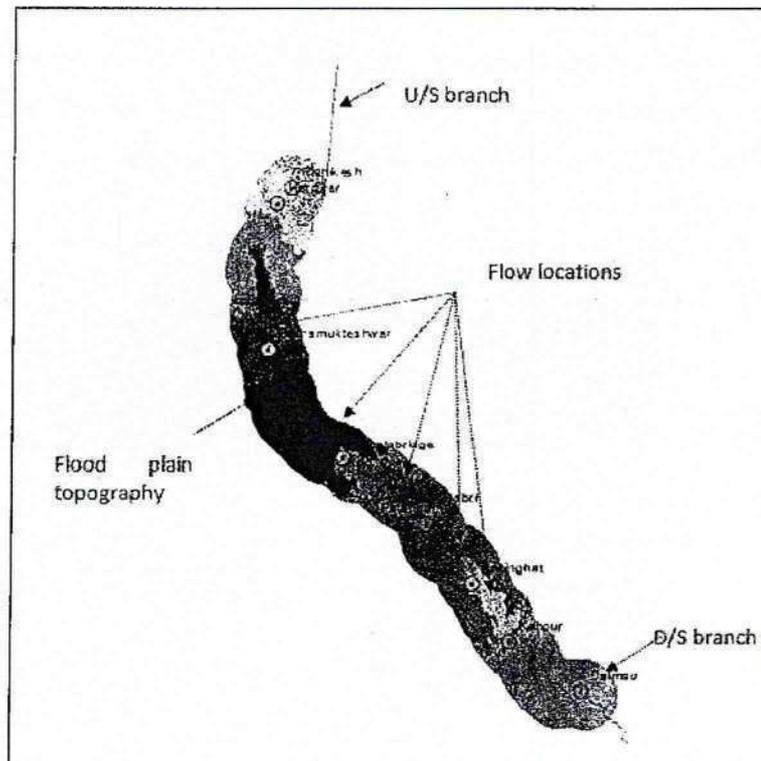


Figure 2: Model Setup

5. Approaches analyzed for flood plain demarcation

5.1 Flood Plain Demarcation based on Satellite Data/Images

5.1.1 No Development Zone

Satellite data of past 31 years (1984-2015) of JRC (Joint Research Centre-European Commission) was taken for study to demarcate flood boundary based on recurrence interval. It was found that the flood extent corresponding to recurrence interval of 2, 3 & 5 years were most frequent with little difference in spatial extent. This was mainly due to presence of embankment and braided nature of the river. It was thus considered most appropriate for No-Development Zone which is also in-line with the NDMA guidelines for *Management of floods, 2008*.

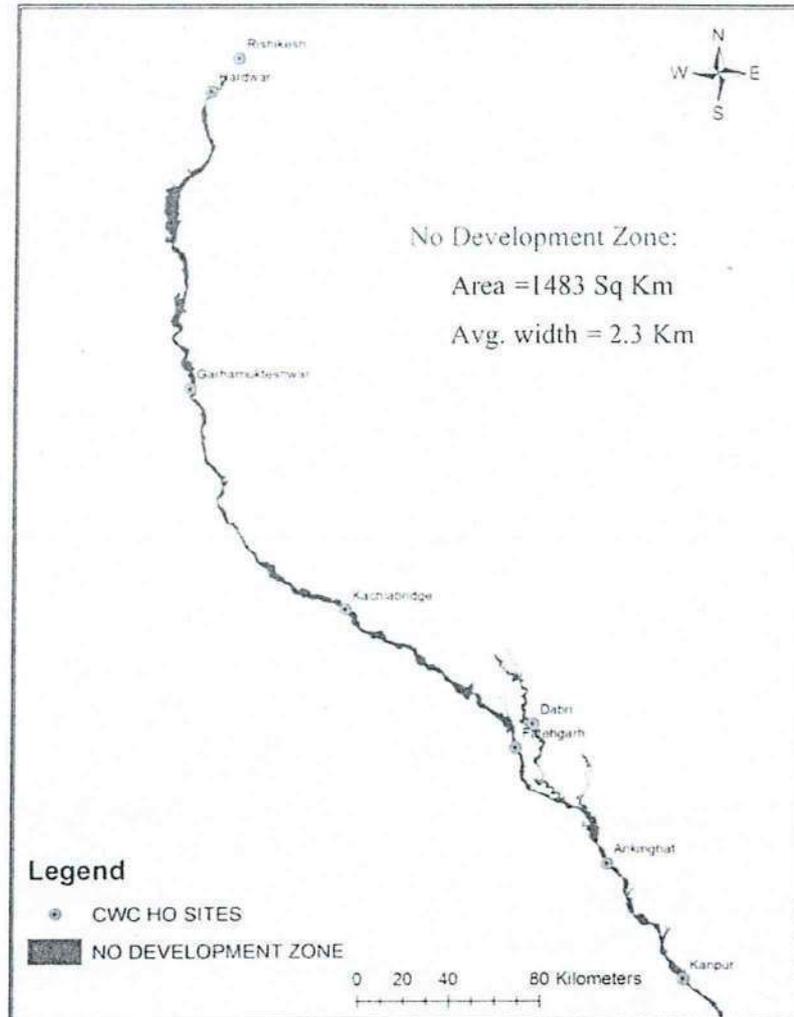


Figure 3: No Development zone based on Satellite datasets

5.1.2 Regulatory Zone

Outer envelope of flood extent on the satellite images provided by NRSC was digitized manually. The outer extent of Satellite images for two flood events dated on 18-19 June 2013 and 23rd & 25th September 2010 which was found to be near to 25 year return flows has been considered for as **Regulatory Zone demarcation**. This accounts for both protected i.e. embanked as well as unprotected flood plain area in the study reach.

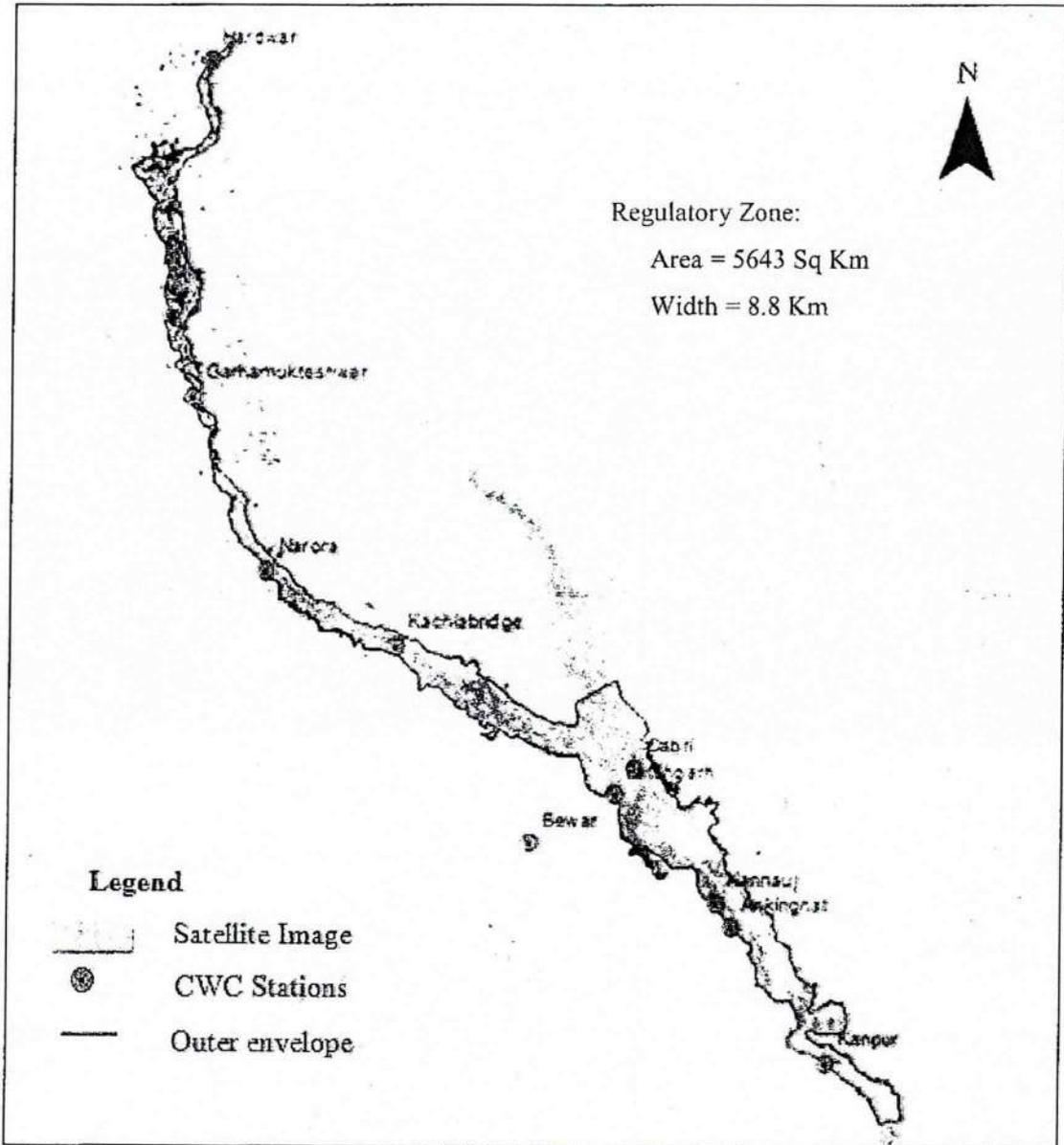


Figure 4: Satellite derived Floodplain- Outer extent of Regulatory Zone

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5.2 Model based Flood Plain Demarcation

The SRTM 90m DEM used for modeling was further processed to cater for the sub-surface river bathymetry which was not accounted in the original DEM. The final model results show many small islands within the flood extent causing inundation gaps. These gaps have been filled to get final inundation area.

No Development Zone - Based on 2-Year Return Period Flood (without Embankment)

Regulatory Zone – Based on 25 Year Return Period Flood (without Embankment)

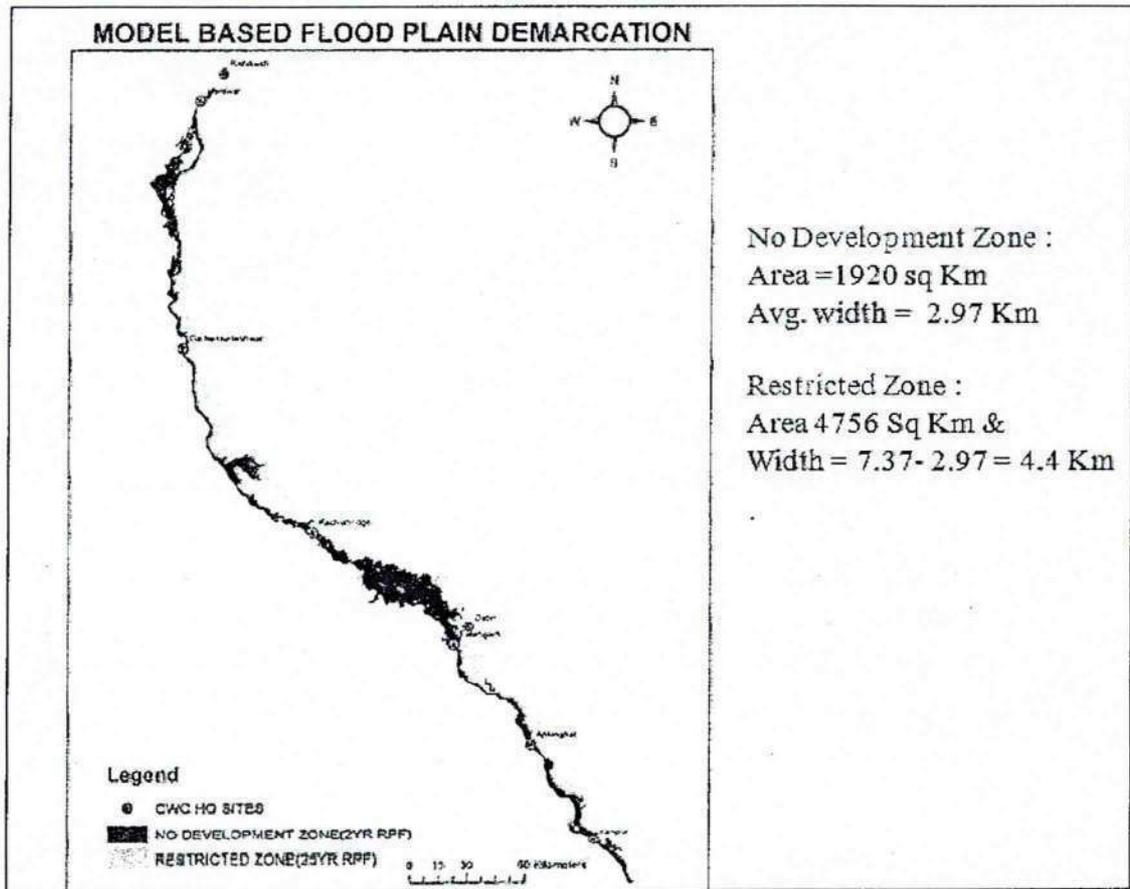


Figure 5: Floodplain Demarcation based on Model Result

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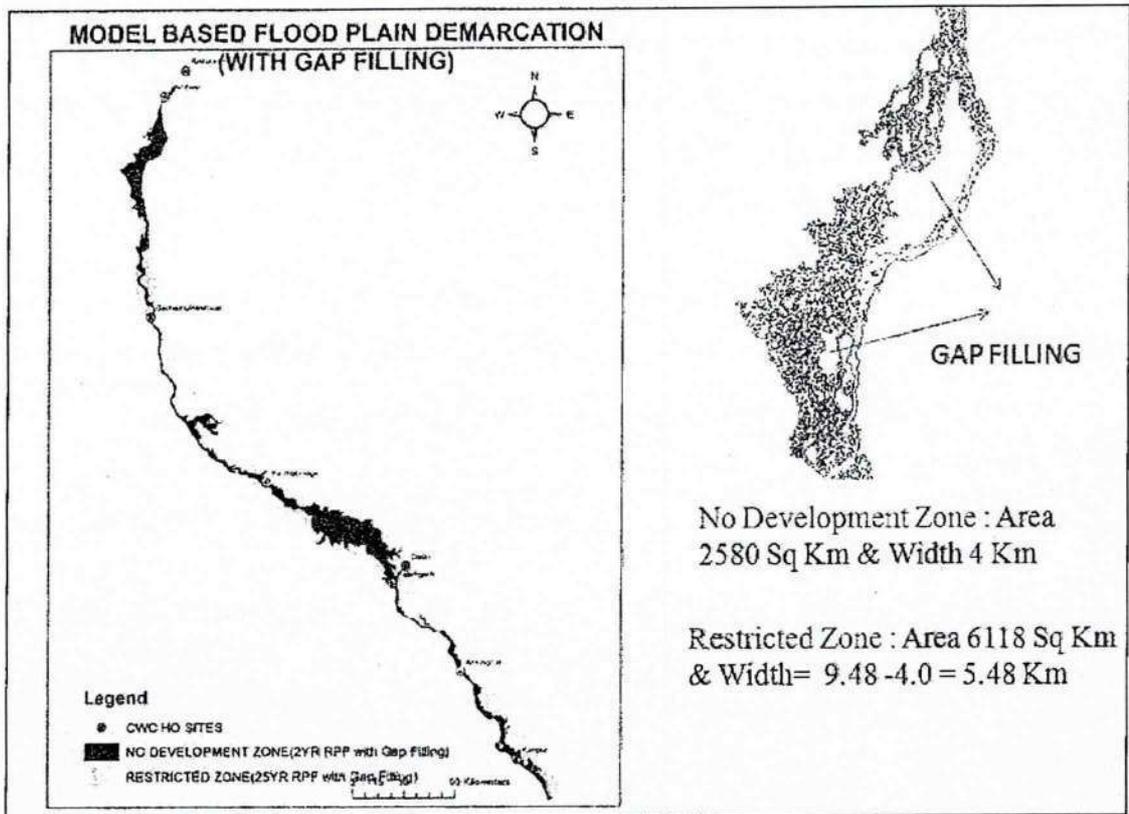


Figure 6: Model Based Flood Plain Demarcation with Gap filling

5.3 Hybrid Approach for Flood Plain Demarcation:

The results of satellite analysis and modelling have their own limitation. Satellite may not cover the full flood event and model results are subjected to DEM quality. Therefore hybrid approach has been adopted by combining both the results by taking union of the areas obtained from both the results.

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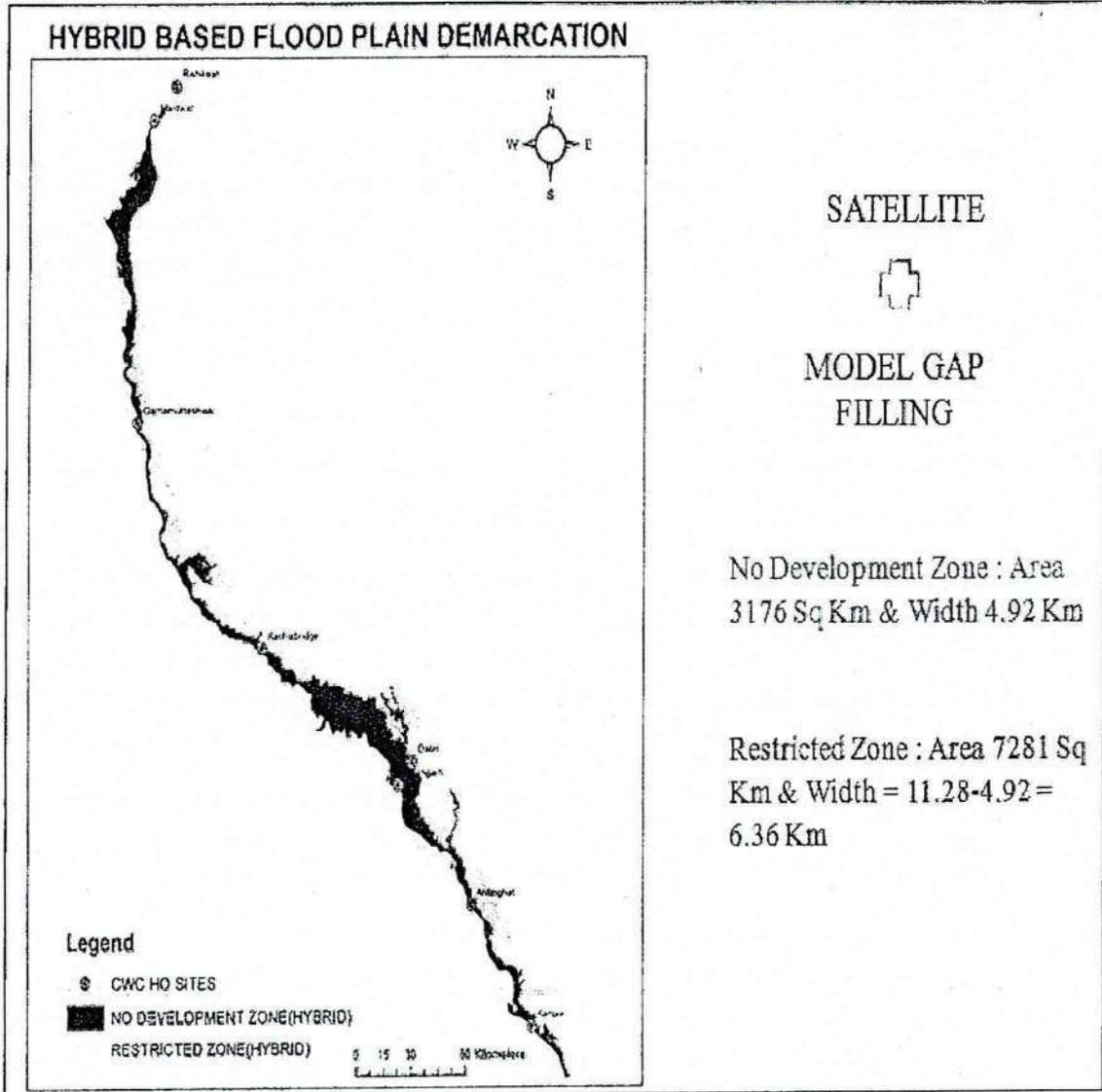


Figure 7: Flood plain Demarcation based on Hybrid Approach

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6. FINAL FLOOD PLAIN DEMARCATION

As decided during the 4th meeting, the Hybrid based Flood Plain Demarcation combining results of satellite imageries and model with gap filling were shared with I&WRD, Govt. of UP, regional offices of CWC/GFCC for ground truth verification jointly near all important cities/municipalities/major habitations. Subsequently, ground truth verification was carried out by the team consisting of officials from Central Water Commission, Ganga Flood Control Commission, National Institute of Hydrology and State Government of Uttar Pradesh and Uttarakhand in following three segments:

Segment-I from 07.05.2019 to 08.05.2019 in reach Haridwar to Bijnore.

Segment-II from 15.05.2019 to 16.05.2019 in reach Kannauj to Kanpur/ Unnao.

Segment-III from 11.06.2019 in reach Brajghat/Garhmukteshwar to Narora.

During the ground truth verification exercise, the committee members used the Google Earth mobile application platform for overlaying all the results i.e. Satellite, Model and Hybrid in KML format so that they could compare the result location on mobile application with the actual ground location and marks the difference. Besides this, during the visits, the information available from local residents was also gathered to verify the results.

No development zone demarcated using satellite data was found to be more or less confirming to the ground reality. The same has been selected and finalized further by incorporating the details of embankments, bunds collected from U.P. Govt.

The final average satellite based No Development Zone width i.e. 3.15 Km has been arrived through refining the previous No Development zone by incorporating the findings of ground truth verification report such as gap-filling, correcting the bank lines, smoothening the outer edges, and extending the No Development zones upto the embankment line where ever applicable. This resulted in increase of area of No Development Zone from 1483 Sq.Km. to 2032 Sq. Km., consequently, increasing the average width from 2.3 Km to 3.15 Km.

Similarly, the satellite based average Regulatory Zone width i.e. 10.12 Km has been arrived through refining the previous Restricted Zone by taking the union of satellite area provided by NRSC and the newly defined No Development Zone and smoothening the outer edges. This has again resulted in increase of area from 5643 Sq.Km. to 6530 Sq.Km., consequently, increasing the average width from 8.8 Km to 10.12 Km.

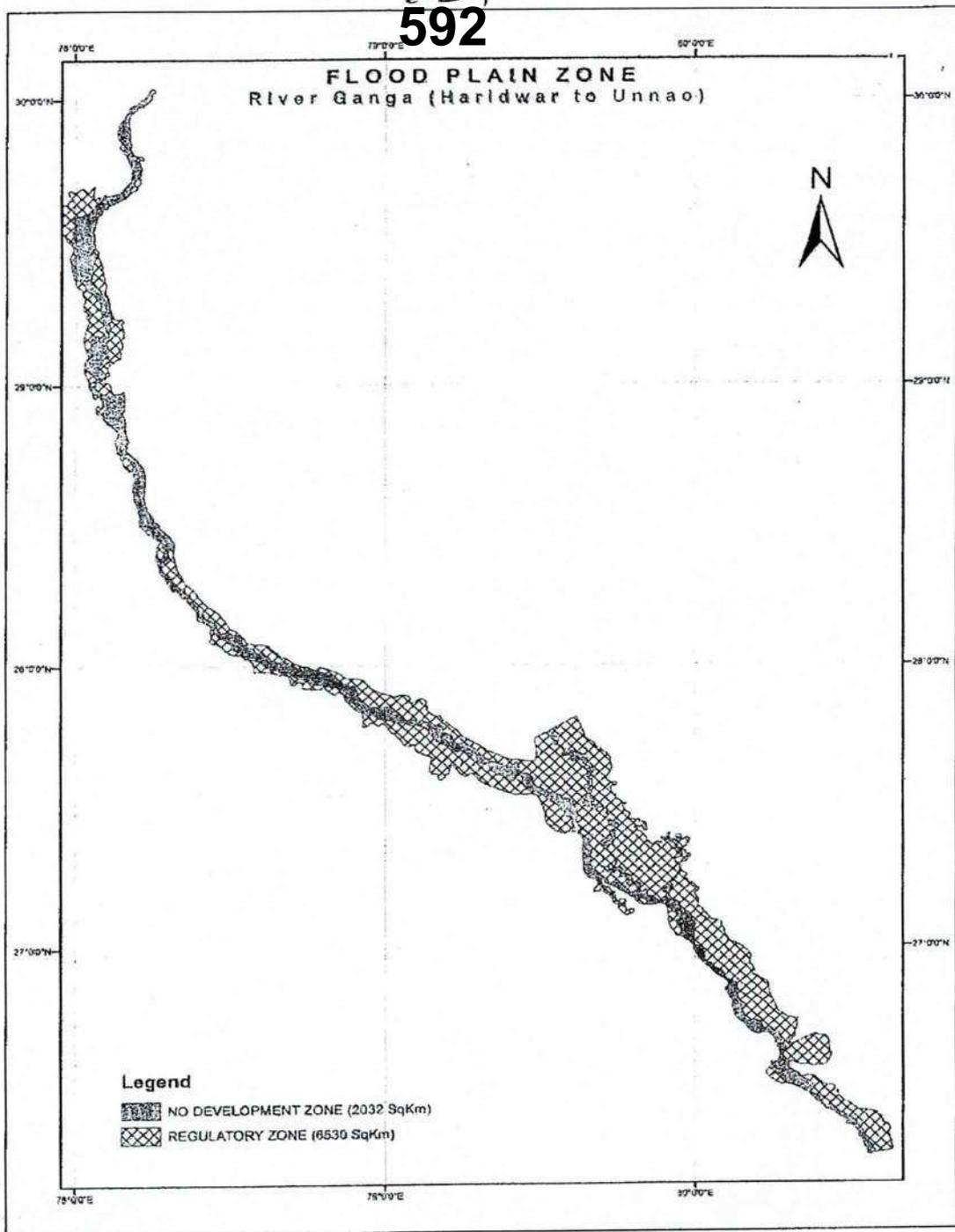


Figure 8: Final Flood Plain based on Ground Truth Verification

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[Signature]

[Signature]

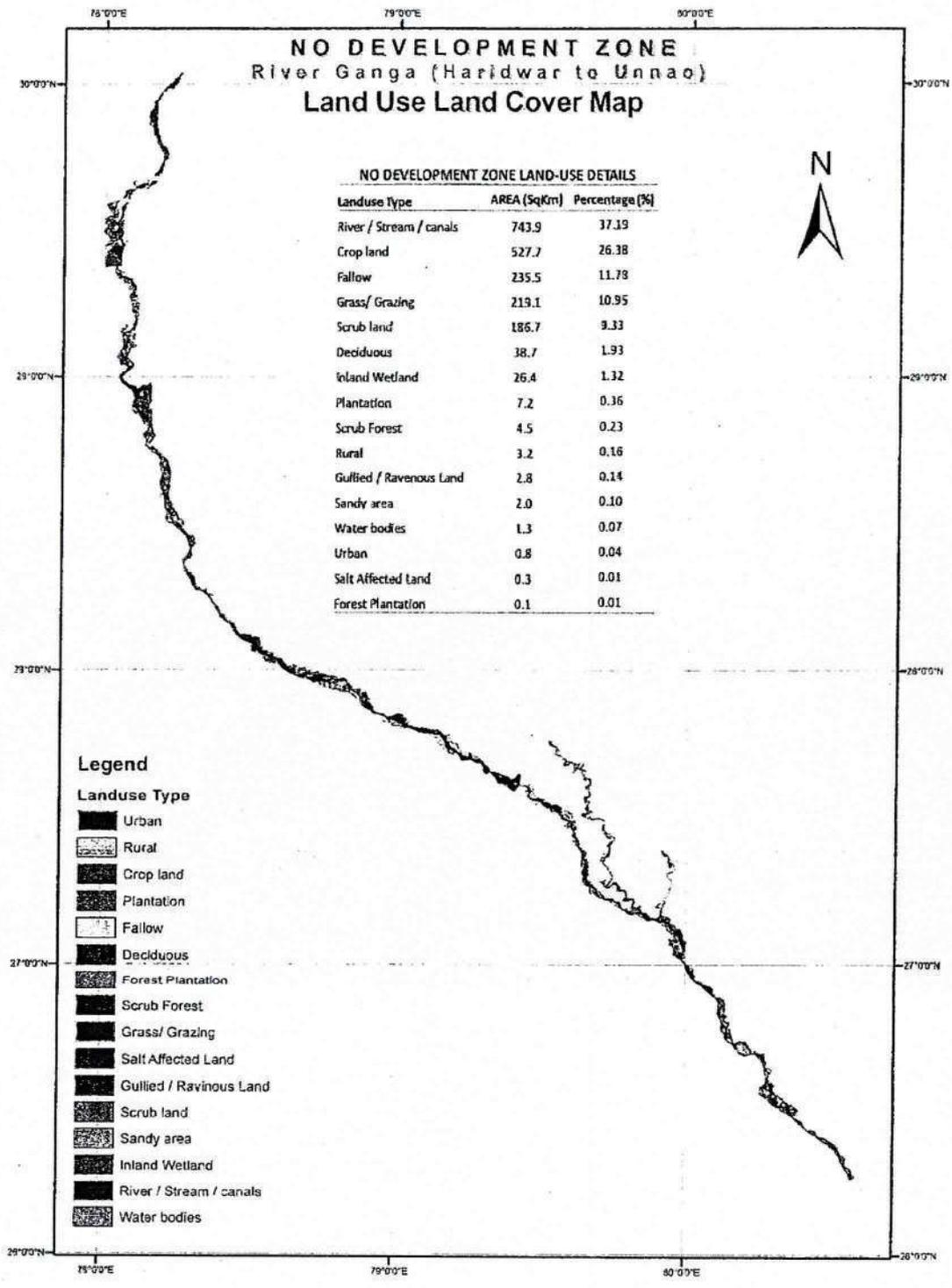


Figure 9: Land Use Land Cover Map for No Development Zone

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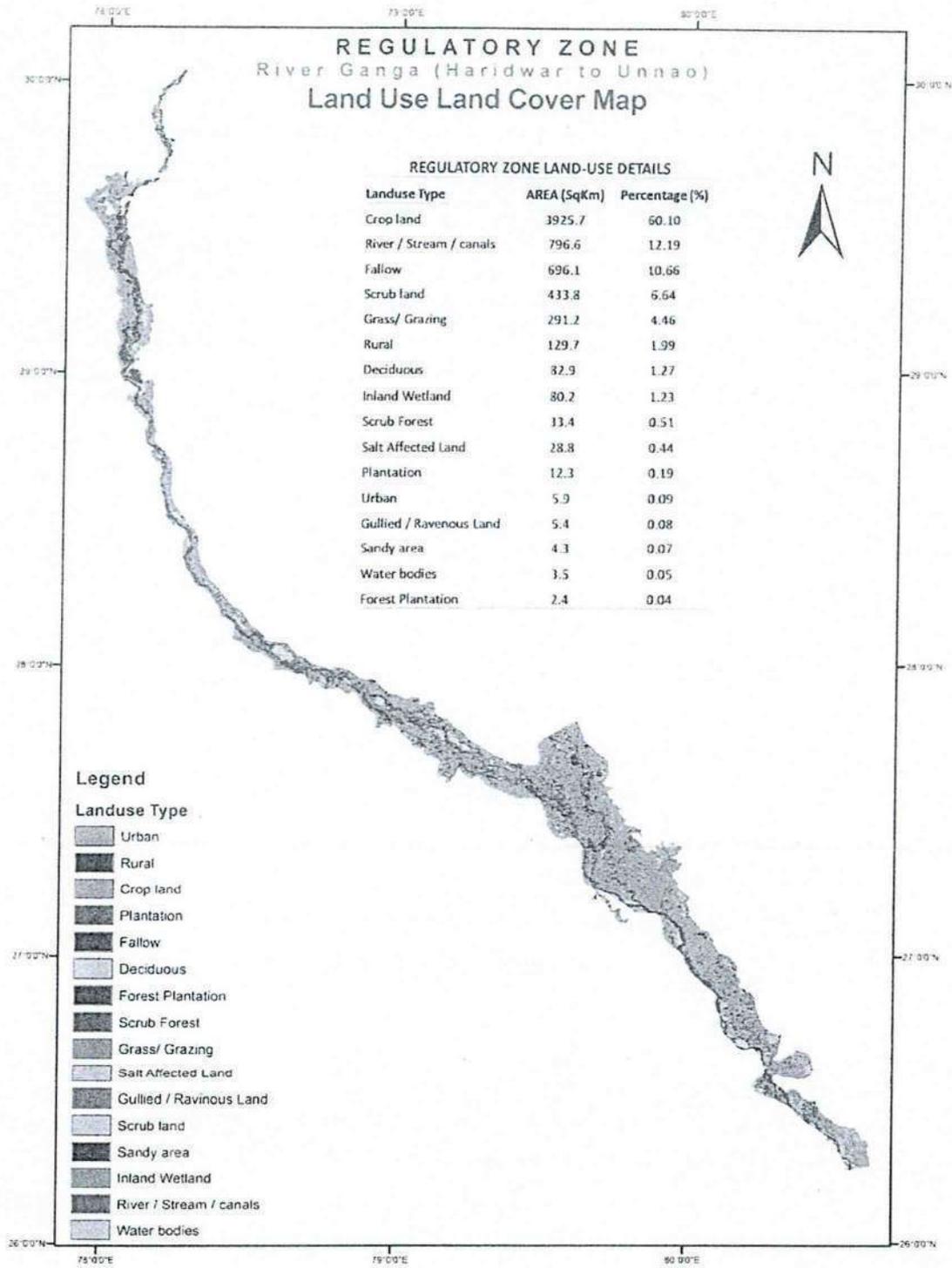


Figure 10: Land Use Land Cover Map for Regulatory Map

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7. ASSUMPTIONS AND LIMITATIONS

For Satellite

- Flood extent covered by satellite depends upon revisit period, cloud cover, river turbidity, river seasonality etc. & classification algorithms used by space agency.
- image processing algorithms, etc.
- Embankment breach scenarios are not accounted
- Cannot segregate riverine flooding from other types of flooding.

For Model

- Mannings value of 0.04 was adopted uniform throughout the flood plains as well as river channel.
- Limitations of topography i.e. 90m SRTM DEM
- River bathymetry accounted using available cross sections only.
- Effects of flood embankments ,roads, buildings ,hydraulic structures,bridge etc were not considered.
- Scenarios like Dambreak and GLOF are not considered
- Morphological changes not considered
- Flooding due to drainage congestion, water clogging etc not accounted.
- Study area is confined to Maximum 30 km buffer on either side of river centerline
- Evaporation ,infiltration and diversion losses neglected

For Ground Truth Verification

- Restricted zone could not be verified
- Subject to the accuracy of geo-location services available on mobile
- Only accessible and habituated areas were surveyed

8. ACTIVITIES IN FLOOD PLAIN ZONE

The following literatures were considered for defining activities that can be/cannot be carried out in the No development / Restricted zones of the floodplain.

1. Concept paper on river Conservation Zone prepared by the expert group of Ministry of Environment and Forest & Climate Change
2. National Disaster Management Authority guidelines for flood management
3. Flood Plain Zoning notification of Uttarakhand Irrigation Department.
4. NMCG guidelines for Ganga Basin

The above literatures were discussed by the committee during the 5th meeting of the Committee held on 29th August 2019 in firming up the activities that can be/cannot be carried out in the No development / Regulatory zones of the floodplain. Finally following activities were identified and recommended by the committee.

8.1 NO DEVELOPMENT ZONE

Prohibited activities in No Development Zone:

All activities except mentioned under the regulated activities in no-development zone.

Regulated Activities in No Development Zone:

- i. Temporary constructions, if absolutely necessary, in exceptional circumstances like natural calamities or religious events at traditional locations, with prior permission of the National Mission for Clean Ganga acting through the State Ganga Committee and the District Ganga Committee.
- ii. Regulated Sand/ Stone/ sediment/ river borne material mining may be allowed as per MoEF&CC guidelines
- iii. Repair/renovation of protected monuments, temples, boating jetties, parks, ghats and crematorium
- iv. Existing structure, whether permanent or temporary for residential or commercial or industrial or any other purposes in the River Ganga, Bank of River Ganga or in active flood plain area of River Ganga or its tributaries provided that such construction has already been completed, shall be reviewed by the National Mission for Clean Ganga so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in River Ganga as per provisions under para [6(3)] of Ministry of Water Resources, River Development and Ganga Rejuvenation notification no. S.O. 3187(E), dated the 7th October 2016 (as amended from time to time) (copy enclosed) regarding constitution of an authority, namely, the National Mission for Clean Ganga for Rejuvenation, Protection and Management of River Ganga.
- v. Organic farming by owners/lease holders
- vi. Plantation of native trees / shrubs (for commercial use)
- vii. Measures for control of erosion and floods, maintenance or de-silting of river ways, waterways and channels
- viii. Repair of breaches in embankments
- ix. Laying of unpaved paths for access to the river for cultural, religious or any other purposes

- x. Various activities such as engineered diversion and storage of water in River Ganga, construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area, construction of Ghats or extension of any existing Ghat, construction of jetties, construction of permanent hydraulic structures for storage or diversion or control of waters or channelization of River Ganga, etc., shall be governed as mentioned under para (42) of Ministry of Water Resources, River Development and Ganga Rejuvenation notification no. S.O. 3187(E), dated the 7th October 2016 (as amended from time to time) regarding constitution of an authority, namely, the National Mission for Clean Ganga for Rejuvenation, Protection and Management of River Ganga
- xi. Navigation, Water Sports, Water Transport related activities.

8.2 REGULATORY ZONE

Prohibited Activities in Regulatory Zone:

Red category of industries as mentioned in CPCB guidelines (as amended from time to time)

Regulated Activities in Regulatory Zone:

- i. Construction of residential/ Institutional/ commercial buildings, school, dispensaries, recreational facilities with certain stipulations as mentioned in NDMA guidelines (as amended from time to time) such as prohibition of basement in buildings, construction on stilts (columns), plinth level above the flood lines, provision of stairway in single storey building, roof level of single storey or first floor level above 100 years flood level/HFL, preferably utilizing ground floor for non-residential purposes.
- ii. Various activities such as engineered diversion and storage of water in River Ganga, construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area, construction of Ghats or extension of any existing Ghat, construction of jetties, construction of permanent hydraulic structures for storage or diversion or control of waters or channelization of River Ganga, etc., shall be governed as mentioned under para (42) of Ministry of Water Resources, River Development and Ganga Rejuvenation notification no. S.O. 3187(E), dated the 7th October 2016 (as amended from time to time) regarding constitution of an authority, namely, the National Mission for Clean Ganga for Rejuvenation, Protection and Management of River Ganga
- iii. Setting up of non-polluting cottage industries.
- iv. Construction / expansion/ modernization of bridges, roads and similar facilities that may affect ND Zone
- v. Creation of navigational facilities involving dredging, mechanised ferries, jetties etc.
- vi. Green and Orange category of industries as mentioned in CPCB guidelines (as amended from time to time)
- vii. Water Sports, Water Transport related activities
- viii. Stone crushing plants etc.

9. Concluding Remarks

1. As per the recommendations of the report of ground truth verification (Annexure-6), Satellite based No Development Zone was found to be more or less confirming to the ground reality which was found to be most frequent with respect to recurrence interval of 5 years. The same has been selected and finalized further by incorporating the details of embankments, bunds collected from U.P. Govt.
2. The outer extent of Satellite images for two flood events dated on 18-19 June 2013 and 23rd & 25th September 2010 provided by NRSC has been considered as Regulatory / Restricted Zone which was confirming to the 25 years return period flood.
3. The lat/long of demarcating pillars for both left and right side of No Development zone at interval of 200 m is provided in Annexure-7.
4. The lat/long of demarcating pillars for both left and right side of restricted zone at interval of 200 m is provided in Annexure-8.
5. Total flood plain area for No Development Zone is 2032 sq. KM corresponding to the average width of 3.15 KM.
6. Total flood plain area for Restricted/ Regulatory Zone is 6530 sq. KM corresponding to the average width of 10.12 KM.
7. For monitoring of flood line area a monitoring committee comprising members of GFCC, NIH, UP Govt and Field units of CWC is recommended.

Government of India
Ministry of Jal Shakti
Department of Water Resources, River Development
and Ganga Rejuvenation
(Flood Management Wing)

ANNEXURE-3

11th Block, 8th Floor, CGO Complex,
Lodhi Road, New Delhi-110003

Dated: 28th November 2022OFFICE MEMORANDUM

Subject: Constitution of Committee for formulation of "Technical Guidelines on Flood Plain Zoning" - reg.

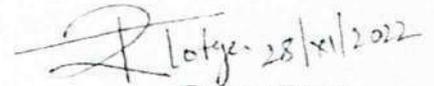
The undersigned is directed to convey that with the approval of Secretary, DoWR, RD & GR, a Committee under the Chairmanship of Member (RM), Central Water Commission is hereby constituted for formulation of "Technical Guidelines on Flood Plain Zoning". The constitution of the Committee and its Terms of Reference are as under-

The composition of the Committee is -

- 1 Member (River Management), Central Water Commission --- Chairman
- 2 Representative from NDMA
- 3 Representative from MoEF & CC
- 4 Chairman, Ganga Flood Control Commission, Patna
- 5 Executive Director (Technical), NMCG
- 6 Project Director, NRCD
- 7 Commissioner (Flood Management), DoWR, RD & GR
- 8 Chief Engineer, Flood Monitoring Organisation, CWC
- 9 Chief Engineer, Planning and Design, CWC --- Member Secretary

The Terms of Reference of the Committee are-

- 1 To formulate "Technical Guidelines on Flood Plain Zoning"
- 2 The Committee may co-opt any other Member, if required
- 3 The Committee to finalise the "Technical Guidelines on Flood Plain Zoning" in a period of three months after its constitution



(Rakesh Toteja)

Senior Joint Commissioner (FM)

Tel: 24360611

E mail: sjcer2-mowr@nic.in

To

- 1 Chairman, Central Water Commission, New Delhi
- 2 Member Secretary, NDMA, New Delhi- with a request to nominate an officer of NDMA for this Committee
- 3 Director General, NMCG, New Delhi
- 4 Member (RM), Central Water Commission, New Delhi
- 5 Secretary, MoEF & CC, New Delhi- with a request to nominate an officer of MoEF&CC for this Committee
- 6 Joint Secretary (PP & RD), DoWR, RD & GR
- 7 Members of the Committee

Copy for information to-

- 1 Senior PPS to Secretary, DoWR, RD & GR, Shram Shakti Bhawan, New Delhi
- 2 PPS to Special Secretary, DoWR, RD & GR, Shram Shakti Bhawan, New Delhi

Sumit



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Z. 24011/43/2023 FM Section-MOWR
 भारत सरकार/Government of India
 जल शक्ति मंत्रालय/Ministry of Jal Shakti
 जल संसाधन, न.वि. एवं गं.सं. विभाग/Department of Water Resources, RD & GR
 (बाढ़ प्रबंधन स्कंध /Flood Management Wing)

8वां तल, ब्लॉक-11, सीजीओ कॉम्प्लेक्स/ 8th Floor, Block-11, CGO Complex,
 लोधी रोड, नई दिल्ली/ Lodhi Road, New Delhi - 110003

24th July, 2024

To,

Chief Secretary of all States/UTs (as per List-I)

Subject: Draft Technical Guidelines on Flood Plain Zoning (FPZ) - reg.

Sir,

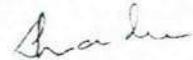
I am directed to forward herewith a copy of the Technical Guidelines on Flood Plain Zoning prepared by this Department for facilitating States/UT Governments in implementation of flood plain zoning

There is need of implementing "Flood Plain Zoning (FPZ)" which is considered an effective non-structural measure for flood management. The basic concept of flood plain zoning is to regulate the land use in the flood plains of a river so as to restrict the damage caused by floods which are bound to occur from time to time. Demarcation of appropriate zones for various uses of flood plains not only helps in mitigation of flood damage, but it also aids in ground water recharge, maintenance of water quality and conservation of riverine biodiversity.

It is requested that the Draft Guidelines may be got examined and comments/observations on the same may be conveyed latest by 31.08.2024 to this office at email id sjcer2 mowr@nic.in.

Encl.: As above

Yours faithfully,



(Sharad Chandra)
 Commissioner (FM)
 Tel: 011-24368238

Copy to,

1. Engineer-in-Chief, Water Resources/Irrigation Department - (As per List-II)

Copy for information to:

PPS to Secretary (DoWR, RD & GR), Shram Shakti Bhawan, Rafi Marg, New Delhi

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TE-I6015/7/2023-O/o ED(TECH) NMCG

Dated: 6th August, 2024Subject: *Status of Flood plain identification & demarcation and identification and removal of encroachments - reg.*Ref: *NMCG letter no. 25011(11)/2/2021/NMCG/900 dated 09.03.2023 (copy enclosed)*

Sir,

Kind attention is drawn towards above referred letter regarding demarcation of Flood Plain Zones (FPZ) and identification of constructions falling in these zones. In this context, it is further submitted that-

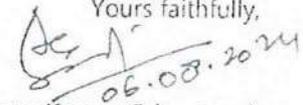
2. The Hon'ble NGT has passed orders/directions in the matter of O. A No. 200/2014 - *M. C. Mehta Vs. Union of India & Ors.* directing the State Government(s) for identification and demarcation of flood plains. It further emphasizes that till the said identification is completed, 100 meters from the edge of the river would be designated as 'no development /construction Zone'. The NGT, in other matters also, has been reiterating the compliance of direction by the State Governments in this regard;
3. Provisions of the River Ganga (Rejuvenation, Protection and Management) Authorities Order dated 07.10.2016 too advocates no construction activities in flood plains in the Ganga Basin.
4. Further, DoWR, RD & GR has circulated a draft Technical Guidelines on Flood Plain Zones on 24.07.2024 to all States seeking their comments/observations by 31.08.2024 (copy enclosed).
5. Needless to say, early compliance of Court Orders/Provisions embedded in the Authorities Notification for delineation, demarcation, and notification of river flood plains is required to be ensured along with removal of encroachment from river bed/floodplain of the river Ganga and its tributaries for rejuvenating and maintaining river health.

Considering above, it is requested that the concerned officials in the State may be directed to expedite and complete the FPZ works at the earliest. They may also be asked to submit updated reports on the FPZ related activities/its implementation status to NMCG at the earliest.

This issues with approval of the competent authority.

Encl.: As above

Yours faithfully,



(Anup Kumar Srivastava)

Executive Director - Technical, NMCG

-38-

To,

1. The Chief Secretary, Government of Uttarakhand, Uttarakhand Secretariat, 4 Subhash Road, Dehradun - 248 001, email: chiefsccyuk@gmail.com
2. The Chief Secretary, Government of Uttar Pradesh, Secretariat, Lucknow - 226 001 email: csup@nic.in
3. The Chief Secretary, Government of Jharkhand, Secretariat, Ranchi - 834 004 email: cs-jharkhand@nic.in
4. The Chief Secretary, Government of West Bengal, Nabana (13th Floor), 325 Sarat Chatterjee Road, Shibpur, Howrah - 711102 email: cs-westbengal@nic.in
5. The Chief Secretary, Government of Himachal Pradesh, Government Secretariat, Shimla-171 002 email: cs-hp@nic.in
6. The Chief Secretary, Government of Rajasthan, Secretariat, Jaipur - 302 005 email: csraj@rajasthan.gov.in
7. The Chief Secretary, Government of Madhya Pradesh, MP Mantralaya, Vallabh Bhawan, Bhopal - 462 004 email: cs@mp.nic.in
8. The Chief Secretary, Government of Haryana, 4th Floor, Haryana Civil Secretariat, Sector-1, Chandigarh - 160019, email: cs@haryana.nic.in
9. The Chief Secretary, Delhi, Government of National Capital Territory of Delhi, 3rd level, Delhi Secretariat, I.P. Estate, New Delhi-110002, email: csdelhi@nic.in
10. The Chief Secretary, Government of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Naya Raipur - 492 002 email: csoffice.cg@gov.in
11. The Chief Secretary, Government of Bihar, Government of Bihar, Main Secretariat, Patna-800015 email: cs-bihar@nic.in

Copy (with request to co-ordinate in the matter) to:

1. Project Director, SPMG - Uttarakhand, 117 Indira Nagar, Dehradun - 248 001
2. Project Director, SMCG- UP, Plot No. 18, Sec - 7, Gomti Nagar Extn., Lucknow - 226 010
3. Project Director, SPMG - Jharkhand, Room No. 403, 4th Floor, Project Bhawan, Dhurwa, Ranchi - 834 004
4. Project Director, SPMG - West Bengal, Unnayan Bhawan (3rd floor), DJ-11, Sector II, Block-A, KMDA, Kolkata - 700 091
5. Project Director, SPMG, Bihar, Patna

Sumit

M. K. S.

W.P.L.

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Copy for kind information to:

1. PS to Secretary, DoWS, RD&GR, Ministry of Jal Shakti, Govt. of India
2. PS to DG, NMCG
3. Ms Ruby, Sr Project Engineer, NMCG

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W/11-



No. L-25011(11)/2/2021/NMCG/900

Date: 9th March, 2023

Subject: In the matter of Civil Appeal No. 3367/2020 - Ashok Kumar Sinha Vs. Union of India & Ors., before the Hon'ble Supreme Court – reg.

Dear Sir,

This is in reference to the matter in C. A. No. 3367/2020 - *Ashok Kumar Sinha Vs. Union of India & Ors.* that is seized before the Hon'ble Supreme Court and is inter alia related to the extent of flood plain area of River Ganga and unauthorized/illegal construction and encroachments on the banks and floodplains of river Ganga in Patna, Bihar. The Hon'ble Supreme Court in order dated 17.02.2023 (copy enclosed) directed the State Government of Bihar to demarcate the flood plain of River Ganga in Patna and identify constructions falling within zone of floodplains of Ganga in Patna taking into reference survey maps obtained from the NMCG.

2. The Hon'ble NGT has also passed orders/directions in the matter of O. A. No. 200/2014 – *M. C. Mehta Vs. Union of India & Ors.*, directing the State Government(s) for identification and demarcation of flood plain in river Ganga, based on one in twenty-five years cycle of Highest Flood Level (HFL). Till the said identification is completed, 100 meters from the edge of the river would be designated as 'no development /construction Zone'. The NGT in other matters has also been reiterating the compliance of direction by the State Governments with regard to identification/demarcation/protection of flood plain of rivers by removal of unauthorized/illegal construction and encroachments on the banks and river floodplains.

3. It is evident that besides Bihar, the aforesaid orders/directions along with provisions of the River Ganga (Rejuvenation, Protection and Management) Authorities Order dated 07.10.2016 (in terms of which the river floodplain area is to be maintained as 'construction free zone'), are categorically applicable also for other States falling in the Ganga Basin region namely, Uttarakhand, Uttar Pradesh, Jharkhand, West Bengal, Himachal Pradesh, Rajasthan, Madhya Pradesh, Haryana, Chhattisgarh and Delhi.

4. Therefore, it is requested that the concerned officers/agencies in the State may be asked to disclose following information:

- the extent of flood plain the river Ganga and its tributaries, as described in the revenue records available with Revenue Authorities of the State
- the ground level situation as regards particulars of existing constructions on the floodplains of the river Ganga and its tributaries
- inventory of constructions falling within the zone of floodplains of the river Ganga and its tributaries.

Contd. Pg. 2

एन.एम.सी.जी., (जल शक्ति मंत्रालय, जल संसाधन, नदी विकास और गंगा संरक्षण विभाग, भारत सरकार)
प्रथम तल, मेजर ध्यान चन्द नेशनल स्टेडियम, इन्डिया गेट, नई दिल्ली-110002

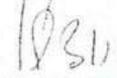
NMCG, (Ministry of Jal Shakti, Department of Water Resources, River Development & Ganga Rejuvenation, Government of India)
First Floor, Major Dhyan Chand National Stadium, India Gate, New Delhi-110002

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5. Further, it is also requested that the concerned officials in State may provide a report on the requisite information as mentioned in preceding para 3, to NMCG within 3 months of receipt of this letter.
6. This issues with approval of the competent authority.

Yours faithfully



(D. P. Mathuria)

Executive Director - Technical, NMCG

Encl.: As above

To,

1. The Chief Secretary, Government of Uttarakhand, Uttarakhand Secretariat, 4 Subhash Road, Dehradun - 248 001
2. The Chief Secretary, Government of Uttar Pradesh, Secretariat, Lucknow - 226 001
3. The Chief Secretary, Government of Jharkhand, Secretariat, Ranchi - 834 004
4. The Chief Secretary, Government of West Bengal, Nabana (13th Floor), 325 Sarat Chatterjee Road, Shibpur, Howrah - 711102
5. The Chief Secretary, Government of Himachal Pradesh, Government Secretariat, Shimla - 171 002
6. The Chief Secretary, Government of Rajasthan, Secretariat, Jaipur - 302 005
7. The Chief Secretary, Government of Madhya Pradesh, MP Mantralaya, Vallabh Bhawan, Bhopal - 462 004
8. The Chief Secretary, Government of Haryana, 4th Floor, Haryana Civil Secretariat, Sector-1, Chandigarh - 160 019
9. The Chief Secretary, Government of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Naya Raipur - 492 002
10. The Chief Secretary, Government of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi - 110 002

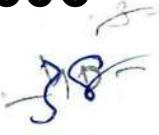
Copy (with request for co-ordination and necessary action in the matter) to:

1. Chairman, Central Water Commission, 3rd Floor, room No. 313 (South), Sewa Bhawan, R. K. Puram, Sector - 1, New Delhi - 110 066
2. Chairman, Central Pollution Control Board, Pariwesh Bhawan, East Arjun Nagar, Delhi - 110 032
3. Project Director, SMCG - Uttarakhand, 117 Indira Nagar, Dehradun - 248 001

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4. Project Director, SMCG-UP, Plot No. 18, Sec - 7, Gomti Nagar Extn., Lucknow - 226 010
5. Project Director, SPMG Group - Jharkhand, Room No. 403, 4th Floor, Project Bhawan, Dhurwa, Ranchi - 834 004
6. Project Director, SPMG Group - West Bengal, Unnayan Bhawan (3rd floor), DJ-11, Sector II, Block-A, KMDA, Kolkata - 700 091

Copy for kind information to:

1. PS to Secretary, DoWS, RD&GR, Ministry of Jal Shakti, Govt. of India
2. PS to Secretary, MoEF&CC, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi - 110 003
3. PS to DG, NMCG



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ITEM NO.43

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3367/2020

ASHOK KUMAR SINHA

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 100859/2020 - STAY APPLICATION)

Date : 17-02-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE SUHANSHU DHULIA

For Appellant(s) Mr. Aakash Vashisht, Adv.
Ms. Nidhi Agarwal, Adv.
Ms. Tanya Saraswat, Adv.
Mr. Neeraj Kumar Sharma, AOR

For Respondent(s) Mrs. Aishwarya Bhati, ASG
Mrs. Swarupama Chaturvedi, Adv.
Mrs. Ruchi Kohli, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Santosh Kumar, Adv.
Mr. Arvind Kumar Sharma, AOR

Ms. Aishwarya Bhati, ASG
Mr. Gurmeet Singh Makker, AOR
Ms. Swarupama Chaturvedi, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Navanjay Mahapatra, Adv.

Mr. Manish Kumar, AOR

Mr. Azmat H Amanullah, AOR
Mr. Hardik Choudhary, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Validity unknown
Digitally signed by
Ms. Aishwarya Bhati
Date: 2023.02.17
16:22:18 +05:30
Reason:

Ms. Aishwarya Bhati, learned additional solicitor general
appearing for the Union of India, Ministry of Jal Shakti, submits
that a survey map has already been made available to the State of

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Bihar.

Let an assessment on the survey map giving the ground level situation as regards particulars of existing constructions on the floodplains of the river Ganga in Patna. A report shall be filed disclosing therein how the floodplains have been described in the revenue records and if there is any construction within the zone of floodplains of the Ganga.

List after four weeks.

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR

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Item Nos. 07 to 19

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**Original Application No. 515/2023
(IA No. 458/2024, IA No. 372/2024)

Ganga Pollution

Applicant

Versus

State of UP & Ors.

Respondent(s)

WITH

Original Application No. 516/2023

M/s Sundrop Colonigers Pvt. Ltd.

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 517 /2023

Gokul Chandra Sharma &Ors.

Applicant(s)

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 518 /2023
(I.A. No. 06/2024)Sri Math (Jagatguru Ramanand
Acharya Peeth) & Anr.

Applicant(s)

Versus

State of UP & Anr.

Respondent(s)

WITH

Original Application No. 519 /2023

Smt. Meena Mishra

Applicant

Versus

State of U.P.

Respondent

WITH

Original Application No. 520 /2023

Smt. Vimla Devi

Applicant

Sumit

Mukesh

Vijil

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Versus

State of U.P.

Respondent

WITH

Original Application No. 521 /2023

Sarvamangla Adhyatma Yog Vidya Peeth

Applicant

Versus

Union of India & Ors.

Respondent(s)

WITH

Original Application No. 522 /2023

Shri Shri Guruji Tapasthali

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 523 /2023

Vinod Kumar Pandey

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 524 /2023

Ram Rekha Jaiswal

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 525 /2023

Pt. Ram Chandra Sharma

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

WITH

Original Application No. 526 /2023
(IA No. 288/2024)

Ganga Sewa Abhiyan & Ors.

Applicant(s)

Versus

Sumit

M.K.S.

W.H.L.

Union of India & Ors.

Respondent(s)

WITH

Original Application No. 527 /2023
(IA No. 296/2024 & IA No. 297/2024)

Kautilya Society & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 19.09.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Amit Upadhyay, Mr. Akash Singh & Mr. Vaibhav Shukla, Advs. for Applicant in OA 515/2023

Respondent: Mr. Arvind Nagar, Senior Advocate (Through VC) with Mr. Sumeer Sodhi, Mr. Chaitanya Sharma & Mr. Siddharth Joshi, Advs. for R - 26 in OA 515/2023
Mr. Bhanwar Pal Singh Jadon, Adv. for the State of UP
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)
Mr. Vibhav Misha, Adv. for Prayagraj Development Authority
Mr. Vikrant Pachnanda & Mr. Mukul Katyal, Advs. for MoEF & CC (Through VC)
Mr. Gigi. C. George & Mr. Shashank, Advs. for NMCG, CWC & Harish Chandra Institute
Mr. Amit Tiwari & Mr. Chetanya Puri, Advs. for Varanasi Development Authority in OA 527/2023 (Through VC)
Mr. Atif Suhrawardy, Adv. for CPCB in OA 515 & 526/2023 (Through VC)
Mr. Adarsh Kumar Tiwari & Mr. Ashutosh Mani Tiwari, Advs. for R - 25 (Through VC)
Mr. Shrish Chandra, Mr. Rishabh Kesarwani & Mr. Rishikesh Kumar, Advs. in I.A No. 288/2024

ORDER

1. These original applications have been registered on the basis of the Writ Petitions/Public Interest Petitions transferred by the Allahabad High Court in pursuance of the order dated 21.07.2023. The relevant part of the order of the High Court of Allahabad 21.07.2023 passed in Writ Petition (PIL) No. 4003/2006 is extracted below:

"16. Upon bare reading of the above provisions, we find that Section 14(3) of the Act, 2010 only provides a period of limitation of six months from the date of cause of action has arisen for the National Green Tribunal to entertain a petition, but proviso added to Sub-section 3 of Section 14 vests discretion in the National Green Tribunal to condone the delay, if sufficient cause is shown by the

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party approaching it. We further find that Section 29 of the Act, 2010 clearly bars the jurisdiction of civil courts to entertain any matter which the National Green Tribunal is empowered to adjudicate upon and determine the questions arising therein. The civil courts' jurisdiction to settle the dispute that may be adjudicated upon by the National Green Tribunal has thus been clearly barred.

17. The aforesaid provisions, in our view, cannot be interpreted to mean that there would be bar for constitutional law court from transferring the matter already entertained on merits, to the National Green Tribunal at a later stage. It is always open for the court of law including Constitutional law Court to transfer the case to National Green Tribunal having jurisdiction qua the subject matter at any point of time, if it so chooses in its discretion.

18. In so far as the other objection that Clean Ganga Project or Ganga Action Plan/ Namami Gange Project can be better monitored at local level considering the importance of city of Prayagraj, Varanasi and Kanpur being religious and industrial cities is concerned, we are of the view that since Namami Gange Project is a National Level Project, it would involve several States and, therefore, it would be more appropriate that National Green Tribunal that has nationwide jurisdiction in ensuring that river does not get polluted from its source to its end (upstream and downstream) the project is monitored by it. The National Green Tribunal can better bind administration of various districts of various other States at the same time to ensure that Namami Gange Project ultimately achieves its object. While it is true that Magh Mela is organized every year in the city of Prayagraj and so also Ardhkumbh/ Kumbh Mela at every six years and Maha Kumbh at every 12 years but only for that, generally and broadly speaking, we should not invite a situation where our orders may come in conflict with that of National Green Tribunal begetting more and more confusion regarding its enforcement by agencies. After all it is the public interest that is to be served first and it hardly matters whether Clean Ganga or Namami Gange Project is monitored here by this Court or by the Green Tribunal. One is to see only where public interest would be better served and in our considered view, the National Green Tribunal being more equipped with powers relating to environmental laws under the Special Acts given in Schedule 1 of the National Green Tribunal Act 2010 covering areas nationwide, it would better serve public interest qua Clean Ganga/ Namami Gange Project and Clean Yamuna Project.

19. In view of the above, we find merit in the argument of learned Advocate General that this PIL petition and connected pending PIL petitions may also be transferred to be tagged with Original Application no. 200 of 2014 pending with the National Green Tribunal. In our view, we find support in the observations made vide paragraph nos. 40 and 41 by the Supreme Court in the case of Bhopal Gas Peedith Mahila Udyog Sangathan (supra).

20. However, at this stage, we may also hold that matters relating to illegal development activities being carried out against master plan of Prayagraj Development Authority, encroachment of public places, roadside lands, discharge of statutory duties by Municipal Corporations of different districts and municipalities, in the field of

civic administration and other 'incidental' and allied issues related to it, will still be cognizable by this Court. Likewise activities of Mela Authority, Prayagraj during Magh Mela, Ardhkumbh/ Kumbh and Mahakumbh may also be subject matter of monitoring by this court, if Public Interest Litigation petitions are filed by the aggrieved parties because these all would involve local issues relating to allotment of land, cleanliness in the Magh Mela area, basic amenities to be made available to kalpwasis etc., the requirement of sufficient water in river Ganga in Prayagraj and also if there arises any complaint in respect of administration of the Mela Authority, Prayagraj.

21. We may add here that in order to ensure speeding up of the work of tapping of drains in the city of Prayagraj and ensuring that untreated sewage water does not flow into rivers during Magh Mela, Ardhkumbh/Kumbh/Mahakumbh Mela, such matters may be taken up by this Court during such period even if such issues may overlap a little bit with pending matters before National Green Tribunal, but for this limited mela purposes. This Court would certainly not shirk away from its constitutional duty in entertaining petitions during Mela period as object is only there to ensure that Clean Ganga and Yamuna water is available for bathing purposes for Kalpwasis during one of the world's largest religious congregation held here at Prayagraj during the month of Magh.

22. Again city drainage system, its maintenance and supply of clean and potable water to the residents of the city are local issues, and needed to be addressed locally for better administration of justice so as to serve public interest. The Constitutional Law Courts, like, High Courts having their territorial jurisdiction in respect of cities and districts cannot be denied access in the name of larger environmental issues falling within the domain of National Green Tribunal and, therefore, this Court upon being approached, in exercise of its extra ordinary power under Article 226 of the Constitution will certainly be intervening to set right things by asking local bodies and local administration to discharge their duties cast upon them under statutes. Our power of judicial review of legislative action and/ or administrative action does not get divested altogether with Constitution of National Green Tribunal, even under parliamentary legislation. Reiterating doctrine of basic structure of the Constitution as conceived of by Supreme in Kesavanand Bharti's case, the 9 Judges bench in L.Chandra Kumar v. Union of India and Others(AIR 1997 SC 1125) held that "the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court (Supreme Court) under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure." The Court further held that "power vested in the High Courts to exercise judicial superintendence over the decision of all Court and Tribunals within their respective jurisdiction is also part of the basic structure of the Constitution" and "this is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided."

23. Accordingly, we are of the considered view that these above local issues of Prayagraj and other districts of Uttar Pradesh may well still be within the jurisdiction of this Court and will not be in any manner having any conflict with the issues that are subject matter of

adjudication before the National Green Tribunal in OA No. 200 of 2014.

24. We have examined the records of the other Public Interest Litigation petitions that are connected and pending and we find that prayers in most of them are either relating to Prayagraj where the sanction of map has been refused by the development authority on account of places, where constructions are sought to be raised, falling within 500 meters of HFL (High Flood Level) as this Court under its order dated 19.08.2011 has restrained every construction activity within this limit; and in some of Public Interest Litigations, the demolition notices have been challenged as the areas fall within the prohibited distance of 500 meters from rivers Ganga and Yamuna of district Prayagraj and within the prohibited distance of 200 meters from the both side of banks of river Ganga in city of Varanasi.

25. In our view, all these above issues since are related to conserving and maintaining flood plane zones of the two rivers Ganga and Yamuna in various districts of Uttar Pradesh, these would fall within the subject matter of pending O.A No. 200 of 2014 before the National Green Tribunal.

26. We have also considered the grievance of the M/s Omaxe Pancham Realcom Pvt. Ltd., Prayagraj, respondent no. 26 who has moved a miscellaneous recall application in respect of an order of this Court dated 19th August, 2011 that restrains any construction activity within 500 meters from high flood level at the bank of rivers Ganga and Yamuna in the city of Allahabad/ Prayagraj.

27. In the above regard, we find that even the National Green Tribunal has passed an order on 13th July, 2017 in the pending O.A No. 200 of 2014 while dealing with solid waste management and its dumping in relation to areas that may fall within flood plain zones in respect of State of Uttarakhand, the National Green Tribunal has already issued directions to the public authorities, Nagar Nigams and Municipalities etc. to ensure that even temporary sites to be used as dumping ground should not be within 500 metres distance from the end of the flood plane of river Ganga or its tributaries. The Tribunal in its order dated 13.07.2017 under direction no. (v) has observed that " the area beyond 100 meters and less than 300 meters would be treated as regulatory zone in the hilly terrain, for which State will comply with the above directions. The area upto 200 meters shall be prohibited area in the plain terrain and more than 200 meters and less than 500 meters would be treated as regulatory zone. Area/ River bank/ flood plain 2 kms upstream to Rishikesh and till border of the State of Uttarakhand towards U.P. in river Ganga would be treated as plain terrain while upstream the above hilly terrain". Even though in respect of State of U.P. there appears to be no such direction by the Tribunal under the order, but in our considered view, since Tribunal is dealing with the matter and certain directions have been issued to the State Government of Uttar Pradesh, U.P. Jal Nigam, U.P. Pollution Control Board and Central Pollution Control Board, Uttar Pradesh, the Tribunal would be in a better position to appreciate the controversy regarding 500 meters from High Flood Zone as prohibited area for raising any temporary or permanent structure. Thus it will be within the domain of the

Tribunal to pass appropriate orders and, therefore, in our considered view, it would be more appropriate for the National Green Tribunal to consider the miscellaneous recall application of respondent no. 5 and pass appropriate order.

28. We, therefore, do not see any prejudice going to be caused to the respondent no. 26 in the event matter is transferred to the National Green Tribunal, New Delhi . It will remain open for the respondent no. 26 to move appropriate application before the National Green Tribunal for early disposal of miscellaneous recall application, if so advised.

29. In view of above, the transfer application moved by the State of Uttar Pradesh stands granted. The Public Interest Litigation No. 4003 of 2006 and other connected pending petitions and PIL petitions are transferred to National Green Tribunal, New Delhi.

30. Registrar General is to ensure that all the records are transmitted to the National Green Tribunal, within a fortnight while retaining a copy of the entire order-sheet and the leading PIL petition in one set. The respective parties are directed to appear before the National Green Tribunal, New Delhi and pursue their matter there.

31. We also find that large number of PIL petitions are being listed with this PIL petition, even though those Public Interest Litigation petitions have been disposed of by this Court previously giving liberty to the petitioners to move their application in the main Public Interest Litigation petition being no. 4003 of 2006 .

32. Registry is accordingly directed to detag the decided PIL petitions and consign them to records.”

2. The main issue involved in these petitions relates to defining/demarcating the Flood Plain Zone of River Ganga especially in reference to the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.

3. The State of U.P has filed the Report dated 13.09.2024 taking the following Stand relating to the demarcation of Flood Plain:

“10. It is important to submit that the demarcation of the floodplain zone has been conducted with consideration of a 100-year spread, using the Hybrid Methodology. This approach utilizes a 100-year return period flood, which is estimated through flood frequency analysis of the annual maximum flood discharge data from available G&D (Gauge and Discharge) sites over the relevant periods. The estimation is conducted using hydraulic modeling- HEC-RAS, the flood frequency analysis is calculated using the L- Moment Ratio method and 37 years of data obtained through satellite imagery using Landsat data. The Hybrid Methodology was chosen because both satellite analysis and modeling have inherent limitations.

Specifically, satellite data may not capture the full extent of flood events, and model results are subject to the quality of the Digital Elevation Model (DEM). True copy of the methodologies is annexed herein as ANNEXURE R7.”

4. The above stand reflects that the exercise has been undertaken for demarcation of flood plain having due regard to Clause 3 (f) of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.

5. NMCG has also filed the response dated 11.09.2024. The response of the NMCG states that the Ministry of Jal Shakti has constituted a Committee by O.M dated 28.11.2022 and that the Committee has proposed the division of flood plain into three zones for urban settlement and two zones for rural settlement and that the NMCG has advised all the concerned States in Ganga Basin for demarcation, delineation and notification of flood plains and removal of encroachments from the river bed/flood plain in accordance with the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016. The stand of NMCG in this regard is as under:

“10. In order to enable States to undertake scientific assessment of flood plains and its zoning, need of technical guidelines on the subject has been felt. Accordingly. DoWR, RD&GR, Ministry of Jal Shakti constituted a Committee, vide O.M. Z-5/03/2106-FM-MOWR/2569-79 dated 28,11,2022, under Member (RM). CWC for formulation of Technical Guidelines on Flood Plain Zone. (Annexure.3). The Committee took into consideration practices which are being followed in other countries wherever regulation of flood plain has been enacted and enforced. The Committee has submitted its report to the DoWR, , RD&CR which is under consideration of Government.

11. That as per the report, a river's floodplain is the low-lying land adjacent to a river and is prone to flooding and generally conforms to a flood of frequency of one in a hundred years. To minimize the damages due to floods and to protect the pristine nature of the river. there is a need to regulate the activities ill the flood plain of the river. The report proposes flood-plain zoning conforming to flood of frequency of one in a hundred years. However, considering areas conforming to one in hundred year flood will be huge, especially in plain and flat areas. The Committee proposed that the entire flood

plain area further needs to be divided in different zones depending upon its proximity to the river banks, type of developmental activities that can be permitted and the nature of settlement in the area i.e. rural. or urban.

12. That the Committee has proposed division of flood plain into 3-zones for urban settlement and into 2-zones for rural settlement:

- Prohibited Zone: with limits conforming to 5-year return period flood
- Regulatory Zone: with extent up to 25-year return period flood beyond extent of prohibited zone.
- Warning Zone: with extent up to 100-year return period flood beyond extent of Regulatory Zone (for urban areas only).

13. That the DoWR, RD & GR, Ministry of Jal Shakti has sought comments/observations from State Govts on the report, as cited at Para 12 above. Thus. it is submitted that the matter is under deliberations of the Ministry. (Annexure-4),

14. That the NMCG, from time to time, has been advising all the states governments in Ganga basin for demarcation, delineation and notification of river flood plains and removal of encroachment from the riverbed/floodplain of the river Ganga and its tributaries in accordance to the provisions of the River Ganga (Rejuvenation, Protection and Management) Authorities Order. 2016. In this context, a letter written to Ganga basin states on 06.08.2024 is placed at Annexure-5”

6. The Action Taken Report of the State includes the Flood Plain Zone delineation from Unnao to Balia progress report as annexure R-6 prepared by National Institute of Hydrology. The said report discloses the progress in tabulated form as under:

SN	Task/Component	Month		
		Aug	Sep	Oct
1.	Inception Report	Completed		
2.	Data collection and Processing	Under progress (1m contour data from SOI is under progress)		
3.	Flood frequency analysis	Completed		
4.	Flood plain zoning based on the JRC Satellite images of past 37 years (1984-2021)	Completed		
5.	Flood Plain Demarcation based on Satellite Data/Images			
6.	HEC RAS model setup (Calibration/validation)			
7.	Finalization of hydraulic model results			
8.	Submission of interim findings discussion, ground truthing/ result verification			

9.	<i>Demarcation of flood plain based on hybrid approach</i>								
10.	<i>Submission of draft Report</i>								
11.	<i>Submission of final Report</i>	*							”

*Final report will be submitted after incorporating the comments received from the sponsoring agency.

7. Learned Counsel for the State has submitted that the draft of the final report will be submitted by NIH to the State by 15.10.2024 and the report will be finalized by the State by 30.10.2024.

8. Hence, we require the State to file the progress report by 07.11.2024.

9. I.A. No. 372/2024 notices were issued on 16.08.2024 and it has been pointed out that the Reply on behalf of NMCG and State is still awaited. Let the same be filed within a period of four weeks. Rejoinder, if any be filed within one week thereafter.

10. I.A. No. 288/2024 filed in O.A. No. 526/2024 is an application for intervention, I.A. No. 296/2024 filed in O.A. NO. 527/2023 is an application for impleadment and I.A. No. 297/2024 filed in O.A. NO. 527/2023 is an application for modification of the order dated 27.07.2012.

11. Issue notice on these I.As. Applicants are directed to serve copies of these I.As to the Counsel for the Respondents within one week. Respondents may file their response within four weeks thereafter.

12. List on 12.11.2024

Prakash Shrivastava, CP

Sumit

Mukesh

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Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

September 19, 2024
O.A. No. 515/2023 with
connected matters
HB..

Sumit

M.K. Tyagi

W/Vil

Online RTI Request Form Details

RTI Request Details :-

RTI Request Registration number	MOWRC/R/E/22/00381
Public Authority	Ministry of Water Resources, River Development & Ganga Rejuvenation

Personal Details of RTI Applicant:-

Name	Ankur Tiwari
Gender	Male
Address	567/92, आनंद नगर , आलमबाग, लखनऊ, Lucknow
Country	India
State	Uttar Pradesh
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	ankur[dot]tiwari38[at]gmail[dot]com

Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))

Description of Information Sought
--



Sumit

Mukesh

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Sir,

Refer Ministry of water resources, river development and Ganga Rejuvenation Notification dated 7 th October 2016. This notification applies to river Ganga & all its tributaries including Yamuna. This notification suppresses all earlier notifications/laws in this regard. A copy of this notification is attached herewith. Please note that a portion of river Yamuna also falls in Noida, District Gautam Budh Nagar, Uttar Pradesh. Please focus on clause no. 6.3 of this notification & provide us the following informations (under RTI act) related to the portion of Yamuna river in Noida:

1 What is the definition of an active flood zone according to clause no. 6.3?

2 To follow clause no. 6.3, of this notification, Has National Mission for Clean Ganga (NMCG) surveyed /reviewed this area & has NMCG identified the active flood zone area? If yes, please provide us copies of the documents/maps supporting the compliance of this.

3 To follow clause no. 6.3, Has NMCG surveyed & reviewed this area and identified if there are some temporary or permanent constructions on active flood zone areas & which interrupt the continuous flow of the river. If yes, please provide us copies of the documents/maps supporting the compliance of this.

3 If there are some temporary /permanent constructions on the active flood zone then has the NMCG identified the constructions done before & after the date of the implementation of this notification to follow clause 6.3. If yes, please provide us copies of the documents/maps supporting the compliance of this.

4 If NMCG has not completed the compliance of clause no. 6.3 then provide us the name, designation & contact numbers of the name, designation & contact numbers of the officials who are responsible for doing the survey & review of this portion of the Yamuna river in compliance of clause no. 6.3.

Concerned CPIO

B L Meena (NMCG)

Supporting document (only pdf upto 1 MB)



Sumit

Mukesh

W/Pil

h.s.

स्पीड पोस्ट/ईमेल
आरटीआई मैटर

संख्या I-11011/2/2023-एसएमडी/एनएमसीजी
भारत सरकार
जल शक्ति मंत्रालय
जल संसाधन, नदी विकास एवं गंगा संरक्षण विभाग
राष्ट्रीय स्वच्छ गंगा मिशन

मेजर ध्यान चंद नेशनल स्टेडियम,
निकट इंडिया गेट, नई दिल्ली - 110001,
दिनांक: 04 जनवरी, 2022

सेवा में,

श्री अंकुर तिवारी,
567/92, आनंद नगर,
आलम बाग,
लखनऊ - 226005
राज्य: उत्तर प्रदेश
E-mail: ankur.tiwari38@gmail.com

विषय:- सूचना का अधिकार अधिनियम, 2005 के तहत मांगी गई सूचना के संबंध में।

महोदय,

कृपया जल शक्ति मंत्रालय, जल संसाधन, नदी विकास एवं गंगा संरक्षण विभाग से प्राप्त आरटीआई आवेदन पत्र का संदर्भ लें जिसकी ऑनलाइन पंजीकरण संख्या एमओडब्ल्यूआरसी/आर/ई/22/00381 दिनांक 11/12/2022 है जिसमें सूचना का अधिकार अधिनियम, 2005 के तहत सूचना मांगी गई है।

2. यह जानकारी राष्ट्रीय स्वच्छ गंगा मिशन (एनएमसीजी) से संबंधित है जो अनुलग्नक के रूप में इसके साथ संलग्न है।

3. यदि आप ऊपर दी गई जानकारी से संतुष्ट नहीं हैं तो आप अपनी अपील इस पत्र के जारी होने की तारीख से तीस दिनों के अंदर श्री बिनोद कुमार, प्रथम अपील प्राधिकारी, राष्ट्रीय स्वच्छ गंगा मिशन (एनएमसीजी), प्रथम तल, मेजर ध्यान चंद नेशनल स्टेडियम, इंडिया गेट, नई दिल्ली- 110001 के समक्ष प्रस्तुत कर सकते हैं।



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भवदीय

Signed by Birju Lal Meena

Date: 04-01-2023 16:24:41

Reason: Approved

(बी. एल. मीना)

अवर सचिव एवं सीपीआईओ (एनएमसीजी)



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M. K. Singh

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अनुलग्नक

As per RTI Act,2005, the information as defined under Section 2 (f) which is available with the public authority in any form can be provided to the applicant. It is also informed that the interrogative queries viz. "what/how/why/when/whether" does not constitute "information" under section 2(f) of RTI Act, 2005.

However, the information pertains to NMCG is as under:

"The provisions under River Ganga (Rejuvenation, Protection and Management) Authorities Order dated 07.10.2016, defines 'flood plain' 'River Bed' and 'Buffer Area' as below:

"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;

"River Bed" means the dried portion of the area of River Ganga or its tributaries and includes the place where the River Ganga or its tributaries run its course when it fills with water and includes the land by the side of River Ganga or its tributaries which retains the water in its natural channel, when there is the greatest flow of water;

"Buffer Area" means an area which extends beyond the flood plain of a stream.

However, 'active flood plain area' of River Ganga or its tributaries where construction of any structure, whether permanent or temporary, for residential or commercial or industrial or any other purpose is prohibited, has to be identified and demarcated by the respective State Government(s), based on one in twenty-five years cycle of Highest Flood Level (HFL). Till the said identification is completed 100 meters from the edge of the river would be designated as 'no development /construction Zone'."

The information may also be obtained from concerned State Government.



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कार्यालय

राज्य स्वच्छ गंगा मिशन - उ०प्र०

नमामि गंगे तथा ग्रामीण जलापूर्ति विभाग, उ०प्र०

प्लाट नं०-18, सेक्टर-7, गोमती नगर विस्तार योजना, लखनऊ ।

www.smcg-up.org, email: apd@smcg-up.org

पत्र संख्या: 129 / 0066 / एस.एम.सी.जी./04

दिनांक: 10 फरवरी, 2023

सेवा में,

श्री अंकुर तिवारी,

567 / 92, आनन्द नगर आलमबाग लखनऊ-226005

विषय: - जन सूचना अधिकार अधिनियम-2005 के अन्तर्गत सूचना उपलब्ध कराने के सम्बन्ध में ।

महोदय

कृपया राष्ट्रीय स्वच्छ गंगा मिशन, नई दिल्ली के पत्रांक-1-11011/2/2023-SMD NMCG dated 11-01-2023 का सन्दर्भ ग्रहण करने का कष्ट करें (संलग्नक 1) जिसके माध्यम से जन सूचना अधिकार अधिनियम-2005 के अन्तर्गत आपके आवेदन पत्र को इस कार्यालय को संदर्भित किया गया है ।

उपरोक्त के सम्बन्ध में राज्य स्वच्छ गंगा मिशन - उ०प्र० कार्यालय से सम्बंधित सूचनाएं संलग्न कर आपको प्रेषित की जा रही हैं। यदि आप प्रेषित सूचना से संतुष्ट नहीं हैं तो आप अपनी अपील इस पत्र के जारी होने की तारीख से तीस दिन के भीतर प्रथम अपील अधिकारी के समक्ष प्रस्तुत कर सकते हैं। -

संलग्नक: उपरोक्तानुसार

(राजेश कुमार यादव) आर०टी०आई० आफिसर

प्रतिलिपि निम्नलिखित को सूचनार्थ:-

1. अपर परियोजना निदेशक, राज्य स्वच्छ गंगा मिशन - उ०प्र० ।

2. निदेशक वित्त राज्य स्वच्छ गंगा मिशन - उ०प्र० । 3. श्री बी.

एल मीना, अवर सचिव एवं सीपीआईओ (एन.एम.सी.जी.)

प्रथम तल मेजर

ध्यानचन्द नेशनल स्टेडियम, इंडिया गेट, नई दिल्ली।



आर०टी०आई० आफिसर

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15

S. N.	Information Sought	Response by SMCG-UP
1	What is the definition of an active flood zone according to clause no. 6.3?	Responded by National Mission for Clean Ganga New Delhi.
2	To follow clause no. 6.3, of this notification, Has National Mission for Clean Ganga (NMCG) surveyed /reviewed this area & has NMCG identified the active flood zone area? If yes, please provide us copies of the documents/maps supporting the compliance of this.	As per records available in the office of State Mission for Clean Ganga-Uttar Pradesh, it has no information: available about the question asked. Similarly, it also does not have any copies of documents/maps supporting as desired for the specific area indicated. Further to add the State Mission for Clean Ganga has not undertaken any such exercise.
3	To follow clause no. 6.3, Has NMCG surveyed & reviewed this area and identified if there are some temporary or permanent constructions on active flood zone areas & which interrupt the continuous flow of the river. If yes, please provide us copies of the documents/maps supporting the compliance of this.	As per records available in the office of State Mission for Clean Ganga-Uttar Pradesh, it has no information: available about the question asked. Similarly, it also does not have any copies of documents/maps supporting as desired for the specific area indicated. Further to add the State Mission for Clean Ganga has not undertaken any such exercise.
3	If there are some temporary /permanent constructions on the active flood zone then has the NMCG identified the constructions done before & after the date of the implementation of this notification to follow clause 6.3. If yes, please provide us copies of the documents/maps supporting the compliance of this.	As per records available in the office of State Mission for Clean Ganga-Uttar Pradesh, it has no information: available about the question asked. Similarly, it also does not have any copies of documents/maps supporting as desired for the specific area indicated. Further to add the State Mission for Clean Ganga has not undertaken any such exercise.
4	If NMCG has not completed	The: District Magistrate of the Noida,

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<p>the compliance of clause no. 6.3 then provide us the name, designation & contact numbers of the name, designation & contact numbers of the officials who are responsible for doing the survey & review of this portion of the Yamuna river in compliance of clause no. 6.3.</p>	<p>Gautam Buddha Nagar may be contacted in this regard. Or alternatively the office of Chief Engineer and Head of Department, Irrigation and Water Resources Department, GoUP and Central Water Commission, New Delhi may be contacted. Or.the application can be transferred under the relevant provisions of the RTI Act to offices mentioned above.</p>
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REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO(S). 4522-4524 OF 2022**
(@ DIARY NO. 16486/2022)**THE STATE OF ANDHRA PRADESH** **APPELLANT(S)****VERSUS****RAGHU RAMAKRISHNA RAJU**
KANUMURU (M.P.) **RESPONDENT(S)****J U D G M E N T****B.R. GAVAI, J.**

Permission to file appeal without certified/plain copy of impugned order is granted.

Issue notice.

Shri Balaji Srinivasan, learned counsel accepts notice on behalf of the sole respondent, and as such, we have heard the matter finally.

Signature Not Verified
Digitally signed by
GEETA AHUJA
Date: 2022.06.06
16:42:43 IST
Reason: 

1. The appellant challenges the order dated 6th May 2022 passed by the National Green Tribunal, Principal Bench, New

*Sumit**1**Will*

Delhi (hereinafter referred to as the “NGT”) in O.A. No.361 of 2021, vide which it prohibited the appellant from undertaking any further construction. The appellant also challenges the order dated 20th May 2022 passed by the learned NGT in I.A. Nos. 117 and 118 of 2022 in O.A. No. 361 of 2022, vide which the application seeking vacation of stay imposed vide order dated 6th May 2022 was rejected.

2. The appellant was already running a resort at Rushikonda Hill, near Visakhapatnam. According to the appellant, after obtaining the necessary permission, it has demolished the existing resort and is re-constructing the resort at the same place with additional facilities.

3. A writ petition being W.P. (P.I.L.) No.241 of 2021, challenging the said construction, has already been filed before the High Court of Andhra Pradesh at Amaravati. In the said writ petition, the Division Bench of the High Court has passed the following order on 16th December 2021:

“In the meanwhile, the construction activities and other allied activities in relation to the subject project, if any undertaken, shall be strictly in accordance with the permission accorded by the Ministry of Environment,

Forest and Climate Change, as well as the existing master plan.”

4. It appears that the aforesaid writ petition before the High Court was filed on 8th December 2021. However, a letter addressed by the respondent was sent on 31st October 2021 to the learned NGT. The respondent is a sitting Member of Parliament from one of the constituencies in the State of Andhra Pradesh. The learned NGT, after taking cognizance of the said letter, initiated the proceedings in O.A. No.361 of 2021. It further appears from the record that the learned NGT had appointed an Experts Committee on 17th December 2021 which submitted its Report on 29th March 2022. A perusal of the said report would reveal that the said Experts Committee consisting of four experts did not find any violation in the construction that was carried out by the appellant.

5. However, the learned NGT again, vide its order dated 6th May 2022, appointed a 2nd Experts Committee. The report of the said 2nd Experts Committee is still awaited. However, without waiting for the said report, by the same order, the

learned NGT directed that no further construction to be undertaken.

6. It appears that after the order dated 6th May 2022 was passed by the learned NGT, the appellant filed an application for vacating stay on construction as directed in the said interim order dated 6th May 2022 passed by the learned NGT. However, the same was also rejected by the learned NGT vide its order dated 20th May 2022. Both these orders are impugned in the present appeals.

7. Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing on behalf of the appellant, submitted that when the High Court of competent jurisdiction was already in seisin of the matter, the learned NGT could not have entertained a lis with regard to the same cause of action. He submitted that though this fact was brought to the notice of the learned NGT, the learned NGT refused to vacate the interim order dated 6th May 2022, which was in conflict with the order of the High Court dated 16th December 2021.

8. Dr. Singhvi submitted that NGT is a Tribunal, which is subordinate to the High Court in so far as the territorial

jurisdiction of the High Court is concerned. He, therefore, submitted that the very continuation of the proceedings before the learned NGT is not sustainable in law.

9. Shri Balaji Srinivasan, learned counsel appearing on behalf of the respondent, on the contrary, submitted that the appellant has acted in gross breach of the order dated 16th December 2021 passed by the High Court of Andhra Pradesh at Amravati. He submitted that the construction is rampantly going on in blatant violation of the order of the High Court. Contempt petition has already been filed before the High Court, wherein the High Court after taking cognizance of the blatant violation, issued notice on 4th May 2022.

10. This Court, in the case of ***Priya Gupta and Another v. Additional Secretary, Ministry of Health and Family Welfare and Others***¹, has observed thus:

“12. The government departments are no exception to the consequences of wilful disobedience of the orders of the Court. Violation of the orders of the Court would be its disobedience and would invite action in accordance with law. The orders passed by this Court are the law of the land in terms of Article

1 (2013) 11 SCC 404

141 of the Constitution of India. No Court or Tribunal and for that matter any other authority can ignore the law stated by this Court. Such obedience would also be conducive to their smooth working, otherwise there would be confusion in the administration of law and the respect for law would irretrievably suffer. There can be no hesitation in holding that the law declared by the higher court in the State is binding on authorities and tribunals under its superintendence and they cannot ignore it. This Court also expressed the view that it had become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have a grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty are important hallmarks of judicial jurisprudence developed in this country, as discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and to abide by the rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law. [Ref. East India Commercial Companies Ltd. v. Collector of Customs [AIR 1962 SC 1893] and Official Liquidator v. Dayanand & Ors. [(2008) 10 SCC 1]”

11. In any case, no law is necessary to state that insofar as the Tribunals are concerned, they would be subordinate to the High Court insofar as the territorial jurisdiction of the High Court is concerned. A reference in this respect was also made to the judgment of the Constitution Bench of this

Court in the case of *L. Chandra Kumar v. Union of India and Others*².

12. We are, therefore, of the considered view that it was not appropriate on the part of the learned NGT to have continued with the proceedings before it, specifically, when it was pointed that the High Court was also in seisin of the matter and had passed an interim order permitting the construction. The conflicting orders passed by the learned NGT and the High Court would lead to an anomalous situation, where the authorities would be faced with a difficulty as to which order they are required to follow. There can be no manner of doubt that in such a situation, it is the orders passed by the constitutional courts, which would be prevailing over the orders passed by the statutory tribunals.

13. In that view of the matter, we are of the considered view that the continuation of the proceedings before the learned NGT for the same cause of action, which is seized with the High Court, would not be in the interest of justice.

14. We, therefore, quash and set aside the proceedings

² (1995) 1 SCC 400

pending before the learned NGT in O.A. No.361 of 2021.

15. We further find that taking into consideration the serious allegations made by the respondent, it will be appropriate that all these facts are placed before the High Court and the High Court considers passing appropriate orders in accordance with law so as to strike a balance between the development and the environmental issues.

16. Needless to state that though development is necessary for economical progress of the nation, it is equally necessary to safeguard the environment so as to preserve pollution free environment and ecology for the future generations to come.

17. We, therefore, find that it will be appropriate that the parties move the High Court for appropriate orders. The respondent would be at liberty to file an application for impleadment before the High Court in the pending proceedings, which would be considered by the High Court in accordance with law.

18. Though, the High Court has permitted construction to proceed in accordance with law, we find that till the High Court takes a fresh call on the said issue, it will be necessary

to issue the following direction:

- (a) Until the High Court considers the issue, the construction will be permitted only on the area where the construction existed earlier and which has been demolished and the flat area.

19. Dr. Singhvi, learned Senior Counsel appearing on behalf of the State, on instructions from Shri Mahfooz Ahsan Nazki, stated that the appellant would not claim any equities on account of the construction, which is permitted to be proceeded further.

20. We further clarify that we have not expressed any opinion on the merits of the matter and the parties would be at liberty to raise all the issues available to them before the High Court which shall be considered in accordance with law. Since the learned NGT has already constituted an Experts Committee, the High Court would be at liberty to take into consideration the report of the said Experts Committee or if it finds appropriate may appoint other Committee as it deems fit.

21. The appeals stand disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(HIMA KOHLI)

NEW DELHI;
June 01, 2022.

ITEM NO.3

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 16486/2022

(Arising out of impugned Interim order dated 06-05-2022 in OA No. 361/2021 20-05-2022 in IA No. 117/2022 20-05-2022 in IA No. 118/2022 passed by the National Green Tribunal)

THE STATE OF ANDHRA PRADESH

Appellant(s)

VERSUS

RAGHU RAMAKRISHNA RAJU KANUMURU (M.P)

Respondent(s)

(IA No.80661/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.80659/2022-STAY APPLICATION and IA No.80658/2022-PERMISSION TO FILE SLP WITHOUT CERTIFIED/PLAIN COPY OF IMPUGNED ORDER and IA No.81808/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 01-06-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MS. JUSTICE HIMA KOHLI
(VACATION BENCH)

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. S. Niranjan Reddy, Sr. Adv.
Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Advocate
Mr. Shaik Mohamad Haneef, Adv
Mr. T. Vijaya Bhaskar Reddy, Adv
Mr. K.V.Girish Chowdary, Adv
Ms. Rajeswari Mukherjee, Adv
Ms. Akhila Palem, Adv
Mr. Abhishek Sharma, Adv
Mr. Sahil Raveen, Adv

For Respondent(s) Mr. Balaji Srinivasan, AOR

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UPON hearing the counsel the Court made the following
O R D E R

Permission to file appeal without certified/plain copy of impugned order is granted.

Issue notice.

Shri Balaji Srinivasan, learned counsel accepts notice on behalf of the sole respondent.

The appeals stand disposed of in terms of the signed Reportable Judgment. Pending application(s), if any, shall also stand disposed of.

(Geeta Ahuja)
Assistant Registrar-cum-PS
(Signed Reportable Judgment is placed on the file)

(Ranjana Shailey)
Court Master

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640
Chief Justice's Court

Case :- WRIT - C No. - 10021 of 2023

Petitioner :- Ratna Mitra

Respondent :- New Okhla Industrial Development Authority And
2 Others

Counsel for Petitioner :- Pushkar Mehrotra

Counsel for Respondent :- A.S.G.I., Ankur
Agarwal, Kaushalendra Nath Singh, Rajesh Tripathi

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Saumitra Dayal Singh, J.

Sri Ankur Agarwal, learned counsel appearing for the Development Authority and learned counsel appearing for respondent no. 2 pray for and are granted two weeks' time to file counter affidavit. Petition may have one week thereafter to file rejoinder affidavit.

List in the week commencing 2nd July, 2023.

Till the next date of listing, status quo as on date may be preserved.

Order Date :- 1.5.2023

Shiraz

(S.D. Singh, J.)

(Pritinker Diwaker, C.J.)

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Mehrotra

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641
Chief Justice's Court

Case :- WRIT - C No. - 18496 of 2023

Petitioner :- Meena Negi And 7 Others

Respondent :- New Okhla Industrial Development Authority And Another

Counsel for Petitioner :- Sanjay Kumar Om, Praveen Kumar

Counsel for Respondent :- C.S.C, Kaushalendra Nath Singh

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ashutosh Srivastava, J.

Shri Kaushalendra Nath Singh, learned counsel for respondent-Development Authority prays for and is granted two weeks' time to file counter affidavit. One week thereafter is granted to the petitioners to file rejoinder affidavit.

Connect and list along with Writ-C No. 10021 of 2023.

Till the next date of listing, status quo, as on date, may be preserved.

Order Date:- 30.5.2023

CS/-

(Ashutosh Srivastava, J.)

(Pritinker Diwaker, C.J.)

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Service from applicants in Original application no. 641/2023 (Suman Chauhan and 49 others VS Govt of Uttar Pradesh and others) in Hon'ble NGT

1 message

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

Mon, Mar 3, 2025 at 7:27 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, dmgnb@nic.in
Cc: abhay gupta <tony51aoc@rediffmail.com>, rahulsgkumar@gmail.com

Dear Sirs,

You are respondents in the above matter. Please find enclosed:

1. PDF copy of Response of applicants with additional submissions to the "report of joint committee filed through reply affidavit dated 18.11.2024 by DM Gautam Budh Nagar in Original application no. 641/2023 (Suman Chauhan and 49 others VS Govt of Uttar Pradesh and others) in Hon'ble NGT
2. PDF copy of Response of petitioners to reply dated 21.04.2024 of Respondent no. 8 in Original application no. 641/2023 (Suman Chauhan and 49 others VS Govt of Uttar Pradesh and others) in Hon'ble NGT

Regards

Manoj Singh
(Applicant)

2 attachments

 **Rejoinder affidavit.pdf**
431K

 **Response to be filed.pdf**
21063K