

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,**

**PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 274/2022**

**In the matter of:**

Prem Aggarwal & Ors.

...Applicant

Versus

Govt. of NCT of Delhi

...Respondents

**NDOH: 28.11.2022**

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(R.S. Pankaj)

Sr. Environmental Engineer

Dated: 25 November, 2022

Place: Delhi

1

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**RESPOSE ON BEHALF OF DELHI POLLUTON CONTROL  
COMMITTEE (RESPONDENT NUMBER-2) IN COMPLAINCE TO  
THE ORDER DATED 15.09.2022.**

IT IS MOST RESPECTFULLY SHOWETH:

Affidavit of P.S. Pankaj, presently working as Senior Environmental Engineer, Delhi Pollution Control Committee, 5<sup>th</sup> floor, ISBT Building, Kashmere Gate, New Delhi 110006 in compliance to the order dated 15.09.2022.

1. I the above-named deponent do hereby solemnly affirm and declare that I am an authorized officer of the Delhi Pollution Control Committee and competent to swear in the present affidavit on the basis of records.
2. That, this matter was taken up by this Hon`ble Tribunal on 27.04.2022 and pleased to constitute a joint Committee of CPCB, DPCC, Municipal Corporation, Delhi Jal Board, Irrigation and Forest Department, Govt. of NCT of Delhi and Deputy Commissioner (Shahdara). The DPCC was appointed nodal officer of the Committee and Committee was directed to file factual and action taken report.

3. That, in compliance to above mentioned order, a Joint Team comprising of the officials of CPCB, DPCC, East Delhi Municipal Corporation, Delhi Jal Board, Irrigation and Forest Department, Govt. of NCT of Delhi and Deputy Commissioner, (Shahdara) visited the Shahdara Drain on 26.05.2022. Copy of the inspection report and consequently letter issued on 16.06.2022 and 04.07.2022 were filed before this Hon`ble Tribunal.
4. That, following directions were issued to I&FC, MCD & PWD
- I&FC shall provide iron mesh fencing over entire drain to avoid dumping of garbage/C&D waste.
  - I&FC shall deploy employees to monitor and keep a vigil on the drain to prevent dumping of garbage/C&D waste.
  - Messages for public in respect of prosecution and fine shall be displayed at prominent locations to discourage of dumping of waste.
  - CCTV cameras be installed at suitable locations to monitor the garbage/C&D waste dumping.
  - Plantation shall be provided on the bank of the drain.
  - I&FC shall regularly de-silt and clean the drain.

Also, Delhi Jal Board was directed:

- To trap entire sewage from upstream of trunk drain no. 01 and treat it in the STP, so that no sewage enters into the drain.
5. That the report of the joint Committee was considered by This Hon`ble Tribunal on 15.11.2022 and Hon`ble Tribunal pleased to issue notice on the application as well as observation/ recommendation made in the joint report filed by DPCC on behalf of the Joint Committee.
6. That in the present application which was filed before this Hon`ble Tribunal, it was mentioned that residents of two group housing societies have approached the authorities for covering of the drains and/or grow trees/plant & make flower belts etc, but no care has been taken in the last 30

years. It was suggested in the application that trees will be planted all along with two side berm of the drain. Thus, by way of present application, applicant desires to cover the drain.

7. That, with respect to issue of covering of drain as prayed in the present application it is submitted that the issue of covering of drains was extensively dealt by this Hon'ble Tribunal in OA 06 of 2012 as well as OA 300 of 2013 titled as "Manoj Mishra and others vs Union of India and Others". The Shahdara drain is natural drain not a man-made.

(a) Para 60 of the judgment dated 13.01.2015, it was mentioned :

Some of the Municipal Corporations on their own have taken steps to concretize the drains as well as to cover them. In some parts of Delhi, particularly, in relation to the drain in Defence Colony and other parts of South Delhi, drains have been covered to some extent. In other places, the work has just started while in other places, a very meagre part of the work has been executed. According to the report of the Expert Committee, covering of drains in Delhi would have very serious adverse impacts upon the environment and ecology of Delhi. This would result in more flooding, explosion of diseases and clogging of drains.

The Expert Committee noticed that the storm water drain system is designed to carry the rain water only and also to allow recharge in the ground water through its drainage system, as well as through other bodies. It stated that the storm water drain system has been designed based on the good engineering practices and taking average intensity of rainfall as 1 cusecs per acre. The storm water drain system should carry rain water and nothing else to maintain the ecology and environment. **Ideally, the storm water should flow through its designed natural drainage system and sewage through sewerage network and finally treated at STPs before it is finally disposable into the river.** They proceeded to notice with approval the policy decision taken by a Committee chaired by the Chief Secretary, Delhi in respect of the various drains as circulated by Circular dated 25th February, 2014 which inter alia provided as under: -

"1. Natural drains: Natural drains are those drains which are naturally occurring, formed by the watershed of the area draining into it and have been existing naturally with a fully unlined base originally. Although many modifications have been made to the

natural drains over the years through lining, covering etc. these drains would still continue to be considered as natural drains. The policy in r/o natural drains shall be as under:

- a. **The natural drains shall neither be lined (concretising the surface) nor shall they be allowed to be covered in any case.**
- b. The number of the natural drains will be confined to the list of such drains contained in the MPD 2021.
- c. Construction of elevated road along these drains without affecting the aesthetics, flow of drain and without hampering cleaning of the drain may be allowed. Similarly, service road and NMV track along the drain may also be allowed provided it does not in any manner affect the flow, cleaning of the drain and aesthetics of the area.”

The said policy has also found favour with the High Court in W.P.(C) No. 2385/2011.

The Committee, thus, has recommended that there should not be any concretization or covering of drains particularly natural drains in Delhi. According to the Committee such course is not technically feasible and is not in the interest of ecology and environment.

(b) In conclusion part of the judgment dated 13.01.2015 in the aforementioned matter it is mentioned that:

(i) We direct all the concerned authorities, corporations, bodies including Resident Welfare Associations to clean all the 157 natural storm water drains as identified by the Committee, within four months from the date of passing of this judgment and the drains should be made obstruction free and no waste should be permitted to be dumped in such drains. The drains may be cleaned mechanically or manually as the situation may demand. Such cleaning would include the dredging of the drains besides compliance of the specific recommendations of the Expert Committee. There shall be controlled dredging of River Yamuna to remove the huge accumulation of sediments and sludge for restoration of the cross section and flood carrying capacity of the River Yamuna.

(ii) We direct all concerned to make every possible effort to ensure that the storm water drains do not carry sewage. Sewage may be carried through those drains upon which the STP's have already been installed, till the completion of the project. After the completion of the project, steps shall be taken so that only minimal quantity of treated water from the STPs reaches Yamuna.

(c) The Hon`ble National Green Tribunal vide order dated 27.01.2021 in the aforementioned matter ordered for storm water drains, as under:

- (i) There should be zero tolerance for intermixing of sewage in the storm water drains which is done by puncturing the sewer lines. NGT may consider directing that if any new punctured sewers are found, the responsibility should be fixed on the concerned Executive Engineer of the DJB and DMCs/drain owning agencies at the point of puncture. It may be treated as wilful negligence or misconduct, inviting major penalty since this cannot happen without the concerned Executive Engineer's connivance or negligence. Puncturing storm water drains is a serious offence because it exacerbates pollution and causes health hazards to residents. IDMC may be directed to establish mechanism to receive and promptly investigate and report on such instances of local puncture of drains.
- (ii) Individual District Magistrates are not enforcing the Septage Regulations which require detecting illegal tankers and taking action against the vehicle owners. The performance of the DMs as far as enforcement is concerned over the last 20 months of the operation points to laxity on the part of both the DMs and the DJB officers who should have been pursuing this proactively. Action may also be directed to be taken by the Chief Secretary against the officers who have failed to implement/enforce the Government order of GNCT Delhi which made them responsible for containment/collection of septage discharged into storm water drains.

The recommendation as mentioned above passed by Yamuna Monitoring Committee has been approved by this Hon`bel Tribunal.

8. That there are 18 major drains which are out falling into river Yamuna in the Delhi stretch between Wazirabad to Okhla. As informed by Delhi Jal Board, out of 18 Drains, Trap completed in 11 Drains, 02 drains (Delhi Gate Drain and Sen Nursing Home Drain) are partially trapped, 02 major Drains i.e. Najafgarh & Shahdara are included in Interceptor Sewer Project where substantial flow of sub-drains under their command areas will be trapped and treated.

The total capacity of Shahdara Drain is 475.2(104.66 MGD). This is a large drain having flow about 105 MGD and hence it cannot be trapped technically. However, its 31 major tributaries (70 MGD) are being trapped in ISP. Total discharge in Shahdara drain is about 105 MGD, out of which 50 MGD (i.e. 45%) is untreated sewage is being discharged by UP through

Shahibabad, Indirapuri and Banthala drain. Further it is submitted that only two major drains of I&FC i.e. Shahdara outfall drain and Nazafgarh drains are out falling in to river Yamuna directly and source of pollution in river. Now the complete discharge of Trans Yamuna area coming through the Shahdara outfall drain is being trapped by DJB at Ghazipur drain near Kondli bridge and being treated at Kondli and Chilla STP by the DJB.

9. That, DPCC is carrying out water quality of drains on monthly basis at the point when these drains are meeting to river Yamuna. The data of Shahdara drain for the year of 2022 in tabular forum is a under:

Date of sampling	pH	TSS mg/l	COD mg/l	BOD Mg/l
04.01.22	7.56	128	346	85
08.02.22	7.48	136	320	83
03.03.22	7.52	140	373	90
04.04.22	7.48	144	360	93
04.05.22	7.91	136	346	80
01.06.22	7.21	128	368	75
08.07.22	7.19	120	336	70
01.08.22	7.28	132	352	66
12.09.22	7.34	136	304	63
03.10.22	7.3	124	320	66

10. That, Member Secretary, DPCC taken a meeting on 21.11.2022 to review the compliances in respect of orders passed by this Hon`ble Tribunal. Following is the record of discussion:

- (a) Shri P.S. Pankaj, SEE, DPCC informed the participants from DJB, I&FC, MCD and PWD about the directions issued to these departments for compliance of NGT order dated 15.09.2022. It was also informed that compliance report has not been received from PWD and Forest Department.
- (b) Member Secretary, DPCC apprised the participants that the ATR submitted by DJB and I&FC needs to be revisited for complete compliance and ATR should include timelines.
- (c) Chief Engineer, I&FC informed that some portion of the boundary wall of the drain is maintained by PWD also. It was decided that a joint inspection will be conducted by a team comprising of MCD,

DJB, PWD and I&FC Department on the same day and finding may be provided in ATR. Further, green patches may be increased by plantation of species such as bamboos etc. in view of space constraint.

(d) Executive Engineer, DJB informed that all the sewage on the upstream of the drain has been trapped. Member Secretary, DPCC decided that these facts may be verified by joint inspecting team.

11. That in compliance of the direction issued by the Member Secretary, DPCC a site visit was organized on 21.11.2022 by the joint inspection team comprising of officials of DPCC, DJB, I&FC, PWD and MCD and findings are as follows:

- The compound wall was maintained by I&FC adjacent to Anupam apartments and Hans apartment side is in good condition and the compound wall on roadside maintained by PWD (as informed by I&FC officials) was found broken at some points which eases dumping, however officials of PWD informed that the wall was not maintained by PWD. If PWD directs I&FC, in writing, for maintenance of the said wall then it shall repair the same. PWD was asked to give in writing to I&FC.
- Fencing on foot over bridge/ Bridge over drain near Anupam apartment & Hans Apartment side has been fixed and repaired by I&FC, however fencing on bridge over drain near Krishna Nagar Nagar Metro Station to Karkardooma Court Road are yet to be provided/ repaired by I&FC and same was found broken at some places which leads to illegal dumping of waste.
- The drain carries sewage also, however as per DJB officials all sewer lines in Bihari Colony to Gazipur are already trapped & no sewage is being discharged in drain of said area.
- Sewage from public toilet near compound wall adjacent to Bhikam Singh colony found being discharged in said drain DJB officials informed that it related to MCD.
- A heavy outfall of waste water through drain is being discharged into Truck Drain no. 1 which is coming from upstream side of the said location and sewage from interceptor near Krishna Nagar Metro

Station on, however DJB officials claim that the source of untreated water is coming from feeder nala not from sewer lines, DJB assured that those nalas will also be stopped within 1 week.

- DJB officials informed that such drain is not in their jurisdiction hence they informed their Additional Chief Engineer (interceptor sewer) telephonically to check & take necessary action if, any.
- As informed by I&FC officials de-silting is being done annually before rainy season.
- There is no scope of plantation since the place is required for de-silting purpose with heavy machines.

12. That Irrigation and Flood Department provided status of action taken with respect to direction issued on 16.06.2022. Copy of which is enclosed herewith as **Annexure-1**. In the Action Taken Report, 03 months to 11 months' time was sought to complete the task.

13. That suitable direction may be issued to Irrigation and Flood Department (owner of the drain) and Delhi Jal Board to take urgent immediate steps for better management of the drain.

Prayed accordingly,

  
Deponent

Verification

Verified at New Delhi on this 25 day of November 2022 that the contents of the above affidavit are true and correct to my knowledge and noting false has been stated therein and no material has been concealed there from.

  
Deponent



**OFFICE OF THE EXECUTIVE ENGINEER, CIVIL DIVISION-III:**  
IRRIGATION & FLOOD CONTROL DEPARTMENT:  
GOVT. OF NCT OF DELHI, L.M. BUND OFFICE COMPLEX,  
SHASTRI NAGAR, DELHI-110031:  
PHONE NO.: 011-21210860, Email: ifcediii@gmail.com



No. :EE/CD-III/DB/T-27/2022-23/.....<sup>2493</sup>

DATED: 23/11/2022

To,

✓ SEE, CMC-1  
Delhi Pollution Control Committee  
Department of environment  
(Govt of NCT Of Delhi)  
Forth Floor, ISBT Building,  
Kashmiri gate Delhi 110006

Annexure-1

**Subject: Status of Action taken report wrt Directions U/s 33(A) of water (prevention & control of pollution) Act, 1974 amended to date issued on 16-06-2022.**

Sir,

With reference to your office letter F.No. DPCC/CMC-I/NGT/OA-274/2022/1494 dated 02-11-2022, present status of ATR complying directions U/s 33(A) of water at an U/s 5 of EPA dated 16-06-2022 issued vide the order of Hon'ble NGT dated 27-04-2022 in the matter of OA No. 274/2022 titled as " Prem Aggrawal & Ors Vs GNCTD", is here with annexed.

This is for your kind information please.

This issues is with prior approval of Chief Engineer Zone-I.

  
(SUDHEER KUMAR ARYA)  
LINK OFFICER/ EXECUTIVE ENGINEER  
CIVIL DIVISION - III

No. :EE/CD-III/DB/T-27/2022-23/.....

DATED: .....

Copy forwarded for information to:

1. The Chief Engineer (I&FC) Zone-I, Govt. of Delhi, L. M. Bund Office Complex, Shastri Nagar, Delhi - 110031.
2. The Superintending Engineer (Flood Circle-I) Govt. of Delhi, L. M. Bund Office Complex, Shastri Nagar, Delhi -110031.
3. The Engineer Civil Division-XIV I&FC, Govt. Of NCT Of Delhi L.M. Bund Office Complex, Shastri Nagar, Delhi-110031.
4. The Assistant Engineer -III, CD-III.
5. The Assistant Engineer, Electrical CD-III.

LINK OFFICER/ EXECUTIVE ENGINEER  
CIVIL DIVISION - III

Regarding Status of Action taken report wrt Directions U/s 33(A) of water (prevention & control of pollution) Act, 1974 amended to date issued on 16-06-2022.

S. No.	Directions issued	Reply	Timeline
1	I&FC shall provide iron mesh fencing over drain to avoid dumping of garbage/C&D waste.	Scheme prepared and sent for issue of A/E & E/S to competent authority.	11 months
2	I&FC shall deploy employees to monitor and keep a vigil on the drain to prevent dumping of garbage/C&D waste.	Security guards already deployed at vulnerable points of drain to prevent dumping of garbage/C&D waste.	Deployed
3	Messages for public in respect of prosecution and fine shall be displayed at prominent locations to discourage of dumping of waste.	Work under progress.	03 months
4	CCTV cameras be installed at suitable locations to monitor the garbage/C&D waste dumping.	Work under progress.	03 months
5	Plantation shall be provided on the bank of the drain	No scope for plantation since the space is required for Desilting purpose with Heavy Machines.	---
6	I&FC shall regularly de-silt and clean the drain.	As per the prevailing Desilting schedule adopted for this drain, de-silting has been carried out before Monsoon Season and the same will be again executed before the onset of the next Monsoon. However, for maintaining the free flow if any obstruction is observed the same will be removed immediately.	---

*[Signature]*  
AE 22/11/22

*[Signature]*  
22/11/22  
EECD-III