



राष्ट्रीय स्वच्छ गंगा मिशन  
National Mission for Clean Ganga

F.No. L-25012(11)/1/2022-LME-NMCG

Date: 02.05.2022

To,  
The Registrar,  
Hon'ble National Green Tribunal  
Faridkot House, Copernicus Marg,  
New Delhi-110001

**Subject: Report of the National Mission for Clean Ganga(NMCG) in the matter of M.A No. 253/2019-In Original Application No. 487/2015-Bharat Jhunjunwala & Ors. Versus Inland Waterways Authority & Ors.**

Sir,

In compliance of the Hon'ble NGT order dated 02.09.2021, the report of the National Mission for Clean Ganga in the above subject matter is enclosed herewith.

2. The Report may kindly be placed before the Hon'ble NGT for consideration.

Enclosure: As above

Yours faithfully,

(D.P. Mathuria) 02.5.2022

Executive Director-Technical

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

**IN THE MATTER OF:**

**M.A. No.253/2019 In Original Application No. 487/2015**

**Bharat Jhunjunwala & Ors.  
Versus  
Inland Waterways Authority & Ors.**

**Report of the National Mission for Clean Ganga**

**NATIONAL MISSION FOR CLEAN GANGA  
DEPARTMENT OF WATER RESOURCES, RIVER DEVELOPMENT  
& GANGA REJUVENATION, MINISTRY OF JAL SHAKTI,  
GOVERNMENT OF INDIA, NEW DELHI**

**2<sup>nd</sup> May, 2022**

## National Mission for Clean Ganga

### Report of the National Mission for Clean Ganga(NMCG) in the matter of M.A No. 253/2019-In Original Application No. 487/2015-Bharat Jhunjunwala & Ors. Versus Inland Waterways Authority & Ors.

1. The issue for consideration in the above matter, amongst other, relate to whether EIA is necessary for navigation infrastructure project in the River Ganga in the stretch from Allahabad to Haldia [ known as the National Waterway 1 (NW1)], undertaken by Inland Waterways Authority of India. The project envisages developmental activities such as river terminal, jetties and locks and barrages and 4 multimodal river water terminals along with necessary dredging operations. The project is stated to be estimated to cost Rs. 4,200 crores and is likely to take 6 years to be completed.
2. The Hon'ble National Green Tribunal (NGT) vide its order dated 02.09.2021, inter-alia observed that Ministry of Environment, Forest & Climate Change (MoEF&CC) has still not furnished the report on the general issue of requirement of Environment Impact Assessment (EIA) and issued notice, on information, that the matter is within the purview of the Ministry of Jal Shakti (MoJS). The copy of the order dated 10.01.2020, and. The copies of the order dated 02.09.2021 are **Annexure-I**
3. The issue related to the proposal for development of the project above mentioned was also considered before the Hon'ble High Court of Allahabad, in a Writ Petition (PIL) 31229 of 2005, titled Kautilya Society Versus State of U.P & Ors. of Inland Waterways Authority of India (IWAI). The applicability of the EIA notification dated 14.09.2006 and its coverage under the ambit of item 7 (e) of the schedule appended to the said notification with respect to projects for port and harbours was duly considered by the Hon'ble High Court of Allahabad. It was inter-alia mentioned by the IWAI that the draft EIA report deals with the environmental impact assessment up to the stage of the commissioning of the project and would be appropriate that IWAI also undertakes to carry out an environmental impact assessment of the project

after the commissioning of the project. The IWAI was permitted to proceed with the project subject to the conditions of obtaining an environmental impact assessment in respect of the project after the date of its commissioning. The copy of the order dated 28.04.2016, passed by the Hon'ble High Court of Allahabad is enclosed as **Annexure-II**

4. The issue regarding EIA study was again raised before the Hon'ble NGT, in the matter of OA No 487/2015, titled Bharat Jhunjunwala & Ors. Versus Inland Waterways Authority of India & Ors, which was disposed of by the Hon'ble NGT vide order dated 01.11.2018 with the direction that the MoEF&CC would submit their final opinion, in consultation with the Experts in the field, as to whether any Environmental Clearance is required or not and whether Environmental Impact Assessment is to be done in projects relating to Inland Waterways. It was also directed that the MoEF&CC would submit their final opinion to the NGT by 31<sup>st</sup> January, 2019. The copy of the order dated 01.11.2018 is enclosed as **Annexure-III**

5. An appeal, being the Civil Appeal no. 1411 of 2019, was preferred by Bharat Jhunjunwala & Ors. before the Hon'ble Supreme Court, against the impugned order dated 01.11.2018, passed by the Hon'ble NGT, in OA no. 487 of 2015. The said Civil Appeal No. 1411 of 2019 was disposed of vide order dated 22.02.2019 inter-alia with the direction that the report by the MoEF&CC will be given to the appellant, who can then approach the Tribunal by way of objections, if any, to the said Report in a fresh application filed for this purpose. A copy of the order dated 22.02.2019 passed by the Hon'ble Supreme Court is enclosed as **Annexure-IV**

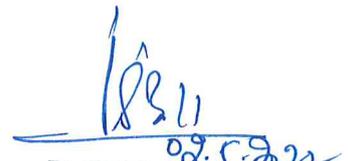
6. The Hon'ble NGT vide its order dated 29.03.2019, in OA no. 487 of 2015, has inter-alia observed that MoEF&CC has submitted the report, by way of additional affidavit on 25.03.2019, and accordingly nothing further remains to be adjudicated. A copy of the order dated 29.03.2019 is enclosed as **Annexure-V**

7. National Mission for Clean Ganga vide its letter no. L-55/2015-16/1339/NMCG dated 04.04.2019 has requested the MoEF&CC to provide a copy of the affidavit and the report filed in the matter. A copy of the letter dated 04.04.2019 is enclosed as **Annexure-VI**
8. Subsequently another OA No. 404 of 2019 was filed before the Hon'ble NGT titled, Bharat Jhunjhunwala & Ors versus Inland Waterways Authority of India. before the NGT. The Counsel for the Applicant had sought permission from the Hon'ble NGT to withdrawn the said Original Application and to file a fresh application in accordance to law and the orders passed by the Hon'ble Supreme Court Accordingly the said application 404 of 2019 was dismissed as withdrawn. The copy of the order dated 16.09.2019 passed by the Hon'ble NGT is enclosed as **Annexure-VII**
9. The present Misc Application no. 253 of 2019 in OA no. 487 of 2015 again filed before the Hon'ble NGT on the issue of the applicability of the EIA study , as per the Entry 7(e) of Schedule of the EIA Notification, dated 14.09.2006 issued by the MoEF&CC with respect to the "ports, harbors, back waters and dredging". The Hon'ble NGT vide its order dated 10.01.2020 has taken note of the Hon'ble High Court of Allahabad's order dated 28.04.2016 [in PIL No. 31229 of 2005,] and other material and directed the MoEF&CC to constitute an expert committee in terms of the order of the NGT dated 14.09.2017 to go into the issues raised in the matter and give a further report to the NGT, after looking into the entire matter. Meanwhile, vide its order dated 02.09.2021 it was informed to the Hon'ble NGT that the matter may be within the purview of Ministry of Jal Shakti(MoJS) instead of MoEF&CC.
10. That in the above context it is submitted that the NMCG vide its letter no. L-55/2015-16/1339/NMCG dated 28.02.2022 has sought four weeks' time to place the report/views of the NMCG, Ministry of Jal Shakti in the matter. A copy of the letter dated 28.02.2022 is enclosed an **Annexure-VIII**
11. That it is submitted for consideration that the National Mission for Clean Ganga is one of the authorities, constituted, vide notification no. S.O No. 3187 (E) dated 07.10.2016, under the Environment (Protection) Act, 1986

and charged with the role, responsibility to facilitate the task of rejuvenation, protection and management of River Ganga and its tributaries. The powers and functions, amongst others, are provided in paragraph 41 and 42 of the above said notification. As per paragraph 42, of the above notification dated 07.10.2016, prior approval is required in certain matters, namely: -

- (a) engineered diversion and storage of water in River Ganga without affecting the flow of water downstream of the River Ganga;
- (b) construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area;
- (c) construction of Ghats or extension of any existing Ghat;
- (d) construction of jetties;
- (e) construction of permanent hydraulic structures for storage or diversion or control of waters or channelisation of River Ganga or its tributaries;
- (f) deforestation of hill slopes and notified forest and other eco-sensitive areas;
- (g) any other activity which contravenes the principles laid out in paragraph 4 which the National Mission for Clean Ganga may specify.

12. That it is submitted that since the issue, primarily, in the above case, involves the applicability of the Environment Impact Assessment (EIA) study and the Hon'ble High Court of Allahabad in Writ Petition (PIL) No. 31229 of 2005, and the Hon'ble NGT have observed/considered the requirement of obtaining an environmental impact assessment study in respect of the project in questions, and directed to constitute an expert committee, the NMCG, Ministry of Jal Shakti shall have no objections if directed to be associated with the said Expert Committee, to be constituted by the MoEF&CC, in terms of the order dated 10.01.2020, passed by the Hon'ble Tribunal, mentioned here in above.

  
D.P Mathuria

Executive Director (Tech)

ANNEXURE I

Item No. 04

(Court No.1)

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

(By Video Conferencing)

M.A. No. 253/2019  
IN  
Original Application No. 487/2015

Bharat Jhunjhunwala & Ors.

Applicant(s)

Versus

Inland Waterways Authority & Ors.

Respondent(s)

Date of hearing: 02.09.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

**ORDER**

1. The issue for consideration is whether EIA is necessary for navigation infrastructure in the River Ganga in the stretch from Allahabad to Haldia also known as the National Waterway 1 (NW1) undertaken by Inland Waterways Authority of India. The project envisages developmental activities such as river terminal, jetties and locks and barrages and 4 multimodal river water terminals along with necessary dredging operations. It is estimated to cost ₹4,200 crores and is likely to take 6 years to be completed.

2. The matter was considered vide order dated 10.01.2020 in the light of order of the Allahabad High Court dated 28.04.2016 in PIL No. 31229 of 2005, the project information on the website of the World Bank and other material before this Tribunal. The Tribunal sought a report from the MoEF&CC on the general issue of requirement of EIA in the circumstances

mentioned in the order. The MoEF&CC, however, has still not furnished the requisite information.

3. We are informed that presently the matter may be within the purview of Ministry of Jal Shakti instead of MoEF&CC. Accordingly, the Registry may send a copy of order dated 10.01.2020 by email to the Ministry of Jal Shakti as well as MoEF&CC for their view in the matter.

List for further consideration on 22.11.2021.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

September 02, 2021  
M.A. No. 253/2019 IN  
Original Application No. 487/2015  
AVT

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Item No.07&08

Court No. 1

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

M.A. No. 253/2019  
In  
Original Application No. 487/2015  
WITH  
Original Application No. 1028/2019  
(I.A. No. 722/2019)

Bharat Jhunjhunwala & Ors

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.01 2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant(s): Mr. Ritwick Dutta, Ms. Meera Gopal, Advocates

For Respondent(s): Mr. Sanjay Upadhyay, Ms. Saumya Chandhari,  
Advocates for IWAI  
Ms. Deep Sikha Bharti, Advocate for State of U.P

**ORDER**

1. The issue for consideration is whether EIA is necessary for navigation infrastructure in the River Ganga in the stretch from Allahabad to Haldia also known as the National Waterway 1 (NW1) undertaken by Inland Waterways Authority of India. The project envisages developmental activities such as river terminal, jetties and locks and barrages and 4 multimodal river water terminals along with

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*Clearance is required or not and whether Environmental Impact Assessment is to be done in projects relating to Inland Waterways. They may do this exercise within a period of three weeks.*

*The Ministry of Environment would submit their final opinion to the Tribunal by 31st January, 2019. Accordingly, this Original Application No. 487 of 2015 is disposed of, with no order as to cost."*

6. Against the said order, the applicant filed C.A No. 1411 of 2019 before the Hon'ble Supreme Court which was disposed of on 28.02.2019 as follows:

*"However, the application that has been filed, being Original Application No. 487 of 2015, has been disposed of without the appellants being able to comment on the Report.*

*We make it clear that this Report will be given to the appellants, who can then approach the Tribunal by way of objections, if any, to the said Report in a fresh application filed for this purpose.*

*Accordingly, the appeal is disposed of."*

7. On 25.02.2019, the Tribunal observed:

*"As of now neither the Ministry has given its final opinion, as per order dated 1st November, 2018 nor an affidavit of concerning officer, as directed by order dated 13th February, 2019, has been filed.*

*Therefore, the concerned Director/Scientist, MoEF is directed to ensure that compliance of the order dated 1st November, 2018 is done, failing which he shall remain present before the Tribunal on the next date of hearing."*

8. Thereafter, an additional affidavit was filed on behalf of the MoEF&CC on 25.03.2019 in the light of which the matter was disposed of with liberty to the applicant to proceed in accordance with the direction of the Hon'ble Supreme Court.
9. It is in the above background that M. A No. 253/2019 has been filed. The applicant has also filed separate O.A No. 1028/2019. We are of the view that separate O.A. on the matter is superfluous and will stand disposed of.

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3.7 It was further explained that while recommending the proposal on 6.3.2017, the PIB had indicated the need for resolution of the limited point on non-requirement of EC for maintenance dredging in rivers before seeking the approval of Cabinet. However, the Expert Appraisal Committee of MoEF&CC considered the issue of EC for the JMVP. The Expert Committee had recommended that maintenance dredging involved in this project could not be exempted from environmental clearance as the project had not obtained any prior environmental clearance as provided in column 5 of item 7(e) of EIA Notification, as amended from time to time. In order to bring more clarity regarding the applicability of such projects under EIA Notification, 2006, the Committee recommended for amending the EIA Notification 2006 to include the Waterways, jetties and Multimodal Terminals under the list of items requiring prior environmental clearance in column 2 against item 7(e) of the schedule requiring prior environmental clearance as Category A projects.

3.8 Since there was difference of opinion between the MoS and the MoEF&CC, the Ministry of Shipping took the matter to the Committee of Secretaries (CoS) for an early resolution of the matter. The minutes of the CoS held on 29.9.2017 were also discussed. It was also informed that Department of Economic Affairs and the NITI Aayog had also supported the position taken by the MoS on the ground that maintenance dredging was merely a de-silting process.

Secretary, MoEF&CC stated that the MoEF&CC felt that the JMVP should apply for EC keeping in view the involvement of dredging component, which attracted the provisions of EIA Notification, 2006 as amended from time to time and in view of the interpretation taken by the Expert Appraisal Committee and its recommendations on the subject. He assured that the MoEF&CC would process the application for EC on a fast track basis if the JMVP applied for the same.

5. The house took note of various points advanced by the MoS and the MoEF&CC. It observed that a plain reading of the provisions in the EIA Notification, as amended from time to time, the exempted cases listed under Appendix-IX, the exemption reiterated in the Sustainable Sand Mining Guidelines of 2016, and even the position taken by the MoEF&CC in its affidavits filed before the NGT, it left little doubt that 'dredging' of silt in the river beds to keep the same navigable did not require Environmental Clearance. It was further observed that the comments and recommendations of the EAC could not be given priority over the provisions contained in the EIA Notification, especially when its recommendations, had not been incorporated in the Notification itself, more so, when the EAC has not given any cogent reasons in support of their

which prior EC is required. The judgement of the High Court cannot be treated as permission for construction of the terminal.

14. Respondent No. 01 has filed additional affidavit on 03.08.2017 stating that detailed environmental impact assessment was carried out by way of abundant caution as part of safeguards required by the World Bank. Following studies have been concluded:

- “
- i) Cumulative Impact Assessment (CIA) Report for NW-1.
  - ii) Basin level Critical Resource Study;
  - iii) Consolidated Environment Impact Assessment (EIA) Report for NW 1
  - iv) Description of Environment (Baseline Part)
  - v) Environment Management Framework for Future Interventions
  - vi) Consolidated EIA (Stakeholders Consultations)
  - vii) Environment Management Plan (EMP) for the Varanasi Multimodal Terminal;
  - viii) EMP for Sahibganj Terminal
  - ix) EMP for Haldia Terminal
  - x) EMP for Farakka Lock
  - xi) EMP for Maintenance Dredging
  - xii) EMP for Barge Operation
  - xiii) Consolidated Social Impact Assessment cum Social Management Plan\Resettlement Action Plan
10. It is submitted that as per the Disclosure Policy of the World Bank, the following reports have been put on the website:
- i) Consolidated Environmental Impact Assessment (EIA), including Description of Environment (Baseline Part), Environment Management Framework for Future Interventions, Consolidated EIA (Stakeholders Consultations); along with Executive Summary in English and regional languages.
  - ii) Consolidated SIA-cum-SMP and RAP along with Executive Summary in the regional languages.
  - iii) Cumulative Impact Assessment (CIA) Report for NW-1.
  - iv) Standalone Environmental Management Plans for the terminals at (a) Varanasi, (b) Sahibganj and (c) Haldia and (d) Navigational Lock at Farakka, (e) Maintenance dredging and (f) Barge Movements.
  - v) Resettlement Policy Framework as per applicable national laws and World Bank Operational Policies.
  - vi) Basin Level Study on Critical Environmental Resources.”

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experts may be part of the Committee. The report of the Committee may be furnished within three months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).

A copy of this order be sent to the MoEF&CC by e-mail.

List for further consideration on 27.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 10, 2020  
M.A. No. 253/2019  
In Original Application No. 487/2015  
WITH Original Application No. 1028/2019  
(I.A. No. 722/2019)  
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ANNEXURE II

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**Chief Justice's Court**

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 31229 of 2005

**Petitioner :-** Kautilya Society Thru' General Secy. & Another

**Respondent :-** State Of U.P. Thru' Principal Secy. & Others

**Counsel for Petitioner :-** Neeraj Tiwari, Neera Tiwari, S.T. Ali, Sandeep Chaturvedi, Suneet Kumar, Suneet Tewari, Tahir

Husain, U.N. Sharma, Virendra (In Person), Vrinda Dar

**Counsel for Respondent :-** C.S.C., A.N. Tewari, Ajay Kumar Singh, Ajit Kumar Singh, C.K. Parekh, Gyan Prakash, Manish Goyal, Prakash Padia, Q.H. Siddiqui, Raunak Parekh, Sanjay Kumar Om, Shambhu Chopra, Swati Agrawal, Vivek Varma

**Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice**  
**Hon'ble Dilip Gupta, J.**

**A. Repair Bye-laws and Model Heritage Bye-laws**

In the affidavit which has been filed by the Superintending Engineer of the Varanasi Development Authority<sup>1</sup> on 17 February 2016, it has been stated that in pursuance of the orders passed by this Court, building construction and development bye-laws have been amended after obtaining the prior approval of the State Government after which the bye-laws have been adopted by VDA. Bye-law 3.1.10 as amended contains provisions for regulating repairs and reconstruction of buildings situated within 200 meters of the banks of the river. At this stage, we may note that bye-law 3.1.10 has provided a complete mechanism to ensure that no new or fresh construction is raised in a manner that would either alter the exterior portion of an existing building or result in an alteration of the footprint, ground

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<sup>1</sup> VDA

coverage area, floor area ratio or height of the building.

In this context for convenience of reference, we may extract clause (III) (छ) of the amended bye-laws which reads as follows:

“(छ) पूर्व निर्मित भवन के बाह्य स्वरूप में कोई परिवर्तन अनुमन्य नहीं होगा, बल्कि विद्यमान स्वरूप में ही मरम्मत/पुर्ननिर्माण की अनुमति दी जायेगी तथा भवन का फ्रन्ट एलीवेशन पूर्व निर्मित भवन के अनुसार ही रखा जायेगा। इसके अतिरिक्त विद्यमान भवन के 'फुट-प्रिन्ट', भू-आच्छादन, एफ.ए.आर. तथा भवन की ऊँचाई में कोई वृद्धि/अनुमन्य नहीं होगा। बल्कि पूर्व निर्मित भवन की सीमान्तर्गत ही अनुमन्य होंगे।”

The amended bye-laws also include various other requirements including the submission of the plan in respect of the existing building and relevant documents and contain stipulations to the effect that there would be no change of the use of the existing structure and there would be no discharge of sewage into the river. Provisions have also been made for inspection of the constructions so as to enable the development authority to verify that there has been a breach of the bye-laws.

The State Government in exercise of its powers conferred by Section 57 read with Section 9 (2) of the UP Urban Planning and Development Act 1973 has also notified on 20 January 2016 the Model Heritage Bye-laws which have been adopted by the VDA on 22 January 2016.

Since the amended bye-law 3.1.10 of the Building Construction and Development Bye-laws has now received the approval of the State Government and has been adopted by the VDA, we deem it appropriate and proper to order and direct that all permissions for repair and development strictly in accordance with the approved Bye-laws may be processed by the VDA. However, we clarify that this order shall not be construed as an order permitting the regularization of any construction which has been carried out in violation of the provisions of the UP Urban Planning and Development Act 1973 which, in any case, shall be dealt with in accordance with the provisions of the law by the VDA.

**B. The Project of Inland Waterways Authority of India (IWAI)**

The Inland Waterways Authority of India, which is a statutory body constituted under the Inland Waterways Authority of India Act 1985<sup>2</sup>, is proposing to develop a multi modal water terminal at Ram Nagar, Varanasi. The land acquisition proceedings were completed in 2010 and approximately 5.6 hectares of land have been acquired. Among the waterways which have been declared as National Waterways, in implementation of the provisions of Section 14, is NW-1 which covers the Ganga – Bhagirathi – Hooghly river system from Allahabad to Haldia at a distance of 1620 Kms, traversing the States of Uttar Pradesh, Bihar, Jharkhand and West Bengal.

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<sup>2</sup> IWAI Act

Permanent jetties with mechanical handling facilities have been set up at Patna and Kolkata in addition to which jetties for berthing facilities have been provided at two other places. The project envisages as many as twenty floating terminals at various locations between Haldia and Allahabad. The Vice Chairperson of IWAI, who has assisted the learned Senior Counsel during the course of the hearing of these proceedings, has stated before the Court that the project is being implemented with the technical and financial assistance of the World Bank involving a total of USD 859 million. The project at Ram Nagar is on the south bank of the river and involves the construction of off shore jetties which will not impede the flow or current of the river.

The Environmental Impact Assessment Notification of the Ministry of Environmental and Forests dated 14 September 2006 covers in item 7 (e) of its schedule, projects for ports and harbours. The Court has been apprised of the fact that though the provisions of the notification of MOEF dated 14 September 2006 are not attracted to the project, detailed environmental impact assessments and cumulative impact assessments have been carried out for the project.

The learned Additional Solicitor General of India has placed on the record a copy of the Draft Environmental Assessment Report in respect of Phase 1A of Multi Modal River Water Terminal at Ram Nagar, Varanasi. The submissions which have been made before the

Court indicate that the draft EIA report deals with the environmental impact assessment up to the stage of the commissioning of the project and hence, it would be appropriate if IWAI also undertakes to carry out an environmental impact assessment of the position after the commissioning of the project. We deem this suggestion to be fair and proper and the suggestion of the learned Amicus Curiae has not been opposed by the IWAI.

Accordingly, we allow the application which has been filed by IWAI and permit the authority to proceed with the project, subject to the receipt of all the required statutory clearances. This shall, however, be subject to the condition, which we have proceeded to accept of a requirement of obtaining an environmental impact assessment in respect of the project after the date of its commissioning.

**C. Repair and Construction of Ghats**

Applications have been submitted by the State (Irrigation Department) and (Jal Nigam) for (i) construction and development of four new Ghats on the banks of the river Ganga at Varanasi; and (ii) for carrying out the work of repair at the Ghats.

1. By orders dated 11 September 2014 and 29 January 2015, this Court had directed both the Union Government and the State Government to extend cooperation in the preparation of a

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comprehensive analysis and plan by a team of experts, consisting of eminent persons drawn from diverse branches, including conservation architecture, ecology, hydro-geology, civil engineering and urban planning for the purpose of formulating a perspective plan for preserving the intrinsic character and heritage importance of Varanasi. The issues which were flagged in the order of this Court included the following:

- “(i) identification of the historic ghats, assessment of their heritage value, determining the present condition as well as the need and extent of restoration;
- (ii) repair of old constructions along side the banks of the river and the need to monitor the nature of the work that would be permitted and implemented;
- (iii) monitoring any new construction;
- (iv) pollution of the river caused due to new constructions along side the ghats;
- (v) public utilities and services on the ghats;
- (vi) sanitation and hygiene along side the ghats;
- (vii) addressing the issue of ecological imbalance.”

In pursuance of the order of this Court, a notification has been issued by the Union Government (National Mission for Clean Ganga), Ministry of Water Resources, River Development & Ganga Rejuvenation. A committee of experts has been constituted consisting

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of the following members:

- i. Chairman, Varanasi Development Authority.....Chairman
- ii. Nominee of State Government, Uttar Pradesh
- iii. Commissioner, Nagar Nigam, Varanasi
- iv. District Magistrate, Varanasi
- v. Shri Jahnwaj Sharma, Director- Conservation, ASI  
(Representative of Ministry of Culture, Govt. of India)
- vi. Shri R.P. Singh, Supdt. Engineer, CPWD, Varanasi  
(Representative of Ministry of Urban Development,  
Govt. of India)
- vii. Shri Udit Ratna, Town & Country Planner, Town &  
Country Planner Organization  
(Representative of Ministry of Urban Development,  
Govt. of India)
- viii. Regional Director, Central Ground Water Board,  
Lucknow  
(Representative of MoWR, RD & GR, GoI as Hydro-  
geology expert)
- ix. Nominee, Department of Environment, Govt. of UP (as  
Ecology expert)
- x. Additional Mission Director, National Mission for Clean  
Ganga, MoWR, RD & GR, Delhi  
.....Member Convener”

The terms of reference of the committee are as follows:

- i. To preserve and restore the intrinsic character and heritage importance of Varanasi Ganga Ghats with comprehensive analysis and Plan.

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ii. Identification of the historic Ghats, assessment of their heritage value, determining the present condition as well as the need and extent of restoration of existing Ghats and proposal of new Ghats.

iii. Consider and recommend repair of old constructions alongside the banks of River Ganga and the need to monitor the nature of work that may be permitted.

iv. Assess the extent of pollution and recommend mitigative measures arising due to new construction, waste disposal, throwing of pious materials, and river-surface cleanliness along the Ghats.

v. Mechanism for monitoring of new construction, if any that may be permitted.

vi. Public utilities and services, sanitation and hygienic condition alongside of the Ghats.

vii. Addressing the issue of ecological imbalance.”

In the application which has been filed by the State (Jal Nigam) for repair of the Ghats, it has been stated that the plan for repairs has been sanctioned by the State Government so as to ensure the availability of basic infrastructure to cater to the needs of domestic and international tourists and pilgrims by providing facilities of toilets, drinking water, information kiosk, guiding tours, telecommunications and other ancillary facilities. The sanctions which were received cover the period from 2011 to 2015, details of which have been provided as follows:

“The plan for the year 2011-12 envisages installation of

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electrical poles, sanitary and plumbing equipment, external illumination and also dismantling work, amongst other things for which the Government has been pleased to sanction the amount of Rs. 1165.96 crores.

The plan for the year 2012-13 for which a sanction for an amount of Rs. 1173.85 crores has been accorded, envisages construction of horticulture operations, street furniture, earth work, dredging work, clearance of site and civil and conservation work.

The plan for the year 2013-14 has been sanctioned at a total cost of Rs. 1174.81 lacs and the plan for 2014-15 has been sanctioned at an estimated cost of Rs.1155.31 lacs.”

In our view, now that a broad based committee has been constituted by the National Mission for Clean Ganga, consisting both of the representatives of the State Government as well as the Union Government, it would be appropriate and proper if the proposals for repair of the Ghats are placed before the committee. The terms of reference of the committee include the preservation and restoration of the intrinsic character and heritage importance of the Ghats on the banks of the river at Varanasi. The terms of reference are broad enough to cover proposals for repair and restoration of the Ghats.

Hence, we are of the view that it would be but appropriate and proper that the broad based committee which has been constituted considers the proposals which have been moved before the Court. Upon the receipt of the consent of the committee, the State

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Government would be at liberty to proceed with the work of repair. In order to facilitate the fulfillment of the urgent need of repairing of the Ghats and to provide amenities to tourists, pilgrims as well as the local residents who visit the Ghats on a daily basis, we would request the committee initially to meet at least once every fortnight so as to facilitate an early decision on the proposal for repair. Once the requisite consent has been granted, the committee would be at liberty to schedule its meetings in accordance with the exigencies of work. To facilitate the work of repair of the Ghats, we lift the order of restraint. We clarify that subject to the above, the interim order shall not stand in the way of the carrying out of repairs to the Ghats.

II. Insofar as the proposal for the construction of four new Ghats is concerned (the learned Chief Standing Counsel has informed the Court that the initial proposal for four Ghats has now been enhanced to five new Ghats), we propose to issue a direction to the effect that this proposal should also be initially placed before the committee constituted on 17 February 2016 by the office memorandum referred to above. This application which has been submitted before the Court for construction of new Ghats and for the grant of permission by the Court would be taken up after the committee has an opportunity to consider the proposal and to submit a report in regard thereto containing its observations and findings. The committee would be at liberty to consider the matter from all its perspectives and suggest

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such environmental and other safeguards as may be necessary if the proposal is found to be in order. We would request the committee to finalize its report on these aspects preferably within a period of two months from today. We direct that the representative of INTACH be also associated with the work of the committee.

**Order on the Order Sheet**

We direct that these proceedings be listed on 27 May 2016 at 2:00 pm so that the Court can be apprised of the status of the proceedings.

**Order Date :- 28.4.2016**

RK

(Dilip Gupta, J) (Dr D Y Chandrachud, CJ)

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C.M. Application No. 135071 of 2015

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 31229 of 2005

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Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice  
Hon'ble Dilip Gupta, J.

Allowed.

For orders, see order of date passed on the order sheet of  
the petition.

Order Date :- 28.4.2016  
RK

(Dilip Gupta, J) (Dr D Y Chandrachud, CJ)

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BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

ANNEXURE-III

Original Application No. 487 of 2015  
(M.A. No. 1290 of 2018)

IN THE MATTER OF:

Bharat Jhunjhunwala & Ors. Vs. Inland Waterways Authority of India & Ors.

CORAM : HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

Present: Applicant : Mr. Shibani Ghosh, Adv.  
Respondent No.1: Mr. Sanjay Upadhyay, Ms. Upama Bhattacharjee  
and Ms. Saumya Chaudhari, Advs. for IWAI  
Ms. Sakshi Popli, Adv.  
Respondent No.2: Mr. B.V. Niren and Mr. K. Mudgal, Adv.  
Ms. Deep Shikha Bharti Adv. for State of UP  
Mr. Brajesh Pandey and Mr. Varun Thakur, and  
Mr. Ishwer Singh, Advs. for NMCG  
Mr. Ardhendumauli Kr. Prasad, Mr. Shashank  
Saxena and Ms. Diksha Gera, Advs.  
Mr. Shoeb Alam and Mr. Gautam Singh, Advs.  
for State of Bihar

| Date and Remarks                 | Orders of the Tribunal  |
|----------------------------------|---|
| Item No. 15<br>November 01, 2018 | <p>In this original application, the primary issue raised is as to whether Environmental Clearance in respect to Inland Waterways is required under Law or not. There is no dispute about the fact that the project of Inland Waterways is, as on date, not included in the EIA Notification, 2006. There is no doubt about the fact that such projects are first of its kind and may increase in the coming days.</p> <p>Therefore, we consider it appropriate to direct Ministry of Environment and Forest to look into the issue in consultation with the Experts in the field, as to whether any Environmental Clearance is required or not and whether Environmental Impact Assessment is to be done in projects relating to Inland Waterways. They may do this exercise within a period of three weeks.</p> <p>The Ministry of Environment would submit their final opinion to the Tribunal by 31<sup>st</sup> January, 2019. Accordingly, this Original Application No. 487 of 2015 is</p> |

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|--|---|
| <p><b>Item No.</b><br/>15<br/><br/><b>November</b><br/><b>01, 2018</b></p> | <p>disposed of, with no order as to cost.</p> <p><b><u>M.A. No. 1290 of 2018</u></b></p> <p>This Application does not survive for consideration, in view of the fact that main Application itself stand disposed of.</p> <p>M.A. No. 1290 of 2018 stands disposed of accordingly.</p> <p>.....JM<br/>(Raghuvendra S. Rathore)</p> <p>.....EM<br/>(Dr. Satyawan Singh Garbyal)</p> |
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ANNEXURE - IV

ITEM NO.14

COURT NO.6

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). 1411/2019

BHARAT JHUNJHUNWALA & ORS.

Appellant(s)

VERSUS

INLAND WATERWAYS AUTHORITY OF INDIA & ORS.

Respondent(s)

(IA No.20485/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No.20486/2019-STAY APPLICATION)

Date : 22-02-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE VINEET SARAN

For Appellant(s)

Mr. C.U. Singh, Sr. Adv.  
Mr. Vinay Navare, Adv.  
Mr. V.V.S. Patavi Ram, Adv.  
Ms. Shruti Agarwal, Adv.  
Mr. Nachiketa Joshi, AOR

For Respondent(s)

Mr. Tushar Mehta, SG  
Mr. Sanjay Upadhyay, Adv.  
Ms. Mayuri Raghuvanshi, AOR  
Mr. Salik Shafique, Adv.  
Ms. Upama Bhattacharjee, Adv.  
Ms. Saumya Chaudhari, Adv.

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

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

(R. NATARAJAN)  
COURT MASTER (SH)

(RENU DIWAN)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 1411 OF 2019

BHARAT JHUNJHUNWALA & ORS. Appellant(s)  
VERSUS  
INLAND WATERWAYS AUTHORITY OF INDIA & ORS. Respondent(s)

O R D E R

Mr. C.U. Singh, learned Senior Counsel appearing for the appellants has argued that the Ministry of Environment is to submit a final opinion to the Tribunal by 31.01.2019. Time to do so, we are told, has been extended.

However, the application that has been filed, being Original Application No. 487 of 2015, has been disposed of without the appellants being able to comment on the Report.

We make it clear that this Report will be given to the appellants, who can then approach the Tribunal by way of objections, if any, to the said Report in a fresh application filed for this purpose.

Accordingly, the appeal is disposed of.

All contentions of parties are left open.

Pending applications also stand disposed of.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(VINEET SARAN)

Signature Not Verified  
Digitally signed by R  
NATHAN  
Date: 2019.02.25  
14:29:34  
Reason: [ ]

New Delhi;  
February 22, 2019.

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ANNEXURE V

Item No. 04

Court No. 2

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Original Application No. 487/2015

Bharat Jhunjhunwala & Ors. Applicant(s)

Versus

Inland Waterways Authority of  
India & Ors. Respondent(s)

Date of hearing: 29.03.2019

**CORAM:**  
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

For Applicant(s): Ms. Shibani Ghosh Chandra,  
Advocate

For Respondent (s): Mr. Sanjay Upadhyay, Mr. Salik  
Shafique, Ms. Saumya  
Chaudhari and Ms. Upama  
Bhattacharjee, Advocates for R-1  
Ms. Deep Shikha Bharti,  
Advocate for R-4, State of U.P.  
Ms. Sakshi Popli and Mr. D.P.  
Pande, Advocates for MoEF  
Mr. Ishwer Singh, Advocates for  
NMCG

**ORDER**

By the order dated 01.11.2018 original application no. 487/2015 was disposed of. However, the Ministry of Environment and Forest and Climate Change was directed to give final opinion to the Tribunal by 31.01.2019.

In the meanwhile, the order of 01.11.2018 was taken up before the Hon'ble Supreme Court in Civil Appeal

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No.1411/2019. The said appeal came to be disposed of on 22.02.2019, wherein the applicants have been given liberty to approach the Tribunal by way of objections, if any, to the said report in a fresh application filed for this purpose. The MoEF & CC has submitted the report by way of additional affidavit on 25.03.2019. Therefore, the applicant would be at liberty to proceed in accordance to the directions given by the Hon'ble Supreme Court vide its order dated 22.02.2019.

Nothing further remains to be adjudicated in this matter, let the same be consigned to record room.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

March 29, 2019  
JG

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ANNEXURE - VI

F.No L-55/2015-16/1339/NMCG  
National Mission for Clean Ganga  
Ministry of Water Resources,  
River Development and Ganga Rejuvenation

Major Dhyanchand Stadium  
National Stadium, Near India Gate,  
New Delhi - 110001

Dated: 3<sup>rd</sup> April, 2019  
P.M.

Sub:- Copy of the Report -in the matter of O.A No 487/2015- Bharat  
Jhunjhunwala & Ors Vs Inland Waterways Authority of India & Ors  
before National Green Tribunal, New Delhi- Regarding

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Sir,

This has a reference to the above subject case in which the MoEF&CC  
has submitted a report by way of an additional affidavit on 25.3.2019. It is  
requested that a copy of the affidavit and the Report filed therein may  
kindly be arranged to be sent to this office.

Yours faithfully

(D.P. Mathuria)

Executive Director (Tech)

04.4.2019

To,  
The Secretary,  
Ministry of Environment, Forests & Climate Change  
Indira Paryavaran Bhawan,  
Jor Bagh New Delhi

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ANNEXURE-VII

Item No. 06

Court No. 2

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

Original Application No. 404/2019  
(I.A. No. 289/2019)

Bharat Jhunjhunwala & Ors.

Applicant(s)

Versus

Inland Waterways Authority of India  
& Ors.

Respondent(s)

Date of hearing: 16.09.2019

**CORAM:**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s):

Ms. Shibani Ghosh, Advocate

For Respondent (s):

Mr. Sanjay Upadhyay, Advocate  
Mr. Shashank Saxena, Advocate  
for Mr. Ardhendumauli Kumar  
Prasad, Advocate  
Mr. Keshav Mohan, Advocate and  
Mr. Rishi Awasthi, Advocate  
Mr. Ishwer Singh, Advocate  
Ms. Deep Shikha Bharati,  
Advocate

**ORDER**

After making submission for some time, the Learned Counsel for the applicant prays that she may be permitted to withdraw this original application so as to file a fresh one, in accordance to law and the orders passed by the Hon'ble Supreme Court.

Consequently, original application no. 404 of 2019 stands dismissed as withdrawn, with liberty as aforesaid.

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**I.A. No. 289/2019**

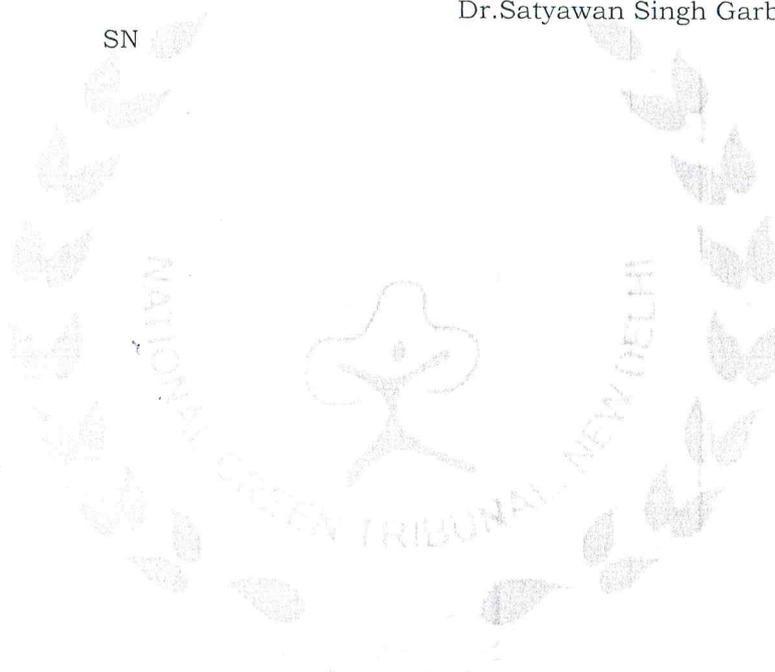
This interlocutory application does not survive for consideration as the main original application itself stands dismissed as withdrawn.

I.A. No. 289/2019 is dismissed, accordingly.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

SN



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ANNEXURE VII  
राष्ट्रीय स्वच्छ गंगा मिशन  
National Mission for Clean Ganga  
MOST URGENT

F.No. No L-55/2015-16/1339/NMCG

Dated: 28.02.2022

Subject: In the matter of Misc Application No. 253/2019 in Original Application No. 487/2015 - Bharat Jhunjhunwala & Ors Versus Union of India &Ors.- regarding

Sir,

This has a reference to the Hon'ble NGT's Order dated 02. 09.2021 in the above matter inter-alia directing MoEF&CC and the MoJS to convey their views/report relating to the Inland Waterways project, a navigational infrastructural project, in the stretch from Allahabad to Haldia, known as the National Waterway 1 (NW1), undertaken by Inland Waterways Authority of India, in the River Ganga.

2. In the above context it is stated that it appears that the MoEF&CC has already examined the viability of the coverage/requirement in respect of the project and the requisite safeguards, in terms of the EIA notification No S.O. 1533(E) dated 14.09.2006 or otherwise, to avoid any adverse impact of the project on the river ecology. In this regard, to comply with the directions of the Hon'ble NGT, NMCG, MoJS is examining the Report of the Committee of Experts, constituted by the MoEF&CC, to further examine the study / impact of the project in question.

3. In view of the foregoing, the request of the NMCG, MoJS may kindly be placed before the Hon'ble Tribunal to grant at least four weeks' additional time to place the report/views of the NMCG, MoJS in the matter. The case is scheduled to be listed on 02.03.2022.

4. This issues with the approval of the Director General, NMCG.

Yours faithfully

D.P. Mathuria

Executive Director (Tech)

To

The Registrar, National Green Tribunal (PB)  
Faridkot House, Copernicus Marg, New Delhi

Copy to:

1. PS to the Secretary, D/oWR, RD &GR, Ministry of Jal Shakti, Shram Shakti Bhawan, New Delhi
2. PS to the DG, NMCG
3. PS to Chairman, Central Water Commission, R.K Puram New Delhi

28 FEB 2022