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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 1040 OF 2019

IN THE MATTER OF:

AKASH VASHISHTHA

... APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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THROUGH

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Place: New Delhi

Date: 1.09.2020

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RESPONSE TO REPORT DATED 25.08.2020 SUBMITTED BY THE D.M.

MATHURA

Most respectfully showeth:

1. That the Applicant is filing this response to the report dated 25.08.2020 filed by the DM Mathura which is not showing the correct picture before this Hon'ble Tribunal has made misleading statements. The report has neither considered the findings by Prof. C. R. Babu about construction activities on flood plain of river Yamuna nor representation by the Applicant as directed by this Hon'ble Tribunal.
2. The Applicant had filed Original Application No. 1040 of 2019 against the construction of a metalled road taking place on the river bed of Mathura in the river bed of Yamuna in Vrindavan along with other permanent illegal constructions. The Applicant had submitted that the primary purpose of the Ghats is for bathing and religious activities in Vrindavan, however the road was being used to facilitate illegal reclamation of floodplains. The construction of this road was leading to dumping of malba and debris on the Ghats, which was not only affecting the above activities but also destroying the ancient ghats, causing pollution and were in violation of the orders of this Hon'ble Tribunal in *Akash Vashishtha and Anr. v. Union of India and Ors. (Original Application No. 89/2013, order dated 20.05.2013)* as well as *Manoj Mishra v. Union of India and*

Ors. (Original Application No. 6 of 2012 and Original Application No. 300 of 2013, order dated 13.01.2015).

3. The Applicant had relied upon the Report titled "Report on site visit to Vrindavan to assess the revival of 400-500 old bathing ghats along the Yamuna Riverfront" (**Annexure A-2 of the Original Application, page nos. 28-29**) based on a site inspection dated 14.08.2019 which made the following observation regarding the illegal road:

"The flood plain is separated from the bathing ghats by a road (Figure 2) which was laid on the floodplain. The floodplain and the water course of one channel was completely encroached and massive buildings were constructed (Figures 3-5). The sewage from unauthorised settlements are discharged into the river Yamuna (Figure 6). Action plan proposed for revival of Ghats and beautification of riverfront

(i) All unauthorized structures including the road located on the floodplains and close to one of the river channel and in front of the bathing ghats should be removed."

(emphasis supplied)

4. By order dated 20.12.2019 this Hon'ble Tribunal sought a report from a Joint Committee from the UP State PCB, UP Irrigation Department and the District Magistrate Mathura. Thereafter, a Report was submitted by the Committee on 5.05.2020 stating that ***no permissions can be granted for construction on the ghats***. The Report also annexed several photographs that show the construction of the road on the Yamuna floodplains along with other constructions.
5. Thereafter the matter was taken up on 5.05.2020, and the Hon'ble Tribunal ordered the District Magistrate, Mathura to take appropriate action and furnish a

further action taken report. The Applicant was also granted the liberty to represent to the District Magistrate for further effective action.

6. In compliance with these directions, the Applicant sent a representation by email dated 15.06.2020 to the District Magistrate Mathura highlighting that the illegal road construction had led to the dumping of malba and debris on the steps of the ancient ghats viz. Cheer Ghat, Govind Ghat and Bhramar Ghat, which was causing irreparable damage to the Ghats and obstructing the natural flow of the river. The Applicant also highlighted that other illegal constructions by Government agencies and houses had been illegally constructed on the Ghats. A copy of the email sent by the Applicant on 15.06.2020 is annexed here as **Annexure 1**. However, it is pertinent to note that the Representation has not been acted upon nor was the Applicant contacted for any clarification regarding the same.

The Report found that road on flood plain without permission but failed to propose any action:

7. It is submitted that the Report dated 5.05.2020 has stated no permission is granted for construction of road and also submitted that report says no construction is allowed on the floodplains. Thus, the road is clearly illegal and is required to be removed. However it is denied that as stated in the report 300 meters concretised road was built for the protection of the ancient Ghats and Temples.
8. Further it is submitted that the road does not protect the Ancient Ghats and Temples, rather due to the construction and the dumping of malba and debris the Ghats are being irreparably damaged and the flow of the river has changed. Photographs annexed at **page no. 32 of the Original Application** and **page nos. 6, 10 of the Report dated 5.03.2020** clearly show the extent of the road illegally constructed on the floodplain.

9. It is submitted that the Report has failed to consider the Report by CR Babu which has clearly stated the road was laid on the floodplain and that "***all unauthorized structures including the road located on the floodplains and close to one of the river channel and in front of the bathing ghats should be removed.***"
10. The Applicant is also annexing photos taken after the report submitted by the DM, Mathura which shows that the road is encroaching upon the floodplains and the Ghats and affecting the flow of the river. Photographs of the illegal road is annexed here as **Annexure 2.**
11. Further, the Report has stated that the road was built in larger public interest as the stretch was kutchra and uneven and it was difficult for the devotees to walk on that stretch. However, it is submitted that this is a misleading statement, as the Parikrama is always performed barefooted across the banks of the river Yamuna, and the concretization makes the journey much more difficult. The road has been built to facilitate the motor cars, which would only cause road accidents to the devotees who perform 'dandavati parikrama' by lying on the holy dust of Vrindavan.
12. It is further submitted that once the road is removed, the ancient steps of the Ghat will be made visible and the protected Archeological monument will be protected.

The Report has failed to remove all illegal constructions and encroachment in the form of dumped malba and debris:

13. The Report states that one store room was demolished and that no other constructions exist on the entire Yamuna Floodplain in Vrindavan. It is submitted that this is **completely false and illegal.**
14. That only one structure of the 'Setu Nigam' store room was removed, however another store room alongside the Bhramar Ghat is still present, no other structure of temporary or permanent structure was removed. Further all the

construction debris is encroaching upon the Ghats which has not been removed. The Report has only carried out a very cosmetic exercise in complete contravention of the orders of this Hon'ble Court which is an eyewash and they are allowing the violators to carry out violations with impunity. Photographs showing the dumped debris and the illegally constructed storeroom at Bhramar Ghat is annexed here as **Annexure-3**.

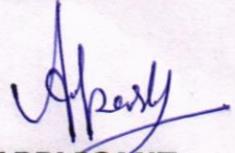
15. Further, the District Magistrate, Mathura has only carried out a site inspection of the Cheerghat, however the orders of this Hon'ble Tribunal relate to the entire stretch of Yamuna floodplains in Vrindavan. Thus, the District Magistrate has failed to comply with the orders of this Hon'ble Tribunal.
16. Finally, the Report states that there is an illegal construction of a gaushala between Shringar vat and Cheerghat. The case is pending before the MVDA court. However, the Report also states that the Irrigation Department has jurisdiction over the Ghat, thus, this is merely a delaying tactic and once it is accepted that the construction is illegal and, on the floodplains, it must be removed immediately.

PRAYER

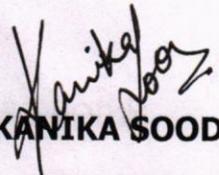
Therefore, it is prayed that this Hon'ble Tribunal may direct that:

- (a) Removal of illegal concretised road constructed on the Yamuna floodplains of Vrindavan - Mathura between Shringarvat and Keshi Ghat;
- (b) Removal of illegal Gaushala constructed between Shringarvat and Cheerghat;
- (c) Removal of all temporary and permanent construction on the Yamuna floodplains and not just limited to the site inspection carried out by the District Magistrate, Mathura.

Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.


APPLICANT

THROUGH


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01/09/2020

**BEFORE THE NATIONAL GREEN TRIBUNAL,
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IN THE MATTER OF:

Akash Vashishtha ...Applicant

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AFFIDAVIT

I, Akash Vashishtha, s/o Shri S. N. Vashishtha, aged about 40 years, R/o R-7/17, Raj Nagar, Ghaziabad (UP) - 201001 do hereby solemnly affirm and state as under:

- 1. That I am the Applicant in the above titled Application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
- 2. That the contents of the accompanying response are true and correct and nothing material has been concealed therefrom.

DEPONENT

(*Deponer's Seal*)

VERIFICATION

Verified on this 1st of September 2020 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.

DEPONENT



15-1 SEP 2020

ATTESTED

NOTARY PUBLIC (INDIA)

**Fwd: Representation of the undersigned as per the directions of Hon'ble NGT IN
O.A. No. 1040/2019**

1 message

AKASH VASHISHTHA <vashishtha.akash6@gmail.com>

Sat, Aug 29, 2020 at 9:05 PM

To: litigation.life@gmail.com, Meera Gopal <meera.gopal18@gmail.com>, Meera Gopal <meera@lifeindia.net.in>, Rahul Choudhary <rahulchoudhary@gmail.com>

----- Forwarded message -----

From: **AKASH VASHISHTHA** <vashishtha.akash6@gmail.com>

Date: Mon, 15 Jun, 2020, 1:18 PM

Subject: Representation of the undersigned as per the directions of Hon'ble NGT IN O.A. No. 1040/2019

To: <dmmat@nic.in>

Cc: <judicial-ngt@gov.in>

Dear Sir,

Please have the attached representation in accordance with the directions of the Hon'ble NGT in O.A. No. 1040/2019, Akash Vashishtha Vs Union of India & Ors.

Thanks & Regards,

Akash Vashishtha
9717006866

 **Representation to DM Mathura.doc**
7893K



Illegal Concretised Road on the Yamuna floodplains at Cheerghat



Illegal Concretised road which has changed the flow of the river Yamuna built by filling the floodplain with malba and debris



Illegal Setu Nigam store still standing



Illegal dumping of construction and debris on the banks of the river Yamuna which has changed the flow of the course of the river