

**Letter No.-NGT-108/81-7-2024**

**From,**

**Ashish Tiwari,**  
Secretary,  
Govt. of Uttar Pradesh.

**To,**

**The Registrar General,**  
Hon'ble, National Green Tribunal,  
Principal Bench,  
Faridkot House, Copernicus Marg,  
New Delhi- 110001

**Environment, Forest & Climate  
Change Section-7**

**Lucknow : Dated : 07 February, 2024**

**Sub:** Response on behalf of the State of Uttar Pradesh in compliance of Hon'ble NGT order dated 11.09.2023 in the matter of Original Application No. 418/2023 Nirmal Kumar Tripathi Vs State of U.P. & Ors.

**Sir,**

In compliance of the order dated 11.09.2023 passed by Hon'ble Tribunal in Original Application No. 418/2023 Nirmal Kumar Tripathi Vs State of U.P. & Ors., the response on behalf of the State of Uttar Pradesh is enclosed herewith for your kind perusal and further necessary action.

**Enclosures: As above**

**Sincerely Yours,**

  
**( Ashish Tiwari )**  
Secretary.

**Copy to:** Shri Bhanwar Pal Singh Jadon, Standing Counsel, Hon'ble NGT, New Delhi for information and further necessary action.

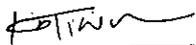
RESPONSE ON BEHALF OF STATE OF UTTAR PRADESH, IN COMPLIANCE TO THE ORDER DATED 11.09.2023 PASSED BY HON'BLE NGT PRINCIPAL BENCH, NEW DELHI IN ORIGINAL APPLICATION NO. 418 OF 2023 IN RE: NIRMAL KUMAR TRIPATHI Vs STATE OF U.P. & Ors.

1. That the Hon'ble National Green Tribunal, Principal Bench, New Delhi vide its order dated 11.09.2023 in Original Application No. 418 of 2023 In Re: Nirmal Kumar Tripathi Versus State of Uttar Pradesh has passed the directions. The relevant part of the order is as below:

".....2. In view of the averments made in the application and observations made in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Uttar Pradesh through Secretary, Environment, Government of Uttar Pradesh, (2) Executive Officer, Municipal Council, Deoria, (3) Executive Engineer, PWD, Deoria (4) DFO, Deoria, (5) District Magistrate, Deoria and (6) UPPCB who stand impleaded as respondents No. 1 to 6. The Registry is directed to prepare and attach memo of parties to the application. Respondent no. 6-UPPCB is already appearing before this Tribunal through its Counsel. The Registry is directed to issue notices to respondents No. 1 to 5.

3. Reply/response by respondents no. 1 to 6 be filed within two months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. ...."

2. That it is noteworthy that the case in question was the construction of a drain along the Deoria-Khoraram road by the Jal Nigam regarding environmental pollution caused by mining.
3. It is pertinent to mention here that as the order/information of order dated 04.01.2024 was received by the department, on 30.01.2024 the letter was issued by the department to the Additional Chief Secretary/Principal Secretary, Urban Development/Public Works Department, Uttar Pradesh Government and District Magistrate Deoria to review the order dated 04.01.2024 passed and file the status report/response in the consonance of it. (ANNEXURE -A1)
4. That it was directed to the District Magistrate, Deoria and Additional

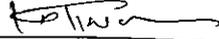


Chief Secretary/Principal Secretary, Urban Development/Public Works Department, Uttar Pradesh Government to take necessary action regarding the storm water drains already existing and their present operational status and utility in draining storm water and status of the drain under construction with all requisite details in accordance with law.

Therefore, the response of the State of Uttar Pradesh through Secretary Environment is placed before this Hon'ble National Green Tribunal for perusal and kind consideration.

Lucknow :

Dated : 07 February, 2024

  
( Ashish Tiwari )  
Secretary,  
Environment, Forest &  
Climate Change  
Department

I/481195/2024

उत्तर प्रदेश शासन  
पर्यावरण, वन एवं जलवायु परिवर्तन अनुभाग-7  
संख्या-एन0जी0टी0-63/81-7-2024  
लखनऊ : दिनांक : 30 जनवरी, 2024

- 1- अपर मुख्य सचिव/प्रमुख सचिव,  
नगर विकास/लोक निर्माण विभाग,  
उ0प्र0 शासन।
- 2- जिलाधिकारी,  
देवरिया।

कृपया मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में विचाराधीन ओ0ए0 संख्या-418/2023 Nirmal Kumar Tripathi Vs State of U.P. & Ors. में पारित आदेश दिनांक 04.01.2024 का कृपया अवलोकन करने का कष्ट करें, जिसके सुसंगत अंश निम्नवत् है :-

"..... 2. The proceedings before this Tribunal cannot be treated as part of adversarial litigation where the concerned defendants may opt out to remain absent and suffer ex-parte proceedings. On the other hand, the State and its instrumentalities are under constitutional and statutory obligations to ensure compliance with environmental norms and, therefore, the State and its instrumentalities have to ensure submission of their replies/response with relevant details and also their representation through duly authorised representatives/Counsel before this Tribunal. State of Uttar Pradesh and some of its instrumentalities are not generally appearing before this Tribunal and filing their replies/response in response to the notices served on them.

3. The matter was also brought to the notice of the Chief Secretary, Government of Uttar Pradesh and learned Advocate General, Government of Uttar Pradesh for issuance of appropriate instructions for compliance with notices issued by this Tribunal and submission of reply/response and ensuring representation through their authorized representative/counsel before this Tribunal, as may be required.

4. Non-appearance of respondent no. 1-State of Uttar Pradesh, Respondent no. 2- Executive Officer, Municipal Council, Deoria, Respondent no. 3- Executive Engineer, PWD, Deoria, Respondent no. 4- DFO, Deoria and Respondent no. 5-District Magistrate, Deoria today has the effect of causing unnecessary adjournment and delaying appropriate resolution of the environmental issues involved in the case. Such deliberate non-appearance can be remediated only by an order imposing exemplary costs for unnecessary adjournment thereby caused.

5. In these facts and circumstances the case is adjourned to 09.02.2024 subject to payment of costs of Rs. 25,000/- each by respondent no. 1-State of Uttar Pradesh through Secretary Environment, Respondent no. 2- Executive Officer, Municipal Council, Deoria, Respondent

no. 3- Executive Engineer, PWD, Deoria, Respondent no. 4- DFO, Deoria and Respondent no. 5-District Magistrate, Deoria. The costs shall be deposited with the National Green Tribunal Bar Association, Principal Bench, New Delhi. The amount of costs so deposited shall be utilized for providing legal aid to the applicants not represented by any lawyer for effectively presenting their case before this Tribunal and creating facilities for the litigants visiting this Tribunal for hearing of cases filed by them.

6. Vide order dated 22.11.2023, the Tribunal directed Jal Nigam, Deoria and District Magistrate, Deoria to file copies of study report of IIT, Kanpur on the concretization of storm water drain. In compliance to the direction of this Tribunal, District Magistrate, Deoria has, vide letter dated 16.12.2023 (sent vide email dated 19.12.2023), submitted a copy of technical feasibility report on construction of RCC storm water drainage stated to have been prepared by Nand and Sons, District Chandauli, Uttar Pradesh and countersigned by IIT, Kanpur. Copy of the letter dated 16.12.2023 of the Executive Engineer, Jal Nigam, U.P. has been enclosed by the District Magistrate, Deoria, in which it is mentioned under para 4 that "यह कि जल निकासी हेतु ड्रेन का Design M/s Ventech Engineers Kanpur द्वारा तैयार किया गया जिसको Prof. Samit Ray Chaudhary, Department of Civil Engineering, IIT Kanpur द्वारा गहन परीक्षण के उपरान्त उपयुक्त पाया गया।". The report submitted by District Magistrate, Deoria clearly indicates that it has been prepared by private agency and not by IIT, Kanpur and the same was signed by a Professor of IIT, Kanpur in his personal capacity and cannot be construed as the report of the IIT Kanpur.

7. District Magistrate, Deoria and the concerned Executive Engineer, Jal Nigam, Deoria are directed to file additional report regarding the storm water drains already existing and their present operational status and utility in draining storm water and status of the drain under construction with all requisite details.

8. List for further consideration on 09.02.2024.

9. In the meanwhile work may be continued regarding digging of the drain only without any further concretization of the same and further orders regarding concretization and other civil structure of the same will be passed after further hearing of the case.

10. In view of the facts and circumstance of the case, we also consider personal appearance of the District Magistrate, Deoria and the concerned Executive Engineer, Jal Nigam, Deoria through VC on the next date of hearing to be essential for producing the relevant record and assisting this Tribunal in just and proper adjudication of the questions involved in the case. Accordingly they are directed to remain present before this Tribunal on that date with the relevant record. ..."

2- उल्लेखनीय है कि प्रश्नगत प्रकरण जल निगम द्वारा देवरिया-खोराराम मार्ग के किनारे नाले की

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खुदाई से उत्पन्न पर्यावरण प्रदूषण के संबंध में है। प्रकरण में मा0 एन0जी0टी0 में सुनवाई की अगली तिथि दिनांक 09.02.2024 नियत है।

3- इस संबंध में कंसलटेन्ट (ज्यूडिशियल) एन0जी0टी0, नई दिल्ली के ई-मेल पत्र दिनांक 16.01.2024 की छायाप्रति संलग्नक सहित प्रेषित करते हुए अनुरोध है कि प्रश्नगत प्रकरण में मा0 अधिकरण द्वारा पारित आदेश दिनांक 04.01.2024 के अनुपालन में समयान्तर्गत आवश्यक कार्यवाही सुनिश्चित करते हुए कृत कार्यवाही से पर्यावरण, वन एवं जलवायु परिवर्तन विभाग, उ0प्र0 शासन (Email-soenvups@rediffmail.com) तथा सदस्य सचिव, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, लखनऊ (Email-ms@uppcb.in) को तत्काल अवगत कराने का कष्ट करें।

संलग्नक-यथोक्त।

Digitally Signed by आशीष  
तिवारी  
Date: 29-01-2024 19:01:36  
Reason: Approved

( आशीष तिवारी )  
सचिव।

संख्या एवं दिनांक तदैव

प्रतिलिपि-निम्नलिखित को कंसलटेन्ट (ज्यूडिशियल) एन0जी0टी0, नई दिल्ली के उक्त ई-मेल पत्र दिनांक 16.01.2024 की छायाप्रति सहित उक्तानुसार कार्यवाही हेतु प्रेषित :-

- 1- प्रबन्ध निदेशक, उ0प्र0 जल निगम (नगरीय), लखनऊ।
- 2- सदस्य सचिव, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, लखनऊ।
- 3- प्रभागीय वनाधिकारी, देवरिया।

आज्ञा से,

( आशीष तिवारी )  
सचिव।