

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 920 OF 2022**

IN THE MATTER OF:

MINAKSHI ARORAAPPLICANT

Versus

STATE OF UTTARAKHAND & ORS.RESPONDENTS

**RESPONSE TO THE JOINT COMMITTEE REPORT OF THE
UTTARAKHAND POLLUTION CONTROL BOARD**

MOST RESPECTFULLY SHOWETH:

1. That the above titled application was filed raising the issue of construction of residential houses on the active flood plain and the river bed of River Bald at Dhanaula village, Dehradun, Uttarakhand. The River Baldi, Uttarakhand, an important tributary of the Song River which is a major tributary to river Ganga has been experiencing severe anthropocentric pressures on its flood plans, resulting in threatening the existence of the river.
2. That via order dated 05.01.2023, The Hon'ble Tribunal admitted the matter and constituted a joint committee comprising of State Pollution Control Board and District Magistrate, Dehradun to visit the site and collect relevant information and submit factual and action taken report. The relevant portion of the order dated 05.01.2023 is reproduced below:

"3. In our view, before taking any further action, it will be appropriate to obtain a factual and action taken report in the matter. We constitute a joint committee comprising State PCB and District Magistrate, Dehradun to visit the site, collect relevant information and submit factual and action taken, if any, report to this this Tribunal within two months by email at judicialngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. Nodal agency

will be District Magistrate, Dehradun for coordination and compliance”

3. That as per the order dated 05.01.2023, the Respondent No. 7, The Uttarakhand Pollution Control Board (UPCB) conducted a site visit on 28.02.2023 and the copy of the report was severed to the Applicant on 29.05.2023.
4. That the present response is filed to the Joint Committee report filed by the Respondent No.7. At the outset, it is humbly submitted by the Applicant that, the Joint Committee report is vague in nature and is not sufficient to collaborate the actual nature of constructions undertaken in the flood plains of river Baldi and on the river bed.

I. The construction activities undertaken by the Respondent No.10 is on the flood plains of river Baldi as per the revenue records

5. That the joint committee report has given finding that a wall has been constructed next to river Baldi to stop the river water from entering and eroding the land of Respondent No.10. it is submitted that it is very much clear that the area in question is a part of river bed and flood plain. However, the report dated 17.03.2023 is silent on whether the construction activities are undertaken in the flood plain or not. But the Applicant humbly submits that the construction activities undertaken by the Respondent No. 10 is on the flood plains of the river Baldi. That the Applicant after perusal of the land records found out that the construction activities undertaken by the Respondent No.10 in Khasra No. 171 at Dhanaula village is that of Baldi river. The certified copy of the revenue maps is attached as Annexure A4 in the Original Application. It is submitted that the ownership of land is immaterial with respect to activity of construction on the flood plain. The Ganga Notification, 2016 and orders and directions passed by this Hon'ble Tribunal has made no distinction between a private land or a government land of the floodplain. No construction activity are allowed

on the flood plain or river bed even if anyone has ownership of the land.

6. That as per the Section 2(a) of the Uttarakhand flood Plain Zoning Act, 2012 "Flood Plan" includes water channel, flood channel and that area of nearly low and which is susceptible to flood by inundation. The Khasra No. 171 is a low lying area which is geographically located at the confluence of river Baldi and river song, which during monsoon times is prone to surging and flooding.
7. That as per the report published by the South Asia Network on Dams, rivers and people (SANDRP) annexed as ANNEXURE A5 in the Original Application, the Baldi river, Tributary of Song engulfs regularly during cloud bursts and gets submerged causing massive destruction to life and property to the nearby residents.
8. That furthermore, the Applicant also placed reliance on the revenue record which is annexed as Annexure A6 in the original application which clearly states that the Khasra no. 171 with an area of 0.0405ha acquired land by Respondent No. 10 is that of river Baldi. It is humbly submitted by the Applicants that said construction on the vulnerable flood plains is illegal and no construction on the flood plains should be allowed irrespective of the ownership of the land as the construction are threatening the existence of river Baldi.

II. The construction activities are in violation to the Ganga (Rejuvenation, Protection and Management) Authorities order, 2016, and various other provisions of law.

9. That the committee has failed to look into the Ganga notification, 2016 which prohibits any kind of construction activity or the river bed. The construction activities undertaken by the Respondent No. 10 on the flood plains is impeding the natural flow of the river thereby attracting the River Ganga (Rejuvenation, Protection and Management) Authorities order dated 07.10.2016 which states in Para 6(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. It is also pertinent to note that, the said constructions is in violation to the Water (Prevention and Control of Pollution) Act, 1974 and various other provisions of law.

10. That the Joint Committee report clearly states that there are structures such as walls, stone foundations with width of 60*09 (540sqm) in the Khasra no. 171. However, the Applicant submit that the photographs attached in the Joint Committee Report substantiates the point no.2 and 3, apart from that there are still constructions of residential nature undergoing in the site of which the Joint Committee remains silent on.
11. That furthermore, the contention in the Joint Committee report that the constructions were seen to be beyond 30ms cannot be relied as there is no clarity on how or where the measurements were taken. However, the Applicant submit that the constructions were undertaken in the flood plains as per the revenue records placed by the Applicants and these constructions are in violation to the Hon'ble Supreme Court's order in ***Manoj Misra v. Delhi development Authority & Ors 2015 SCC OnLine NGT 840*** where Hon'ble Supreme court has observed that the flood plains are integral part of river system and they must be demarcated and kept free from any permanent development wherever it is possible.

III. The District Magistrate, Dehradun was not part of the inspection committee as directed by this Hon'ble Tribunal by vide order dated 05.01.2023

12. That it is humbly submitted by the Applicant that as per the order dated 05.01.2023, the Hon'ble Tribunal in Para 3 appointed the State PCB and District Magistrate to inspect the site. However, it can be understood from the Joint Committee report that site inspection was carried out on 28.02.2023 in the presence of Mr. Dinesh Chandra Uniyal (Executive Engineer, Irrigation Department, Dehradun), Mr. Sanjay Saini, (Revenue Inspector, Dehradun) and District Magistrate, Dehradun was not part of the inspection.

IV. The construction activities in the Khasra no.171 at Dhanaula, Village is still continuing

13. That the Respondent No.10 was asked to remove the permanent structures that were constructed on the flood plain/ river bed by the UPCB during its site visit on 28.02.2023. However, the Applicant hereby submit that the construction activities are still actively going on and therefore is liable to be immediately intervened and stopped. It is pertinent to point out that the committee has not given direction for removal of all the construction on the flood plain and river bed. Furthermore, they have identified that Khasra no. 171 to be 30ms away from the river bank, but has not stated that this land parcel is on floodplain.

Through



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Place:- Delhi

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