

SUPPLEMENTARY REPORT OF THE OVERSIGHT COMMITTEE,
NGT, U.P, LUCKNOW

IN THE MATTER OF:-

ORIGINAL APPLICATION NO. 176/2015

SHAILESH SINGH

VERSUS

HOTEL HOLIDAY REGENCY, MORADABAD & ORS

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**SUPPLEMENTARY REPORT OF OVERSIGHT COMMITTEE REGARDING O.A 176/2015: IN RE:
SHAILESH SINGH VS. HOTEL HOLIDAY REGENCY, MORADABAD & ORS**

I. BACKGROUND

The issue of groundwater depletion was considered by the Hon'ble Supreme Court vide its order dated 05.12.1996 and judgment dated 10.12.1996 on the basis of news item published in Indian Express dated 18.03.1996 under the caption "Falling Groundwater Level threatens City". The Central Ground Water Board (CGWB) had filed an affidavit before the Hon'ble Supreme Court that from 1962 onwards the water levels were declining on account of enhanced pumpage. The Ministry of Water Resources (MoWR) ("Now, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, MoJS, since 2019) had filed its affidavit dated 24.10.1996 that there was over exploitation of the groundwater in certain areas. The Government of India circulated a model bill to States/UTs in the year 1970 to remedy the situation. It was for the States to take further steps as water is state subject.

II. ORDERS PASSED BY HON'BLE NATIONAL GREEN TRIBUNAL IN O.A 176/2015

On 10.12.1996, the Hon'ble Supreme Court held that *The Central Government in the Ministry of Environment and Forest shall constitute the Central Groundwater Board as an Authority under Section 3(3) of the Act. The Authority so constituted shall exercise all the powers under the Act necessary for the purpose of regulation and control of groundwater management and development.* Several petitions have been filed before the Tribunal since 2012 with the grievance of rampant illegal drawal of groundwater by hotels, industries and builders for commercial purposes with no effective check by the CGWA as per mandate of law laid down by the Hon'ble Supreme Court.

On 26.07.2018 (in OA 59/2012) it was noted that the problem was not confined to NOIDA, Greater NOIDA, Delhi and NCR. The situation in Over exploited, critical and semi critical (OCS) regions throughout India called for stringent regulation for ground water extraction. The Tribunal thus took up the issue of effective enforcement of regulatory measures pan India in all OCS areas.

Vide order dated 28.08.2018, the Tribunal noted the CGWA stand that it was regulating only some areas notified by it and its notification did not include all the OCS areas which had already been identified and notified by the CGWA, having regard to the depletion of groundwater level.

Vide order dated 22.11.2018 The Tribunal noted the following issues:

i. CGWA repeatedly disowned its responsibility on the plea that regulation of ground water was a State subject, contrary to the mandate in the judgment of the Hon'ble Supreme Court in M.C Mehta (Supra).

ii. CGWA was failing to regulate drawal of ground water in OCS on the ground that it had not issued a notification except for some areas, and without such notification, there was no need for regulating extraction of ground water even in OCS.

iii. Extraction of ground water for commercial purposes was being allowed in OCS just by a mechanical condition that the ground water will be recharged, without ensuring compliance of such condition.

iv. Underground water was being illegally allowed to be extracted for constructions, bottling plants, swimming pools etc. without any impact study or effective steps for rain water harvesting for recharge of the ground water in OCS areas.

v. CGWA was repeatedly taking the plea that charges were being collected for permitting drawal of underground water for commercial purposes in OCS against the Precautionary Principle, Sustainable Development as well as Intergenerational Equity Principles. The charges were too less compared to the cost to the environment.

vi. While the use by agriculturists needed to be appropriately addressed, extraction for commercial purpose in OCS areas stood on different footing in law from extraction for drinking purposes and agriculture.

Vide order dated 3.01.2019 in purported compliance of order of this Tribunal, MoJS issued Notification dated 12.12.2018. The notification was far from bringing forward an effective model of regulation as mandated in the Supreme Court and Tribunal orders. It rather liberalized drawal of ground water in OCS areas. Vide order dated 11.09.2019 the Tribunal noted MoEF stand that in OCS areas, ground water extraction could be allowed only for drinking and domestic purposes. However, regulatory regime suggested was not effective. The CPCB report regarding compensation was accepted as interim arrangement and directions were issued for further examination to lay down stringent regulatory regime.

Order dated 20.7.2020 focused upon the issues and the directions given in few related cases viz. O.A. 496 of 2016, O.A.681 of 2018, O.A. 1038 of 2018, O.A. 325

of 2015 and O.A. 148 of 2016. Moreover, a recent judgment of Madras High Court in case M/S. SaroojaAgro Foods v. The Chief Engineer was also considered. Taking into account the seriousness of matter and reviewing the earlier orders as well as the compliance, the Tribunal passed the following directions:

a. MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure sustainable ground water management in terms of the Hon'ble Supreme Court mandate by which CGWA was created.

b. Let CGWA and MoJS comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas.

c. As per orders dated 3.1.2019, undertaking an impact study in light of projected data for the next 50 years (in phased manner with action plan decade-wise).

d. There must be no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost. An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission. Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime. Records must be maintained online and for a sufficient and reasonable time.

e. All OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Overexploited blocks. The Water Management Plans, data on water availability or scarcity and policy of CGWA must be uploaded on its website for transparency and public involvement. Such exercise may be done expeditiously, preferably within next three months.

III. MONITORING BY OVERSIGHT COMMITTEE, NGT

In view of the directions passed by Hon'ble NGT, the Oversight Committee reviewed the compliance status vide meeting dated **11.08.2020**(Detailed minutes of meeting attached as **Annexure I**).

The minutes of meeting are presented below:

1. Total number of over-exploited, critical, semi-critical and safe blocks in the State: Shri P.K. Tripathi from CGWA/CGWB informed that as per the Dynamic Ground Water Resources Assessment Report of year 2017 published in year 2019, there are at present 91 over exploited areas, 48 critical areas, 151 semi-critical areas and 540 in safe category out of a total of 830 assessment units in the State of Uttar Pradesh.

2. Permissions to industries for groundwater withdrawal: Shri P.K. Tripathi reported that the CGWA/CGWB is granting NOCs in OCS areas for drinking and domestic use or green belt use only as per the directions of orders dated 15.4.2015, 13.7.2017, 3.1.2019 and 20.07.2020. New industrial units are not being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas. In other areas for giving NOCs upto 10 KLD in the State of Uttar Pradesh, the CGWA has appointed the Regional Director, CGWB/CGWA, Lucknow as authorized officer under section 4 of the Environment (Protection) Act, 1986. The Regional Office of CGWB/CGWA, Lucknow had been receiving online applications for NOC and granting NOCs in accordance with law. The applications for NOC beyond 10 KLD are processed and recommended by CGWB, Lucknow to CGWA, New Delhi for grant of NOCs.

3. Mandatory conditions: With due regard to directions, the CGWA had been granting NOCs as per the guidelines of year 2015. Where ever violations of illegal ground water extraction or conditions of NOC are reported coercive measures are being taken as per water extraction for commercial purpose in some cases could be on the basis of consent to operate granted by Pollution Control Board or on the basis of BIS Certificate or FSSAI clearance. The applicants are required to submit recharge proposals along with the NOC application. Quantum of recharge is based on catchment area, rain fall (long term) and design of rain water harvesting structure at the time of site inspection. If it is observed that the recharge structures have been constructed as per the design provided in the application then the firm is considered to be compliant otherwise the firm is considered to be non-compliant and show cause notices are issued to firm and penalty under section 15 of the Environment (Protection) Act, 1986 is imposed in case of no satisfactory compliance. No application is renewed if any of the stated conditions (in the guidelines) are not being complied with. The Pollution Control Board, CGWA, CPCB also carries out inspections from time to time as per directions of the Hon'ble NGT. The Committee directed the CGWA/CGWB to submit the copy of list of NOC issued in Uttar Pradesh.

4. New guidelines for evaluation of proposals/requests for ground water abstraction: Shri P.K. Tripathi, CGWB/CGWA, stated that new guidelines were formulated in 2015. Copy of the same provided to the Committee.

5. Enforcement by District Magistrate: Official from CGWB informed that CGWA in exercise of powers conferred under Section 4 of Environment Protection Act, 1986 had appointed District Magistrate as Authorised Officers for the purpose of enforcement of directions of CGWA in the respective revenue areas under his/her jurisdiction and conditions laid down in the No Objections Certificates for ground water withdrawal by the Authority. However, till date no such enforcement reported in Uttar Pradesh. The Committee was of the view that said manner of enforcement suggests that nothing is being monitored at ground level and illegal extraction is prevalent.

6. State Ground Water Act,2019: Official from CGWA/CGWB informed that after notification of the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019(UP Act No. 13 of 2019) on 07.08.2019 and the Uttar Pradesh Ground Water (Management and Regulation) Rules, 2020 on 25.02.2020, and constitution of State Ground Water Management and Regulatory Authority with Chief Secretary, Govt. of Uttar Pradesh as Chairman and Director, State Ground Water Department as Member Secretary, under section 7 of the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019, now the Ground Water Regulation and Management (including grant of NOCs for ground water extraction) in the State of Uttar Pradesh is to be done in accordance with the aforementioned Act and Rules. However, till date it is not clear who will regulate and monitor the various aspects related to groundwater extraction in the state. In the new Act,in notified areas the existing consumer shall have to apply for registration and in other areas consumers will have to apply for authorization. New Act has also introduced fee for ground water extraction. The Committee noted that it is grey area and needs attention whether CGWA shall continue to grant permissions and monitoring work as before or it will be done as per the new ACT in the State of U P.

7. Water mapping in the State: Shri P.K.Tripathi from CGWA/CGWB informed that the State is being covered in phased manner. Most of the western UP has been covered. Some of the reports have already been uploaded on CGWA/CGWB web site. In some of the districts, data generation is still going on and the reports will be prepared after its completion.

8.Impact Study: No Impact Study had been undertaken. However, a study was undertaken in Ghaziabad Municipal Area in 2015 to assess the changes over time.

9. Action against defaulters: The CGWB submitted that EC had been imposed on 5 units and amount has been realised from all. The details were as follows:

Date	Paid by	Paid to	Amount
17.2.2017	C.L.Gupta Exports Pvt. Ltd, Jivai,JPNagar,UP	CGWA	20,00,000.00
30.3.2017	M/s Beltech Canadian Water Ltd, NOIDA UP	CGWA	10,00,000.00
10.8.2018	M/s Fast Food Pvt. Ltd, Rajapur,UP	CGWA	4,20,607.00
10.9.2018	CISF, Delhi/NBCC	CGWA	1,00,000.00
10.9.2018	BPRD, Delhi/NBCC	CGWA	1,00,000.00

The above list revealed that after September 2018 no EC was imposed/ realized. UPPCB informed that it had also taken coercive action against units that were not complying with the NOC conditions. The Committee directed UPPCB to submit the complete list of defaulters and the details of action taken against them.

10. Mandatory condition of water flow meters/ digital flow meters: Shri P.K. Tripathi reported that wherever NOCs are granted by CGWA, the authorized officers of CGWA are ensuring compliances of conditions of NOC including installation of digital water flow meters in compliance of Hon'ble NGT directions. In the revised guidelines submitted by the committee constituted by Hon'ble NGT in March, 2020, there is provision for annual calibration of flow meters. This provision shall be applicable as and when the revised guidelines are adopted. These guidelines were further under revision in the ministry of Jal Shakti based on the orders dated 20.07.2020 of Hon'ble NGT, New Delhi.

11. Effective functioning of CGWA: The CGWB official stated that they lack adequate manpower to analyse and monitor the status of groundwater resources of the entire state. Office of Central Ground Water Authority is in New Delhi. At CGWB Regional Office, Lucknow, 2-4 officers from the total strength of around 15 are generally designated part-time for processing of NOC applications/ other Authority related matters and they work as per directions/ instructions received from CGWA, Delhi. This assignment is in addition to the routine scientific work assigned to these officers. However, at times, services of other officers are also taken as and when required, especially for inspection of industries. There is no office of CGWB/ CGWA at district level.

12. General perspective about status of groundwater in the State highlighting NOIDA/NCR region (with data): Shri Tripathi informed that decline in water table has been witnessed in the area. Details of the same are available in Ground Water Year Book-2019.

13. Classification of water intensive industries: Officer from CGWB informed that total 14 industries have been classified as water-intensive industries. The list is as follows:

- Packaged drinking water
- Mineral water plant
- Tannery
- Distillery
- Brewery
- Soft drink
- Paper & pulp & Fertilizer,
- Textile dyeing
- Textile printing
- Textile spinning
- Sugar
- Dairy Product
- Water park & amusement center

As per 2015 Guidelines, industries using ground water as raw material/water intensive industries shall not be granted NOC for ground water withdrawal in Over Exploited areas. In Safe, Semi-Critical & Critical areas NOC for ground water withdrawal is mandatory for these industries as per Section 3.1. However, ground water withdrawal is also limited as follows:

Category	Ground Water Withdrawal Limit
Safe	Withdrawal limited to 200% of ground water recharge
Semi-Critical	Withdrawal limited to 100% of ground water recharge
Critical	Withdrawal limited to 50% of ground water recharge
Over-Exploited	No permission for Industries under this category

The complete list of mandatory conditions for obtaining NOC by both water-intensive and non-water intensive is detailed out in the Guidelines, 2015.

14. Use of treated water: Officer from CGWB mentioned that industries are required to promote reuse of treated water and reused water is deducted from the total water requirement of industry to work out the actual ground water requirement. Process flow

chart of the units is treated water are to be followed by the units. The Committee noted that proper use of treated water was not being made which needs to be corrected.

Another meeting was conducted by the Committee on 28.01.2021 (refer Annexure II) through video conferencing. The minutes of meeting are presented below:

1. **Providing NOC to industrial units:** Shri P.K Tripathi, Central Ground Water Authority (CGWA) informed that now NOCs are being given by State Government and CGWA is not the designated authority for providing NOCs anymore.
2. **Manpower requirement:** Shri VK Upadhyay, Director, State Ground Water Authority (SGWA) informed that there is currently no manpower shortage in their department. They have at least one field level officer (Ex-en/AE level) either from Department of Groundwater or Minor Irrigation Department in each district. At 18 Divisional Headquarters, their officers from Groundwater Department are present. 26 new officers have recently been appointed who shall be sent to selected districts. Furthermore, in districts where their officers are not present groundwater issues are being addressed by officers from Minor Irrigation Dept. The SGWA is working in close coordination with Minor Irrigation Dept. Each District has a Groundwater Council under the Chairmanship of District Collector with Distt Development Officer as Secretary. They have proposed to replace the DDO with CDO as Secretary of this Council. All the NOCs are issued by the District Council.
3. **Groundwater regulation issues:** Shri VK Upadhyay, SGWA mentioned in the meeting that there are few differences between the guidelines published by CGWA and State Ground Water Act. He mentioned that the State Govt is contemplating adopting the CGWA guidelines as was suggested by the Oversight Committee also in the last meeting to ensure uniformity with the Central Govt. He mentioned that mainly there are three major differences in the two guidelines. While the State Rules do not permit any permission for any unit, new or old, in any OCS Block, the CGWA guidelines provide for exemptions in OCS Blocks in the following categories:
 - MSMEs, new or existing, consuming groundwater more than 10 KLD shall be provided NOCs even in Over exploited and critical areas.
 - Micro and Small units consuming less than 10 KLD water are not required to seek permission for groundwater extraction even in OCS blocks.
 - Micro and Small units consuming less than 10 KLD water are not required to take NOC but will be charged user fee.
4. These are major changes from the existing State guidelines which prohibit any new/renewal licences in OCS Blocks. The Oversight Committee felt that while the step of aligning the State Guidelines with the CGWA guidelines is a welcome move to ensure uniformity, yet these three conditions mentioned above may adversely affect

the groundwater levels in OCS Blocks. The Committee felt that barring these three conditions, rest of CGWA guidelines be adopted. However in case of OCS Blocks, permissions should be regulated by earlier State Rules. **Impact assessment study:** Shri VK Upadhyay reported that till date no impact assessment study has been done. He apprised the Committee that District Groundwater Management Council will conduct the same every six months and send the report to the SGWA.

5. **Water Management Plan:** It was reiterated that SGWA is liable to prepare Water Management Plan. Shri P.K Tripathi, CGWA apprised the Committee that an email had been sent to SGWA regarding preparation of Water Management Plan along with the format to be compiled by 31.1.2021. However, till date, no action taken report has been filed. Director Groundwater informed that the format provided by CGWA necessitates involvement of some other departments also, so it will take some time to finalise it. He assured that they would complete the same and submit it to NGT by 31.03.2021.
6. **Ground Water Assessment Report:** Shri VK Upadhyay, SGWA, informed that the last report regarding groundwater assessment of the State was published in the year 2017. The latest assessment was done in March, 2020, the data for which is being compiled and shall be published in March, 2021.
7. **Total number of registered units:** The Committee directed SGWA to ensure that all the units extracting groundwater in the State be registered on their Portal in the next 3 months. They should accordingly monitor the progress with District level Committees. The latest list of the units registered with it be sent to the Committee.

Furthermore, CGWA has submitted a status report in this matter which is attached as **Annexure III**.

IV. SUMMARY OF LATEST COMPLIANCE STATUS

S.No.	Directions by Hon'ble NGT	Concerned Department	Compliance Status	
			July, 2020	January, 2021
1.	State Government to ensure requisite manning and effective functioning of CGWA so as to ensure sustainable ground water management	SGWA	Not Complied No steps taken for fulfilling manpower shortage. CGWA is not properly monitoring the status of groundwater resources in the	Complied Shri VK Upadhyay, Director, State Ground Water Authority (SGWA) informed in the meeting dated 28.1.2021 held by Oversight Committee that there is currently no manpower

			state.	<p>shortage in their department. They have at least one field level officer (Ex-en/AE level) either from Department of Groundwater or Minor Irrigation Department in each district. At 18 Divisional Headquarters, their officers from Groundwater Department are present. 26 new officers have recently been appointed who shall be sent to selected districts. Furthermore, in districts where their officers are not present groundwater issues are being addressed by officers from Minor Irrigation Dept. The SGWA is working in close coordination with Minor Irrigation Dept. Each District has a Groundwater Council under the Chairmanship of District Collector with Distt Development Officer as Secretary. They have proposed to replace the DDO with CDO as Secretary of this Council. All the</p>
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				NOCs are issued by the District Council.
2.	CGWA and MoJS to comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas.	CGWA/SGWA	Partially Complied No new water intensive industrial units are being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas. However, old units for which renewal has not been granted are still extracting ground water on the pretext that their renewal applications are pending.	Partially Complied Shri P.K Tripathi, Central Ground Water Authority (CGWA) informed in the meeting held on 28.1.2021 by Oversight Committee that now NOCs are being given by State Government and CGWA is not the designated authority for providing NOCs anymore No new water intensive industrial units are being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas. However, old units for which renewal has not been granted are operating illegally. No action taken on them till date by the authorised authority i.e. District Magistrate.
3.	As per orders dated 3.1.2019, undertaking an impact study in the	CGWA/SGWA	Not Complied No Impact Study has been undertaken.	Not Complied No study undertaken till date

	light of projected data for the next 50 years (in phased manner with action plan decade-wise		However, a study was undertaken in Ghaziabad Municipal Area in 2015 to assess the changes over time.	
4.	<p>Vide order dated 20.07.2020 the Tribunal stated that <i>“There must be no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units.</i></p> <p><i>Any permission should be for specified times and for specified quantity of water</i></p>	CGWA/SGWA	<p>Partially Complied</p> <p>CGWB ensures compliances of conditions while providing NOC.</p>	<p>Partially Complied</p> <p>CGWA is not granting permissions anymore. SGWA is the body for giving NOCs to industries.</p> <p>It is ensuring that all mandatory conditions are met before giving NOC.</p>

	<i>and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost.</i>			
5.	All OCS assessment units must undergo water mapping.	CGWA/SGWA	Partially Complied State is being covered in phased manner. Most of the western UP has been covered. Some of the reports have already been uploaded on CGWB web site.	Partially Complied Shri PK Tripathi from CGWB informed in meeting held by Oversight Committee on 11.08.2020 that the State is being covered in phased manner. Most of the western UP has been covered. Some of the reports have already been uploaded on CGWB web site. In some of the districts, data generation is still going on and the reports will be prepared after its completion.
6.	Water Management Plans need to be prepared for all OCS assessment units in the country based	CGWA/SGWA	Partially Complied Water mapping of state being done under National	Partially Complied Water mapping of state being done under National

	on the mapping data, starting with Overexploited blocks		Aquifer Management Plan.	Aquifer Management Plan. CGWA has sent an email alongwith the format to SGWA. However, till date, SGWA has not prepared the plan.
7.	<i>Vide order dated 20.07.2020 Hon'ble NGT had directed that "An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission. Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime.</i>	CGWA, UPPCB, CPCB	Not Complied Letter dated 28.07.2020 was written by CGWA to Chief Secretary, Govt. of Uttar Pradesh with a copy of the order dated 20.7.2020 of Hon'ble NGT, New Delhi for action plan/action taken report. The same will be submitted by or before 31.12.2020 to Hon'ble NGT, New Delhi. The Hon'ble NGT has granted time upto 31.01.2021	Not Complied No progress reported.

	<i>Records must be maintained online and for a sufficient and reasonable time”.</i>			
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V. RECOMMENDATIONS BY THE OVERSIGHT COMMITTEE:

1. The Committee observed that till date proper identification of industries/ commercial establishments which are doing abstraction of groundwater has not been done. It is directed that firstly, SGWA must draw the list of industries/commercial establishments who are using ground water for commercial purposes. This list would include the list of industries, hotels, banquet halls, malls, guest houses and other commercial establishments. SGWA should coordinate with UPPCB, District Industries Office, Trade Tax Office, CGWA, UPPCB and District Administration to in order to make a detailed document about the commercial users of groundwater. This list should be put on the Portal of SGWA. All these units be asked to seek permission for ground water abstraction as per Rules. Regional officers of SGWA/ Authorised Agency shall conduct inspection visits to verify whether groundwater abstracting units are having valid permission and to identify the defaulters. Thereafter the list of defaulters shall be sent to District Magistrates for action. Also SGWA shall notify the groundwater tariffs and organize their monthly billing system on the same pattern as Municipal Corporation does for water charges. Alternatively it could be outsourced to Municipal Corporation to take advantage of their administrative set up. Groundwater Department should develop a Statewise system of Groundwater charge collection in coordination with Urban Development Department.

2. District Magistrates/ District Commissioners have been assigned the authority to take action against industries/ commercial establishments withdrawing groundwater illegally. However, it has been observed that no enforcement has taken place so far. This clearly indicates lack of seriousness of the concerned authorities towards groundwater protection. Groundwater Department needs to direct District Magistrates/ Commissioners to take action accordingly and post it on the Portal. In fact a mechanism should be created to ensure that groundwater defaulter is penalized by other departments like Power Department, UPPCB, Development Authority and Urban Development Department as well to ensure effective action. A multi department follow up mechanism under District Collector can be created by Groundwater Department in this regard.

3. SGWA proposes to implement CGWA guidelines. While this would by and large be a good step to ensure uniformity in implementation, there are a few points worth consideration. Presently under the State Rules, no permission is given for any licence, whether new or old, for any commercial unit in an OCS Block. However this is sought to be relaxed as per CGWA guidelines for (1) Existing Units (2) MSMEs and (3) Micro and small units drawing less than 10 KL each. This may adversely affect the groundwater levels in OCS Blocks. The Oversight Committee recommends that barring these three conditions, rest of CGWA guidelines be adopted. However in case of OCS Blocks, permissions should be regulated by earlier State Rules. 4. Vide order dated 20.07.2020 in O.A 176/2015, it was directed by NGT that any *permission granted to should be for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost.* CGWA and SGWA should ensure that these directions are suitably incorporated in their respective guidelines and enforced accordingly. They should submit an action taken report in this regard within one month.

5. It is recommended that periodic audits by experts be conducted by SGWA in order to assess the compliance with the conditions of the permission to industries for groundwater extraction. A panel of technical experts at State level may be constituted from institutions viz. IITs, NEERI, TERI etc. for the purpose of conducting audits. The guidelines and rates may be fixed beforehand so that there is no delay in audits due to tendering process.

7. SGWA may be directed to ensure that all the groundwater extraction units be registered with them at the earliest so that no unit in the State operates illegally. A detailed list of all industrial units along with the units currently registered with SGWA be submitted to this Committee within one month.

10. It is recommended that a mechanism is made for reuse of treated water wherein the Urban Development Department alongwith U.P Jal Nigam can decide the agency which will allocate water and fix water rates. Moreover, information about availability of water, re-use quantum and allotment to industries be available online on the Portal so as to ensure transparency.

11. The Committee directs CGWA and UPPCB to submit an action taken report regarding malpractice of reverse boring. Information on total number of cases booked, agency responsible for checking the issue and penal provisions in such cases be provided within one month.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the Hon'ble

Tribunal with a copy to the Chief Secretary, Government of Uttar Pradesh for necessary action.

The report be uploaded on the website of the Committee.

01-02-2021

01-02-2021

X Anup Chandra Pandey

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

February 01, 2021

Annexures: As above

Please visit our website: osnqt.upsdc.gov.in for more information.

(Amended MoM)
Meeting No. 52

MINUTES OF MEETING OF NGT OVERSIGHT COMMITTEE, UP LUCKNOW HELD ON 11.08.2020 AT 11-00 A.M IN OA NO. 176 OF 2015 IN RE: SHAILESH SINGH VS. HOTEL HOLIDAY REGENCY, MORADABAD AND ORS, ORGANISED WITH THE HELP OF NIC THROUGH VIDEO-CONFERENCING

Present: Hon'ble Mr Justice SVS Rathore, Chairman, and Dr Anup Chandra Pandey, Member.

Other dignitaries present:

1. Shri Anil Garg, Secretary, Irrigation Department
2. Shri Ravi Kant Singh, CEO State Ground Water Department
3. Shri D.K. Soni, Addl Director, CPCB, Lucknow
4. Shri R.K. Singh, CEO, UPPCB
5. Shri PK Tripathi, representative of CGWB.

The Oversight Committee reviewed the progress of remedial action against unscientific disposal of e-waste resulting in contamination of groundwater and soil acidification, in **OA No. 176 of 2015** in re: *Shailesh Singh vs Hotel Holiday Regency, Moradabad and others*.

The issue of groundwater depletion was considered by the Hon'ble Supreme Court vide its order dated 05.12.1996 and judgment dated 10.12.1996 on the basis of a news item published in Indian Express dated 18.03.1996 under the caption "*Falling Groundwater Level threatens City*". The Central Ground Water Board (CGWB) had filed an affidavit before the Hon'ble Supreme Court that from the year 1962 onwards the water levels were declining on account of enhanced pumpage. The Ministry of Water Resources (MoWR) ("Now, Ministry of Jal Shakti, Department of Water Resources, River

Development and Ganga Rejuvenation, MoJS, since 2019) had filed its affidavit dated 24.10.1996 that there was over-exploitation of the groundwater in certain areas. The Government of India circulated a model Bill to States/UTs in the year 1970 to remedy the situation. It was for the States to take further steps as water is State subject.

On 10.12.1996, the Hon'ble Supreme Court held that *the Central Government in the Ministry of Environment and Forest shall constitute the Central Groundwater Board as an Authority under Section 3(3) of the Act. The Authority so constituted shall exercise all the powers under the Act necessary for the purpose of regulation and control of groundwater management and development.* Several petitions have been filed before the Tribunal since 2012 with the grievance of rampant illegal drawal of groundwater by hotels, industries and builders for commercial purposes with no effective check by the CGWA as per mandate of law laid down by the Hon'ble Supreme Court.

On 26.07.2018 (in OA 59/2012) it was noted that the problem was not confined to NOIDA, Greater NOIDA, Delhi and NCR. The situation in Over-exploited, Critical and Semi critical (OCS) regions throughout India called for stringent regulation for ground water extraction. The Tribunal thus took up the issue of effective enforcement of regulatory measures pan India in all OCS areas.

Vide order dated 28.08.2018, the Tribunal noted the CGWA stand that it was regulating only some areas notified by it and its notification did not include all the OCS areas which had already been identified and notified by the CGWA, having regard to the depletion of groundwater level. There was no basis for limiting monitoring to only some of the OCS areas leaving out others though the CGWA was under legal obligation to regulate ground water management throughout India. It was directed that the policy framework must include monitoring mechanism by way of provision for coercive

measures, consistent with the mandate in the judgment of the Hon'ble Supreme Court of India in M.C Mehta (supra).

Vide order dated 22.11.2018 The Tribunal noted the following issues:

i. *CGWA repeatedly disowned its responsibility on the plea that regulation of ground water was a State subject, contrary to the mandate in the judgment of the Hon'ble Supreme Court in M.C Mehta (Supra).*

ii. *CGWA was failing to regulate drawal of ground water in OCS on the ground that it had not issued a notification except for some areas, and without such notification, there was no need for regulating extraction of ground water even in OCS.*

iii. *Extraction of ground water for commercial purposes was being allowed in OCS just by a mechanical condition that the ground water will be recharged, without ensuring compliance of such condition.*

iv. *Underground water was being illegally allowed to be extracted for constructions, bottling plants, swimming pools etc. without any impact study or effective steps for rain water harvesting for recharge of the ground water in OCS areas.*

v. *CGWA was repeatedly taking the plea that charges were being collected for permitting drawal of underground water for commercial purposes in OCS against the Precautionary Principle, Sustainable Development as well as Intergenerational Equity Principles. The charges were too less compared to the cost to the environment.*

vi. *While the use by agriculturists needed to be appropriately addressed, extraction for commercial purpose in OCS areas stood on different footing in law from extraction for drinking purposes and agriculture*

Vide order dated 3.01.2019 in purported compliance of order of this Tribunal, MoJS issued Notification dated 12.12.2018. The notification was far from bringing forward an effective model of regulation as mandated in the Supreme Court and Tribunal orders. It rather liberalized drawal of ground water in OCS areas. Vide order dated 11.09.2019 the Tribunal noted MoEF stand that in OCS areas, ground water extraction could be allowed only for drinking and domestic purposes. However regulatory regime suggested was not effective. The CPCB report regarding compensation was accepted as interim arrangement and directions were issued for further examination to lay down stringent regulatory regime.

Order dated 20.7.2020 focused upon the issues and the directions given in few related cases viz. O.A. 496 of 2016, O.A. 681 of 2018, O.A. 1038 of 2018, O.A. 325 of 2015 and O.A. 148 of 2016. Moreover, a recent judgment of Madras High Court in case M/S. Sarooja Agro Foods v. The Chief Engineer was also considered. Taking into account the seriousness of matter and reviewing the earlier orders as well as the compliance, the Tribunal passed the following directions:

a. MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure sustainable ground water management in terms of the Hon'ble Supreme Court mandate by which CGWA was created.

b. Let CGWA and MoJS comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas.

c. As per orders dated 3.1.2019, undertaking an impact study in light of projected data for the next 50 years (in phased manner with action plan decade-wise).

d. There must be no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost. An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission. Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime. Records must be maintained online and for a sufficient and reasonable time.

e. All OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Overexploited blocks. The Water Management Plans, data on water availability or scarcity and policy of CGWA must be uploaded on its website for transparency and

public involvement. Such exercise may be done expeditiously, preferably within next three months.

In view of the directions passed by Tribunal, the Oversight Committee reviewed the compliance on 11.08.2020. The details are presented below:

S.No.	Issues	Current Status and Decision taken by the Committee
1.	Total number of OCS blocks in Uttar Pradesh	Shri P.K. Tripathi from CGWB informed as that as per the Dynamic Ground Water Resources Assessment Report of year 2017 published in year 2019, there are at present 91 over exploited areas, 48 critical areas, 151 semi-critical areas out of a total of 830 assessment units in the State of Uttar Pradesh.
2.	Notification issued for all areas regarding extraction of groundwater	<p>Shri P.K. Tripathi, CGWB, informed that as per NGT order in the matter of Deoria Paper Mill Vs Union of India and other such cases wherein it was directed that all industries and infrastructure projects, whether existing or new (irrespective of the category of blocks) have to obtain NOC from CGWA for ground water extraction, it was decided by CGWA that special notification will no longer be required as the NGT directions serve the purpose of regulation of ground water withdrawal in all the blocks. Accordingly, public notices were issued directing all industries/ projects to obtain NOC from CGWA and also the new Guidelines (2015) were framed keeping in view the above directions.</p> <p>In the considered opinion of this Committee, it cannot be said to be compliance of Hon'ble Tribunal's direction.</p>
3.	Permission of groundwater extraction to industrial units and mandatory	Shri P.K. Tripathi reported that the CGWA/CGWB is granting NOCs in OCS areas for drinking and domestic use or green belt use only as per the directions of Hon'ble NGT in accordance with law with due regard to orders dated 15.4.2015, 13.7.2017, 3.1.2019 and

<p>conditions <i>Vide order dated 22.11.2018 Hon'ble Tribunal noted that "Extraction of ground water for commercial purposes was being allowed in OCS just by a mechanical condition that the ground water will be recharged, without ensuring compliance of such condition"</i></p>	<p>20.7.2020 of Hon'ble NGT, New Delhi. No new industrial units are being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas.</p> <p>In other areas for giving NOCs upto 10 KLD in the State of Uttar Pradesh, the CGWA has appointed the Regional Director, CGWB, Lucknow as authorized officer under section 4 of the Environment (Protection) Act, 1986. The Regional Office of CGWB, Lucknow had been receiving online applications for NOC and granting NOCs in accordance with law. The applications for NOC beyond 10 KLD are processed and recommended by CGWB, Lucknow to CGWA, New Delhi for grant of NOCs. With due regard to directions of Hon'ble NGT, the CGWA had been granting NOCs as per the guidelines of year 2015. Where ever violations of illegal ground water extraction or conditions of NOC are reported coercive measures are being taken as per the directions of Hon'ble NGT, New Delhi. The ground water extraction for commercial purpose in some cases could be on the basis of consent to operate granted by Pollution Control Board or on the basis of BIS Certificate or FSSAI clearance.</p> <p>The applicants are required to submit recharge proposals along with the NOC application. Quantum of recharge is based on catchment area, rain fall (long term) and design of rain water harvesting structure at the time of site inspection. If it is observed that the recharge structures have been constructed as per the design provided in the application then the firm is considered to be compliant otherwise the firm is considered to be non-compliant and show cause notices are issued to firm and penalty under section 15 of the Environment (Protection) Act, 1986 is imposed in case of no satisfactory compliance.</p> <p>No application is renewed if any of the stated conditions (in the guidelines) are not being complied with. The Pollution Control Board, CGWB, CPCB also</p>
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		<p>carries out inspections and submit reports to Hon'ble NGT from time to time as per the directions of Hon'ble NGT.</p> <p>The Committee directed the CGWB to submit the copy of list of NOC issued in Uttar Pradesh.</p>
4.	New guidelines for evaluation of proposals/requests for ground water abstraction	Shri P.K. Tripathi, CGWB, stated that new guidelines were formulated in 2015. Copy of the same provided to the Committee.
5.	Enforcement by District Magistrate	<p>Official from CGWB informed that CGWA in exercise of powers conferred under Section 4 of Environment Protection Act, 1986 had appointed District Magistrate to as Authorised Officers for the purpose of enforcement of directions of CGWA in the respective revenue areas under his/her jurisdiction and conditions laid down in the No Objections Certificates for ground water withdrawal by the Authority. However, till date no such enforcement reported in Uttar Pradesh.</p> <p>The Committee noted that said manner of enforcement suggests that nothing is being monitored at ground level and illegal extraction is prevalent.</p>
6.	State Ground Water Act,2019	Official from CGWB informed that after notification of the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019(UP Act No. 13 of 2019) on 07.08.2019 and the Uttar Pradesh Ground Water (Management and Regulation) Rules, 2020 on 25.02.2020, and constitution of State Ground Water Management and Regulatory Authority with Chief Secretary, Govt. of Uttar Pradesh as Chairman and Director, State Ground Water Department as Member Secretary, under section 7 of the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019. Now the Ground Water Regulation and Management (including grant of NOCs for ground water extraction) in the State of Uttar Pradesh is to be done in

		accordance with the aforementioned Act and Rules. However, till date it is not clear who will regulate and monitor the various aspects related to groundwater extraction in the state. The Committee noted that it is grey area and needs attention.								
7.	Hon'ble NGT had ordered that all OCS assessment units must undergo water mapping vide order dated 20.07.2020	Shri P.K.Tripathi from CGWB informed that the State is being covered in phased manner. Most of the western UP has been covered. Some of the reports have already been uploaded on CGWB web site. In some of the districts, data generation is still going on and the reports will be prepared after its completion.								
8.	Vide order dated 22.11.2018, it was noted that "underground water was being illegally allowed to be extracted for constructions, bottling plants, swimming pools etc. without any impact study or effective steps for rain water harvesting for recharge of the ground water in OCS areas".	No Impact Study has been undertaken. However, a study was undertaken in Ghaziabad Municipal Area in 2015 to assess the changes over time.								
9.	Coercive action against defaulters	The CGWB submitted that EC had been imposed on 5 units and amount has been realised from all. The details are as follows: <table border="1" data-bbox="654 1583 1406 1845"> <thead> <tr> <th>Date</th> <th>Paid by</th> <th>Paid to</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>17.2.2017</td> <td>C.L.Gupta Exports Pvt. Ltd, Jivai,JP Nagar,UP</td> <td>CGWA</td> <td>20,00,000.00</td> </tr> </tbody> </table>	Date	Paid by	Paid to	Amount	17.2.2017	C.L.Gupta Exports Pvt. Ltd, Jivai,JP Nagar,UP	CGWA	20,00,000.00
Date	Paid by	Paid to	Amount							
17.2.2017	C.L.Gupta Exports Pvt. Ltd, Jivai,JP Nagar,UP	CGWA	20,00,000.00							

		30.3.2017	M/s Beltech Canadian Water Ltd, NOIDA UP	CGWA	10,00,000.00
		10.8.2018	M/s Fast Food Pvt. Ltd, Rajapur,UP	CGWA	4,20,607.00
		10.9.2018	CISF, Delhi/NBCC	CGWA	1,00,000.00
		10.9.2018	BPRD, Delhi/NBCC	CGWA	1,00,000.00
		<p>The above list shows that after September 2018 no EC was imposed/ realized.</p> <p>UPPCB informed it had also taken action coercive action against units that were not complying the NOC conditions. The Committee directed UPPCB to submit the complete list of defaulters and the details of action taken against them.</p>			
10.	In order dated 03.10.2018, M/S. Sarooja Agro Foods v. The Chief Engineer the Madras High court had ordered that <i>“the respondents are directed not to grant licence, No Objection Certificate (NOC) or permission for the commercial establishments / person to extract ground water for commercial usage in the absence of fixation of water Flow Meter</i>	<p>Shri P.K. Tripathi reported that wherever NOCs are granted by CGWA, the authorized officers of CGWA are ensuring compliances of conditions of NOC including installation of digital water flow meters in compliance of directions of Hon’ble NGT, New Delhi. In the revised guidelines submitted by the committee constituted by Hon’ble NGT, in march, 2020, there is provision for annual calibration of flow meters. This provision shall be applicable as and when the revised guidelines are adopted. These guidelines are further under revision in the ministry of Jal Shakti based on the orders dated 20.7.2020 of Hon’ble NGT, New Delhi.</p>			

	<p>on the Board outlet, which is to be inspected. Considering the judgement in a related case, the issue of Digital Flow meters was considered</p>	
11.	<p>Vide order dated 20.7.2020 the Hon'ble NGT directed that "MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure sustainable ground water management in terms of the Hon'ble Supreme Court mandate by which CGWA was created". In view of this the issue of manpower shortage to be considered</p>	<p>The CGWB official stated that they lack adequate manpower to analyse and monitor the status of groundwater resources of the entire state. Office of Central Ground Water Authority is in New Delhi. At CGWB Regional Office, Lucknow, 2-4 officers from the total strength of around 15 are generally designated part-time for processing of NOC applications/ other Authority related matters and they work as per directions/ instructions received from CGWA, Delhi. This assignment is in addition to the routine scientific work assigned to these officers. However, at times, services of other officers are also taken as and when required, especially for inspection of industries. There is no office of CGWB/ CGWA at district level.</p>
12.	<p>Provide the general perspective about status of groundwater in the State highlighting NOIDA/NCR region (with data)</p>	<p>Shri Tripathi informed that decline in water table has been witnessed in the area. Details available in Ground Water Year Book-2019.</p>
14.	<p>List of water intensive industries (classification and conditions for issue of NOC)</p>	<p>Officer from CGWB informed that total 14 industries have been classified as water-intensive industries. The list is as follows:</p> <ol style="list-style-type: none"> 1.Packaged drinking water 2.Mineral water plant 3.Tannery 4.Distillery 5.Brewery 6. Soft drink 7.Paper & pulp

		<p>8.Fertilizer 9.Textile Dyeing 10.Textile Printing 11.Textile spinning 12.Sugar 13.Dairy Product 14. Water park & amusement center</p> <p>As per 2015 Guidelines, industries using ground water as raw material/water intensive industries shall not be granted NOC for ground water withdrawal in Over-Exploited areas. In Safe, Semi-Critical & Critical areas NOC for ground water withdrawal is mandatory for these industries as per Section 3,1. However, ground water withdrawal is also limited as follows:</p> <table border="1" data-bbox="656 823 1430 1461"> <thead> <tr> <th data-bbox="656 823 1045 909">Category</th> <th data-bbox="1045 823 1430 909">Ground Water Withdrawal Limit</th> </tr> </thead> <tbody> <tr> <td data-bbox="656 909 1045 1035">Safe</td> <td data-bbox="1045 909 1430 1035">Withdrawal limited to 200% of ground water recharge</td> </tr> <tr> <td data-bbox="656 1035 1045 1161">Semi-Critical</td> <td data-bbox="1045 1035 1430 1161">Withdrawal limited to 100% of ground water recharge</td> </tr> <tr> <td data-bbox="656 1161 1045 1287">Critical</td> <td data-bbox="1045 1161 1430 1287">Withdrawal limited to 50% of ground water recharge</td> </tr> <tr> <td data-bbox="656 1287 1045 1461">Over-Exploited</td> <td data-bbox="1045 1287 1430 1461">No permission for new water intensive Industries under this category</td> </tr> </tbody> </table> <p>The complete list of mandatory conditions for obtaining NOC by both water-intensive and non-water intensive is detailed out in the Guidelines, 2015.</p>	Category	Ground Water Withdrawal Limit	Safe	Withdrawal limited to 200% of ground water recharge	Semi-Critical	Withdrawal limited to 100% of ground water recharge	Critical	Withdrawal limited to 50% of ground water recharge	Over-Exploited	No permission for new water intensive Industries under this category
Category	Ground Water Withdrawal Limit											
Safe	Withdrawal limited to 200% of ground water recharge											
Semi-Critical	Withdrawal limited to 100% of ground water recharge											
Critical	Withdrawal limited to 50% of ground water recharge											
Over-Exploited	No permission for new water intensive Industries under this category											
15.	Use of treated water	Officer from CGWB mentioned that industries are required to promote reuse of treated water and reused water is deducted from the total water requirement of industry to work out the actual ground water requirement. Process flow chart of the units is										

		treated water are to be followed by the units. The Committee noted that proper use of treated water was not being made which needs to be corrected.
16.	Vide order dated 20.7.2020, the Tribunal directed that annual review by independent and expert evaluation must audit and record groundwater levels as well as compliance with the conditions of the permission.	CGWB submitted before the Committee that letter dated 28.07.2020 was written by CGWA to Chief Secretary, Govt. of Uttar Pradesh with a copy of the order dated 20.7.2020 of Hon'ble NGT, New Delhi for action plan/action taken report. The same will be submitted by or before 31.12.2020 to Hon'ble NGT, New Delhi. The Hon'ble NGT has granted time upto 31.01.2021.

11-08-2020

11-08-2020

X Anup Chandra Pandey

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

August 11, 2020

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**MINUTES OF MEETING OF NGT OVERSIGHT COMMITTEE, U.P, LUCKNOW HELD ON
28.01.2021 IN O.A 176/2015 IN RE:
SHAILESH SINGH VS. HOTEL HOLIDAY REGENCY, MORADABAD & ORS.
THROUGH VIDEO CONFERENCING**

Present: Hon'ble Justice SVS Rathore, Chairman and
Dr Anup Chandra Pandey, Member

Other participants:

1. Shri PK Tripathi, Regional Director, CGWA
2. Shri VK Upadhyay, Director, SGWA
3. Shri DK Soni, Additional Director, CPCB
4. Shri RK Singh, Chief Environmental Officer, UPPCB

The Oversight Committee reviewed the progress of remedial action against unscientific disposal of e-waste resulting in contamination of groundwater and soil acidification, in OA No. 176 of 2015 in re: Shailesh Singh vs Hotel Holiday Regency, Moradabad and others.

Hon'ble Tribunal gave major directions vide order dated 20.07.2020. The Oversight Committee reviewed the compliance status on 11.8.2020 and then again today i.e. 28.01.2021. Point wise compliance status is presented below:

1. **Providing NOC to industrial units:** Shri PK Tripathi, Central Ground Water Authority (CGWA) informed that now NOCs are being given by State Government and CGWA is not the designated authority for providing NOCs anymore.
2. **Manpower requirement:** Shri VK Upadhyay, Director, State Ground Water Authority (SGWA) informed that there is currently no manpower shortage in their department. They have at least one field level officer (Ex-en/AE level) either from Department of Groundwater or Minor Irrigation Department in each district. At 18 Divisional Headquarters, their officers from Groundwater Department are present. 26 new officers have recently been appointed who shall be sent to selected districts. Furthermore, in districts where their officers are not present groundwater issues are being addressed by officers from Minor Irrigation Dept. The SGWA is working in close coordination with Minor Irrigation Dept. Each District has a Groundwater Council under the Chairmanship of District Collector with District Development Officer as

Secretary. They have proposed to replace the DDO with CDO as Secretary of this Council. All the NOCs are issued by the District Council.

3. **Groundwater regulation issues:** Shri V.K Upadhayay, SGWA mentioned in the meeting that there are few differences between the guidelines published by CGWA and State Ground Water Act. The main differential points are:

- MSMEs, new or existing, consuming groundwater more than 10 KLD shall be provided NOCs even in Over exploited and critical areas.
- Micro and Small units consuming less than 10 KLD water are not required to seek permission for groundwater extraction even in OCS blocks.
- Micro and Small units consuming less than 10 KLD water are not required to take NOC but will be charged user fee.

These are major changes from the existing State guidelines which prohibit any new/renewal licences in OCS Blocks. The above guidelines are present in the gazette published by CGWA. The State Groundwater Authority on the recommendation of Oversight Committee, flagged these issues in a meeting held at Chief Secretary level on 20.1.2021. It was stated that these points be assessed and changes be done accordingly to adopt them.

4. **Impact assessment study:** Shri VK Upadhayay reported that till date no impact assessment study has been done. He apprised the Committee that District Groundwater Management Council will conduct the same every six months and send the report to the SGWA.
5. **Water Management Plan:** SGWA was liable to prepare Water Management Plan. Shri P.K Tripathi, CGWA apprised the Committee that an email had been sent to SGWA regarding preparation of Water Management Plan along with the format to be compiled by 31.1.2021. However, till date, no action taken report has been filed. It was also informed that the format provided by CGWA necessitates involvement of some other departments also, so it will take some time to finalise it. The Committee directed SGWA to complete the same and submit it to NGT by 31.03.2021.
6. **Ground Water Assessment Report:** Shri VK Upadhayay, SGWA, informed that the last report regarding groundwater assessment of the State was published in the year 2017. The latest assessment was done in March, 2020, the data for which is being

compiled and shall be published in March,2021. **Total number of registered units:**
The Committee directed SGWA to ensure that all the units extracting groundwater in the State be registered on their Portal in the next 3 months. They should accordingly monitor the progress with District level Committees. The latest list of the units registered with it be sent to the Committee.

28-01-2021

28-01-2021

X Anup Chandra Pandey

Dr Anup Chandra Pandey
Member, Oversight Committee
Signed by: ANUP CHANDRA PANDEY

X SVS Rathore

Justice SVS Rathore
Chairman, Oversight Committee
Signed by: SURENDRA VIKRAM SINGH RATHORE

January 28, 2021

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Progress Report

O.A.176/2015 (in re: Shailesh Singh V/s. Hotel Holiday Regency, Moradabad & Ors)					
S.No.	Directions by Hon'ble NGT	Concerned Department	Compliance Status July,2020	Compliance Status December,2020	Compliance Status January,2021
1.	MoJS to ensure requisite manning and effective functioning of CGWA so as to ensure sustainable ground water management	Ministry of Jal Shakti (MoJS)	Not Complied No steps taken for fulfilling manpower shortage. CGWB is not properly monitoring the status of groundwater resources in the state.	Not Complied No further steps taken by the Dept.	A proposal for establishment of separate Central Ground Water Authority delinked from Central Ground Water Board and creation of suitable posts is under active consideration of the Government. However at present, to ensure the effective functioning of CGWA across India, the CGWA has appointed the concerned Regional Directors/Heads of Offices of Central Ground Water Board, as authorized officers, at State/Regional level. These Regional Directors/ HOOs are further assisted by a team of Scientists/Officers in the Regions for effective regulation in accordance with the provisions under established law. Currently, there are more than 100 employees exclusively engaged in the regulation and management of

					<p>ground water including scrutinizing of NOC applications submitted by project proponents. The functions of CGWA are being discharged with responsibility-sharing and constant coordination with Regional Offices. The CGWA has also engaged Young Professionals for assisting in the Secretariat functions.</p> <p>Furthermore, a web based online system "NOCAP" is completely functional for receipt and processing of applications and issuance of NOC to make it less time consuming and more transparent. The NOCAP portal is in public domain and the data can be accessed by private persons/individuals. NOCAP helps in effective monitoring of processes and tracking of applications by the users and also facilitates better coordination between 12 Regional Offices of CGWB in the States and CGWA Headquarters at New Delhi.</p> <p>In addition, the State Ground Water Authorities also are operational in several states under State/UT enactments such as</p>
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					Andhra Pradesh, Goa, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, NCT Delhi, Tamil Nadu, Telangana, West Bengal, Chandigarh, Lakshadweep, Puducherry, Punjab and Uttar Pradesh. These authorities also are actively contributing towards accomplishment of goals envisaged for sustainable development and management of ground water resources in the country. Hence, robust mechanism is in place and the CGWA is empowered by the Central Government to consider more such appointments under section 4 of the Environment (Protection) Act, 1986 as and when considered necessary.
2.	CGWA and MoJS to comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of	MoJS, CGWB	Not Complied No new water intensive industrial units are being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas.	Not Complied No new water intensive industrial units are being granted permissions. Moreover, no fresh NOC as well as renewal NOC is being granted to industrial units in OCS areas.	Subsequent to the Order passed by Hon'ble NGT, new guidelines dated 24.09.2020 have been formulated by Ministry of Jal Shakti (MoJS) after much deliberations and consultations with various stakeholder Ministries, competent senior scientists, States and UTs, and other stakeholders, with due

	<p>ground water and sustainable management of groundwater in OCS areas.</p>		<p>However, old units for which renewal has not been granted are still extracting ground water on the pretext that their renewal applications are pending.</p>	<p>However, old units for which renewal has not been granted are operating illegally. No action taken on them till date by the authorised authority i.e. District Magistrate.</p>	<p>regard to the Hon'ble NGT order dated 20.07.2020 to ensure sustainable ground water management. The new Guidelines have placed high focus on reducing dependence on groundwater and promote the sustainable use of ground water.</p> <p>In the guidelines, a detailed procedure for assessment of individual applications along with the requisite documents that need to be submitted, has been laid down for grant of No Objection Certificate for ground water extraction in the new guidelines.Other important provisions in the new guidelines are annexed.</p> <p>In pursuance to the recommendations by the Committee constituted by the Hon'ble Tribunal to strengthen the institutional mechanism, various provisions have been incorporated in the new guidelines. Various functions have been assigned to authorities such as District</p>
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					<p>Collectors/Deputy Commissioners (DCs) /District Magistrates (DMs) and CGWBs against illegal groundwater withdrawal. District Collectors/Deputy Commissioners (DCs) /District Magistrates (DMs) are authorized to take enforcement measures like sealing of unauthorized ground water abstraction structures, disconnection of electricity, launching of prosecution against those violating the No Objection Certificate conditions and taking action for imposition of Environmental Compensation. Technical officers of CGWB/ CGWA and State groundwater organizations are authorized to take actions with respect to monitoring and periodic inspections with the approval of competent authority. In order to further decentralise and strengthen the monitoring and compliance mechanism as per the guidelines, officials of concerned Departments of Revenue and Industries of the States/UTs shall be appointed as Authorised</p>
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					<p>Officers in consultation with the State/UT Governments. A copy of the No Objection Certificate issued by the CGWA in the No Objection Certificate Application Portal (NOCAP) will be forwarded to the respective District Magistrate/ District Collector. In case of any violation of the directions of Central Ground Water Authority and non-fulfilment of the conditions laid down in the No Objection Certificate, the Authorised Officers will file appropriate Petition/Original Application etc under sections 15 to 21 of the Environment (Protection) Act, 1986 in appropriate Courts.</p> <p>Detailed Guidelines for abstraction of ground water in saline assessment units and partially saline assessment units have also been framed with certain relaxations in respect of sustainable use of ground water in the saline areas. This has been done to promote the use of saline ground water and utilizing it as an</p>
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					<p>additional resource, since the salinity makes the water unusable and worthless. The natural recharge taking place after the use of saline ground water further helps in the dilution of salinity.</p> <p>Vide Public Notice dated 08.10.2020, CGWA has issued directions that the concerned Civic Bodies dealing with water supply network in the States/UTs, whether called as Jal Board, Jal Nigam, Water Works Department, Municipal Corporation, Municipal Council, Development Authority, Panchayat or by any other name, shall ensure that there shall be no wastage or misuse of potable water tapped from underground and evolve compliance mechanism with coercive measures for violations and that no person in the country shall waste or misuse potable water resources tapped from underground.</p>
3.	As per orders dated 3.1.2019, undertaking an impact study in the light of projected data for the next	CGWB	Not Complied No Impact Study has been undertaken. However, a study	Not Complied No study undertaken till date	A provision for Environment Impact Assessment as directed by the Hon'ble Tribunal has been

	<p>50 years (in phased manner with action plan decade-wise)</p>		<p>was undertaken in Ghaziabad Municipal Area in 2015 to assess the changes over time.</p>		<p>incorporated in the new guidelines for all industries extracting/proposing to extract ground water in excess of 100 m³/day in Over-exploited, Critical and Semi-critical areas. Such project proponents shall have to mandatorily submit impact assessment report of existing/proposed ground water withdrawal on the ground water regime and also socio-economic impacts report prepared by accredited consultants. Also, mandatory submission of comprehensive reports for mining projects prepared by accredited consultant on ground water conditions in both core and buffer zones of the mine, depth wise and year wise mine seepage calculations, impact assessment of mining and dewatering on ground water regime and its socio-economic impact, details of recycling, reuse and recharge, reduction of pumping with use of technology for mining and water management to minimize and mitigate the adverse impact on</p>
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					ground water and impact assessment report for infrastructure projects where dewatering is allowed prepared by an accredited consultant on the ground water situation in the area giving detailed plan of pumping, proposed usage of pumped water and comprehensive impact assessment of the same on the ground water regime, is also included in the new guidelines.
4.	Vide order dated 20.07.2020 the Tribunal stated that <i>“There must be no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee. Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be</i>	CGWB	Partially Complied CGWB ensures compliances of conditions while providing NOC.	Partially Complied Shri.P.K. Tripathi from CGWB in meeting held by Oversight Committee on 11.08.2020 reported that wherever NOCs are granted by CGWA, the authorized officers of CGWA are ensuring compliances of conditions of NOC including installation of digital water flow meters in compliance of directions of Hon’ble NGT, New Delhi. In the revised guidelines submitted by the committee	The Guidelines provide that availability of ground water resources shall be given due regard while considering applications for grant of No Objection Certificate for commercial use to avoid over-extraction of ground water. Duration of NOC for each type of user has been specified in the Guidelines. Also, as per the Guidelines, installation of digital water flow meter (conforming to BIS/ IS standards) having telemetry system in the abstraction structure(s) shall be mandatory for all users seeking No Objection

	<p><i>for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents' cost.</i></p>			<p>constituted by Hon'ble NGT, in march, 2020, there is provision for annual calibration of flow meters. This provision shall be applicable as and when the revised guidelines are adopted. These guidelines are further under revision in the ministry of Jal Shakti based on the orders dated 20.7.2020 of Hon'ble NGT, New Delhi.</p>	<p>Certificate to make sure that the ground water withdrawal is monitored.</p> <p>Vide Public Notice dated 26.10.2020, All existing users who have already obtained NOC from CGWA are directed to install digital water flow meter with telemetry in all existing ground water abstraction structures irrespective of quantum of ground water withdrawal, failing which the users shall be liable to pay penalty as per gazette notification.</p> <p>Vide Public Notice dated 08.01.2021, it is further clarified that all the project proponents/users drawing ground water and seeking/having NOC shall have to mandatorily install tamper-proof digital water flow meters with telemetry on all the ground water abstraction structures within their premises. Also, all the Micro and Small Enterprises drawing less than 10 cum/day shall also be mandatorily required to install digital water</p>
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					flow meters on all the ground water abstraction structures within their premises. Such enterprises shall be subjected to randomised inspections. Any ground water withdrawal without the installation of tamper-proof digital water flow meters and telemetry (wherever applicable) shall be construed as illegal and non-compliance of these conditions shall invite a Penalty provision and/or Environmental Compensation against the proponent for illegal withdrawal of ground water as per the CGWA Guidelines and may result in cancellation/rejection of NOC and sealing of ground water abstraction structures.
5.	All OCS assessment units must undergo water mapping.	CGWB	Partially Complied State is being covered in phased manner. Most of the western UP has been covered. Some of the reports have already been uploaded on CGWB web site.	Partially Complied Shri P.K Tripathi from CGWB informed in meeting held by Oversight Committee on 11.08.2020 that the State is being covered in phased manner. Most of the western UP has been covered. Some of the	Availability of ground water is assessed periodically in the entire country in consultation with States and UTs. Data on water availability (Ground Water Resource Assessment – 2017) is available on the website. Assessment as on March 2020 is under progress and will be shared publically once it is finalized.

				reports have already been uploaded on CGWB web site. In some of the districts, data generation is still going on and the reports will be prepared after its completion.	
6.	Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Overexploited blocks	CGWB	Partially Complied Water mapping of state being done under National Aquifer Management Plan.	Partially Complied Water mapping of state being done under National Aquifer Management Plan.	According to the new guidelines, Water Management Plans prepared by all the State Ground Water Authorities/ Organizations for all Over-exploited, Critical and Semi-critical assessment units shall be considered while granting NOC to the users. Water management plans shall be reviewed and updated periodically. Water management plans, data on water availability and scarcity and policy framed in this regard shall be placed on the websites of Central Ground Water Authority/ State Ground Water Authority. Pursuant to the directions of Hon'ble NGT, a letter dated 25.08.2020 was sent to all the

					States/UTs were directed to chalk out and execute Water Management Plan. Also, the orders of this Hon'ble Tribunal were circulated to the States/UTs for action and action taken reports. Water Management Plans of all 1186 OE blocks were received, however, some Plans have been referred back to the States for certain revisions. In total, 237 Water Management Plans have been finalized and uploaded on the website, while others are in the process of finalizing and uploading.
7.	<i>Vide order dated 20.07.2020 Hon'ble NGT had directed that "An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission. Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including</i>	CGWB, UPPCB, CPCB	Not Complied Letter dated 28.07.2020 was written by CGWA to Chief Secretary, Govt. of Uttar Pradesh with a copy of the order dated 20.7.2020 of Hon'ble NGT, New Delhi for action plan/action taken report. The same will be submitted by or before 31.12.2020 to Hon'ble NGT, New Delhi. The Hon'ble	Not Complied No further progress reported	As directed by the Hon'ble Tribunal, the proposal for constitution of Expert Appraisal Committee to evaluate Environment Impact Assessment of project activity on individual Assessment units has been approved by the Ministry. The NOC applications shall be only approved based on the recommendations of the Committee constituted under the Chairmanship of Chairperson, CGWA and other Members of reputed organizations. The Impact

	<p><i>withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime. Records must be maintained online and for a sufficient and reasonable time”.</i></p>		<p>NGT has granted time upto 31.01.2021</p>		<p>Assessment Reports in NOC applications with regard to ground water withdrawal of more than 100 KLD shall be put up before the Committee for evaluation as per the guidelines.</p> <p>According to the new guidelines, commercial entities extracting ground water shall be required to submit online annual water audit report. CGWA/ State Ground Water Authority (SGWA) shall publish all such audit reports online for transparency and to track compliance and yearly change in ground water levels with a view to reducing water usage and encouraging conservation measures by project proponents.</p> <p>The new guidelines make it mandatory for industries using more than 100 m³ /day of ground water to undertake annual water audit through Confederation of Indian Industries (CII)/ Federation Indian Chamber of Commerce and Industry (FICCI)/ National Productivity Council (NPC) / PHD Chamber of Commerce and</p>
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					<p>Industries certified auditors and submit audit reports within three months of completion of the same to CGWA. Such agencies for water audit have been identified to provide correct and accurate information.</p> <p>All efforts have been made to ensure that renewal applications shall not be approved without a valid Water Audit Report.</p>
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Other important provisions in the new guidelines ensuring a meaningful regulatory regime in compliance to the directions of Hon'ble Tribunal

1. Since ground water is considered to be a dependable source for drinking purposes, CGWA Guidelines provide that for Drinking & Domestic use, NOC for new/existing wells shall be granted only in such cases where the local Government water supply agency is unable to supply requisite amount of water in the area. NOC shall be granted subject to mandatory Installation of Sewage Treatment Plants by all new residential apartments/ Group Housing Societies where ground water requirement is more than 20 m³ /day. The water from Sewage Treatment Plants shall be utilized for toilet flushing, car washing, gardening etc.
2. As per the new guidelines, in Over-exploited assessment units, No Objection Certificate shall not be granted for ground water abstraction to any new industry except Micro, Small and Medium Enterprises. All industries shall be required to adopt latest water efficient technologies so as to reduce dependence on ground water resources. Injection of treated/ untreated waste water into aquifer system is strictly prohibited. Expansion of existing industries involving increase in quantum of ground water abstraction in over-exploited assessment units shall not be permitted. No Objection Certificate shall not be granted to new packaged water industries in Overexploited areas, even if they belong to MSME category. Annexure III in the New Guidelines further provides "Measures to be adopted to ensure prevention from pollution in the plant premises of polluting industries/ projects".
3. For mining projects, the new guidelines provide that all existing as well as new mining projects will be required to obtain No Objection Certificate for ground water abstraction. It shall be mandatory for all the mining industries to ensure that water available from de-watering operations is properly treated and should be gainfully utilized for supply for irrigation, dust suppression, mining process, recharge in downstream and for maintaining e-flows in the river system and shall also ensure construction of observation well(s) along the periphery in the premises. Also, all mining units shall monitor the water quality of mine seepage and mine discharge through NABL accredited/ Govt. approved laboratories and the same shall be submitted at the time of self compliance.
4. It is specifically mentioned in the new guidelines that no 'No Objection Certificate' shall be granted for extraction of groundwater for Water Parks, Theme Parks and Amusement Parks in over-exploited assessment units. New as well as existing Infrastructure projects shall be required to seek No Objection Certificate for abstraction of ground water. In over-exploited assessment units, use of ground

water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site. New as well as existing Infrastructure projects shall also be required to seek No Objection Certificate for abstraction of ground water.

5. The new guidelines also provide that all private tankers abstracting ground water and use it for supply as bulk water suppliers will now mandatorily seek No Objection Certificate for ground water abstraction.

6. New CGWA Guidelines also enumerate compliance conditions for the grant of NOC and provide that Proponents shall install roof top rain water harvesting & recharge systems in the project area as per the prevailing building bye-laws. Also, installation of digital water flow meter (conforming to BIS/ IS standards) having telemetry system in the abstraction structure(s) shall be mandatory for all users seeking No Objection Certificate to make sure that the ground water withdrawal is monitored. The users will have to get their flow meters calibrated on annual basis. Also, all the project proponents (drawing ground water more than 10 cum/d) have to mandatorily construct Piezometers (observation wells) within their premises for monitoring of the ground water levels. Effluent discharge treatment mechanism and the recycle and reuse of waste water are to make sure that the ground water draft is brought to optimum usage.

7. The new guidelines also incorporate the provision of Environmental Compensation in case of illegal abstraction of groundwater. Extraction of ground water for commercial use by industries, infrastructure units and mining projects without a valid No Objection Certificate from appropriate authority shall be considered illegal and such entities shall be liable to pay Environmental Compensation for the quantum of ground water so extracted. Furthermore, stricter provisions of penalty for non compliance of NOC conditions have also been incorporated in the revised guidelines.

8. Moreover, to address the unauthorized/uncontrolled drilling, the new guidelines provide the Registration of Drilling Rigs. State / UT Governments shall be responsible for registering drilling rigs operating within their jurisdiction and for maintaining the database of wells drilled by them. Appropriate link shall be provided in CGWA portal for making the data available to CGWA.

9. A provision for levying of ground water extraction charges has been introduced to ensure that the users realize the economic value and extract only the required quantity of ground water, thereby preventing over-extraction of ground water. Charges have been kept telescopic to act as deterrent for the users to draw ground water particularly in Critical and Over-exploited assessment units. The charges thus collected shall be utilized by the concerned State/UT agencies on various water conservation measures including

augmentation of ground water. A proposal for creation of Ground Water Conservation Fund under the Central Ministry to fund State/UTs to take suitable water conservation measures has been processed to Ministry of Finance for their in-principle approval.

10. In the CGWA guidelines, States/UTs have been advised to review their free/subsidized electricity policy to farmers, bring suitable water pricing policy and work further towards crop rotation/ diversification/ other initiatives to reduce over-dependence on ground water.

11. Existing industries, infrastructure units and mining projects which have installed/constructed artificial recharge structures in compliance of the conditions prescribed in the groundwater guidelines prevailing at the time of grant of No Objection Certificate or its renewal shall be eligible for a rebate of 50% (fifty percent) in the ground water abstraction charges/ground water restoration charges, subject to their satisfactory performance and verification. This provision has been incorporated in the guidelines to promote the recharge of ground water and encourage the project proponents to maintain their existing structures in good/serviceable conditions.