

Court No. - 2**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 4003 of 2006**Petitioner :-** Re: Ganga Pollution**Respondent :-** State Of U.P. And Others**Petitioner Counsel :-** Vijay Chandra Srivastava,A.K. Gupta,A.K. Srivastava,Anil Tiwari,Arun Kumar,Arvind Agarwal,Baij Nath Yadav,Baleshwar Chaturvedi,D.B. Mishra,D.S. Mishra,Jagdish Tewari,K.C. Pandey,P.N. Mishra,S.K. Srivastava,Shailesh Singh,Sharad Kr. Srivastava,Sunita Sharma,V.B. Singh,V.C. Mishra,Vivek Mishra**Respondent Counsel :-** C.S.C.,A.K. Mishra,Ajay Bhanot,Anjani Kumar Mishra,C.L.Pandey,Chandan Sharma,Dr. H.N.Tripathi,H.N. Singh,Hem Pratap Singh,Iqbal Ahmad,M.C. Chaturvedi,N. Misra,P.S. Baghel,R.B. Shukla,Rajiv Lochan Shukla,S.A. Lari,S.M.A. Kazmi,S.P. Kesharwani,S.P. Singh,T.M.Khan,Vivek Birla,Vivek Verma,W.A. Hashmi

Hon'ble Ashok Bhushan,J.**Hon'ble Arun Tandon,J.**

Heard Dr. Ashok Nigam, learned Additional Solicitor General of India, assisted by Sri Ajay Bhanot for Union of India, Sri U.N. Sharma, learned Senior Advocate, special counsel for the State of U.P., Sri S.G. Husnain, learned Additional Advocate General assisted by Sri S.P. Kesharwani, learned Additional Chief Standing Counsel for the State, Dr. H.N. Tripathi, learned counsel for U.P. Pollution Control Board, Sri S.D. Kautilya, learned counsel for Municipal Corporation, Allahabad, Sri Rajeev Lochan Shukla, learned counsel for the Tanneries and Sri A.K. Gupta, learned amicus curiae as well as Sri Ashwani Kumar Misra, learned counsel appearing for newly impleaded respondent, Allahabad Development Authority.

Learned amicus curiae has filed an application for impleadment of the State Level Environment Impact Assessment authority, Uttar Pradesh, through its Member Secretary, Pickup Bhawan, Gomti, Nagar, Lucknow and Allahabad Development Authority through its Vice Chairman, Indira Bhawan, Civil Lines, Allahabad as respondents No. 18 and 19. The impleadment application is allowed.

An application for impleadment has also been filed on behalf of Allahabad Development Authority through Sri Ashwani Kumar Misra Advocate along with application for vacating the order dated 28.3.2011 supported by a detailed affidavit. The application and affidavit are taken on record. The impleadment of Allahabad Development Authority has already been allowed.

Learned Additional Solicitor General with regard to transfer of a Defence land area 1123.80 square meters at Mori Gate Fort, Cantt. Allahabad for the purpose of establishing the sewage pumping station, has submitted that the letter dated 28.1.2011 has been issued by the Government of India, Ministry of Defence informing the Principal Secretary, Government of U.P. that in principle approval for permitting State Government of Uttar Pradesh/Ganga Pollution Control Unit for construction of a sewage pumping station on the aforesaid land has been granted. The consent of the State Government as per current Standard Table of Rents (STR) and not as per the circle rate of the State Government has been sought. No appropriate reply has been given by the learned counsel appearing for the State as to why the aforesaid concurrence has not been yet been communicated to the Ministry of Defence, whereas establishing a sewage pumping station at Mori Gate is urgently required. However, in the affidavit dated 28.3.2011 sworn by Sri Anil Kumar Srivastava, Managing Director, U.P. Jal Nigam, Lucknow, a copy of the Government order dated 19.2.2011 has been filed as Annexure-6 by which order, the State Government has communicated the Commissioner, Allahabad Division and District Magistrate, Allahabad and Nagar Ayukt, Nagar Nigam, Allahabad to take appropriate action as per the letter of the Central Government dated 28.1.2011. The said letter clearly thus conveys the State Government's concurrence to the letter dated 28.1.2011

and the authorities aforesaid were directed to take appropriate action. Another letter dated 25.2.2011 written by Lt. Col. A.S. Dabholkar has been annexed by which the General Manager Ganga Pollution Control Unit was requested to work out the cost of the Defence Land as per current (effective) Standard Table of Rent (STR) and forward the same to DG, DE New Delhi. From the aforesaid correspondences, which have been brought on record along with the aforesaid affidavit, it is clear that although the Central Government has communicated its concurrence for transfer of the Defence land as per current (effective) Standard Table of Rent but due to not taking effective compliance by the authority concerned, the working permission for construction of sewage pumping station could not be issued by Ministry of Defence.

Sri S.G. Hasnain, learned Additional Advocate General sought to contend that the State Government has given its permission to transfer the land on circle rate which arguments has no leg to stand when the Ministry of Defence has already communicated their concurrence for transfer of the land on current Standard Table of Rent (STR) and the land belong to the Ministry of Defence, it is not open for the Additional Advocate General to contend that the cost of the land is to be made by circle rate. The above argument itself suggests that the State Government is not effectively taking consequential steps, which is failing the transfer of Defence land. We direct the State authorities including the District Magistrate, Allahabad to immediately communicate their approval for the transfer of land on the valuation as per Standard Table of Rents. All effective steps in this context be taken within two weeks and the Ministry of Defence shall accordingly issue working permission for construction of sewage pumping station within four weeks thereafter so that the construction of sewage pumping station be started.

Sri Ajay Bhanot, learned counsel appearing for the Union of India has also submitted that the issue of minimum flow of water in river is being considered by a sub committee constituted on October 4, 2010 the report of which is awaited. He has referred to affidavit of Sri Sudhir Garg, filed on behalf of Ministry of Water Resources, Government of India, New Delhi dated 27.3.2011. From the aforesaid counter affidavit, it is clear that Water Quality Assessment Authority, New Delhi was constituted by the Government of India in the year 2001. A decision was taken on 14.5.2003 by the said Authority to constitute a working group with the terms of reference which also included studies towards deciding minimum flows in the river and other related issues. The report is said to be submitted in July, 2007, recommending that legal and institutional implications of the report may be examined by a committee under the Chairmanship of Chief Engineer, CWC. A report in this regard has been submitted on October 27, 2009 which was discussed on 11.10.2010 by Water Quality Assessment Authority when it was agreed that a sub committee be constituted. As noticed in earlier orders of this Court two of the issues which need to be considered are as follows:

(a) Can the State draw unlimited quantity of water from a river even to the extent of rendering its main stream a dry zone?

(b) Can the State because of drawl of water from upper portion of the river Ganges render its quantity or quality of water completely unfit for human use even for abthing purposes?

The aforesaid facts indicate that the issue of minimum flow of

water in a river is engaging attention of various authorities and Committees of Ministry of Government of India for long about a decade but no final recommendation in this regard could be made. Sri Ajay Bhanot appearing for the Union has submitted that a report in this regard shall be shortly submitted and brought before the Court. We notice that large number of issues are being considered by Water Quality Assessment Authority but for the purpose of this case, recommendation/ report is required on following two issues:

- (i) Standards regarding quality of water in river Ganges which is fit for drinking and bathing purposes.
- (ii) issues '(a)' and '(b)' as quoted above with regard to minimum flow of water in river Ganges.

In view of the aforesaid, we direct the Ministry of Water Resources as well as Ministry of Environment and Forest to take immediate steps in this regard so as the appropriate recommendation/report in that regard be submitted and brought before the Court within a period of three weeks from today.

Along with counter affidavit of Sri S.K. Sarcar filed on behalf of Ministry of Urban Development Government of India, New Delhi dated 25.1.2011, the Government of India has brought on record the inspection report of the expert committee which was constituted in pursuance of the order of this Court dated 6.12.2010 passed in this petition. The Committee was directed to inspect the laying down of the sewer line and if necessary by digging the sewer line to find out whether the sewer line work done, was in accordance with the approved DPR. U.P. Jal Nigam was also directed to take necessary steps in that regard. The expert committee constituted by the Ministry of Urban Development Government of India visited the

city of Allahabad on 29th and 30th December, 2010 and inspected the works and submitted its report which has been filed as Annexure-C.A- 1. The report brought on record indicates that there has been variation in actual work undertaken regarding laying down of the sewer line in accordance with the approved DPR. Several shortcomings and violations of D.P.R. have been pointed out in the inspection report.

An affidavit on behalf of U.P. Jal Nigam has been filed in this regard. The affidavit filed by U.P. Jal Nigam is sketchy and does not refer to any action taken by the U.P. Jal Nigam, which is the implementing agency for laying down sewer line in reference to the inspection report of the expert committee. Sri Ravi Kant, learned Senior Advocate appearing for U.P., Jal Nigam has prayed for time to take effective steps and file a proper affidavit in this regard. As prayed three weeks' time is allowed. The appropriate direction in this context shall be issued after filing of the affidavit by U.P. Jal Nigam.

This Court vide order dated 19.1.2011 had issued following directions:

"It was pointed out by learned Amicus Curiae that the colour and quality of the water at Sangam and several other places has deteriorated and the colour has become red and brown which clearly suggests that the quality of the water has deteriorated due to unabated pollution of river water including the pollution at Kanpur Nagar and other cities.

Dr. H.N. Tripathi, who is present for the U.P.

Pollution Control Board, has filed affidavit bringing the report regarding analysis of the water which confirms that water quality has deteriorated. We fail to understand that the river water is continuously being polluted and the quality is going bad to worse but no appropriate action by the State Government and the Authorities of the U.P. Pollution Control Board is being taken in this regard who are statutorily obliged to check the pollution. We provide that by the next date all appropriate action shall be taken in this regard. Action taken be brought on record before the Court by means of an affidavit.”

It has also been noticed in the earlier order that Chief Secretary of the State, who was present before the Court in earlier proceedings, have assured the Court that appropriate action in this regard be taken and brought on the record. As noticed above due to unabated pollution and discharge of untreated water in river Ganges, the colour and quality of the water is deteriorating which become visible at Sangam. No satisfactory compliance in this regard has been brought on record by the State of U.P. The State of U.P. who is to oversee that bodies and persons polluting the water to such great extent which has changed the colour of water be identified and action be taken, has failed to do any substantial work in this regard. An affidavit has been filed by Dr. H.N. Tripathi, learned Counsel appearing for the U.P. Pollution Control Board dated 22.4.2011 sworn by Dr. Rajeev Upadhyay, Chief Environmental Officer, annexing therewith the letters written by Dr. C.S. Bhatt, Member Secretary dated 13.4.2011 to the Director Indian Institute of Toxicological Research, M.G. Marg, Lucknow to carry on indepth study of the causes of occurrence of colour and

water quality. Another letter dated 18.4.2011 of Indian Institute of Toxicology Research has been brought on record indicating concurrence of the institute to carry on desired study. The letter written by the Member Secretary Dr. C.S. Bhatt according to us, is nothing but an act of the U.P. Pollution Control Board abdicating its main function to find out the polluters and take action against them. The U.P. Pollution Control Board, whose main function is to prevent water pollution and take appropriate action against the polluters, instead of taking appropriate action itself, which is a body of experts, is asking the other institution to know the causes of occurrence of colour and water quality. The U.P. Pollution Control Board which has been constituted to check the pollution is not taking any action itself rather it is asking from another institute to know the cause of pollution, whereas the water of river Ganges is decolouring due to unabated pollution, which is continuing from year after year. We are constrained to observe that U.P. Pollution Control Board is not performing its duties as entrusted by statutory provisions. We direct the Chairman of the U.P. Pollution Control Board to file his personal affidavit on the next date and be present in the Court to explain as to what action he has taken in this regard and in compliance of various directions issued by this Court in this petition.

In our order dated 28.3.2011, we have noticed that the State had acquired land for sewage farm in the year 1915 to the extent of 277 acres out of which 45 hectares land had been transferred to Allahabad Development Authority for the purpose of construction of housing colony on the river bank. The proceedings of public Interest Litigation (being PIL No. 54654 of 2009 Re: Sewage Farm) as well as Public Interest Litigation No. 1408 of 2011 were also noticed. This Court has noticed the acute problem of discharge of untreated sewage of Allahabad district directly in river Ganges, which is still

continuing. It was noticed that total capacity of sewage treatment plant functioning at Allahabad is only 93 MLD, whereas sewage generated is 232 MLD hence, 119 MLD untreated sewage is directly thrown in the river Ganges. It was also noticed that the land acquired for the sewage farm had been diverted for the other purpose, which stands admitted in the affidavit of Nagar Nigam, Allahabad. The Chief Secretary, State of U.P. who was present during the earlier proceedings before the Court, had assured the Court that the State shall review the entire issue at its level, with regard to the use of the land which was earlier acquired for the purpose of sewage farm. Today an affidavit of Surya Prakash Misra, Special Secretary, Urban Development sworn on 21.4.2011, has been brought on record annexing the report of the proceedings of the meeting dated 15.4.2011 in the aforesaid regard.

Sri Arun Kumar Gupta, learned amicus curiae has filed an affidavit giving details pertaining to the land of sewage farm which was acquired in 1915 and the diversion of the land for other purposes including transfer of 45 hectares of land by Nagar Nigam, Allahabad for construction of housing colony. Learned Amicus Curiae has also brought on record the Government order dated 31.7.2000 by which the State Government has imposed restriction on constructions within 200 meters from the river bank with the object of saving river Ganges from pollution. Decision was however, taken that relaxation can be granted to Math, Ashram and temple in certain condition. The decision of the Board meeting of the Allahabad Development Authority dated 3.4.2005 has also been brought on record in which a decision was taken that no permission shall be granted for any construction of house within 200 meters of highest flood level of river Ganges. The relaxation for Math etc. was continued. Learned Amicus Curiae has also brought on record the decision of the Committee of Allahabad Development Authority

deciding the objection on master plan 2021 specially the decision of the committee on item No. 45. From decision taken by the Committee at item No. 45, it appears that application was made by the Manager, Sahara India Commercial praying for land use as commercial in Mauja Mavaiya and Mavaiya Devrakh Uperhar Tahsil Karchana on total 133 acres of land. In the decision it has been resolved that upto 200 meters from the river bank, no construction of any kind would be permissible and for next 300 meters constructions can be permitted only in special circumstances. The Board refused permission to change the land use as residential. It is useful to quote the decision of the Committee:

“प्राधिकरण बोर्ड के पूर्व बैठक के निर्णय के अनुसार हाइयेस्ट फ्ल्ड लेवल को देखते हुए बंधा रोड का एलाइमेंट होगा। महायोजना में जो बंधा रोड का एलाइमेंट दिखाया गया है वो उसकी पुष्टि भी एरीगेशन विभाग से कर लिया जाये तथा शासन के आदेश के अनुसार बंधा रोड के साथ जा नदी तटीय विकास के लिए 200 मी० तक कोई निर्माण नहीं होगा तथा अगले 300 मी० में कोई विशेष भू-उपयोग अनुमन्य किए कये हैं। इसके अतिरिक्त पूर्व महायोजना सीवेज फार्म, ग्रीन बेल्ट एवं फ्ल्ड इफक्टेड एरिया प्रदर्शित था तथा शासनादेश के अनुसार यहां ग्रीन बेल्ट यथावत नदी तटीय विकास के अन्तर्गत रखा गया है उनका अधिकतर स्थल इस क्षेत्र में आता है। उपरोक्त शासनादेशों के आधार पर इस क्षेत्र को आवासीय करना उपयुक्त नहीं होगा। प्राधिकरण बोर्ड इस पर विचार करना चाहे।”

Sri Ashwani Kumar Misra, learned Counsel appearing for the Allahabad Development Authority referring to affidavit filed in support of his application, has submitted that 45 hectares of land was got transferred by the Nagar Nigam, Allahabad in favour of

Allahabad Development Authority on 25.5.2005 for consideration of Rs. 11 crores. He submits that in Public Interest Litigation being writ petition No. 54654 of 2009 in Re: Sewage Farm, a Division Bench of this Court dismissed the Public Interest Litigation with the observation that the land acquired by one public purpose can be very well utilised for another public purpose. He further submits that another writ petition No. (PIL) 1408 of 2011 has been filed restraining the Allahabad Development Authority from constructing New Prayag Avas Yojna as well as the private company which is making construction near the banks of river Ganges, which Public Interest Litigation is pending and counter affidavit has been called. Learned counsel for the Allahabad Development Authority submits that sufficient land is available for construction of sewage treatment plant and transfer of land was rightly made in favour of Allahabad Development Authority. The judgment and order dated 26.5.2010 in writ petition No. 54654 of 2009 has been referred to and relied.

Learned Counsel for the Allahabad Development Authority has prayed that the order dated 28.3.2011 imposing restriction on construction within 500 meters from mid stream of the river be withdrawn and Allahabad Development Authority be permitted to proceed with its project of constructing a housing colony on the river bank of Yamuna near Sangam in city of Allahabad.

The pollution in the river water of Ganges has arisen to an alarming situation. The apex Court in in M.C. Mehta case reported in (1987) 4 Supreme Court Cases 463 had taken very serious note of the pollution in river Ganges. Following observations were made by the apex Court.

"It is the popular belief that the river Ganga is the purifier of all but we are now led to the situation

that action has to be taken to prevent the pollution of the water of the river Ganga since we have reached a stage that any further pollution of the river water is likely to lead to a catastrophe. There are today large towns inhabited by millions of people on the banks of the river Ganga. There are also large industries on its banks. Sewage of the towns and cities on the banks of the river and the trade effluents of the factories and other industries are continuously being discharged into the river. It is the complaint of the petitioner that neither the government nor the people are giving adequate attention to stop the pollution of the river Ganga. Steps have, therefore, to be taken for the purpose of protecting the cleanliness of the stream in the river Ganga, which is in fact the life sustainer of a large part of the northern India."

In the affidavit filed by Allahabad Development Authority dated 21.4.2011, the Allahabad Development Authority itself has brought on record the affidavit of Nagar Nigam, Allahabad which gives the fact regarding the situation of river pollution in river Ganges. The affidavit of Nagar Nigam sworn by Shiv Lakhan Yadav, Legal Advisor, Nagar Nigam Allahabad filed in PIL No. 54654 of 2009 notices that there are 57 Nalas open drain which are discharging untreated water in river Ganges and Yamuna. It has also noticed that total capacity of treatment plant in Allahabad is only 89 MLD and total untreated discharge is 228 MLD. According to admission of Nagar Nigam itself 120 MLD untreated is being discharged in river Ganges and 108 MLD untreated is discharged in river Yamuna. Following was stated in paragraphs 6,7 and 8:

" 6. That as per detail Number of Nalas are 57 (44 are discharging in Ganga river and 13 are discharging in Yamuna river), total discharge of Untreated water is 228 MLD (120 MLD in Ganga river and 108 MLD in Yamuna river) and capacity of treatment plants is 89 MLD (60 MLD Naini and 29 MLD Salory).

7. That at present out of 228 MLD of untreated discharge water only 89 MLD is being treated as stated above. However schemes of 5 treatment plant has been sanctioned amounting to 355.98 Crores which will treat 60 MLD of untreated water. Under JAICA aided scheme Numayadahi capacity 50 MLD, Kodra capacity 25 MLD, Pongat capacity 10 MLD and Naini capacity 20 MLD amounting 336.07 Crores had been submitted to State Government for submission to Government of India.

8. That as it has ben demonstrated that the total untreated sewage discharge will be covered by different treatment plants to be commissioned at different places by 2013, the land transferred to Allahabad Development Authority is not required for sewage farming, as was previously done before 1985."

The said figures have been given on the basis of the report of the year 2009. No further sewage treatment plant or any other mechanism has been generated. Untreated water is constantly and regularly discharged in river Ganges and Yamuna. The apex Court

in **M.C. Mehta Vs. Union of India**, reported in (1988) 1 Supreme Court Cases 471 held that all municipal Boards which have jurisdiction over the areas through which the river Ganga flows have to take effective steps for undertaking different works in sewerage system. It is useful to quote the directions issued in the aforesaid case in paragraphs 17 and 26.

" 17. It is no doubt true that the construction of certain works has been undertaken under the Ganga Action Plan at Kanpur in order to improve the sewerage system and to prevent pollution of the water in the river Ganga. But as we see from the affidavit filed on behalf of the authorities concerned in this case the works are going on at a snail's pace. We find from the affidavits filed on behalf of the Kanpur Nagar Mahapalika that certain target dates have been fixed for the completion of the works already undertaken. We expect the authorities concerned to complete those works within the target dates mentioned in the counter-affidavit and not to delay the completion of the works beyond those dates. It is, however, noticed that the Kanpur Nagar Mahapalika has not yet submitted its proposals for Sewage treatment works to the State Board constituted under the Water Act. The Kanpur Nagar Maha;alika should submit its proposals to the State Board within six months from today.

26. *What we have stated above applies mutatis mutandis to all other Mahapalikas and Municipalities which have jurisdiction over the*

areas through which the river Ganga flows. Copies of this judgment shall be sent to all such Nagar Mahapalikas and Municipalities."

277 acres of land was acquired in the year 1915 and 1941 for sewage farm. Nagar Nigam, Allahabad, which was under obligation to utilise the land for the purpose of treating the untreated water have failed to perform its duty. Nagar Nigam has very conveniently in 2005 transferred 45 hectares of land to Allahabad Development Authority and Allahabad Development Authority has decided to construct a housing colony on 45 hectares of land situated on the river bank of Yamuna near Sangam (Where Ganga and Yamuna meet). As noticed above in the PIL writ petition No. 54654 of 2009, this Court has passed the order dated 26.5.2010. In the aforesaid writ petition, the Division Bench noticed the issue involved to the following effect:

"The only question involved in this case is as to whether the land, which has been acquired for one public purpose, can be converted for another public purpose or not."

The Division Bench noticed that out of the total land only 45 hectares of land has been given for the purpose of housing colony, whereas the entire land was originally acquired for the purpose of sledge farm. The Division Bench made following observations:

"Factually, learned counsel for the Allahabad Development Authority has come forward with a case that out of the total land, only 45 hectare land has been given for the purpose of housing colony though the entire land was originally

acquired for the purpose of sledge farm. According to him, the mechanism between such period and the present period has changed. The modern equipments do not require so much land for the purpose, for which the same was acquired and, accordingly, the land in excess of 45 hectares can be utilised for the same. We do not find any logic standing in the way of process of public purpose if no hindrance is being caused to the original public purpose, particularly when we find that all the governmental authorities, being Allahabad Development Authority, Nagar Nigam, Jal Nigam and Environment Department are present before us and nobody is standing in the way but the Court suo motu has taken cognizance in the matter on the earlier occasion. The issue raised in the form of public interest litigation, on which suo motu cognizance has been taken, stands resolved."

From the above judgment of the Division Bench, it appears that Division Bench in the said judgment held that the land in excess of 45 hectares can be utilised for the purpose for which it was acquired. It was not brought before the Division Bench that prior to transfer of 45 hectares of land, the large portion of the area was already transferred for other purposes which has been detailed in the affidavit of Nagar Nigam. The Division Bench passed the order on the premise that rest of the land except 45 hectares, is still available for sewage farm. We however, in this petition cannot take any decision contrary to that which was taken by the Division Bench on 26.5.2010 nor in this writ petition we can entertain any issue regarding transfer of 45 hectares of land to the Allahabad Development Authority by Nagar Nigam. But the question as to

what measures should be taken for checking the pollution in river Ganges is the main subject of present writ petition. In that regard we can proceed to examine and take appropriate measures so that river Ganges may not be further polluted. It is also relevant to refer to the decision of the State Government taken in the meeting dated 15.4.2011 as referred above. From the aforesaid proceedings dated 15.4.2011, it appears that 13.88 hectares of land which was given for fish farm be asked to be returned from Fisheries Department. It was also observed that for extension capacity of sewage treatment plant, land is available.

Learned amicus curiae has also pointed out that another decision has been taken by administration to construct the housing colony in the locality Ganga Nagar on the bank of river Ganga.

Ganges plain in the northern India has been always treated to be most fertile area. Due to increase of population enormous and unregulated and unplanned constructions have begun on both sides of river Ganges, which is continuous and unabated process. It has been noticed that in highest flood of 1978, large number of villages on the bank of river Ganges had submerged. Learned Amicus Curiae has brought on the record a booklet issued by the District Administration Allahabad 'Badh Prabandh Yojna 2011-2012' in which flood affected villages have been mentioned and the villages Jahangirabad and Mavaiya, where the sewage farm land is situate have been included in the villages which are affected by Ganga flood.

Unabated and enormous construction on the river bank is also one of the source of increasing pollution in river water and a source for throwing untreated sewage dirt in the river with no mechanism to check. As noticed above, Allahabad Development Authority while rejecting the application of Sahara Commercial Corporation for permitting the change of land use as residential in

villages mentioned therein, recorded that within 200 meters from highest flood level, construction is wholly prohibited and within next 300 meters permission be granted only in special circumstances. Restriction in making construction of housing colony within 500 meters of highest flood level of river is necessary and mandatory to check the further pollution which may be caused by such housing colonies. We have noticed that in spite of repeated directions, neither the Nagar Nigam nor the State of U.P. has been able to come with any measure to check release of untreated sewage in river Ganges. 134 MLD untreated sewage, according to own case of Nagar Nigam is being discharged in river Ganges daily and according to the respondent new sewage treatment plant of the capacity 60 MLD shall be commissioned by 2013. New sewage treatment plant which has been mentioned and proposed has yet not started and we have reasonable doubt as to whether it will be able to function by 2013. Stopping construction up to 500 meters from highest flood level on the banks of both the rivers Ganges and also on the part of river Yamuna adjoining Sangam has to be directed in the city of Allahabad. The earlier order dated 28.3.2011 however requires modification.

We thus direct that no construction shall be undertaken by the Allahabad Development authority or by any private builders within 500 meters of highest flood level of river Ganges in city of Allahabad as well as part of river Yamuna adjoining the river Ganges (Sangam). The Allahabad Development Authority and the district administration shall ensure that no construction be made in the aforesaid area. We however, give liberty to any aggrieved person to make appropriate application in this petition with regard to above restrictions, if he feels so aggrieved.

Sri Rajeev Lochan Shukla, learned counsel appearing for the tanneries has submitted that a date be also fixed for considering

the tanneries matter. We fix 20.5.2011 for consideration of tanneries matter.

As agreed by learned counsel for the parties, next date in the present case is fixed as 13.5.2011 at 2 p.m.

Learned Special Counsel appearing for the State as well as learned Additional Advocate General referring to the affidavit has submitted that detail timetable is being given for repair of the roads which were dug during the laying down of the sewer line. Learned Amicus Curiae as well as other counsels have submitted that there is no proper repairing of the roads and pits are lying on the road unattended by the authorities. Although in earlier affidavit, it was stated that repairing of the road shall be completed by February, 2011 but according to the own case of the respondents, the repairing of the road has not yet been started. We are of the view that authorities of U.P. Jal Nigam, who is executing agency for laying down the sewer, and the P.W.D. are slack and are not making proper supervision which they are expected with regard to repairing of the road. We direct all the authorities including the authorities of U.P. Jal Nigam and P.W.D. to take appropriate steps regarding restoration of the roads in city of Allahabad, which were got dug during the laying of the sewer line. Appropriate affidavit in this regard be filed by U.P. Jal Nigam, P.W.D. as well as State of U.P. by the next date.

Order Date :- 22.4.2011

LA/-

In Chambers

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 4003 of 2006

Petitioner :- Re: Ganga Pollution

Respondent :- State Of U.P. And Others

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Dubey,Hem Pratap Singh,Iqbal Ahmad,J.J.Munir,Jyotindra Misra, A.G.,Kashif Zaidi,M.C.

Chaturvedi,M.C. Tripathi,M.K.Alam,Mehboob Ahmad,Mohd.Khursheed Alam,Mridul

Tripathi,N. Misra,Omprakash Yadav,P.S. Baghel,Pankaj Kumar Shukla,R.B.

Shukla,Rajendra Kumar Misra,Rajiv Lochan Shukla,Ravi Kant,S.A. Lari,S.G.Hasnain,

Addl.A.G.,S.M.A. Kazmi,S.P. Kesharwani,S.P. Singh,Saumya Misra,Suneel

Dubey,T.M.Khan,Tahir Husain,Tanmay Agarwal,Udain Nandan,Umesh Narain

Sharma,Vivek Birla,Vivek Verma,W.A. Hashmi

Hon'ble Ashok Bhushan,J.

Hon'ble Arun Tandon,J.

We have heard Sri A.K. Gupta, learned Amicus Curiae, Sri A.K. Mishra, learned Senior Counsel for the Allahabad Development Authority, Shri M.C. Tripathi, Additional Chief Standing Counsel for the State, Sri S.D. Kautilya, learned counsel for Nagar Nigam, Allahabad, Dr. H.N. Tripathi, learned counsel for the U.P. Pollution Control Board and Shri Ajay Bhanot for the Union of India.

Affidavits have been filed on behalf of the State of U.P., Allahabad Development Authority, Nagar Nigam, Allahabad, U.P. Pollution Control Board and the Union of India.

Sri A.K. Gupta, learned Amicus Curiae, has filed an application annexing the various reports published in the newspaper regarding adverse effect on account of flooding of river Ganga and the damage caused to the two newly constructed STP's i.e. STP at Salori and STP at Rajaput. Sri A.K. Gupta, learned Amicus Curiae, stated that this year the flood water reached 86.72 metres at Phaphamau while at Chatnag the maximum water level reached 86.2 metres which were slightly less than the highest flood level recorded in the year 1978. It is stated that more than 75 villages were inundated and submerged due to flood in District Allahabad and more than 2/3rd area of the city side was also badly affected by the flood. It has been stated that

several colonies on the river bank were flooded and water submerged the ground floor of several houses endangering the life of various houses in those localities. It has been submitted by Sri A.K. Gupta, learned Amicus Curiae, that inspite of the order of this Court dated 22/4/2011, restraining construction activities within 500 metres from the highest flood level, illegal construction of houses continued and the Allahabad Development Authority has failed to check such illegal construction which was its obligatory duty entrusted to it under the Uttar Pradesh Urban Planning & Development Act, 1973 as well as under the order of this Court dated 22/4/2011.

Sri A.K. Mishra, learned Senior Counsel appearing for the Allahabad Development Authority has fairly submitted that several illegal constructions have come up in the localities adjoining to the river Ganga. He further submitted that the Allahabad Development Authority has taken measures to videograph the place up to which flood water reached this year. It is submitted that the extent of reach of flood water has been compiled in six Compact Disc (CD) which he produced in the Court.

We by our earlier orders had directed the Allahabad Development Authority, to photograph the areas which were flooded by flood water of river Ganga this year. We had also directed to record the said extent of flood water in a map and to produce the same in the Court. Shri A.K. Mishra, submitted that the Allahabad Development Authority shall sketch the extent of flood water reached this year in a map which shall also reflect 500 metres from the highest flood level of the river. He further submitted that apart from taking action against the illegal construction of the houses within the 500 metres of highest flood level, the Allahabad Development Authority with the collaboration of the District Administration shall mark all existing open areas adjacent to river Ganga within 500 metres from highest flood level for freezing all construction activities in that area. It has further been stated that the Green Belt Area after flood plain of river Ganga had already been proposed by the Allahabad Development Authority as Green Belt and steps for plantation of trees in the said area shall be undertaken.

Sri A.K. Gupta, learned Amicus Curiae, submitted that due to lapses on the part of the officials of the U.P. Jal Nigam, Ganga Pollution Control Unit of U.P. Jal Nigam and Irrigation Department both the newly constructed STP's at Salori and Rajapur have suffered extensive damage by the flood water this year. He submits that

no steps were taken by the officials and authorities who were entrusted with the construction of the STP for protecting the same by flood water although, both the STP's were within the flood zone of river Ganga. It is submitted that the Ring Embankment (Ring Bandh) constructed for protecting the Salori STP was only by sandy mud. It was also pointed out by the learned Amicus Curiae, that neither Boulders nor the Iron Mesh has been used for construction of ring embankment which lead to damage of the STP's. He submitted that in construction of both the STP's huge public money running into 100 crores have been spent, but due to lapses on the part of the officials entrusted with the construction of STP, no measures for protecting the Ring Bandh from the flood water have been taken which is a serious lapse.

The construction of both the STP's i.e. at Salori and Rajapur have been undertaken under the project sanctioned by the Government of India. Huge public money running into hundred of crores have been allocated by the Government of India for construction of both the STP's.

Both the STP's have been constructed adjacent to the river Ganga which were clearly in the flood danger zone. Sri A.K. Gupta, learned Amicus Curiae, has pointed out that in respect of the Rajapur STP, even certain machines and equipments have flown in the river water and the entire STP was submerged in the flood water causing damage to the machines. The agencies who have been entrusted to oversee the construction of STP design and supervise the construction of STP are the technical experts who were supposed to take all care by utilizing the huge public money. The authorities have not taken proper care in constructing the Ring Bandh in a manner to save it from the river water which is an act of negligence and cannot be excused. Huge public funds cannot be allowed to be wasted and misutilised in this manner. The responsibility and accountability of such negligence has to be fixed by the Government and stern action need to be taken.

Shree Prakash Singh, Special Secretary, Urban Development Department has filed affidavit in compliance of our earlier order dated 19/7/2013, by which we had directed the Principal Secretary, Urban Development Department to inspect the STP, specially the newly constructed STP. An inspection was made by the Principal

Secretary, Urban Development Department on 05/8/2013 and 08/8/2013. With regard to the Salori STP following was recorded in the inspection:

“After 22.07.2013 this STP was closed because of closer of flood control gate of buxi bund due to rise of water level in the river Ganga at Allahabad. After closer of the Gate, no sewage is received at STP as it is being pumped directly into the river Ganga through Allapur Flood pumping station. During inspection, STP was closed. This STP can be made operational only after opening of the sluice gate of buxi bund which is possible only after receding the river water below the invert of the Gate.”

With regard to the Rajapur STP following was recorded in the inspection:

“Presently, this STP is submerged in flood water of river Ganag. Ring bund all around the STP has to be constructed for the flood protection of the STP. Because of incomplete work of the rink bund, floodwater entered into STP premises on 30.07.2013 and all the instruments are submerged. During the time of inspection this STP was also closed.”

Extensive damaged caused to both the STP's i.e. at Salori and Rajapur is a matter of serious concern and alarm.

As observed above, the responsibility and accountability has to be fixed and action taken against all those slack officials due to whose misdeed STP's have been damaged. Appropriate action is also required to be taken against the construction company which was entrusted in construction of STP & Ring Bandh and inquiry and action need to be taken at the highest level.

We direct the Principal Secretary, Urban Development Department, to institute an inquiry in the above matter and complete the same within a short span of time and place before the Court the action taken. We, further observe that the Principal Secretary, Urban Development Department, shall bring into the notice of the Chief Secretary of the State this order who may ensure that appropriate enquiry is

conducted and action taken in the matter to fix the responsibility. We, further direct the Principal Secretary, Urban Development Department to take immediate measures to make the both STP's functional and to take all remedial measures including the protection of both the STP's so that it cannot be damaged by any further floods.

We have already noted that Sri A.K. Mishra, learned Senior Counsel for the Allahabad Development Authority, submitted that the Allahabad Development Authority is immediately taking steps for drawing a line to freeze further construction on both sides of river Ganga and sketch that freezing line (hereinafter referred to as the "red line").

In the above regard we issue following directions:

1. The Allahabad Development Authority with collaboration of the District Administration shall freeze all construction and draw a red line covering the entire open area on both sides of river Ganga from Old Yamuna Pul to Draupadi Ghat at first stretch and prepare a map accordingly.

2. Red line shall be marked with permanent marks so that no further construction activity may be possible after red line and in event any construction is reported, serious action be taken against the officials and employees of the Allahabad Development Authority.

3. In drawing the red line, the Allahabad Development Authority shall take within its fold the entire vacant area within 500 metres from highest flood level which map has already been prepared.

4. Drawing of red line as indicated above, shall be completed within one month from today.

5. The Allahabad Development Authority shall also prepare a map marking the extent up to which the flood water has reached this year. This map should conform to the videography of the area which has already been photographed by the Allahabad Development Authority.

Dredging Machine

An affidavit has been filed by Shri Deepak Singhal, Principal Secretary,

Irrigation Depart, Government of U.P. in compliance of our earlier order dated 19/7/2013. In our earlier order dated 19/7/2013, we had issued following directions:

“On 15th May, 2013, we required the learned Chief Standing Counsel to bring on record the report regarding purchase of two dredging machines at Allahabad for providing a dedicated course to the river Ganges towards the city side of Allahabad. On 29th May, 2013 a statement was made on behalf of the State that a dredging machine had been provided for the river at Allahabad. Today, an affidavit has been filed by Mr. Sangram Singh, Superintending Engineer, Irrigation Works Circle, Allahabad stating that despite best efforts, the department could not purchase the required dredging machines. In paragraph-3 it has been stated that E-tendering process was initiated in response to which only one tenderer made a bid which had to be cancelled on technical ground.

The affidavit shows slackness on the part of the State to purchase the dredging machine. The machine is necessary for dredging specially in lean season for maintaining the minimum flow of water in river Ganges at Allahabad.

We call upon the Principal Secretary, Irrigation Department, U.P. Government at Lucknow to explain as to what further steps for purchase of dredging machine have been taken and as to why the orders of the Court are being treated so indifferently. If tenders are not received, why purchase is not being made after negotiation with the manufacturers.”

In the affidavit which has been filed by the Principal Secretary, Irrigation Department it has been stated that the State Government has directed on 05/6/2012, to the Principal Secretary, Irrigation Department to purchase two dredging machines for Kumbh Mela. The order of the State Government has been filed as Annexure-SA-2. It has further been stated in the affidavit that E-tender was invited which was opened in August, 2012, and only one bid was received by M/s Tech Pro Infra Project Ltd. Kochin, Kerala hence the tender was cancelled. It has further been stated in the

affidavit that again the E-tender was called in the year 2013, but no bid was received. The Affidavit states that “.....since the last tender notice had no bidder, hence the question of negotiation does not arise, due to the mentioned reasons the dredging machine could not be purchased....”

In para 10 of the affidavit following has been stated:

“10.In view of the Kumbh Mela getting over and the report communicated by the requisitioner, there is no requirement of the dredging machine. Presently there is no proposal to purchase the dredging machine.”

We are surprised to note the stand taken by such high official of the rank of Principal Secretary, Irrigation Department regarding the purchase of dredging machine. The State Government, inspite of our clear direction to purchase two dredging machines, has not complied with the order of this Court and the Principal Secretary, Irrigation Department now comes up with the plea that since the Kumbh Mela is over, there is no requirement of purchasing dredging machines. The Government Order dated 05/6/2012, filed by the Principal Secretary, Irrigation Department, itself belies the above stand of the Irrigation Department. The State Government vide its order dated 05/6/2012, has directed for purchase of dredging machines. The Government Order dated 05/6/2012, further contemplates that work of dredging machine shall start after rainy season in accordance with the technical advise. The dredging machines were not contemplated to purchase only for the Kumbh Mela period i.e. between January to March, 2013, rather, the dredging machines were to be purchased for being utilised for dredging of the river throughout the year. The State Government cannot escape from its responsibility to purchase the dredging machines on such lame excuses as has been stated in the affidavit. In our earlier order dated 19/7/2013, we had clearly directed the State Government to explain as to why the purchase of dredging machines have not been made after negotiation with the manufacturers, if the tenders are not received, there was clear stipulation that even if there are no tenders received, Government should negotiate with the manufacturers. The Principal Secretary, Irrigation Department in his affidavit in para 9 says that since no bidder has come up, hence the question of negotiation does not arise. The above stand is clearly contrary to the directions of this Court and

shows the lack of will in the State Government to comply with the orders of the Court. The purchase of dredging machines was directed with several objects as noted by us in our earlier order so that the river may contain sufficient water even in the lean period. We disapprove the stand taken by the Principal Secretary, Irrigation Department, in its affidavit and again direct him to ensure buying of two dredging machines for purchase as per our earlier directions. In event, no response is given to the tender notice, with the approval of the State Government, the Department can proceed to directly order for purchase of the dredging machines from the manufacturers.

We direct the State Government and the Irrigation Department to ensure that all steps for purchase of dredging machines be completed within three months from today and the Court be informed.

Maintenance of Green Belt in City of Allahabad and both sides of River Ganga

Article 48-A of the Constitution of the India enjoins that "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country."

Article 51-A(g) of the Constitution of the India imposes a fundamental duty on every citizen of India "to protect and improve the natural environment including forests, lakes, rivers, and wild life, and to have compassion for living creatures."

Article 21 of the Constitution of the India protects the right to live as a fundamental right. Environmental, ecological, air and water pollution etc are regarded amounting to violation of Article 21 of the Constitution. Environmental protection has now become a matter of great concern for human existence.

The Apex Court in **Virender Gaur & Ors Vs. State of Haryana & Ors, (1995) 2 SCC 577**, in para 7 has laid down to the following effect:

"7. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment. Environmental protection, therefore, has now become a matter of grave concern for human

existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is a constitutional imperative on the State Government and the municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the man-made and the natural environment."

In U.P. Nagar Mahapalika Adhiniyam Act, 1959, Section 114 provides for "Obligatory duties of the Mahapalika".

Section 114(xxx) is quoted below:

"114. Obligatory duties of the Mahapalika.-It shall be incumbent on the Mahapalika to make reasonable and adequate provision, by any means or measures which it is lawfully competent to it to use or to take, for each of the following matters, namely-

(i).....

(ii).....

(iii).....

(xxx) planting and maintaining trees on road sides and other public places."

The protection of environment in all cities including the city of Allahabad which is surrounded by rivers Ganga and Yamuna on three sides has become most important on account of increasing pollution, urbanization and increase of vehicular traffic day by day.

In the affidavit filed by the Nagar Nigam, Allahabad which has been brought on record it has been stated that the population of the city is increasing by 21.74 percent per year and the number of vehicles in the city is increasing by 28%. Emission of Carbon Dioxide (CO₂) from over increasing vehicles require substantial increase in greenery and plantation in the city. The Municipal Corporation is entrusted with the obligatory duty of the plantation of trees in the city. Maintenance of greenery

in the open area of the city has now become a must. Greenery in the city functions as a lung of the society which functions as source of oxygen to the citizens.

The Apex Court had occasion to consider the necessity of open space, public parks in the context of town planning in **Bangalore Medical Trust Vs.B.S. Mudappa & Ors, (1991) 4 SCC 54**. The Apex Court held that the protection of environment, open space for recreation and fresh air are the matters of great public concern. The Apex Court held that a preservation of open space for parks and playground protects the residents of the locality from the ill-effect of urbanization. It is useful to quote the observation made in para 36 which is to the following effect:

“36.Public park as a place reserved for beauty and recreation was developed in 19th and 20th century and is associated with growth of the concept of equality and recognition of importance of common man. Earlier it was a prerogative of the aristocracy and the affluent either as a result of royal grant or as a place reserved for private pleasure. Free and healthy air in beautiful surroundings was privilege of few. But now it is a 'gift from people to themselves'. Its importance has multiplied with emphasis on environment and pollution. In modern planning and development it occupies an important place in social ecology. A private nursing home, on the other hand, is essentially a commercial venture, a profit oriented industry. Service may be its moto but earning is the objective. Its utility may not be undermined but a park is a necessity not a mere amenity. A private nursing home cannot be a substitute for a public park.No town planner would prepare a blueprint without reserving space for it. Emphasis on open air and greenery has multiplied and the city or town planning or development Acts of different States require even private house owners to leave open space in front and back for lawn and fresh air. In 1984, the BD Act itself provided for reservation of not less than fifteen per cent of the total area of the lay out in a development scheme for public parks and playgrounds, the sale and disposition of which is prohibited under Sec. 38A of the Act. Absence of open space and public park, in present day when urbanisation is on increase, rural exodus is on large scale and congested areas are coming up rapidly, may give rise to health hazard. May be that it may be taken care of by a nursing home. But it is axiomatic that prevention is better than cure. What is lost by removal of a park cannot be gained by establishment of a nursing home. To say, therefore, that by conversion of a site reserved for low lying park into a private nursing home, social welfare was being promoted was being oblivious of true character of the two and their utility.”

As noted above, the city of Allahabad is surrounded by river on three sides, emission of carbon dioxide by way of traffic in the city of Allahabad and around river

is also a cause of increase of river pollution. The emission of carbon dioxide in the city has to be contained by taking measures to lessen the adverse impact on the river by maintaining green belt in the city of Allahabad. In our earlier order dated 19/7/2013, we have observed as follows:

“An affidavit has been filed by Sri Vikram Singh, Municipal Commissioner, Nagar Nigam, Allahabad. With regard to development of green belt after the road patri, averments made in the affidavit are supported by the photographs. It has been stated by Sri S.D. Kautilya, learned counsel for the Nagar Nigam that an advertisement has been published in newspaper requesting institutions and other Non-Government Organizations to submit their proposals for maintaining greenery at the sides of various roads in the city of Allahabad. Mr. Kautilya submits that certain proposals have been received in reply to the notice published in the newspaper. He states that concrete guidelines for maintaining the green belt in city of Allahbad are under consideration.

We are of the view that Nagar Nigam, Allahabad has not done the needful in the matter. Necessary guidelines for maintaining the green belt at the side of various roads of Allahabad should have been framed first before inviting offers. Let the guidelines be framed and and reported to the Court by the next date.

We may record that the Nagar Nigam may first determine the area road-wise, which is to be preserved as green belt. This area must be especially demarcated in the map to be prepared for the purpose.

It has to be kept in mind that maintenance of green belt at the sides of the roads should not be confused with setting up of nurseries, where commercial activity of selling of plants, seeds etc. is undertaken. The Nagar Ayukt shall ensure that at all the places, where nurseries are running in the garb of maintenance

of green belt are closed immediately and in no case any commercial activity is permitted from such nurseries. The Nagar Ayukt, Allahabad shall file his personal affidavit enclosing the action taken report, as per the direction.”

The Nagar Nigam, Allahabad, in compliance of our earlier order dated 19/7/2013, has filed an affidavit of Additional Municipal Commissioner, Nagar Nigam, Allahabad, bringing on record the **“Green Belt Development Plan of Allahabad Urban Area”**.

Shri Anand Mohan, who has been permitted to intervene in this Public Interest Litigation as a public spirited person has also filed an intervention application. It has been stated in the affidavit that the maintenance of green belt/greenery is the duty of the Municipality. Referring to a news item dated 09/9/2013, issued by the Nagar Nigam, Allahabad he has brought on record the objections filed before the Nagar Nigam on behalf of the nurseries for not removing the nurseries. It is submitted by Shri Anand Mohjan who appears in person that nurseries serve a public purpose and help greenery to be maintained in the city to improve the environment and they should not be removed.

We have gone through the Green Belt Development Plan submitted by the Nagar Nigam, Allahabad which has been brought on record by the affidavit dated 12/9/2013, and noted the various proposals for maintaining the green belt in the open space on the road side after patry. Different proposals have been given regarding the manner of maintaining the Green Belt relating to the extent of open area available.

Land spacing and plantation has been proposed for open area available on more than 18 metres in width. Land spacing fencing by iron welding and plantation has been proposed. Similarly, proposals have also been given for the areas up to 3 metres. Maintenance of green belt in all open areas on the road side after road patri has now become a necessity for combating the over increasing pollution. In the city of Allahabad nurseries provide a green cover to the earth and serve the residents of the city for maintaining greenery in their respective houses also.

We had earlier directed that road parties should not be occupied or encroached by anyone including the nurseries. For smooth traffic our road parties have to be cleared from encroachment including the encroachment by nursery, if any. Our order thus has to be read as directing the removal of all encroachments including the removal of all nurseries from the road party, but after road party if there is sufficient space, nurseries may be established. However, for maintaining the greenery according to green belt development plan of the Nagar Nigam, if the nurseries have to be shifted to some other place reasonable time be allowed to them. We, however, further emphasize that there should be proper and fair allotment to all individuals/organisations to maintain the green belt/nurseries. Nagar Nigam can also grant permission as has been suggested in its Green Belt Development Plan to the owner of the houses to maintain the greenery according to the terms and conditions and plan as provided in the permission. All permissions for allotment granted for maintaining the green belt/nursery can be cancelled by the Nagar Nigam, if there is any violation of any terms and conditions.

We again emphasize that no permanent construction can be permitted in any of the area which is being used for green belt or for nursery. The nurseries can carry out commercial activity of selling and purchasing plant subject to the terms and conditions as laid down by the Nagar Nigam. Nurseries cannot be made a dwelling place for persons running a nursery. The persons maintaining the nursery can utilise the place only for the purposes of protection of plants and trees by temporary construction only.

In view of the foregoing discussions, we approve the **Green Belt Development Plan** submitted by the Nagar Nigam, Allahabad as quoted above, and direct the Nagar Nigam, Allahabad to maintain the Green Belt Development Plan as per its plan and implement the same. However, the implementation of Green Belt Development Plan shall be subject to some general conditions hereinafter laid down which shall be treated to be in modification of any of our earlier orders passed by us:

1. There shall be no Green Belt or nursery on the road party of a road, all encroachment from road party including that of green belt/nursery have to be removed forthwith.

2. Maintenance of Green Belt/Nursery if undertaken by an

individual/organization/institution, the same has to be with appropriate permission/allotment by the Nagar Nigam to be so done in a fair and proper manner.

3. For maintenance of Green Belt, organization/institution who are situate in the vicinity of the said area may be given some preference as per the policy framed by the Nagar Nigam in that regard.

4. In event the existing nurseries which are running on in the open area are required to be shifted, they be allowed reasonable time say about 2 months to shift at appropriate place after due allotment.

5. A transparent method for permission/allotment of maintenance of Green Belt/Nursery shall be published by the Nagar Nigam in the newspaper so that the public in general may know the procedure and method for obtaining such permission.

The Green Belt Development Plan, submitted by the Nagar Nigam, Allahabad itself has proposed constitution of a **Urban Environmental Protection Agency** headed by Divisional Commissioner, Allahabad. We fully approve the aforesaid proposal of the Nagar Nigam Allahabad and direct that a committee headed by the Divisional Commissioner, Allahabad namely: "**Urban Environmental Protection Agency**" be constituted which may supervise the environmental plan and issue necessary directions to all concerned including the Nagar Nigam, Allahabad, Allahabad Development Authority, Forest Department, Zila Udyan Adhikari and other concerned departments. The Divisional Commissioner, Allahabad, shall constitute an appropriate committee as proposed in the Green Belt Development Plan which shall supervise the implementation of the Green Belt Development Plan.

The Allahabad Development Authority shall with collaboration of Forest Department shall start plantation of suitable trees in the green belt area on both sides of river along with red line to be drawn as per our abovementioned directions. The appropriate map and plan for above plantation of trees in the green belt area of on both bank of river Ganga shall be prepared and submitted in the Court within one month.

Construction on raised Footh Path.

An affidavit of Dr. Rajneesh Dube, Principal Secretary, P.W.D. has been filed bringing on record the Government Order dated 12/8/2013, by which the financial sanction has been given for construction of raised foot path at Mahatma Gandhi Marg, Kamla Nehru Marg and Stanley Road. We direct that the work of construction on raised foot path may be initiated immediately and completed within reasonable time.

STP's at Cantonment, Allahabad.

An affidavit has been filed by Col. Sunil Kumar, in which the date of commencement of various STP's in 3 Cantonment Areas, Allahabad has been given. The date of commencement has been indicated as 26/12/2013. We direct all the three STP's may be made functional by the aforesaid date and affidavit of compliance may be filed.

Dr. H.N. Tripathi, has also filed an affidavit on behalf of the U.P. Pollution Control Board, which shall be considered on the next date of hearing i.e. 30/9/2013, at 2 P.M.

Order Date :- 23.9.2013

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List of matters connected to the Original Application PIL No. 4003 of 2006

S.N.	Application Number	Details	City	OA
1	OA No. 516/2023 (Writ C No. 37019/2011) M/S SUNDROP COLONIZERS PVT. LIMITED VS STATE OF U.P. AND OTHERS	* The petitioner filed this writ petition against the Allahabad Development Authority order dated 25.06.201 in which it is said that petitioner is making some constructions within 500 meters from the highest flood level mark of River Ganga. * The matter to be listed along with PIL No. 4003 of 2006	ALLAHABAD	
2	OA No. 517/2023 (Writ C No. 45456/2012) GOKUL CHANDRA SHARMA AND OTHERS VS STATE OF U.P. AND OTHERS	* The petitioner filed this writ against the notice dated 31st August 2012 issued by the Varanasi Development Authority, which notification was published on 2nd September 2012, informing the public in general in compliance with the direction issued in Public Interest Litigation No. 31229 of 2005. * The matter to be listed along with PIL No. 31229 of 2005	VARANASI	
3	OA No. 518/2023 (Writ C No. 46398/2012) SRI MATH JAGATGURU RAMANANDACHARYA PEETH AND ANOTHER VS STATE OF U.P. AND OTHERS	-do-	VARANASI	
4	OA No. 519/2023 (Writ C No. 69796/2015) SMT. MEENA MISHRA VS STATE OF U.P. AND 6 OTHERS	* Construction being raised within 500 meters of highest flood level on the bank of river Yamuna. * The matter to be listed along with PIL No. 4003 of 2006	ALLAHABAD	
5	OA No. 520/2023 (Writ C No. 30703/2017) SMT. VIJLA DEVI VS STATE OF U.P. AND 3 OTHERS	* Construction of the petitioner has been directed to be demolished on the ground that construction is falling within 500 Mt. of river Yamuna * The matter to be listed along with PIL No. 4003 of 2006	ALLAHABAD	
6	OA No. 521/2023	* No order.	ALLAHABAD	

	(Writ PIL No. 8864/2006) SARVAMANGLA ADHYATMA YOG VIDYAPEETH MA KALI DHAM THRU PRES. VS UNION OF INDIA THRU SECY. DEPARTMENT OF ENVIORNMENT AND ORS.	* Connected with WPIL/4003/2006		
7	OA No. 522/2023 (Writ PIL No. 27206/2012) SHRI SHRI GURUJI TAPASTHALI VS STATE OF U.P. AND OTHERS	* No order. * Connected with WPIL/4003/2006	VARANASI	
8	OA No. 523/2023 (Writ PIL No. 22459/2017) VINOD KUMAR PANDEY VS STATE OF U.P. AND 2 OTHERS	* No order. * Connected with WPIL/4003/2006	VARANASI	
9	OA No. 524/2023 (Writ PIL No. 35250/2017) RAM REKHA JAISWAL VS STATE OF U.P. AND 4 OTHERS	* No order.	VARANASI	
10	OA No. 525/2023 (Writ PIL No. 1059/2019) PT. RAM CHANDRA SHARMA VS STATE OF U P AND 9 OTHERS	* The matter to be listed along with PIL No 4003 of 2006 and Writ - C No 424 of 2018	ALLAHABAD	
11	OA No. 526/2023 (Writ PIL No. 180/2023) GANGA SEWA ABHIYANAM AND 2 OTHERS VS UNION OF INDIA AND 8 OTHERS	* No order * Connected with WPIL/4003/2006	UNNAO	
12	OA No. 527/2023 (Writ PIL No. 31229/2005) KAUTILYA SOCIETY THRU GENERAL SECY. AND	* As per order dated 19.11.2016, the Amicus Curiae was directed to cause a joint inspection with the Varanasi	VARANASI	

	ANOTHER VS STATE OF U.P. THRU PRINCIPAL SECY. AND OTHERS	Development Authority and take photographs of 39 structures. * Connected with WPIL/4003/2006		
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