

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

IN THE MATTER OF
ORIGINAL APPLICATION NO. 351/2023

Raja Muzaffar Bhat

... APPLICANT

VERSUS

Union Territory of Jammu & Kashmir & Ors.

...RESPONDENTS

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PLACE: NEW DELHI

DATE: 21/12/2023

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WRITTEN ARGUMENTS ON BEHALF OF RESPONDENT NO. 5

The respondent most humbly submits the written arguments as under:

1. That the original application was originally filed the present original application against 05 respondents i.e. respondents 5 to 9. However, for the reasons best known to the applicant, the applicant withdrawn the original application against the respondents no. 6,7 and 9.
2. That the applicant has not approached this Hon'ble Tribunal with clean hands and manipulated/misrepresented the facts before this Hon'ble Tribunal in such a manner that the answering respondent be held responsible for illegal mining.
3. That for the reasons best known to the applicant, the applicant in the original application has categorically annexed the google images, images showing the heavy earth moving machines of the respondents against whom the applicant has withdrawn the original application.

4. That the conduct of the applicant for withdrawing the original application in respect of the respondents against whom the applicant has annexed the google images showing illegal mining, clearly shows the malafide intention of the applicant.
5. That the State Government had allotted the mining lease to the answering respondent through e-auction for Minor Mineral Block No. 11, Chadoora Old Bridge to Hanji Gund Downstream Dhoodhganga Nallah, District Budgam J& K and accordingly, LOI was issued on 29.07.2020.
6. That the answering respondent prepared the mining plan. However, the JKEAC in the meeting dated 24.05.2021 recommended the case for grant of EC for Minor Mineral subject submission of revised mining plan. Similarly, the JKEIAA granted the Environmental Clearance for Minor Mineral Block vide letter dated 06.07.2021 subject to submission of revised mining plan to JKEIAA. Further, the J&KPCC issued consent to operate to the answering respondent vide order dated 31.10.2023 having validity upto July, 2024.

In compliance of the directions issued by J&KEIAA, answering respondent submitted the revised mining plan to JKEIAA. It is pertinent to mention here that the said revised mining plan was approved by the committee comprising of District Mineral Officer, Budgam; Joint Director, Department of Geology & Mining Srinagar (Member Secretary, MPAC) and Deputy Commission, Budgam, (Chairman, MPAC) vide letter dated 04.04.2022. The photo copy of the letter dated 04.04.2022 with respect to approved revised mining plan of respondent no. 5 is annexed as **annexure-R-5/1**.

7. That in the interest of justice, it is necessary for this Hon'ble Tribunal to consider certain conditions of the Environmental Clearance granted vide letter dated 06.07.2021, the conditions are as under:-

Specific Conditions

- (A) Condition no. 3 - *The maximum exploitation of the RBM from the mining block shall be as per approved mining plan or as per revised mining plan to be approved by competent authority denovo within the prescribed area and depth recommended by the JK Expert Appraisal Committee, as the case may be and whichever is less. Mining depth mentioned above the recommended depth by JKEAC, if mentioned anywhere in any of the submitted documents whether by mistake or otherwise, shall be treated as omitted.*

The above condition clearly provides the answering respondent to do mining of River Bed Minerals to the extent of permissible depth. The River Bed Minerals includes various minor minerals like masonry stones, sand, boulder, bajri and clay as per the geography of the region.

- (B) Condition no. 5 - *The river bed material shall be sold to the local population within radial distance of 2 kms from the mine site for residential construction prupose at 505 concessional rate.*

The above condition again clarifies that the answering respondent was permitted to do mining of River Bed Minerals in the allotted

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mining leases i.e. Block no. 11. The River Bed Minerals includes various minor minerals like masonry stones, sand, boulder, bajri and clay as per the geography of the region.

- (C) Condition no. 53- Mining shall be done manually minimally supported by semi-mechanized methods. Heavy machinery like JCBs, L&T hydraulic excavators etc. should not be allowed. Emphasis should be given to employment of locally available labour force to address the socio-economic concerns of the locals.

The above condition is divided into different parts.

Firstly, 'Mining shall be done manually minimally supported by semi-mechanized methods' the word used is 'shall' directs the answering respondent to do manual mining minimally supported by semi-mechanized methods. It is pertinent to mention here that the methods of mining i.e. 'manual', 'semi-mechanized' and 'mechanized' are not specifically defined under the Act and were considered by this Hon'ble Tribunal from time to time. Therefore, the use of JCB by the answering respondent at the start of operation of the mining leases that too purely for the purpose of making feasible condition to do manual mining, would not tantamount to violation of Environment Clearance condition. The condition specifically permits the answering respondent to do manual mining minimally supported by semi-mechanized methods.

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Secondly, 'Heavy machinery like JCBs, L&T hydraulic excavators etc. should not be allowed.' The word used is 'should' which clearly shows the intent of the issuing authority that the second condition was purely suggestive in nature and by first condition the issuing authority had permitted manual mining minimally supported by semi-mechanized method. The applicant has not engaged any sort of heavy machinery in the mining operation as evident from the joint committee report also, only JCB was initially used which is permissible under the Environment Clearance condition itself. Therefore, there is no violation of the Environment Clearance condition by the answering respondent, as alleged by the applicant in the original application.

- (D) **Condition no. 56- No mining activity shall be carried out in flowing water channel area within the mining block and adequate measures shall be taken to safeguard water quality and aquatic life including fisheries if available in the same.**

The answering respondent has complied with the above condition while carrying out its manual mining operation, no mining is being carried out in flowing water. Further, the photographs annexed with the joint committee report clearly shows that the flow of water has not been disturbed by the answering respondent. It is pertinent to mention here that the joint committee report has also not reported any such violation against the answering respondent.

(E) Condition no. 65 - The EC is subject to condition that the Project Proponent shall not change the water course of the river and no mining activity shall be carried out in active channel area, if any in the mining block.

The answering respondent has complied with the above condition and there is no change of course of water for carrying out mining operation. Even the joint committee report has not reported any such violation against the answering respondent.

8. That the answering respondent is not involved in any illegal mining, this is evident from the report submitted by the J&K PCC in original application no. 241/2021 titled as Raja Muzaffar Bhat Vs Union of India & Others, the operative para of the order dated 30.05.2023 is as under:-

"Report dated 12.05.2023 of J&K PCC: 14. This report refers to the earlier order dated 08.03.2022 and has stated that District Mineral Officer vide letter dated 27.12.2022 has reported that lease holders of Minor Mineral Block No.11 (Chadoora Old Bridge to Hanjigund D/S Doodhganga Nallah) and Block No. 12 (Chadoora Foot Bridge to Sogam Bridge U/S Doodhganga Nallah) have not been found involved in illegal mining within or outside the peripheries on their respective Blocks and furnishes list of Tractor/Tipper/Machine Owners found indulged in illegal extraction/ transportation of minerals from Doodhganga Nallah, which has been submitted by District Officer J&K PCC, Budgam vide letter No. PCC/DO/Bud/2023/290 dated 02-05-2023."

The copy of the Hon'ble Tribunal order dated 30.05.2023 in OA No. 241/2021 is annexed herewith and marked as **Annexure-R-5/2**.

9. That the Directorate of Geology & Mining , Jammu has carried out '**Geological report on Minor Mineral Resource Estimation, Hydrology, Hydrogeology and Replenishment Studies of Nalla Doodhganga and Nalla Shaliganga, District Budgam, J&K UT'**. The said report has already been submitted by the State before this Hon'ble Tribunal in another matter.
10. That in the light of aforementioned submissions, the answering respondent has not violated any condition of environmental clearance and is working within the domain of permissions accorded to him for carrying out mining operations.
11. That the contents of reply filed by the answering respondent may kindly be treated as part and parcel of the written arguments.

Prayer

In view of above facts and circumstances, it is most humbly prayed that the written arguments on behalf of respondent no. 5 may kindly be taken on record and the original application filed by the applicant may kindly be dismissed with cost.

DATE: 21.12.2023



Humble answering respondent NO. 5
Through Counsel
Rohit Kumar Tuteja/ Lokendra Singh
Kachhawa Advocates

Government of Jammu and Kashmir (UT)
Department of Geology and Mining, J&K

Mr. Danish Yousuf
S/o Mohd Yousuf Mir
R/o Dounghama Kakapora

No. 18-MPA/MSK/DGM/Sgr/Bud/ 26-29 Date: 04/07/2022

References: 1. 18-MPA/DGM/Bud/584-88 Dated 10.11.2020
2. MSK/DGM/Sgr/F-11/Bud/3716-19 Dated 19.06.2021

Subject: Modification of Approved Mining Plan for the Minor Mineral Block No. 11, Chadoora Old Bridge To Hanji Gund Downstream Dhoodhgang Nallah, District Budgam J&K covering an area of 2.74 Ha instead of 3.75 Ha.

Whereas, in pursuance to Rule 12 of "The Jammu and Kashmir Minor Mineral Concession Storage, Transportation of Minerals and Prevention of Illegal Mining Rules 2016" Mining Plan of the **Minor Mineral Block No. 11, Chadoora Old Bridge To Hanji Gund Downstream Dhoodhgang Nallah, District Budgam J&K** covering an area of **3.75 Hectares** was Approved in the Mining Plan Approval Committee meeting District Budgam held on **09.11.2020** and Approval letter was issued vide no. 18-MPA/DGM/Bud/584-88 dated 10.11.2020.

Whereas, on the observations of J&K UT Level Expert Appraisal Committee regarding Project Proposal no. SIA/JK/MIN/185142/2020, the Minor Mineral Block under reference was resized from **3.75 Hectares** to **2.74 Hectares** and submitted the same to this department for authentication and no objection.

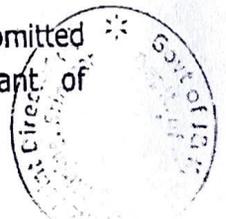
Whereas, the Department of Geology and Mining after ground check and authentication conveyed **No objection** for resizing/reducing the area of Minor Mineral Block under reference with an undertaking from the Project Proponent that:

1. That the Project Proponent is resizing and reducing the area of the said Minor Mineral Block on his own risk and responsibility and he shall not make any claim whatsoever for/on the reduced area of the block.
2. That the Project Proponent shall abide by all the terms and conditions as mentioned in e-auction document, Letter of Intent and the rules governing the subject.

Whereas, the J&K UT Level Expert Appraisal Committee (JKEAC) in the meeting held on 24.05.2021 recommended the case for grant of Environmental Clearance for the said **Minor Mineral Block (No. 11)** subject to the submission of:

- Revised surface plan
- Proper corrigendum/revision to the approved Mining Plan
- and calculation of targeted mineral reserves at 1m mining depth only.

Whereas, accordingly the revised/modified Mining Plan was submitted to the Department of Geology & Mining Srinagar prior to Grant of



Environmental Clearance which was approved vide letter No. MSK/DGM/Sgr/F-B11/Bud/3716-19 Dated 19.06.2021 (Copy Enclosed).

Whereas, subsequently the J&K Environment Impact Assessment Authority (JKEIAA) granted the Environmental Clearance (EC) for the said resized **Minor Mineral Block (No. 11)** vide their no. JKEIAA/2021/552/1682-94 Dated 06.07.2021 subject to the submission of revised Mining Plan to JKEIAA.

Whereas, in pursuance to the conditions of the accorded Environmental Clearance & as conveyed by J&K Environment Impact Assessment Authority (JKEIAA) vide letter no. JKEIAA/2021/552/6028-31 Dated 18.02.2022 (Copy Enclosed) you have submitted revised Mining Plan for the area of **2.74 Ha** instead of **3.75 Ha** with the targeted reserves upto 1 m depth as approved in the Environmental Clearance granted i.r.o revised Minor Mineral Block.

Now therefore, in pursuance to **Rule 12** of "The Jammu and Kashmir Minor Mineral Concession Storage, Transportation of Minerals and Prevention of Illegal Mining Rules 2016" the modification/revision of the Mining Plan is Approved. The other General and Specific Conditions mentioned in the earlier approval shall remain the same.

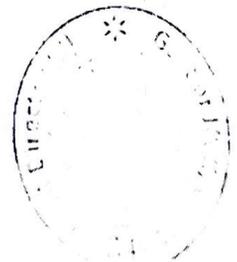
Thunsi
31/03/22
District Mineral Officer,
Budgam

Hukroel 25.03.22
Joint Director, Kashmir
Department of Geology & Mining
Srinagar
(Member Secretary, MPAC)

[Signature]
Deputy Commissioner
Budgam
(Chairman, MPAC)

Copy to the:

- Director, Geology & Mining Deptt. J&K for favour of Information please.
- District Mineral Officer, Budgam for information and necessary action.
- Concerned RQP for information and necessary action.



Item No. 04

Court No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(THROUGH HYBRID MODE)

Original Application No. 241/2021

Raja Muzaffar Bhat

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 30.05.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Rahul Choudhary and Ms. Sruthi K. Advocates
Respondents: Mr. Balendu Shekhar, Advocate for MoEF&CC
Mr. Prashant Goyal, Principal Secretary, Housing and Urban
Development Department, J&K
Mr. Paramjit Singh PLO, ROD&PR Deptt.
Mr. Rafi Ahmad Bhat, Regional Director, PCB Kashmir
Mr. Mathoora Masoom, Director, ULB Kashmir
Er. N. A. Kakroo, Chief Engineer, J&K UEED
Mr. Akshay Labroo, DC Budgam
Mr. Athar Aamir, Commissioner, Srinagar Municipal
Corporation
Mr. Zulfikar Mohd Shafi, DMO, Budgam
Mr. Om Prakash, Director, Geology and Mining J&K

ORDER

1. Mr. Rahul Choudhary, Learned Counsel appearing for applicant is present and on behalf of Housing and Urban Development Department, J&K, Shri Prashant Goyal, Principal Secretary assisted by various Senior Officers of Mining Department and others are present.

2. Grievance in this application is against failure to prevent illegal mining, discharge of sewage and dumping of solid waste into River Doodh Ganga and Mamath Kull, in violation of provisions of Water (Prevention

and Control of Pollution) Act, 1974, judgment of Supreme Court dated 22.02.2017 *inter-alia* in *Paryavaran Suraksha Samiti vs. Union of India*, (2017) 5 SCC 326 and orders of this Tribunal on the subject.

3. Case set out in the application is that Doodh Ganga is a tributary of Jhelum river. It originates from Pir Panjaal Mountain and, thereafter, passing through number of villages and towns up-stream to down-stream like Sogam, Chadoora, Wathora, Kralpora, Bagh-e-Mehtab, Channapora, Natipora, Barzulla, Bulbul Bagh, it merges into Hoker Sar Lake at Lawaypora, Narbal and eventually, meets Jhelum river. Mamath Kull also originates from Pir Panjal Mountains and after passing through number of villages in Budgam District, enters the Mamath Village which is 1 km away from the stream and, thereafter, first enters Hokersar Lake and eventually meets Jhelum river. Rivers Doodh Ganga and Mamath Kull have been subjected to pollution from pesticides from Apple Orchards, discharge of untreated sewage and dumping of municipal solid wastes from the area falling under Srinagar Municipal Corporation and Municipal Committee of Budgam.

4. Precise submissions set out in the application are as follows:

- “a) Large quantity of pesticides are flown into the Doodh Ganga River from the Apple Orchards.*
- b) The Srinagar Municipal Corporation is continuously discharging untreated sewage in river Doodh Ganga from 13 dewatering pumping stations installed at various locations on the banks of river Doodh Ganga.*
- c) Till date no STPs has been established by the Srinagar Municipal Corporation or any other Government Body in the entire stretch around river Doodh Ganga as a result of which all the untreated sewage from residentials, commercial establishments, shopping malls, butcher houses, poultry shops, laboratories, diagnostic centres and domestic sewage are directly discharged into the river without any scientific treatment.*
- d) A large number of Municipal Solid Wastes are unscientifically dumped on the banks of river Doodh Ganga and during the*

present rainy season there is a grave danger of the entire waste to be flowing into the river which is a tributary to River Jhelum.

- e) *A large amount of municipal solid wastes are being dumped unscientifically on the banks of the Mamath Kull stream by the Municipal Committee of Budgam. There is a grave danger of the entire waste to be flowing into the stream which eventually meets River Jhelum, thereby causing major environmental degradation.”*

5. The areas where untreated sewage is being discharged are mentioned as follows:

- “i. **Sogam** - River Doodh Ganga, originating from Pir Panjaal, after travelling for 30 kms starts getting contaminated as soon as it enters the villages. That Sogam, a village in Budgam District is the starting point of the pollution of Doodh Ganga, where the maximum source of pollution is from the large amounts of pesticides which are sprayed in apple orchards from March onwards. That during monsoon, all these toxics gets washed away and drains into Doodh Ganga, result of which is large scale contamination. Experts from the horticulture and agriculture departments have never created any awareness among farmers on management and protection of water bodies from pesticide sprays.
- ii. **Chadoora, Wathoora and Bagh-e-Mehtab:** Thereafter, the river Doodh Ganga gets completely polluted due to the absence of any Sewerage Treatment Plants (STPs) as soon as it enters Chadoora and Wathoora, a town and village in Budgam District. That a massive amount of untreated sewage is discharged and solid wastes are dumped into the river, All the untreated discharges from residential, commercial establishments, laboratories, shopping malls, butcher houses, poultry shops, laboratories, diagnostic centres and domestic sewage are drained directly into the river. Due to the absence of any STPs, the health of the river, which is a major source of drinking water for residents of Srinagar and Budgam, having an estimated reach of almost five lakh, is persistently degrading due to the negligence of the concerned authorities.
- iii. **Chanapora, Natipora, Barzulla, Bulbul Bagh and other areas:** Furthermore, it is submitted that the Srinagar Municipal Corporation is also flushing waste water from Chanapora, Natipora, Barzulla, Bulbul Bagh and various other areas into Doodh Ganga through its 13 pumps stations without any treatment. Due to absence of any STPs in the entire stretch of Doodh Ganga, all the untreated wastes are discharged by these pumping stations. Also, due to the non-availability of garbage dumping sites and lack of mechanism to treat the wastes, a hefty amount of municipal solid wastes are also being dumped on the banks of Doodh Ganaga thereby worsening the quality of the water. That these unsegregated wastes when dumped illegally into the river bank, also leads to groundwater contamination. That there is a grave danger that during

monsoon time these municipal waste will flow into river Doodh Ganga, which is a tributary to Jhelum River.”

6. In support of above, applicant has filed photographs and a report of applicant published in Greater Kashmir titled “SMC converting Doodh Ganga into a drain”. Applicant has also filed copies of letters of State PCB addressed to Srinagar Municipal Corporation against dewatering stations having potential to pollute water. Applicant has also annexed representation dated 11.08.2021 addressed to Chief Secretary, J&K, Member Secretary, J&K Pollution Control Committee, Member Secretary, CPCB, Commissioner, Srinagar Municipal Corporation, Director, Urban Local Bodies, Kashmir, Deputy Commissioners, Srinagar and Budgam. Applicant has also relied upon letter dated 10.09.2021 from Regional Director, J&K PCC to Member Secretary, J&K PCC stating that on analysis of water samples, discharge of pollution in the rivers was established. The letter is reproduced below:

*“As per the inspection report, the analysis of samples collected from Doodhganga at different locations indicate that water in upstream spots i.e. at Sogam, Chadoora and Baghi-e-Mehtab meet the prescribed permissible limit for ‘Class B’ (Outdoor Bathing Organised) criteria in terms of analysed physicochemical parameters, **whereas in the lower course of river i.e. at Baghat Old Barzulla and Near Tengpora the water quality does not confirm ‘Class B’ Criteria for parameters viz Dissolved Oxygen and Biochemical Oxygen Demand. Comparatively inferior quality in the lower course of river can be attributed to addition of deleterious waste into the water body.***

*The analysis of samples collected from Mamath Kul indicate that water quality in upstream and downstream meets the prescribed permissible limit for ‘Class B’ (Out door Bathing Organised) criteria in terms of analysed physicochemical parameters. However **huge dumps of solid waste were observed along the banks of this stream. The municipal committee Budgam is dumping solid waste on the periphery of the Mamath stream.***

Dewatering pump stations installed at various locations on the bank of Doodh Ganga river are still operational and discharged untreated waste water into the River. No concrete steps have been taken by concerned municipal authorities with regard to scientific disposal of solid waste as dumping of solid waste on the banks of Doodh Ganga continues unabated. Municipal Committee Chadoora is dumping the solid waste

generated from the Chadoora town on the Bank of Doodh Ganga near Abshar colony.”

7. The matter was earlier considered on 18.10.2021 and 08.03.2022. Pursuant to the above orders, an action taken Report was filed by J&K Government on 24.06.2022 which showed that untreated sewage was still being discharged into river. A part of legacy waste was removed but there was nothing to show that the same was scientifically processed/handled. Illegal mining was said to have been stopped. It was stated that restoration measures will require Rs. 30.85 Crores for development of green belts and soil erosion control measures on the embankments of river Doodh Ganga/Mamath Kull covering a total length of 42 Kms. The said damage appeared to be direct result of illegal mining. It was further stated that for beautification of embankments from Doodh Ganga Nallah from Branwar upto Railway Bridge Bagh-i-Mehtab, further amount of Rs. 5.82 Crores will be required. Action taken against illegal mining was lodging FIRs, dismantling of approach roads, seizing of tools/equipments/vehicles/JCBs. 36 vehicles were seized which were involved in illegal extraction/transportation of minerals with collection of Rs. 4,53,338/- as compounding/penalty from the offenders.

8. The relevant extract of the Report was referred to in the order dated 14.10.2022. In the said Report, it was also stated with regard to waste management in the State that action plan has been prepared for amount Rs. 648 Crores. For sewage treatment beyond Bagh-e-Mehtab, plan has been prepared for an amount of Rs. 89.34 Crores. For treatment of Doodh Ganga Nallah from Bemina to Baghi-Mehtab, Srinagar was already reflected in the DPR submitted to JICA for an amount of Rs. 964.48 Crores. It was further stated that total sewage generated from 07 wards of Srinagar Municipal Corporation forming the catchment of 13 dewatering stations

(10 main and 03 secondary) on the two sides of Doodh Ganga Nallah is estimated as 16.23 MLD, whereas the untreated sewage falling into Doodh Ganga Nallah through these dewatering stations was 12.25 MLD. Balance sewage of 4.11 MLD got treated in the septic tanks/soakage pits.

9. The said Report was commented adversely by applicant and comments of applicant were also reproduced in para 11 of order dated 14.10.2022. Thereafter, matter was examined on merits on 14.10.2022 and relevant extract of order dated 14.10.2022 reads as under:

“13. 116.23 MLD of untreated sewage is being discharged into the Doodh Ganga drain. About 90 MTs of legacy waste has been removed from the banks of Doodh Ganga using men and machinery of Municipal Committee Chadoora which remained unprocessed. Thus, there is violation of SWM Rules, 2016 which lay down timelines for taking steps which have already expired without such steps having been taken. Further, there is violation of judgment of Hon’ble Supreme Court in Paryavaran Suraksha Samiti Vs. Union of India, supra, requiring steps for setting up of necessary STPs within timeline mentioned therein which have expired. Huge damage has been caused by illegal mining but beyond stopping illegal mining and recovering small amount, compensation commensurate with the damage already caused has not been recovered. We refer to earlier order dated 08.03.2022 on the subject which is as follows:-

“14.xxx.....For illegal mining, the loss caused to the State in the form of value of minerals as well as the loss caused to the environment for undertaking such activity without requisite clearances needs to be recovered by the State PCB in light of judgment of the Hon’ble Supreme Court inter-alia in Goa Foundation v Union of India & Ors. (2014) 6 SCC 590 and Common Cause Vs. UOI & Ors., (2017) 9 SCC 499. It is also open to the State PCB to initiate prosecution against the violators.”

14. *There is nothing to show that compensation recovered covers the cost of restoration with deterrent element having regard to the value of illegal mining. The State PCB in coordination with the concerned Departments may take further action in this regard failing which the State itself will be liable to pay compensation for failing to perform its duties.*

15. *The above discussion shows that there still exist huge gaps in management of solid and liquid waste even after 8 years of monitoring by this Tribunal after order of Hon’ble Supreme Court on 2.9.2014 in Almitra Patel, supra and more than 5 years after order of Hon’ble Supreme Court dated 22.2.2107 in Paryavaran Suraksha.*

Need to consider change in approach for administrative processes

16. *There appears to be need for change in approach in realizing that remedial action cannot wait for indefinite period nor loose ended time lines without accountability can be a solution. Responsibility of the State is to have comprehensive time bound plan with tied up resources to control pollution which is its absolute liability. If there is deficit in budgetary allocations, it is for the State alone to have suitable planning by reducing cost or augmenting resources. People must be involved in the problem by appropriate awareness and strategies to encourage public participation and contribution. At the cost of repetition, health issues cannot be deferred to long future. Long future dates breach of which has taken place frequently in the past without accountability is not a convincing solution. It is poor substitute for compliance within laid down timelines for long past. This approach may project lack of concern or not realizing the grim ground situation crying for emergent remedial measures on priority. There is no time for leisure, reflected in timelines proposed for bridging the acknowledged gaps.*

17. *It appears to be necessary to brain storm with available experts and other stake holders in the State at different levels, evolve models for both solid and sewage management which can be fast replicated, initiate special campaigns with community/media involvement in the larger interest of protecting environment and public health with determination for prompt action. Such brain storming sessions may enable capacity enhancement of the regulators and the processes. Campaigns and community involvement may result in reducing the financial and administrative load on the administration.*

Need to explore implementation mechanism

18. *In the light of above observations, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a **centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level**. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. **It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments – Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries**. The mechanism should be working on fulltime basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste management and establishing, continuous interaction with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed.*

19. *Mechanism be considered to engage service providers by due diligent process who may execute work relating to solid and sewage*

management simultaneously throughout the State – all districts, cities and towns.

Solid waste management

20. Dump sites in operation as well as the legacy waste dump sites occupy huge area of valuable public lands. They remain source of air, water and land pollution resulting in damage to environment and public health. They emit intolerable smell and cause hazardous and unsafe environment for inhabitants in the vicinity. Their life is hell which is denial of their constitutional and human rights. In terms of money also, huge loss is caused to public health and environment. This situation is not acceptable in a civilized society governed by rule of law. For victims of situation, there is no governance.

21. While addressing the issue on bridging the gap in management of MSW, segregation of the solid waste at source and its earliest processing nearest to the point of generation with defined destination is imperative. In particular, adequate composting/vermicomposting/bio-methanation centers need to be set up and upgraded nearest to the source of generation of wet solid waste, listing people's involvement. This may also require decentralized waste processing facilities. Waste generators can themselves be required to process the waste under guidance and handholding by the Administration, with the assistance of identified empaneled service providers and such details may be posted on State's/Center's GeM portal. This may perhaps reduce planned expenditure. Option of waste energy projects for bigger cities or at regional/cluster level needs consideration.

22. Execution plan would include setting up of requisite waste processing plants (centralized and decentralized) and remediation of left out legacy waste dump sites. Bio-remediation/bio-mining process need to be executed as per CPCB guidelines and the stabilized organic waste from biomining as well as from compost plants need to comply with laid down specifications. Other material recovered during such processes are to be put to use through authorized dealers/handlers/users. Instead of creating more dumping sites for only dumping of waste generated on day-to-day basis unless, waste processing plants of adequate capacity should be set up so that no further legacy waste is generated.

Fencing and maintaining legacy waste sites

23. Legacy waste sites must be maintained free from fires and safety of workers engaged should be ensured. Such sites may be fenced with row of trees or wall, as may be viable, for aesthetics, preventing foul smell and safety. Provisions of Schedule-I of the SWM Rules, 2016 may be strictly followed. Water quality in the vicinity of legacy waste dump sites may be periodically monitored. If any contamination is found, remedial action may be taken. Environmental safety aspects associated with legacy waste dump sites be complied with as specified in Schedule I of MSW Rules, 2016.

Use of reclaimed land occupied by legacy waste sites

24. As already mentioned earlier, legacy waste dump sites have resulted in huge damage to the environment and population in the vicinity of such dump sites who have suffered in safety, health and comfort. For compensating them for such damage, one third of land occupied by legacy dump sites (on reclamation) needs to be reserved for dense forest and in the process of afforestation, Campa Funds can be utilized in accordance with the provisions of Compensatory Afforestation Fund Management and Planning Authority Act, 2016 (CAMPA Act). One third of reclaimed land out of the said dump site needs to be reserved for integrated waste management facilities. Remaining one third can be used for any other purpose, consistent with the above purposes, including a part of it being utilized for monetizing, if funding is required for tackling the legacy waste. Legacy waste clearance has to be in minimum further time as laid down statutory timelines have already expired and serious damage is taking place. It may be noted that remediation of legacy sites may be one time affair and such situations should not arise in future. User of land, to be reclaimed, needs to be declared in advance so that further steps can be taken in that direction.

Maintaining sources of clean water (rivers, storm water drains and water bodies – lakes, wetlands etc.) free from treated or untreated sewage, channelizing treated sewage for non potable purposes

25. We also find that **sanctity and significance of natural storm water drains needs to be maintained**. Storm water drains, if left unpolluted, can be source of drinking water for humans, birds, animals or aquatic life and discharge of sewage or even treated water which is not of standard of drinking water, seriously affects such drinking water resource adversely affecting their health. They are not to serve as sewage carrier. Failure of duties of the State on this aspect has resulted in pollution of rivers. It is evident from the data that huge amount of untreated sewage is being discharged into rivers or otherwise has to be avoided and managed without mixing in storm water drains/rivers/waterbodies.

26. As already observed, there is need for planning to prevent sewage (treated or untreated) entering the potable water resources. Instead, the same is to be suitably treated and channelized for non-potable purposes – agriculture, industrial or others.

27. The restoration measures with respect to sewage management include identifying sites for setting up of sewage treatment and utilization systems, upgrading systems/operations of existing sewage treatment facilities to ensure utilization of their full capacities, ensuring compliance of standards, including those of fecal coliform and setting up of proper fecal sewage and sludge management in rural areas. STPs need to have co-treatment facilities of septage rather than having isolated FSTPs. Guidelines of SBM - U 2.0 may be referred to in this respect. For urban areas, SBM-U 2.0 provides co-treatment of fecal sludge at STPs with sewage for which funding provisions are made.

Utilisation of already set up STPs

28. We have found that even where STPs of adequate capacity have been set up, the **capacity is not fully utilized and standards of water quality not always met**. This aspect needs to be looked into on continuous basis by a centralised mechanism which may be set up preferably within a month.

29. Timeline for the establishing requisite treatment systems in terms of judgment of Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*, supra has long expired. This Tribunal has already laid down that for delay after 01.04.2020, coercive measures are to be taken but the State has failed to do so. Till the gaps are bridged, untreated liquid waste will continue to remain source of degradation of environment and damage to public health, including deaths and diseases which the society can ill afford. Common man will be deprived of access to potable water on account of failure of the State to protect potable water sources from pollution. Hence, the urgency of the situation for good governance for ensuring emergent measures in public interest to protect the environment, natural resources and public health as per mandate of the Constitution. We have to levy compensation for continuing violation on polluter pays principle to be utilised for restoration measures, following observations in para 30 above.

30. As already noted and also observed in the judgement of the Hon'ble Supreme Court in *Paryavaran Surakhsha*, supra, quoted earlier, the matter falls in 11th and 12th Schedules to the Constitution. It is constitutional responsibility of the State and the Local Bodies to provide pollution free environment and to arrange necessary funds from contributors or others. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds or other resources such as land (sites for waste management) cannot be plea to deny such right. Such resources have to be found by the State by its policies and according due priority to the subject. Further, while there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext. Freeship or other policies involving State resources cannot take priority over basic need for hygiene and pollution free environment.

31. It is a matter of concern that even after 48 years of enactment of Water (Prevention and Control of Pollution) Act, 1974 and expiry of timelines for taking necessary steps for solid waste management in terms of Solid Waste Management Rules, 2016 and binding direction in the judgment of the Hon'ble Supreme Court and this Tribunal in *Almitra H. Patel vs. Union of India & Ors.* and *Paryavaran Suraksha vs. Union of India*, supra, huge gaps still exist. Are there insurmountable difficulties for State authorities or lack of will and determination? We find it difficult to believe the first. In our view, it is lack of good governance and determination responsible for the situation which needs to be remedied soonest.

Sewage Management

32. Similarly, sewage can be required to be processed by cost-effective methods at least at several identified locations with least expenses. Decentralized and the prefabricated/modular treatment plants can be explored, apart from imposing condition of ZLD on industries, Group Housing Societies etc. Reduced load can be

processed partly with the help of water using commercial establishments requiring water for their processes enforcing consent conditions in CTEs and CTOs whereby State's financial burden can be reduced. It may be worthwhile to look into and follow "Ready Reckoner on Municipal Used Water Treatment Technologies for Medium and Small Towns", compiled and published by Central Health Engineering Organisation, Ministry of Housing and Urban Development, GoI, on 28th September, 2022¹ which provides information about low cost technologies for treatment of sewage and use of treated water without discharging it in drains/rivers.

33. *Compliance of environmental norms on the subject of waste management has to be on high on priority. It is high time that the State realizes its duty to law and to citizens and adopts further monitoring at its own level.*

Adhering to the timelines

34. *Since the issue has been pending since long and there are adverse effects of continuing delay on environment and public health, it cannot be a matter of satisfaction that some steps are taken till the entirety of the problem is tackled on war footing. Planning has to be to resolve the problem without any further delay, in shortest possible time. Whatever timeline is laid down, it should not be breached. If breached, adverse consequences for such failures must follow on the designated accountable officers instead of loose-ended processes.*

Community involvement

35. *Another important subject is community involvement not only for IEC activities but also for planning and execution of waste management activities. Welfare associations, corporates, religious, educational and charitable institutions can play their role. The District Environment Plans must have authentic and updated database which can be helpful for policy making and execution of projects.*

State's liability

36. *Apart from compliance in future, the liability of the State has to be fixed for the past violations in the light of earlier binding orders passed in pursuance of orders of Hon'ble Supreme Court dated 2.9.2014 in WP 888/1996, Almitra Patel and dated 22.2.2017 in WP 375/2012, Paryavaran Suraksha. Order dated 22.12.2016 in Almitra Patel clearly laid down liability for compensation for breach of statutory timelines. Similarly, liability for compensation was laid down for failing to install water pollution control devices after 31.3.2020. The Tribunal has to follow 'Polluter Pays' principle under Section 20 of the NGT Act. The State Authorities contributing to the pollution by failing in their constitutional duties are to be held accountable on this principle. Admittedly, timelines under Supreme Court orders and orders of this Tribunal for preventing water pollution and statutory timelines for solid waste management are over. Thus, atleast from 01.01.2021, the 'Polluter Pays' principle has to be applied. Compensation has to be equal to the loss to the environment and also taking into account cost of remediation.*

¹ <https://sbmurban.org/storage/app/media/rr-final-signed.pdf>

37. *Following the recent orders on the subject², we fix compensation for discharge of untreated sewage in the drain at Rs.32 crore and for failure to process solid waste at Rs.3 crore. We had earlier levied interim compensation of Rs. 3 Crores which may be adjusted. Remaining of Rs. 32 Crores be deposited by the State in a ring-fenced account to be operated as per directions of the Chief Secretary for restoration of the Environment which will include preventing discharge of sewage in unscientific manner in drains or otherwise and improving the water quality of the drain. Part of the amount may be utilized for restoration of legacy waste dump site and for remediation of the leftover legacy waste.*

38. *An action taken report in pursuance of above order particularly with reference to setting up of decentralized and centralized STPs and stopping discharges from waste discharging points to Doodhganga and Mamath Kull. Further, 90 MTs shifted solid waste to other site be remediated including already existing legacy waste and providing status on waste processing plants may be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF on or before 30.04.2023. The Principal Secretary, Urban Development, J&K may remain present in person by VC on the next date.”*

10. We are informed about amount of compensation, as directed in para 37 of earlier order, that all procedural aspects have been taken care and the amount shall be deposited within 15 days.

11. Pursuant to directions given in order dated 14.10.2022, Report dated 28.04.2023 has been filed by Principal Secretary, Housing and Urban Development Department, J&K and Report dated 12.05.2023 and response dated 26.05.2023 to additional affidavit of applicant have been filed by J&K PCC.

12. However, having gone through the said Reports, we do not find any substantive progress in the matter.

² (i) Order dated 25.07.2022 in OA No. 286/2022, In re: News item published in The Indian Express dated 20th April, 2022, titled “7 Charred to death in fire near Ludhiana dumpsite”
(ii) Order dated 23.09.2022 in OA No. 172/2021, Poonam Yadav vs. M/s. Eco-green Energy Pvt. Ltd. & Ors.
(iii) Order dated 03.08.2022 in OA No. 1002/2018, Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors.
(iv) Order dated 11.10.2022, OA No. 300/2022, In re: News item published in News 18 dated 26.04.2022 titled “Delhi: Massive Fire at Bhalswa Dump Yard, Fourth This Year; 13 Fire Tenders on Spot”
(v) Order dated 13.10.2022, OA No. 606/2018 Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues (in respect of State of Karnataka).

13. The response, given by Principal Secretary, Housing and Urban Development Department, J&K, only talks of various planning and action proposed to be taken in future. The relevant extract of Report dated 28.04.2023 reads as under:

“3. *That for stopping the direct discharge of sewage into Doodhganga Nallah, the two schemes have been formulated as under:-*

a	<i>Detailed project report for Daily Dry Weather flow (DDWF) discharging into Doodhganga Nallah</i>	67. Cr
b	<i>Detailed project report for Daily Dry Weather flow (DDWF) discharging into Doodhganga Nallah from Bagh-I mehtab upto Chadoora</i>	89.34 Cr.

The Detailed Project Reports of the Schemes were sent to IIT Roorke for technical appraisal and same has been received with respect to S. No. (e) while as certain observation has raised with respect to project (b). The funding for both the projects has been provision under sewage sector in UT CAPEX budget 2023-24 and the Chief Engineer USED floated the tenders for engagement of Project Management consultants for assisting UEED in implementation of both the projects. The implementation of projects works is expected to start during the second quarter of this financial year.

4. *That the number of measures have been undertaken to ensure quality of treated effluent as per the prescribe standards. Online Continuous Effluent Monitoring Systems (OCEMS) are being installed in all 15 operational STPs of USED and also, NABL accreditation of 03 labs of UEED has been approved to be taken up during the current financial year 2023-24.*

5. *That proper and effective implementation Solid Waste Management Action plan, a dedicated Project Management Unit has already been engaged by the Department for establishment of Solid Waste Management facility. The PMU is operating from the Directorate and have many times visited the sites identified for establishment of SWM facilities in Budgam and Chadoora towns. The Waste generation details of two towns viz Municipal Council Budgam & Municipal Committee Chadoora is given hereunder:-*

S.No.	ULB Name	Population	No of Households	No of Wards	Waste Generation in TPO)	Projected Waste generation MD)
1.	Budgam	18022	3204	12	9.21	10.88
2.	Chadoora	7616	1269	12	3.05	3.60

The Department has already procured Collection and transportation infrastructure through State Motor Garages J&K, wherein (107)

Garbage Hoopers have been procured and procurement of (44) Garbage Hoopers is at the final stage of procurement, to ensure prevention of open waste littering, and door to door collection of waste in a segregated manner. MC Budgam has been provided (04) additional Garbage Hooper's and drivers to augment the existing transport & collection infrastructure in the town. To prevent the open littering of waste by the households, MC Budgam has distributed (1700) Dustbins in the town and MC Chadoora has also distributed about (1500) Dustbins so far to households residing within the town limits.

6. MamathKull:- *Mamath Kull passes through the Budgam town and is the main source of water in the town. Most population living in the vicinity of the water body has been identified as littering of waste into the Kull and on its banks, for which the MC Budgam has taken strict measures to restrain the people from illegal dumping and disposal of Solid Waste into the Kull and on its banks. A special team has been constituted vide Order No; MC/BD/5132-33 dated 31-12-2021, to ensure strict prohibition of dumping of garbage/Solid Waste/ Single Use Plastic on the banks of the Kull, besides, imposition of fine upon the violators as per the provisions of SWM Rule, 2016. The constituted team has been patrolling in the area frequently .Fine has been imposed on (21) violators and (07) No, of FIRs have also been filed against the violators to disseminate a strict message among the public. Ninety (90) Sanitation drives along the embankments of MammathKull from Mamath to Railway Bridge Ompora have been conducted by MC Budgam. Besides, special sanitation drives are being carried out twice in a week to keep the Kull and its surroundings neat and dean from all kinds of waste. Six (6)No Digital LED Display Boards have been installed/ erected at different places from New Adda to Old Adda on which messages are disseminated regularly to create awareness in general public, regarding importance of water bodies and their conservation. Hundred percent door to door collection has been achieved in all the wards of the Town.*

7. That Fifty Five (55) IEC activities *have been organized in the areas falling alongside of the water body to sensitize the people about the pollution of water bodies and its hazards., which have been given wide publicity through print & electronic media. Twenty Eight (28) No Sign boards have been installed with warnings/ cautions on the banks of the water bodies. Community Heads/ Senior citizens/ NGOs/School Children and volunteers have been involved in awareness programmes among general public. The weekly progress reports of the activities/ actions taken are being regularly submitted to the Administrative Department. On the eve of celebrations of World Environment day MC Budgam in collaboration with Pollution control board Budgam conducted a special sanitation drive and collected garbage/ solid waste/ single use plastic in and around the Mammath Koul and also, in compliance to the instructions issued by the Directorate MC Budgam, sanitation / cleanliness drives are frequently carried out at Marn mat Koul.*

8. That Doodh Ganga also known as Chatche Kull *passes through the Chadoora Town and around two (02) Kilometers of stretch of Doodh Ganga traverse the town. The main source of pollution of Nallah Doodh Ganga has been observed as waste from residential houses located near the banks of Nallah, and effluents from restaurants Hotels and*

Work Shops, dumping of refuse by the local inhabitants, for which the Municipal Committee Chadoora has swung into action and Five Tones of the waste scattered on the banks of Nallah Doodh Ganga has been removed manually and mechanically by the MC Chadoora during special sanitation drives and has been properly disposed off at dumping site at Nagam Hayatpora.

9. That thirty (30) No Banners (Big and Small) and 3 No Digital LED display boards at various locations including banks of Nallah Doodh Ganga have been installed for awareness of general public, also announcements are made on public address system regarding cleanness of Doodh Ganga. Masjid Committees/ Augaf Committees of town Chadoora were also requested to make general public aware about the importance of cleanness of water body. Special teams have been constituted by MC Chadoora vide Order No:- MC/CHD/2021/2451-55 dated 11.12.2021, and No: MC/CHD/2021-22/3388-91 Dated 24.03.2022, to keep strict vigil on the encroachments of banks of Nallah and littering of waste by the inhabitants. During last few days, the Vigilance teams of MC Chadoora have imposed fine on Fifteen (15) violators and Nine (09) No. of FIRs have also been filed against the violators to serve a deterrent to the violators. (62) Tones of Garbage /Solid Waste have been removed from Doodh Ganga Nallah, by MC Chadoora and disposed off at designated Solid Waste Management Site near Hayat Pora.

10. Routine activities:- The Routine activities carried out by the Municipal Council Budgam and Chadoora for cleanliness of the area are as under:-

- i. **Municipal Council Budgam:-(Mammath Kul):-**Regular announcements are made on loud speakers by the employees of MC Budgam and the team already constituted is conducting door-to-door awareness programmes. Also IEC activities are carried regularly on the theme of source segregation and ban on single use Plastic/ littering of Waste/ garbage and ill effect of SUP. During the drives jute/cotton bags are distributed among the households residing around Mammath Koul as an alternative to polythene/plastic bags. Feedback from the general public are received and valid suggestion will be taken due care. The awareness and action taken has created a good response from the general public and seems to encouraging and satisfying.
- ii. In order to create awareness among the general masses MC Budgam, awareness messages are disseminated through LED Digital displays installed within the limits of Municipal Council Budgam. In addition the additional awareness message boards/ Signages/ Hoardings, have also been installed on the embankments of Mammath Kul as well as whole town.
- iii. A team of Employees headed by In-charge sanitation has been assigned the job to keep vigil / watch on the inhabitants / commuters littering the garbage / waste in the above said Kull. The team has also been instructed to identify the litterers/violators and action as warranted under law is initiated against the violators. The Municipal Council Budgam has also identified the violators and the case been

registered against the violators who had been found violating the water regulation and management act.

- iv. MC Budgam has shifted the old dumping site from embankments of Maath Nallah to Pallar Budgam and has proposed to develop a park on the same patch of Land for which DPR has been prepared against the cost of Rs.50.61 lacs.

Municipal Committee Chadoora (Doodh Ganga Nallah)

- v. As per routine, on every Saturday & Wednesday of Municipal Committee Chadoora carried out special sanitation drives during the past week Clearance of Doodh Ganga Nallah on daily basis.
- vi. Signboards have been installed that no one is allowed to throw the garbage in Nallah Doodh Ganga
- vii. A special cleanliness drive has been conducted on 06.03.2023 in Doodh Ganga Nallah within the jurisdiction of MC Chadoora wherein 59 to 74 Kgs of Waste approximately has been lifted and disposed off.
- viii. Violators are being fined by this institution for any kind of violation
- ix. Announcements are being made through Loud speakers on daily basis in order to protect the heritage of Chadoora Town and complete ban of littering on the embankments of Doodh Ganga Nallah has been imposed.
- x. As already stated that huge quantities of garbage have been lifted from Doodh Ganga Nallah within limits MC Chadoora and are being lifting at present on daily basis,
- xi. So many IEC activities with collaboration of Govt. School private school /Govt. Departments and senior citizens of town Chadoora for cleanliness of Nallah Doodh Ganga.
- xii. Every step has been taken by the MC Chadoora for neat and clean Chadoora.

11. That the measures taken by the Municipal Corporation Srinagar n respect to Solid Waste management of Doodhganga for the area falling under their jurisdiction are as under:-

- i. **Door to door waste Collection:** The Srinagar Municipal Corporation is practising 100% door to door waste collection throughout the city including from the house holds putting up on the both sides of Doodh Ganga canal from Bagh-i-Mehtab to Hokarsar. 20 Hooper/Light Commercial vehicles are deployed in the said area which are assigned to collect the waste from the door step. This daily exercise has fully controlled littering on the banks of the Doodhganga Canal within the jurisdiction of Srinagar Municipal limits. The SMC has also made available services of sludge clearance vehicles to the residents of the area and septic tank clearance of the above areas is being taken and addressed on priority. The collection of waste from door step and clearance of septic tanks of the houses etc. has helped to stop waste and grey water entering in the Doodh Ganga Nallah.
- ii. **Removal of legacy waste from the Banks:** The waste collected at various spots on the banks of the Doodhganga has been completely removed and there is no legacy waste

- anywhere on the banks of the Nallah within the jurisdiction of Srinagar Municipal Corporation. Special sanitation drives are undertaken to remove scattered waste from the Nallah.
- iii. **Closure of Waste Collection Point:** One major waste collection point was installed near the Baghi Mehtab Bridge very close to Doodganga Nalla where there were instances of waste blowing to the Nallah. The said waste collection point has been completely closed down and no waste collection is done there. A public park has been conceived to be constructed there and the work on construction is under progress.
- iv. **IEC Campaigning:** Regular information, education and communication activities are being also conducted in the area and people living on the banks of the Nallah are being educated not to litter the Nallah. Encouraging results have been observed as people living there are handing over the waste to the Safai Karamcharis at the doorstep and are not littering the Nallah any more. The IEC activities are constantly held. Announcements are being made in the said area and Imams of Masjid's are also canvassing to keep the Nallah clean in the sermons they deliver on Fridays and so on.
- v. **Capacity Building Prop/awn:** On 7/2/2023 one day awareness workshop was held at Channapora Community Hall which attended by a large number local residents putting up on the banks of the Doodh Ganga water. A walkathon was also held from Channapora to Rambagh raising slogans to keep the Water Channel clean.
- vi. **Enforcement of SWM Rules 2016:** Some of the people who are not implementing the direction and stopping to litter the Nallah, warnings are being issued to resist from such practices. In the event of continuous default, strict action is being taken against the offenders. The Corporation has penalized 65 offenders who are being found littering the Doodh Ganga Canal and recovered an amount of Rs. 1,90,500/- from the defaulters from 19/12/2021 to 30/12/2022. The residents putting up on the banks of the Doodh Ganga have stopped throwing of garbage in the stream.
- vii. **Sunday 4 Srinagar Programme:** Under the SMCs said initiative, special sanitation drives are conducted in the water channels, water bodies and other un attended spots. The SMC has conducted more than 120 such kind of sanitation drives in the Doodhganga Nallah in the past 14 months and cleared this canal from waste. The said initiative is taken in collaboration of the general public in an endeavour to make the residents more responsible stakeholder. This innovative programme is continuously being pursued and SMC is duty bound to dean all the water channels of the waste and litter. Besides sanitation drives held under Sunday for Srinagar Programme, sanitation drives were also held alongside the Doodhganga Channel as per the following date wise list:

Date	Name of the area
8/10/2022	Rawathpora bund to Barzulla Bridge
	Channapora bridge to Khan Mohalla

22/10/2022	Old Barzulla Bund to Foot Bridge Barzulla
	Rambagh Bridge to Tengpora Bridge
4/11/2022	From Rawathpora Bridge to Rambagh Bridge
16/11/2022	Barzulla Bridge to Tengpora Bridge via Bulbul Haigh Bund
24/11/2022	Bank Colony Rawalpora Bund to Foot Bridge Rawaipora
	Pirbagh Bridge to Rawaipora Bridge
3/12/2022	Rawathpora Bridge to Barzulla Bridge
	Barzulla Bridge to Tengpora Bridge via Bulbul Bagh
15/12/2022	Rambagh Bridge to Tengpora bridge via old Barzulla Gujjar Bund
27/12/2022	Old Barzulla Bridge to Tengpora Bridge
4/1/2023	Channapora Bypass Bridge to Housing Colony Sanat Nagar
24/1/2023	Rawathpora Bridge via Khan Mohalla upto Barazulla Bridge
31/1/2023	Bulbul Bagh Bund to Tengpora Bridge
11/2/2023	Pir Bagh Bridge to Rawalpora Bridge
16/2/2023	Rawalpora Bridge to Foot Bridge via Bank Colony
25/2/2023	Rawathpora Bridge to Barzulla Bridge
	Rambagh Bridge to Tengpora Bridge via Gujjar Bund
05-03-2023	Old Bus Adda Batamaloo
19-03-2023	Padshahi Bagh Bund upto Rather Mohalla
02-04-2023	Padshahi Bagh Bund upto Rather Mohalia, Phase-II
16-04-2023	Flood spill Channel from Haji Bagh Near Bridge, Shariefabad

viii. The photographs of glimpses of cleanliness drive launched in Doodhganga kanal on every Sunday by Srinagar Municipal Corporation are attached as Annexure R-3.

12. That the Director Geology and Mining Department has intimated that 52 vehicle / machines indulged in illegal mining in and around Doodhganga Nallah have been seized and compounding of offence to the tune of **Rs. 647108/-** have been realized from the offenders. Furthermore, seven works have been executed in Doodhganga Nallah and Mamath Kul out of Rs. 1 crore levied by the Hon'ble National Green Tribunal order in O.A No. 241/2021. Besides this land has been identified for the construction of a Mineral Check post at Kil kadal near Chadoora, a sensitive place with regard to transportation of minerals extracted from various spots from Doodhganga Nallah particularly in odd hours. Funds for the same have been allocated by the Deputy Commissioner Budgam out of the funds levied by the Hon'ble NGT.

Report dated 12.05.2023 of J&K PCC:

14. This report refers to the earlier order dated 08.03.2022 and has stated that District Mineral Officer vide letter dated 27.12.2022 has reported that lease holders of Minor Mineral Block No.11 (Chadoora Old Bridge to Hanjigund D/S Doodhganga Nallah) and Block No. 12 (Chadoora

Foot Bridge to Sogam Bridge U/S Doodhganga Nallah) have not been found involved in illegal mining within or outside the peripheries on their respective Blocks and furnishes list of Tractor/Tipper/Machine Owners found indulged in illegal extraction/ transportation of minerals from Doodhganga Nallah, which has been submitted by District Officer J&K PCC, Budgam vide letter No. PCC/DO/Bud/2023/290 dated 02-05-2023.

15. A list of the offenders has been filed as annexure A and B giving details of the amount of compounding of offence imposed upon the alleged violators and also environmental compensation imposed. List A contains details of various violators as under:

“Details of seizures conducted in and around Doodhganga Nallah during the year 2021-22 & 2022-23:

S. No	Name of the Offender	Vehicle No.	Type of Mineral	Compounding of offence (Rs.)
1	Manzoor Ahmad Rather S/o Gh. Mohi-ud-din Rather R/o Surnmerbugh	Tractor	Sand	12623
2	Abdul Qayoom Dar S/o Mohd Ismail Dar R/o Lelhar	Chassis	Sand	22364
3	Amul Ahad Bhat S/o Ghulam Mohd Bhat R/o Naru Budgam	Tractor	Sand	10873
4	Gh. Qadir Sheikh S/o Gh. Ahmad Sheikh R/o Dadompura	Excavator	Nallah Muck 150 MT	52275
5	Safeer Ahmad Malik S/o Ali Mohd Malik R/o Kargam	Tractor	Nallah Boulder	10874
6	Farooq Ahmad Magray S/o Abdul Gani R/o Mudbal	JK13F- 5016	Sand	25043
7	Abdul Aziz Dar S/o Gh. Mohi ud din Dar R/o Namtehal	Chassis	Sand	14127
8	Mohd Rafiq Paul S/o Gh. Mohi ud din Paul R/o Checkpora	JK04A- 8998	Nallah Bajri	12949
9	Lateef Ahmad Mir s/o AMul Gani Mir R/o Hussipora Chadora	Chassis	Sand	12164
10	Adil Farooq Sofi S/o Farooq Ahmad Sofi R/o Hussipora Chadoora	JK01L- 5299	Nallah Boulder	11771
11	Younis Farooq S/o Farooq Ahmad Yattoo Rio Naoam Chadoora	Tractor	Nallah Bajri	11098

12	Mohd Rafiq Ganie S/o Gh. Hasan Ganie R/o Hanjiqund	JK04D- 9651	Nallah Muck	12791
13	Mehraj Ud Din Bhat S/o Abdul Gani Bhat R/o Razwen	Tractor	Nallah Muck	11378
14	Mehraj ud din Sofi S/o Abdul Rahman Sofi R/o Chararisharief	JK04F- 5657	Nallah Boulder	10873
15	Basharat Ahmad Yatoo S/o Noor Mohd Yatoo R/o Chadoora	Tractor	Nallah Muck	12398
16	Manzoor Ahmad Mir S/o Ali Mohd Mir R/o Doyan Chadoora	Tractor	Nallah Bajri	12118
17	Abdul Qayoom Lone S/o Abdul Gani Lone R/o Watrad	JK01L- 7404	Sand	22364
18	Nazir Ahmad Chopan S/o Gh. Ahrnad Chopan R/o Panzan	Tractor	Nallah boulder	11193
19	Basharat Ahmad Yatoo S/o Noor Mohd Yatoo R/o Chadoora	Tractor	Nallah Muck	12398
20	Mohd Altaf Bhat S/o Abdul Rashid Bhat R/o Surasyar	JK04F- 3702	Nallah Bajri	11378
21	Shahad Ahmad Khan S/o Imdad Ahmad Khan R/o Baqi Mehtab128	JK01P- 8212	Nallah Boulder	12791
22	Mukhtar Ahmad Sheikh S/o Nair Ahmad Sheikh R/o Checkpora Chadoora	Tractor	Nallah Boulder	10873
23	Javaid Ahmad Dar S/o Bashir Ahmad Dar R/o Marvel	JK04E- 4100	Sand	12164
24	Shahnawaz Ali S/o Ali Mohd Mir R/o Summerbugh	JK01AC- 6984	Sand	12164
25	Kumail Husain S/o Ghulam Mustafa R/o Chadoora	JK16- 1406	Nallah Boulder	11771
26	Khursheed Ahmad Yatoo S/o Feroz Ahmad Yatoo R/o Lalgam	Tractor	Nallah Boulder	10649
27	Maqbool Ahmad Dar S/o Ali Mohd Dar R/o Hanjibugh	Tractor	Nallah Boulder	10873
28	Aqib Ahmad Hanji S/o Ghulam Rasool Hanji R/o Bujibagh	JK03E- 2126R	Sand	12164
29	Shabir Ahmad S/o Abdul Abdul Rahman R/o Ariza	JK04F- 4981	Sand	12164
30	Mohd Iqbal S/o Gh. Mohd R/o Kralpura	JK01- 6287	Sand	12164
31	Ishfaq Ahmad Guroo S/o Abdul Rahman Guroo R/o Maloora	JK13G- 1173	Crusher Boulder	12521
32	Nazir Ashraf S/o Mohd Ashraf R/o Badipora Chadoora	Tractor	Nallah Boulder	10873

33	Zahoor Ahmad Bhat S/o Gh. Rasool Bhat R/o Kralpora	JK01N- 8061	Nallah Boulder	11771
34	Bashir Ahmad Bhat S/o Gh. Mohi ud din Bhat R/o Huroo	JK13G- 1811	Nallah Boulder	11771
	Total			477765

16. List B contains details of various polluters and environmental compensation has been imposed as under:

“Details of seizures conducted in and around doodhganga Nallah during the year 2021-22 and 2022-23

S. No	Name of the Offender	Type of Mineral	Rate Per MT	Quantity (MT)	Final EC in unconsented cases of violation (Rs.)
1	Manzoor Ahmad Rather SA) Gh. Mohi-ud-din Rather R/o Sumnerbugh	Sand	599	4	50,000
2	Abdul Qayoom Dar S/o Mohd Ismail Dar R/o Lelhar	Sand	599	7	1,00,000
3	Amul Ahad Bhat S/o Ghulam Mohd Bhat R/o Naru Budgam	Sand	599	3	50,000
4	Gh. Qadir Sheikh S/o Gh. Ahmad Sheikh R/o Dadompora	Nallah Muck	128	150	2,50,000
5	Safeer Ahmad Malik S/o Ali Mohd Malik R/o Kargam	Boulder	128	3	50,000
6	Farooq Ahmad Magray S/o Abdul Gani R/o Mudbal	Sand	599	7	1,00,000
7	Abdul Aziz Dar S/o Gh. Mohi ud din Dar R/o Namtehal	Sand	599	7	1,00,000
8	Mohd Rafiq Paul S/o Gh. Mohi ud din Paul R/o Checkpora	Nallah Aggregate	346	7	1,00,000
9	Lateef Ahmad Mir s/o AMul Gani Mir R/o Hussipora Chadora	Sand	599	7	1,00,000
10	Adil Farooq Sofi S/o Farooq Ahmad Sofi R/o Hussipora Chadoora	Boulder	128	7	1,00,000
11	Younis Farooq S/o Farooq Ahmad Yatoo Rio Naoam Chadoora	Nallah Aggregate	364	3	50,000
12	Mohd Rafiq Ganie S/o Gh. Hasan Ganie R/o Hanjiqund	Nallah Muck	128	7	1,00,000
13	Mehraj Ud Din Bhat S/o Aaul Gani Bhat R/o Razwen	Nallah Muck	128	3	50,000

14	Mehraj ud din Sofi S/o Abdul Rahman Sofi R/o Chararisharief	Nallah boulder	128	3	50,000
15	Basharat Ahmad Yattoo S/o Noor Mohd Yattoo R/o Chadoora	Nallah Muck	128	3	50,000
16	Manzoor Ahmad Mir S/o Ali Mohd Mir R/o Doyan Chadoora	Nallah Aggregate	128	3	50,000
17	Abdul Qayoom Lone S/o Abdul Gani Lone R/o Watrad	Sand	599	7	1,00,000
18	Nazir Ahmad Chopan S/o Gh. Ahrnad Chopan R/o Panzan	Nallah boulder	128	3	50,000
19	Basharat Ahmad Yattoo S/o Noor Mohd Yattoo R/o Chadoora	Nallah Muck	128	3	50,000
20	Mohd Altaf Bhat S/o Abdul Rashid Bhat R/o Surasyar	Nallah Aggregate	364	7	1,00,000
21	Shahad Ahmad Khan S/o Imdad Ahmad Khan R/o Baqi Mehtab128	Nallah boulder	128	7	1,00,000
22	Mulhtar Ahmad Sheikh S/o Nair Ahmad Sheikh R/o Checkpora Chadoora	Nallah boulder	128	3	50,000
23	Javaid Ahmad Dar S/o Bashir Ahmad Dar R/o Marvel	Sand	599	7	1,00,000
24	Shahnawaz Ali S/o Alli Mohd Mir R/o summerbugh	Sand	599	7	1,00,000
25	Kumail Husain S/o Ghulam Mustafa R/o Chadoora	Nallah boulder	128	7	1,00,000
26	Khursheed Ahmad Yattoo S/o Feroz Ahmad Yattoo R/o Lalgam	Nallah boulder	128	3	50,000
27	Maqbool Ahmad Dar S/o Ali Mohd Dar R/o Hanjibugh	Nallah boulder	128	3	50,000
28	Aqib Ahmad Hanji S/o Ghulam Rasool Hanji R/o Bujibagh	Sand	599	7	1,00,000
29	Shabir Ahmad S/o Abdul Abdul Rahman R/o Ariza	Sand	599	7	1,00,000
30	Mohd Iqbal S/o Gh. Mohd R/o Karalpura	Sand	599	7	1,00,000
31	Ishfaq Ahmad Guroo S/o Abdul Rahman Guroo R/o Mal ora	Nallah boulder	128	7	1,00,000
32	Nazir Ashraf S/o Mohd Ashraf R/o Badipora Chadoora	Nallah boulder	128	3	50,000

33	Zahoor Ahmad Bhat S/o Gh. Rasool Bhat R/o Kralpora	Nallah boulder	128	7	1,00,000
34	Bashir Ahmad Bhat S/o Gh. Mohi ud din Bhat R/o Huroo	Nallah boulder	128	7	1,00,000
Total					Rs. 28,50,00/ (Rs, Twenty eight lacs and Fifty thousand only)

17. List B also give details of the process of computation of environmental compensation as under:

“Table : Approved Final EC calculation Chart for offenders doing illegal mining through Trollies/ Tipper/ Truck/ Other transportations means for extraction of sand / boulder / Muck / Nallah Bajri from River bed :-

Quantity of Sand / Boulder / Muck / Nallah Bajri	Final EC (value) (Rs.)
For 0-5 T	Rs. 50,000/-
For >5 T-10 T	Rs. 1,00,000/-
For >10 T- 20 T	Rs. 2,50,000/-

Report dated 26.05.2022 by J&K PCC:

18. This report also refers to amount of environmental compensation which has already been taken note hereinabove and do not give any new facts.

19. When questioned, Shri Prashant Goyal, Principal Secretary, Housing and Urban Development Department who is present, assured that Mining Department as well as Urban Development Department would take effective steps if they are given some more time.

Order dated 24.05.2023:

20. Tribunal on 24.05.2023 observed that no substantial progress has been made and directed that effective and meaningful affidavit be filed in the context of remediation of existing dump sites providing waste

processing facilities and preventing discharge of sewage from dewatering pumping stations. But, today no such update has been filed and whatever stated, is only reiteration of earlier reports.

21. We are really dissatisfied with the manner in which J&K Government has proceeded in this matter. Despite repeated opportunities granted, in the last almost more than two years, substantive progress has not been shown in the matter. It is not in dispute that both the rivers are still polluted and no effective steps have been taken either for mitigating or removing the pollution or for preventing the illegal mining in the river bed and flood plain zones of the said rivers.

22. Further, there is no integrated and holistic approach in putting executable action plan. The reports only depicts outlays kept for expenditure, formulation of DPR and aspiring for tendering etc. According to the need, no short term measures are taken to lift solid waste dumped on the banks of two rivers taking to the final designated site for processing as per MSW Rules, 2016. With regard to sewage, the authorities have failed to set up decentralized/modular STPs at 13 dewatering pumping stations to arrest discharge of 16.23 mld of sewage.

23. However, now considering the assurance given by Principal Secretary, Housing and Urban Development Department, as requested, we grant him two months time to take wholesome effective steps for compliance of the direction given by this Tribunal in its earlier orders and file an action taken/compliance Report as on 31.07.2023 by 07.08.2023.

24. The Report may be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR support PDF and not in the form of Image PDF.

25. List for further consideration on 16.08.2023.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 30, 2023
Original Application No. 241/2021
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