

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

**Original Application No. 231 of 2014
(M.A. No. 1219/2018)**

And

Original Application No. 66 of 2015

IN THE MATTERS OF:

Doaba Paryavaran Samiti Vs. State of U.P. & Ors.

And

Doaba Paryavaran Samiti Vs. State of U.P. & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant:	Mr. Anil Kumar Sangal, Mr. Vivek Jain and Mr. Siddharth Sangal, Advs.
Respondent No. 2 :	Mr. Ardhendumauli Kumar Prasad and Mr. Shashank Saxena, Advs. for MoH&FW
Respondent No. 5 & 6:	Mr. Pradeep Kumar Misra, Adv. and Mr. Daleep Dhyani, Adv. For UPPCB
Respondent No.18:	Mr. Amit Tiwari, Adv. for State of UP
	Mr. Rajkumar, Adv. for Central Pollution Control Board
	Ms. Deep Shikha Bharathi, Adv.
	Mr. I.K. Kapila, Adv. for UP Jal Nigam
	Mr. B.V. Niren and Mr. Kshitij Mudgal, Advs. for CGWA and Ministry of Drinking Water

Date and Remarks	Orders of the Tribunal
Item Nos. 07 & 08 August 08, 2018 A	<p>1. These applications seek directions against the industries running illegally and polluting the river water by dumping hazardous material in the Districts of Saharanpur, Baghpat, Ghaziabad, Muzaffarnagar, Shamli and Meerut in Uttar Pradesh.</p> <p>2. Case of the applicant is that the inhabitants of areas on the banks of Kalinadi, Krishna and Hindon Rivers are forced to consume highly polluted water from the rivers and are suffering from diseases like hepatitis, cholera, kidney failure, liver damage, mental retardation, cancer, bone diseases, deformities of the new borns and several other fatal diseases. On being tested, the water is found to</p>

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>be containing highly toxic metals like cadmium, zinc, chrome, nickel, iron, lead, fluoride and mercury.</p> <p>3. According to the applicants, independent studies have established the above facts. More than 71 persons in the Gangnoli village of the Baghpat district faced the wrath of the said pollutants and died from cancer in the last two years and more than 47 persons are bed ridden for the last 3 to 5 years. More than 1000 people are affected by diseases. Others affected are inhabitants of 154 villages inhabited by 50 lakhs people. There are sugar mills, distilleries, paper mills, electroplating, slaughter houses, wet blues hides etc. The Authorities including the State Pollution Control Board are in deep slumber and have no concern for the lives of the villagers. This is happening atleast for the last 15 to 20 years. Poor people cannot afford mineral water or bottled water. These issues have been highlighted in several newspapers including the following:</p> <ul style="list-style-type: none"> (i) <i>Amar Ujala – 1.8.2014</i> (ii) <i>Dainik Jagran – 1.8.2014</i> (iii) <i>Dainik Janvani – 1.8.2014</i> (iv) <i>Shah Times – 1.8.2014</i> (v) <i>Hindustan - 1.8.2014</i> (vi) <i>Dainik Janvani – 4.10.2014</i> (vii) <i>Hindustan – 4.10.2014</i> (viii) <i>Shah Times – 4.10.2014</i> (ix) <i>Dainik Jagran – 4.10.2014</i> (x) <i>The Times of India – 11.10.2014</i> (xi) <i>The Hindu – 3.11.2014</i>
--	---	--

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>This has also been highlighted in the electronic media. The applicants have also filed cutting of the newspapers and the CDs of the electronic media, photographs of affected inhabitant have also been filed.</p> <p>4. This Tribunal considered the matter on 05.11.2015 and directed Uttar Pradesh Pollution Control Board to take samples of the ground water which was the source of drinking water for the villagers. The samples already taken were also considered showing that there was contamination of the ground water. The Tribunal passed the following order:</p> <p><i>“All these are quite in excess to the prescribed limits. It is a sorry state of affairs prevailing in those areas that the State is failing to discharge its Constitutional and Statutory duties which is basic and fundamental to human beings existence. It is unfortunate that the State is not able to provide even safe potable drinking water to the citizens of the State. Furthermore, from the affidavit of the applicant to which various photographs have been annexed, it is clear that infants and young children have developed serious disability, mentally and physically, rendering their entire life burdensome and difficult. In a welfare state, the State is bound to look-after the health and environment. In terms of the Judgment of the Hon’ble Supreme Court of India, right to have a decent and clean environment is a fundamental right. It is a right of every citizen to have the fundamental right enforced through process of</i></p>
--	--	--

**Item Nos.
07 & 08**

**August 08,
2018**

A

law.

Contamination of groundwater is a matter which ought to have invited the attention of all the Stake-holders particularly the State Government, State Pollution Control Board Uttar Pradesh and they ought to have resolved this with utmost sense of urgency.

It is on record of the Tribunal that there is complete inaction on the part of the State. The Tribunal vide its order dated 5th August, 2015 had directed the State Government to ensure that people in that area are provided with potable drinking water. However, that also has not been implemented satisfactorily by the State.

It is also clear from the records that in these areas, nearly 45 industries of different nature i.e. Sugar, Paper, Distillery and Tannery are operating. It was the duty of the Pollution Control Board to ensure that these industries are not permitted to discharge any effluent on the ground or underground. They ought to have analysed and conducted a study of discharge of trade effluent and its effect on public health. In light of the above we pass the following directions:

- 1. All the hand-pumps in the area of district Baghpat and other districts from where the samples had been collected and have found contamination of ground water, there will be complete prohibition on extraction of ground water for drinking purposes.*

**Item Nos.
07 & 08**

**August 08,
2018**

A

2. *The hand-pumps if any, in these areas shall be sealed forthwith.*

3. *The State of Uttar Pradesh and Uttar Pradesh Jal Nigam shall ensure that potable drinking water is being supplied to all the villagers in these districts without any further delay and default. It will be ensured that sufficient drinking water is provided by Associating Panchayats of these villages. U.P. Pollution Control Board along with Central Pollution Control Board and the U.P. Jal Nigam shall take immediate measures to ensure that the extracted ground water is treated before it is permitted to be consumed by human beings. The total mechanism for treating of such water would be prepared and schemes for implementation thereof would be finalised and given effect to, within two months from today.*

4. *The above team shall also submit the data supported by study before the Tribunal, with analysis report as to what is the effect of discharge of effluent by the industries located in these areas upon the ground water and public health. It should be physically checked as to what is the point of discharge of these industries and whether their effluents are strictly complying with the prescribed norms.*

The Committee is permitted to engage such experts from the field of agriculture to examine if excessive use of fertilisers,

**Item Nos.
07 & 08**

**August 08,
2018**

A

insecticides and pesticides is the cause of contamination of groundwater and if so, the remedies thereof. The report would be submitted within two months from today.

We direct District Magistrate and each of the SDM in whose jurisdiction these villages fall, along with the CEO of the U.P. Jal Nigam and Regional Officer of the Pollution Control Board, to ensure compliance of these directions in the true spirit and substance. Due record would be maintained for supply of water. The vehicle carrying water should have GPS”.

5. There was further consideration of various reports about the quality of water. It is not necessary to make reference to all the orders passed by this Tribunal. The record shows that a Team was constituted to carry out a study and collect the data led followed by analysis reports by engaging experts.

6. On 16.01.2018, a Committee comprising of Central Pollution Control Board, Uttar Pradesh Pollution Control Board, Jal Nigam and Dr. A.B. Akolkar, former Member Secretary of CPCB were directed to carry out a survey of surface of rivers i.e. river Kali, river Hindon and river Krishna and other small rivulets and drains meeting Hindon river and of the groundwater in the said area. The Committee was also directed to conduct inspection of 316 industries mentioned in the report dated 29.10.2015. Accordingly, 1166 samples were collected and 50% were

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>analysed.</p> <p>7. On 12.07.2018, this Tribunal directed that those industries which are not complying with the standards should shutdown as suggested in the report of the Committee. 119 industries were found to be non-compliant. It is now stated that there is calculation mistake and the said number is 124. This Tribunal also directed stoppage of use of ground water contamination with mercury which was found to be happening as per the report of the Committee.</p> <p>8. The statutory provisions particularly Water (Prevention and Control of Pollution) Act, 1974 contain penal provisions to deal with those who discharge pollutants in the water bodies. Section 44 read with Sections 25 and 26 of the said Act provide for minimum sentence of 1 year and 6 months and for repeat of the offence not less than two years.</p> <p>Inspite of categorical evidence there is no information whether any such prosecution has taken place against the alleged offenders in the present case. Unless the offenders are punished for serious offence of discharge of effluents in rivers and other water bodies, the pollution continues threatening the very existence of the inhabitants. There, is thus patent failure in performance of duty. Section 49 of the Water (Prevention and Control of Pollution) Act, 1974 provides for condonance of offence being taken at the instance of the Board or any officer authorised by the Board or by any other person after</p>
--	---	--

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>giving notice to the Board in the manner laid down. The law has entrusted important public duty but the statutory Boards are in breach of trust reposed in them.</p> <p>9. Faced with the above, learned counsel appearing for Uttar Pradesh Pollution Control Board fairly stated that Uttar Pradesh Pollution Control Board will now initiate prosecution forthwith not later than six weeks from today against all those who are found to be responsible for discharge of effluents not meeting the prescribed standards.</p> <p>10. The contaminated water near to any industry should itself alert the authorities that there is unauthorised discharge of effluents which is a justification to forthwith take steps to identify the culprit. Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, also provides for direction of closure, prohibition and regulation of any industry or its operation or process, wherever violation of law prohibiting discharge of effluents is found.</p> <p>11. It is high time that the State Government must keep strict vigilance on the failure of the Pollution Control Board to determine whether such failure is on account of incompetence or dishonesty. Such responsibility must be overseen by the Chief Secretaries of all the States. They must be held accountable for the failure of the system wherever the Pollution Control Boards are found careless or wanting in performing their duties. The person</p>
--	--	--

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>responsible must be forthwith removed and proceeded against so as to be made accountable under the law. In case the habitants are not able get even potable water or fresh air, the guarantee of the Constitution of Right to Life itself is defeated. The State is thus under Constitutional obligation has to ensure that potable water is available to every citizen and very stern action is taken against any individual responsible for such contamination. After all, the water is a scarce source and has to be protected and used in a rational manner. Water is to be made available not only to few who can afford bottled water and mineral water but also to every citizen of the country. No citizen can be deprived of potable water and of right of breathing fresh air. Next generations cannot be deprived of this essential gift of nature, necessary for survival of life systems.</p> <p>12. The sources of contaminated water are required to be closed so that the innocent citizens do not suffer in their health and if water is contaminated and unfit for consumption such warning should be displayed at appropriate places accordingly for information of the citizens.</p> <p>13. We are also of the view that District Magistrates at the district level, Chief Secretaries of the States at State level and the CPCB at National level, in coordination with others, are required to prepare district level, state level and national level action plans for availability of potable water for the citizens and for a very effective mechanism</p>
--	--	---

<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>for punishing the polluters. The action plan may also consider restoration of the water quality where pollution is already taking place. Such data must be published on the website of States and Districts as to what extent water quality has been improved in a particular period.</p> <p>14. We find from the record that an affidavit has been filed before this Tribunal on 06.07.2018 by CPCB stating that CPCB has constituted teams for collection of ground water samples in the catchment area of river Hindon. The teams inspected the industries and found level of contamination as mentioned in the said affidavit. The CPCB has also suggested short term and long term action plans for rejuvenation of river Ganga. Suggestions also includes installation of STPs, improving groundwater quality, maintaining flood plain zones and ensuring environmental flow and good irrigation practices. We are satisfied that action plan proposed by the CPCB should be accepted and acted upon by all concerned.</p> <p>15. We are of the opinion those who have been victims of the diseases on account of polluted water cannot be ignored and must be given a treatment at the cost of polluters. This also should be a part of action plan so that persons who had suffered diseases are provided treatment first from the State funds and the amount recovered from the polluters. Recovery of amount from the polluters can be ongoing separate exercise and separate pool of funds can be created for treatment of victims from the amount recovered. Appropriate schemes</p>
--	---

<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>may be required to be framed in this regard at the level of CPCB, Chief Secretaries as well as the District Magistrates. The scheme of the States and District Magistrates must coincide with the scheme of CPCB, except that better facilities may be provided in the individual schemes of District Administration then the facilities envisaged in the scheme of CPCB, there is need for provision of monetary compensation to those who have been rendered disable or have even met an unfortunate death. Apart from monetary compensation in suitable cases, the State may consider giving employment to a dependent of such victims.</p> <p>16. We are hopeful that the all concerned will understand the need of the hour, hear the alarming bells and perform their duties.</p> <p>17. The CPCB and the State Pollution Control Board may compile entire information about the prosecution initiated, action plans prepared by the State Pollution Control Board and the Action taken by the District Administration in compliance with the above directions and furnish a comprehensive report on 31.01.2019.</p> <p>18. The CPCB may convey a copy of this order to all concerned. Copy of this order may be sent to CPCB by e-mail.</p> <p>19. We have been informed by Dr. A.B. Akolkar, former Member Secretary, CPCB that there are 302 polluted river stretches in the country and similar problem is faced. We</p>
--	---

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>direct that similar action plan based on the monitoring protocol with respect to river Hindon be prepared for each of the said 302 polluted stretches for which the CPCB may take lead in the matter and to start with identify atleast 10 most critically polluted stretches across the country and submit a report on similar format as that of river Hindon.</p> <p>20. Having regard to the magnitude of the problem, constant monitoring of execution of directions issued herein is necessary under Section 25 of the NGT Act. To sum up, directions in the present order mainly are:</p> <ol style="list-style-type: none"> i. Steps required to reverse the situation caused by severe pollution of water of rivers Kali, Hindon and Krishna, rivulets and drains meeting the said rivers; ii. Steps required for punishing those responsible for causing pollution by closing units, initiating prosecution and recovering the cost of damage to the environment. iii. Steps for rehabilitating the victims of pollution. <p>21. We are of the view that having regard to the track record of inaction of the authorities, independent oversight mechanism is necessary instead of matter being left only to the pollution Board or other officers.</p> <p>22. Accordingly, we constitute the following Monitoring Committee to oversee the directions in this order and to report the progress to this Tribunal:</p>
--	---	--

<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>(i) Justice S. U. Khan, former Judge, Allahabad High Court (Phone No. 9415348797);</p> <p>(ii) A senior Scientist from MOEF&CC;</p> <p>(iii) A Senior Scientist/Engineer of CPCB.</p> <p>23. The Committee will take following steps:</p> <p>(i) Take stock of all the actions taken so far in the light of the various directions of the Tribunal.</p> <p>(ii) Propose time bound action plan to deal with the problem. The Committee may suggest the framework for implementation. Preferably a comprehensive, integrated and inclusive strategy with clear measurable indicators of progress and success.</p> <p>24. The Committee may requisition services of any technical experts.</p> <p>25. The action plan should also include creation of Bio-diversity Parks created by the Centre for Environmental Management of Degraded Ecosystems (CEMDE) of University of Delhi, a Centre of Excellence of the Ministry of Environment and Forest & Climate Change, Government of India.</p> <p>26. The online mechanism for monitoring the sewage treatment plants should also be connected to the servers of CPCB and State Pollution Control Boards so that the CPCB can also monitor the data.</p> <p>27. The Monitoring Committee may also set up a</p>
--	--

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>website for receiving and giving information on the subject.</p> <p>28. The Committee may also involve educational institutions for expectations, awareness and feedback about the results.</p> <p>29. All the authorities concerned in the State Uttar Pradesh will co-operate and co-ordinate with the Monitoring Committee. The Monitoring Committee can seek such technical and scientific assistance as may be required from any relevant authority.</p> <p>30. We request the Chief Secretary, Uttar Pradesh to provide all facilities to the said Committee to perform its functions. The Committee may send its quarterly reports to this Tribunal by e-mail. The Chief Secretary, Uttar Pradesh may determine the honorarium to be paid to the Committee in consultation with the members. The Committee may requisition the services of such technical experts as may be necessary and may also carry out physical visits to the sites, whenever necessary. They will be entitled to logistic support for performing these functions to be provided under the directions of the Chief Secretary, Uttar Pradesh. The Committee may assume its charge within two weeks from today. The Committee may prepare its Action Plan which may have target of ensuring compliance of prescribed standards preferably within one year. It may meet at such intervals as considered appropriate but once every month and fix next targets. The Committee will be free to take up all incidental issues.</p>
--	--	--

	<p>Item Nos. 07 & 08</p> <p>August 08, 2018</p> <p>A</p>	<p>All Concerned authorities are expected to cooperate with the Committee subject to any objection being put forward before this Tribunal. The Committee will be free to seek any further directions from this Committee by Email.</p> <p>31. A copy of this order be sent through E-mail by the Registry to the Chief Secretary, Uttar Pradesh, Justice S.U. Khan, Former Judge, Allahabad High Court, Secretary, Ministry of Environment, Forest and Climate Change for nominating a senior Scientist and Chairman, Central Pollution Control Board for nomination a senior Scientist/ Engineer for this purpose.</p> <p>The proceedings in these matters are closed except for the compliance of the directions already issued.</p> <p>List for consideration of report of the CPCB or any report from the Committee on 05th March, 2019.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">08.08.2018</p>
--	--	--